HOW DISINCENTIVES AND INCOME INEQUALITY ARE HURTING AMERICA

MAKING AMERICA WORK. By Jonathan Barry Forman. Washington: Urban Institute Press, 2006. Pp. 429.

Reviewed by Craig Bolton

I. INTRODUCTION

In *Making America Work*, Jonathan Barry Forman undertakes the monumental task of creating a comprehensive new plan for America's social tax and expenditure schemes. He aims to revitalize the American economy with a series of proposals using government policy to encourage gainful employment.[1] Work,[2] he argues, made America "the world's foremost economic superpower,"[3] and it is the responsibility of the United States government to improve its economy by encouraging more Americans to work and by better redistributing their income.[4] His broad analysis treats taxes and government spending as necessary corollaries, and he argues that both regimes currently discourage work.[5] Though he occasionally presents an overwhelming morass of potential solutions, over the course of the text he develops a coherent new system, covering everything from income taxes to welfare to Social Security. The crux of his argument is that the current convoluted scheme actually discourages work and economic equality and could be remedied by adjusting taxes and retirement plans and offering more appropriate government subsidies. These proposals, he

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1. JONATHAN BARRY FORMAN, MAKING AMERICA WORK xiii–xvi (2006).

2. Forman uses the term "work" to mean both "gainful employment" when referring to individuals, and "function" when referring to the larger economy. *See, e.g., id.* at 2. For the purposes of clarity, this book review restricts usage of the term to the former definition.

3. *Id.* at 1.

4. *Id.* at xiii. Others also make this argument. *See* Richard B. Freeman, *The US Economic Model at Y2K: Lodestar for Advanced Capitalism?*, 26 CAN. PUB. POL'Y 187, 191–92 (2000) (arguing that much of the recent success of the U.S. economy has been due to its ability to create and maintain full employment and that its success could be increased by better redistribution).

5. FORMAN, *supra* note 1, at xiii–xiv.

argues, will attain his stated goal of both growing the pie and dividing it more equally.[6]

The limits to Forman's proposals mainly come from the fact that he ignores the political difficulties inherent in implementing them. Though he has experience in government, the author is not a politician, nor—beyond some cursory remarks about economic justice—particularly concerned about political issues. He is an attorney, an academic, and an analyst, and his work focuses accordingly;[7] Forman addresses the economic issues with no regard for their political feasibility. He skillfully walks his audience through complex issues like labor markets and the earned income tax credit,[8] yet neglects to explain how actual politicians will be able to sell these ideas to an electorate, even though he acknowledges that some of them have already proven unpopular. His text fails inasmuch as it simply ignores these political concerns.

Forman does illustrate familiarity with and deep understanding of the types of problems the taxation and spending regime can cause. Working from this knowledge, he dissects the nation's social programs.[9] While he relies on his expertise to formulate solutions, unfortunately he does not subject his proposals to the same cutting and detailed analysis as he applies to the social programs. These difficulties aside, the text presents an educational and comprehensive ap-

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6. *Id.* at 289.

7. Forman is the Alfred P. Murrah Professor of Law at the University of Oklahoma College of Law. He is a widely published and noted expert on taxation and spending regimes, and he has testified before Congress and served on several federal and state advisory committees. He has worked in all three branches of the federal government, most recently as tax counsel to Senator Daniel Patrick Moynihan (D-NY). *Id.* at 409.

8. Though generally he should garnish praise for his ability to take technical issues like marginal tax rates and show the layperson how they are interesting and relevant, Forman's style is not without its shortcomings. He often resorts to a weapon of choice refrain: here is problem X, and one could apply solutions A, B, or C. At his best, he differentiates between solutions and focuses on why one might be more effective than the alternatives. At his worst, he will introduce a fascinating proposal, only to dismiss it out of hand or leave it hanging in a promissory void. Effectively, this allows the author to present a sort of survey of the various institutional situations, be it tax schemes, welfare, or labor markets. The casual reader or layperson will probably find this approach educational, but it comes with a cost to clarity. The veritable buffet of possible solutions distracts the reader from the comprehensive proposal he lays out in the book's conclusion and the end of each chapter. Fortunately, the reader can remedy this with a quick scan back through the material, but in future editions the text could probably be trimmed or expanded in spots to refocus it.

9. For the purposes of this review and Forman's text, "social programs" indicates all manners of governmentally enacted taxation and spending regimes aimed at the United States population at large, including Social Security, welfare, and income tax.

proach to economic reform. Forman's unflinching appraisal of current public policy programs and his attempts to provide economic justifications for battling income disparity are particularly noteworthy and laudable.

Part II of this book review outlines the major problems with the American economy, as Forman understands them. Part III explains and comments on his proposed solutions to these problems.

II.
WHAT'S WRONG WITH AMERICA RIGHT NOW

Forman starts with the simple supposition that work is good for the American economy, and thus encouraging work is desirable. Viewed from this lens, much of his analysis can be categorized as attacking two widespread problems in the United States—economic injustice and structural work disincentives in the taxation and expenditure regime—with the intent of encouraging all Americans who can meaningfully contribute to enter the workforce.

A. *Economic Injustice*

Forman argues that there is far more economic inequality in America than is cost-effective.[10] The market often fails to encourage the type of work that is most valuable to society,[11] and "pay is only loosely proportionate to productivity."[12] The lack of better rewards discourages low-skilled workers from being more productive or even participating in the labor market. An impoverished populace is unable to contribute to the economy through spending and creates additional externalities such as their inability to pay for health care, food, and similar necessary services. The United States has among the highest levels of inequality of all industrialized nations.[13]

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10. *Id.* at 8, 108. Forman's argument suggests that one could, for example, lower the average salary of physicians but still maintain the same quality of our healthcare. *See id.* at 108.

11. *See id.* at 14 (discussing how a young Hollywood actress makes $15 million annually while a school teacher makes $24,000 and how market forces result in income levels that are not necessarily tied to the amount workers deserve). *See also* Martin J. McMahon, Jr., *The Matthew Effect and Federal Taxation*, 45 B.C. L. REV 993, 1012–13 (2004) (illustrating just how vast the disparity has become: between 1979 and 2000, the average annual income of workers in the bottom 20% has grown 8.73%, from $12,600 to $13,700, while the average income of workers in the top 1% has grown 201.33%, from $286,300 to $862,700).

12. FORMAN, *supra* note 1, at 55.

13. *Id.* at 35. In his discussion of economic inequality, Forman relies on the Gini index, which rates all economic societies on a scale of 0.0—most even distribution of resources—to 1.0—least even distribution of resources. *See id.* at 4–5 for a general

Income plays a large role in explaining this economic inequality: for example, the typical chief executive officer in a major United States company earns approximately four hundred times the salary of the industry's average production worker.[14] Forman argues that government taxes and transfers are the primary means of effecting a redistribution of this income, but, as will be discussed later in this review, he ignores the political difficulties inherent in income redistribution.[15]

B. Work Disincentives

Forman moves on to explain how public policy shapes workforce behavior and actually encourages millions of able Americans to avoid working. For example, a study in California showed that individuals already drawing welfare benefits who attempt to transition to stable employment face tax rates that are nearly confiscatory: the average welfare recipient going from no work to part-time work effectively faces a tax rate of 52.9% on their new income, and those moving from part-time to full-time work face an average marginal tax rate[16] of 75.8%.[17] Furthermore, since various federal benefits like food stamps and federal housing subsidies drop off as income increases, salary raises for those making between $10,000 and $25,000 a year can result in an effective marginal tax rate in excess of 100% on the additional income.[18] Faced with such burdens, workers will often remain where

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discussion of the Gini index. The distribution of resources incorporates personal assets, income, and any redistribution effected through state tax and transfer systems. In a true egalitarian society, for example, the Gini index would be 0.0, and in a society where one individual owned 100% of everything, the index would be 1.0. The post-tax, post-transfer Gini index for income in the United States of America is a sizable 0.400, among the largest of all industrialized nations. *Id.* at 5.

14. *Id.* at 6. *See also* Susan J. Stabile, *One for A, Two for B, and Four Hundred for C: The Widening Gap in Pay Between Executives and Rank and File Employees*, 36 U. MICH. J.L. REFORM 115, 152 (arguing that "to satisfy [American] notions of distributive justice, unequal distributions of income must satisfy notions of equity, meaning at a minimum that rewards should be allocated in proportion to contributions").

15. *Id.* at 2. However, far from calling for total egalitarianism, Forman accepts the capitalist idea that *some* economic inequality is justified. *Id.* at 8. The promise of higher pay encourages individuals to educate themselves to become doctors or professors or to accept dangerous, unpleasant jobs—like working in a coal mine or being a lawyer. *Id.* at 49–51.

16. Put simply, the "marginal tax rate" refers to the change in one's tax obligation as one's taxable income increases. For example, as used in this discussion, if one earned $10,000 and then received a raise to $15,000, the marginal tax rate would be the tax rate paid on the additional $5,000 income.

17. FORMAN, *supra* note 1, at 156.

18. *Id.* at 159.

they are—underemployed or even unemployed—rather than expend additional effort for negligible rewards.[19]

Since the 1970s, Congress has taken some significant steps to address work disincentives. In 1975, Congress introduced the Earned Income Tax Credit for low-income workers with children.[20] The tax credit was designed to make work more attractive by attempting to lower tax burdens on individuals with families.[21] The bipartisan effort of welfare reform in the 1990s similarly encouraged work by defeating confiscatory tax schemes[22]—up through 1996, a welfare beneficiary who transitioned into the workplace lost $1 in benefits for every $1 earned.[23] The changes of the 1990s successfully motivated millions of individuals to leave the welfare system in order to work.[24] The current system, however, is not without its faults.

Couples often face higher tax rates if both individuals are employed; the current system encourages one parent to stay at home—both to keep taxes low and to avoid child care costs.[25] Similarly, Social Security disproportionately benefits single-earner families over married couples with two earners.[26] This disparity is so great that, in many instances, the additional Social Security taxes paid by a second earner in a two-earner family will produce no additional payoff—they are better off receiving the spousal benefits available to nonworking partners.[27]

Additionally, rather than acting merely as a safety net to protect elderly individuals from poverty, Social Security actually encourages elderly individuals who may still be capable of working to retire.

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19. *Id.*
20. *Id.* at 155. The credit initially refunded 10% of the first $4000 of earned income directly to the tax payer. *Id.* It has been expanded through various bills since its inception. *Id.* at 155–56.
21. *Id.* at 155. *See generally* STEVE HOLT, THE BROOKINGS INST., THE EARNED INCOME TAX CREDIT AT AGE 30: WHAT WE KNOW 2–10 (2006) (explaining the history of EITC, how it operates, and who benefits).
22. Notably, the reforms also required public assistance recipients to meet certain work requirements. Andrew Stettner, *A Dubious Future: The Challenge of Welfare Reform in New York City*, 5 GEO. PUB. POL'Y REV. 73, 73–74 (1999). It is not clear whether Forman considers this when he claims the changes "encouraged work," however.
23. FORMAN, *supra* note 1, at 156.
24. *Id.* at 158.
25. *Id.* at 135.
26. Two couples with identical income, one with one earner and one with two earners, will not receive the same amount of lifetime benefits—in a hypothetical Forman constructs, the single-earner family receives approximately 8.8% more than the two-earner family. *Id.* at 194–95. Similarly, if the single earner dies, her spouse will receive greater benefits than a surviving spouse of a two-earner couple. *Id.*
27. *Id.* at 195.

Once a worker has completed thirty-five years of covered employment, he is unlikely to see an additional increase in his benefits under the current system if he continues working.[28] Effectively, Forman argues, this means that individuals who meet the early retirement age will see minimal increased benefits from a few additional years of payroll taxes.[29] As might be expected under such a system, the average age of retirees has decreased dramatically, from 68.7 years old in 1940 to 63.6 in 2002,[30] despite the dramatic increase in life expectancy during that same period.[31] This trend presents an especially large problem considering the sheer size of the aging Baby Boomer generation, which is now close to retirement age.

Forman argues that the net result of these disincentives is a massive drain on the labor market. Present unemployment figures fail to illustrate the number of Americans outside of the work force—in 2005, over sixty-two million Americans over the age of twenty-five were neither classified as employed or unemployed.[32] This particular discussion is reductive, however, as a significant number of these individuals may be retired, caring for children, incarcerated, or disabled—Forman does not parse these individuals from his offered number.[33]

III.
Forman's Solutions and the Problems They Pose

A. *Adjusting Taxes and Spending to Decrease Economic Disparity May Not be Politically Viable*

Though calls for "living wages" may presently be in vogue, Forman argues that paying such wages is often economically unfeasible.[34]

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28. *Id.* at 198.
29. *Id.*
30. *Id.*
31. *Id.* at 21.
32. These figures are based upon Forman's calculations using data provided by the Bureau of Labor Statistics. *Id.* at 22. Unfortunately, neither Forman nor his source explains how these sixty-two million individuals are classified.
33. For example, approximately thirty-one million Americans are currently classified as retired and over the age of sixty-five. U.S. Soc. Sec. Admin. Office of Policy, Monthly Statistical Snapshot, March 2007 (2007), http://www.socialsecurity.gov/policy/docs/quickfacts/stat_snapshot/. Another 6.8 million are classified as disabled. *Id.*
34. Forman, *supra* note 1, at 54 ("Pity the poor pizza delivery company that decides to pay its workers a 'living wage.' That company would soon have to raise the price of its pizzas and would soon go out of business . . . ."). Though Forman does not differentiate, this example seems less analogous to an actual individual business under a federally mandated living wage than perhaps to an entire state or nation that raises its wages and then must compete in a larger international market where such wages would not be equal across all competitors. For a more thorough discussion of

What is to be done, then, about adjusting wages to encourage participation by low-income workers?

Forman argues that the United States should replace social welfare programs with a system of universal grants and earnings subsidies instead of implementing living wages.[35] He proposes developing a comprehensive system of grants tailored to the needs of each family, arguing that such a system would be more administrable and could function with additional flexibility.[36] For example, workers with children could be made eligible for refundable personal tax credits—that is, they would receive a government subsidy that could be applied toward the cost of child care.[37] Theoretically, the net result for individuals with families would be that low-income earners who worked full-time would be noticeably better off than those who elected not to work.[38] Additional grants could remain in place to act as a "safety net" for individuals who are unable to find work or for those whose incomes do not allow them to meet their basic needs.[39]

Additionally, this approach would have other benefits over mandatory wage increases that Forman does not specifically mention. Unlike a living wage, the money needed to ensure a proper living situation would not come directly from the businesses themselves, but from the general tax base, largely derived from taxes that are already in place. As such, this process could presumably avoid the drop in jobs that critics claim accompany wage increases.[40]

However, Forman's proposals do us little good if they cannot be enacted. Although Forman does seem to recognize the potential political difficulties of redistribution,[41] he does not provide politicians with much in the way of non-economic reasons to explain the call for redistribution, besides several quotes from philosophers and the blanket statement that "the government should [do] as much as it possibly can

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the potential benefits and harms of living wages, *see generally* David Neumark & Scott Adams, *Do Living Wage Ordinances Reduce Urban Poverty?*, 38 J. HUM. RES. 490 (2003) (arguing that living wages typically result in a modest decrease in the number of available jobs while also partly reducing urban poverty).

35. FORMAN, *supra* note 1, at 178. The current system involves 85 different federally funded programs, covering everything from food stamps to rent subsidies. *Id.* at 177.

36. *Id.* at 177–79.

37. *Id.* at 130–31.

38. *Id.* at 131.

39. *Id.* at 179.

40. *See* Neumark, *supra* note 35, at 492–94 (discussing the decrease in employment that accompanies government-mandated wage increases).

41. *See* FORMAN, *supra* note 1, at 91 (". . . ideology has put the burden on government to justify any redistributive tax, transfer and regulatory policies, and redistribution has been constrained").

to achieve greater economic justice."[42] Nor does he discuss or note the potential social or legal difficulties.

Social forces, such as the relative wealth gaps between middle, upper, and lower classes, affect the amount of redistribution in a democratic society.[43] Middle-class voters are unlikely to favor redistribution via tax-and-transfer systems that threaten to lower their own social status.[44] Even among the recent influx of populist-leaning Democrats elected in the 2006 Congressional elections, there seems to be little call for redistribution.[45] One Democratic pollster has found that voters tend to favor plans for general economic growth over those that focus on redistribution.[46] Forman's wish for redistribution may be laudable, but unfortunately, it does not appear that a majority of Americans share that view. Similarly, although the Sixteenth Amendment grants Congress the express power to lay income taxes without regard to census and apportionment issues,[47] legal scholars continue to debate the constitutionality of redistribution achieved through certain types of taxation, such as progressive rate income taxation and estate taxation.[48]

Accordingly, such reforms may face significant political opposition. Recall President Bush's proposal for creating voluntary private savings accounts.[49] The Democrats—who have since attained a majority in both Congressional houses—torpedoed any attempt to "privatize" even part of Social Security.[50] Yet, the second tier of Forman's two-tier Social Security proposal unflinchingly introduces a similar

42. *Id.* at 108.

43. Giacomo Corneo & Hans Peter Gruner, *Social Limits to Redistribution*, 90 AM. ECON. REV. 1491, 1500 (2000).

44. *Id.* at 1496–97.

45. *Fanfare for the Common Man*, THE ECONOMIST, Nov. 25, 2006, at 53.

46. *Id.*

47. U.S. CONST. amend. XVI.

48. *Compare* Leo P. Martinez, *"To Lay and Collect Taxes": The Constitutional Case for Progressive Taxation*, 18 YALE L. & POL'Y REV. 111, 134–48 (1999) (arguing that progressive taxation is both constitutional and socially beneficial), *with* Calvin R. Massey, *Takings and Progressive Rate Taxation*, 20 HARV. J.L. & PUB. POL'Y 85, 111–19 (1999) (arguing that taxation for the purposes of redistribution to only certain groups of individuals might constitute a taking under the 5th amendment).

49. FORMAN, *supra* note 1, at 199–200.

50. *See* Amy Fagan, *Private Accounts Stuck in Senate*, WASH. TIMES, Apr. 13, 2005, at A4 ("Democrats have stood firmly in opposition to private accounts."). *See also* Karen Tumulty & Mike Allen, *It's Lonely at the Top*, TIME, Nov. 6, 2006, at 28 ("Bush's advisers even talk of enlisting Democrats for some grand push for entitlement reform, although anything like Bush's disastrous effort to add private accounts to Social Security would seem out of the question, given his inability to get anywhere even with a Republican Congress.").

program, potentially greater in scale.[51] Considering the political impossibility of passing Bush's reforms just a year or two ago, it seems unlikely that a similar plan would be adopted anytime soon. The general story illustrates how political motivations can freeze and kill a possible reform—even a promising one—well before the concept is fully explored, and Forman's own failure to recognize this is a weakness.

Even if such sweeping legislation were adopted, it would be difficult for Congress to maintain such a unified sense of purpose. Modern democratic political systems are typically unable to commit to taxes and subsidies over the long term, due to the necessarily shifting nature of representative democracy.[52] Considering the increasingly fragmentary nature of power in the post-World War II Congress, achieving sweeping, New Deal-style reforms may be even more difficult.[53] The myriad powerful interest groups pull in many different directions; viewed in this fashion, Congress is less a unified body than a contest between multifarious interests, both local and national.

Even assuming that such redistributive legislation were passed and withstood constitutional scrutiny, it may still face a significant funding problem. Forman argues that the funds for financing these programs could be found by tweaking the current taxation scheme. He claims that the excessive tax breaks currently existing have resulted in a narrow tax base.[54] In order to make the lowering of income taxes feasible, he argues that the government should repeal a variety of special tax breaks that it has provided over the years, thus transferring wealth from corporations and special interests to low-income workers and families.[55] Presumably, as more individuals move from welfare to work, the program would lower its own costs while expanding the tax base.

Again, however, politics poses a significant problem. As Forman admits, the present tax regime is extraordinarily complicated—the In-

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51. FORMAN, *supra* note 1, at 200 ("Replacing all, or a portion of, the current Social Security system with individual accounts could help improve the funding of the Social Security system. . . . [and] reduce the work disincentives that pervade the current system.").

52. Daron Acemoglu & James A. Robinson, *Inefficient Redistribution*, 95 AM. POL. SCI. REV. 649, 650 (2001).

53. W. Mark Crain & Timothy J. Muris, *Legislative Organization of Fiscal Policy*, 38 J.L. & ECON. 311, 313–15 (1995) (arguing that the balkanization of Congressional spending and taxation committees has resulted in uncontrolled, fragmented spending schemes).

54. FORMAN, *supra* note 1, at 124.

55. *Id.* at 124.

ternal Revenue Code alone is over one million words long.[56] What he ignores, however, is *why* it is as long as it is. He correctly indicates that Congress has provided numerous tax breaks for everything from "chicken farms to oil wells" but fails to explore what this illustrates about the federal government.[57] Though the complexity of the tax code seems unnecessary, it results from Congress's ability to micromanage particular industries and segments of the economy in relative isolation.[58] Just as Forman wants to use the tax and expenditure scheme to encourage work, Congress may instead want to use it to discourage racism, encourage out-of-state investment, or generate economic development. Reducing special tax breaks is a laudable goal, but it assumes a level of Congressional discipline that may not be realistic. Thus, any program that depends upon Congress severely limiting the tax breaks it offers could soon find itself with a substantial budget shortfall.

B. Forman's Plans to Eliminate Work Disincentives in Social Security and Taxation Policies are Uneven

Forman gives a complex set of proposals for restructuring the Social Security system. First, in order to ensure that Social Security benefits act as an adequate safety net, the government could guarantee every retiree, regardless of contribution, annual benefits of 100% of the poverty level once they reach full retirement.[59] Second, the age for full retirement could be raised, and individuals could be allowed to receive actuarially reduced benefits beginning at age sixty-five.[60] Third, to encourage and reward additional work, policy makers could introduce an additional earnings-related tier. Each worker would have an individual retirement savings account funded by payroll taxes similar to the current Social Security taxes[61] but much lower.[62] Unlike the current system where individuals often achieve maximized returns after thirty-five years and do not accrue additional benefits for working after that time, individuals could continuously contribute to their indi-

56. *Id.* at 118.
57. *Id.* at 120.
58. Stanley S. Surrey, *Tax Incentives as a Device for Implementing Government Policy: A Comparison with Direct Government Expenditures*, 83 HARV. L. REV. 705, 706 (1970).
59. *Id.* at 208.
60. *Id.*
61. *Id.* at 209.
62. Forman suggests that a tax rate of 6 or 7% would be sufficient, as opposed to the current 10.6% tax. *Id.* at 210.

vidual accounts until retirement.[63] The current spousal and survivor benefits would be eliminated, and instead each spouse in a married couple would be credited with half the couple's combined earnings during each year of marriage.[64]

While Forman's proposals regarding couples seem fair, his ideas about decreasing the benefits of Social Security while simultaneously raising the retirement age do not seem to apply properly to low-income individuals. If one were to imagine a nation of recently retired silver-haired suburbanites, using their Social Security income to pay down new boat loans and finance luxury cars, it becomes easier to accept his idea that the elderly need to get out of their hammocks and get back in the office.

However, the contemporary touchstone of post-retirement employment is the image of a Wal-Mart greeter, not a white collar worker,[65] and, ostensibly, Social Security should primarily concern itself with workers who would be reduced to poverty without its benefits. It is counter-intuitive to imagine that individuals with higher incomes or private pensions will be encouraged to enter back into the work force by incentive adjustments to the Social Security safety net. Realistically, those individuals with lower incomes will be forced to continue working, while only individuals who have the financial ability to retire will have the freedom to decide whether to retire with reduced benefits or continue working. If Forman is serious about economic justice, perhaps Social Security should be more redistributive, not less redistributive as he advocates.[66] One alternative to Forman's proposal would be that individuals with higher incomes should still pay Social Security taxes, but should receive lower benefits than individuals who ostensibly will need the money more. This would incentivize higher income workers to find more efficient means of financing their retirement while ensuring low-income workers will have sufficient benefits.

Problems with his Social Security solutions aside, Forman's more general ideas regarding low-income workers hit the mark. He argues that if the nation is serious about improving the situation of low-income workers, it should not be taxing them in the first place; this step

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63. *See id.* at 209–10.

64. *Id.* at 210–11.

65. *See, e.g.*, Gary L Geipel, Hudson Institute, *Global Aging and the Global Workforce*, March 3, 2003, http://www.hudson.org/index.cfm?fuseaction=publication_details&id=2740 (noting the "peculiarly American phenomenon" of the "80-year-old WalMart greeter").

66. *Id.* at 200.

alone would encourage work and reduce poverty.[67] The idea may seem obvious, but the simple effectiveness of this scheme is apparent. Similarly, rather than adopting the conservative attitude that people will work twice as hard for the same amount simply because it is the "right thing to do," Forman argues that policy makers should be realistic. The system could encourage increased productivity by further lowering the ceilings at which certain tax credits are given, and raising the ceiling for the phase-out of benefits to avoid those confiscatory taxes that prevent individuals from transitioning to higher levels of income and employment.[68]

C. No Guarantee That There Will Be Enough Jobs

Another problem with Forman's proposals is that they assume that just because everyone is encouraged to work, suitable jobs will be available. Elderly workers, in particular, may find it difficult to find and maintain viable employment. Forman does not explicitly account for involuntary job loss; throughout the 1980s and 1990s, however, involuntary job loss—including forced retirement—among elderly workers grew substantially.[69] Workers in their fifties and sixties are also much less likely to reenter the workforce successfully after involuntary job loss than younger workers.[70] The reasons may be highly varied, including a perceived inability to learn new work, expectations of higher wages given their considerable experience, and health concerns.[71] Even faced with government benefits, it is unlikely that elderly workers who have lost their jobs will trudge on against stacked odds. Involuntary job loss among workers in their sixties often leads to early retirement, as discouraged workers choose to leave the workforce rather than attempt to find new employment.[72] The net result, under Forman's plan, would be elderly individuals who are unable to find work retiring with lower benefits.

Older workers, however, are not the only individuals who might have difficulty finding employment. As Forman admits, there are currently fewer jobs available for low-skilled workers than in previous

67. *Id.* at 128.
68. *Id.* at 164–65.
69. Sewin Chan & Ann Huff Stevens, *Job Loss and Employment Patterns of Older Workers*, 19 J. OF LAB. ECON. 484, 484–85 (2001).
70. *Id.* at 485.
71. *See generally* Barry T. Hirsch, David A. Macpherson & Melissa A. Hardy, *Occupational Age Structure and Access for Older Workers*, 53 INDUS. & LAB. REL. REV. 401 (2000) (discussing the difficulties of older workers to reenter employment once displaced and the various possible reasons).
72. Chan & Stevens, *supra* note 71, at 486–87.

decades, and those available provide incomes lower, in real dollar terms, than in the past.[73] The job shortage may have deeper roots than work disincentives—such as globalization—and while policies like redistribution may help,[74] there are no guarantees that the structure of the United States economy can sustain a significant number of additional jobs.[75] The net result from a system of tax and spending adjustments meant to encourage work—and thereby discourage collecting government benefits—may be forcing individuals to seek jobs that simply are not there. This could create greater competition for the few low-skill jobs that are available, exacerbating problems of underemployment and unemployment and undermining public and political confidence in the reforms. Given the shifting nature of democratic institutions, even if the program were able to generate employment opportunities eventually, a shortage early on could spell political death long before the necessary job creation occurs.

D. What Happens After the Baby Boomers?

Forman's ideas are particularly dependent upon the substantial glut of retirees soon to be created by the Baby Boomer generation. Social Security benefits are financed through payroll taxes on individuals presently employed.[76] That is, the current crop of beneficiaries depends upon taxes raised from other, working individuals.[77] As the disproportionately large Baby Boomer generation enters into retirement, the younger, smaller generation will not be able to support them through the current system.[78] However, if policy makers follow Forman's advice and institute a series of reforms designed to encourage the participation of elderly workers, what happens if the labor market

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73. FORMAN, *supra* note 1, at 22.

74. Lan Cao, *Corporate and Product Identity in the Postnational Economy: Rethinking U.S. Trade Laws*, 90 CAL. L. REV. 401, 437–41 (2002) (arguing that globalization causes jobs to move overseas as befits international corporations, and though globalization increases the larger economic pie, it comes at a cost to low-skill jobs for more developed nations).

75. It is notable that the United States already has a higher percentage of workforce participation than most developed nations. FORMAN, *supra* note 1, at 1. Even during the economic boom of the late 1990s, the United States still had an unemployment rate of 4.5%—which is, itself, lower than nearly every other industrialized nation. Richard B. Freeman, *The U.S. Economic Model at Y2K: Lodestar for Advanced Capitalism?*, 26 CAN. PUB. POL'Y S187, S191 tbl.2 (2000).

76. FORMAN, *supra* note 1, at 63.

77. *Id.*

78. Robert L. Clark, *Social Security Financing: Facts, Fantasies, Foibles, and Follies*, 94 AM. ECON. REV. 182, 183 (2004). *But see* Peter Diamond, *Social Security*, 94 AM. ECON. REV. 1, 1 (2004) (arguing that it will be possible to correct this problem by making small adjustments to the current system).

retracts? Will the remaining elderly workers be crowded out of the market and find that they no longer have the necessary Social Security benefits to maintain a suitable life? Conversely, if the labor market somehow absorbs all the elderly workers, once the Baby Boomer generation has passed on the market could conceivably find itself with a significant labor gap.

As retirement habits and the labor market changes with time, the social systems supporting laborers must adapt. Certainly, minds can change, and voters faced with the looming Baby Boomer crisis will have to become more comfortable with the idea of overhauling the once sacred Social Security system.[79] If, for example, there is a large labor gap after the Boomers are gone, the social attitudes of voters may accept the need and eventually support another round of social program overhauls. However, given the slow pace at which Congress reacts, the lag time between identifying the future problem and taking action to correct it could leave millions without the economic assistance they need. The resulting increase in elderly poverty could have substantial negative effects on the national economy, and is itself an injustice. While one cannot reasonably expect Forman to treat all of these issues, a more open recognition that the taxation and spending regimes will require a continually flexible approach could help offset some of these seemingly inevitable political difficulties.

E. Forman Abandons Promising Ideas

Another shortcoming of Forman's work is that he presents certain intriguing proposals only to drop them without significantly exploring their possibilities within the text. For example, he cites a study that argues that a flat 4% tax on income and wealth could replace all other sources of federal income tax revenue.[80] However, rather than fully unpacking this idea, he mentions its potential and then moves immediately and jarringly to his next observation, leaving this promising idea to return to the ether from whence it sprang.

Despite Forman's dismissal of this idea, it incorporates many of his goals: the plan is simple yet comprehensive, would not discourage productivity in the way a much higher, sole income tax might, and

79. *See generally* John F. Cogan & Olivia S. Mitchell, *Perspectives from the President's Commission on Social Security Reform*, 17 J. ECON. PERSP. 149 (2003) (arguing that Social Security faces a "severe financial problem"). *But cf.* Peter Diamond, *Social Security*, 94 AM. ECON. REV. 1 (2004) (arguing that the basic structure of the Social Security system is sound and that potential future problems can be avoided with reasonable adjustments).

80. FORMAN, *supra* note 1, at 149.

would not tax the poor. This practice of introducing an idea and then letting it hang in limbo is part of Forman's writing style,[81] but his frequent practice of dismissing such promising ideas without serious discussion tends to undermine the solutions he advocates. There may be legitimate problems with a flat-rate wealth tax, but Forman does not discuss them. Readers are left wondering whether Forman is lax in analyzing his own ideas; in fact, since there are many legitimate concerns about some of his more detailed proposals, the reader gets the unfortunate impression that he is. At the very least, he loses some credibility by not putting more of his analysis on the page.

VI.
Conclusion

In a time that focuses on the gross domestic product and the health of the stock exchange as the chief indicators of economic success, it remains important to remember that millions of Americans are not sharing in the prosperity. An "if it ain't broke, don't fix it" mentality easily overlooks the country's rampant and growing economic disparity and its inherent dangers. In an increasingly globalizing world, continuing American dominance—or even prosperity—may rely on unflinching reevaluation of our social programs. Forman succeeds inasmuch as he willingly adopts such a viewpoint. He focuses his attentions on analyzing and delineating real economic problems posed by the country's public policy patchwork.

He fails, however, to provide consistent analysis regarding his own solutions. The pedantic tone of his piece makes sense when one considers that he aims his work at concerned, educated laypersons, but before policy makers take his ideas out of the educational field and try to apply them in actual practice, they must be subjected to some tough questions. Not the least of which is, how can the legislature implement and sustain these solutions in our current political state. *Making America Work* would be that much more useful had Forman explicitly scrutinized his own ideas as much as current public policy.

81. *See supra* note 8.