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An Evaluation of Federal Tax Policy Based on Judeo-Christian Ethics

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**An Evaluation of Federal Tax Policy
Based On Judeo-Christian Ethics**

Susan Pace Hamill

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AN EVALUATION OF FEDERAL TAX POLICY BASED ON JUDEO-CHRISTIAN ETHICS

*Susan Pace Hamill**

“So be careful to do what the Lord your God has commanded you; do not turn aside to the right or to the left. Walk in all the way that the Lord your God has commanded you, so that you may live and prosper and prolong your days in the land that you will possess.”

Deuteronomy 5:32-33**

* Professor of Law, University of Alabama School of Law. Professor Hamill gratefully acknowledges the support of the University of Alabama Law School Foundation, the Edward Brett Randolph Fund and the William H. Sadler Fund and thanks Professor Michael J. Perry for his insightful comments and for affirming my faith-based evaluation of tax policy as being truly legitimate even in the world of academia. I also thank the Beeson Divinity School faculty, especially Dr. Frank Thielman, Dr. Wilton Bunch, Dean Timothy George and Associate Dean Paul House, for their continued support of my ministry. This article would not have been possible without the hard work of the Bounds Law Library staff at the University of Alabama, especially Creighton Miller, Paul Pruitt and Penny Gibson, my secretary Donna Warnack and three generations of research assistant teams: Bradley Hayes, Jimmy Long, Rosamond Todd, Katie Phillippi, Jay Averitt, Anthony Collins (who also shared the vast knowledge of his father, the Rev. Dr. Tony Collins), Josh Sutherland, Brad West, Ben Graves, Brenoch Wirthlin, Vince Schilleci, Jim Foley, Jason Botop, Joe Chambers, Trey Hill, Justin Parsons, Ira Taylor, Dave Wanhatalo and Ward Henneker. Finally I am blessed with unlimited friendship and support from Phillis Belcher, Norman Stein, Steven and Fay Hobbs, Karen Stanley, Connie Happell, Howard Walthall, Tom Berg, Marjorie Tsang, Carol Ann Vaughn, Wythe Holt, Charles Gamble, Ginny Bryant, Sue McInnish, Linda Tilly, Wayne and Sean Flynt and especially Kristi and Sarah Thomson (the widow and daughter of my good friend Bailey Thomson, who encouraged the ideas in this article just before his untimely and tragic death in 2003), and unlimited love from my husband Brad, my children William and Nancy Lee, my father and stepmother, brother and sister and in-laws, and, especially Aunt Bernardis, probably the only person who has read everything I have written including footnotes.

** *Deuteronomy 5:32-33* (New International Version). All citations to the Bible will refer to the New International Version translation.

With hope that the message of faith-inspired tax policy will travel throughout communities across America, I dedicate this article to my dear mentors and friends: Bob Peroni, who over twenty years ago made me into a tax lawyer; Melford Espey, who took me under his wing when I first arrived in Alabama and never gave up on me; Brother Dan Kilgore, who guided me to the Beeson Divinity School; and finally Hardy Jackson, who pushed me out of the ivory tower and showed me how to reach a popular audience. – SPH

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I. INTRODUCTION

This article applies the moral principles of Judeo-Christian ethics to the fundamental federal tax policy issues addressing the morally required level of revenues that must be raised and how the tax burden should be allocated among taxpayers at different levels of income and wealth. Despite the value judgments inherent in every tax policy decision, tax policy, an area dominated by economists, politicians, and lawyers, is not normally discussed as an ethical issue with far-reaching moral implications.¹ This lack of secular-based ethical analysis makes the idea of evaluating federal tax policy under faith-based moral principles seem unusual at best and inappropriate at worst, even to the many Americans who are sincerely committed to the Christian or Jewish faiths. This initial reaction is not surprising due to the scarcity of any spiritual dimension in the world of business and commercial transactions and in the practice of tax law. Despite being a member of the United Methodist Church throughout my over twenty-year career as a tax lawyer, I only recently made this connection.

It took the unusual experience of spending my sabbatical at a conservative evangelical Christian seminary, and, while there, noticing for the first time that my home state of Alabama has the most inadequate and inequitable state and local tax system in the entire nation, to open my eyes and show me that tax policy is an extremely important issue of justice under the moral principles of Judeo-Christian ethics. While in seminary I wrote a thesis, *An Argument for Tax Reform Based on Judeo-Christian Ethics*, which attacks Alabama's tax policy as immoral and challenges Alabama's over ninety percent Christian population, especially the political and religious leaders, to meet their moral obligations to work towards reforming the system.² The reaction to my thesis was far more intense than anyone expected with numerous journalists, tax policy analysts, academics, religious and political lead-

¹ See JOEL SLEMROD & JON BAKIJA, *TAXING OURSELVES: A CITIZEN'S GUIDE TO THE DEBATE OVER TAXES* 59 (3d ed. 2004) (stating that economic analysis dominates tax policy decisions without discussing the issues in moral terms even though tax policy ultimately involves value judgments and arguing that "any panel of economists offering their opinions on the best tax system should be followed by a panel of philosophers or ethicists who offer their views on tax equity").

² Susan Pace Hamill, *An Argument for Tax Reform Based on Judeo-Christian Ethics*, 54 ALA L. REV. 1 (2002) [hereinafter Hamill, *An Argument for Tax Reform*]. Several months after my article was published it (along with selected editorials, press coverage and chapters explaining the context behind the article) was reprinted in paperback book form. See SUSAN PACE HAMILL, *THE LEAST OF THESE: FAIR TAXES AND THE MORAL DUTY OF CHRISTIANS* (2003).

ers, as well as ordinary citizens inquiring how my thesis could be applied to the tax structures of other states and to federal tax policy.³ In response, this article develops broader, but still conservative-based, Judeo-Christian moral principles that can be applied to any tax policy structure and morally evaluates the Bush Administration's trends of cutting the tax burden of the wealthiest Americans while jeopardizing the funding of important safety nets and other programs relied on by poor and middle-class Americans.⁴

After documenting that Judeo-Christian ethics is the moral compass chosen by most Americans, and that evaluating the fairness of federal tax policy under these principles not only passes constitutional muster but is also appropriate under the norms of a democracy, Part II of this article illustrates that the common ground of conservative Evangelical, mainline Protestant, Catholic, and Jewish standards of justice requires that all persons, especially those with less wealth and power, be free from oppression and enjoy a reasonable opportunity to reach their potential. This covers a broad category of areas guarding basic human dignity, including access to minimum subsistence, decent healthcare and housing, as well as education and job training. Because of the universal presence of human greed, these costs can only

³ See, e.g., Tony Allen-Mills, *Alabama Puts Bush Tax Cuts to Biblical Test*, LONDON TIMES, June 15, 2003, § 1, at 25; Adam Cohen, *What Would Jesus Do? Sock it to Alabama's Corporate Landowners*, N.Y. TIMES, June 10, 2003, at A28; Shailagh Murray, *Divine Inspiration: Seminary Article in Alabama Sparks Tax-Code Revolt*, WALL ST. J., Feb. 12, 2003, at A1; Julie Polter, *The Lawyer, the Bible, and the Governor*, SOJOURNERS MAG., Apr. 2004, at 12-17; Jay Reeves, *Law Professor Summons Jesus as a Witness for Tax Reform*, WASH. POST, Mar. 23, 2003, at A10; see also Jason Zengerle, *The 3rd Annual Year in Ideas: Biblical Taxation*, N.Y. TIMES MAG., Dec. 14, 2003, at 52-54 (placing *An Argument for Tax Reform Based on Judeo-Christian Ethics* on the *New York Times*' list of best ideas for 2003).

⁴ As part of a symposium "Understanding the Intersection of Business and Legal Ethics" sponsored by the University of St. Thomas School of Law, a private Catholic-affiliated law school whose mission is to foster bringing faith-based principles to all areas of the law, I was given the opportunity to start my research morally evaluating federal tax policy. See Susan Pace Hamill, *A Moral Perspective on "Big Business" Fair Share of America's Tax Burden*, 1 U. ST. THOMAS L.J. 857 (2004) (illustrating that economic theories provide no reliable information guiding tax policy, and applying the secular-based moral frameworks of utilitarianism, egoism, and virtue ethics to the decrease in the tax burden of America's largest and most profitable corporations resulting from the Bush Administration's first term tax cuts and the flat/consumption tax proposals). In the *St. Thomas* article, I did not morally evaluate under any ethical framework the federal tax policy issue defining the level of revenues, nor did I apply the moral principles of Judeo-Christian ethics to the federal tax policy issue of how the tax burden should be allocated among taxpayers at different levels of wealth.

be met with adequate tax revenues. Part II also establishes that the Judeo-Christian teachings on wealth, which impose greater moral obligations on those enjoying higher levels of income and wealth, require the burden for paying taxes to be allocated under a moderately progressive model. Finally, Part II urges political and religious leaders to meet their moral obligations to actively support tax policy that meets Judeo-Christian standards.

Part III applies the moral principles of Judeo-Christian ethics to the federal tax cuts and the reasons supporting them since President George W. Bush began his first term in 2001. After documenting that these tax cuts overwhelmingly benefit the wealthiest Americans, while significantly contributing to the enormous federal deficit threatening substantial spending cuts in a number of areas supporting lower income Americans, this Part evaluates these tax cuts as ethically very troubling and part of a conclusively immoral trend moving towards flat or consumption tax models that exacerbate these consequences even further. Part III then illustrates that the reasons justifying these tax policy trends, mainly unreliable promises of increased economic growth and the absolute importance of rewarding individual effort and preserving private property rights, are completely inconsistent with Judeo-Christian values and reflect the values of objectivist ethics, a form of atheism that exalts the individual person's self-interest as the sole barometer of moral truth, while denying the existence of a supreme deity. This article concludes that President Bush and the religious leaders supporting him are grossly violating the moral obligations of their faith and that the moral conversation addressing tax policy nationwide must start reflecting genuine Judeo-Christian values and move closer to these ideals if our nation is to survive and prosper in the long run.

II. DEFINING THE MORAL PRINCIPLES OF JUDEO-CHRISTIAN ETHICS THAT APPLY TO TAX POLICY

A. *The Relevance of Judeo-Christian Ethics to Federal Tax Policy and the First Amendment*

Americans are, or at least claim to be, a people whose moral values are primarily grounded in the Christian or Jewish faiths. Of the nearly three hundred million Americans over seventy five percent identify themselves as Christian, with Catholics, Baptists and Methodists showing the greatest numbers, while approximately 1.3 percent

identify themselves as Jewish.⁵ Not surprisingly, the political representatives elected by the voting public also overwhelmingly claim Judeo-Christian affiliations. Showing even greater proportions than the general population, well over ninety percent of the members of Congress practice Christianity in some form, and almost seven percent practice Judaism.⁶ Our current President, George W. Bush, is a member of the United Methodist Church.⁷

⁵ Of the over 295,000,000 Americans (Census Bureau Home Page, www.census.gov/population/www/popclockus.html (last visited Nov. 8, 2005)), 76.5% practice some form of Christianity (the top seven denominations are Catholic (24.5%), Baptist (16.3%), Methodist/Wesleyan (6.8%), Lutheran (4.6%), Presbyterian (2.7%), Pentecostal (2.1%), Episcopal/Anglican (1.7%), with the rest adhering to many other variations (e.g., the United Church of Christ, Latter Day Saints, and Disciples of Christ)), 1.3% practice Judaism, 9% practice a wide variety of other religions (the top three are Muslim (.5%), Buddhist (.5%) and Hindu (.4%)), and 13.2% are nonreligious or secular. ADHERENTS.COM, LARGEST RELIGIOUS GROUPS IN THE UNITED STATES OF AMERICA, http://adherents.com/rel_USA.html (citing BARRY A. KOSMIN ET AL., AMERICAN RELIGIOUS IDENTIFICATION SURVEY (2001), at http://www.gc.cuny.edu/faculty/research_briefs/aris/aris_index.htm); RELIGIUSTOLERANCE.ORG, RELIGIOUS IDENTIFICATION IN THE U.S. (2003), http://www.religioustolerance.org/chr_prac2.htm. Because the number of practicing Muslims in the United States is very small and there are currently no Muslims serving in an elected capacity in the federal executive or legislative branches, this article does not attempt to apply Islamic ethics to federal tax policy issues. However, at least at the broadest level, the analysis and conclusions in this article are probably consistent with the moral principles of Islamic ethics. A cursory examination indicates that social reform is part of Muhammad's message, justice is highly valued, the spiritual dangers of overemphasizing wealth are recognized, and given that "Islam is part of and traceable to the monotheistic traditions of Judaism and Christianity, . . . its ethical code is similar to that of Old Testament Judaism". See THOMAS W. LIPPMAN, UNDERSTANDING ISLAM 5, 29, 39, 59, 69 (2002).

⁶ See ALBERT J. MENENDEZ, AMERICANS FOR RELIGIOUS LIBERTY, RELIGIOUS AFFILIATIONS OF MEMBERS OF 109TH CONGRESS (2004), <http://www.arlinc.org/pdf/109.pdf>. In the Senate, all members have Judeo-Christian affiliations. The largest numbers are: Roman Catholic (24%), Presbyterian (13%), Methodist (13%), Jewish (11%), Episcopalian (10%), Baptist (7%), with the remaining 22% affiliated with a variety of Christian-based denominations. In the House, 99% of the members have Judeo-Christian affiliations. The largest numbers are: Roman Catholic (30%), Baptist (15%), Methodist (11%), Presbyterian (8.5%), Episcopalian (7%), and Jewish (6%), with the remaining 21.5% affiliated with a wide variety of Christian-based denominations. Only six members of the House (1%) do not have a Judeo-Christian affiliation. *Id.*

⁷ JIM WALLIS, GOD'S POLITICS 139 (2005) (President Bush was raised as an Episcopalian and joined the United Methodist Church after "a life-changing conversion, around the age of forty, from being a nominal Christian to a born-again believer . . .").

An examination of whether it is constitutional to evaluate federal tax policy under the moral principles of Judeo-Christian ethics must start with the Free Exercise and Free Speech Clauses of the First Amendment of the United States Constitution. Under the Supreme Court's strong and consistent interpretations protecting these First Amendment rights, individual Americans enjoy absolute constitutional rights, when voting and expressing their political views in a law-abiding fashion, to draw upon their personal (including faith-based) moral values to evaluate all public policy issues, including tax policy questions.⁸ Moreover, no credible position exists questioning the implicit understanding that in addition to being constitutional, it is also clearly appropriate under the norms of a democracy for Christian and Jewish Americans to vote and individually express political opinions in accordance with the faith-based moral principles they espouse.⁹

Both the constitutionality and appropriateness of applying Judeo-Christian ethics to federal tax policy questions requires further discussion under the bedrock constitutional principles separating church and state. This is because the legal structure of the United States government vests the power over federal tax policy decisions with the individuals serving in the Legislative and Executive branches.¹⁰ The Es-

⁸ U.S. CONST. amend. I ("Congress shall make no law . . . prohibiting the free exercise [of religion]; or abridging the freedom of speech . . ."). Government laws intruding on the free exercise of religion must be neutral and address a compelling state interest. *Reynolds v. United States*, 98 U.S. 145 (1878); *Employment Div. v. Smith*, 494 U.S. 872 (1990) (despite the interference with religious practice, criminal laws prohibiting polygamy and the use of recreational drugs are constitutional). Government laws attempting to limit free speech rights to express political views also receive the highest level of scrutiny. *New York Times Co. v. Sullivan*, 376 U.S. 254 (1964); *Consol. Edison v. Pub. Serv. Comm'n*, 447 U.S. 530 (1980); see also MICHAEL J. PERRY, *UNDER GOD? RELIGIOUS FAITH AND LIBERAL DEMOCRACY* 38 (2003) (stating that no constitutional restrictions impede the rights of religious believers to bring their religiously grounded moral beliefs into the arena of public discussion and to debate the resolution of public policy issues).

⁹ PERRY, *supra* note 8, at 38–43 (defending the use of religiously grounded moral principles in public political arguments as desirable and conducive to the open testing of those religiously grounded moral principles); see also CHRISTOPHER J. EBERLE, *RELIGIOUS CONVICTION IN LIBERAL POLITICS* 104–08 (2002) (discussing the ideals of conscientious engagement when using religiously grounded moral principles while debating the merits of public policy).

¹⁰ The United States Constitution grants the Legislative branch the authority to create the federal tax laws and requires all tax legislation to originate in the House of Representatives. U.S. CONST. amend. XVI; U.S. CONST. art. I, § 7. Most tax policy recommendations are made directly to the House Ways and Means Committee by the President, with the Treasury Department assuming primary drafting responsibility while accepting advice from other government agencies, such as the Internal Revenue

tablishment Clause of the First Amendment forbids policymakers, such as members of Congress and the President, from passing laws or allowing policy or activity that forces, prefers, or endorses a particular religion.¹¹ Although distinguishing constitutional expressions from unconstitutional endorsements of religion continues to generate substantial controversy with questions on the margin, the latest being centered on monuments depicting the Ten Commandments in government buildings,¹² no serious scholar contends that the Establishment Clause forbids policymakers from making public policy decisions primarily motivated by their personal religious moral values when ade-

Service as well as high-level professionals in the tax area. The House Ways and Means Committee introduces tax bills to the entire House of Representatives. After the House passes its version, the Senate Finance Committee begins its formal work on the legislation before presenting its version to the entire Senate for approval. At that point, differences are resolved by a Conference Committee which has members from both the House and the Senate. The final version they adopt is sent to the White House for approval. See U.S. DEP'T OF THE TREASURY, FACT SHEET ON WRITING AND ENACTING LEGISLATION, <http://www.treas.gov/education/fact-sheets/taxes/writing.shtml> (last visited Nov. 8, 2005).

¹¹ U.S. CONST. amend. I (“Congress shall make no law respecting an establishment of religion. . . .”); see also *Everson v. Board of Educ.*, 330 U.S. 1, 15–16 (1947) (holding that the Establishment Clause prevents the government from forcing a person to go to or remain away from religious services, forcing a person to profess a belief or disbelief in any religion, preferring one religion over another, or preferring religion to non-religion); *Engel v. Vitale*, 370 U.S. 421 (1962) (holding prayer in school led by a school official to be an unconstitutional endorsement of the Judeo-Christian religion); *Cutter v. Wilkinson*, 125 S. Ct. 2113 (2005) (federal statute forbidding the government from imposing substantial burdens on religious exercise of institutionalized people absent a compelling state interest is not an unconstitutional violation of the Establishment Clause); see also PERRY, *supra* note 8, at 6–7, 24 (discussing the notion of an “established church” and noting that the Establishment Clause forbids the government from favoring a particular church as “*more authentically American*”).

¹² Compare *McCreary County v. ACLU*, 125 S. Ct. 2722 (2005) (holding that the placement of framed copies of the Ten Commandments inside a Kentucky courtroom in 1999 was unconstitutional because it lacked historical context), and *County of Allegheny v. Greater Pittsburgh ACLU*, 492 U.S. 573, 599–600 (1989) (holding that the placement on the staircase of courthouse of a crèche donated by a Roman Catholic group and containing a banner reading “*Gloria in Excelsis Deo*” to be an unconstitutional endorsement of religion), with *Van Orden v. Perry*, 125 S. Ct. 2854 (2005) (holding constitutional a six-foot-high Ten Commandments monument placed on the outside of a Texas courthouse in 1961 due to historical context). See also sources cited *infra* note 210 (discussing the saga of the Ten Commandments display in the Alabama Judicial Building, the Eleventh Circuit’s decision holding that display an unconstitutional endorsement of religion, and Chief Justice Roy Moore’s removal from office for refusing to follow the federal court order).

quate secular grounds also support the decision.¹³ Moreover, it is not only constitutional, but also absolutely appropriate under the norms of a democracy for Christian and Jewish political leaders to rely on their faith-based values as a guide for their policy decisions when adequate secular grounds also support the decision.¹⁴

This article theologically proves that the moral principles of Judeo-Christian ethics require tax policy structures that both raise adequate revenues providing all citizens a reasonable opportunity to reach their potential, and allocate the burden for paying the taxes under a moderately progressive model.¹⁵ It is beyond dispute that numerous secular moral theories also support these theological conclusions.¹⁶ Consequently, when setting the levels of revenues to be raised

¹³ PERRY, *supra* note 8, at 24–32 (asserting policymakers who make decisions supported by religiously grounded moral values are not unconstitutionally favoring their particular religion because: (1) virtually every public policy issue can be morally resolved on both religious and secular grounds making it difficult or impossible to precisely isolate the religiously grounded values as the major force driving the public policy decision; and (2) even when independent secular moral grounds cannot be plausibly proven, policymakers still have constitutional rights to rely on personal religiously grounded values to back up their decisions in order to maintain “impartiality between religious grounds and secular grounds for moral belief . . . [and] equal citizenship of religious believers”; in other words, denying these constitutional rights “would not only not make sense; it would also unfairly deprive religious faith, relative to secular belief, as a ground of moral judgment . . .”).

¹⁴ *Id.* at 45–51 (arguing that policymakers relying on their personal religiously grounded moral values to guide their decisions is just as legitimate and appropriate as relying on secular grounded moral values because religiously grounded values do not betray the ironclad standards of democracy affirming the value of every person as well as certain basic human freedoms, and when compared to secular grounded moral values, religiously grounded moral values do not pose any greater problems regarding respect for different positions and cause no greater level of social costs in the form of more divisiveness).

¹⁵ See *infra* notes 18–85 and accompanying text.

¹⁶ See, e.g., JOHN RAWLS, A THEORY OF JUSTICE 62 (1971) (requiring that “[a]ll social values — liberty and opportunity, income and wealth, and the bases of self-respect — are to be distributed equally unless an unequal distribution of any, or all, of these values is to everyone’s advantage”). Another secular-based moral theory that can clearly be invoked to support tax policy structures raising an adequate level of revenues supporting reasonable opportunity with a moderately progressive burden is the classical theory of virtue ethics, as first developed by Plato and Aristotle, with the generally accepted modern view of the virtue of justice as encompassing “[e]ach person . . . hav[ing] an equal right to the most extensive total system of equal basic liberties compatible with a similar system of liberty for all.” ALASDAIR MACINTYRE, AFTER VIRTUE: A STUDY IN MORAL THEORY 247 (2d ed. 1984); see also Hamill, *supra* note 4, at nn.93–102 and accompanying text (discussing the moral theory of classical virtue ethics as clearly supporting a moderately progressive tax structure).

from federal taxes and allocating the federal tax burden, President Bush and those members of Congress who adhere to the Christian or Jewish faiths have an absolute constitutional right to apply the moral principles of Judeo-Christian ethics to this critically important area affecting every American and the future of the nation, and are well within the boundaries of prudent and appropriate political judgment if they do so.¹⁷

*B. Judeo-Christian Ethics Requires Adequate Tax Revenues
Supporting Reasonable Opportunity*

Before developing the theological principles articulating the Judeo-Christian moral standards that evaluate the fairness of any tax policy structure, it is useful to first explain why taxes are necessary and to establish that the fairness of any given tax policy structure must be morally evaluated by the particular community's standards of justice. A tax is a compulsory payment imposed by a government in order to raise revenues to meet public needs.¹⁸ Public needs cover a wide variety of areas, starting from the barest essentials of the minimum state to prevent anarchy, such as : defense, law enforcement, and the courts.¹⁹ The law must compel the payment of taxes because most people, due to the human tendency towards greed, would never pay their share voluntarily.²⁰ Christian theology identifies greed, as well as all other sin, as an inescapable part of the human condition due to the Fall of humankind.²¹

¹⁷ See *supra* notes 9–14 and accompanying text (religiously grounded moral principles constitutionally can guide members of Congress and the President in making moral decisions as to which of the competing tax policy structures represents the best choice for the American people, and for President Bush and those members of Congress who claim affiliation to the Christian or Jewish faiths, the moral principles of Judeo-Christian ethics represent the most appropriate set of moral principles they can choose from to help them resolve this moral issue).

¹⁸ See BLACK'S LAW DICTIONARY 1496 (8th ed. 2004).

¹⁹ The "minimal state," also referred to as the "nightwatchman state," employs only as much government as is absolutely necessary to protect citizens' rights to life, liberty, and property. The minimal state exists solely to defend rights, and therefore infringes citizens' rights if it attempts to exercise authority outside of what is absolutely necessary to achieve that end. See JONATHAN WOLFF & ROBERT NOZICK: PROPERTY, JUSTICE AND THE MINIMAL STATE 10 (1991).

²⁰ A quote by Russell B. Long, "Don't tax you, don't tax me; tax the fellow behind the tree" sums up the widespread understanding that people will avoid their fair share of taxes whenever possible. Jeffery L. Yablon, *As Certain as Death — Quotations About Taxes*, 77 TAX NOTES 1485, 1489 (Dec. 29, 1997).

²¹ *Genesis* 3:1–24; PAUL R. HOUSE, OLD TESTAMENT THEOLOGY 67 (1998);

Due to the compulsory nature of the payments imposed on recalcitrant and often resentful people, tax laws, setting the level of revenues morally required and allocating the tax burden among persons at different levels of income and wealth, raise moral issues of justice which define the standards for treating everyone in the community fairly.²² While protecting all people regardless of their level of income, wealth, and power, Judeo-Christian standards of justice express special concern for those with little wealth and power, and require those at higher levels of income and wealth to endure real economic sacrifices beyond their voluntary efforts of beneficence and charity.²³ Be-

KENNETH A. MATHEWS, *THE NEW AMERICAN COMMENTARY: GENESIS 1–11:26*, at 61 (E. Ray Clendenen et al. eds., 1996) (“The human condition of selfish autonomy and moral degeneracy had its origin as event in the sinful choice of Adam.”); ALLEN P. ROSS, *CREATION & BLESSING: A GUIDE TO THE STUDY AND EXPOSITION OF THE BOOK OF GENESIS 136–37* (1998) (linking all human sin, including greed, to human desire and lack of faith resulting in the human failure of the Fall in the Garden of Eden); *see also* CATECHISM OF THE CATHOLIC CHURCH ¶ 1866 (1994) (citing avarice as one of the “capital,” or seven deadly sins, as set forth by Saint Gregory the Great (who was Pope from 590 to 604 A.D.) in his work, *Moralia in Job*); POPE PAUL VI, *POPULORUM PROGRESSIO: ENCYCLICAL LETTER ON THE DEVELOPMENT OF PEOPLES* ¶ 19, at 41 (1967) (“Both for nations and for individual men, avarice is the most evident form of moral underdevelopment.”). The Jewish faith does not recognize the fall of humankind but does believe that human evil impulses “simply refers to natural . . . instincts, which are not evil in themselves but which, when unguided by the laws of the Torah, can lead people to sin.” ELLIOT N. DORFF, *TO DO THE RIGHT AND THE GOOD: A JEWISH APPROACH TO MODERN SOCIAL ETHICS* 10–11 (2002).

²² Justice is defined as “[t]he fair and proper administration of laws.” BLACK’S LAW DICTIONARY, *supra* note 18, at 881. Natural justice is defined as “[j]ustice as defined in a moral, as opposed to a legal, sense.” *Id.*

²³ STANLEY HAUERWAS, *AFTER CHRISTENDOM?* 45–46 (1991) [hereinafter HAUERWAS, *CHRISTENDOM*] (defining justice as a set of fundamental human obligations owed to all people, especially the poor, distinguishable from voluntary efforts); STANLEY HAUERWAS, *THE PEACEABLE KINGDOM* 104 (1983) [hereinafter HAUERWAS, *KINGDOM*] (noting the minimal justice is impossible without some form of compulsion); HOUSE, *supra* note 21, at 151 (noting that God’s laws of justice protect all from the poorest to the wealthiest); EUGENE H. MERRILL, *THE NEW AMERICAN COMMENTARY: DEUTERONOMY 323* (E. Ray Clendenen et al. eds., 1994) (noting that God’s laws defining justice emphasized the importance of protecting the least powerful); NAT’L CONFERENCE OF CATHOLIC BISHOPS, *CATHOLIC CHURCH, ECONOMIC JUSTICE FOR ALL: PASTORAL LETTER ON CATHOLIC SOCIAL TEACHING AND THE U.S. ECONOMY* ¶ 189, at 77 (1997) (“[P]rivate charity and voluntary action are not sufficient. We also carry out our moral responsibility to assist and empower the poor by working collectively through government to establish just and effective public policies.”); POPE PAUL VI, *PASTORAL CONSTITUTION ON THE CHURCH IN THE MODERN WORLD* ¶ 69, at 73 (1965) (Second Vatican Council provides: “The right of having a share of earthly goods sufficient for oneself and one’s family belongs to everyone . . . [and] men are obliged to come to the relief of the poor and to do so not

lief that beneficence and charity can be a substitute for the revenues raised under a just tax structure assumes human beings have the spiritual capability to overcome the sin of greed by the strength of their voluntary efforts. This assumption cannot be theologically defended because it denies the sin of greed as being part of humanity's fallen condition and our absolute dependence on God to help us fight greed as well as all other human tendencies to sin.²⁴ Because of the real economic sacrifices required, especially from the wealthiest and most powerful members of the community, tax policy is one of the most important barometers measuring the authenticity of a community claiming to be people of God.²⁵

merely out of their superfluous goods.”); POPE PIUS XI, ATHEISTIC COMMUNISM: ENCYCLICAL LETTER (DIVINI REDEMPTORIS) ¶ 51, at 23 (1937) (“[I]t is of the very essence of social justice to demand from each individual all that is necessary for the common good.”); CHRISTOPHER J.H. WRIGHT, NEW INTERNATIONAL BIBLICAL COMMENTARY: DEUTERONOMY 260 (1996) [hereinafter WRIGHT, DEUTERONOMY] (discussing justice as a “matter of rights, not charity,” while noting the importance of ensuring that the poor get justice equal to that of the rich and powerful); *see also* DORFF, *supra* note 21, at 151–52 (moral obligations to help the poor can be met through contributions to charity as well as the payment of taxes).

²⁴ *See* sources cited at *supra* note 21 (discussing the human tendency towards greed) and *infra* note 69 (discussing the power of the Holy Spirit to enable Christians to persevere in the faith); HAUERWAS, CHRISTENDOM, *supra* note 23, at 45 (discussing the theological concept of justice and noting its extreme importance independent of charity because reliance on charity “presupposes that our aiding the poor might be something done from largess,” in other words, from generosity derived from our own strength, rather than relying on God); FRANK THIELMAN, THEOLOGY OF THE NEW TESTAMENT 147 (2005) (discussing the inability of people to “resist the all-consuming commitment that wealth seems to demand of those who have it” and the importance of the Holy Spirit to empower and guide people to work for God’s saving purposes).

²⁵ *See supra* note 21 and *infra* note 84 (discussing the sin of greed generally and the difficulty of overcoming it when dealing with tax policy issues); *infra* notes 34–47 and 52 (tax revenues raised must meet reasonable opportunity threshold which greatly exceeds the level necessary to fund the minimum state); *infra* notes 68–74 and 81 (persons enjoying greater levels of income and wealth have a moral obligations to support tax policy structures requiring them to make greater sacrifices); NAT’L CONFERENCE OF CATHOLIC BISHOPS, *supra* note 23, ¶ 123, at 55–56 (“[I]t is the responsibility of all citizens, acting through their government, to assist and empower the poor, the disadvantaged, the handicapped, and the unemployed Government may levy the taxes necessary to meet these responsibilities, and citizens have a moral obligation to pay those taxes.”); *see also* WALLIS, *supra* note 7, at 12 (arguing that “significant resources must be committed to serious poverty reduction, not just in a faith-based initiative but especially in budget decisions, tax policies, and spending priorities”).

The Holy Bible contains the blueprint establishing the standards of justice under the moral principles of Judeo-Christian ethics.²⁶ The foundation of the biblical blueprint defining justice is the creation account in the Book of Genesis, which reveals God to be the only supreme being and the sole creator of all humankind in his image.²⁷ Every human being bearing the image of God theologically renders the commandments “[l]ove the Lord your God with all your heart and with all your soul and with all your strength”²⁸ and “love your neighbor as yourself”²⁹ as inseparable, thereby establishing an ironclad

²⁶ Many Protestants, especially those of the evangelical tradition, believe that the Bible is entirely and completely the Word of God that must be obeyed because it provides the only ethical authority relevant to contemporary issues. GORDON D. FEE & DOUGLAS STUART, *HOW TO READ THE BIBLE FOR ALL ITS WORTH* 9–10 (2d ed. 1993); DUANE A. GARRETT & RICHARD R. MELICK, JR., *AUTHORITY AND INTERPRETATION: A BAPTIST PERSPECTIVE* 7, 16 (1987). Because a biblical text cannot be applied to a contemporary ethical issue in a manner inconsistent with its original meaning, proper interpretation and application of the Bible, a process that scholars call “hermeneutics,” starts with biblical exegesis, which is the process of discovering what the text meant to the first audience. At a minimum, sound biblical exegesis involves not only a study of the literary genre of the particular book but also must examine the historical and cultural context. The process of hermeneutics discovers the broad ethical principles that the biblical text established for the first audience and then applies those principles to the specific life situation of the contemporary ethical issue. FEE & STUART, *supra*, at 17–19, 21–25; GARRETT & MELICK, *supra*, at 36–37, 45; *see also* CHRISTOPHER J.H. WRIGHT, *WALKING IN THE WAYS OF THE LORD: THE ETHICAL AUTHORITY OF THE OLD TESTAMENT* 114–15, 144–45 (1995) [hereinafter WRIGHT, WALKING] (outlining the process of hermeneutics for applying Old Testament law to contemporary situations). In the Catholic Church, the Pope has the authority to interpret Scripture and bishops also exercise authority in leading their assigned portion of believers, assisted by priests and deacons. *CATECHISM OF THE CATHOLIC CHURCH* ¶¶ 882–86 (1994). For Jews, moral principles are extrapolated from studying the Torah and the rabbinic literature. DORFF, *supra* note 21, at 5–10 (in the context of exploring the Jewish concept of the worth of the individual, discussing the Torah and its interpretation by Rabbis).

²⁷ *Genesis* 1:27 (“So God created man in his own image, in the image of God he created him; male and female he created them.”); *see* MATHEWS, *supra* note 21, at 22, 61 (stating that “Genesis stands second to none in its importance for proclaiming ‘the whole will of God’” and “[s]ince all human life is created in the image of God, there is no person or class of humans lesser than others”); JOHN N. OSWALT, *THE BOOK OF ISAIAH: CHAPTERS 1–39*, at 99 (1986) [hereinafter OSWALT I] (stating that injustice and oppression defy the doctrine of creation); WRIGHT, WALKING, *supra* note 26, at 16–17 (noting that all ethical concerns with a biblical basis began with creation theology).

²⁸ *Deuteronomy* 6:5.

²⁹ *Leviticus* 19:18; *see also* *Matthew* 22:37–40, 7:12; *Luke* 6:31 (Jesus Christ declares either directly or by example that loving God and loving neighbors are the two greatest commandments).

and unbreakable bond linking a proper relationship with God to a proper relationship with all other human beings. Simply put, tolerating injustice inflicted against any individual or group of individuals is tantamount to tolerating injustice inflicted against God.³⁰

The Bible as well as many other theological sources provide further guidance articulating broad ethical principles defining justice, which can be used to evaluate virtually any social structure, especially those addressing economic issues such as tax policy. Illustrating special concern for the more vulnerable and powerless segments of society, while still applying to all other members of the community, the Old Testament forbids oppression.³¹ Oppressive laws actively make a

³⁰ DARRELL L. BOCK, LUKE 1:1–9:50, at 22 (1994) [hereinafter BOCK I] (discussing the Sermon on the Plain as “a call to love others in the context of accountability to God”); DORFF, *supra* note 21, at 5, 122 (creation of all humans in God’s image results in strong emphasis on the worth of the individual thereby requiring justice in the community “because God Himself is just”); HAUERWAS, CHRISTENDOM, *supra* note 23, at 45 (concern for those who suffer from injustice is a critical element of being a true Christian, which translates to a community obligation to “reshape and restructure society so that the structural injustices are eradicated forever”); HOUSE, *supra* note 21, at 190 (linking God’s commands that justice protect all humankind to “[t]he fact that God created all persons in his image . . .”); CRAIG S. KEENER, A COMMENTARY ON THE GOSPEL OF MATTHEW 185 (1999) (discussing the message of Jesus indicating “when one damages one’s relationship with others one damages one’s relationship with God . . .”); MATHEWS, *supra* note 21, at 274 (identifying community responsibility as foundational to covenant commitment to God, noting that “[c]ommunity responsibility took priority over individual preferences or rights”); ROSS, *supra* note 21, at 112–13 (describing the great spiritual, ethical, and moral capabilities and responsibilities of all humans as God’s representatives on earth, which they carry by virtue of being created in the image of God); GARY V. SMITH, AMOS 132 (1989) (describing the unjust treatment of the poor as by the ancient Israelites as having “profane[d] the Holy name of God” by failing to “honor God in their lives”); CHRISTOPHER J.H. WRIGHT, KNOWING JESUS THROUGH THE OLD TESTAMENT 198 (1992) [hereinafter WRIGHT, KNOWING] (noting that the command of Jesus to love God and one’s neighbor links accountability for how one treats other people with accountability to God, who created all people in his image).

³¹ The theme forbidding oppression appears in numerous places throughout the Old Testament, both in general terms and addressing concrete situations. See *Exodus* 22:21–22, 23:9, *Leviticus* 19:13, 33 (generally forbidding oppression); *Deuteronomy* 24:12–13, *Exodus* 22:26–27 (forbidding the keeping of a cloak as a pledge for a loan); *Deuteronomy* 24:6 (forbidding taking a pair of millstones as security for debt); *Deuteronomy* 24:19, *Exodus* 22:25, *Leviticus* 25:37 (forbidding the charging of interest for lending money and selling food at a profit); *Deuteronomy* 24:14–15, *Leviticus* 19:13 (forbidding holding back wages overnight); *Leviticus* 19:35–36 (forbidding dishonest scales and measurements); *Exodus* 20:15, *Deuteronomy* 5:19 (“You shall not steal.”). This theme also surfaces in the fiery orations of the Hebrew Prophets. See, e.g., *Amos* 2:7–8 (“They trample on the heads of the poor as upon the dust of the ground and

person's already precarious situation worse, foster economic exploitation and injustice, or unreasonably stand in the way of a person's progress towards reaching their potential.³² The Judeo-Christian standard of justice forbidding oppression directly applies to the laws defining how the burden for paying taxes will be allocated among those at different levels of income and wealth.³³

In addition to forbidding oppression, the Bible also requires that the community's laws ensure that each individual enjoys a reasonable opportunity to reach his or her potential.³⁴ The core of this ethical

deny justice to oppressed . . . They lie down beside every altar on garments taken in pledge."); *Amos* 8:4–6 ("Hear this, you who . . . do away with the poor of the land . . . buying the poor with silver and the needy for a pair of sandals . . ."); *Micah* 2:1 ("Woe to those who plan iniquity, to those who plot evil in their beds! At morning's light they carry it out because it is in their power to do it."); *Isaiah* 10:1–2 ("Woe to those who make unjust laws, to those who issue oppressive decrees, to deprive the poor of their rights and rob my oppressed people of justice, making widows their prey and robbing the fatherless.").

³² See KENNETH L. BARKER & WAYLON BAILEY, *THE NEW AMERICAN COMMENTARY: MICAH, NAHUM, HABAKKUK, ZEPHANIAH* 63 (1998) (interpreting the iniquity in *Micah* 2:1 as "refer[ring] to abuse of power in illegal and unethical machinations, resulting in social injustice" and discussing how the wealthy oppressors had the power "because they controlled the power structures of their society, believing that 'might makes right'"); PETER C. CRAIGIE, *THE BOOK OF DEUTERONOMY* 308 (1976) (describing the cloak in ancient Israel as an outer garment by day and a blanket by night, which for very poor people would be the only significant possession they could offer as a pledge); OSWALT I, *supra* note 27, at 259 (interpreting the message of *Isaiah* condemning oppression by describing society reaching "the lowest limits of cynicism and self-serving" as a result of the poor being denied their rights); SMITH, *supra* note 30, at 227, 340–42 (interprets the message of *Amos* as condemning driving the poor into bankruptcy and slavery through unjust economic dealings and heavy taxes); DOUGLAS STUART, *WORLD BIBLICAL COMMENTARY: HOSEA–JONAH* 317 (1987) (analyzing the oppression of the poor condemned by *Amos* by describing the wealthy and powerful as "hindering access or progress" of the poorer members of the community); WRIGHT, *DEUTERONOMY*, *supra* note 23, at 256 (describing as oppression the taking of something indispensable to a poor owner as a security for a debt); *id.* at 82–83 (discussing John Calvin's interpretation of the commandment prohibiting theft as broadly forbidding economic exploitation and injustice as well as all forms of unjust gain at the expense of others).

³³ See *infra* note 59 and accompanying text.

³⁴ See *infra* notes 35–47 and accompanying text (biblical exegesis and hermeneutics establishes moral principles requiring reasonable opportunity); DORFF, *supra* note 21, at 127, 136 (noting that the dignity of all humans creates moral obligations at both an individual and community level to help poor people bring themselves out of poverty); POPE JOHN XXIII, *PACEM IN TERRIS* ¶ 60 (1963) ("[T]o safeguard the inviolable rights of the human person, and to facilitate the performance of his duties, is the principal duty of every public authority."). When I first articulated this moral principle in order to ethically evaluate the deplorable tax policy in Alabama, I articulated the

principle comes from creation theology: because each person is created in God's image, with a unique potential to carry out God's work on earth, all persons must have a meaningful chance to develop this divinely inspired potential as a matter of biblical justice.³⁵ In addition to requiring that all members of the community have access to the bare minimum necessities of life,³⁶ the Books of Exodus, Leviticus, Deuteronomy, Amos, Micah, and Isaiah further elaborate by mandating a specific legal infrastructure, which requires releases of servants and forgiveness of debt every seven years, and creates an intricate

standard in terms of requiring "minimum opportunity." See Hamill, *An Argument for Tax Reform*, *supra* note 2, at 58–66. In this article, I have changed the description of the standard to "reasonable opportunity," which requires a somewhat higher threshold, in light of additional research and further reflection on conservative interpretation of evangelical, mainline Protestant, Catholic, and Jewish perspectives.

³⁵ See *supra* notes 27–30 and accompanying text (injustice among humans amounts to injustice inflicted against God because all humans are created in God's image) and ROSS, *supra* note 21, at 93–94 (the image of God refers to functions which include serving and imitating God as well as administrating for God). The right to justice, especially for the poor and powerless, is a common theme throughout the Old Testament. See, e.g., *Deuteronomy* 24:17, *Amos* 5:7–14, *Isaiah* 1:17, *Micah* 5:8; OSWALT I, *supra* note 27, at 99 (stating justice is valuing persons as God does, consistent with God's character); BILLY K. SMITH & FRANK S. PAGE, *THE NEW AMERICAN COMMENTARY: AMOS, OBADIAH, JONAH* 100, 106 (1995) (stating that the message of *Amos* condemning injustice refers broadly to a divine standard of how society should be ordered, and that standard especially seeks the welfare of the poor); SMITH, *supra* note 30, at 226 (justice at the gate being perverted in the message of *Amos* refers to "a concerted effort to control and manipulate the legal process to the advantage of special interests" occurring at the gate of an ancient city, the place where all aspects of the community's life were settled); WRIGHT, *DEUTERONOMY*, *supra* note 23, at 257–61 (discussing the purpose behind the laws of *Deuteronomy* and the interpretation of "justice" as encompassing "rights," including the opportunity, established through enforceable legislation, to become self-sufficient and to seek self-improvement); see also NAT'L CONFERENCE OF CATHOLIC BISHOPS, *supra* note 23, ¶ 32, at 32 (affirming that "every human being possesses an inalienable dignity that stamps human existence prior to any division into races or nations and prior to human labor and human achievement").

³⁶ See e.g., *Deuteronomy* 15:7–11, *Leviticus* 25:35, 39–40 (requiring generosity and opportunities to work to be extended to poor people); *Deuteronomy* 14:28–29 (requiring tithes of food to meet basic needs of others who cannot provide for themselves); *Exodus* 23:10–11 (requiring land to lay fallow every seventh year so that the poor in the community may claim whatever grows that year); *Deuteronomy* 24:19–21, *Leviticus* 19:9–10 (requiring farmers to leave part of the harvest behind for the poor); see also MERRILL, *supra* note 23, at 324; MARK F. ROOKER, *THE NEW AMERICAN COMMENTARY: LEVITICUS* 255–56 (2000) (describing gleaning as a practice that allowed the poor to preserve human dignity by allowing them to work by harvesting the crop left behind).

web of land tenure rights.³⁷ These legally built-in safeguards, metaphorically a ladder of opportunity available to every member of the community, stood independent of and without regard to separate voluntary acts of beneficence and charity. As a result, those facing harsh economic circumstances were guaranteed an opportunity to achieve economic self-sufficiency, which in turn allowed them a chance to reach their potential.³⁸

³⁷ *Deuteronomy* 15:12–14, *Exodus* 21:2, *Leviticus* 25:40–41 (requiring servants to be set free every seven years with generous provisions); *Deuteronomy* 15:1–3 (requiring debts to be cancelled every seven years); *Leviticus* 25:8–28 (land tenure rights required a Year of Jubilee, which returned all land to the original ancestral family clan every fifty years and provided redemption rights to buy back family ancestral land with the price based on the number of years since the last Year of Jubilee). The fiery orations of the Hebrew Prophets condemned the numerous violations of these required seven-year releases and land tenure rights. See *Amos* 2:6 (“They sell the righteous for silver, and the needy for a pair of sandals.”); *Micah* 2:2 (“They covet fields and seize them, and houses, and take them. They defraud a man of his home, a fellowman of his inheritance.”); *Micah* 2:9 (“You drive the women of my people from their pleasant homes. You take away my blessing from their children forever.”); *Isaiah* 5:8 (“Woe to you who add house to house and join field to field till no space is left and you live alone in the land.”).

³⁸ See BARKER & BAILEY, *supra* note 32, at 64–68 (interpreting the message of *Micah* as condemning violations of Mosaic land tenure laws, which denied widows and orphans their inheritance rights, leaving them without any property, money, or security); CRAIG L. BLOMBERG, NEITHER POVERTY NOR RICHES 73 (1999) (discussing the messages of *Amos* and *Micah* as denouncing “numerous . . . unethical maneuvers” including the violation of land tenure rights “concocted to concentrate wealth in the hands of fewer and fewer”); R.K. HARRISON, LEVITICUS 224 (1980) (noting that the Year of Jubilee prevented the accumulation of vast estates); JOHN E. HARTLEY, WORLD BIBLICAL COMMENTARY: LEVITICUS 436, 443 (1992) (discussing the Year of the Jubilee and the land tenure rights as preserving for all families a basic right to land, allowing them to lease the land to others in hard times); OSWALT I, *supra* note 27, at 155–59 (the reference of “adding house to house” in *Isaiah* 5:8 involved immorally dispossessing people and reducing them to servitude on what was their own land); ROOKER, *supra* note 36, at 303–04, 306 (noting that the Year of Jubilee carried out personal holiness “on the social plane on behalf of the disadvantaged . . . [for the] protection of the weak . . .”); SMITH, *supra* note 30, at 227 (interpreting the message of *Amos* as condemning violations of land tenure year rights of the Jubilee); STUART, *supra* note 32, at 288 (identifying oppression of the poor, denial of inheritance rights, and failure to observe jubilee laws as crimes); WRIGHT, DEUTERONOMY *supra* note 23, at 192–93 (stating that the requirement that the servant freed after seven years be supplied generously was to ensure that the former servant had a real chance to attain self-sufficiency); CHRISTOPHER J.H. WRIGHT, AN EYE FOR AN EYE: THE PLACE OF OLD TESTAMENT ETHICS TODAY 82–83 (1983) [hereinafter WRIGHT, OLD TESTAMENT ETHICS] (noting that the year of Jubilee was designed to put limits and safeguards on the worst effects of the Fall); CHRISTOPHER J.H. WRIGHT, GOD’S PEOPLE IN GOD’S LAND 65, 177–79 (1990) [hereinafter WRIGHT, GOD’S LAND] (interpreting the year of

This infrastructure of justice anchored in the Old Testament in no way guaranteed that everyone in the community would in fact reach their potential. Rather, the guaranteed seven-year releases, land tenure rights, and other safeguards of justice also implicitly assumed that a significant level of personal responsibility and individual effort would be required to take advantage of these opportunities.³⁹ Notwithstanding this clear element of personal responsibility, all members of the community, even those who caused the misery they found themselves in, were guaranteed these legal rights, even if the particular circumstances suggested that the personal commitment necessary to take advantage of these opportunities was lacking.⁴⁰

The teachings of Jesus Christ and other New Testament material, in addition to condemning the oppression of the poor and powerless,⁴¹ also enhance the specific legally required safeguards found in the Old Testament, requiring even broader and higher structural standards of societal justice and protection of human dignity. Early in his ministry, Jesus ushered in a new age of greater righteousness when he declared that he has come to fulfill the Law and Prophets of the Hebrew Scrip-

the Jubilee as part of the theological identity of ancient Israel that periodically restored the economic viability of small family land units, and describing the Prophets' denunciation of the destruction of these land units).

³⁹ See *supra* notes 36–38 (gleaning required the recipient to work, and the seven-year releases and land tenure rights did not guarantee the recipient would achieve economic self-sufficiency and growth); see also GENE A. GETZ, *BIBLICAL THEOLOGY OF MATERIAL POSSESSIONS* 194–95 (1990) (describing Paul's message to the Thessalonians, discussing the responsibility of all Christians to work and make a living with the opportunities and talents they are given); HOUSE, *supra* note 21, at 67 (stating, in the context of the sinful choices made by Adam and Eve and human responsibility for all sin, that “[i]t is vital to conclude that each individual is responsible for his or her actions”).

⁴⁰ See *supra* notes 36–38 (gleaning opportunities, seven-year releases, and land tenure rights were mandatory under the Mosaic law).

⁴¹ See, e.g., *Luke* 3:12–13; BOCK I, *supra* note 30, at 312–14 (discussing John the Baptist's criticism of the oppressive conduct of tax collectors and soldiers, and the requirement that they exercise their authority over those with less power fairly); *Luke* 20:47, *Mark* 12:40; DARRELL L. BOCK, *LUKE* 9:51–24:53, at 1643 (1996) [hereinafter BOCK II] (discussing Jesus's scathing criticism of the devouring of widows' houses as economically oppressing widows and leaving them devastated); see also NAT'L CONFERENCE OF CATHOLIC BISHOPS, *supra* note 23, ¶ 77, at 44 (noting that oppression can take many forms, including economic oppression, and involves “a person or group . . . treated actively or abandoned passively as if they were nonmembers of the human race,” and finally concluding that “[a]cquiescence . . . or failure to correct [oppressive measures] when it is possible to do so is a sinful dereliction of Christian duty”).

tures,⁴² and “preach good news to the poor . . . [and] release the oppressed,”⁴³ thus explicitly elevating the requirements of the Old Testament Law and the Prophets as reflecting the spiritual intent beyond the letter of the law.⁴⁴ Although the degree of societal justice required by the teachings of Jesus is the subject of an intense debate among different Christian denominations and theological traditions, at the very least his teachings affirm that all persons must be free from oppression and enjoy a reasonable opportunity to reach their God-created potential.⁴⁵

⁴² *Matthew* 5:17 (“Do not think I have come to abolish the Law or the Prophets; I have not come to abolish them but to fulfill them.”); *see also supra* note 29 (Jesus declared the Mosaic law commands to love God and love your neighbor as yourself to be the two greatest commandments).

⁴³ *Luke* 4:18.

⁴⁴ *See* CRAIG L. BLOMBERG, *THE NEW AMERICAN COMMENTARY: MATTHEW* 30–31, 105 (1992) (stating that the message of *Matthew* regarding Jesus’s fulfillment of the law does not merely preserve the law intact, but rather demonstrates Jesus’s “sovereign authority to interpret, transcend, and even change the way the law does or does not apply to his followers,” and therefore requires a greater righteousness to be in fellowship with God and conform to his will); BARKER & BAILEY, *supra* note 32, at 115 (stating that Christians have the law placed on their hearts, and justice, mercy, and faithfulness are the most important aspects of the law); BOCK I, *supra* note 30, at 39 (“[T]he law is reaffirmed in ways that parallel the [Old Testament] prophets.”); HARRISON, *supra* note 38, at 32 (stating that the importance of Old Testament law in the mind of Jesus can be seen from his remarks concerning the “golden rule”); HARTLEY, *supra* note 38, at 325 (stating that Jesus affirmed the moral principles of the holiness code of *Leviticus* 19 and discussing the importance of this law in Jesus’s teachings); KEENER, *supra* note 30, at 177 (discussing Jesus’s fulfillment of the Hebrew Scriptures as “clearly affirm[ing] his commitment to the law of Moses”); FRANK THIELMAN, *THE LAW AND THE NEW TESTAMENT* 48, 72, 181 (1999) (the “rich repository of specific ethical material” of the fundamental moral principles of the Mosaic law is valid for Christians because in his fulfillment of the law, Jesus elevated the principles of the Mosaic law “to the highest level of importance”); THIELMAN, *supra* note 24, at 66, 84, 89, 120–21, 183 (discussing the humane foundation beneath the Mosaic law being fulfilled and brought to the surface in full restorative effect by Jesus, and Jesus fulfilling the role of the Servant in *Isaiah*); WRIGHT, *DEUTERONOMY*, *supra* note 23, at 11, 57; WRIGHT, *KNOWING*, *supra* note 30, at 186–87 (noting that the Mosaic law shaped the values, priorities, and convictions of Jesus’s life and that the revelations and teachings of Jesus cannot be separated from God’s mission in Israel); *see also* DORFF, *supra* note 21, at 117–18 (noting that rabbinic authorities recognized that justice sometimes creates moral obligations beyond the letter of the law).

⁴⁵ *See* BLOMBERG, *supra* note 38, at 45, 46 (discussing the allusions to the Jubilee in the New Testament as demonstrating that the principles remain in force and “challenge all major, modern economic models . . . [including those that permit] . . . untrammelled individualism which secures individuals at the expense of the community”); BOCK I, *supra* note 30, at 400–06 (interpreting the message of *Luke* 4:16–21 as confronting individuals to change society’s structures in order to ensure the well-being

Although many of the particular provisions of the Old Testament Law are no longer culturally relevant in the twenty-first century modern societies, and the teachings of the New Testament as well as other theological sources are largely stated in broad moral principles rather than in specific examples, the underlying principles of justice forbidding oppression and mandating that all persons enjoy a reasonable opportunity to reach their potential continue to apply today, and call for safety nets and opportunities that meet twenty-first century cultural standards.⁴⁶ In addition to absolutely guaranteeing that all people have access to minimum subsistence, these Judeo-Christian stan-

of all members of the community); ROOKER, *supra* note 36, at 264–65 (stating that the general principles of the ethics of the holiness code of *Leviticus* 19 are directly applicable to Christians individually and communally, and that “[i]t is their demonstration of ethics and holiness that characterizes their corporate identity”); WRIGHT, KNOWING, *supra* note 30, at 230–31 (describing debt as a source of exploitation and oppression and Jesus’s teachings on forgiveness of debt); WRIGHT, OLD TESTAMENT ETHICS, *supra* note 38, at 115 (describing the breakdown of moral conventions in the political and social life of ancient Israel and the resulting oppression of its people); WRIGHT, WALKING, *supra* note 26, at 165–67 (stating that Christian social ethics requires functioning of an effective, egalitarian social system which would alleviate suffering of the oppressed).

⁴⁶ See *supra* notes 26, 34, and 45; see also BARKER & BAILEY, *supra* note 32, at 36–37; FEE & STUART, *supra* note 26, at 65–76 (the process of hermeneutics offers two distinct approaches to morally evaluate any given ethical issue: (1) if the “specific life situations” of the first audience receiving the biblical text mirror the contemporary audience, then the broad ethical principles of the biblical text apply to the contemporary audience in the same manner as the first audience; and (2) if due to vast cultural differences the “specific life situations” of the original and contemporary audiences do not mirror one another, the broad ethical principles of the biblical text apply to “genuinely comparable” situations, meaning the contemporary problem must be analogous to the situation originally addressed in the biblical text); *id.* at 155–58 (stating that specific Old Testament Laws related to land tenure rights and the release of servants do not literally apply to contemporary Christians but nevertheless serve “as a reliable *guide* with general applicability,” providing an example of God’s character, his demands for fairness, and his ideals, which can be applied broadly to contemporary issues); GARRETT & MELICK, *supra* note 26, at 36–37 (recognizing the need to determine the underlying principles of Scripture and apply them to contemporary ethical questions); ROOKER, *supra* note 36, at 74, 257 (stating that Old Testament laws cannot be literally applied, but should be applied to contemporary society according to their general principles); WRIGHT, DEUTERONOMY, *supra* note 23, at 195 (stating that the laws of ancient Israel have broad “paradigmatic relevance to all cultures and societies”); WRIGHT, GOD’S LAND, *supra* note 38, at 178–79 (discussing the contemporary application of the moral principles established by the Jubilee as supporting a challenge to oppressive structures so that the poor have a chance to restore themselves to economic vitality); WRIGHT, WALKING, *supra* note 26, at 111, 114 (stating that Old Testament law, after necessary cultural and historical adjustments, universally applies to all Christians).

dards of justice reach a broad variety of other areas. These other areas include ensuring that every member of the community has access to an adequate education and job training, as well as decent health-care and housing.⁴⁷

The Judeo-Christian moral obligation to ensure reasonable opportunity has limits. The standards of justice articulated in the Old Testament do not contemplate any degree of utopian equality.⁴⁸ Moreover, the New Testament teachings are eschatological, meaning that the full extent of God's intended standards of justice will not materialize until Jesus comes again and completes his work. Human ef-

⁴⁷ The ancient causes of poverty that the Old Testament Law was designed to remedy (owning no land and being forced into debt and servitude) are "genuinely comparable" to the contemporary cycle of poverty that prevents many from reaching their potential due to inadequate education, job training, housing, and healthcare. Thus, the broad ethical principle of "reasonable opportunity" from the Old Testament Law, as affirmed and strengthened by the teachings of Jesus Christ, *see supra* notes 41–45, applies to contemporary society and calls for action to provide all people in the community access to these basic standards. *See also* BOCK II, *supra* note 41, at 1467–72 (discussing Jesus's special concern for the well-being of children, noting that "[p]eople of any size count," and that the mission of disciples "as not only to the powerful but also to the dependent"); DORFF, *supra* note 21, at 153–54 ("Specifically, we must seek first to save life and health, in part by providing medicine and in part by supplying food, clothing, and shelter. We must then seek to provide the skills and tools to enable people to become self-sufficient."); JOHN N. OSWALT: THE BOOK OF ISAIAH: CHAPTERS 40–66, at 282 (1998) [hereinafter OSWALT II] ("The creation of a stable environment where children can mature and become productive persons is a direct concomitant of having listened to the instruction of God about the nature of human life."); NAT'L CONFERENCE OF CATHOLIC BISHOPS, *supra* note 23, ¶ 17, at 17, ¶ 205, at 80 (citing Pope John XXIII's declaration that "all people have a right to life, food, clothing, shelter, rest, medical care, education, and employment" as meaning that "when people are without a chance to earn a living, and must go hungry and homeless, they are being denied basic rights [and that] [s]ociety must ensure that these rights are protected," while also noting that "[i]n Catholic social teaching, basic education is a fundamental human right"); WRIGHT, DEUTERONOMY, *supra* note 23, at 261 (finding the principle of hermeneutics, as applied to the Old Testament law, broadly requires the poorest and weakest in the community to have access to opportunities they need to provide for themselves, which "may include financial resources, but could also include access to education, legal assistance, investment in job opportunities, etc.," and that "[s]uch things should not be leftovers or handouts, but a matter of rights and responsibilities in a caring society"); WRIGHT, GOD'S LAND, *supra* note 38, at 97–99 (discussing the importance of the land tenure laws of the Old Testament as guarding the welfare of children).

⁴⁸ WRIGHT, OLD TESTAMENT ETHICS, *supra* note 38, at 77 (noting that the land tenure system of ancient Israel did not ensure everyone the same economic potential but sought to ensure "that every family should have *enough* for economic viability"); WRIGHT, WALKING, *supra* note 26, at 31–32 (stating that the Year of Jubilee does not require every family to have the same amount of property).

fort alone cannot bring this forth because of humanity's fallen condition.⁴⁹ For these reasons, Judeo-Christian teachings condemn as immoral legal structures, which includes tax policy, that involve a massive wholesale redistribution of wealth seeking equality of result along the lines of a socialist or communist regime or a welfare state. Moreover, unlike certain less extreme but still liberal-leaning moral frameworks defining justice, the Judeo-Christian standard of justice requiring reasonable opportunity does not even call for a generous level of tax revenues that attempts to achieve real equal opportunity in a numeric sense of measuring resources.⁵⁰

⁴⁹ See BLOMBERG, *supra* note 44, at 95, 99 (discussing the “already/not yet” tension in the eschatological message of Jesus, making it impossible for fallen humanity to reach God’s standards of justice and create a social utopia, but also noting that it is “part of the church’s mission . . . to try to improve the socioeconomic lot of the poorest of this world”); CRAIG S. KEENER, MATTHEW 106 (IVP New Testament Commentary Series No. 1, Grant R. Osborne et al. eds., 1997) (discussing the message in Jesus’s blessings at the Sermon on the Mount as recognizing that the inequities of the world will not be fully vindicated until Jesus returns, but “[t]his promise provides us both hope to work for justice and grace to endure the hard path of love”); POPE JOHN XXIII, *supra* note 34, ¶¶ 167–68 (stating that although Christians have the duty to seek social peace and justice, “human resources alone . . . cannot hope to achieve it [because] God Himself must come to man’s aid . . . if human society is to bear the closest possible resemblance to the kingdom of God”); THIELMAN, *supra* note 24, at 65, 112 (discussing the message of *Mark* as showing God accomplishing eschatological deliverance through Jesus, and the message of *Luke* as teaching Christians how they should live as they proceed towards God’s inevitable triumph, which remains unfinished in the present day).

⁵⁰ See BLOMBERG, *supra* note 38, at 45 (“The Jubilee suggests a sharp critique of . . . statism which disregards the precious treasure of personal rootage . . .”) (internal quotation mark omitted); HARRISON, *supra* note 38, at 229 (discussing the application of the Old Testament’s land tenure laws to today’s church, noting that “the tenor of the laws pursued a middle course between the extremes of unrestricted capitalism and rampant communism”); STANLEY HAUERWAS, A BETTER HOPE 23–24 (2000) (noting that society neither can nor should be egalitarian, and commenting that “[l]iberalism, both politically and economically, is doing such a good job of self-destructing it needs no help from me”); POPE LEO XIII, RERUM NOVARUM (ON CAPITAL AND LABOR) ¶¶ 4–5 (1891) (denouncing socialism as a method to combat poverty); DOUGLAS J. MOO, THE LETTER OF JAMES 36 (2000) (the message of *James* does not support Liberation Theology because the letter condemns specific actions of the rich, rather than being rich per se); NAT’L CONFERENCE OF CATHOLIC BISHOPS, *supra* note 23, ¶ 115, at 54 (“The [Catholic] Church’s teaching opposes collectivist and statist economic approaches.”); POPE PIUS XI, QUADRAGESIMO ANNO: ENCYCLICAL ON RECONSTRUCTION OF THE SOCIAL ORDER ¶ 112 (1931) (denouncing communism as “incredible and portentlike in its cruelty and inhumanity”); THIELMAN, *supra* note 24, at 139–40 (noting that while the message of *Luke* views wealth as a serious danger to Christian discipleship that requires some to divest themselves of everything, on balance this message does not require this of all Christians, as long as their lives are ori-

Despite the very real limits that clearly distinguish faith-based ethics from liberal-leaning, intellectually-based secular ethics, these limits cannot be used to support an individualistically centered and exclusively free-market-oriented community and economy.⁵¹ With a special concern towards those with less wealth and power, the standards of justice under the moral principles of Judeo-Christian ethics strike a balance between community-oriented values for the common good and reasonable rights to enjoy private property, individual autonomy, and freedom. In striking this balance, a community grounded in Judeo-Christian values ensures that adequate tax revenues guarantee everyone, not just those at high levels of income and wealth, a reasonable opportunity to reach their God-created potential. Tax policy guided by Judeo-Christian ethics raises a level of revenues that greatly exceeds the funding essential to cover the functions of the minimum state.⁵²

ented towards following Jesus rather than accumulating wealth).

⁵¹ See *supra* notes 27–30 (creation account), 34–47 (moral requirement of reasonable opportunity); see *infra* notes 63–66, 68–74 (moral obligations regarding sacrifice and the proper use of wealth forbid humans and their social structures from being completely individualistically centered), 165–168 (individualistically centered moral philosophy is a form of atheism and therefore is not an option for Christians, Jews, and their social structures); see also BLOMBERG, *supra* note 38, at 244 (possession and desire for too many material goods leads to rejection of God); BOCK I, *supra* note 30, at 598–601 (discussing Jesus’s message of radical love requiring sacrifice without the expectation of a future benefit, noting that “the ‘I’ll scratch your back, if you scratch mine’ approach to meeting needs is not an example of a disciple’s love”); TIMOTHY GEORGE, THE NEW AMERICAN COMMENTARY: GALATIANS 167 (1994) (discussing Paul’s mission as including “both a social and an evangelistic responsibility”); KEENER, *supra* note 30, at 165 (discussing the message of the beatitudes as precluding those who have truly repented and humbled themselves before God from “act[ing] with wanton self-interest in relationships”); KEENER, *supra* note 49, at 294 (discussing the message of *Matthew* as “God want[ing] us to work for the purposes he intended for the world before it was marred by sin”); MOO, *supra* note 50, at 36 (cautioning that “those of us enjoying a comfortable lifestyle are equally prone to trivialize” the message of *James*, which indicates that “[t]he very possession of wealth, when others are going without the basic necessities of life . . . is sinful,” and stating that this message needs to be taken seriously by the church in the developed countries).

⁵² See *supra* notes 20–21 (human greed makes compulsory taxation necessary) and 34–47 (tax revenues must meet the reasonable opportunity threshold which must fund basic health, education, and housing programs), *infra* notes 57–58, 80 (all wealth is ultimately owned by God and reasonable private property rights do not preclude imposing tax burdens); see also BLOMBERG, *supra* note 38, at 40, 83 (recognizing the existence of both private property rights and the fact that levels of wealth accumulation can become unjust, and discussing the biblical message supporting a balance of everyone owning at least a modest amount of wealth); BOCK II, *supra* note 41, at 1150–54 (Jesus’s message in the Parable of the Rich Fool condemns accumulating

C. Judeo-Christian Moral Obligations to Support Adequate Tax Revenues Raised by a Moderately Progressive Structure

In addition to defining the level of adequate revenues, the tax laws must also set forth how the burden of paying the taxes will be borne among taxpayers at different levels of income and wealth. Like the level of revenues, the allocation of the tax burden is also an issue of justice under the community's moral standards. Before ethically evaluating the different alternatives, it is useful to first define regressive, proportional or flat, and progressive models used by traditional tax policy analysts to describe the ways the tax burden can be allocated.⁵³ Regressive tax models impose taxes inversely proportional to

wealth only for oneself); KENNETH MATHEWS, AMOS: REPENTANCE OR RUIN 19, 21 (1995) (discussing the example of the Mosaic law of creating a social system that avoided creating a permanent underclass, while noting that capitalistic system will become an evil tyranny without moral restraints); NAT'L CONFERENCE OF CATHOLIC BISHOPS, *supra* note 23, ¶ 202, at 79–80 (mandating that tax revenues must adequately meet the public needs of society); ROOKER, *supra* note 36, at 312 (discussing the application of the Jubilee to the church today as encouraging laws that restrain the tendency to overestimate one's right to private property); THIELMAN, *supra* note 24, at 142 (indirectly recognizing the importance of adequate tax revenues in discussing "God's saving purposes involv[ing], to some extent, an economic leveling so that the disparity between rich and poor is not as great among God's people as it is among those outside his people"). In addition to enacting a tax system that raises adequate revenues, legislative and government accountability that ensures tax revenues are used in the most efficient manner, thereby preventing or reducing waste, is an integral element of the tax system meeting Judeo-Christian standards of justice. See MICHAEL J. GRAETZ, THE U.S. INCOME TAX: WHAT IT IS, HOW IT GOT THAT WAY, AND WHERE WE GO FROM HERE 245 (1999) (stating that the American public wants "their tax dollars to be well spent," which is one of characteristics of a fair tax system, and that "[g]overnment waste feeds anti-tax frenzy"); SLEMROD & BAKIJA, *supra* note 1, at 109 (stating that every tax dollar raised "whether for an aircraft carrier or for redistribution to a low-income family . . . had better produce social benefits worth more than a dollar").

⁵³ The question of how the tax laws allocate the tax burden among taxpayers at different levels of income and wealth is referred to as vertical equity. SLEMROD & BAKIJA, *supra* note 1, at 57. Vertical equity is analyzed by examining both the tax rate and the tax base. Deductions, exemptions, and other tax benefits that reduce the level of gross income subject to the tax rate or rates define the tax base. *Id.* at 41–43 (noting that the rate structure alone cannot measure how the true tax burden is spread among taxpayers in different income groups because of exemptions, deductions, and other tax benefits); see also GRAETZ, *supra* note 52, at 222 (in the context of discussing the rates of flat tax models, stating that the tax base must be defined in order to evaluate the structure). A related issue, horizontal equity, is the concept that similarly situated taxpayers should be subject to the same tax liability. The federal income tax structure has many horizontal equity issues because deductions and other

income, meaning that the tax burden as a percentage of available income is larger at lower income levels and is smaller at higher income levels.⁵⁴ Proportional or flat models impose roughly the same tax burden as a percentage of available income at all income levels.⁵⁵ Progressive tax models impose a greater tax burden as a percentage of available income as the taxpayer's income rises to higher levels. The degree of progressivity can vary greatly from very mild, to degrees of moderation, to steep progressivity with top rates reaching well over fifty percent at the highest income levels.⁵⁶

Theologically, evaluating the fairness of the tax burden must start with the Book of Genesis, which reveals God as the sole creator and the ultimate owner of all the earth's wealth and resources, with human

tax benefits not tied directly to defining income result in taxpayers at similar income levels being subjected to different tax burdens, because of their personal tastes and choices. SLEMROD & BAKIJA, *supra*, at 87. Moreover, many horizontal equity issues also raise vertical equity issues, because the horizontally suspect deductions and other tax benefits disproportionately help those at greater income levels to reduce their tax burdens. GRAETZ, *supra*, at 133–34 (noting that horizontal equity is still a significant problem in achieving a fair allocation of the tax burden because the post-1986 tax law favors fringe benefits, home ownership, certain investments, and provides a variety of incentive provisions). A moral evaluation of the allocation of the tax burden among taxpayers at different levels of income or wealth must consider both the tax rates and the complicated provisions defining the tax base subject to the rates. Although this article will focus only on a broad moral evaluation of regressive, flat, proportional, or progressive allocations of the tax burden, the moral principles developed in this article can be used to evaluate whether a particular deduction or tax benefit is fair under Judeo-Christian standards.

⁵⁴ SLEMROD & BAKIJA, *supra* note 1, at 58; *see also id.* at 55 (stating that taxes imposing the same dollar burden on each taxpayer are universally recognized as unfair, for example head or poll taxes); GRAETZ, *supra* note 52, at 200 (noting that exemptions for groceries, clothing, and housing, and exclusions for services such as healthcare and public transportation in a value-added or retail sales tax system “are intended to relieve the regressive impact of such consumption taxes on lower-income families”).

⁵⁵ SLEMROD & BAKIJA, *supra* note 1, at 8 (noting that while the single rate of tax does not rise at higher income levels, nevertheless the exemptions shielding very low levels of income from taxation cause a mildly progressive effect when comparing the burden of the lower middle classes with those at higher income levels); *see also* GRAETZ, *supra* note 52, at 220–21 (providing an exemption for a specific amount of wages enables the flat tax to eradicate the negative effects on low-income earners associated with other consumption tax systems).

⁵⁶ SLEMROD & BAKIJA, *supra* note 1, at 6; GRAETZ, *supra* note 52, at 16 (documenting that historically, degrees of progressivity varied substantially since 1913, with some years showing top rates of well over 50 percent, while also noting that in those years generous deductions substantially narrowed the base); *see also* SLEMROD & BAKIJA, *supra*, at 19–21.

beings serving as tenants and stewards for God's purposes.⁵⁷ Tax burdens are not inconsistent with rights to private property and individual autonomy, which, while generally recognized and respected, are not absolute and do not totally outweigh all other moral considerations.⁵⁸ The Judeo-Christian standard of justice forbidding oppression absolutely condemns as immoral all tax structures that burden those below the poverty line or that have regressive effects within the income range of the lower middle class.⁵⁹

⁵⁷ See *Genesis* 1:1–31 (creation account reveals God as the sole source of all the earth's resources); HOUSE, *supra* note 21, at 60–61 (because of God's sovereignty and goodness, humans have a moral obligation to responsibly rule and subdue the earth's resources as God's stewards); MATHEWS, *supra* note 21, at 61 (same); ROOKER, *supra* note 36, at 306 (theological underpinning behind *Deuteronomy* is that "the land belongs to the Lord"); WRIGHT, OLD TESTAMENT ETHICS, *supra* note 38, at 57 (same); see also DORFF, *supra* note 21, at 135 (God is the creator and ultimate owner of all things and any claim of ownership by men is secondary to God's); POPE JOHN PAUL II, CENTESIMUS ANNUS ¶¶ 37–38 (1991) (explaining that God has given the earth to man as a gift and its resources are to be used in accord with God's commandments).

⁵⁸ BLOMBERG, *supra* note 44, at 331 (discussing the God and Caesar interchange between Jesus and the Pharisees in *Matthew* 22:15–22 as acknowledging the legitimate authority of human governments, especially more democratic governments, to impose reasonable taxation, concluding that "Christians who avoid paying taxes, or who avoid paying the full amount of their taxes, sin against God even just as surely as in more obviously 'moral' arenas"); BOCK II, *supra* note 41, at 1607–15 (discussing Jesus's message addressing Caesar's task in *Luke* 20:20–26 as acknowledging the presence of civil government and its right to sustain itself through taxation); DORFF, *supra* note 21, at 135 (recognizing that human ownership of property amounts to "our temporary lease on God's property"); GETZ, *supra* note 39, at 256 (affirming that "Christians should always be responsible and honest citizens in their own societies by paying all governmental taxes and revenues"); POPE PAUL VI, POPULORUM PROGRESSIO: ENCYCLICAL LETTER ON THE DEVELOPMENT OF PEOPLES ¶ 23, at 43–44 (1967) ("[P]rivate property does not constitute for anyone an absolute and unconditional right. No one is justified in keeping for his exclusive use what he does not need, when others lack necessities [T]he right to property must never be exercised to the detriment of the common good."); THOMAS R. SCHREINER, ROMANS 681–83 (1998) (discussing the message of *Romans* 13:1–7 as commanding believers to submit to government authorities and pay their lawfully owed taxes, and broadly recognizing the legitimacy of these institutions); see also *supra* notes 22–25 (explaining the need for all communities to have some level of compulsory taxation due to the effects of the Fall, causing humans to succumb to the sin of greed); *supra* notes 26–50 (discussing the Judeo-Christian moral requirement of reasonable opportunity mandating a level of tax revenues well beyond the minimum state, but with limitations); *infra* note 80 (recognizing reasonable rights to private property ownership within the framework of Judeo-Christian ethics as ethically forbidding confiscatory tax regimes).

⁵⁹ Although regressive tax structures differ from the ancient examples of economic oppression condemned by the Old and New Testaments, the "specific life situation" — the tendency to oppress poor people — has not changed, and therefore the

More complicated theological analysis is required to morally evaluate the other options, the proportional or flat and the numerous variations of progressive models, for allocating tax burdens. This is because despite hidden regressive effects, especially in the flat models, which proportionally impose higher effective tax burdens on some within the vast ranges of the middle and upper middle classes when compared with the very wealthy, well designed flat and progressive models contain adequate exemptions that shield income at poverty levels from any tax burden and prevent regressive effects in the lower middle class ranges.⁶⁰ Consequently, these models do not normally involve allocating tax burdens in a manner that oppresses those who truly cannot afford to pay the tax.

Even with sufficient exemptions shielding the lowest income levels and preventing regressive effects in the lower middle class ranges, flat models allocate the tax burden in a manner that enormously benefits the wealthiest taxpayers at the significant expense of the middle

broad ethical principle of the biblical texts applies contemporarily. *See supra* notes 31–32, 46 and accompanying text (discussing the development of the Judeo-Christian moral principle forbidding oppression, and the application of broad biblical ethical principles to contemporary economic structures); Hamill, *An Argument for Tax Reform*, *supra* note 2, at 68 (condemning Alabama's regressive income and sales tax structures as grossly unethical under the Judeo-Christian moral principle forbidding oppression); *see also* NAT'L CONFERENCE OF CATHOLIC BISHOPS, *supra* note 23, ¶ 202, at 79–80 (stating that families below the poverty line lack sufficient resources to meet basic needs and therefore should bear no income taxes, while noting that most sales and payroll tax structures impose a disproportionate burden on these families). These regressive tax structures are immorally oppressive, even though those enjoying greater levels of income and wealth pay higher taxes when measured in actual dollars. *See* SLEMROD & BAKIJA, *supra* note 1, at 58 (noting that wealthy individuals pay larger actual dollar amounts even under most regressive tax structures).

⁶⁰ *See* SLEMROD & BAKIJA, *supra* note 1, at 263 (discussing exemptions in flat models and noting that lower exemptions impose regressive effects at lower income levels, and more generous exemptions shift the burden from those at lower income levels to those in the middle class); *id.* at 192 (noting that flat models increase the burden on the middle and upper middle class taxpayers because the average tax rates flatten out at an earlier point on the income distribution, while progressive tax structures typically have a smaller adverse impact on the effective tax rates of the middle and upper middle class, because average tax rates continue to increase into the higher end of the income distribution). Any tax structure with regressive effects on the poor and lower middle classes is immorally oppressive, even if it nominally appears to be a flat or even a progressive structure. *See* Hamill, *An Argument for Tax Reform*, *supra* note 2, at 11–16 & n.35 (stating that despite the illusion of mild progressivity, because of grossly inadequate exemptions, Alabama's income tax structure imposes grossly regressive burdens on poor and lower middle income Alabamians, and largely due to hidden tax benefits, imposes essentially proportional burdens on middle class and wealthy Alabamians).

classes.⁶¹ Due to this lopsided favoring of those already enjoying the greatest share of God's resources, the general Judeo-Christian teachings addressing wealth, combined with the principles imposing greater moral obligations on those blessed with greater amounts of wealth, absolutely condemn flat models as immoral. Consequently the moral principles of Judeo-Christian ethics require tax burdens to be allocated under some form of a progressive model.⁶²

In his teachings regarding wealth, Jesus Christ directly commands that real faith requires God to have absolute priority over everything else, especially money. He also issues strong warnings that those who enjoy an abundance of wealth will be tempted to put their trust in and center their lives around their wealth rather than God.⁶³ Judeo-

⁶¹ See *infra* notes 120–21 and accompanying text.

⁶² See *infra* notes 63–74 and accompanying text (biblical exegesis and hermeneutics require tax burdens to be allocated under a moderately progressive structure); NAT'L CONFERENCE OF CATHOLIC BISHOPS, *supra* note 23, ¶ 202, at 79–80 (stating that tax burdens should be progressive, requiring that those with relatively greater financial resources pay a higher rate of taxation, while noting that progressive tax burdens are an important means of reducing the severe inequalities of income and wealth); see also *supra* note 53 (in addition to adopting a progressive rate structure, government must also ensure that the effective allocation of the tax burden is progressive by factoring in deductions and other tax benefits defining the tax base).

⁶³ BARKER & BAILEY, *supra* note 32, at 40 (describing *Micah's* general condemnations of the society worshiping money as their God and the poor being their sacrificial victims); BLOMBERG, *supra* note 44, at 122–23 (discussing Jesus's command to not "store up for yourselves treasures on earth," as warning that wealth brings grave spiritual dangers and those who enjoy more wealth should be "characterized by generosity in giving and meticulous stewardship in using money for the Lord's work"); BOCK I, *supra* note 30, at 157–58 (discussing the message of Mary's Magnificat as warning against the self-focus and spiritual insensitivity that comes with wealth and as requiring wealth to be used generously to serve one's neighbor); BOCK II, *supra* note 41, at 1372 (discussing Jesus's message in the story of the Rich Man and Lazarus as teaching about using wealth generously, noting that rich man has been condemned "because he slipped into the coma of callousness that wealth often produces [and] became consumed with his own joy, leisure, and celebration and failed to respond to the suffering and need of others around him"); KEENER, *supra* note 49, at 245 (discussing the cost of genuinely "embracing and yielding to God's reign" and warning that "[p]rofessed Christians who desire worldly wealth and status but are far less consumed with the furtherance of God's kingdom must reconsider the true state of their souls"); MOO, *supra* note 50, at 212 (discussing the message of *James* as warning that "wealth can be a particularly strong obstacle to Christian discipleship" and condemning the misuse of wealth, meaning wealthy persons who are using their wealth for their own selfish purposes); THIELMAN, *supra* note 24, at 141 (the message of *Luke* indicates "that the way people handle their wealth provides an index of their spiritual condition" and that "[g]reed . . . goes hand in hand with a heart that is not right with God [and that] rejects Jesus").

Christian teachings also clearly indicate that some extremes of wealth accumulation are unjust.⁶⁴

Moreover, the fundamental moral principle of Judeo-Christian ethics, which states that those who have been given much have greater moral obligations to carry out God's work on earth, requires those enjoying greater levels of income and wealth to use their material blessings to further God's purposes rather than exclusively their own purposes.⁶⁵ Although more commonly discussed in the context of

⁶⁴ See BLOMBERG, *supra* note 38, at 127, 245 (discussing Jesus's overall message as clearly indicating that "there are extremes of riches and poverty that are intolerable in the circle of his followers" and warning that "every economic system leads to certain people accumulating material possessions above and beyond what they can possibly need . . . [which] prevents others from having . . . a reasonably decent standard of living," and concluding that "[s]uch hoarding or accumulation is sin"); HARTLEY, *supra* note 38, at 447–48 (discussing Jesus's message against amassing treasures on earth for one's own personal glory); MOO, *supra* note 50, at 210 (discussing the message of *James* as condemning people for selfish accumulation of wealth which "not only demonstrat[es] utterly false priorities" but also deprives others of "their very life" and noting that Christians of today need to "ask ourselves seriously: when do we have too much?"); THIELMAN, *supra* note 24, at 139 (discussing the message of the Parable of the Rich Fool as a warning against belief that life consists of having an abundance of possessions and storing up accumulations of wealth); THIELMAN, *supra* note 44, at 59–60 (discussing the story of the rich ruler who had kept the Mosaic law his whole life but refused Jesus's request to give up all his wealth as an example of Jesus requiring more than the Mosaic law); WRIGHT, WALKING, *supra* note 26, at 210 (contemporary application of the Year of Jubilee does not allow for vast accumulation of wealth and requires broad equitable distribution of resources to prevent oppression and alienation); *supra* note 38 (discussing land tenure laws as preventing accumulation of vast estates).

⁶⁵ See BLOMBERG, *supra* note 44, at 372 (discussing the message in the Parable of the Talents in *Matthew* 25:14–30 as recognizing that "[n]ot all servants are given the same amount, since each has different capabilities and gifts" and that "[i]n the kingdom of Christ not all are created equal," therefore "everyone [is not] expected to perform at the same level of competence, but all are expected to do their best as faithful stewards"); BOCK I, *supra* note 30, at 401 (discussing the tendency of some in ministry to stress the individual response to such an extent that they miss the "elements of ministry, which reach out to a full range of people's needs"); BOCK II, *supra* note 41, at 1173 (discussing the general message of the Parable of the Unfaithful Servant in *Luke* 12:35–48 as creating a sliding scale of moral obligations based on the varying degrees of judgment suffered, depending on the "the amount of unfaithfulness and knowledge"); GEORGE, *supra* note 51, at 352 (discussing the moral obligation of Christians to "'become what they are,' that is, to make visible in the earthly realm of their human existence what God has already declared and sealed in the divine verdict of justification"); HAUERWAS, KINGDOM, *supra* note 23, at 99–104 (in the context of discussing the church as a social ethic, noting "the church . . . seeks a justice that comes from a self-confident people who know their possessions are a gift in the first place"); MATHEWS, *supra* note 52, at 33–34 (discussing theme of *Amos* that more is

individual personal responsibility, this moral principle also broadly applies to social and economic structures created by laws, which include choosing a model for allocating tax burdens among those enjoying different levels of income and wealth.⁶⁶ By allocating tax burdens

expected from the privileged); J.A. MOTYER, *THE MESSAGE OF AMOS 17–18* (1974) (the general message of *Amos* in the context of judgment requires more “from those to whom more has been given”); *see also* DORFF, *supra* note 23, at 153 (requiring high community and moral obligations, especially from those of greater wealth, to help the poor secure and retain their dignity); GETZ, *supra* note 39, at 88, 150–51 (discussing the moral obligations regarding excess wealth as providing “no pat answers” but requiring Christians “to develop a special approach for using, in creative ways, whatever excess material possessions God has given in order to further the kingdom of God,” which ultimately requires greater financial sacrifices from those who enjoy greater levels of material possessions); NAT’L CONFERENCE OF CATHOLIC BISHOPS, *supra* note 23, ¶ 74, at 43 (those with greater resources have particular moral obligations relative to their privilege to foster justice in society); THIELMAN, *supra* note 24, at 138 (discussing wealth as a “double-edged sword . . . [that] can pose a threat to discipleship, but on the other hand . . . can advance God’s saving purposes”).

⁶⁶ *See supra* notes 26, 46, 65 (biblical exegesis and hermeneutics establish the moral principle of “much is given, much more is required” and apply this moral principle to legal structures); *see also* CRAIG L. BLOMBERG, *INTERPRETING THE PARABLES* 307 (1990) (Christians today have a moral obligation “to use nonviolent means . . . to try to right the inequities of society” by “calling this world’s power brokers to behave more compassionately” because “Jesus went beyond offering personal aid to the needy; he prophetically denounced the sins of the powerful in his world”); BOCK I, *supra* note 30, at 33, 37 (discussing the accountability of the community to God in their service and ethical treatment of those both within and without the community); GARRETT & MELICK, *supra* note 26, at 214 (discussing the importance of “the universal role of civil government . . . to promote justice . . . [as] divinely willed” while recognizing that “both church and state have a necessary commitment to justice . . . [and a] Christian carries within himself this dual commitment to church and civil government, knowing the latter no less than the former to be theistically grounded”); KEENER, *supra* note 30, at 345 (discussion of the failure of ancient cities to “respond [to God] with wholesale repentance demonstrat[ing] their folly,” which supports message that God’s standards of justice apply to the public policies of wider communities of faith); KEENER, *supra* note 49, at 314 (discussing the message of *Matthew* portraying Jesus as courageously confronting injustice as a challenge to “[m]any Christians today [who] are able to avoid persecution in part because [they] do little to challenge the sinful practices of [their] societies”); MOTYER, *supra* note 65, at 124–25 (interpreting the message of *Amos* to establish justice at the city gate as requiring justice in larger community structures and lamenting the “small, insignificant, inhibited” contributions of many Christians to socio-ethical issues, which the message of *Amos* would classify as a “one-sided morality stopping short of the biblical concern for society”); JOHN R.W. STOTT, *THE MESSAGE OF ACTS 42* (1990) (discussing the message of *Acts*, which cannot “be identified with any political ideology or programme” but still has “radical political and social implications,” resulting in “Kingdom values com[ing] into collision with secular values”); THIELMAN, *supra* note 24, at 142 (stating that “God’s saving purposes involve, to some extent, an economic leveling so that the disparity

in a manner that fails to proportionally recognize the vast differences in wealth of taxpayers in the ranges of the middle and upper middle classes, and those enjoying the highest levels of income and wealth, flat models place an unacceptably high priority on preserving excess wealth and totally disregard Judeo-Christian moral teachings imposing greater moral obligations on those enjoying greater levels of income and wealth.⁶⁷

By requiring adequate revenues supporting reasonable opportunity to be raised under a progressive model, Judeo-Christian guided tax policy demands significant financial sacrifices from those in the community at higher levels of income and wealth. For Jews, these moral obligations come from the Torah.⁶⁸ For Christians, the general moral obligations addressing sacrifice come from Jesus Christ. Real

between rich and poor is not as great among God's people as it is among those outside his people," while indicating this can be only accomplished to "some extent" by charitable giving); CHARLES A. WANAMAKER, *THE EPISTLES TO THE THESSALONIANS* 248–49 (1990) (discussing the complex problem faced by contemporary Christians of Christian symbols being used to make unjust and oppressive political structures appear legitimate); WRIGHT, *OLD TESTAMENT ETHICS*, *supra* note 38, at 115–16, 120 (noting that Christian social ethics must "pay more serious attention to the institutions and conventions of our society" and make "moral arguments with persuasive force and practical relevance," especially when achievable, limited objectives are involved).

⁶⁷ See *supra* notes 63–64 and *infra* notes 68–74 (Judeo-Christian teachings on wealth generally and the moral obligations owed by those enjoying greater levels of wealth require greater sacrifices as levels of wealth increase) and *supra* notes 65–66 (biblical exegesis and hermeneutics establishing the moral principle "to whom much is given, much more is required" applies to legal structures including those allocating a community's tax burden). The Judeo-Christian standards of justice forbidding oppression and requiring reasonable opportunity also strongly weigh against flat tax models. The greater tax burdens imposed on those in the vast ranges of the middle class hinder their progress by taking away resources that those families could use to help their children reach their potential, for example to cover college expenses. See Timothy Egan, *Economic Squeeze Plaguing Middle Class Families*, N.Y. TIMES, Aug. 28, 2004, at A11 (documenting burden on middle-class families from increased college tuition, and stating that "the squeeze goes beyond short-term economic swings, and is worse than it has been at any time since the creation of the post-World War II middle class"). When striking a balance of how to fairly allocate the tax burden among taxpayers who can afford the tax, but nevertheless still enjoy vastly different levels of income and wealth, these Judeo-Christian standards strongly disapprove of trade-offs that impose significantly greater burdens on those in the vast ranges of the middle class, so that the wealthiest taxpayers, who have abundantly more than they need to reach their potential, can enjoy enormous tax savings. See *supra* notes 31–38 (biblical exegesis establishes the moral principles forbidding oppression and requiring reasonable opportunity).

⁶⁸ DORFF, *supra* note 23, at 19.

faith results in the Holy Spirit empowering the believer to become a disciple of Jesus, which will involve enduring personal sacrifice while following his moral teachings.⁶⁹

The biblical message clearly states that verbal professions of faith, intellectual assent to the doctrines of Christianity, or worship alone does not indicate real faith in Jesus.⁷⁰ Although no person will be able

⁶⁹ See *Mark* 8:34 (“If anyone would come after me, he must deny himself and take up his cross and follow me.”); BLOMBERG, *supra* note 44, at 260 (interpreting Jesus’s command to “[t]ake up his cross” in *Mark* 8:34 as “submission to God’s will . . . [which] should have a visible impact on the nature of one’s financial commitments and service to church and world and should lead to the rejection of self-centered arrogance and pride”); BOCK II, *supra* note 41 at 1292 (discussing the message of Luke as indicating true discipleship is demanding); STANLEY HAUERWAS & WILLIAM H. WILLIMON, *WHERE RESIDENT ALIENS LIVE* 88 (1996) (becoming a member of Christ’s church will result in a transformed and changed life); KEENER, *supra* note 30, at 175 (message of *Matthew* indicates that the demands of following Jesus “are more stringent than other interpretations of the law”); KEENER, *supra* note 49, at 274–76 (discussing the cross as central to Jesus’s message, which means that genuine faith in Jesus will result in significant sacrifice); SCHREINER, *supra* note 58, at 304, 332–33, 339 (discussing the acceptance of Christ’s grace as breaking the bondage of sin and empowering the believer to fulfill the Law); THIELMAN, *supra* note 24, at 146 (discussing the presence of the Holy Spirit “with Jesus’s disciples as they shoulder their crosses and follow him . . . enabl[ing] Christians to put God’s saving plan for creation into effect”); *id.* at 90, 136, 206 (in the context of sacrificial discipleship, individuals must take up their crosses daily and follow Jesus along his demanding road); NAT’L CONFERENCE OF CATHOLIC BISHOPS, *supra* note 23, ¶ 55, at 39 (experiencing “the power and presence of Christ” involves a commitment to empathize with those suffering and confront both individual and institutional injustice).

⁷⁰ The general message of both the Old and New Testaments clearly indicates that mere worship and adherence to religious ritual, if not also accompanied by just and righteous living, especially with regards to the poor and weak, is not authentically practicing Christianity. See BARKER & BAILEY, *supra* note 32, at 113–16 (interpreting the message of “walking humbly with God” in *Micah* 6:8 as living carefully the way God wants you to live); BLOMBERG, *supra* note 44, at 78, 132–33 (discussing Jesus’s reference in *Matthew* to wolves in sheep’s clothing as representing individuals masquerading as Christians, and stating that genuine faith requires leading a changed life through virtue, private devotion, and unselfish social behavior); BOCK I, *supra* note 30, at 29 (discussing the general message of *Luke* that “[n]ot only is one to know God, but one is responsible and accountable to him,” and “call[ing] for a response of faith that has an ethical edge”); F.B. HUEY, JR., *THE NEW AMERICAN COMMENTARY: JEREMIAH, LAMENTATIONS* 106 (1993) (interpreting the image of the temple being “a den of robbers” in *Jeremiah* 7:9–11 and quoted by Jesus in *Matthew* 21:13 as that of a refuge, much like a cave would be for robbers, where people use worship in a futile attempt to purge themselves from wicked behavior); SMITH & PAGE, *supra* note 35, at 111–13 (interpreting the message of *Amos* 5:21–24 as a strong condemnation of hollow worship that indicates that “[r]eligious activity is no substitute for national or personal righteousness . . . [i]t may even sometimes be a hindrance”); THIELMAN, *supra*

to perfectly carry out his moral teachings, real faith in Jesus is evidenced by a transformed life lead by Jesus and not exclusively by one's own self-interest. The particular form of sacrificial discipleship that will automatically flow out of genuine faith varies greatly among individual followers of Jesus depending on the degree of wealth, power, and other gifts they have been given.⁷¹

Dr. Frank Thielman of the Beeson Divinity School has described the significant sacrificial discipleship of those who enjoy larger shares

note 24, at 99 (the message of *Matthew* harshly criticizes the failure of religious leaders “to match their words with their deeds”); *id.* at 207 (discussing the warning of *Matthew* “to those who claim to be Jesus’ followers that they should examine their actions as a barometer of the condition of their hearts”). See generally GEORGE, *supra* note 51, at 150; STANLEY HAUERWAS, CHARACTER AND THE CHRISTIAN LIFE: A STUDY IN THEOLOGICAL ETHICS 199 (1975); HOUSE, *supra* note 21, at 142; KEENER, *supra* note 49, at 166; MERRILL, *supra* note 23, at 201; ROOKER, *supra* note 36, at 252; SMITH, *supra* note 30, at 252. A misunderstanding of the theology of *James* as espousing a salvation by works has caused some Christians to inappropriately divorce their faith and their daily lives. See *James* 1:22 (“Do not merely listen to the word, and so deceive yourselves. Do what it says.”) and *James* 2:26 (“As the body without the spirit is dead, so faith without deeds is dead.”); GEORGE, *supra* note 51, at 222–23 (discussing John Calvin’s interpretation of *James* as not endorsing a salvation by works but opposing a false faith); MOO, *supra* note 50, at 38, 120, 126 (discussing the message of *James* as fully embracing justification by faith in its condemnation of false faith because “[g]enuine faith . . . always and inevitably produces evidence of its existence in a life of righteous living”); see also SCHREINER, *supra* note 58, at 66–67 (discussing the overall theology of justification by faith alone in the message of *Romans* as “both forensic and transformative,” meaning that “[t]hose whom God has vindicated he also changes”).

⁷¹ See *supra* note 65 and *infra* notes 72, 75, 77 and accompanying text (discussing general moral obligations of those enjoying more wealth and of political and religious leaders); see also BLOMBERG, *supra* note 44, at 368–69 (the message of the Parable of the Unfaithful Servants in *Matthew* 24:45–51 indicates that “God rewards and punishes people at the final judgment on the basis of their stewardship of the tasks assigned to them”); BOCK II, *supra* note 41, at 1185–86 (discussing the degrees of faithfulness and responsibility required the more one knows); GEORGE, *supra* note 51, at 37 (noting that until Jesus comes again, “we are not to opt out of our present responsibilities, but rather give ourselves fully to the work of the Lord”); KEENER, *supra* note 30, at 434–35 (discussing the self-denial involved in following Jesus, noting that “[a]lthough genuine disciples may fall short on their commitment at times . . . the Gospel tradition emphasizes that those who wish to follow Jesus must understand from the start that they are surrendering their *lives* to him”); KEENER, *supra* note 49, at 219 (in the context of contrasting the missions of Jesus and John the Baptist, stating that Christians of today should recognize that “God has different kinds of servants for different missions, but we need all the kinds of servants God sends”); THIELMAN, *supra* note 24, at 135 (following Jesus “also involve[s] adopting a certain way of living that Jesus himself marked out”).

of God's resources as holding on to one's wealth with a "light grip."⁷² The substantial financial sacrifices that flow out of this "light grip" encompass much more than generous charitable giving. They also require individuals enjoying higher levels of income and wealth to act contrary to their own financial self-interest by supporting tax policy that imposes on them greater, and in some cases substantially greater, tax burdens than competing tax policy structures that fall short of Judeo-Christian standards.⁷³ Individuals enjoying higher levels of income and wealth who fail to support tax policy reflecting Judeo-Christian values are implicitly assuming that their own efforts rather than God's grace produced their wealth, and therefore are not acting consistent with genuine faith.⁷⁴

⁷² THIELMAN, *supra* note 24, at 140–41 (discussing many examples and stating that "Luke provides no formulas" to the question "[w]hat does the disciple look like who holds his possessions with a light grip because he or she is 'rich toward God?'); *id.* at 147 (in the context of following Jesus, stating that disciples "[b]y holding their wealth with a light grip . . . will resist the all-consuming commitment that wealth seems to demand of those who have it and thus avoid straying onto a well-traveled side path that leads away from the cross"); *id.* at 211 (in the context of discussing three ways to persevere toward carrying out God's saving purposes, stating that disciples of Jesus "should hold their possessions with a light grip, recognizing that wealth tends to divert its owners from the way of the Lord").

⁷³ *See supra* notes 21–25 (God's standards of justice combats the sin of greed); *supra* notes 34–52 (tax revenues must greatly exceed the level necessary to fund the minimum state); *supra* notes 62–66 (teachings on wealth and general moral principle "much is given, much more is required" require progressive tax burdens); *supra* notes 68–71 (genuine faith requires sacrifice given a person's individual circumstances which includes a greater financial sacrifice from those enjoying greater levels of income and wealth); *infra* note 182 (at a minimum, support for Judeo-Christian-based tax policy must be factored into voting decisions); *see also* BLOMBERG, *supra* note 44 at 298–99 (discussing the message of *Luke*, especially in the context of wealth and possessions as "prov[ing] Jesus makes different demands of different individuals"); BOCK II, *supra* note 41, at 1520–21 (discussing the encounter with Jesus where Zacchaeus, a tax collector, agreed to endure substantial financial sacrifice and changed his behavior from taking advantage of people to serving them); KEENER, *supra* note 49, at 98–99 (discussing the economic sacrifices of Jesus's first disciples as providing a message for Christians generally that answering "Jesus' [c]all [i]nvolves [d]ownward [m]obility"); THIELMAN, *supra* note 24, at 148 (discussing the use of wealth as a tool to alleviate the suffering of the poor); FRANK THIELMAN, *THE NIV APPLICATION COMMENTARY: PHILIPPIANS* 71, 106 (1995) (in the context of discussing participation in the debate over public policy, noting that because North American Christians live in democracies rather than being subjected to tyrannical governments, "it does not seem appropriate simply to focus on God's coming kingdom and neglect the opportunity believers in democratic societies have to show mercy to their neighbors by working for just policies").

⁷⁴ *See* BOCK I, *supra* note 30, at 43 (especially with regard to wealth, general

Judeo-Christian principles guiding tax policy impose heightened moral obligations on political leaders of faith who have direct power to shape tax policy. In the United States this includes members of Congress and the President.⁷⁵ Christians and Jews holding these of-

message of *Luke* requires “a recognition that all of one’s life belongs to God and comes from his hand”); GETZ, *supra* note 39, at 77 (warning that “an abundance of things and a desire to accumulate more and more can cause anyone to be self-satisfied, self-indulgent, and even cruel”); KEENER, *supra* note 49, at 69 (discussing the message of Jesus as a challenge to Western Christians erroneously assuming that “an easy life [is] their divine right”); MOO, *supra* note 50, at 202–03 (discussing interpretations claiming that the message of *James* condemns financial planning and profit-making activity as incorrect, while noting that the true message condemns “worldly self-confidence . . . exhibit[ed] in pursuing these goals . . . [and] any kind of planning for the future that stems from human arrogance in our ability to determine the course of future events”); WRIGHT, GOD’S LAND, *supra* note 38, at 118 (“[L]egitimate personal wealth derives not from mankind’s supremacy over nature, but from the gift and bounty of God.”); sources cited *supra* at note 57 (all land and wealth is ultimately owned by God).

⁷⁵ See *supra* note 10 (legislative and executive branches have direct authority over federal tax policy). The Mosaic law clearly indicates that the political and spiritual leaders of ancient Israel — the kings, judges, priests, and prophets — had enhanced moral obligations to foster justice in the community without accumulating large amounts of wealth for themselves. See *Deuteronomy* 1:15–17, 16:18–20, 17:15–20; MERRILL, *supra* note 23, at 70, 266 (elaborating on the integrity required of all tribal leaders because God has authority over those who administer the Old Testament law); WRIGHT, DEUTERONOMY, *supra* note 23, at 26, 209; see also DANIEL I. BLOCK, THE BOOK OF EZEKIEL: CHAPTERS 1–24, at 724–27 (1997) [hereinafter BLOCK I] (discussing the roles of different classes of ancient Israel’s leaders). The Prophets harshly criticized and predicted judgment upon leaders who made decisions promoting expediency or self-interest rather than justice. See *Jeremiah* 21:12, 22:13, –14 (“Administer justice every morning . . . or my wrath will break out and burn like fire because of the evil you have done Woe to him who builds his palace by unrighteousness, his upper rooms by injustice [Y]our eyes and your heart are set only on dishonest gain . . . oppression and extortion.”); HUEY, *supra* note 70, at 201–06 (discussing the message in *Jeremiah* as an indictment against King Jehoiakim, and the image of fire as expressing God’s judgment on leaders who abuse their power); *Ezekiel* 34:2–5 (“Woe to the shepherds of Israel who only take care of themselves! You . . . clothe yourselves with the wool and slaughter the choice animals, but you do not take care of the flock. You have not strengthened the weak or healed the sick You have ruled them harshly and brutally.”); DANIEL I. BLOCK, THE BOOK OF EZEKIEL: CHAPTERS 25–48, at 279–85 (1998) [hereinafter BLOCK II] (describing the shepherd and sheep in the flock as metaphorically representing Israel’s leaders and her people, thus illustrating the disastrous effects of bad leadership and concluding that the ultimate responsibility for the well-being of the community falls on the shoulders of the leaders); *Micah* 3:1–3, 11 (using vivid imagery to describe the leaders of ancient Israel treating her people like animals to be slaughtered, and noting that “[h]er leaders judge for a bribe, her priests teach for a price, and her prophets tell fortunes for money”); BARKER & BAILEY, *supra* note 32, at 75–81 (discussing the vivid

fices not only have a constitutional right but also an absolute moral obligation to draw upon the Judeo-Christian standards of justice and teachings on wealth when discussing, framing, debating, and finally voting on federal tax policy issues, even when this requires them to take tax policy positions contrary to their own personal self-interest or the financial interest of those making the largest donations to their political campaigns.⁷⁶

Finally, religious leaders have the greatest moral obligations to preach and teach the true word of God even if the wealthiest and most powerful members of the community do not want to hear the message.⁷⁷ In their preaching and teaching, religious leaders must apply

imagery of *Micah* as illustrating the wickedness of leaders who allowed unjust and oppressive practices to occur under their watch, and illustrating their corrupt financial motivations); *Amos* 6:1 (“Woe to you . . . notable men of the foremost nation . . .”); SMITH, *supra* note 30, at 200 (interpreting the reference to leaders in *Amos* as those who have achieved notoriety and status in government and society); *Isaiah* 1:23 (“Your rulers are rebels, companions of thieves; they all love bribes and chase after gifts.”); OSWALT I, *supra* note 27, at 105–06 (describing the irony of those who are supposed to keep order being rebels, and linking ancient Israel’s idolatry with their leadership becoming “trash”); *see also* DORFF, *supra* note 21, at 97 (political leaders have a moral obligation to ensure that their decisions are consistent with God’s instructions as provided by the Torah); POPE JOHN XXIII, *PACEM IN TERRIS* ¶ 63 (1963) (imposing greater moral obligations on “heads of States”).

⁷⁶ The presence of leaders with power over the lives of others as a “specific life situation” of the original and contemporary biblical audiences has not changed. Therefore, the broad biblical principle imposing a greater level of responsibility for the community on political leaders, which includes the important issue of tax policy, applies contemporarily to the Congress and President of the United States, as well as to Christian and Jewish political leaders who are directly responsible for state and local tax laws. *See supra* notes 26, 46, 75 (biblical exegesis and hermeneutics establish greater moral obligations for political leaders); *supra* note 10 (persons serving in the legislative and executive branches have the authority to set federal tax policy); *supra* notes 52, 62 (Judeo-Christian ethics requires adequate tax revenues meeting the reasonable opportunity threshold, to be raised by a progressive structure); *see also* BLOCK I, *supra* note 75, at 714 (discussing the theological implications from *Ezekiel* as applicable to contemporary political leaders, since “community leaders bear special responsibility for the maintenance of justice and the welfare of its citizenry” and because “[t]he call to leadership is primarily a call to responsibility, not privilege”); OSWALT II, *supra* note 47, at 336–37 (discussing the theological implications of leadership from *Isaiah* that are applicable to contemporary leaders as including the requirements of “self-denial, self-sacrifice, innocence, faithfulness, and holy love, to rule justly”).

⁷⁷ *See sources cited supra* notes 75–76 (message of enhanced moral responsibility for the welfare of the community applies to religious leaders because ancient Israel’s leaders receiving the message were both spiritual and political leaders); BLOMBERG, *supra* note 44, at 316 (discussing the contemporary message of Jesus regarding clean-

faith-based moral principles to all issues of the day, including tax policy. Those leading congregations with wealthy and politically powerful members have the greatest moral obligations to challenge these individuals to overcome the sin of greed and meet their enhanced moral obligations to support tax policy consistent with Judeo-Christian teachings.⁷⁸

sing of the temple, noting that “it is the ‘clergy’ and the ‘Bible teachers,’ not the disreputable people of society” that Jesus attacks, and warning that “[c]orruption among the leadership of God’s people arouses Jesus’ wrath more quickly than anything else”); KEENER, *supra* note 30, at 179–80, 593 (discussing the enhanced responsibilities and standards of ministers, and noting that Jesus “savages the false security of the religious establishment”); KEENER, *supra* note 49, at 241, 358 (observing that the existence of numerous shallow Christians in many churches may be the result of preaching a shallow gospel, and discussing the message of *Matthew* as a warning demanding faithfulness from all disciples given the nature of their call, which is even more seriously demanded of church leaders); NAT’L CONFERENCE OF CATHOLIC BISHOPS, *supra* note 23, ¶ 339, at 129 (noting that the church and its agents, which would include the clergy, have an exemplary level of moral responsibilities); MOO, *supra* note 50, at 150 (discussing the enhanced standard of scrutiny applied to religious leaders “because they bear so much responsibility for the spiritual welfare of those to whom they minister”).

⁷⁸ See sources cited *supra* notes 26, 46, 75–77 (biblical exegesis and hermeneutics establishes the highest moral obligations for religious leaders) and notes 34–75 (Judeo-Christian teachings guiding tax policy); BOCK II, *supra* note 41, at 1115–16 (discussing Jesus’s criticism of the religious leaders of his time for emphasizing less important matters and neglecting God’s ethical imperatives of justice and love); STANLEY HAUERWAS & WILLIAM H. WILLIMON, *RESIDENT ALIENS* 162 (1989) (discussing the moral obligations of pastors to preach the Word using the ecumenical lectionary as “the church’s way of reminding itself of how it subverts the world”); HUEY, *supra* note 70, at 35–36 (discussing the contemporary message of *Jeremiah* as a call to those who proclaim God’s Word to do so by challenging falsely based security, manipulative ways, and god substitutes, and to have the courage to “bold[ly] . . . confront evils in a world where evil is normalized; to protest against preachers of an ‘easy grace’ which promises endless benefits without responsibility”); NAT’L CONFERENCE OF CATHOLIC BISHOPS, *supra* note 23, ¶ 361, at 134 (requires priests to study all issues addressed by Catholic social teachings, which would include tax policy, “so that they can proclaim the gospel message in a way that not only challenges the faithful but also sustains and encourages their vocation in and to the world”); OSWALT II, *supra* note 47, at 325 (interpreting the broad theological message of *Isaiah* as indicating that God’s true prophets often stand outside the mainstream, professing a message not often well received because they confront godless behavior with a call for change, rather than making it easy for persons to manipulate God and quoting John Calvin as saying “whoever faithfully administers the Word will be exposed to a contest with the world”); *id.* at 496 (noting that it is possible to desire God’s ways and forsake God’s justice, citing as a clear example the Pharisees, the religious leaders harshly criticized by Jesus, who would meet the tithing laws to the letter and at the same time put widows out on the street).

Although Judeo-Christian ethical principles require tax burdens to be allocated in a progressive manner, evaluating the degree of progressivity that best embodies these values is extremely difficult. Mildly progressive structures with as little as two rates probably fail because of the close resemblance to flat models.⁷⁹ However, in addition to not requiring tax laws raising generous revenues that attempt to achieve equality of result or equal opportunity in the area of resources, Judeo-Christian teachings do not impose moral obligations to support tax laws that allocate effective income tax burdens under a steeply progressive model with effective rate schedules that reach confiscatory levels. Like using the income tax revenues as a tool to massively redistribute wealth, creating a model for allocating income tax burdens that contains very high levels of progressivity raises significant ethical issues regarding the generally recognized and respected rights to reasonably enjoy private property as well as individual autonomy and freedom.⁸⁰

On balance, the standards of justice and teachings on wealth under the moral principles of Judeo-Christian ethics favor allocating tax burdens under a moderately progressive model, which will require

⁷⁹ See *supra* note 55 (discussing proportional models as having a mildly progressive effect due to exemptions at very low income levels); *infra* note 121 (discussing the substantial savings the very wealthy enjoy under proportional models, paid for by a vastly increased burden allocated to the middle class).

⁸⁰ BLOMBERG, *supra* note 38, at 243 (the New Testament message does not call “well-off believers to change places with the poor,” but rather to share surplus and honestly determine how much the surplus is); BOCK II, *supra* note 41, at 1482, 1513–14 (implicitly recognizing that private property is not condemned in the discussion contrasting the response of the Rich Ruler and Zacchaeus); GETZ, *supra* note 39, at 87 (affirming that it is not wrong to accumulate reasonable levels of wealth to care for ourselves and our families in the future); POPE PIUS XI, QUADRAGESIMO ANNO: ENCYCLICAL ON RECONSTRUCTION OF THE SOCIAL ORDER ¶ 136 (1931) (affirming the general right of people to benefit from their labor and personal efforts “provided that all these things be sought with due respect for the laws of God and without impairing the rights of others and that they be employed in accordance with faith and right reason”); ROOKER, *supra* note 36, at 312 (discussing the application of the principles behind the Year of Jubilee to the church today, and noting that it forbids the accumulation of vast amounts of property by a wealthy few but respects the basic right to ownership of private property); STOTT, *supra* note 66, at 83 (in the context of discussing the message of sharing material possessions in *Acts*, affirming that “neither Jesus nor his apostles forbade private property to all Christians”); see also *supra* notes 48–50 (discussing limitations regarding the level of tax revenues required by Judeo-Christian moral framework); *supra* note 58 (discussing the moral legitimacy of government and taxation generally); *supra* note 53 (steeply progressive rate structure may impose lesser degrees of progressivity because of deductions and other tax benefits).

those at greater levels of income and wealth to bear substantially higher tax burdens than they otherwise would bear in a community that only guards the well-being of the powerful and the wealthy.⁸¹ Although it is impossible to pinpoint the exact details that define the morally superior version of a moderately progressive tax model, Judeo-Christian ethics provide general guidelines. In addition to ensuring that those at the lowest levels of income be free from taxation, a moderately progressive model that meets Judeo-Christian moral standards can only impose very modest burdens on those in the lower ranges of the middle class. Moreover, there must be enough effective rate brackets so that those at greater income levels bear noticeably greater tax burdens as their income climbs. The highest effective rate bracket also must be reasonable, probably no more than fifty percent. Finally, hidden regressive effects that effectively impose greater proportional burdens at lower income levels (despite a rate structure which rises with income levels) must be eliminated within the vast ranges of the middle class and minimized among the upper ranges of the middle class and the wealthy.⁸²

Although Judeo-Christian moral standards require far less than secular-based liberal ideological frameworks, when debating both the level of morally required revenues and the fair allocation of the tax burden, all Christians and Jews, especially religious leaders and those enjoying enhanced levels of wealth and political power, have a moral obligation to first ask whether the wealthiest and upper income taxpayers are bearing their fair share of taxes. If the tax system is already operating at a level that neither raises a generous amount of revenues exceeding the reasonable opportunity requirement nor approaches a steeply progressive range, and proposed changes would result in a lesser degree of revenues and progressivity, for at least two reasons the moral obligation to heavily scrutinize whether the wealthiest and upper income taxpayers would continue to pay their fair share is far greater. First, Judeo-Christian teachings are far more suspicious of

⁸¹ See *supra* notes 34–80 and accompanying text (Judeo-Christian guided tax policy strikes a balance between community obligation and individual autonomy); see also THIELMAN, *supra* note 24, at 142 (stating that true disciples of Jesus who are wealthy must provide a wholehearted commitment to allow their wealth to be used for God's saving purposes).

⁸² See Hamill, *An Argument for Tax Reform*, *supra* note 2, at 49 n.164 (noting consensus in tax policy circles that tax structures with regressive effects at low income levels cannot be defended); *supra* note 54 (discussing regressive taxation); *supra* notes 62–67 (Judeo-Christian teachings on wealth and the moral principle "much is given, much more is required" condemn tax burdens with regressive effects in the income ranges of the middle class).

wealth than protective of private property.⁸³ Second, and arguably of greater importance, those enjoying higher levels of income and wealth are far more vulnerable to succumbing to the sin of greed and therefore will tend to fight for the smallest tax burden possible without considering the moral obligations demanded of their faith.⁸⁴ As tax policy issues are debated, different people of faith will reach different opinions concerning the precise details; however, if the moral conversation during the debate honestly reflects genuine Judeo-Christian values, the details surrounding the resulting tax policy ultimately adopted has the greatest chance of falling within a morally acceptable range.⁸⁵

⁸³ See *supra* notes 63–64 and accompanying text; see also BLOMBERG, *supra* note 44, at 124 (stating that the greatest danger to Western Christianity is not competing ideologies such as Marxism, but rather “the all-pervasive materialism of our affluent culture,” which “throw[s] in Christianity when convenient as another small addition to the so-called good life”); BOCK II, *supra* note 41, at 1336 (discussing money and wealth as an idolatrous threat, and noting that “[t]here might even be a time when a choice for God is a choice not to have money or not quite so much money” and that “money is a litmus test about greater issues and responsibilities, and it is clear that one should choose to serve God”); HAUERWAS & WILLIMON, *supra* note 78, at 131–32 (undue emphasis on money and material things brings death); THIELMAN, *supra* note 24, at 138–41 (extensively discussing “wealth as a dangerous distraction”); *infra* notes 200–03 and accompanying text (discussing misuse of wealth as a major factor in bringing about biblical judgment).

⁸⁴ See *supra* note 21 (discussing the serious problem of human greed); see also BOCK II, *supra* note 41, at 1150 (discussing Jesus’s warning to guard against all forms of greed because it is a form of idolatry and can become “a god that drives one to do things that are not good”); GETZ, *supra* note 39, at 154–55 (discussing the importance of unselfish and benevolent character to a Christian life, given that “[t]he world is and always has been filled with selfish people” and “[b]ecause of the principle of sin that is operative in all of us, we naturally tend to look out for ourselves”); KEENER, *supra* note 30, at 228 (Jesus’s teachings not to value possessions “strike at the core of human selfishness, challenging both the well-to-do who have possessions to guard and the poor who wish they could acquire them”); *infra* notes 200–03 and accompanying text (noting that greed among the wealthy in the community, leading to idolatry, and unjust social structures were the major factors bringing about biblical judgment).

⁸⁵ See *supra* notes 26, 46 (stating that biblical exegesis and hermeneutics do not provide precise answers to contemporary problems, but rather establish moral principles and a guide for applying them to such problems); see also BLOMBERG, *supra* note 44, at 103 (discussing Jesus’s command that all disciples be “salt and light” in the world as urging Christians to “remain active preservative agents, indeed irritants, in calling the world to heed God’s standards”); NAT’L CONFERENCE OF CATHOLIC BISHOPS, *supra* note 23, ¶ 202, at 79–80 (“The [U.S.] tax system should be continually evaluated in terms of its impact on the poor.”); SCHREINER, *supra* note 58, at 692 (stating that the message of *Paul* addressing the marks of a Christian community recognizes that even though there are “countless situations in life in which no law can be

III. APPLYING THE MORAL PRINCIPLES OF JUDEO-CHRISTIAN ETHICS TO THE FEDERAL TAX POLICY TRENDS OF THE BUSH ADMINISTRATION

A. Federal Tax Policy Trends of the Bush Administration

When George W. Bush was first elected President of the United States in 2000, he inherited a budget surplus of well over \$200 billion.⁸⁶ The federal income tax burden was allocated under a moderately progressive model with five rate brackets starting at 15% and climbing to a top rate of 39.6%, with lower rates for capital gains.⁸⁷ Due to large exemptions, estate and gift taxes primarily applied only to the wealthiest Americans.⁸⁸

formulated to specify what is exactly the right course of action,” that “[b]elievers need to pray in these situations that their love will abound and that this love will be conjoined with wisdom so that they will choose the right course”).

⁸⁶ See OFFICE OF MGMT. & BUDGET, EXEC. OFFICE OF THE PRESIDENT, HISTORICAL TABLES: BUDGET OF THE UNITED STATES GOVERNMENT, FISCAL YEAR 2005, at 25 tbl.1.3 (2004) [hereinafter 2005 HISTORICAL TABLES] (demonstrating that after accounting for inflation, the 1992 budget deficit of \$290.4 billion (approximately 4.7% of gross domestic product) disappeared during President Bill Clinton’s two terms, and even showed a surplus of \$236.4 billion in 2000 (approximately 2.4% of gross domestic product)). In focusing on the tax policy changes during President Bush’s first term and his second term goals, this article in no way implies that the tax policy trends of previous administrations met Judeo-Christian moral standards. According to at least one author, “During Clinton’s tenure as president, the share of income going to the top 400 more than doubled . . . [but] the portion of [their] income going to federal income taxes fell by 16 percent . . . while rising for everyone else by 18 percent. Clearly favoritism for the rich is bipartisan.” DAVID CAY JOHNSTON, PERFECTLY LEGAL 308 (2003).

⁸⁷ I.R.C. § 1 (2000); Rev. Proc. 99-42, 1992-2 C.B. 568 (15% rate applied to taxpayers (married filing jointly) with income less than \$43,850; brackets of 28%, 31%, and 36% applied to income exceeding the preceding bracket, with the top rate of 39.6% applying to income exceeding \$288,350). The standard deduction for those married filing jointly was \$7,350, with a \$2,800 personal exemption (which began to phase out at \$193,400), thus exempting from tax the first \$18,550 of income for a married couple with two children. COMMERCE CLEARING HOUSE, 2000 U.S. MASTER TAX GUIDE ¶¶ 126, 133 (83rd). Gain realized from a sale or exchange of a capital asset held for more than one year qualifies for capital gain treatment (ordinary income rates apply if the capital asset has been held for one year or less). I.R.C. §§ 1, 1221, 1222. When President Bush began his first term, the top rate imposed on capital gains was 20%. I.R.C. § 1 (2003).

⁸⁸ I.R.C. §§ 2010(c), 2503(b), 2001(c), 2505(a) (2000); Rev. Proc. 99-42, 1999-2 C.B. 568 (estate tax rates of 37% applied to estates exceeding \$675,000 with rates topping out at 55% for estates over \$3 million; taxpayers making gifts before death could use their estate tax exemption to exclude gifts (exceeding the \$10,000 annual

In 2001, the first year of his first term, President Bush cut income tax rates in the top four brackets, lowering the top rate to 35% while adding a new 10% bracket at the lower income levels.⁸⁹ In 2001, President Bush also reduced estate and gift taxes and plans to permanently eliminate them.⁹⁰ In 2003, President Bush cut the tax rates on both capital gains and dividends.⁹¹ In 2002 and 2003 he created vari-

exclusion) from gift taxes). Before 2001, 99.2% of estate taxes were paid by those in the top economic quintile and approximately two-thirds were paid by the wealthiest 1% within the top quintile. *See* TAX POLICY CENTER, DISTRIBUTION BY INCOME 2000, <http://www.taxpolicycenter.org/TaxFacts/TFDB/TFTemplate.cfm?Docid=50&Topic2id=60> (last visited Nov. 17, 2005); *see also* GRAETZ, *supra* note 52, at 21 (noting that the estate tax only applies to the wealthiest Americans).

⁸⁹ Under the six new brackets, taxpayers at the lowest income levels (for married filing jointly, those with incomes less than \$14,600) are taxed at a 10% rate. As income levels rise, brackets of 15%, 25%, 28%, 33% apply to the income exceeding the preceding bracket, with the top bracket of 35% applying to income exceeding \$326,450. I.R.C. § 1. The current standard deduction for a married couple filing jointly is \$10,000, with a \$3,200 personal exemption, thus exempting from tax the first \$22,800 of income for a married couple with two children. I.R.C. §§ 63(c), 151(d), and Rev. Proc. 2004-71, 2004-50 I.R.B. 970; *see* Economic Growth and Tax Relief Reconciliation Act of 2001, Pub. L. No. 107-16, §§ 101–103, 901, 115 Stat. 38, 41–45, 150 (stating that tax rate decreases are to be carried out in four steps between 2001 and 2006, the removal of limitations on itemized deductions and personal exemptions is to be phased in from 2006 to 2010, and that the law is scheduled to sunset at the end of 2010); Jobs and Growth Tax Relief Reconciliation Act of 2003, Pub. L. No. 108-27, §§ 105, 303, 117 Stat. 752, 755–56, 764 (stating that acceleration of reduction in individual tax rates is to be effective after 2002, and absent congressional approval, will sunset at the end of 2008); *see also* CONG. BUDGET OFFICE, EFFECTIVE FEDERAL TAX RATES UNDER CURRENT LAW, 2001 TO 2014, at 2 (Aug. 2004) [hereinafter AUGUST 2004 CBO] (examining how tax rates will change during the next decade if those tax laws enacted in 2001 phase in, phase out, and “sunset” as scheduled).

⁹⁰ *See* Economic Growth and Tax Relief Reconciliation Act of 2001, Pub. L. No. 107-16, §§ 501, 511, 521, 901, 115 Stat. 38, 69–72, 150 (increasing estate and gift tax exemptions to \$1 million in 2002 and 2003, \$1.5 million in 2004 and 2005, \$2 million in 2006, 2007 and 2008, and \$3.5 million in 2009, decreasing the top rates to 50% in 2002, 49% in 2003, 48% in 2004, 47% in 2005, 46% in 2006 and 45% in 2007, 2008 and 2009, completely eliminating all estate and gift taxes in 2010, and reinstating estate and gift taxes to their 2001 levels in 2011). President Bush has expressed a strong desire to make the elimination of estate and gift taxes permanent. *See* President George W. Bush, Radio Address by the President to the Nation (Mar. 17, 2001), www.whitehouse.gov/news/releases/2001/03/20010317.html (“On principle, every family, every farmer and small business person should be free to pass on their life’s work to those they love. So we abolish the death tax.”).

⁹¹ *See* Jobs and Growth Tax Relief Reconciliation Act of 2003, Pub. L. No. 108-27, §§ 301, 302, 117 Stat. 752, 758–64; I.R.C. §§ 1(h)(11), 301, 302 (lowering the top rate on capital gains from 20% to 15% and including “qualified dividend income” in the definition of a net capital gain, allowing dividend income to be taxed at the 15%

ous incentives such as bonus depreciation to reduce the effective tax burden on businesses.⁹²

More sophisticated analysis beyond merely comparing the changes in the rates at various income levels is needed in order to measure how President Bush's first term tax cuts affect the allocation of the tax burden among taxpayers at different levels of income and wealth.⁹³ Economists do this by dividing taxpayers into five standard income groups or "quintiles." They then compare the change in each group's percentage share of tax burden and average effective tax rate, and finally they calculate the average actual tax savings or increase measured in dollars.⁹⁴

These income groups used by economists can be combined in a way that provides a rough picture of the socioeconomic class differences among Americans.⁹⁵ The poor and lower middle class have in-

capital gains rate instead of the 35% rate for ordinary income). For example, taxpayers in the 35% bracket for 2003 receiving \$100,000 in dividends would save an additional \$20,000 in taxes (20% reduction in tax rate from 35% to 15%).

⁹² See Job Creation and Worker Assistance Act of 2002, Pub. L. No. 107-147, §§ 101, 102, 116 Stat. 21, 22-27 (providing an additional depreciation deduction of 30% (on top of any depreciation deduction for which that property already qualified) for property purchased after September 11, 2001, and before September 11, 2004, and placed in service before January 1, 2005, and extending the net operating loss carry-backs from two to five years); Jobs and Growth Tax Relief Reconciliation Act of 2003, Pub. L. No. 108-27, §§ 201, 202, 117 Stat. 752, 756-58 (increasing bonus depreciation to 50% for property acquired between May 5, 2003 and December 31, 2004, and increasing the section 179 deduction to \$100,000 for property placed in service after 2002 but before 2006); see also AUGUST 2004 CBO, *supra* note 89, at 2.

⁹³ See *supra* note 53 (stating that the rate structure alone cannot measure how the true tax burden is spread among taxpayers at different income groups, because the current tax law allows many deductions and other tax benefits that are not tied to the rate structure). See generally CONG. BUDGET OFFICE, EFFECTIVE FEDERAL TAX RATES 1979-2001 (Apr. 2004) [hereinafter APRIL 2004 CBO] (measuring allocation of the tax burden among different income groups before President Bush's first term); AUGUST 2004 CBO, *supra* note 89, at 2 (measuring allocation of the tax burden among different income groups resulting from President Bush's first term tax cuts effective in 2001).

⁹⁴ See generally AUGUST 2004 CBO, *supra* note 89 (comparing the change in each income group's percentage of the tax burden before and after the particular change in the tax law, by dividing each group's total taxes paid by all federal taxes paid; effective rate (which shows the percentage of every dollar paid in federal taxes) changes among income groups are compared by dividing each group's tax liability by its income; the actual dollars saved or increased in each income group's tax liability is determined by multiplying the change in the effective tax rate by the average income of each income group).

⁹⁵ See *id.* at 3 (creating income groups by dividing population (first by number of people and then by grouping them in households) into fifths or "quintiles" in order to

comes averaging less than \$35,000 a year, with many averaging less than \$15,000.⁹⁶ The middle class show average incomes in the \$50,000 to \$75,000 range.⁹⁷ Finally, the upper middle class enjoys average incomes approaching \$200,000 a year.⁹⁸ These figures also isolate the wealthiest Americans, those in the top one percent range who enjoy average incomes over \$1 million a year.⁹⁹

Under this analysis, the first wave of President Bush's first term tax cuts substantially lowered the proportional share of the tax burden borne by the wealthiest Americans and increased the proportional shares of all other income groups, except for those at the lowest income level.¹⁰⁰ Similarly, the wealthiest taxpayers enjoyed by far the most substantial drop in their average effective tax rates¹⁰¹ and the

estimate the changes in tax burdens as measured by applying the tax law in effect in each year to the underlying incomes).

⁹⁶ See *id.* at 17 tbl.A-1 (illustrating that the lowest quintile consisting of 22.2 million households showed an average income in 2001 of \$14,900 (households with negative income are excluded even though they are included in the results of the distributional effects, *id.* at 3); the second quintile consisting of 21.1 million households showed an average income in 2001 of \$34,200).

⁹⁷ See *id.* at 17 tbl.A-1 (illustrating that the third and fourth quintiles, consisting of 21.6 million and 21.5 million households, respectively, are the middle class showing average incomes in 2001 of \$51,500 and \$75,600, respectively).

⁹⁸ See *id.* (illustrating that the fifth and highest quintile, consisting of 22.5 million households, had an average income in 2001 of \$182,700).

⁹⁹ Households with income levels in the fifth and highest quintile are further divided into sub-income groups, isolating those enjoying incomes in the top 10%, 5%, and 1% of all Americans, because income levels and allocations of the tax burden differ substantially between households in the lower range of this quintile (those with incomes in the \$200,000 range) and those at the very top (those with incomes exceeding \$1 million a year). See *id.* at 3. Those enjoying incomes in the top 1% (the 1.1 million wealthiest households) showed an average income in 2001 of \$1,050,100. *Id.* at 17 tbl.A-1.

¹⁰⁰ Before President Bush began his first term, the fifth quintile accounted for 66.7% and the top 1% accounted for 25.6% of the overall federal tax liability. See APRIL 2004 CBO, *supra* note 93, at 6 tbl.1B. As a result of the first term Bush tax cuts effective in 2001, the fifth quintile's percentage share declined by 4.2 percentage points to 62.5%, and the top 1% group's share declined by 5.5 percentage points to 20.1%. See AUGUST 2004 CBO, *supra* note 89, at 10 tbl.2. As a result, the proportional shares of the second, third, and fourth quintiles increased by 0.4%, 0.7%, and 2.1%, respectively (from 4.8%, 9.8% and 17.4%, see APRIL 2004 CBO, *supra* note 93, at 5-6 tbl.1B, to 5.2%, 10.5%, and 19.5%, respectively), see AUGUST 2004 CBO, *supra* note 89, at 10 tbl.2. The lowest quintile's proportional share remained constant at 1.1%. *Id.*

¹⁰¹ Even though the tax cuts enacted by President Bush lowered all of the quintiles' effective tax rates, the wealthiest Americans enjoyed the greatest decreases. Compare APRIL 2004 CBO, *supra* note 93, at 3-5 tbl.1A with AUGUST 2004 CBO, *su-*

greatest tax savings in dollars, averaging well over \$60,000 per household. The middle class averaged just over \$1,000 of taxes saved per household, while the poor and the lower middle class received only marginal tax savings, averaging less than \$200 per household.¹⁰² Moreover, the latest figures for 2003 and projections of the future full effect of these tax cuts show the wealthiest Americans continuing to reduce their proportional share of the tax burden at the expense of the middle and upper middle classes, with the very wealthiest households at income levels of over \$10 million enjoying average tax savings of over \$1,000,000 a year.¹⁰³

President Bush's first term tax cuts caused significant far-reaching effects beyond providing the wealthiest Americans enormous tax savings and increasing the proportional share of the tax burden carried by the middle classes. The first term tax cuts substantially contributed to the budget surplus of well over \$200 billion evaporating into gigantic deficits. In fiscal year 2002 the deficit climbed to over \$150 billion and exceeded \$300 billion in fiscal years 2003, 2004 and 2005. Moreover the Office of Management and Budget has predicted that in fiscal year

pra note 89, at 10 tbl.2 (showing that the lowest quintile's effective tax rate dropped by 1.2% (6.4% to 5.2%), the second quintile's effective rate dropped by 1.9% (13% to 11.1%), the third quintile's effective rate dropped by 2.1% (16.7% to 14.6%), the fourth quintile's effective rate dropped by 2% (20.5% to 18.5%), the fifth and highest quintile's effective rate dropped by 4.2% (28% to 23.8%), and finally the top 1% income group enjoyed the greatest decrease, with its effective rate dropping by 6.8% (33.5% to 26.7%)).

¹⁰² Compare April 2004 CBO, *supra* note 93 at 3, tbl.1A with August 2004 CBO, *supra* note 93 at 10, tbl. 2 and *supra* note 101 (showing the change in effective tax rates from 2000 to 2004 as a result of President Bush's tax cuts) and *supra* notes 95–99 (providing the average income of taxpayers from all five quintiles and the top 1%). The average tax savings enjoyed by taxpayers in each quintile and those in the top 1% was calculated by multiplying the change in effective tax rate by the average income of taxpayers in each quintile and the top 1%. The lowest and second quintiles enjoyed the lowest savings, averaging only \$179 and \$650 per household, respectively. The third and fourth quintiles enjoyed modest savings, averaging \$1,081 and \$1,512 per household, respectively. The fifth and highest quintile enjoyed substantial tax savings averaging \$7,673 per household (roughly seven times as much as the third quintile). Finally those in the top 1% income group enjoyed the greatest tax savings averaging \$68,000 per household. *Id.*

¹⁰³ See generally JOHNSTON, *supra* note 86, at 92–113; David Cay Johnston, *Rich-est Are Leaving Even the Rich Far Behind*, N.Y. TIMES, June 5, 2005, at A1; David Cay Johnston, *Big Gain for Rich Seen in Tax Cuts for Investments*, N.Y. TIMES, Apr. 5, 2006, at A1 (latest 2003 figures show the super wealthy saved an average of \$500,000 from the tax cuts on dividends and capital gains and over \$1 million when adding the tax cuts on compensation.)

2006 the deficit will reach the unprecedented level of \$423 billion.¹⁰⁴ The monumental size of the federal budget deficit will force some hard tax policy decisions. Either federal spending must be substantially cut, or the revenues raised from taxes must be substantially increased.¹⁰⁵

¹⁰⁴ The term budget deficit refers to a single fiscal year when outlays exceed receipts. See 2005 HISTORICAL TABLES, *supra* note 86, at 3, tbl.1.3 (documenting the federal deficit at \$157.8 billion in 2002 and \$375.3 billion in 2003), OFFICE OF MANAGEMENT AND BUDGET, HISTORICAL TABLES, BUDGET OF THE UNITED STATES GOV'T, FISCAL YEAR 2006, at 25–26, tbl.1.3 (2005) [hereinafter 2006 HISTORICAL TABLES] (documenting \$412 billion federal deficit in fiscal year 2004), and OFFICE OF MANAGEMENT AND BUDGET, HISTORICAL TABLES, BUDGET OF THE UNITED STATES GOV'T, FISCAL YEAR 2007, at 26, tbl.1.3 (2006) [hereinafter 2007 HISTORICAL TABLES] (documenting the \$318 billion federal deficit in fiscal year 2005 and estimating the federal deficit for fiscal year 2006 at \$423 billion). Although the deficit projections for 2005 were initially expected to exceed the 2004 level, see 2006 HISTORICAL TABLES, *supra*, the actual 2005 deficit turned out smaller than predicted primarily due to an increase in revenues from corporations and stock-market gains. See Edmund L. Andrews, *Budget Deficit Will Climb in 2006 White House Says*, N.Y. TIMES, Jan. 13, 2006, at A14.

¹⁰⁵ See SLEMROD & BAKIJA, *supra* note 1, at 103 (noting that persistent large deficits should be avoided and the only way to reduce a deficit is to cut spending, increase tax revenues, or work out a compromise between the two); Richard E. Wagner & Robert D. Tollison, *Balanced Budgets, Fiscal Responsibility, and the Constitution*, in *A NATION IN DEBT* 181, 191 (Richard H. Fink & Jack C. High eds., 1987) (“It seems clear that we would be better off with a government that balanced its budget than with one that had a budget chronically in deficit.”); Nell Henderson, *Greenspan Says High-Debt Economy Won't Last*, WASH. POST, May 7, 2004, at E1 (quoting Federal Reserve Chairman Alan Greenspan as stating the budget deficit poses “a significant obstacle to long-term stability”); see also GRAETZ, *supra* note 52, at 19–20 (observing that reducing the size of the deficit will be “an extremely difficult task” due to the pressures felt by politicians to oppose tax increases, coupled with resistance to decreasing government spending or to shrinking the government’s size, and therefore “[d]eficits are not going to behave like Alice’s Cheshire cat and simply disappear with a smile”). Moreover each fiscal year’s deficit fails to give a complete picture of the degree overall spending exceeds revenues raised. Despite the presence of surpluses in some years, for over 100 years the cumulated budgets have carried a “national debt,” reflecting past deficits and expenditures that were not included in a particular fiscal year’s budget. 2005 HISTORICAL TABLES, *supra* note 86, at 5. When President Bush started his first term in 2001, he inherited a national debt of \$5.62 trillion (58% of gross domestic product), which he increased to \$6.2 trillion in 2002 (59.7% of gross domestic product), \$6.76 trillion in 2003 (62.6% of gross domestic product), \$7.35 trillion in 2004 (63.7% of gross domestic product), and \$7.91 trillion in 2005 (64.3% of gross domestic product). Estimates predict that in 2006 President Bush will increase the national debt to \$8.61 trillion (66.1% of gross domestic product). 2007 HISTORICAL TABLES, *supra* note 104, at 127, tbl.7.1. Even worse President Bush has consistently financed the wars in Iraq and Afghanistan through supplemental appro-

Due to the enormous size and complexity of the federal budget, it is difficult to precisely isolate all the programs that could be affected by spending cuts and place them in the context of the entire picture. Approximately one-third of the budget covers the major entitlement programs, Social Security and Medicare, both of which are primarily funded with payroll taxes.¹⁰⁶ Just over one-third covers important government functions, such as national defense, that can broadly be categorized as meeting the needs of the minimum state.¹⁰⁷ Just under

priations, meaning those expenditures are not reflected in the current fiscal year's budget and therefore directly increase the national debt. Due to these continuing supplemental appropriations it is reasonable to conclude when viewing the broader picture, that the deficit predictions which accompanied the budgets in fiscal years 2002 through 2006 were intentionally underestimated. See OFFICE OF MGMT. & BUDGET, EXEC. OFFICE OF THE PRESIDENT, SUPPLEMENTAL APPROPRIATIONS REQUEST FOR 2005 (2005); see also Edmund L. Andrews, *Emergency Spending As a Way of Life*, N.Y. TIMES, Oct. 2, 2005, § 3 at 4 ("In theory, emergency spending bills are for one-time, unforeseeable calamities. In practice, Mr. Bush has financed the entire war in Iraq, as well as the war in Afghanistan, with emergency supplemental requests that totaled \$248 billion over the last three years.").

¹⁰⁶ See 2006 HISTORICAL TABLES, *supra* note 104, at 26 tbl.1.3 (fiscal year 2005 budget totals \$2.479 trillion); 2005 HISTORICAL TABLES, *supra* note 86, at 89 tbl.5.1 (approximately 21% and 12% of the budget allocated to social security benefits and Medicare); see also NAT'L PRIORITIES PROJECT, TOTAL FEDERAL OUTLAYS, FISCAL YEAR 2005, at <http://www.nationalpriorities.org/> (follow "charts" hyperlink, then follow "FY 2005 Budget" hyperlink) [hereinafter BUDGET PIE CHART]. Social Security covers financial benefits for retired or disabled workers and their survivors, and is funded by a 12.4% mandatory payroll tax on the first \$90,000 of an employee's income, half of which is paid by the employee. Medicare is a national health insurance program primarily for senior citizens, which is separately funded by a 2.9% payroll tax which covers hospital costs. I.R.C. §§ 3101(a), (b), 3111(a), (b). Although guaranteeing subsistence and healthcare for the elderly and disabled is clearly required by Judeo-Christian standards of justice, this area is beyond the scope of this article's moral evaluation of federal income tax policy trends. Moreover, a moral evaluation of President Bush's controversial proposed changes in social security funding, which would force the federal government to borrow more than \$1 trillion in order to allow younger workers to invest in private accounts is also beyond the scope of this article because it does not directly affect the income tax structure. See Edmund L. Andrews and Richard W. Stevenson, *Greenspan Backs Idea of Accounts for Retirement*, N.Y. TIMES, Feb. 17, 2005, at A1.

¹⁰⁷ 2005 HISTORICAL TABLES, *supra* note 86, at 85–93 tbl.5.1; BUDGET PIE CHART, *supra* note 106 (for fiscal year 2005, approximately 38% of the budget is allocated among the following areas: 20% to national defense (excluding the costs of the wars in Iraq and Afghanistan); 7% to national debt interest; 3% to transportation; 3% to veterans benefits and services; 2% to administration of justice; 1% to natural resources and environment; 1% to international affairs; and 1% to a number of miscellaneous items, including general science, space, and technology). Because it is impossible to determine the degree these kinds of government expenditures benefit those

one-third of the budget covers a number of areas, including Medicaid, food and nutrition for the poorest Americans, a number of housing subsidies, child welfare services, and education and job training. These areas, the adequacy of which Judeo-Christian standards of justice directly evaluate, are funded by federal income tax revenues, and to a far lesser degree, by gift and estate tax revenues.¹⁰⁸

The evidence overwhelmingly indicates that President Bush intends to reduce the ballooning deficit by cutting federal spending in a number of mostly discretionary areas that uplift poor and middle class Americans.¹⁰⁹ President Bush's unequivocal statements articulating

enjoying different levels of income and wealth, *see* SLEMROD & BAKIJA, *supra* note 1, at 60–61, a moral evaluation of potential spending cuts in these areas is beyond the scope of this article.

¹⁰⁸ 2005 HISTORICAL TABLES, *supra* note 86, at 82–93 tbl.5.1; BUDGET PIE CHART, *supra* note 106 (for fiscal year 2005, approximately 28% of the budget is allocated among the following areas: 14% to income security, including certain disability and retirement insurance other than social security, unemployment compensation, housing assistance, and food and nutrition assistance; 4% to education, training, employment, and social services; and 10% to health, primarily consisting of Medicaid, a federally aided, state administered program providing medical benefits for low-income persons). Medicaid accounts for well over two-thirds of the expenditures in the health category. *Compare* 2006 HISTORICAL TABLES, *supra* note 104, at 89 tbl.5.1 (documenting that actual spending for health in fiscal year 2004 equaled \$251.41 billion) *with* OFFICE OF MGMT. & BUDGET, EXEC. OFFICE OF THE PRESIDENT, BUDGET OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES FOR FISCAL YEAR 2006, <http://www.whitehouse.gov/omb/budget/fy2006/hhs.html> (stating that actual spending for Medicaid for fiscal year 2004 equaled \$180.84 billion, which is 72% of the total spending that year for health services). Estate and gift taxes (which grossed approximately \$30 billion in 2000, \$29 billion in 2001, \$27 billion in 2002, and \$23 billion in 2003) represent less than 2% of federal revenues each year. *See* 2003 INTERNAL REVENUE SERVICE DATA BOOK tbl.7, *available at* <http://www.irs.gov/pub/irs-soi/03db07co.xls>; *see also* GRAETZ, *supra* note 52, at 21 (noting that the estate tax has not provided a significant revenue source since before World War II).

¹⁰⁹ *See infra* notes 110–15 and accompanying text. For each fiscal year's proposed budget, discretionary spending is accounted for in thirteen annual appropriations bills. Using a baseline adjusted for inflation, the Office of Management and Budget (OMB) projects the funds needed to maintain each budget function at current standards. The Bush Administration's proposed 2005 budget projected cuts reaching levels as high as 12% by 2009 in all areas of domestic discretionary spending except homeland security. *See* CTR. ON BUDGET & POLICY PRIORITIES, ADMINISTRATION'S BUDGET WOULD CUT HEAVILY INTO MANY AREAS OF DOMESTIC DISCRETIONARY SPENDING AFTER 2005, at 1 (2004), *available at* <http://www.cbpp.org/2-27-04bud2.pdf> [hereinafter BUDGET CUTS REPORT]. The proposed 2006 budget projected domestic discretionary spending cuts averaging 16% by 2010. *See* SHARON PARROTT ET AL., CTR. ON BUDGET & POLICY PRIORITIES, WHERE WOULD THE CUTS BE MADE UNDER THE PRESIDENT'S BUDGET? 4 (2005), *available at* <http://www.cbpp.org/2-22-05bud.pdf>. The proposed 2007 budget projects cuts of \$183 billion in domestic discretionary

goals to cut the deficit in half by 2009 while making his first term tax cuts permanent clearly proves that he has no intention of curbing the deficit with increased tax revenues.¹¹⁰ Moreover, President Bush's fiscal year 2007 budget requests for significant spending increases to cover the escalating costs of the war in Iraq, additional general military and homeland security needs and hurricane disaster relief indicates that there will be less revenue available to cover all other areas of the budget, especially other items of discretionary domestic spending.¹¹¹

spending over the next five years. If these cuts are fully implemented on average all domestic programs will receive 13% less funding by 2011. See RICHARD KOGAN ET AL., CTR. ON BUDGET & POLICY PRIORITIES, *THE HIDDEN CUTS IN DOMESTIC APPROPRIATIONS: OMB DATA REVEAL DEEP FUNDING CUTS AFTER 2007*, at 1 (2006), available at <http://www.cbpp.org/2-9-06bud.pdf>.

¹¹⁰ President George W. Bush, State of the Union Address, Jan. 31, 2006, in <http://www.whitehouse.gov> (follow "State of the Union" hyperlink under "Major Speeches") [hereinafter 2006 Address] ("America needs more than a temporary expansion, we need more than temporary tax relief. I urge the Congress to act responsibly, and make the tax cuts permanent . . . [and] reduce or eliminate more than 140 programs that are performing poorly or not fulfilling essential priorities . . . [so] we will . . . stay on track to cut the deficit in half by 2009."); President George W. Bush, State of the Union Address, Jan. 20, 2004, <http://www.whitehouse.gov/news/releases/2004/01/20040120-7.html> ("For the sake of job growth, the tax cuts you passed should be permanent . . . [while urging Congress to enact spending cuts so] we can cut the deficit in half over the next five years"). Moreover even if these spending cuts materialize, credible sources suggest that it will be extremely difficult, perhaps impossible, to achieve these reductions in the deficit without the additional revenues that will come if the tax cuts are allowed to expire. Jonathan Weisman, *Budget Office Expects Deficit to Edge Up*, WASH. POST, Jan. 27, 2006, at A3 (describing the Congressional Budget Office's statements that President Bush cannot meet his goal of reducing the deficit by half (even if military spending in Iraq decreases)); Edmund L. Andrews, *The President's Budget Proposal: The Deficit; Nearsighted Deficit Plan Ignores Problems Down the Road, Skeptics Say*, N.Y. TIMES, Feb. 3, 2004, at A14 (describing opinion of budget analysts, including William Gale, that President Bush's second term goal of cutting the deficit in half will be difficult to achieve if his first term tax cuts become permanent).

¹¹¹ In his proposed 2007 budget, President Bush requested a 6.9% increase for military spending (which does not include funds needed to continue operations in Iraq and Afghanistan), bringing the total to \$439.3 billion. He has also requested a 3.3% increase in funding for domestic security programs (including Homeland Security) bringing the total to \$33.1 billion. See David E. Sanger, *Bush Budget Plan for \$2.77 Trillion Stresses Security*, N.Y. TIMES, Feb. 7, 2006, at A1. In addition to the \$50 billion Congress has already appropriated, *see id.*, for fiscal year 2006 the administration has made an additional supplemental appropriations request of \$72.4 billion for continuing military operations in Iraq and Afghanistan and \$19.8 billion for hurricane disaster relief and reconstruction. David S. Cloud, *Billions Asked for Afghans and Iraqis*, N.Y. TIMES, Feb. 17, 2006, at A18.

Finally starting in fiscal year 2005 the Bush Administration's specific budgetary goals has included and continues to include large cuts contemplated in many areas of discretionary domestic spending that directly help the poor, and to some degree, middle class Americans have a chance to develop their potential. These areas include Medicaid,¹¹² food stamps,¹¹³ and a variety of others such as programs sup-

¹¹² Although President Bush initially abandoned earlier proposals to overhaul the structure and cut costs of Medicaid, see Robert Pear & Edmund L. Andrews, *Bush to Back Off Some Initiatives for Budget Plan*, N.Y. TIMES, Feb. 1, 2004, § 1 at 1, for the 2006 budget, President Bush proposed Medicaid cuts exceeding \$30 billion, see Sheryl Gay Stolberg & David D. Kirkpatrick, *Some G.O.P. Senators Resist Proposed Medicaid Cuts*, N.Y. TIMES, Mar. 11, 2005, at A20. The Senate, however, rejected these proposed Medicaid cuts during their budget resolution process. See Sheryl Gay Stolberg, *In Blow to Bush, Senators Reject Cuts to Medicaid*, N.Y. TIMES, Mar. 18, 2005, at A1. On February 8, 2006, President Bush signed the Deficit Reduction Act of 2005 (<http://www.whitehouse.gov>), which will cut spending on Medicaid by \$4.8 billion over the next five years "by increasing co-payments and reducing payments for prescription drugs." See Sheryl Gay Stolberg, *House Approves Budget Cutbacks of \$39.5 Billion*, N.Y. TIMES, Feb. 2, 2006, at A1 (also noting this Act will reduce spending on student loans and crop subsidies). In addition, President Bush's proposed 2007 budget contains Medicaid cuts totaling \$13.5 billion over the next five years. See Ceci Connolly, *Domestic Programs Take the Hit*, WASH. POST, Feb. 7, 2006, at A19. These proposals to cut Medicaid have stirred opposition from both Democrats and Republicans. See, e.g., David E. Sanger, *Bush Budget Plan for \$2.77 Trillion Stresses Security*, N.Y. TIMES, Feb. 7, 2006, at A1 (quoting Sen. Grassley, the chairman of the Senate Finance Committee, opining that any additional cuts in Medicare or Medicaid would be particularly difficult to pass this year) and Stolberg, *supra* (quoting Rep. Boehlert, a Republican from New York, "[w]e can't keep cutting taxes and cutting revenues, while cutting programs to protect the most vulnerable in society," and Rep. Slaughter, a Democrat from New York, "[a] vote for [Medicaid cuts] is a vote, literally, to take away from health care from our children so we can give more money to the super-rich"); Robert Pear, *Governors Prepare to Fight Medicaid Cuts*, N.Y. TIMES, Feb. 27, 2005, at A27 (Republican and Democratic governors unite in opposing President Bush's cuts to Medicaid, and the National Conference of State Legislatures predict Medicaid cuts will cause deficits at the state level and increase the number of people without health insurance).

¹¹³ Under the Bush Administration's proposed 2006 budget, the Food Stamp Program would have been cut by \$500 million by 2010 and by \$1.1 billion by 2015. These cuts would have been implemented by denying food stamp benefits to low-income families who receive assistance from the Temporary Assistance for Needy Families program and who have either gross income exceeding the poverty line, or assets exceeding \$2,000 (a figure that has not been changed or adjusted for inflation in 20 years). See STACY DEAN, CTR. ON BUDGET & POLICY PRIORITIES, ADMINISTRATION'S BUDGET PROPOSES TO CUT THE FOOD STAMP PROGRAM (2005), available at <http://www.cbpp.org/3-4-05fa.pdf>. However, the Senate Agricultural Committee dropped these proposed cuts from the food stamp program, largely due to pressure caused by the hurricane disasters. See Carl Hulse, *Senate Panel Drops Plan*

porting food and nutrition for the poorest Americans, housing subsidies, child welfare services, and education and job training.¹¹⁴ More-

To Cut Back Food Program, N.Y. TIMES, Oct. 19, 2005, at A16. The proposed 2007 budget plans to “shave about \$65 billion from [a number of] . . . programs like . . . food stamps . . .” Edmund L. Andrews, *In Calculating the Shortfall, Likely Costs Are Left Out*, N.Y. TIMES, Feb. 7, 2006, at A16.

¹¹⁴ The proposed 2005 budget projects cuts by 2009 of as much as 9.2% for income security (\$2.9 billion below the OMB baseline) and 7.3% for education, training, employment, and social services (\$6.2 billion below the OMB baseline). See BUDGET CUTS REPORT, *supra* note 109, at 8 tbl.1. Examples of several programs within these two budget functions especially assisting low-income people that are facing substantial cuts by 2009 include: Title I of the Elementary and Secondary Education Act (4.2%, \$660 million); Special Supplemental Nutrition Program for Women, Infants and Children (WIC) (6.1%, \$310 million); an assortment of children and family services programs, including Head Start and Community Services Block Grants (6.8%, \$650 million); Child Care and Development Block Grant (9.0%, \$200 million); various programs providing job training and employment services programs, including Work Investment Act programs (5.3%, \$330 million); Housing for the Elderly (9.6%, \$80 million); Homeless Assistance Grants (8.0%, \$110 million); and Low-Income Home Energy Assistance (4.2%, \$90 million). *Id.* at 14 tbl.3. Moreover, substantial cuts are projected to the Section 8 housing voucher program (\$4.6 billion below the Congressional Budget Office baseline, translating to as much as a 30% cut in the number of low-income families receiving housing assistance). *Id.* at 21. The 2006 budget proposed total cuts by 2010 in the following areas: \$28.5 billion from Education programs, including K-12 programs such as Education for the Disadvantaged, School Improvement and Special Education; and key programs for low-income Americans such as \$658 million from the WIC program, \$3.3 billion from various Children and Family Services (e.g. Head Start, services for abused children and adoption services), and Section 8 Housing Voucher cuts effectively reduce the number of recipients by 370,000 households by 2010. See PARROT ET AL., *supra* note 109, at 10–13. The 2007 budget proposes cuts over the next five years in the following areas: \$52.7 billion from Education and workforce development programs (17% by 2011), including K-12 and higher education, community college funding and job training; \$21.9 billion from Health programs (13% by 2011), including research funds for the National Institute of Health, community health centers, and HIV/AIDS treatment funds; \$23.6 billion from Income Security programs (13% by 2011), including low-income housing and nutrition assistance and child care assistance. See KOGAN ET AL., *supra* note 109, at 4.

For at least two reasons, it is difficult to ascertain both the amount and the timing of actual budget cuts that materialize in a particular fiscal year. First, the proposed cuts to a particular area tend to be mild in early years and increase rapidly towards the end of the five year budget window. See e.g., PARROT ET AL., *supra* note 109, at 11–12 (noting that the WIC program would be fully funded in 2006 with 80% of the proposed cuts occurring in 2010); *id.* at 2–3 (noting that the total amount of proposed cuts in domestic discretionary programs is four times greater in 2010 than 2006); KOGAN ET AL., *supra* note 109, at 4 (noting that “many programs that would be cut only slightly in 2007(or even expanded) would face significant cuts in 2008-2011”). Second, a particular area’s proposed cuts in a given fiscal year are often changed re-

over if Congress agrees to allow President Bush's proposed 2007 budget to also include statutory caps in discretionary spending as a whole there is a far greater chance that the proposed spending cuts in any particular area will actually be implemented.¹¹⁵

Given the political landscape, President Bush's first term tax cuts appear to represent a phase of a broader movement to even further reduce the tax burden of the wealthiest Americans and shrink the level of federal revenues.¹¹⁶ Since the 1980s, some economists and political leaders have strongly supported replacing the moderately progressive income tax structure with a flat or consumption tax model.¹¹⁷

sulting in the actual cuts sometimes ending up to be less than initially proposed. *Compare generally* Budget of the United States Government, FY 2005, Summary Tables, at 367 tbl.S-3, *with* Budget of the United States Government, FY 2006, Summary Tables, at 345 tbl.S-3. For example in the area of Health and Human Services, the 2005 budget proposed \$68.2 billion (\$1.1 billion less than the \$69.3 billion in 2004) while the 2006 budget estimated that \$69.2 billion was spent in 2005 (meaning the actual cuts that materialized reached only \$100 million).

¹¹⁵ See Robert Pear, *Domestic Spending Squeezed Throughout the Government*, N.Y. TIMES, Feb. 7, 2006, at A14 (also noting that spending in a particular area exceeding the proposal must result in across the board reductions in other areas).

¹¹⁶ See *infra* notes 146–51 (documenting strong ties between Grover Norquist and the Bush Administration); *infra* notes 152–55 (documenting Norquist's goals of the first term tax cuts becoming part of an integral plan towards adopting a flat or consumption tax model that raises far less revenues, only enough to fund the minimum state); Paul Krugman, *The Tax-Cut Con*, N.Y. TIMES MAG., Sept. 14, 2003, § 6, at 54–62 (noting that the trend in tax policy from the Reagan Administration through President Bush's first term tax cuts has been to sharply reduce the tax burden of the wealthiest Americans, and is potentially leading to the end of safety nets — including Social Security, Medicare, and Medicaid — that protect the most vulnerable Americans from economic destitution).

¹¹⁷ See, e.g., ROBERT E. HALL & ALVIN RABUSHKA, *LOW TAX, SIMPLE TAX, FLAT TAX* (1983); ROBERT E. HALL & ALVIN RABUSHKA, *THE FLAT TAX* (2d ed. 1995). Starting in the mid-1990s, former Congressman Dick Armey and Senator Richard Shelby proposed flat tax legislation in numerous sessions of Congress. See Hamill, *supra* note 4 at nn.44–55 and accompanying text. Senator Shelby's most recent flat tax proposals were in 2003, see S. 1040, 108th Cong. (2003), and 2005, see S. 1099, 109th Cong. (2005). In early 2005, President Bush appointed a bipartisan panel to consider various tax reform options, with the overarching goal resulting in “a tax code that is pro-growth, easy to understand, and fair to all.” President George W. Bush, State of the Union Address, Feb. 2, 2005, <http://www.whitehouse.gov/news/releases/2005/02/20050202-11.html>; John D. McKinnon and Alex Keto, *Bush Appoints Panel to Study Tax-Code Change*, WALL ST. J., Jan. 10, 2005 at A5. Later that year the tax reform panel proposed two plans — the Simplified Income Tax and the Growth and Investment Tax. See generally THE PRESIDENT'S ADVISORY PANEL ON FEDERAL TAX REFORM, SIMPLE, FAIR & PRO-GROWTH: PROPOSALS TO FIX AMERICA'S TAX SYSTEM (November 2005). Although neither plan proposes replac-

The latest proposal out of the House of Representatives, the Freedom Flat Tax Act, would (after allowing exemptions to shield small incomes) impose a single 17% flat rate on wages and other earned income while exempting from the tax base all forms of investment income.¹¹⁸ Another proposal consistent with this theme is a national retail sales tax with an effective rate of up to 30%.¹¹⁹ Credible evidence estimating the effects of these models indicates that significantly less revenues will be raised,¹²⁰ while the wealthiest taxpayers en-

ing the current federal income tax with a pure flat/consumption tax model, the second plan shares many characteristics of a consumption tax. Robert Guy Matthews, *Tax Overhaul Panel Gives Bush Two Choices*, WALL ST. J., Oct. 19, 2005 at A4 (summarizing the most important aspects of both proposals, describing the first plan as a “streamlined income tax” and the second plan as a “progressive consumption tax”); see also Robert Guy Matthews, *Snow Awaits Nod By Bush to Write Tax-Revision Plan*, WALL ST. J., Oct. 31, 2005 at A3 (in the context of summarizing the tax reform panel’s proposals, stating “[t]he Bush panel reflects today’s conventional wisdom: To encourage Americans to save more, the U.S. economy should move toward taxing spending” and noting that while Treasury Secretary John Snow recognizes “that a tax overhaul is an uphill battle...some Republican leaders see tax overhaul as a way to unite the party and its conservative base before the 2006 congressional elections”).

¹¹⁸ See H.R. 1040, 109th Cong. (2005). This recent flat tax proposal, introduced by Charles Burgess, would establish a 19% rate for the first two years that drops to 17% thereafter on wages and gross receipts from business income, while exempting dividends, interest and capital gains with a \$25,580 standard deduction for joint returns or a surviving spouse, a \$16,330 deduction for head of household, a \$12,790 deduction for unmarried individuals or married taxpayers filing separately, and \$5,510 for each dependent. *Id.*

¹¹⁹ See S. 25, 109th Cong. § 2(b) (2005) (proposing a national retail sales tax, labeled the “Fair Tax,” advertising a 23% tax-inclusive rate that would effectively impose a tax-exclusive rate of 30%; for example, a \$1 purchase will cost the taxpayer \$1.30); see also H.R. 25, 108th Cong. (2003); H.R. 2717, 107th Cong. (2001). Most experts agree that retail sales tax proposals are logistically highly problematic. See, e.g., SLEMROD & BAKIJA, *supra* note 1, at 212–15.

¹²⁰ See SLEMROD & BAKIJA *supra* note 1, at 242–44 (discussing the varying hardships that would follow the imposition of a revenue-neutral tax rate, depending upon the level of exemptions retained to avoid an untenable burden shift onto the poor and lower income classes); *id.* at 245 (noting that the 1996 Armey-Shelby flat tax proposal “was explicitly packaged as a tax cut, and thus it was unapologetically short of being revenue-neutral: unspecified spending cuts were promised to offset some of the cost”); *id.* at 205–06 (discussing a study estimating that switching from an income tax to a consumption tax in 1995 would result in a revenue loss of over \$100 billion, or approximately 15% of revenues collected); Robert K. Triest, *Fundamental Tax Reform and Labor Supply*, in ECONOMIC EFFECTS OF FUNDAMENTAL TAX REFORM 247, 260 (Henry J. Aaron & William G. Gale eds., 1996) (stating that the value-added tax (VAT) would yield less revenue than the current income tax); see also Treasury Dep’t Office of Tax Analysis, ‘New’ Armey-Shelby Flat Tax Would Still Lose Money, *Treasury Finds*, 70 TAX NOTES 451 (Jan. 22, 1996) (discussing risks of the Armey-Shelby

joy even more substantial tax savings at the expense of all other income groups, especially the middle classes.¹²¹

B. The Bush Administration's Tax Policy Trends Raise Very Troubling Judeo-Christian Ethical Issues

President Bush's first term tax cuts substantially reduced federal revenues, made the moderately progressive income tax structure in place when he was elected significantly less progressive, and started the process of eliminating estate and gift taxes.¹²² Although President

proposal losing revenue); MICHAEL J. GRAETZ & IAN SHAPIRO, *DEATH BY A THOUSAND CUTS: THE FIGHT OVER TAXING INHERITED WEALTH* 274 (2005) (pointing out that many analysts regard the proposition that a 23% national sales tax would replace all the revenue lost from eliminating the income tax as "wildly unrealistic — a low-ball tax rate, chosen to build public support," with some indicating that the rate would need to be at least ten percentage points higher "to avoid a huge revenue shortfall and very large deficits"); Leonard E. Burman & William G. Gale, *The Tax Reform Proposals: Some Good Ideas, But Show Me the Money*, 110 *TAX NOTES* 397 (Jan. 23, 2006) (arguing that both proposals of President Bush's 2005 tax reform panel problematically understate the projected amount of revenues raised, when compared to revenues raised under current law).

¹²¹ See SLEMROD & BAKIJA, *supra* note 1, at 257–65 (discussing, for flat tax, VAT, and national retail sales tax proposals, the radical shift of the tax burden down to the middle classes that especially benefits taxpayers in the top 1% income group); *id.* at 260 (charting Treasury estimates of percentage changes in after-tax incomes that show especially pronounced changes with the Armey-Shelby proposal, with the lowest income groups suffering a decrease in after-tax income of nearly 8%, and the top 1% of taxpayers (those earning a minimum of \$409,000 a year) enjoying a nearly 15% increase in after-tax income); see also ROBERT E. HALL & ALVIN RABUSHKA, *LOW TAX, SIMPLE TAX, FLAT TAX* 58–60 (1983) (admitting that immediately after introduction of the flat tax, "it is an obvious mathematical law that lower taxes on the successful will have to be made up by higher taxes on average people," but claiming that this negative effect will be offset by increased economic growth); Jane Gravelle, *The Flat Tax and Other Proposals: Who Will Bear the Burden?*, 69 *TAX NOTES* 1517, 1524 (Dec. 18, 1995) (arguing that under a consumption tax model, the burden will shift from the wealthy to the middle and lower class taxpayers); Lawrence H. Summers, *An Evaluation of the Flat Tax*, 70 *TAX NOTES* 1555, 1558 (Mar. 11, 1996) (stating that low-income and poor families will receive the heaviest redistribution of the tax burden under a flat tax model); Eric Toder, *Comments on Proposals for Fundamental Tax Reform*, 66 *TAX NOTES* 2003, 2005 (Mar. 27, 1995) (stating that the enactment of a flat tax would shift the tax burden away from the wealthy and onto the middle and low-income taxpayers).

¹²² Because gift and estate taxes represent less than 2% of all federal revenues (see *supra* note 108), a complete moral evaluation of the portion of President Bush's tax cuts reducing and eventually eliminating gift and estate taxes is beyond the scope of this Article's moral evaluation of his first term federal income tax cuts. However because the elimination of gift and estate taxes almost exclusively benefits the

Bush's first term income tax cuts cannot be condemned outright as immoral by the moral analysis applicable to flat models, these changes still raise serious red flags as potentially violating the Judeo-Christian standards of justice and teachings on wealth. Despite Judeo-Christian teachings emphasizing the greater moral obligations of wealthier Americans as compared to those with less wealth and power, President Bush has pursued federal tax policy trends that substantially lessen the tax burden of the wealthiest Americans with Americans in all other income groups bearing the brunt of the negative consequences from these tax cuts. This trend shows every sign of becoming more pronounced and moving closer to the conclusively immoral flat models.¹²³

From the perspective of reducing tax burdens, far from offering meaningful relief to middle class and lower middle class taxpayers,

wealthiest Americans and will result in substantially greater accumulations of wealth in the hands of fewer individuals, thus threatening the reasonable opportunity of all Americans to participate in the free market, such proposals raise significant Judeo-Christian ethical issues. *See supra* notes 34–47 (Judeo-Christian standards of justice require reasonable opportunity), note 64 (extreme wealth accumulations are immoral under Judeo-Christian standards of justice) and notes 53–85 (Judeo-Christian standards of justice require tax burdens to be allocated in a progressive fashion and tax policy debates to focus on whether the wealthiest and most powerful of the community are paying their fair share); *see also* GRAETZ, *supra* note 52 at 21, 267 (arguing that the estate tax is important to enhance progressivity and questions proposals to repeal the estate tax in light of the growing concentrations of wealth at the top); GRAETZ & SHAPIRO, *supra* note 120 at 266 (“the outcome of this contest over the taxation of inherited wealth marks a larger shift in our nation’s politics...[it]..has been a critical piece of an attack on the very idea of progressive taxation in America”); Johnston, *supra* note 103 (quoting Federal Reserve Chairman Alan Greenspan commenting on the increased concentration of wealth in the hands of a few people, “[f]or the democratic society, that is not a very desirable thing to allow it to happen”); William Gale & Joel Slemrod, *Resurrecting the Estate Tax*, (Brooking Inst. Policy Brief No. 62, 2000) (identifying the purpose of the modern estate tax as limiting wealth accumulation in a privileged class to avoid undermining the free market and denying a majority of the population a chance to compete in that market).

¹²³ *See supra* notes 89–115 and accompanying text (explaining how President Bush’s first term tax cuts primarily benefit the wealthy, shift the proportional burden from the wealthy to all other income groups and create large deficits forcing spending cuts in areas benefiting the poor and middle class); *see also supra* notes 116–21 and *infra* notes 146–55 (arguing that President Bush’s first term tax cuts are part of a trend to further decrease the tax burden of the wealthy, shrink government revenues, and move toward a flat or consumption tax model); *supra* note 110 and *infra* note 132 (discussing how President Bush’s second term goals include making his first term tax cuts permanent and noting that when President Bush campaigned for his first term tax cuts, he pushed for even greater benefits for the wealthiest Americans); *cf.* Krugman, *supra* note 116, at 58–59 (tracing these trends to Ronald Reagan’s tax cuts in 1981).

President Bush's tax cuts were designed to and actually have overwhelmingly benefited the wealthiest Americans in all measurements — the greatest savings in actual dollars, and a larger decline in both effective rates and the proportional share of the tax burden. Moreover, middle class Americans are directly paying for this decline in the wealthy's proportional share of the tax burden, because their proportional share of the tax burden has increased.¹²⁴ When President Bush started his first term, the allocation of the federal income tax burden did not even come close to a steeply progressive model approaching a confiscatory regime that would have provided clear ethical justification supporting tax cuts for the wealthiest Americans. Since a lopsided structure punishing wealth was not present, the Judeo-Christian teachings addressing wealth clearly require tax cuts primarily benefiting the wealthy to undergo heightened moral scrutiny, which did not occur.¹²⁵

Even more troublesome than the moral red flags raised by reducing the tax burden borne by the wealthiest Americans is the increasing threat of violating the Judeo-Christian standard of justice requiring reasonable opportunity. The gigantic federal deficit, which President Bush's first term tax cuts greatly contributed to, has prompted spend-

¹²⁴ See *supra* notes 100–03 (discussing the impact of the tax cuts on individuals in different income groups); see also Krugman, *supra* note 116, at 60–61 (noting that an estimated 42% of the benefits of the 2001 tax cut, when fully phased in, would accrue to families earning more than \$330,000 per year; discussing the distortions of presenting the tax dollars saved per household in averages that, due to inflating the average by including larger cuts within the top range of the income group and eliminating from the calculation fifty million taxpayers who received no tax cuts at all, make it appear like the middle classes saved more than most actual middle class families saved; noting that approximately half of American families received a tax cut of less than \$100, with a great majority receiving less than \$500; and finally explaining why the profile of the American family making \$40,000 with two children, touted by the Bush Administration as receiving a \$1,600 tax cut, is not typical at all — with the real average tax cut for families in the middle of the income distribution being \$469).

¹²⁵ See *supra* notes 62–74, 83–85 and accompanying text (arguing that Judeo-Christian teachings on wealth require greater financial sacrifices from those enjoying greater levels of wealth, which translates into bearing a proportionally higher tax burden, and also require that tax policy changes principally benefiting the wealthy undergo intense moral scrutiny); *infra* notes 133–34 (justifications supporting tax cuts centered on discredited theory of supply-side economics and placing supreme importance on preserving private property rights and rewarding individual effort); see also WALLIS, *supra* note 7, at 82, 126 (referring to tax cuts for the rich as a blatant hypocrisy and stating, in the context of discussing President Bush's vague calls for more sacrifice regarding the war in Iraq, "if the White House's calls for sacrifice are to have any moral credibility, the administration's tax cuts to the wealthiest Americans must be immediately rescinded").

ing cuts in almost all areas, many of which cover important programs aiding the poorest Americans, the struggling lower middle class, and to some degree even the middle class. The extent and degree of these spending cuts have been greatly aggravated by the escalating costs of the war in Iraq and the need for hurricane disaster relief funds. As a result, poor and lower-income Americans are bearing the brunt of the substantial tax savings enjoyed by the wealthiest Americans, which both raises Judeo-Christian moral issues of major proportions and carries potential long-term devastating consequences. Such burdens take the form of having much less access to minimum subsistence, decent healthcare, housing, education, and job training.¹²⁶

Moreover, for at least two reasons it is unreasonable to assume that the moral issues created by the cuts in federal funding affecting low income Americans can be mitigated by the nonprofit sector.¹²⁷ First, many nonprofit organizations receive significant federal funding. If this funding, along with the federal government's own social service programs, were to be substantially cut, nonprofit organizations would have to secure considerably more donations of time and money than they likely can raise in order to maintain the current level of support in these areas.¹²⁸ Second, nonprofit organizations that do not receive

¹²⁶ See *supra* notes 34–52, 104–15 and accompanying text (recognizing that moral principles of Judeo-Christian ethics require adequate tax revenues, ensuring that all Americans have access to minimum subsistence, healthcare, housing, education, and job training; and that record budget deficits directly caused by tax cuts principally benefiting the wealthy are jeopardizing the funding for many of these areas); see also WALLIS, *supra* note 7, at 234, 250 (“Budgets with billions of dollars of increases for the military and massive tax cuts for the wealthiest — while cutting funding for overcoming poverty — should be named as *morally* unacceptable The government's budgets are a disaster for the poor . . . and thus directly conflict with biblical priorities.”); Krugman, *supra* note 116, at 62 (discussing the threat that these tax policy trends will minimize or eliminate Social Security, Medicare, and Medicaid). Before a Congressional summit on relief response to Hurricane Katrina, Jim Wallis, author of *God's Politics*, see *supra* note 7, discussed how the plight of Hurricane Katrina has “washed away our national ‘denial’ of the continuing poverty of African-Americans” and the ever-increasing disparity between “haves and have nots,” stating that “[s]ometimes it takes a national disaster to reveal a social disaster.” News Release, Worldwide Faith News, Metropolitan Community Churches Leader Addresses U.S. Congressional Summit on Relief Response to Hurricane Katrina (Sept. 16, 2005), <http://www.wfn.org/2005/09/msg00212.html>.

¹²⁷ See *supra* notes 21–25 and accompanying text (discussing the sin of greed as an inescapable part of the human condition, rendering it impossible to meet community needs solely by voluntary acts of beneficence and charity).

¹²⁸ The Urban Institute and the Independent Sector have compiled substantial statistics documenting the sources of revenues and volunteer time contributed to 75% of all nonprofit organizations. See INDEPENDENT SECTOR & URBAN INST., THE NEW

federal funding, primarily religious organizations, allocate most of their resources to items such as operating and property expenses and savings, which do not directly address humanitarian needs.¹²⁹ In addition, evidence also indicates that as a whole, state governments will not replace the services lost as a result of federal funding cuts.¹³⁰

NONPROFIT ALMANAC & DESK REFERENCE, at xxviii (Murray S. Weitzman et al. eds., 2002) [hereinafter NONPROFIT ALMANAC]. Of the total \$338.5 billion of revenues received by these nonprofit organizations (excluding revenues received by nonprofits to supply health services), about 21% or \$70.1 billion came from government contracts and grants. *Id.* at tbl.4.1. If this funding, as well as the funding for social service programs directly run by the government were to be cut, in order to both maintain the standards of their current performance and to substantially replace government-provided social services, these nonprofit organizations would have to increase the amount of private donations, both in time and in money, by almost 60%. This figure is calculated as follows. Using 1997 figures, the most recent available, first calculate the amount of nonprofit resources independent of the government, excluding health services, which comes to \$484.9 billion (\$338.5 billion of monetary contributions, *id.* at tbl.4.1, plus \$216.5 billion of volunteer time, *id.* at 18 fig.1.5, minus \$70.1 billion received from the government, *id.* at tbl.4.1). Add \$285.547 billion, which is the sum of U.S. budget totals for education, training, employment, and social services of \$53.599 billion, and income security of \$231.948 billion. *See* 2005 HISTORICAL TABLES, *supra* note 86, at 88 tbl.5.1. Divide the total of \$770.447 billion by \$484.9 billion (described above), which equals 1.588. These figures suggest nonprofit organizations would have to secure at least 58% more resources in both time and money to replace the social services currently being covered directly by the government.

¹²⁹ Religious organizations receive an average of around 50% of the total private contributions to the nonprofit sector. *See* NONPROFIT ALMANAC, *supra* note 128, at tbl.3.2. It is estimated that religious organizations spend 71% of the money they receive on operating expenses, 13% on property improvements and acquisitions, and 4% on savings, leaving 12% for donations to organizations and individuals. *See* SUSAN K. E. SAXON-HARROLD ET AL., INDEPENDENT SECTOR, AMERICA'S RELIGIOUS CONGREGATIONS: MEASURING THEIR CONTRIBUTION TO SOCIETY 5 (2000), <http://www.independentsector.org/programs/research/ReligiousCong.pdf>.

¹³⁰ For at least two reasons, state governments cannot be relied on to replace cuts in federal funding, especially cuts in areas providing safety nets and opportunities for lower income citizens. First, it appears that many states will have difficulty raising the additional tax revenues. In fact, thirty-one states received more dollars in federal aid than they contributed in federal taxes paid. Sumeet Sagoo, *Federal Tax Burdens and Expenditures by State*, TAX FOUND. SPECIAL REP. NO. 132 (Tax Found., Washington, D.C.), Dec. 2004, at 1–3. Moreover, the five states with the greatest percentage of residents below the poverty line (ranging from almost 19% to just over 17%) receive at least 47% more federal aid than they pay in federal taxes. *See id.* (listing states' receipts of federal aid and payments of federal taxes); CARMEN DENAVAS-WALT ET AL., U.S. CENSUS BUREAU, INCOME, POVERTY, AND HEALTH INSURANCE COVERAGE IN THE UNITED STATES: 2003, at 68 fig.D-2 (2004) (listing five states with the greatest percentage of residents below the poverty line). Second, states have a general incentive to minimize taxes in order to compete for the short-run increases in population

Despite statements that his faith drives all policy decisions,¹³¹ President Bush never addressed whether the moral principles of Judeo-Christian ethics support his first term tax cuts. When he campaigned for the first term tax cuts, President Bush pushed for even greater benefits for wealthy Americans. Moreover, he remains committed to making the first term tax cuts permanent despite the persistence of enormous deficits, the escalating costs of the war in Iraq and the continuing need for revenue for hurricane disaster recovery.¹³²

President Bush justified his first term tax cuts by claiming that they would promote greater economic growth and prosperity.¹³³ He

and businesses relocating to the state. Stephen Moore, Op-Ed., *Proof of Tax Cut Potential in the States*, WASH. TIMES, Oct. 27, 1996, at B1; Stephen Moore & Dean Stansel, *Tax Cuts and Balanced Budgets: Lessons from the States*, (Cato Inst. White Paper, Sept. 17, 1996), available at <http://www.cato.org/pubs/wtpapers/taxcuts2.html>. But see ROBERT ZAHRADNIK, *CTR. ON BUDGET & POLICY PRIORITIES, TAX CUTS AND CONSEQUENCES* (2005) (showing that the long-term effects of tax cuts include large budget shortfalls, lost jobs, and slower income growth).

¹³¹ James G. Lakely, *President Outlines Role of His Faith*, WASH. TIMES, Jan. 12, 2005, at A1 (quoting President Bush as saying that he doesn't "see how you can be president without a relationship with the Lord"); The Third Bush-Kerry Presidential Debate, Temple, Arizona (Oct. 13, 2004), available at <http://www.debates.org/pages/trans2004d.html> (President Bush, when asked how much faith influences his policy decisions, stating that "my faith plays a lot — a big part in my life . . . when I make decisions, I stand on principle, and the principles are derived from who I am. I believe we ought to love our neighbor like we love ourself, as manifested in public policy . . ."); see also WALLIS, *supra* note 7, at 57, 78 (noting that President Bush "is as public and expressive about his faith as any recent occupant of the White House" and that during the 2000 presidential campaign, he said that Jesus was his "favorite philosopher").

¹³² See *The President's Agenda for Tax Relief*, www.whitehouse.gov/news/reports/taxplan.pdf (July 10, 2001) (President Bush pushed for a top rate of 33% rather than the 35% adopted and complete elimination of the estate tax immediately); *The President's Job and Growth Plan: The Dividend Exclusion is Not Complex*, <http://www.whitehouse.gov/infocus/economy/complexity.html> (President Bush pushed to completely eliminate the tax on dividends); John F. Harris and Dan Balz, *Delicate Moves Led to Tax Cut; Moderates Were Key in Bill's Negotiations*, WASH. POST, May 27, 2001 at A1; David Rosenbaum, *Senate Adopts a Tax Cut Plan of \$350 Billion*, N.Y. TIMES, May 16, 2003 at A33 (discussing the compromises the Bush Administration was forced to make in the proposed first term tax cuts in order to get the necessary votes); *supra* notes 109–15 and accompanying text.

¹³³ President George W. Bush, Radio Address to the Nation (Mar. 10, 2001), <http://www.whitehouse.gov/news/releases/2001/03/20010310.html> ("Tax relief is good for our economy . . . [I]t helps kick-start our economic growth."); President George W. Bush, Radio Address to the Nation Discussing Jobs and Growth Plan (Jan. 18, 2003), <http://www.whitehouse.gov/news/releases/2003/01/20030118.html> ("By reducing taxes, encouraging investment and removing obstacles to growth, we will create a

also stated that the tax cuts would be fair to all Americans since “the greatest benefits [and] the largest percentage reductions . . . will go to those who need them most”¹³⁴ President Bush rebutted accusations that his tax policy disproportionately benefits the wealthy by claiming that “[a]ll people who pay taxes should get tax relief. . . . [t]his is a fair plan.”¹³⁵ Remarks by President Bush’s White House spokesman more directly reflect greater concern for wealthy Americans: “There is always an endeavor in this town to deny tax relief to people because they accuse some people of being rich or successful and therefore they’re not entitled to tax relief That’s just not a view that President Bush holds.”¹³⁶ In addition, President Bush has expressed interest in consumption-based taxes with a flat rate, which also enjoy strong support from other powerful political leaders.¹³⁷

platform for future prosperity, so that small business can flourish, and every American who seeks work can find a job.”); President George W. Bush, Radio Address to the Nation (Apr. 26, 2003), <http://www.whitehouse.gov/news/releases/2003/04/20030426.html> (“We also know that the right policies in Washington can unleash the great strengths of this economy, and create the conditions for growth and prosperity.”); President George W. Bush, Radio Address to the Nation (Dec. 18, 2004), <http://www.whitehouse.gov/news/releases/2004/12/20041218.html> (“The tax relief we passed has been critical to our economic recovery, and Congress needs to make that tax relief permanent. We also need to reform our complicated tax code to encourage investment and growth, and reduce headache for taxpayers.”).

¹³⁴ President George W. Bush, Radio Address to the Nation (Feb. 17, 2001), <http://www.whitehouse.gov/news/releases/2001/02/20010217.html>.

¹³⁵ Joseph Curl, *Bush Refuses to Deny ‘Wrong People’ Relief; Says Democrats Use Class Warfare on Taxes*, WASH. TIMES, Jan. 10, 2003, at A4 (quoting President Bush commenting on 2003 tax cuts while they were being proposed).

¹³⁶ Naftali Bendavid & Jill Zuckman, *Bush Sends Tax Plan to Congress; But Some Economists Dispute Its Benefits*, CHI. TRIB., Feb. 9, 2001, at N1 (quoting Ari Fleischer commenting on President Bush’s 2001 tax cuts during their proposal). President Bush’s goals of lessening the tax burden on the wealthiest Americans are evidenced by his original plan to cut the highest tax rate to 33%, because he “believe[s] no one should pay more than a third of their income to the federal government.” President George W. Bush, Radio Address to the Nation (Feb. 3, 2001), <http://www.whitehouse.gov/news/radio/20010203.html>.

¹³⁷ See Edmund L. Andrews, *Bush’s Remark Touches Off New Debate on Income Tax*, N.Y. TIMES, Aug. 12, 2004, at A20 (quoting President Bush’s responding to a question about replacing the income tax with a national retail sales tax by saying, “[i]t’s kind of an interesting idea that we ought to explore seriously”); Senator Richard Shelby, *Flat Tax is Beneficial for All Americans*, TUSCALOOSA NEWS, Sept. 16, 2004, at 9A (supporting the flat tax because it would “treat all Americans equally . . . spur economic growth and investment . . . [and support] the basic values of work, savings and individual liberty”); see also 151 CONG. REC. S215 (2005) (statement of Sen. Chambliss), available at <http://chambliss.senate.gov/News/singleNews.cfm?NewsID=246> (stating that the proposed national retail sales tax

The assertions offered by President Bush and others claiming that the first term tax cuts as well as flat and consumption tax models will enhance economic growth implicitly assume that the field of economics can prove in a scientific manner that the reduction of taxes, especially for those at higher levels of income and wealth, will stimulate greater work, savings, and investment. These projected increases in work, savings, and investment are then assumed to benefit all taxpayers through promises of enhanced economic growth, even though the tax policy offering greater benefits for the wealthy results in an increased tax burden for those in the middle classes.¹³⁸ This theory, known as supply-side or “trickle-down” economics, relies on highly complicated and sophisticated simulation models that in a laboratory-like fashion attempt to isolate the innumerable variables that affect the vast economy of the United States.¹³⁹ These models, which meta-

“creates a fairer, simpler code that allows every American the freedom to determine his or her own priorities and opportunities”); *Federal Revenue Options: Hearing Before the H. Budget Comm.*, 108th Cong. 11–14 (2004), <http://www.budget.house.gov/hearings/burgessstmnt100604.pdf> (statement of Rep. Michael C. Burgess) (stating in support of flat tax models that “the American people deserve a tax system and a government that rewards them for their hard work”).

¹³⁸ Supply-side economic theory claims that cutting taxes will improve private sector incentives and spur economic growth through the increased ability of entrepreneurs to invest tax savings, which will lead to higher productivity, profits, and creation of new jobs. The theory claims that lower rates for higher income level taxpayers will lead to greater savings, which will lead to a greater level of investment and increased productivity in the economy, which in turn will produce greater revenue available for taxation. See ROBERT E. HALL & ALVIN RABUSHKA, *THE FLAT TAX* 83–88 (2d ed. 1995); Hamill, *supra* note 4, at nn.56–62, 115–36 and accompanying text (summarizing the basic elements of supply-side theory); see also Krugman, *supra* note 116, at 57–59 (noting that many professional economists favoring tax cuts recognize that the supply-side theory has no merit and “[b]y the end of the 1990s . . . supply side economics had become something of a laughingstock, and the whole case for tax cuts as a route to economic growth was looking pretty shaky”); SLEMROD & BAKIJA, *supra* note 1 at 135–37 (discussing the pros and cons of lower capital gains rates, noting the highly uncertain effects on investment decisions and concluding that there is “no hard evidence” demonstrating that cutting capital gains rates actually stimulates the economy).

¹³⁹ Economic models are forecasting tools used by economists who attempt to demonstrate the overall consequences of changing isolated variables and what impact they would have on the economy. See generally STAFF OF JOINT COMM. ON TAXATION, 105TH CONG., *TAX MODELING PROJECT AND 1997 TAX SYMPOSIUM PAPERS* 299, 306 (Joint Comm. Print 1997) [hereinafter *TAX MODELING PROJECT*]. For example, analysts could utilize models by producing different scenarios in order to evaluate the effect of alternative tax policy proposals, or weigh the logical integrity of theories and arguments. See OLIVIER BLANCHARD, *MACROECONOMICS* 1–2 (1997) (describing that the complexity of macroeconomics requires economists “to find ways

phorically claim to capture the economy in a computer-style Petri dish, predict the enhanced work, savings, and investment by adjusting tax policy in a manner that reduces the tax burden, especially the burden borne by the wealthy, and then assume static behavioral responses to the tax changes. The models classify taxpayers based on objective characteristics such as age, gender, marital and parental status, race, education, income level, and occupation, and assume that each category of taxpayers will rationally use their resources, including any extra income from tax savings, in the most efficient manner.¹⁴⁰

Due to major and fundamental flaws inherent in these models, supply-side economic theory fails to provide any reliable proof that the promised work, savings, investment, and growth in the economy will actually occur. These flaws can be boiled down to two insurmountable problems. First, given the limitations of available technology, it is impossible to quantify all the variables in the economy.¹⁴¹ For

of simplifying [their models] in order to explain the behavior of aggregate variables”). These models are used to present a broad picture of the potential effect of fundamental tax changes and serve as rudimentary barometers from which analysts try to interpret simulated effects of fundamental tax reform. *See id.* at 2; TAX MODELING PROJECT, *supra*, at 11–12; Hamill, *supra* note 4, at nn.63, 137–42 and accompanying text.

¹⁴⁰ *See generally* Eric M. Engen & William G. Gale, *The Effects of Fundamental Tax Reform on Saving*, in ECONOMIC EFFECTS OF FUNDAMENTAL TAX REFORM 83, 92–102 (1996). One of the most common models used, the general equilibrium model, assumes that the prices of goods, capital, and labor will adjust until all markets are in equilibrium. *See* TAX MODELING PROJECT, *supra* note 139, at 60–61 (assessing the effects of fundamental tax reform with the Fullerton-Rogers general equilibrium model). Simulation models account for three economic sectors (household, production, and government), while making broad assumptions regarding human behavioral responses and assuming the nonexistence of other fluctuating economic variables. Static human behavioral assumptions regarding numerous altered variables are inherent to all economic simulation models. *See* Hamill, *supra* note 4, at nn.64–65 and 143–162 and accompanying text.

¹⁴¹ In theory, one could construct an equilibrium condition model containing each of the millions of markets that make up a modern economy, “listing all of the variables that affect demand and supply in each market,” BLANCHARD, *supra* note 139, at 1, and using a computer to solve each market simultaneously. In reality, such a complex model is not feasible for two reasons: (1) limitations on macroeconomists’ comprehensive knowledge of all variables, including their interactions, in a complex economy, and (2) even if a computer could solve the equation, “the model would be just as complicated as the economy, and nearly as hard to understand.” *Id.* Essentially, tax systems are so complicated that workable models cannot begin to incorporate all relevant economic factors. *See* Jane G. Gravelle, *Behavioral Responses to a Consumption Tax*, in UNITED STATES TAX REFORM IN THE 21ST CENTURY 25, 44 (George R. Zodrow & Peter Mieszkowski eds., 2002). Because of these limitations, even those who craft these models “urge a cautious interpretation of . . . exact quanti-

example, the models oversimplify the number of household and business sectors, as well as government functions and international factors.¹⁴² The assumption that twenty-first century technology can account for all economic variables affecting the economy of the United States is similar to assuming that the ancient Greeks had the ability to quantify all the information needed to produce an atom bomb.

Second, and of even greater significance, no simulation model can ever capture how individual people will respond to changes in tax policy. Human behavior is based on psychological and spiritual factors well beyond the objective categories and the rational responses assumed by the models.¹⁴³ The assumption that an economic simulation

tative results.” Alan J. Auerbach et al., *Fundamental Tax Reform and Macroeconomic Performance*, in CONG. BUDGET OFFICE, TWO PAPERS ON FUNDAMENTAL TAX REFORM 20 (1997); see also Hamill, *supra* note 4, at nn.66–68 and 163–170 and accompanying text; GRAETZ & SHAPIRO, *supra* note 120, at 227–28 (observing that “predicting the economic consequences of tax changes is claiming to know the unknown,” not because there are no answers, but because, due to the complexity of our overall economy, “you can find an economist to defend or impeach almost any claim about taxes”).

¹⁴² Two of the most frequently cited models, Auerbach-Kotlikoff and Fullerton-Rogers, divide households into multiple lifetime income classes and assume a perfectly competitive production sector that maximizes capital and profits, and a limited government sector that collects taxes and disperses the revenues for domestic programs. See generally Auerbach et al., *supra* note 141, at 3; Don Fullerton & Diane Lim Rogers, *Distributional Effects on a Lifetime Basis*, in DISTRIBUTIONAL ANALYSIS OF TAX POLICY 262 (David F. Bradford ed., 1995). The Auerbach-Kotlikoff model features only one production sector which produces a single good that is alternatively used for investment and consumption. See generally Auerbach et al., *supra* note 141, at 3. The Fullerton-Rogers model incorporates only nineteen industries, and five types of capital and labor. Diane Lim Rogers, *Assessing the Effects of Tax Reform with the Fullerton-Rogers General Equilibrium Model*, in CONG. BUDGET OFFICE, TWO PAPERS ON FUNDAMENTAL TAX REFORM 3 (1997). For a detailed summary of the inherent flaws of these models, see Hamill, *supra* note 4, at nn.73–76, 171–174 and 187–199 and accompanying text.

¹⁴³ General equilibrium models must assume static behavioral responses to changes in tax policy, typically in the areas of labor and savings, because these models are unable to capture the many personal factors involved in the human decision-making process. See generally TAX MODELING PROJECT, *supra* note 139, at 101–19; SLEMROD & BAKIJA, *supra* note 1, at 126. Labor decisions are mainly based on an assumed variable called the “labor supply elasticity,” which cannot account for things such as level of education, training, or family and personal considerations. See Henry J. Aaron & Joseph A. Pechman, *Introduction and Summary to HOW TAXES AFFECT ECONOMIC BEHAVIOR 2–4* (Henry J. Aaron & Joseph A. Pechman eds., 1981). Furthermore, models erroneously assume that a higher after-tax rate of return is the sole determining factor in how individuals choose to save and invest, when in fact individuals often make these decisions for various personal and professional reasons un-

model can capture and quantify human behavioral responses effectively treats human beings as objective variations of Pavlov's dog.¹⁴⁴ Therefore, even if it were possible to quantify all the variables in the economy, the models would still be unreliable because of the inability to accurately predict human behavioral responses.

Even if supply-side economics offered reliable scientific proof that the promised economic growth would occur, that still would not, by itself, morally justify President Bush's first term tax cuts and the current tax policy trends of further reducing the tax burden of the wealthiest Americans while increasing the share borne by the middle classes and shrinking the level of revenues raised. Under Judeo-Christian principles, reliable information cannot serve as a substitute for moral analysis. If this scientific proof were available, the level of proven economic growth would have to be factored in the balance within the Judeo-Christian ethical framework of determining whether a reduction in the tax burden is appropriate, and if so, to what degree. However, given that no scientific proof of economic growth is available, the moral analysis of federal tax policy must disregard these claims. Relying on promises of economic growth to support tax policy that principally benefits the wealthiest taxpayers amounts to using false science to camouflage the real values behind the Bush Administration's tax policy trends.¹⁴⁵

related to the tax structure, such as saving for retirement, extravagant purchases, or precautionary measures. See CONG. BUDGET OFFICE, *THE ECONOMIC EFFECTS OF COMPREHENSIVE TAX REFORM* app. B (1997), at <http://www.cbo.gov/showdoc.cfm?index=36&sequence=8>; see also Hamill, *supra* note 4, at nn.69–72 and 176–186 and accompanying text.

¹⁴⁴ See generally WINFRED F. HILL, *LEARNING: A SURVEY OF PSYCHOLOGICAL INTERPRETATIONS* 11 (3d ed. 1977) (describing the work of Ivan Pavlov, a nineteenth-century Russian physiologist who essentially discovered “classical conditioning”, a theory of behavioral psychology, by proving a dog could learn to salivate at the sound of a bell). Behaviorism as a moral model is inconsistent with a Judeo-Christian understanding of ethics. See STEVE WILKENS, *BEYOND BUMPER STICKER ETHICS: AN INTRODUCTION TO THEORIES OF RIGHT AND WRONG* 74 (1995) (stating that behaviorism's worldview “has no place for God” because according to behaviorism, “[b]elief in the divine . . . is considered an outmoded way of explaining things that we previously were not able to understand”).

¹⁴⁵ See GRAETZ, *supra* note 52, at 177–78 (criticizing political leaders for over-emphasizing and relying heavily on one set of economic predictions to justify their tax policy proposals, for example when supply-side economics was used to promote President Reagan's tax cuts in the 1980s, and noting that “[i]n the political process, economic predictions routinely serve to justify, and sometimes mask, ideological battles”); Krugman, *supra* note 116, at 58–60 (discussing the supply-side theory generally as a mask for the real goals of shrinking government revenues, and the Bush Administration's use of supply-side rhetoric to conceal their real goals of catering to wealthy

C. *Reasons Behind Bush Administration's Tax Policy Trends Reflect the Atheistic Values of Objectivist Ethics*

The long-term goals and the real moral values behind the Bush Administration's tax policy trends are more clearly articulated by Grover Norquist, the founder and president of Americans for Tax Reform, a nonprofit organization dedicated to politically supporting the drastic reduction of tax revenues and government expenditures.¹⁴⁶ Although he holds no public office and has little name recognition out-

campaign contributors in the Republican base). The best example of a moral framework that exclusively relies on scientific information when morally evaluating social and economic policies is the utilitarian model. Utilitarianism developed in the mid-eighteenth to early nineteenth century from the teachings of John Stuart Mill and Jeremy Bentham. Utilitarians deem the decision that produces the greatest amount of good for the greatest number of people as the morally correct decision. When morally evaluating social and economic structures, such as tax policy, the utilitarian model examines the collective consequences of the structure to see if it fosters greater good for the greatest number. Consequently, the utilitarian model must have solid and reliable information as to how each tax policy structure affects the economy as a whole, in order to morally evaluate competing structures. If supply-side economics were able to prove that flatter tax structures will directly cause significant levels of positive economic growth and enhanced prosperity for a greater number of people, utilitarianism would deem those structures morally superior, despite the immediate benefits enjoyed by the wealthiest Americans at the expense of all other income groups. However, because this scientific proof does not exist (nor does the economic theory of marginal utility support progressive tax models), the utilitarian model provides no moral guidance as far as choosing between the numerous variations of moderately progressive and flatter tax structures. See Hamill, *supra* note 4, at 880–83 (discussing the utilitarian model and its application to moderately progressive versus flatter tax structures), 869–72 (explaining why the economic theory of marginal utility offers no scientific support of progressive tax models). Although some of the core features of utilitarian ideals can be incorporated into a Judeo-Christian moral framework, because of key problems within the utilitarian model, mainly the disregarding of justice, virtue, and unethical motives, even if it were possible to prove that a particular tax policy structure produced the greatest good for the greatest number, the utilitarian model and its focus on the existence of reliable information as the sole barometer of moral correctness can never serve as a substitute for genuine Judeo-Christian ethics. See WILKENS, *supra* note 144, at 89–98 (discussing the positive and negative features of utilitarianism, especially in light of a Christian world view).

¹⁴⁶ See Americans for Tax Reform Mission Statement, <http://www.atr.org/home/about/index.html> (describing the organization and goals of Americans for Tax Reform, which Grover Norquist founded in 1985 and of which he currently serves as president); see also GRAETZ & SHAPIRO, *supra* note 120, at 271–72 (observing that tax policy legislation either passed or advocated under President Bush, such as cutting capital gains taxes, proposing to expand tax-free savings accounts, and increasing depreciation deductions for businesses, has moved the American tax system closer to Grover Norquist's goal of replacing the income tax with a single-rate tax on wages).

side of Washington political circles, Norquist is a very powerful and influential policy advisor to the Bush Administration, with strong ties to President Bush's top policy advisor, Karl Rove.¹⁴⁷ Prior to being elected to his first term, President Bush sent representatives to the weekly meetings of Americans for Tax Reform, and since the election President Bush's representatives have continued to attend these meetings.¹⁴⁸

¹⁴⁷ Laura Blumenfeld, *Sowing the Seeds of GOP Domination: Conservative Norquist Cultivates Grassroots Beyond the Beltway*, WASH. POST, Jan. 12, 2004, at A1 (quoting Karl Rove's description of Norquist as "an impresario of the center-right"); Julia Malone, *Standard-Bearer Rallies Conservatives*, ATLANTA J. CONST., Nov. 23, 2003, at P3 ("Grover Norquist has neither a public office nor a famous name. Yet few people in the nation's capital wield more influence in Republican circles."); Adam Nagourney, *Bush Looking to His Right to Shore Up '04 Support*, N.Y. TIMES, June 30, 2003, at A14 (stating that President Bush's alliance with the conservative wing of the Republican Party is at least as strong and possibly stronger than Ronald Reagan's, with "Mr. Bush's White House . . . embrac[ing] issues that many conservatives described as crucial to their support, starting with tax cuts"); Susan Page, *Norquist's Power High, Profile Low*, USA TODAY, June 1, 2001, at 13A ("These days, with Bush in the White House, Norquist just may be the most influential Washingtonian most people have never heard of."); Marion Asnes et al., *People to Watch*, MONEY MAG., Jan. 2004, at 80 ("White House political adviser Karl Rove has been known to go to his office. Grover Norquist is the go-to guy for the conservative movement.") (emphasis added); Robin Toner, *Conservatives Savor Their Role As Insiders at the White House*, N.Y. TIMES, Mar. 19, 2001, at A1 (noting that Grover Norquist has known Karl Rove for twenty-two years, discussing conservative leaders' feelings of being "integral" to the administration, and quoting Grover Norquist as saying: "There isn't an us and them with this administration. They is us. We is them."); Jill Zuckman, *Pipeline Leads to White House*, CHI. TRIB., June 9, 2003, at 1 (noting that Karl Rove "is in regular contact with Norquist," that the White House often asks for help from Norquist and his organization, and that "Norquist and the White House are so close that it is sometimes difficult to discern who is influencing whom.").

¹⁴⁸ Norquist hosts meetings every Wednesday morning for top conservative and business leaders and political activists to share information and plot strategy, see Malone, *supra* note 147, and these meetings have "steadily gained influence since they began in 1993." Zuckman, *supra* note 147. President Bush sent a representative to these meetings for a year before announcing his presidential candidacy. *Id.* Since being elected to his first term, "[t]he Bush Administration has had at least one representative at every meeting," Toner, *supra* note 147, and in preparation for the second term election, the Bush campaign sent its own representative "joining a delegation of as many as eight administration officials." Nagourney, *supra* note 147. In addition to President Bush's representatives, Karl Rove "always sends an emissary and sometimes personally attends the weekly meetings," which "illustrate[s] the direct, perhaps unprecedented pipeline conservatives have into the White House." Zuckman, *supra*. Vice President Dick Cheney also sends his own representative and has commented that the meetings are "a very positive influence" because they "really [provide] a forum where a lot of people with ideas and concepts can talk and have an exchange of

In addition to convincing a majority of the Congress and President Bush himself to sign a pledge promising to never raise taxes,¹⁴⁹ Norquist was a key player in orchestrating and pushing through President Bush's first term tax cuts.¹⁵⁰ Because of these strong links with the Bush Administration, Norquist's long-term tax policy goals and his reasons for them shed more light on President Bush's long-term tax policy goals and his real moral values driving these goals. It has been observed that "Grover at times can be harsh, intemperate and insensitive, but he is a true barometer as to what this Bush Administration is all about."¹⁵¹

views and get organized on various issues." Page, *supra* note 147.

¹⁴⁹ One of the first projects undertaken by Americans For Tax Reform was the national Taxpayer Protection Pledge, a written agreement by government officials promising to oppose tax increases for individuals and businesses, and promising to oppose any "reduction or elimination of deduction and credits, unless matched dollar for dollar by further reducing tax rates." Americans for Tax Reform, National Taxpayer Protection Pledge, <http://www.atr.org/pledge/national/index.html>. As of August 17, 2005, President Bush, 221 members of the House, and 46 Senators had signed the pledge. Americans for Tax Reform, Pledge Takers for the 109th Congress, <http://www.atr.org/pledge/national/incumbents.html>; *see also* Malone, *supra* note 147; Page, *supra* note 147; Zuckman, *supra* note 147 (discussing Norquist as the driving force behind the Taxpayer Protection Pledge).

¹⁵⁰ *See* Blumenfeld, *supra* note 147 (quoting Karl Rove recognizing that Norquist's activists helped President Bush push the first term tax cuts, "[t]hey've been out there slogging for us in the trenches"); Page, *supra* note 147 (noting that the Norquist's organization pushed for President Bush's tax cut and urged state legislatures to pass resolutions in support with Norquist himself "hammer[ing] home a simple message that helped hold the tax cut coalition together: Support this year's bill without complaining about its shortcomings and you're more likely to be accommodated in the tax bill the administration promises to pursue every year."); Toner, *supra* note 147 (discussing Norquist's organization as "coordinat[ing] lobbying strategy on issues like President Bush's plan for a tax cut . . . [with] Lawrence B. Lindsay, Mr. Bush's chief economic advisor, brief[ing] the group on the president's tax plan . . . [followed by] Ken Mehlman, director of political affairs at the White House, [who] told the group that the president's tax cut would pass . . . [while noting] [m]any of the groups at the Wednesday meeting have, in fact, formally endorsed the tax cut in recent weeks and spread the word to their memberships . . . [and] Mr. Norquist's Americans For Tax Reform is working to get state legislatures to pass resolutions in support of the tax cut . . ."); Zuckman, *supra* note 147 ("Norquist began pushing for Congress to pass annual tax cuts well before the White House said it would press Congress to do the same thing."); *see also* GRAETZ & SHAPIRO, *supra* note 120 at 164–67 (listing Grover Norquist as one of the eleven managers of the Tax Relief Coalition, whose sole legislative purpose was to secure the enactment of President Bush's first term tax cuts).

¹⁵¹ Zuckman, *supra* note 147 (quoting Ralph Neas, President, People for the

Norquist's vision is to reduce tax revenues to a bare minimum, in order to limit government to only covering the functions of the minimum state that protects private property rights.¹⁵² In order to accomplish this, Norquist is pushing a long-term tax policy plan to be carried out in multiple steps, with the Bush Administration's first term tax cuts being the first step leading to a structure that essentially taxes only wages at a flat rate.¹⁵³ Norquist's moral philosophy is that government should "leave us alone,' by not increasing taxes and by re-

American Way).

¹⁵² Blumenfeld, *supra* note 147 (quoting Norquist as saying he wants to shrink government "down to the size where you could drown it in a bathtub"); Zuckman, *supra* note 147 (discussing Norquist's goal to reduce the size of the government in half by cutting taxes, and discussing Norquist's push to get the political leaders to sign the Taxpayer Protection Pledge as part of the strategy to achieve that goal). Norquist's future goals include a plan to halve the size of the government (relative to the national economy) in the next 25 years through tax cuts, the privatization of Social Security and other government pension programs, the sale of public lands, privatization of the postal service, and universal vouchers for schools. Malone, *supra* note 147. If that plan succeeds, Norquist proposes to halve the government again by 2050. *Id.*

¹⁵³ Norquist summarizes the new Republican policy's annual tax cut as one piece of a larger strategy:

The Bush Administration — wisely — has not proposed fundamental tax reform in a single piece of legislation. But the president has been taking deliberate steps toward such reform with each tax cut. There are five steps to a single-rate tax, which taxes income one time: Abolish the death tax, abolish the capital gains tax, expand IRAs so that all savings are tax-free, move to full expensing of business investment rather than long depreciation schedules and abolish the alternative minimum tax. Put a single rate on the new tax base and you have Steve Forbes and Dick Armey's flat tax. Each of the Bush tax cuts, past and proposed, moves us toward fundamental tax reform.

Grover Norquist, *Step-by-Step Tax Reform*, WASH. POST, June 9, 2003, at A21; see also GRAETZ & SHAPIRO, *supra* note 120, at 213–14 (describing Grover Norquist's desire to repeal the estate tax "as [a] matter of principle, not tax relief as a matter of fiscal policy" and quoting Norquist as stating that those who support an estate tax exhibit the "morality of the Holocaust"); Jasper L. Cummings & Alan J.J. Swirski, *Interview With Grover G. Norquist, President, Americans for Tax Reform*, A.B.A. SEC. OF TAX'N NEWS Q. MAG., Vol. 22, No. 4 (Summer 2003), at 17–24; Grover G. Norquist & Cesar V. Conda, *Bush Tax Cuts, Act IV*, WALL ST. J., Jan. 6, 2004, at A18 (discussing President Bush's proposed 2004 tax cuts, and urging first and foremost that all Bush's existing tax cuts be made permanent); Robin Toner, *Thumbing Nervously Through the Conservative Rulebook*, N.Y. TIMES, Sept. 11, 2005, § 4 at 1 (Norquist continues to support making the Bush first term tax cuts permanent and repealing the estate tax as scheduled, despite the increased revenue needs due to the Hurricane Katrina disaster).

specting private property rights”¹⁵⁴ Moreover, Norquist believes that faith-based moral principles have nothing to do with the framing of laws or tax policy, and that helping others should only be accomplished through voluntary charitable giving by individuals and religious institutions.¹⁵⁵

Especially when viewed alongside the candor of Grover Norquist, it is clear that despite his profession of faith as a believer in Jesus Christ, President Bush has failed to recognize that Judeo-Christian ethics requires adequate tax revenues to ensure reasonable opportunities for all Americans and imposes greater moral obligations on those enjoying greater levels of income and wealth. Instead, his manner of handling tax policy, which places supreme importance on preserving private property and assumes that wealth results solely from individual effort, reflects the moral values of ethical egoism, also known as objectivist ethics.¹⁵⁶ Objectivist ethics views human beings as inde-

¹⁵⁴ Malone, *supra* note 147; *see also* Blumenfeld, *supra* note 147 (Norquist referring to the members of the Wednesday morning meetings as the “leave us alone” coalition); Page, *supra* note 147 (“Norquist calls it a ‘leave us alone’ coalition, divided on some individual issues but united by a desire to limit the size and power of government.”); Zuckman, *supra* note 147 (Norquist describing his coalition “as made up of those eager to be left alone . . . [including] property rights advocates and anti-taxers”); John Farrell, *Right Where He Belongs*, BOSTON GLOBE, April 17, 2002 at F1 (Norquist identifies his “leave us alone coalition” as including “Taxpayers: Don’t raise my taxes. Property owners: Don’t mess with my property.”).

¹⁵⁵ Norquist stated:

In the Christian religion, in the Jewish religion, and in Islam, there is an imperative to help those in need. But one of the great things about this country — and one of the things that makes us safe — is that we separate the state from religion. We do confuse those things that belong in religion — such as charity and helping others — with the job of the state.

Grover Norquist Warns Bush on Wars, PR NEWSWIRE (Aug. 29, 2003).

¹⁵⁶ The ideas surrounding ethical egoism as a moral philosophy have been traced back to the third century B.C., WILKENS, *supra* note 144, at 54, and were explored in an essay published in the early twentieth century as the “doctrine of individuality.” *See* JAMES L. WALKER, *THE PHILOSOPHY OF EGOISM* 16 (1972). The ideas have been grouped in various categories at a personal level, *see generally* RICHMOND CAMPBELL, *SELF LOVE AND SELF RESPECT: A PHILOSOPHICAL STUDY OF EGOISM* (1979), but were not seriously developed in a universal fashion capable of evaluating social and economic structures such as tax policy, until Ayn Rand’s nonfiction philosophical work appeared during the last half of the twentieth century. *See* WILKENS, *supra* note 144, at 46 (noting that Rand was the primary advocate of a universalistic approach to ethical egoism). *See generally* Leonard Peikoff, *Introduction to AYN RAND, THE VOICE OF REASON: ESSAYS IN OBJECTIVIST THOUGHT* (Leonard Peikoff ed., 1989) (noting that Rand’s major articles and essays spanned from 1961 until just before her death in 1982). In her development of a universalistic application of ethical egoism, Rand re-

pendent agents and deems each person acting in his or her own long-term rational self-interest as the only avenue to reach moral correctness.¹⁵⁷ Because individual autonomy and the right of each person to be able to personally benefit from their efforts in the free market are valued above all other considerations,¹⁵⁸ objectivist ethics unequivocally epitomizes the “leave us alone” philosophy of Grover Norquist and his coalition, which includes the Bush Administration, and therefore it is reasonable to assume, also includes President Bush himself.¹⁵⁹

fers to her philosophy as objectivist ethics. *See generally infra* notes 157–58, 160–67 (Rand consistently uses the term objectivist ethics).

¹⁵⁷ AYN RAND, *THE VIRTUE OF SELFISHNESS*, at x (1964) [hereinafter RAND, *SELFISHNESS*] (stating that “the purpose of morality is to define man’s proper values and interests, [and] that *concern with his own interests* is the essence of a moral existence, and that *man must be the beneficiary of his own moral actions*,” and defining the objectivist ethics as “hold[ing] that the actor must always be the beneficiary of his action and that man must act for his own *rational self-interest*”); *id.* at xi (“[S]elf-interest cannot be determined by blind desires or random whims, but must be discovered and achieved by the guidance of rational principles. This is why the Objectivist ethics is a morality of *rational self-interest* — or of *rational selfishness*.”). Leonard Peikoff describes objectivist ethics as follows:

Human virtue, in the Objectivist approach, consists not in faith or social conformity or arbitrary emotion, but in thought, objectivity, *rationality*, the relentless exercise of one’s intelligence in the task of achieving the values, spiritual and material, which human life requires If such rationality is to be possible, however, the individual must be treated as a sovereign agent and left unmolested by physical force; he must be left free to think and then to act on his own best judgment.

Peikoff, *supra* note 156, at viii.

¹⁵⁸ RAND, *SELFISHNESS*, *supra* note 157, at 37, 108–10 (discussion of individual rights under objectivist ethics states that without property rights, no other rights are possible, and that capitalism, meaning “a full, uncontrolled, unregulated laissez-faire capitalism — with a separation of state and economics” is the only system that can ensure individual rights); AYN RAND, *CAPITALISM: THE UNKNOWN IDEAL* 18–20 (1966) [hereinafter RAND, *CAPITALISM*] (discussing the moral justification of the free market provided by pure capitalism, where all property is privately owned, as the only system that can protect man’s right as a sovereign individual to exist rationally for his own sake); *see also* GEORGE REISMAN, *CAPITALISM* 27 (1998) (“Being secure in their possession of property from violent appropriation by others, and rational enough to act on the basis of long-run considerations, individuals save and accumulate capital, which increases their ability to produce and consume in the future . . .”).

¹⁵⁹ *See supra* notes 89–126 and accompanying text (documenting President Bush’s first term tax policy trends and discussing those trends as ethically troubling under the moral principles of Judeo-Christian ethics); notes 132–45 and accompanying text (describing how President Bush justifies his first term tax cuts principally benefiting the wealthy on the grounds of the discredited theory of supply-side economics, while implicitly placing extreme importance on private property rights and erroneously assum-

When morally evaluating legal and economic structures, the principles of objectivist ethics state that in order to avoid discouraging personal autonomy, government functions beyond what is needed to protect each individual's life, liberty, and private property should ideally be eliminated.¹⁶⁰ Because taxation is considered a restraint impinging on the personal autonomy and right of every individual to enjoy the profits from his or her success, the ideal tax policy under objectivist ethics would raise only enough tax revenues to cover the needs of the minimum state, and would make the payment of all taxes completely voluntary.¹⁶¹ Opportunities such as education would be

ing that greater wealth carries no greater responsibilities); notes 146–55 and accompanying text (documenting the strong connection between the Bush White House and Grover Norquist, Norquist's support of the Bush tax policy trends and pushing these trends toward flat/consumption tax models, his philosophy of cutting taxes in order to shrink government revenues, and Norquist's moral compass of assuming the absolute importance of private property rights and individual autonomy).

¹⁶⁰ Objectivist ethics morally evaluates complex social and economic structures though the lens of the rational individual. According to George Reisman, the pure, totally unregulated capitalistic society is made up of “*the harmony of the rational self-interests of all men*, in which the success of each promotes the well-being of all,” based on a “combination of freedom and rational self-interest operating in the context of the division of labor.” REISMAN, *supra* note 158, at 28. This harmony of rational self-interest would be hostile to any imposition of force through unnecessary government regulation and expenditures. See *id.* at 21 (arguing “[i]n a fully capitalist society, government does not go beyond [the] functions” of police, courts, and national defense.); see also RAND, SELFISHNESS, *supra* note 157, at 128, 131 (asserting that the only moral purpose of government under objectivist ethics is the protection of each individual's life and private property rights, which limits the government functions to the police, the armed services, and the courts); *id.* at 79–80 (“There can be no compromise between freedom and governmental controls; to accept ‘just a few controls’ is to surrender the principle of inalienable individual rights and to substitute for it the principle of the government's unlimited arbitrary power, thus delivering oneself into gradual enslavement.”).

¹⁶¹ The principles of objectivist ethics that deem taxation an illegitimate imposition of force offending the autonomy of the rational individual are based on the view of the role of wealth in human life. Distinguishing other philosophies and theologies that view wealth to be of secondary importance when compared to the pursuit of more noble spiritual values, Reisman explains objectivism's principles:

[I]t is incumbent upon economics to justify itself by providing philosophical validation for the production of wealth being a central, continuing concern of human existence It is necessary to show how the continuing rise in the productivity of human labor and capitalism serves *objectively demonstrable human needs* — to show, indeed, why there is no limit to man's need for wealth Man needs wealth without limit if he is to fulfill his limitless potential as a rational being in physical reality.

REISMAN, *supra* note 158, at 42–43; see also RAND, SELFISHNESS, *supra* note 157, at

available only in the private free-market economy, and minimum safety nets providing subsistence and healthcare for the poor and elderly would only be covered by voluntary charitable contributions.¹⁶² Because proponents of objectivist ethics recognize that on a practical level their ideals cannot be fully achieved, they politically advocate cutting all government expenditures beyond the needs of the minimum state as much as possible, while substantially reducing the tax burden of the wealthiest individuals and businesses by adopting a flat or consumption tax model.¹⁶³ The moral conversation surrounding President Bush's first term tax cuts and the long-term goals of taking those trends further towards a flat tax model squarely reflect the values of objectivist ethics.¹⁶⁴

135–36 (stating that compulsory taxation is the imposition of force offending individual freedom and would be strictly voluntary under an ideal free society, through either a form of government lottery, or a fee for services of the minimum state that rational people would be willing to pay); REISMAN, *supra* note 158, at 21 (stating that taxation should be strictly limited to only meet the needs of the minimum state).

¹⁶² AYN RAND, *THE VOICE OF REASON: ESSAYS IN OBJECTIVIST THOUGHT* 293, 249 (Leonard Peikoff ed., 1989) [hereinafter *RAND, REASON*] (stating that under objectivist ethics, “no man . . . has a *right* to medical care; if he cannot pay for what he needs, then he must depend on voluntary charity”); *RAND, CAPITALISM, supra* note 158, at 89–91 (discussing the ideal free society providing no public education and leaving education strictly a function of the private free market); *RAND, SELFISHNESS, supra* note 157, at 93 (“Only individual men have the right to decide when or whether they wish to help others; society — as an organized political system — has no rights in the matter at all.”); *id.* at 113 (criticizing rights that “Franklin Roosevelt wrote into our national conscience,” including such examples as opportunities to achieve a good education, job opportunities, adequate medical care, and protection from destitution in old-age); *see also* REISMAN, *supra* note 158, at 29 (stating that individuals will help others in order to achieve their own self-interest).

¹⁶³ *See* *RAND, REASON, supra* note 162, at 249 (recognizing that the objectivist ideals of an education system only provided by the free market are not currently achievable, and advocating tax credits for parents incurring expenditures to send their children to private schools); *RAND, SELFISHNESS, supra* note 157, at 137 (recognizing that a system of voluntary taxation would be the last rather than the first step towards creating a free society and that “[i]t would not work today”); Hamill, *supra* note 4, at 884 n.89 (citing numerous articles published in prominent objectivist sources that directly support flat or consumption tax models, cutting tax revenues in order to limit government expenditures, or criticizing progressive tax structures).

¹⁶⁴ *See supra* notes 156–63 (documenting the values of objectivist ethics as centered on the absolute importance of private property rights and individual autonomy and its tax policy goals of cutting taxes for the wealthy, limiting government revenue, and moving as close as possible to a flat or consumption tax model), 152–55 (documenting that the values and tax policy goals of Grover Norquist are a perfect match with objectivist ethics), 146–51 (documenting the strong link, both generally and with tax policy specifically, between Grover Norquist and the Bush White House), and

Objectivist ethics represents a form of atheism because the human person is substituted for a supreme deity.¹⁶⁵ Within the framework of objectivist ethics, individuals owe no moral obligations to endure greater sacrifices for anyone else's benefit because only each individual's own self-interest has any moral relevance.¹⁶⁶ Human beings act-

132–37 (citing direct quotes or attributed statements of President Bush justifying his first term tax cuts on the basis of the discredited theory of supply-side economics, and on the notion of unlimited private property rights, with no recognition that greater wealth comes with greater responsibilities).

¹⁶⁵ Atheism is “[t]he denial of the existence of and belief in God.” Paul G. Crowley, *Atheism*, in I THE ENCYCLOPEDIA OF POLITICS AND RELIGION 48 (Robert Wuthnow ed., 1998). The principles of objectivist ethics require the rejection of any form of mysticism, which “is the acceptance of allegations without evidence or proof . . . [s]uch as . . . ‘revelation.’” AYN RAND, PHILOSOPHY: WHO NEEDS IT 62–63 (1982) [hereinafter RAND, PHILOSOPHY]; see also *id.* at 61–62 (identifying mysticism as the only justification why people should not always follow their own interests); *id.* at 66 (identifying “reason and freedom” as having a reciprocal relationship and being the only cause of progress, with their antagonists preventing progress being “faith and force”); RAND, REASON, *supra* note 162, at 72 (noting that while the worth of the individual is a Christian idea, the idea was “historically impotent” by itself and that “[o]nly when the religious approach lost its power — only when the idea of individual value was able to break free from its Christian context and become integrated into a rational, secular, philosophy — only then did this kind of idea bear practical fruit”); Peikoff, *supra* note 156, at ix (noting Ayn Rand was attacked by the Church “as an atheist (which she was)”); Leonard Peikoff, *Christmas Should be More Commercial*, CAPITALISM MAG., Dec. 2, 2005, <http://www.capmag.com/article.asp?ID=2254> (arguing that in America Christmas has always been a secular holiday and that “Life requires reason, selfishness, capitalism; that is what Christmas should celebrate It is time to take Christ out of Christmas and turn the holiday into a guiltlessly egoistic, pro-reason, this worldly commercial celebration.”). Objectivist ethics is not the only form of atheism. For example, secular humanism, which advocates human values and believes that people should decide the “ultimate questions of human existence and morality . . . without reference to God” is a form of atheism that clearly has a community rather than only a self-interest component. See James M. Ault Jr., *Secular Humanism*, in II THE ENCYCLOPEDIA OF POLITICS AND RELIGION 677 (Robert Wuthnow ed., 1998).

¹⁶⁶ RAND, SELFISHNESS, *supra* note 157, at 27 (“The Objectivist ethics holds man’s life as the *standard* of value — and *his own life* as the ethical *purpose* of every individual man.”); *id.* at 30 (“The basic *social* principle of Objectivist ethics is that just as life is an end in itself, so every living human being is an end in himself, not the means to the ends or the welfare of others — and, therefore, that man must live for his own sake”); RAND, PHILOSOPHY, *supra* note 165, at 95–98 (defining duty as the performance of moral obligations owed without regard to personal self-interest because of a higher authority, identifying mysticism as the creator of duty, which “destroys reason . . . [and] values . . . [and] is a metaphysical and psychological killer,” and, finally concluding that “[i]n reality and in the Objectivist ethics, there is no such thing as ‘duty’”).

ing in their long-term self-interest are considered the sole source of all wealth, and through the strength of their own rationality are viewed as capable of acting morally, without God's grace or God's standards of justice as a guide.¹⁶⁷ By providing a veneer of moral justification for legal structures and tax policy that minimize and seek to eliminate the moral obligations owed to God and therefore to all others in the community, objectivist ethics presents a monumental stumbling block for all Christians and Jews who enjoy greater than average levels of wealth and power.¹⁶⁸

As the person holding the highest ranking elected office in the United States and setting the policy agenda for the entire nation, and as a Christian, President Bush has greater moral obligations than any other political figure to resist public policy reflecting objectivist ethics.¹⁶⁹ In his handling of tax policy, President Bush has grossly violated

¹⁶⁷ RAND, CAPITALISM, *supra* note 158, at 30 (stating that it is morally obscene to view wealth as owned to any degree by any common collective good, in the course of her argument that wealth belongs to the individual person who created it while pursuing his or her rational self-interest); RAND, SELFISHNESS, *supra* note 157, at 29 (describing within the objectivist ethical framework the virtue of “[p]roductive work [as] the road of man’s unlimited achievement . . . call[ing] upon the highest attributes of his character: his creative ability, his ambitiousness, his self-assertiveness, his refusal to bear uncontested disasters, his dedication to the goal of reshaping the earth in the image of his values” and the virtue of pride as “the recognition of the fact . . . that as man is a being of self-made wealth, so he is a being of self-made soul”); *see also* REISMAN, *supra* note 158, at 29 (attributing the economic success of the United States as solely resulting from “*the cumulative, aggregate result of tens of millions of people, generation after generation, each pursuing his individual self-interest*”).

¹⁶⁸ *See supra* notes 63–66, 68–74 and accompanying text (stating that authentic faith requires a life centered around God, which comes with moral obligations to the community at large that reflect the amount of wealth, knowledge, and other gifts one has been blessed with; and that authentic faith also requires personal sacrifice, which for the wealthy will take the form of financial personal sacrifice); BOCK I, *supra* note 30, at 595–96 (discussing the commands of loving God and neighbor as more than just avoiding treating others unfairly, but also requiring positive action “to give the same sensitive consideration to others”); KEENER, *supra* note 30, at 475 (stating that love for God requires active service on behalf of neighbors); *see also* WILKENS, *supra* note 144, at 54–55 (stating that egoism is not an option for a Christian because “there is no room for God in the picture”); *id.* at 60–61 (concluding that egoism fails to provide a Christian foundation for ethics for at least three reasons: first, egoism is a form of idolatry that “makes each individual his or her own god and leaves no place for God as our ultimate concern”; second, the exclusive self-interest as the barometer of right and wrong fails to value all people and depersonalizes them as a means to an end; and, finally, a universal egoistic system is ultimately self-defeating because it fails to incorporate a spiritual dimension to life).

¹⁶⁹ *See supra* notes 75–76 and accompanying text (documenting that Christians and Jews holding offices with political power over others have substantial faith-based

the moral obligations of his faith for at least three reasons. First, in pushing through his first term tax cuts, his insistence that they be made permanent and his refusal to recognize the need for additional revenues due to the escalating costs of the war in Iraq and hurricane disaster relief, President Bush has failed to morally evaluate the substantial favoring of the wealthy at the expense of the poor and the middle class by the standards of Judeo-Christian ethics, and instead implicitly gave in to the atheistic temptations of objectivist ethics.¹⁷⁰ Second, President Bush has allowed himself and his most important advisors in the White House to be unduly influenced by Grover Norquist, a person who has explicitly adopted objectivist ethics as his moral compass.¹⁷¹ Finally, and perhaps of the greatest concern, President Bush has surrounded himself with high-profile religious leaders

moral obligations to carry out their responsibilities consistently with faith-based moral principles, and specifically illustrating that these political leaders have enhanced moral obligations to foster tax policy that meets the moral principles of Judeo-Christian ethics).

¹⁷⁰ See *supra* notes 34–74, 132–37, 146–68 and accompanying text (stating that President Bush’s high priority on private property rights and wealth preservation in orchestrating his first term tax cuts and his tax policy response to the Hurricane Katrina disaster are inconsistent with Judeo-Christian moral standards and reflect the atheistic values of objectivist ethics). In presenting this serious allegation, this article does not, and in fact, cannot claim that President Bush’s faith is insincere. See BLOMBERG, *supra* note 44, at 133 (stating that “one can never know with absolute certainty the spiritual state of any other individual”); BLOCK I, *supra* note 75, at 239 (stating that the force of *Ezekiel’s* message indicates “it is possible to be sincere in one’s religious commitment, but to be sincerely in error”); WALLIS, *supra* note 7, at 13, 139 (opining that President Bush’s faith is sincere, that he is genuinely concerned about the poor, but is guilty of bad theology by ignoring the biblical mandates of justice while focusing exclusively on charity); see also KRUGMAN, *supra* note 116, at 60–61 (discussing extensively the real costs and benefits of President Bush’s tax cuts and concluding the “the selling of the tax cuts has depended heavily on chicanery [and using] accounting trickery to hide the true budget impact of . . . proposals [as well as] misleading presentations to conceal the extent to which [the] tax cuts are tilted toward families with very high income”); WALLIS, *supra*, at 18 (stating that “[t]ruth telling is . . . a religious issue that should be applied to a candidate’s rationales for war, tax cuts, or any other policy”).

¹⁷¹ Although Norquist has claimed to be a nominal Christian, see Robert Dreyfuss, *Grover Norquist: ‘Field Marshal’ of the Bush Tax Plan*, THE NATION, May 14, 2001, at 14 (“Norquist maintains strong alliances with the Christian right, often speaking at Christian Coalition events . . . calling himself a ‘generic Protestant’ and attending church only ‘semiregularly’ . . .”), his true moral values are consistent with the atheistic values of objectivist ethics, see *supra* notes 152–68, and therefore it is reasonable to conclude that Norquist and his ideas should not be associated with any form of authentic Christianity. See sources cited *supra* note 70 (stating that mere profession of faith and worship is not the mark of truly practicing Christianity).

whose discussion of tax policy also exudes the atheistic values of objectivist ethics.

In addition to invoking faith-based reasons for supporting President Bush generally,¹⁷² these outspoken and influential religious leaders have expressed unequivocal approval of his first term tax cuts as well as the tax policy trends toward flat and consumption-based models. For example, James Dobson recently stated that “not in many years has there been such optimism among those of us in the conservative Christian movement, [since] President George W. Bush has been returned to office, after promising during the long campaign . . . to reduce the tax burden on families.”¹⁷³ Roberta Combs, the executive director of the Christian Coalition of America, has urged Congress to make the first term Bush tax cuts permanent and also expressed her support for a flat tax.¹⁷⁴ Ralph Reed, a previous executive director of the Christian Coalition with strong ties to Grover Norquist,

¹⁷² David D. Kirkpatrick, *Bush Allies Till Fertile Soil, Among Baptists, for Votes*, N.Y. TIMES, June 18, 2004, at A25 (quoting Ralph Reed, former executive director of the Christian Coalition of America, in his marshaling of a grassroots campaign in the 2004 election, urging pastors in particular to “do everything short of risking their churches’ tax-exempt status to support the president’s re-election”); David D. Kirkpatrick, *Some Backers of Bush Say They Anticipate a ‘Revolution,’* N.Y. TIMES, Nov. 4, 2004, at P1 (quoting James Dobson, the founder of Focus on the Family (a group promoting conservative Christian values), commenting on President Bush’s victory, and stating that “through prayer and the involvement of millions of evangelicals . . . God has given us a reprieve”); David D. Kirkpatrick, *Citing Falwell’s Endorsement of Bush, Group Challenges His Tax-Exempt Status*, N.Y. TIMES, July 16, 2004, at A16 (quoting Jerry Falwell commenting on the 2004 election, as stating that “it is the responsibility of . . . every evangelical Christian . . . to get serious about re-electing President Bush”); Philip Gailey, *Religious Values Have a Place in Politics*, ST. PETERSBURG TIMES, Jan. 4, 2004, at 3P (quoting Pat Robertson commenting on Bush’s re-election from the January 2, 2004 broadcast of Robertson’s television show, *The 700 Club*: “The Lord has just blessed him. I mean, he could make terrible mistakes [in his election campaign] and still come out of it. It doesn’t make any difference what he does, good or bad . . .”).

¹⁷³ James Dobson, *Looking Back, Looking Ahead*, DR. DOBSON’S ACTION NEWSLETTER (Focus on the Family, Colorado Springs, Colo.), Jan. 2005, available at www.focusaction.org/articles/a0000050.cfm.

¹⁷⁴ U.S. NEWswire, *Christian Coalition Applauds Bush’s Condemnation of Renegade Judges and His Constitutional Support for Traditional Marriage*, Jan. 20, 2004 (quoting Roberta Combs commenting on Bush’s first term tax cuts, stating, “We urge Congress to make all of the tax cuts passed in the past 3 years permanent during 2004.”); see also CHRISTIAN COALITION OF AMERICA, LEGISLATIVE AGENDA FOR THE 109TH CONGRESS (2005), www.cc.org/issues.cfm (ranking among the top priorities for the 109th Congress to make Bush’s 2001 tax cuts permanent, while also supporting any tax reform legislation aimed at eliminating the Internal Revenue Code in favor of a flat tax or a national sales tax).

reacted to the flat and consumption tax ideas with enthusiasm, personally stating, “I’ve urged candidates I’ve assisted to call for a single rate, simple tax that could be filled out on a postcard”¹⁷⁵ Jerry Falwell has expressed similar sentiments: “I think a flat tax is the answer”¹⁷⁶ Finally, Pat Robertson not only strongly supports flat and consumption tax proposals, but has also compared the current moderately progressive income tax structure to stealing and has misinterpreted the Bible as placing absolute importance on private property rights and wealth.¹⁷⁷

Religious leaders who advise the most powerful political leaders have the highest moral responsibility to sensitively analyze the theological implications of social and economic issues and correctly preach and teach the true word of God, so that our political leaders are spiritually empowered to do the best job possible guiding the nation’s moral compass. Because of the sacrifice required by those at higher levels of income and wealth, who also tend to enjoy disproportionately more political clout, tax policy is one of the most telling indicators of the nation’s true moral compass and therefore must be handled with special care, as a faith-based moral issue of monumental proportions.¹⁷⁸ Instead of treating tax policy as one of the most serious crises of faith in America today, these five religious leaders (and undoubtedly many others) are encouraging President Bush to follow the atheistic teachings of objectivist ethics and protect wealth with a “heavy grip” or even an “ironclad grip,” rather than the “light grip” required by Judeo-Christian teachings. By allowing President Bush to give in

¹⁷⁵ Gail Collins, *A Couple of Kingmakers Talking Shop*, N.Y. TIMES, Jan. 11, 1998, § 6, at 24; see also Rosemary Ardley, *Christian Coalition’s Contract: But Does Jesus Favor a Flat Tax?*, GREENSBORO NEWS & RECORD, May 26, 1995, at A-15; John B. Judis, *Can Newt’s Gang Endure?*, GQ MAG., May 1995, at 148 (quoting Grover Norquist, “Ralph Reed was a Republican activist before he was a Christian”); John Maggs, *Grover At the Gate*, NAT’L J., Oct. 11, 2003, at 3101 (identifying Ralph Reed as “a protege of Norquist’s when both worked for the College Republicans”); Malone, *supra* note 147 (Ralph Reed identified as a “longtime friend of Norquist”).

¹⁷⁶ Rivera Live: Look at the Presidential Race in 2000 (CNBC television broadcast, Nov. 9, 1999).

¹⁷⁷ PAT ROBERTSON, THE TEN OFFENSES 170–71 (2004) (“At no time did the government step in and penalize a man for his success. God ordained tithes and offerings. No more. The government was to allow the people to enjoy what God had given them, not try to take it away.”).

¹⁷⁸ See *supra* notes 25, 52, 68–74, 77–78 (extensively discussing the moral obligations related to financial sacrifices required of those at greater levels of income and wealth and enhanced moral obligations of religious leaders, and directly connecting these obligations to fostering tax policy that meets the moral principles of Judeo-Christian ethics).

to the temptation of objectivist ethics in his handling of tax policy, these religious leaders are guilty of the worst violations of the moral obligations of their Christian faith.¹⁷⁹

Instead of promoting tax policy grounded in objectivist ethics, these religious leaders should be urging President Bush to morally evaluate federal tax policy under genuine Judeo-Christian values. Religious leaders that are truly preaching and teaching the word of God must challenge the forces of the secular world that seek to use faith as a disguise for values that worship wealth and individual human accomplishments, instead of balancing the undisputable rights to enjoy such gifts with the also undisputable greater responsibilities owed to God and the community. Instead of challenging President Bush and the objectivist forces of the secular world driving federal tax policy, these religious leaders are perpetuating a false faith by accommodating the secular world. Metaphorically, their false teaching encouraging President Bush to adopt tax policy justified by the atheistic values of objectivist ethics rather than genuine Judeo-Christian values corresponds to the conduct of ancient Israel's priests and the religious leaders of first-century Palestine, condemned by the Old Testament Prophets and by Jesus Christ more than two thousand years ago.¹⁸⁰

¹⁷⁹ See *supra* notes 122–30 (calling President Bush's first term tax cuts ethically troubling under the moral principles of Judeo-Christian ethics and part of a conclusively immoral trend towards flat or consumption tax models), 132–37, 146–68 (stating that the reasons behind President Bush's first term tax cuts reflect the atheistic values of objectivist ethics), 75–78 (criticizing religious leaders who fail to meet their moral obligations); KEENER, *supra* note 49, at 336 (cautioning that severe consequences at judgment await religious leaders who mislead others and use their calling for their own agenda; and that applying Scripture inconsistently or selectively dishonors God, noting that “[s]ome churches fight for the authority of Scripture yet care so little for it in practice that they ignore the context of verses or explain away passages that seem too difficult, like God's demand that Christians care for the poor”).

¹⁸⁰ See *supra* notes 75–78 (harshly criticizing and judging religious leaders who fail to meet their moral obligations); KEENER, *supra* note 49, at 335 (drawing parallels between the religious leaders Jesus denounced in his day with “many popular preachers and people [who are] practicing human religion rather than serving God with purified hearts” and issuing this chilling indictment of Christianity today: “I suspect that much of what passes for Christianity today is little more than human religion with the name of Jesus tacked onto it When religion becomes a veneer of holiness to conceal unholy character, it makes its bearers less receptive to God's transforming grace.”); MOO, *supra* note 50, at 187 (discussing the message of *James* as condemning Christians who engage in compromising conduct, especially with regards to wealth that implicitly rivals God, noting “[w]hen believers behave in a worldly manner, they demonstrate . . . their allegiance is to the world rather than to God”); WALLIS, *supra* note 7, at 248 (stating, in the context of discussing three especially egregious stories of injustice including one highlighting the tax policy trends of the Bush Administration:

IV. CONCLUSION AND PRAYER

The failure to meet the moral obligations of faith when dealing with tax policy issues extends well beyond President Bush and the most visible religious leaders supporting him. All members of Congress adhering to the Christian or Jewish faiths, especially those in key positions such as the Speaker of the House, the Senate Majority leader, and the members of the House Ways and Means Committee have high moral obligations to draw on genuine Judeo-Christian values when debating and voting on federal tax policy issues, even if this conflicts with the financial interests of the largest campaign donors and powerful business interests. In achieving his first term tax cuts, President Bush enjoyed a great deal of support in Congress, and there is no evidence that the numerous Christians among them seriously considered the very troubling Judeo-Christian ethical issues posed by these tax cuts.¹⁸¹ This widespread failure at the congressional level indicates that many Christian and Jewish voters are failing to meet the moral obligations of their faith, which requires them to become educated about tax policy issues and to weigh heavily, before voting, whether the candidate for Congress or the Presidency will actively foster tax policy that meets the moral principles of Judeo-Christian ethics. In addition, this lack of spiritual reflection among the Congress and the voters also indicates that numerous religious leaders across America, in their preaching and teaching, are failing to identify tax policy as a critically important issue of faith.¹⁸²

“Perhaps it’s time for our religious leaders to head for the Capitol Building and the White House lawn. *Outrageous, shameful, and intolerable* are all appropriate words in response to these three news stories . . .”).

¹⁸¹ See *supra* note 6 (stating that well over ninety percent of the members of Congress claim to practice Christianity or Judaism) and notes 75–76 (stating that Judeo-Christian-based greater moral obligations apply to Congress). Despite these enhanced moral obligations, the 2001 Bush tax cuts were passed by a considerable majority in both houses of Congress. See Final Vote Results for Roll Call 149 (May 26, 2001), <http://clerk.house.gov/evs/2001/roll149.xml> (showing the tally in the House of Representatives was 240–154); Vote on the Conference Report (H.R. 1836) (May 26, 2001), http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=107&session=1&vote=00170#position (showing the tally in the Senate was 58–33).

¹⁸² See DORFF, *supra* note 21, at 152 (noting that the right to “get involved in the public discussion of public policy on poverty” imposes a moral duty to do so); HAUERWAS & WILLIMON, *supra* note 78, at 37 (asserting that Christians have a moral responsibility to “use our democratic power in a responsible way to make the world a better place in which to live”); MATHEWS, *supra* note 52, at 91 (“Christians must speak to the moral issues of our society. At the same time, we must never so closely

The lack of faith-based spiritual evaluation of tax policy issues throughout America also indicates that many Christians and Jews who have been blessed with greater knowledge of the tax area are not meeting the moral obligations of their faith. Unlike some areas of public policy, tax policy issues are loaded with complexity and nuances that are far beyond the ability of the average citizen to fully understand, and therefore are easily distorted. When tax policy proposals are being discussed, Christians and Jews who enjoy this greater knowledge, including tax lawyers, economists, and accountants, have very strong moral obligations commensurate with their degree of knowledge, experience, and influence to step forward and clearly reveal the true effect the proposals will have on adequate revenues and the fair allocation of the tax burden in light of Judeo-Christian moral standards. They also must strongly and publicly rebuke distortions and false statements being made by others. Even if no significant changes in the tax law are actively being debated, these stewards of tax knowledge have a moral obligation to step forward and criticize tax policy structures and call for reform if the tax laws clearly fail to meet Judeo-Christian standards. These moral obligations apply even if this action involves taking tax policy positions contrary to personal self-interest or the interests of clients. Because of the academic and economic freedom they enjoy, the moral obligations of Christian and Jewish tenured professors possessing superior knowledge in the tax area are substantially greater than such obligations of those outside the academic sphere.¹⁸³

There is also substantial evidence that Christians and Jews individually and religious organizations generally, at the state and local level, are failing to meet their moral obligations to ensure that the tax

identify with a political faction that we cease to speak for God independently of what any political movement may require.”); NAT’L CONFERENCE OF CATHOLIC BISHOPS, *supra* note 23, ¶ 122, at 55 (noting that the government is responsible to ensure human rights and justice, and that individuals have a moral obligation to “choose their representatives and participate in shaping public opinion” so that government meets this responsibility); SCHRIENER, *supra* note 58, at 687–88 (discussing the message of *Romans*, addressing the submission to governmental authorities as not precluding political activity, especially lawful political activity, geared towards correcting unjust features of government); THIELMAN, *supra* note 73, at 71, 106 (stating that believers have a moral responsibility to work for just policies, which obviously includes exercising one’s basic right to vote).

¹⁸³ See *supra* note 65 (stating that greater moral obligations correspond with one’s degree of knowledge); see also NAT’L CONFERENCE OF CATHOLIC BISHOPS, *supra* note 23, ¶ 342, at 130 (calling upon Catholic universities, in particular, to teach Catholic ideals of social justice, especially for those whose vocation will call them to an active role in U.S. economic and political decision making).

policies of their states reflect genuine Judeo-Christian values.¹⁸⁴ A cursory examination of the state tax laws indicates that in most of the states the tax laws either conclusively violate Judeo-Christian moral principles or are headed in that direction.¹⁸⁵ Moreover, Grover Norquist and his coalition have a presence in an overwhelming majority of the states and are working overtime to push state and local tax policy towards their “leave us alone” objectivist values that further shrink revenues while reducing the state tax burden of the wealthiest.¹⁸⁶ Even worse, religious organizations, particularly state affiliates

¹⁸⁴ Despite the paucity of faith-based activism in the tax policy area, isolated examples exist. See Bob Kemper, *This Isn't Your Father's Moral Majority*, ATLANTA J. CONST., Jan. 22, 2006 at A7 (discussing the trend of some conservative evangelicals to adopt a social activism agenda focusing on the poor while noting Alabama Governor Bob Riley's 2003 attempt to overhaul the state's tax system and the current fight in South Carolina for greater funding of poor rural school districts); UNITED METHODIST CHURCH, PROCEEDINGS OF THE 2004 GENERAL CONFERENCE: PETITION 41101 (May 6, 2004), at <http://archives.umc.org/Calms/petititon.asp?mid=2886&Petition=1101> (urging all United Methodist Church Conferences to work towards ensuring that the state and local tax laws of their particular states meet the moral principles of Judeo-Christian ethics as articulated by Hamill, *An Argument for Tax Reform Based on Judeo-Christian Ethics*, *supra* note 2).

¹⁸⁵ An extensive report evaluating the way each state raises its revenues involving “[s]cores of reports, hundreds of interviews and thousands of hours of analysis” in *Governing Magazine*, a highly respected periodical dedicated to state and local issues, generally concluded that “[t]he vast majority of state tax systems are inadequate for the task of funding a 21st-century government . . . [and that] [m]ost of those tax systems are also unfair.” Katherine Barrett et al., *The Way We Tax: A 50-State Report*, GOV. MAG., Feb. 2003, at 20. In the areas of adequacy of revenues and fairness to taxpayers, eleven and six states, respectively, received the lowest rating, meaning that the area under review needs some kind of dramatic reform; alternations at the margins will not be enough to fix the problems identified. *Id.* at 35. Most of the remaining states (twenty-six in adequacy of revenues and thirty-four in fairness to taxpayers) received ratings only one step above the lowest rating, meaning that although the state could continue to function as it currently does into the foreseeable future, there are clear elements to the tax system that would benefit from change. *Id.* at 33–35. Only a small minority of states received good ratings. *Id.* Moreover, especially in the adequacy of revenues area, a good rating probably conceals inequities buried beneath the big picture. For example, public school funding, an important indicator of whether the state meets the moral requirement of reasonable opportunity, normally has a substantial local component. See H.C. HUDGINS & RICHARD S. VACCA, LAW AND EDUCATION: CONTEMPORARY ISSUES AND COURT DECISIONS 145 (4th ed. 1995) (stating that local property taxes are “the backbone of public school finance”).

¹⁸⁶ Blumenfeld, *supra* note 147 (“But quietly, for the past five years, he has also been building a network of ‘mini-Grover’ franchises. He has crisscrossed the country, hand-picking leaders, organizing meetings of right-wing advocates in 37 states.”); Malone, *supra* note 147 (“Norquist has begun passing out maps of the United States in which every state that has a version of his Wednesday meeting is colored red. The

of the Christian Coalition, are actively promoting ethically troubling tax policy positions or conclusively immoral flat models.¹⁸⁷

Given that nearly eighty percent of Americans claim to adhere to Christianity or Judaism in some form, why is our tax policy at both the national and state levels continuing to move further away from reflecting genuine Judeo-Christian values? The scarcity of faith-based ethical reflection in tax policy is a symptom that religion, as a viable and authentic conviction with a principled moral compass is in deep trouble. The practice of Christianity in particular has become a low-sacrifice operation. What passes for faith-based ethics, beyond matters of personal piety, has become centered on a few highly emotional and theologically divisive issues that for most people involve little or no direct personal sacrifice. Although these issues raise significant theological concerns where reasonable people of faith can and do pas-

red states now number 37, including the District of Columbia. By the end of the year, Norquist predicted, all except six states will have regular gatherings.”).

¹⁸⁷ Eleven Christian Coalition state affiliates (Alabama, Colorado, Florida, Georgia, Hawaii, Iowa, Kentucky, Maryland, New Jersey, New York and Texas) explicitly mention or allude (determined by drawing reasonable inferences from voter guides, legislation trackers or candidate endorsements) to their support for lower taxes on their websites, with some directly supporting the permanent enactment of President Bush’s tax cuts or moving towards a flat system. See Christian Coalition of Ala., <http://www.ccbama.org> (follow “Taxes and Economics” hyperlink under “Issues”) (last visited Jan. 25, 2006); Christian Coalition of Colo., *2004 Christian Coalition of Colorado Voter Guide 2* (2004), http://www.ccco.org/VoterGuides/2004_CCCO_VG_v3.pdf; Christian Coalition of Fla., *Senate Issues 1–2* (2004), <http://www.cfla.org/pdf/04VG/USscoreCard.pdf>; Christian Coalition of Ga., *U.S. Senate Primary Election Voter Guide*, http://www.gachristiancoalition.org/docs/us_senate_1page.pdf (last visited Jan. 25, 2006); Christian Coalition of Iowa, <http://www.iowachristian.com/economy.htm> (last visited Jan. 25, 2006); The Christian Coalition of Ky., <http://ckkentucky.org> (follow “About Us” hyperlink; then follow “Agenda” hyperlink) (last visited Jan. 25, 2006); Christian Coalition of Md., <http://www.ccmaryland.org> (scroll down to “Our Goals Include”) (last visited Jan. 25, 2006); Haw. Christian Coalition, <http://www.hi-christian.com> (follow “About Us” hyperlink) (last visited Jan. 25, 2006); N.J. Christian Coalition, <http://www.njchristiancoalition.org> (follow “Current Legislative Agenda” hyperlink) (last visited Jan. 25, 2006); N.Y. Christian Coalition, <http://www.nychristiancoalition.org> (follow “Enter” hyperlink; then follow “Legislative Agenda” hyperlink) (last visited Jan. 25, 2006); Tex. Christian Coalition, <http://www.texascc.org> (follow “Voter Guide” hyperlink; then follow “Anderson” hyperlink) (last visited Jan. 25, 2006). Additionally the National Christian Coalition, which explicitly supports making President Bush’s tax cuts permanent and flat tax models, see *supra* note 174, provides links on its website offering voter guides in thirty-eight states permitting a logical inference that at least some religious organizations exist in those states that support these tax policy trends. See generally Christian Coalition of America, Voter Guides, <http://www.cc.org/voterguides.cfm>.

sionately disagree, elevating these issues to be of supreme importance while ignoring the high degree of sacrifice required by the clear biblical mandates of justice perverts faith into a meaningless and hollow ritual.¹⁸⁸

A few examples of these theologically important and controversial, but for many people ultimately low-sacrifice issues include the numerous fights across the country to erect monuments depicting the Ten Commandments in government buildings,¹⁸⁹ as well as the questions of whether gay marriage,¹⁹⁰ stem cell research,¹⁹¹ euthanasia,¹⁹²

¹⁸⁸ See *supra* notes 68–71 and accompanying text (stating that authentic religion requires significant personal sacrifice and that religion confined to worship and words is false); BLOMBERG, *supra* note 44, at 32 (discussing the message of Jesus’s admonishment of the Pharisees for overemphasizing tithing and neglecting the more important matters of justice, mercy, and faithfulness); KEENER, *supra* note 49, at 302–03, 338 (discussing Jesus’s message as criticizing religious leaders of his day for neglecting weightier matters of justice, which is a wake-up call to Christians of today who focus on “isolated passages while neglecting broader principles” while wanting “God to affirm that we are religious enough without costing us anything more than we have already been offering him”); MATHEWS, *supra* note 52, at 17–18 (discussing the condemnation of Judah in the message of *Amos* as “the most alarming for us today” and stating that “[a]s a nation nurtured by the Judeo-Christian tradition, we have a greater responsibility, along with our greater privilege, for our actions”); see also WALLIS, *supra* note 7, at 3, 58 (noting that “religious issues” in elections and the public debate tend to get reduced to the Ten Commandments displays in public buildings, gay marriage, and abortion, while ignoring the weightier matters of social justice and uplifting the poor).

¹⁸⁹ Seven (Alabama, Colorado, Florida, Georgia, Iowa, Kentucky and Maryland) of the eleven state Christian Coalition affiliates that support ethically troubling or conclusively immoral tax policy positions also support the public display of the Ten Commandments. See Jenna Buzzacco, *Moore Emphasizes Law, Religion Link*, Des Moines Register, Sept. 21, 2003, at 5B (Iowa); Christian Coalition of Ala., <http://www.ccbama.org> (follow “Religious Freedom” hyperlink under “Issues”; then follow “Get Informed” hyperlink) (last visited Jan. 25, 2006); Christian Coalition of Ga., <http://www.gachristiancoalition.org> (follow “Action Alerts” hyperlink; then follow “The Court and the Ten Commandments” hyperlink) (June 28, 2005); The Christian Coalition of Ky., *supra* note 187; Christian Coalition of Md., <http://www.ccm Maryland.org> (follow “Issues” hyperlink) (last visited Jan. 25, 2006); *Empire Briefs: Group Hopes to Oust Mayor*, DENVER POST, Apr. 3, 2001, at B4 (Colorado); Letitia Stein, *Alabama Judge Tells Crowd To ‘Pray For Our Country,’* ORLANDO SENTINEL, Oct. 11, 2003, at B1 (Florida).

¹⁹⁰ Ten (Alabama, Colorado, Florida, Georgia, Hawaii, Iowa, Kentucky, Maryland, New York, and Texas) of the eleven state Christian Coalition state affiliates that support ethically troublesome or conclusively immoral tax policy positions also denounce gay marriage. See Christian Coalition of Ala., <http://www.ccbama.org> (follow “Marriage & Family” hyperlink under “Issues”) (last visited Jan. 25, 2006); Christian Coalition of Colo., <http://www.ccco.org> (follow “Legislation” hyperlink; then follow “2005 Bill Tracker” hyperlink) (last visited Jan. 25, 2006); Christian Coalition of Fla.,

and abortion¹⁹³ should be legal or illegal. Without minimizing the

<http://www.ccfla.org> (follow “Protect Marriage” hyperlink) (last visited Jan. 25, 2006); Christian Coalition of Ga., <http://www.gachristiancoalition.org> (follow “Action Alerts” hyperlink; then follow “Nebraska’s Marriage Law Overturned” hyperlink) (May 16, 2005); Christian Coalition of Iowa, <http://www.iowachristian.com> (follow “Homosexuality” hyperlink under “Current Issues”; then follow “The Christian Position on Homosexuality” hyperlink) (last visited Jan. 25, 2006); The Christian Coalition of Ky., *supra* note 187; Christian Coalition of Md., <http://www.ccmaryland.org> (follow “Issues”) (last visited Jan. 25, 2006); Haw. Christian Coalition, *supra* note 187; N.Y. Christian Coalition, *supra* note 187; Tex. Christian Coalition, *supra* note 187. In addition, the Christian Coalition of Ohio both denounces same-sex marriage, *see* The Christian Coalition of Ohio, San Francisco Gay “Marriage” Circus Is A Farce, <http://www.ccoho.org> (follow “Feb. 17, 2004”), and also supports lower taxes in general. *See* Catherine Candisky, *Davidson’s Appointment Riles Conservative Groups*, THE COLUMBUS DISPATCH, Mar. 9, 2001 at 2D; *see also* David Kirkpatrick, *The 2004 Campaign: Same Sex Marriage; Rally Against Gay Marriage Draws Thousands to Capital*, N.Y. TIMES, Oct. 16, 2004 at A12 (Dr. James Dobson denouncing the Supreme Court’s decisions upholding gay rights).

¹⁹¹ Six (Alabama, Florida, Georgia, Iowa, Maryland and New York) of the eleven state Christian Coalition affiliates that support ethically troubling or conclusively immoral tax policy positions also oppose stem cell research. *See* Christian Coalition of Alabama, <http://www.ccbama.org> (follow “Abortion” hyperlink under “Issues”) (last visited July 12, 2005); Christian Coalition of Ga., <http://www.gachristiancoalition.org> (follow “Action Alerts” hyperlink; then follow “H.R. 810 Passes the House” hyperlink) (May 25, 2005); Christian Coalition of Iowa, <http://www.iowachristian.com> (follow “Abortion” hyperlink under “Current Issues”) (last visited Jan. 25, 2006); Christian Coalition of Md., *2005 Senate Bills of Interest to Christians 5* (2005), <http://www.ccmaryland.org> (follow “MD Legislative Scorecards” hyperlink); N.Y. Christian Coalition, *supra* note 187; Joe Follick, *State Lawmakers Prepare To Re-enter Cloning Debate*, THE TAMPA TRIBUNE, Jan. 1, 2003 at 1 (Florida). Additionally, the Christian Coalition of Ohio denounces stem cell research, *see* The Christian Coalition of Ohio, Senate Democrats Playing Politics With Adult Stem Cell Research Bill, <http://www.ccoho.org> (Dec. 5, 2005), and supports lower taxes in general. *See* Candisky, *supra* note 190, at 2D.

¹⁹² Three (Florida, Georgia and New York) of the eleven state Christian Coalition affiliates that explicitly support ethically troubling or conclusively immoral tax policy positions trends also oppose euthanasia. *See* Christian Coalition of Fla., *2003-2004 Legislative Scorecard 3*, <http://www.ccfla.org/pdf/04ScoreCard.pdf> (last visited Jan. 25, 2006); Christian Coalition of Ga., <http://www.gachristiancoalition.org> (follow “Chairmen’s Desk” hyperlink; then follow “Terri, Life and the Courts” hyperlink) (April 15, 2006); N.Y. Christian Coalition, *supra* note 187.

¹⁹³ All eleven Christian Coalition state affiliates that support ethically troubling or conclusively immoral tax policy positions also denounce abortion. *See* Christian Coalition of Ala., *supra* note 191; Christian Coalition of Colo., *supra* note 190; Christian Coalition of Fla., *supra* note 187, at 1–2; Christian Coalition of Ga., *supra* note 192; Christian Coalition of Iowa, *supra* note 191; The Christian Coalition of Ky., *supra* note 187; Christian Coalition of Md., <http://www.ccmaryland.org> (follow “Issues” hyperlink) (last visited Jan. 25, 2006); Haw. Christian Coalition, *supra* note 187; N.J.

genuine desire of many to see more faith-based symbols in public places, fighting for Ten Commandments displays while also being indifferent to whether the community actually embraces Judeo-Christian standards of justice is idolatry.¹⁹⁴ Without undermining the theological importance of these issues, morally opposing gay marriage, stem cell research, and euthanasia, while at the same time refusing to embrace the high level of sacrifice required by tax policy reflecting genuine Judeo-Christian values, inappropriately uses these issues as a low-sacrifice decoy to avoid the high-sacrifice elements of genuine faith-based ethics.¹⁹⁵

Christian Coalition, *supra* note 187; N.Y. Christian Coalition, *supra* note 187; Tex. Christian Coalition, *supra* note 187. Additionally, the Christian Coalition of Ohio both denounces abortion, *see* The Christian Coalition of Ohio, The ACLU Court Challenges Are No Surprise, at <http://www.ccoho.org> (May 2, 2005), and also supports lower taxes in general. Candisky, *supra* note 190, at 2D; *see also* Kirkpatrick, *supra* note 190 (Dr. James Dobson denouncing the Supreme Court's decisions upholding abortion rights).

¹⁹⁴ HUEY, *supra* note 70, at 126–27 (discussing the temptation of idolatry as condemned by *Jeremiah* and resulting from a desire of people to see what they are worshiping rather than following the difficult course of worshiping God in spirit and truth, noting that “the greatest appeal of an idol [is] that it [does] not demand holy living”); STOTT, *supra* note 66, at 291 (defining an idol as “a god-substitute” that can be “[a]ny person or thing that occupies the place which God should occupy,” which can even take the form of “church, religion and Christian service”); OSWALT I, *supra* note 27, at 6, 106 (noting that the Prophets generally identified the people's apostasy as tantamount to their “forgetting God,” linked the people's service to other gods as equal to the “the abuse of those weaker than oneself,” and specifically identified *Isaiah*, *Jeremiah*, and *Ezekiel* as linking idolatry and social injustice); WRIGHT, DEUTERONOMY, *supra* note 23, at 65 (discussing the Decalogue as a foundation block of blessings for the protection of the whole community that must be consolidated into social structures in order to reach its objectives); *see also* James L. Evans, *Court's Ruling is not God's Word*, BIRMINGHAM POST-HERALD, July 9, 2005, at C-10:

The Bible is not a magic good luck charm that brings fortune because it is on display [A] statue of the Bible is not the way to acknowledge God If we would take time to read the book rather than trying to build monuments to it, we would find that the way to honor God is by loving kindness, doing justice and walking humbly with God. But I guess a monument is easier.

¹⁹⁵ This article recognizes that gay marriage, stem cell research, and euthanasia raise important theological concerns and takes no position on competing theological positions. *See generally* PERRY, *supra* note 8, at 61–62 (noting that widespread disagreement exists among Christian biblical scholars concerning the scriptural teachings addressing homosexual conduct). However, regardless of one's theological views of these issues, when these issues are exalted as a litmus test of faith-based ethics in a manner that downplays or ignores the clear importance of fostering Judeo-Christian-based tax policy and other issues of justice that require significant personal sacrifice,

While recognizing the monumental dilemma raised by the enormously complex and emotional issue of abortion, the narrowing of the major moral and theological concerns raised by the tragedy of abortion as only involving the question of its legality is an especially insidious and hypocritical form of using a low-sacrifice position to masquerade one's beliefs as genuine faith-based ethics.¹⁹⁶ This is because the moral issue of abortion cannot be separated from the general moral imperative that society, through its public policy, must guard the well-being of its most vulnerable citizens.¹⁹⁷ A community cannot claim to be truly pro-life unless it embraces the high degree of sacrifice required by Judeo-Christian based tax policy. This is because a community must have adequate tax revenues to fully embrace the dignity of life, which includes effectively addressing the problem of poverty, providing all mothers a basic level of support, including ade-

these issues simply become low-sacrifice decoys because they do not directly and personally affect the vast majority of people of faith. See GETZ, *supra* note 39, at 107 (“It may be startling for some Christians . . . to realize that more is recorded in Scripture about material possessions and how Christians are to use them for the glory of God than any other aspect of Christian living — including principles for maintaining sexual purity.”).

¹⁹⁶ This article recognizes that abortion raises major moral and theological concerns and that reducing the number of abortions as much as possible is an important faith-based goal, but takes no position on the narrow question of whether abortion should be legal or illegal. See also WALLIS, *supra* note 7, at 11, 79 (urging both sides, conservatives who favor making abortion illegal, and liberals who believe the right to choose abortion is a fundamental right, to join together and work on measures to dramatically lower the abortion rate by addressing teen pregnancy, adoption reform, and increasing support networks and safety nets for low-income women and children).

¹⁹⁷ MATHEWS, *supra* note 52, at 6 (“The challenge for us Christians is to influence our nation for godliness We also can stand for the biblical values that have undergirded Western civilization, such as social justice, the sacredness of life, and moral decency.”); THIELMAN, *supra* note 73, at 71, 106 (noting that our neighbors include not only God's people but also the poor and the unborn, and therefore “it seems proper to seek ways of upholding God's vision for public justice by relieving oppression, effecting peace, and alleviating suffering within society,” which includes working for public policies that “show mercy to the poor, encourage peace, and spare the lives of the unborn”); WRIGHT, DEUTERONOMY, *supra* note 23, at 83 (noting that the commandment prohibiting theft has the same “broad relevance to matters of material property and economic institutions, policies, and practice” that affect the dignity of human life as the commandment prohibiting murder has to difficult questions defining human life); see also BLOMBERG, *supra* note 38, at 84 (noting that the moral evaluation of any nation is determined by how well it takes care of the poor and powerless in its midst); GEORGE, *supra* note 51, at 383 (discussing the identify of one's neighbor in the Parable of the Good Samaritan as including “the loveless, the least, the unlikely” and being open-ended and not subject to precise definition).

quate pre-natal care and nutrition programs, and ensuring that all children enjoy a reasonable opportunity to reach their God-created potential by receiving decent healthcare and access to a good education.¹⁹⁸ Unfortunately, credible evidence indicates that many who claim to be pro-life have failed to support the greater levels of sacrifice required of tax policy models that truly embrace and guard the dignity of life.¹⁹⁹ This evidence is a wake-up call to those who claim abortion should be illegal on the grounds of faith-based moral principles. Unless they are also willing to bring their faith-based moral principles into the high-sacrifice realm of tax policy, their opposition to abortion is just another low-sacrifice proposition being driven by something other than genuine faith-based ethics and has no credibility as a respectable moral position.²⁰⁰

¹⁹⁸ See *supra* notes 20–21, 27–30 and 34–52 (because of human tendency towards greed, adequate tax revenue ensuring that the basic safety nets and opportunities guarding the dignity of life are morally required under God’s standards of justice). Moreover, credible evidence indicating that poverty directly contributes to more abortions supports the conclusion that adequate tax revenues targeted to alleviate poverty will directly help decrease the number of abortions. See Rachel K. Jones et al., *Patterns in the Socioeconomic Characteristics of Women Obtaining Abortions in 2000–2001*, PERSPECTIVES ON SEXUAL & REPROD. HEALTH, Sept. 2002, at 226–35 (study indicates that low-income women account for only 30% of all women of reproductive age, but account for 57% of all abortions and that the abortion rate for low-income women has risen, even though the abortion rate overall is declining); see also PERRY, *supra* note 8, at 117–19 (discussing the work of Cathleen Kaveny of the Notre Dame Law School suggesting that pro-life religious believers should address wider public policy issues rather than confining their efforts to make abortion illegal); WALLIS, *supra* note 7, at 63 (noting that “during the first term of the Bush Administration, some evidence indicates that the number of abortions again rose, due to the declining status of low-income women”).

¹⁹⁹ JEAN REITH SCHROEDEL, IS THE FETUS A PERSON? A COMPARISON OF POLICIES ACROSS THE FIFTY STATES 153–56 (2000) (extensive empirical study on the public policies of all fifty states shows that states with greater legal restrictions on abortion are unwilling to support the most vulnerable mothers and children in the state (particularly in the areas of education spending, welfare allotments to dependent children, foster care payment rates, and stipends to adoptive families); the study concludes that “pro-life states want to prevent women from having abortions but seem unwilling to provide a decent level of support for those children after their birth”).

²⁰⁰ See Wilton H. Bunch, *A Seamless Garment of Love: A Review and Reflection on “Is the Fetus a Person?”*, CHRISTIAN ETHICS TODAY, Aug. 2001, at 26–27 (finding that Schroedel’s data “clearly shows a complete disconnect between opposition to abortion and a more global concern for protection and care for the fetus and child,” and calling for a response that would include medical treatment for drug and alcohol addicted women, pre-natal care and healthcare for all needy women and children, adoption assistance, support for low-income single mothers and education funding; and finally concludes that “Schroedel has shown that, at the present time, ‘anti-

The path when large numbers of people and their political and spiritual leaders supposedly committed to faith succumb to the temptation of greed and use low-sacrifice issues to cover up injustice is well worn, with disastrous consequences.²⁰¹ If the moral compass of our nation, as evidenced by our obsession with low-sacrifice issues and our allowing the morally offensive tax policy trends continues on this path, the biblical message promises that as a nation, we will decline and ultimately fail.²⁰² The Hebrew Prophets continually warned their people who strayed from the standards of justice embodied in the Law and turned to the idolatrous worship of wealth and inanimate objects to repent or face judgment.²⁰³ During his earthly ministry, Jesus clearly

abortion' and 'pro-life' are not synonyms. They must become identical in meaning if opposition to abortion is to remain a respected moral enterprise.”); *see also* WALLIS, *supra* note 7, at 299 (criticizing both Democrats and Republicans for using abortion as a symbolic issue in political campaigns, noting particularly that “Republicans literally win elections on the basis of their anti-abortion position and then proceed to ignore the issue . . . by doing nothing to reduce the number of abortions.”).

²⁰¹ Although tax policy is a very important and arguably the most important high-sacrifice moral issue demanding a faith-based response, there are many other high-sacrifice moral issues of justice, crying out for a faith-based response. *See* WALLIS, *supra* note 7, at 221–23, 259–69 (discussing the injustices of the working poor not being paid a living wage and corporate scandals enriching top executives, while cheating ordinary workers out of their life savings, as moral issues of justice requiring a faith-based response).

²⁰² HUEY, *supra* note 70, at 446 (stating that a contemporary application of *Lamentations*, which describes the misery of ancient Israel after they ignored the Prophets and suffered military defeat and exile, warns that the “wickedness of any people will eventually result in the disintegration of that society”); KEENER, *supra* note 49, at 73 (in the context of discussing Jesus’s respite from persecution upon the death of Herod, noting that “[e]very unjust empire in history has ultimately fallen”); MATHEWS, *supra* note 52, at 5 (“History testifies that nations that build on the bones of innocent people collapse under the weight of their own corruption. While most people today would point to political or economic factors for the fall of a nation, the Bible explains that a society stands or falls on moral grounds.”); *id.* at 7 (“[T]he key principle behind *Amos’s* message [is that] God judges nations on the basis of justice and morality.”); MOTYER, *supra* note 65, at 65 (same); THIELMAN, *supra* note 73, at 129 (discussing the need for “laws in any larger society . . . to restrain and channel the human desire to dominate others” because the human desire for domination “is so strong and so universal that the community that does not effectively accomplish [its regulation] self-destructs”); WALLIS, *supra* note 7, at 151, 189 (analogizing the “Pax Americana” to the “Pax Romana” and stating that the Word of God will survive the “Pax Americana” as it did the “Pax Romana” after the fall of ancient Rome).

²⁰³ BARKER & BAILEY, *supra* note 32, at 81, 92–101, 118–25 (extensively discussing the oracles of judgment in the message of *Micah*); BLOCK I, *supra* note 75, at 713 (discussing the theological implications of the message of *Ezekiel* as predicting certain judgment on a society that continues to abuse and exploit the weaker members);

stated that real faith and discipleship involves a great deal of personal sacrifice, and that this will be the crucial factor at the time of final judgment.²⁰⁴ Deuteronomy's warning rings especially true in light of the current tax policy trends and the excuses defending them:

Be careful that you do not forget the Lord your God, failing to observe his commands, his laws and his decrees Otherwise . . . when you build fine houses and settle down . . . and all you have is multiplied, then your heart will become proud You may say to yourself, "My power and the strength of my hands have produced this wealth for me." But remember the Lord your God . . . gives you the ability to produce wealth, and so confirms his covenant If you ever forget the Lord your God . . . I testify against you . . . that you will surely be destroyed.²⁰⁵

HUEY, *supra* note 70, at 94–99, 488 (discussing the message of *Jeremiah* as predicting judgment of ancient Israel for violating God's standards of justice as providing the contemporary message that we cannot violate God's moral laws without suffering the painful consequences); OSWALT II, *supra* note 47, at 523–24 (discussing the general message of *Isaiah* 59, warning that a collapsing society covers up the oppression of the weak with lies, leading to totally corrupted hearts, which prevent the truth from being recognized, resulting in "justice . . . fall[ing] prey to devouring self-interest" and "life quickly fall[ing] to the lowest common denominator"); SMITH & PAGE, *supra* note 35, at 31, 86, 160–61 (discussing the message of *Amos* of God imposing judgment on Israel for oppressing the weak, noting that they had greater accountability to God than the surrounding nations); SMITH, *supra* note 30, at 30–31, 35, 52, 135, 131 (discussing extensively the message of judgment built throughout the message of *Amos* noting "[t]he accusation against Israel includes a strong statement of the nation's socio-economic policy and its implication how the weak and poor are treated").

²⁰⁴ BLOMBERG, *supra* note 44, at 27, 219, 301, 275–80 (discussing the message of judgment in numerous places throughout *Matthew* as especially hitting hard purportedly faithful powerful, influential, and wealthy people who failed to serve Jesus); BOCK II, *supra* note 41, at 1373–78 (the lesson of judgment in the story of the Rich Man and Lazarus is principally a message to the rich indicating that "[t]he ethical choices of this life last for eternity" because "once God has rendered judgment, it is permanent"); KEENER, *supra* note 30, at 345 (in the context of Jesus's message to cities, warning that "[w]hen entire cultures perpetuate a hardness against God for generation after generation, judgment may be God's primary means of gaining the people's attention"); KEENER, *supra* note 49, at 360–62 (discussing the message of the division of the sheep and the goats as indicating that "the nations will be judged according to how they respond to the gospel and its messengers"); THIELMAN, *supra* note 24, at 84, 103, 107, 213–15 (stating that the message of *Matthew* warns inauthentic Christians who confess Jesus as Lord but neglect matters of justice and sacrifice of certain eschatological judgment).

²⁰⁵ *Deuteronomy* 8:11–20.

In order to get off this path leading to our own destruction and get on the right path, the real faithful nationwide and in each state must rise up and demand that the atheistic values of objective ethics currently poisoning our tax policy discussions and decisions be purged and replaced with genuine Judeo-Christian values.²⁰⁶

The situation in Alabama foreshadows a chilling future for the rest of the nation if the objectivist values driving the Bush Administration's federal tax policy and the tax policy in many other states continue to dominate unchallenged. Of all the states, Alabama has the most inadequate and unfair state and local tax policy in the nation — one which clearly violates the moral principles of Judeo-Christian ethics.²⁰⁷ The consequences of Alabama's immoral tax policy and its neglect of children and other vulnerable citizens has been devastating. Of the fifty states, Alabama has one of the highest rates of poverty, and in many areas measuring the well-being of citizens, Alabama ranks among the worst of the states in the nation.²⁰⁸ Moreover, on the

²⁰⁶ See *supra* notes 202–05; see also BLOMBERG, *supra* note 44, at 301 (discussing the message of Jesus's dialog with the disciples, declaring that many who are first will be last, and many who are last will be first, and that this message “should challenge First-World Christians . . . to radical changes in their personal and institutional spending”); MOO, *supra* note 50, at 227 (discussing the message of *James* as invoking the example of the Prophets who spoke out against injustice and were persecuted for it as one Christians should follow).

²⁰⁷ The poorest Alabamians and the lower-middle classes are grossly overtaxed by regressive income taxes and punishingly high sales taxes that apply to even basic necessities, for example, grocery items. Alabama's lowest-in-the-nation property taxes that especially favor the largest and most profitable landowners are responsible for this untenable burden, and cause Alabama's revenues to be the lowest in the nation, leaving most public schools and many other functions desperately underfunded. See Hamill, *An Argument for Tax Reform*, *supra* note 2; see also Barrett, *supra* note 185, at 38 (fifty-state survey describes Alabama's tax laws as “ludicrous” and ranks Alabama at the bottom in the categories of adequacy of revenues and fairness to taxpayers); STATE RANKINGS 2005: A STATISTICAL VIEW OF THE UNITED STATES 289, 295 (Kathleen O'Leary Morgan & Scott Morgan, eds., 16th ed. 2005) (Alabama ranked 50th of all states in per capita revenues raised from state and local taxes and per capita revenues raised from property taxes).

²⁰⁸ *Id.* at 495–99, 530 (Alabama among the top ten or top five states in all poverty indicators); *id.* at 367, 377, 384 (Alabama among the top five states in the percent of population lacking access to primary health care, percent of low birth weight babies and infant mortality); *id.* at 95, 129, 140, 171 (Alabama among the bottom five states in per capita gross state product, percentage of population graduated from high school, per pupil K–12 education spending, and percentage of population employed); see also Carla Crowder, *State 48th in Kids Count Report*, BIRMINGHAM NEWS, July 27, 2005, at B-1 (national child advocacy group in its annual Kids Count Report ranks Alabama 48th, indicating that “[t]he plight of unemployed parents and children in

economic development front, Alabama has lagged substantially behind the rest of the nation and the Southeast.²⁰⁹ Rather than address these problems as spiritual issues demanding a faith-based response, too many of Alabama's more than ninety percent Christian population have allowed low-sacrifice issues to distract them from these glaring offenses to Judeo-Christian standards of justice.²¹⁰

One of the most frightening lessons Alabama offers the rest of the nation is the story of the defeat of Governor Bob Riley's tax and accountability plan in September 2003. Under the plan, more than half of all voters — the poor and lower-middle class Alabamians currently being overtaxed — would have enjoyed an immediate tax cut, and additional revenues raised by increasing the taxes of wealthier Alabam-

poverty is becoming more common across the state").

²⁰⁹ WAYNE FLYNT, ALABAMA IN THE TWENTIETH CENTURY 148–52 (2004) (highlighting Alabama's high poverty rates, underperforming economy, as compared to neighboring states, slowest growth in wages in the southeast, and loss of jobs, as resulting from years of state leaders chasing low-wage jobs, handling social change in a negative manner, and an unwillingness to invest in quality K–12 schools and respected research institutions, all of which contribute to the state being hampered by a backward image that makes it difficult to attract new industry).

²¹⁰ See *supra* notes 189–93 (the Christian Coalition of Alabama supports Ten Commandment displays and is opposed gay marriage, stem cell research, and abortion, while favoring low taxes along the lines of flat tax models); *infra* note 212 (Christian Coalition of Alabama vehemently opposed Governor Bob Riley's tax and accountability plan which would have started the process of bringing Alabama's tax structure closer to reflecting genuine Judeo-Christian values). More than any other state, Alabama has been at the center of the low-sacrifice claim that Ten Commandments monuments in government buildings are necessary to acknowledge God. See *Glassroth v. Moore*, 335 F.3d 1282 (11th Cir. 2003), *cert. denied*, 540 U.S. 1000 (2003) (Alabama Ten Commandments monument held an unconstitutional endorsement of religion); *Moore v. Judicial Inquiry Comm'n*, 891 So. 2d 848 (Ala. 2004) (Alabama Supreme Court issues final order affirming Justice Moore's removal from office for failing to comply with the federal court order to remove the Ten Commandments monument); Jannell McGrew, *Conflict Brings National Spotlight*, MONTGOMERY ADVERTISER, Aug. 31, 2003, at A1 (with the support of John Giles, executive director of the Alabama Christian Coalition, Judge Roy Moore's determination to keep a Ten Commandments monument in the state judicial building spun into a national debate over the separation of church and state); Diane Roberts, *Notes From Tuscaloosa: Alabamians Go by an Outdated Book*, N.Y. TIMES, Feb. 25, 2002, at A21 (discussing Alabama's 1901 Constitution as "enshrin[ing] an inequitable tax structure, a pauperized education system, racism, and centralization of power in the hands of special interests," and describing Judge Roy Moore's Ten Commandments saga and Moore's praise of the 1901 Constitution "for keeping taxes down"); see also Harvey H. Jackson III, *Talibama Dreaming*, THE ANNISTON STAR, Jan. 26, 2005, at 9A (humorous editorial depicting Alabama as a theocracy with former Chief Justice Moore as the governor).

ians and large landowners would have started the process of improving the funding for education and many other poorly supported areas. Despite these features, Riley's plan failed at the polls by a two-to-one margin.²¹¹ With the help of Grover Norquist and his coalition behind the scenes, powerful special interest groups benefiting from the status quo, and shamefully, the Christian Coalition of Alabama, ran well-funded advertisement campaigns laced with lies and distortions that convinced many low-income Alabamians that Riley's plan would hurt them.²¹² This story illustrates that generations of oppression and lack of access to a good education — both of which are directly traceable to Alabama's immoral tax policy structure — have substantially contributed to rendering the people of Alabama unable to improve their lives through the normal democratic process.²¹³

²¹¹ David M. Halbfinger, *Alabama Voters Crush Tax Plan Sought by Governor*, N.Y. TIMES, Sept. 10, 2003, at A14; Collin Hansen, *'Jesus Tax' Plan Dies: Alabama's Fiscal Debate Exposes a Divide Between Christians*, CHRISTIANITY TODAY, Nov. 2003, at 25–26; see also WALLIS, *supra* note 7, at 245 (praising Governor Riley as a “conservative Republican governor who has been reading his Bible and decided to put his Christian faith first” and “whose ideology has been altered by his faith and who was trying to do the right thing,” and expressing hope that “[m]aybe some of his former colleagues in Washington will get the message”).

²¹² Dale Russakoff, *Alabama Tied in Knots by Tax Vote; Riley Stuns GOP by Stumping for Hike*, WASH. POST, Aug. 17, 2003, at A1 (describing the campaign as “taking on national dimensions, with conservative Republican groups in Washington mobilizing to defeat Riley's plan,” and quoting Grover Norquist as vowing to make Riley “the poster child for Republicans who go bad”); Blumenfeld, *supra* note 147 (“When Alabama Gov. Bob Riley (R) tried to pass a state tax increase, Norquist helped defeat it. ‘We’re going to keep him on life support,’ he said. ‘We’ll put him in a freezer, as an example.’”); see also Russakoff, *supra* (describing the Christian Coalition of Alabama's opposition to Riley's plan despite an endorsement offered by Christian Coalition's national president Roberta Combs); *id.* (discussing the paradox of low-income, especially black, voters who would receive the largest tax cuts opposing the plan and describing a radio ad, paid for by a political action committee whose top contributors included large special interests that would lose tax breaks under the plan, as “featuring a man with poor diction warning, ‘Our property taxes could go up as much as fo’ hundred percent,’ and blaming ‘Montgomery insiders who have been ignorin’ us for years’”); *Amendment One: A Yes Vote on Riley's Plan Offers Hope for Future*, THE BIRMINGHAM NEWS, Sept. 7, 2003, at 2C (urging all voters to support Riley's plan, and stating that the opposition should be ashamed for “fueling with their dollars a media campaign based on distortion, deception and distrust”).

²¹³ Understanding the entire situation in Alabama that led to the defeat of Governor Riley's plan requires an in-depth knowledge and an emotional understanding of the state's complicated history of oppression, which took the form of voting restrictions and low property taxes being anchored in the state's constitutions in 1875 and 1901. Long before George Wallace became a household name during the Civil Rights struggle of the 1960s, blacks and most poor whites were not able to vote, nor did they

The defeat of Governor Riley's tax reform plan in Alabama stands as a powerful plea to other states and the nation to get their own tax policy structures back on track towards genuine Judeo-Christian values before it is too late. Because of the human tendency to succumb to greed, if left to its own inertia, tax policy will gravitate towards the atheistic values of objectivist ethics with the resulting tragic consequences illustrated by Alabama's story. This is because greed drives the wealthy and powerful to do everything they can to avoid paying their fair share of taxes. The mass in the middle is also driven by greed, like the millions of middle-class Americans who sold out for a few pieces of silver by supporting President Bush's tax cuts so they could save a few hundred dollars while the wealthiest saved many thousands of dollars. They, too, will be tempted to jeopardize the funding of basic safety nets that uplift the poor, but in the long run will protect at least some of them. Only a solid, faith-inspired moral awakening has a chance of defeating these powerful forces of greed currently threatening our long-term survival.²¹⁴ If all people of faith, especially religious and political leaders and those enjoying superior knowledge over the tax area do not rise up and demand that our tax policy reflect genuine Judeo-Christian values, the entire country will face the downward spiral already experienced in Alabama despite the

have access to an adequate education. Although the Civil Rights movement and the Voting Rights Act have eliminated the injustices of segregation and restored the franchise, the state of Alabama is still under the bondage of the 1901 Constitution, which continues to shield the largest landowners from any modicum of property tax and concentrates power over local matters in the state legislature. So far, this system has proved to be impossible to reform, due to powerful special interest groups using lies and distortions to keep the constitutionally enshrined unfair benefits they enjoy under the status quo. Over the past hundred years, this situation has produced a political climate that operates more on patronage and pork than on efficiency, and a voting population that understandably does not trust their own government but is also vulnerable to being swayed by emotional appeals and deception. *See generally* FLYNT, *supra* note 209; HARVEY H. JACKSON III, *INSIDE ALABAMA: A PERSONAL HISTORY OF MY STATE* (2003); Susan Pace Hamill, *The Book That Could Change Alabama*, 56 ALA. L. REV. 219 (2004) (book review of *Inside Alabama*, exploring the themes of bondage and oppression that led to political and religious leaders failing to bring the state forward, with an extensive reflection on the defeat of Governor Riley's plan and how the lessons of history shed light on the conditions leading to the defeat, and the difficult circumstances faced by those seeking to change those conditions).

²¹⁴ WALLIS, *supra* note 7, at 66, 22–24 (stating that “[t]he best response to bad religion is better religion, not secularism,” noting that real social change must have a spiritual foundation, and that the only way to change a society is by “chang[ing] the wind, transform[ing] the debate, recast[ing] the discussion, alter[ing] the context in which political decisions are being made,” and finally concluding that “people of faith and conscience are supposed to be . . . ‘wind changers’”).

efforts of many good Alabamians trying to remedy the terrible injustice poisoning our state — or as one writer put it, “as goes Alabama, so may go the nation.”²¹⁵

GRACIOUS GOD, You have blessed us with many resources and talents that have allowed us to multiply our wealth, broaden our knowledge, and build up our lives.

You have been patient with us even as our appetites grow bigger and bigger while our hearts proudly become more and more poisoned into believing in ourselves rather than in You.

Save us from our arrogant overconfidence that enthusiastic worship of You, passionate devotion to issues that cost us little, and charitable giving alone marks us as truly faithful.

Help us see that You are the God of the weightier matters of justice and help us overcome our greed keeping us from truly acting justly, loving mercy, and walking humbly with You as Your servant, sacrificing much in gratitude that You have given us so much. AMEN.

²¹⁵ Adam Cohen, *What Alabama's Low-Tax Mania Can Teach the Rest of the Country*, N.Y. TIMES, Oct. 20, 2003, at A16.