

**LEVIATHAN, TAXES AND THE GEESE:
(WHY DO WE NEED A TAX CONSTITUTION?)***

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*“The art of taxation consists in so plucking the goose as to
obtain the largest possible amount of feathers with the
smallest possible amount of hissing.”*

Jean Baptiste Colbert

*“One day a farmer, going to the nest of his goose,
discovered a golden egg, and every morning to his delight
he found another egg of pure gold. He soon became rich by
selling his golden eggs. As he grew rich he grew greedy;
and thinking to get at once all the gold the goose could
give, he killed it and opened it only to find-NOTHING.”*

Aesop’s Fables

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ABSTRACT

The taxing power of the government was misused by rulers throughout the history everywhere. Tax rates, tax bases and tax related decisions were changed frequently, and those changes brought new burdens on individuals. Taxplotation is a phenomenon caused by Leviathan (unlimited excessive government power). How can individuals be protected from tax exploitation? How can tax abuse of the governments be stopped? How can arbitrary and discretionary power of the politicians be limited in modern democracies? What effective measures can be taken against tax abuse? Those are the main questions that we aim to explore, analyze and answer.

Key Words: Excessive government, Leviathan, Tax Exploitation, Heavy Tax Burden

JEL Classification: E62, H20, H27

I. INTRODUCTION

Leviathan is an excessive government that we live together. As many theoretical and empirical studies explained and proved, government expenditures and regulations increased a great deal in the post-world wars period till the beginning of 1980's. As a result of government growth, tax burden also continued to increase. Tax exploitation has been a fact for many contemporary democracies. Since fiscal decisions are made by the majoritarian politics, contemporary democracies do not effectively limit the fiscal power of the government.

This paper aims to answer these and other related questions. First, we will explain the deficiencies of the traditional public finance in terms of ideal tax criteria and then explore tax exploitation, which is one of consequences of majoritarian unlimited democracy. Finally, a constitutional tax reform is discussed to replace the discretionary tax policies.

II. EXCESSIVE GOVERNMENT AND TAX EXPLOITATION: WARNINGS OF THE PHILOSOPHERS FROM EARLY CENTURIES

Many liberal philosophers warned us that Hobbesian unlimited government is not one that protect individual liberties. They explained that the result of a big government would be high tax burden. They always warned that unlimited government means unlimited taxation.

One the of the great philosophers, David Hume wrote that *“exorbitant taxes... destroy industry bu producing despair; ...they raise the wages of the laborer and the manufacturer, and heighten the price of all commodities.”*¹

The founding fathers Adam Smith also wrote:

*“Hight taxes, sometimes by diminishing the consumption of the taxed commodities and sometimes by encouraging smuggling, frequently afford a smaller revenue to government than what might be drawn from more moderate taxes... the remedy is the lowering taxes.”*²

Classical liberal Jean Babtist Say noted that *“excessive taxation is a kind of suicide, whether upon objects of necessity, or upon these of luxury.”*³

Even before these liberal philosophers, a muslim philosopher Ibn Khaldun had explained that heavy taxes are not good for at all. He wrote:

*“When tax assesments and imposts upon the subjects are low, the latter have the energy and desire to do things. Cultural enterprises grow and increase, because the low taxes bring satisfaction.”*⁴

¹David Hume, Writings on Economics, E. Retwein (Ed.), Madison: University of Wisconsin Pres, 1955. p IXXXII.

²Adam Smith, An Inquiry into the Nature and Cause of the Wealth of Nations, E. Canan (Ed.), Chicago: University of Chicago Pres. 1976. p.414.

³Jean Baptiste Say, A Treatise on Political Economy, Philadelphia: Lippincott, Grambo & Co.. 1855, trans. C. R. Prinsep, ed. Clement C. Biddle. Fourth-fifth edition. (See: The Library of Economics and Liberty: <http://www.econlib.org/library/Say/sayT41.html>)

These are only several quotations, that explains the dangers of unlimited fiscal power of the government. History also showed everywhere that absolute power of rulers had always been the source of tax exploitation.

It is true that democracy was a victory against all kind of despotisms. “*Taxation without representation is tyranny*” was a slogan of the people, who were exploited by the rulers. The tax power was abused by benevolent despots whether ruler is king, sultan, emporor or politician throughout the history. The tax history was the same almost everywhere: exploitation and cruelty.⁵

In modern democracies, we have learned that taxation with representation could be just as bad as taxation without representation. Modern majoritarian democracies does not protect taxpayers from the exploitation of Leviathan effectively.

Modern democracies tend to be oligarhic, offering a fairly limited range of choice on major issues. Democracy is a very inefficient check on government power; in the absence of a strong (and strongly defended) constitution there is no check on a majority, and there is a great temptation for politicians to misuse their taxing power and use re-distributive taxation to build a coalition of support funded by the minority.⁶

The conventional belief was that democracy offered sufficient protections against excessive taxation. However our experience showed us that majoritarian

⁴Ibn Khaldun, *The Muqaddimah – An Introduction to the History-* 5th. ed. N.J. Daood (edited) and P. Rdsental (Translated) Princeton University Pres, 1981. p. 231.

⁵There is a wide historical literature on tax abuses and tax explotations in America and Europe. Charles, Adams, *Those Dirty Rotten Taxes*, The Free Press, New York, 1998.; Charles Beard, & Mary R. Beard, *New Basic History Of The United States*, Second Edition, Doubleday Company Inc., Garden City New York, 1960.; David T. Beito, *Taxpayers in Revolt: Tax Resistance During The Great Depression*, Chapel Hill: University Of North Carolina Press, 1989.

⁶Richard, Teather., “*Harmful Tax Competition*”, *Economic Affairs*, Volume 22 Issue 4 Page 58 - December 2002. p.58.

democracy can not protect individuals from tax exploitation. Electoral competition in democracies exercises limited control on tax abuse.

In conclusion, if political decisions are made by legislative majorities, taxpayers always face to the tax abusement.

III. THE CONVENTIONAL PUBLIC FINANCE AND ITS DEFICIENCIES

Within conventional public finance, tax system is conceived as a set of instruments by means of which government pursues certain policy objectives. Tax policy is seen as discretionary and interventionist tool to realize the macro-economic goals. According to conventional public finance scholars -Keynesians and functional finance scholars- tax policy is accepted an instrument of economic policy and it is believed in that tax system and tax policy should be designed and changed to achieve the goals of macroeconomics. Conventional public finance scholars argue that as long as tax policy is used for the purposes of economic growth and development, allocative efficiency, fair income distribution, price stability and full employment etc., there would be no need to fear. Discretionary fiscal policies used by policy makers are seen effective to accomplish macro-economic goals.

The main deficiency of the discretionary economic policies is that it assumes that policy makers are full informed and they make right decisions in sake of citizens. Unfortunately, in real politics, policy makers do not have perfect information and also they often misuse their powers in order to be reelected. These are the most important critique againts conventional public finance. On the other hand, it is argued that traditional public finance scholars, (Keynesians and functional finance scholars) made an erosion of classical norms and principles.⁷

⁷see: James M. Buchanan and Richard E. Wagner, Democracy in Deficit: Political Legacy of Lord Keynes, (see: <http://www.econlib.org/library/Buchanan/buchCv8Contents.html>)

Another critique is raised due to tax criteria. Orthodox public finance has been largely concerned with the familiar criteria of “efficiency”, “equity”, economic growth” etc. It is better to summarize the conventional tax criteria for a good tax system within orthodox public finance before explaining its deficiencies.

The main tax criteria in traditional public finance can be summarized as follows:⁸

- *Equity and Fairness.* Similarly situated taxpayers should be taxed similarly. The tax burden should be equitably distributed amongst the tax-paying population.
- *Certainty.* The tax rules should clearly specify when the tax is to be paid, how it is to be paid, and how the amount to be paid is to be determined.
- *Convenience of Payment.* A tax should be due at a time or in a manner that is most likely to be convenient for the taxpayer.
- *Economy in Collection.* The costs to collect a tax should be kept to a minimum for both the government and taxpayers. Taxes should not be costly for either government or taxpayers to calculate or administer; on the other hand, tax avoidance is difficult and risky.
- *Simplicity.* The tax law should be simple so that taxpayers understand the rules and can comply with them correctly and in a cost-efficient manner.
- *Neutrality.* The effect of the taxes on a resource allocation decisions as to how to carry out a particular transaction or whether to engage in a transaction should be kept to a minimum. In other words, taxes should minimize the negative effects on taxpayer’s decisions.

⁸AICPA, (American Institute of Certified Public Accountants, Inc., “*Guiding Principles of Good Tax Policy: A Framework for Evaluating Tax Proposals*”, 2001.; Richard K. Vedder and Lowell E. Gallaway, “*Some Underlying Principles of Tax Policy*”, Prepared for the Joint Economic Committee, September, 1998.

- *Economic Growth and Efficiency.* The tax system should not impede or reduce the productive capacity of the economy.
- *Transparency and Visibility.* Taxpayers should know that a tax exists and how and when it is imposed upon them and others. Taxes should be transparent; people should be aware of its existence and know the burden that it imposes.
- *Adequacy.* An adequate tax system raises enough funds to sustain the level of public services demanded by citizens and policy makers.
- *Elasticity.* An good tax system responds to economic growth by growing itself. This responsiveness to economic growth is called elasticity. An elastic tax system is one in which tax revenue increases more quickly than the economy during times of growth.⁹

Even though the above principles are defended in orthodox public finance, in practice the conventional fiscal policies had not been neutral, but discretionary always. Functional finance, as traditional public finance doctrine, focused on such tax criteria as adequacy and elasticity.¹⁰ It did neglect the tax criteria of neutrality, stability, certainty etc. Due to functional finance policies (discretionary fiscal policies), many governments used tax policies for the purposes of re-distribution, full employment, economic growth, economic stability. But the effects of the discretionary fiscal policies had not been as expected. Fiscal problems (such as

⁹IITEP (Institute of Taxation and Economic Policy)., “*Tax Principles: Building Blocks of a Sound Tax System*”, Policy Brief, 9 May 2004.

¹⁰Some experts in public finance suggest that adequacy and elasticity are criteria for a good tax system. Joseph Stiglitz, for example, has suggested that a good tax is one whose revenues demonstrate flexibility. As he puts it, “*Changes in economic circumstances require changes in tax rates.*” Joseph E. Stiglitz, *Economics of the Public Sector* (New York: W.W. Norton, 1986), p. 332. (Quoted in: Vedder & Gallaway, 1998.)

budget deficits, inflation, unemployment) and tax exploitation was the consequence of discretionary fiscal policies.¹¹

IV. CONSTITUTIONAL PERSPECTIVE AND TAX CONSTITUTION PROPOSAL

Constitutional perspective is rather different than the conventional perspective. Within constitutional perspective, the tax system is viewed as a set of rules which constrains the power of government to tax.¹² Constitutional perspective opposes discretionary and arbitrary changes on fiscal policies and suggests that basic tax policies should be determined at the constitutional level and should not be subject to frequent changes.

According to the James M. Buchanan, Nobel laureate in economics, the basic structure of taxation, the distribution of tax shares among persons and groups, should be considered to be a part of an ongoing “tax constitution” defined as a set of quasi-permanent rules or arrangements within which individuals can anticipate making appropriate adjustments, including those made over a long term planning period.¹³

¹¹James M. Buchanan makes this comment: “*Keynesianism offered the promise of replacing the old with a better, more efficient fiscal constitution. By using government to control aggregate macroeconomic variables, cyclical fluctuations in economic activity were to be damped; the economy was to have both less unemployment and less inflation. If interpreted as prediction, the Keynesian promise has not been kept. The economy of the 1970s has not performed satisfactorily, despite the Keynesian-inspired direction of policy.*” James M. Buchanan and Richard E. Wagner, Democracy in Deficit: Political Legacy of Lord Keynes, (see: <http://www.econlib.org/library/Buchanan/buchCv8Contents.html>)

¹²Geoffrey Brennan and James M. Buchanan., “*Tax System as Social Overhead Capital: A Constitutional Perspective on Fiscal Norms*”, in: Public Finance and Economic Growth, Proceedings of the 37th Congress of the IIPF, Tokyo, 1981. p.41.

¹³James M. Buchanan., “*Tax Reform in Constitutional Perspective*”, in: Law and Economics – Report from a Symposium in Sweden-,m Edited by: Göran Skogh, Lund: Jurisdiska Föreningen, 1978.p.104.

Constitutional process refers to the deliberate act of selecting quasi-permanent rules and institutions within which day-to-day operational choices are to be made and implemented for matters of taxation. The important feature of constitutional tax proposal is the implication that once chosen, the fiscal structure should not be subject to year-to-year manipulation.¹⁴

Constitutional perspective is developed within constitutional economics, which is a new research field.¹⁵ This new perspective suggests that frequent changes in the tax law destroy the decisions made in the economy by private individuals. Within constitutional perspective, the tax system is to be viewed as having quasi-constitutional status.¹⁶ Tax rules are believed to be determined in the tax constitution.

According to constitutional economists, if tax system is liable to change annually, the citizen never know what the tax rate on any activity that he undertakes will be. However, if the tax system is designed constitutionally, this results in predictability. Individuals can plan his economic future over a long-time period in full knowledge of what arrangements he will face. Once the quasi-constitutional status of the tax system is designed, policy makers can not manipulate the tax system.

The constitutional perspective focuses on exclusively on the criteria of “stability”, “predictability”, “generality” etc. If basic tax rules are determined at the constitutional level, this results in stability and predictability in tax system. Generality, on the other hand refers to that no special privileges should be

¹⁴James M. Buchanan, “*Democratic Values in Taxation*”, in: James M. Buchanan (Ed), *Freedom in Constitutional Contract*, Collge Station: Texax A-M University Press, 1977.

¹⁵The foundations of constitutional economics is explored in the following book: Geoffrey Brennan and James M. Buchanan, *The Reason of Rules, Constitutional Political Economy*, New York: Cambridge University Press, 1985.

¹⁶Geoffrey Brennan and James M. Buchanan., “*Tax System as Social Overhead Capital: A Constitutional Perspective on Fiscal Norms*”, in: *Public Finance and Economic Growth, Proceedings of the 37th Congress of the IIPF, Tokyo, 1981.*

provided to certain groups. This principle means “equality under the law”, because all individuals are expected to subject to the same tax rules. Tax system would be simple and neutral under a constitutional tax regime as well. It is expected that tax system would not be subject to frequent changes at the constitutional level and changes at the post-constitutional level do not have have significant effect on individual decisions on consumption, production, investment etc.

In conclusion, constitutional perspective is quite different than the conventional perspective. Regularity and stability of the rules are the main emphasis in constitutional perspective. Binding principle is also a new tax criterion that is advocated by constitutional economists. When constitutional rules binds the tax rates and tax bases, political authorities can not easily manipulate the tax system. Binding criterion within constitutional perspective is the opposite of flexibility or elasticity criterion of the conventional perspective.

After explaining the concept of tax constitution in brief, now it would be useful to summarize the advantages of a tax constitution. The main advantages of tax constitution can be listed as follows:¹⁷

- Tax constitution is a crucial ingredient in generating predictability in economy and finally result in long term economic growth. Predictability can be secured by rules only. Rules provide stability and regularity in actor’s behaviour.

¹⁷see: Geoffrey Brennan and James M. Buchanan., *The Power to Tax, Analytical Foundations of a Fiscal Constitution*, Cambridge University Pres, 1980.; Geoffrey Brennan and James M. Buchanan., “*Tax System as Social Overhead Capital: A Constitutional Perspective on Fiscal Norms*”, in: *Public Finance and Economic Growth, Proceedings of the 37th Congress of the IIPF*, Tokyo, 1981. pp.41-54.; James M. Buchanan, “*Constitutional Constraints on Governmental Taxing Power*”, *ORDO*, vol 30, Stuttgart, 1979.; James M. Buchanan, “*Tax Reform in Constitutional Perspective*” in: *Law and Economics –Report from a Symposium in Sweden-*,m Edited by: Göran Skogh, Lund: Jurisdiska Föreningen, 1978.; James M. Buchanan, “*Constitutional Restrictions on the Power of Government*”, in: *The Theory of Public Choice II*, (Ed. By J.M.Buchanan and Robert D. Tollison), Ann Arbor: The University of Michigan Press, 1984.

Constitutional rules for taxation provide for regularity in actor's behavior, regularity that has value because of the information that it conveys.

- Frequent changes in the tax law destroy the tax system and make it worse. In other words, frequent tax reform may result in deformation. There is an old saying that “*an old tax is a good tax.*” This was an ancient wisdom that focused on the stability of the rules. So, tax constitution is essential for regularity and stability of the tax system.
- The rent seeking effort would be reduced if tax system is designed at the constitutional level. Year-to-year legislation increases the rent seeking efforts, which are socially wasteful. James M. Buchanan explains this issue as follows:
- *“The efficiency of establishing and maintaining quasi-permanent in the basic structure of taxation should be obvious. Stability in tax rules, along with the generalized understanding that these rules are quasi-permanent will also reduce substantially the socially-wasteful investments in “rent seeking” that continual change and discussions of change will insure. To the extent that tax arrangements can come to be considered as quasi-permanent features of the economic environment, individuals will divert resources from wasteful to productive investments.”*¹⁸
- The rhetoric and demagoguery of tax reform by politicians and special interest groups never ends. There is always a tax reform agitation unless a tax constitution determines the basic rules.
- The most important advantage of a tax constitution would be limiting tax abuses and tax exploitation. Taxing power of the Leviathan is kept under control when procedural and quantitative constraints are determined in the constitution.

¹⁸James M. Buchanan, “*Tax Reform in Constitutional Perspective*”, in: Law and Economics – Report from a Symposium in Sweden, Edited by: Göran Skogh, Lund: Jurisdiska Föreningen, 1978. p.112-114.

V. TAX CONSTITUTION: PROCEDURAL AND QUANTITATIVE RESTRAINTS ON TAXING POWER OF LEVIATHAN

It is important to understand the logic behind constitutional constraints on taxing power of government.¹⁹ Once the need to limit the power of government is understood and accepted, it is always possible to find appropriate means of constitutional constraints. Constitutional rules can be classified into two groups: procedural constraints and quantitative constraints.²⁰

Procedural Constraints

Qualified majority rule: The first type of procedural constraints is to require qualified majority rule for taxes. A constitutional requirement could stipulate two-thirds, three-fourths or five-sixths majorities to levy a new tax or increase the current tax rates. Knut Wicksell, a Swedish economist has suggested that – as

¹⁹James M. Buchanan and Geoffrey Brennan., “*The Logic of Limits*”, National Tax Journal, vol 32, No 2, June 1979.; James M. Buchanan, “*The Ethical Limits of Taxation*”, Liberty, Market and State, -Political Economy in the 1980’s, Harvester Press: 1986.

²⁰Geoffrey Brennan, “*Constitutional Constraints on the Fiscal Powers of Government*”, in: Constitutional Economics –Containing the Economic Powers of Government-, Edited by: Richard B. Kenzie, Lexington: Lexington Books, 1984; Geoffrey Brennan, and James M. Buchanan., The Power to Tax, Analytical Foundations of a Fiscal Constitution, Cambridge University Press, 1980.; Geoffrey Brennan, and James M. Buchanan., “*Towards A Tax Constitution for Leviathan*”, in: Journal of Public Economics, No 8, December-1977. pp.255-273.; James M. Buchanan, “*The Limits of Taxation*”, in: Taxation –An International Perspective- Proceedings of and International Conference, W.Block and M.Walker (eds.), Vancouver: The Fraser Institute, 1984.; James M. Buchanan, “*Constitutional Constraints on Governmental Taxing Power*”, ORDO, vol 30, Stuttgart, 1979.; James M. Buchanan, “*Constitutional Restrictions on the Power of Government*”, in: The Theory of Public Choice II, (Ed. By J.M.Buchanan and Robert D. Tollison), Ann Arbor: The University of Michigan Press, 1984.; James M. Buchanan, “*Tax Reform in Constitutional Perspective*”, in: Law and Economics –Reprint From A Symposium in Sweden 1977, Edited by Göran Skogh, Lund: Jurisdiska Föreningen i Lund.; James M. Buchanan, “*The Political Efficiency of General Taxation*”, National Tax Journal, Vol 46, December 1993.; James M. Buchanan, and Marilyn Flowers., “*Constitutional Limits on Taxing and Spending*”, The Public Finances, Homewood, Illinois: Richard D. Irwin Inc. 1960.pp. 141-149.

early as 1896- qualified, larger than simple majorities are efficient and generally beneficial in order to guarantee predictability and stability in taxation. Wicksell's proposal was a five-sixths requirement to pass a fiscal legislation.²¹

Simultaneous consideration of spending and taxation: Knut Wicksell was the first public finance scholar who suggested such a rule. His proposal was simple: spending and taxation proposals may be discussed and approved at the same time at the parliament. This may control the excessive spending and excessive taxation. A qualified majority rule can be implemented for this purpose.

Generality rule: One of the procedural way of limiting tax abuses is through generality rule. Generality as opposed to particularity principle can be secured in the constitution. For example, if a uniform flat tax is guaranteed in the constitution, this means there will be no discrimination among individuals. In other words, a constitutional prohibition of progressive taxes may limit the arbitrary and discretionary power of the government.²²

On the other hand, tax exemptions are also special tax privileges and therefore violates generality principle. An exemption is a provision that no tax is due on a

²¹Wicksell proposal is suggested in: Knut Wicksell, *Finanztheoretische Untersuchungen*. Jena: Gustav Fischer, 1896.(Partial translation by J. M. Buchanan as "A New Principle of Just Taxation," in *Classics in the Theory of Public Finance*, Eds: Richard A. Musgrave and Alan T. Peacock. London: Macmillan, 1958, pp. 72-118.); see also, Duncan. Black, "*Wicksell's Principle in the Distribution of Taxation*", in: K.K.Eastham (Ed.), *Economic Essays in Commemoration of Economics (10931-1955)*, Wm. Culross, Son. Ltd. 1955.

²²Both Friedrich A. Von Hayek and James M. Buchanan are in favor of general taxation. Hayek stressed the importance of generality in fiscal law. See. Friedrich A. Von Hayek, *Law, Legislation and Liberty*, vol III, *The Political Order of a Society of Free People*, Chicago: University of Chicago Press. 1979. Following Hayek, Buchanan has been a strong advocate of generality principle. He wrote: "*..general taxation is politically or constitutionally efficient in the sense that such a constraint will produce patterns of legislative outcomes that will tend to minimize the destruction of economic value through the operation of fiscal process.*" See: James M. Buchanan "*The Political Efficiency of General Taxation*", *National Tax Journal*, Vol 46, December 1993.

part of the tax base. Some people don't pay the tax due to exemptions. Exemptions in the tax system violates the generality and equity principles.

Senior law-making assembly for taxation. Friedrich A. Von Hayek has suggested that a specially selected "senior" law making assembly can be given power to determine the basic rules on taxation. Ordinary legislation can be put forward to make changes concerning taxation, however suggested "tax assembly" would be responsible for the determination of basic tax structure. This tax structure would presumably remain in place quasi-permanently, and would not be expected to change from year to year.²³

Earmarking: An indirect way to relate government expenditures to the taxes required to finance them is by earmarking. Earmarking forces political decision makers to examine the two sides of the fiscal account simultaneously. Earmarking is not normally thought of as a type of tax limitation, but in important ways it is.

Balanced Budget: A constitutional balanced budget requirement is also a device to limit the taxes indirectly. Balanced budget is an important reform to get rid of government's fiscal irresponsibility.

Political Federalism and Tax Competition among Jurisdictions. Political federalism offers a means of limiting tax bases, tax rates, total budgets, as well as the range and scope of governmental regulatory activity.

Fiscal decentralization refers to separation of governmental functions and governmental revenues among the levels of government. If effective and enforceable means of separating the power of the central government and the state (local) governments can be constitutionally defined, the taxing-spending authority is necessarily limited.

²³James M. Buchanan, "The Limits of Taxation", in: Taxation –An International Perspective- Proceedings of and International Conference, W.Block and M.Walker (eds.), Vancouver: The Fraser Institute, 1984. p.49.

As Brennan and Buchanan (1980) and others have argued, interjurisdictional competition is important to limit the power and the size of government. Competition prevents local officials from engaging in excessive taxation for fear of chasing away the local firms that generate much of the tax base. Competition, in short, provides a needed fiscal discipline that is absent at central government level. Indeed; Brennan and Buchanan argue that fiscal decentralization is attractive for the very reason that it constrains government from its expansionary tendencies.²⁴

Tax Exemptions: Another way of limiting taxes is through exemptions. An exemption is a provision that no tax is due on a part of the tax base. Exemptions in the tax system violates the generality and equality-under the law principles. This issue is somehow explained above under the rubric of generality. If tax exemptions are prohibited in constitution, this limits rent creation efforts of the bureaucracy as well as rent seeking efforts of special interest groups.

Tax Base Constraints: An indirect way to restrict revenues and outlays is by constitutionally limiting allowable bases for taxation. If the taxing power can be limited to specified bases or sources in constitution, tax abuses can be kept under control.²⁵

Quantitative Constraints

Imposing Maximum Rate Limits on Specific Taxes: The maximum tax rates, in other words the tax rates ceiling can be determined in the constitution. The major disadvantage of this kind of limits is that government may move to non-limited

²⁴Wallace E. Oates, “*Fiscal Competition or Harmonization*”, National Tax Journal, Vol LIV. No 3. p. 509.

²⁵James M. Buchanan, “*Constitutional Restrictions on the Power of Government*”, in: The Theory of Public Choice II, (Ed. By J.M.Buchanan and Robert D. Tollison), Ann Arbor: The University of Michigan Press, 1984.p. 50.; For a detailed analysis of constraints on bases of tax, see Geoffrey Brennan and James M. Buchanan., “*Towards A Tax Constitution for Leviathan*”, in: Journal of Public Economics, No 8, December-1977. pp.255-273.

tax sources. The efficient solution would be placing constitutional ceilings on all kind of taxes.²⁶

Tax Revenues as a Percentage of GNP or GDP: This ratio-type of proposal might be effective to limit the taxes. This proposal involve a definition of a ratio between total tax revenues (or total spending) and total product or income, either in terms of levels or rates of increase.²⁷

VI. CONCLUSION

*“When taxes are too high,
people go hungry.
When the government is too intrusive,
people lose their spirit.*

*Act for the people's benefit.
Trust them; leave them alone.”*

Sun Tzu²⁸

There is a famous saying of former justice of the United States Supreme Court, Oliver Wendell Holmes, Jr: *“I like to pay taxes. With them I buy civilization.”*²⁹ His another familiar saying is *“taxes are what we pay for a civilized society.”*³⁰ In some respects, a "civilized society" is the rationale for government in the first

²⁶James M. Buchanan, and Marilyn Flowers., *“Constitutional Limits on Taxing and Spending”*, The Public Finances, Homewood, Illinois: Richard D. Irwin Inc. 1960.

²⁷James M. Buchanan, *“Constitutional Restrictions on the Power of Government”*, in: The Theory of Public Choice II, (Ed. By J.M.Buchanan and Robert D. Tollison), Ann Arbor: The University of Michigan Press, 1984.p. 51.; Robert Greenstein, *“The Constitutional Amendment to Require A Two-Thirds Supermajority to Raise Taxes”*, (<http://www.cbpp.org/>)

²⁸Lao Tzu, The Tao Te Ching, Translated by Stephen Mitchell (<http://eawc.evansville.edu/anthology/tao.htm>)

²⁹<http://www.quotegarden.com/taxes.html>

³⁰<http://www.irs.gov/newsroom/article/0,,id=110483,00.html>

place. A civilized society requires a minimal government, and a minimal government requires tax collection.

Our experience throughout the centuries showed us that we both had gains and losses due to taxes. We gained with low and moderate taxes, but we did lose with high and excessive taxes. The Leviathan's greed resulted in ruins in many civilizations. There has been a tendency towards tax increases always without considering the ethical and economic consequences. Greedy leviathan has always wanted more and more from individuals. Even a tax principle, the so called "adequacy criteria" is discovered to legitimize tax exploitation. But the greediness of leviathan resulted in hunger, poverty and unemployment. Did we really understand or do we really understand the wisdom of Lao Tzu, whose above sayings are written about 2500 years ago?

How can individuals be protected from tax exploitation? How can tax abuse of the governments be stopped? How can arbitrary and discretionary power of the politicians be limited in modern democracies? What effective measures can be taken against tax abuse?

This paper analyzed and tried to find answers to those important questions. Our conclusion is just simple to understand: constitutional restrictions are necessary to prevent excessive exploitation of the taxing power. Day-to-day exploitation of the fiscal process can only be meaningfully constrained by constitutional measures. Ordinary legislation does not protect individuals from the tax exploitation.

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