

# IS IT UNETHICAL TO EVADE TAXES IN AN EVIL OR CORRUPT STATE? A LOOK AT JEWISH, CHRISTIAN, MUSLIM, MORMON AND BAHA'I PERSPECTIVES

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## Abstract

The ethics of tax evasion has been a neglected topic in both the accounting and ethical literature. Until recently, not much has appeared on this topic. The present article reviews the recent literature, focusing on the question of whether tax evasion is unethical in an evil or corrupt state. The author concludes by giving his own views on the subject.

## Introduction

Until recently, not much has appeared in either the accounting or ethical literature on the ethics of tax evasion.<sup>2</sup> Perhaps the reason is

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<sup>2</sup> The most comprehensive recent item on this topic is THE ETHICS OF TAX EVASION (Robert W. McGee, ed. 1998). Many of the chapters in this book also appeared in THE JOURNAL OF ACCOUNTING, ETHICS & PUBLIC POLICY (1998). The most comprehensive treatment of tax evasion from an ethical perspective, as far as the author can determine, is Martin T. Crowe, *The Moral Obligation of Paying Just Taxes*. Catholic University of America Studies in Sacred Theology No. 84. Doctoral Dissertation, 1944. However, Crowe's treatment is limited to Christian (mostly Catholic) scholarship.

that accountants cringe at the thought of admitting in writing that tax evasion is not always unethical. Perhaps scholars are afraid that the Internal Revenue Service will punish them if they take the wrong position on the topic. However, the topic is an important one and one that needs to be discussed in these times of corrupt governments and bloated welfare states.

This article reviews the literature on the ethics of tax evasion from various religious perspectives, focusing on the question of whether tax evasion is unethical if the payments would go to an evil or corrupt state. Not surprisingly, the various religious perspectives do not agree. Surprisingly, the Jewish literature strongly suggests that it would be unethical to evade taxes under the Nazi regime, even though the taxes collected might be used to kill Jews.

There is at least one caveat that the reader must keep in mind when reading this article. The various religious views discussed in this article are based on just one or two authors from each religious perspective. For example, I could find just two Jewish authors who addressed the ethics of tax evasion from the Jewish perspective. My comments on the Jewish view of tax evasion is based on the premise that the views expressed in their articles are representative of "the" Jewish view.<sup>3</sup> I could find only one article on the Baha'i, Mormon and Muslim views and a few on various Christian perspectives, other than the articles I wrote from these perspectives,<sup>4</sup> so the reader must be

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<sup>3</sup> I have given more detailed comments on the views of the two Jewish authors in Robert W. McGee, *Jewish Views on the Ethics of Tax Evasion*, 1 JOURNAL OF ACCOUNTING, ETHICS & PUBLIC POLICY (Summer 1998).

<sup>4</sup> Robert W. McGee, *Is Tax Evasion Unethical?* 42 UNIVERSITY OF KANSAS LAW REVIEW 411-435 (1994); Robert W. McGee, *Should Accountants be Punished for Aiding and Abetting Tax Evasion?* 1 JOURNAL OF ACCOUNTING, ETHICS & PUBLIC POLICY 16-44 (Winter 1998); Robert W. McGee, *The Ethics of Tax Evasion in Islam: A Comment*, 1 JOURNAL OF ACCOUNTING, ETHICS & PUBLIC POLICY 162-168 (Spring 1998); Robert W. McGee, *Christian Views on the Ethics of Tax Evasion*, 1 JOURNAL OF ACCOUNTING, ETHICS & PUBLIC POLICY 210-225 (Spring

warned that the views of the authors I cite in this article may not be representative of the various religious views. But since I was unable to find other articles from the various religious perspectives, it is the best approach that could be taken under the circumstances. If readers disagree with the views expressed by any of the authors I cite, I invite them to write articles of their own expressing their differing opinions and citing the relevant religious literature to support their view. There is still room for contributions to the literature in this area, since it is so sparsely covered.

### **What Constitutes an Evil or Corrupt State?**

Perhaps the threshold question is what constitutes an evil or corrupt state? The answer is complicated by the fact that all governments are evil or corrupt to a greater or lesser extent. The Nazi regime of 1933-45 is regarded by many as the most evil regime of the twentieth century, although Stalin's Russia and Mao's China actually killed more people than did Hitler and Pol Pot's regime in Cambodia killed a larger percentage of the local population than did any of the three evil regimes mentioned above.<sup>5</sup> The Turks killed two million Armenians in 1915, so that regime might also be added to the list of evil regimes.

But a regime does not have to kill a lot of people to be evil or corrupt. Some governments in Eastern Europe, the CIS, Latin America

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1998); Robert W. McGee, *Jewish Views on the Ethics of Tax Evasion*, 1 JOURNAL OF ACCOUNTING, ETHICS & PUBLIC POLICY (Summer 1998).

<sup>5</sup> In Germany, Austria, Switzerland and (perhaps) Canada it is illegal to ask "How many died?" regarding the Nazi holocaust. I find such laws disgusting. The "official" number of Jews killed by Hitler is six million. However, this number has been challenged. Several studies have estimated the number of Jews killed to be much lower. The authors of these studies were immediately labeled anti-Semitic, as is anyone who asks the question, "How many died?" which I think is unfortunate. To further complicate matters, some of the people who have made a career of asking this question are admitted Nazis. Someone should write an article on this point from the perspective of free speech and press and the abuse of government power and special interest group influence on government.

and Asia could be labeled as corrupt, if not evil, because of the rampant bribery and suppression of individual rights. Western welfare states could be labeled corrupt because of their high tax rates and redistributive policies.<sup>6</sup>

Another measure of corruption is the degree of economic freedom that is denied to citizens. Various studies have attempted to measure the amount of economic freedom in various countries, using up to 50 different variables. The Heritage Foundation and the Wall Street Journal publish such surveys annually.<sup>7</sup>

How evil or corrupt does a government have to be before tax evasion is no longer unethical?<sup>8</sup> Should evil or corruption be measured by the number or percentage of lives terminated or ruined? Or by the total per capita tax bite taken? What if the government in question does not ruin many lives but merely makes life much more difficult? What if the government occasionally bombs other countries or confiscates the assets of its citizens without due process?<sup>9</sup>

If the system is a federal system and neither the federal nor the state or local governments meet the threshold for evil or corruption, can tax evasion be ethical if the total tax bite or total evil or corruption from all three levels of government exceeds the threshold amount? Can it be

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<sup>6</sup> Many readers may not have thought that redistribution policies are unethical, but a good case has been made to this effect. See BERTRAND DEJOUVENEL, *THE ETHICS OF REDISTRIBUTION*.

<sup>7</sup> BRYAN T. JOHNSON, KIM R. HOLMES AND MELANIE KIRKPATRICK, 1999 INDEX OF ECONOMIC FREEDOM (The Heritage Foundation and the Wall Street Journal, 1999).

<sup>8</sup> This question assumes that tax evasion is sometimes ethical and sometimes unethical, which is a very big assumption.

<sup>9</sup> The United States seems to be dropping bombs on some country every year or two. The War on Drugs has led to the confiscation of the property of countless individuals, many of whom are never indicted of any crime. Do these acts constitute sufficient abuse of power for taxpayers to ethically cut off tax support? If so, should they cut off the portion of their taxes that go to pay for the military and the War on Drugs or should they withhold more than that portion?

ethical to evade some taxes but not others? Does the moral duty to pay taxes end when tax collections exceed a certain percentage of income or a certain dollar amount?<sup>10</sup> Could it be that tax evasion is ethical for some individuals and unethical for other individuals who live under the same regime? If so, what determines when evasion is ethical and when it is not? Does income level determine when evasion changes from unethical to ethical? Or need? Does evasion for a family of 10 become ethical at a different income level than evasion for a single individual with no dependents?<sup>11</sup>

There are many ways to look at the question of when evasion changes from being unethical to being ethical. This article will not address these issues in any depth because the focus of this article is to compare and analyze the various religious arguments that have been made on the topic of the ethics of tax evasion. Examination of these issues, however, is ripe, because they have not yet been examined in the literature.

### **The Jewish Perspective**

The two articles on the ethics of tax evasion from the Jewish perspective that I could find reached remarkably similar conclusions although the authors cited different literature to support their positions.<sup>12</sup>

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<sup>10</sup> For more on this point, see Robert W. McGee, *The Case for a Maximum Tax: A Look at Some Legal, Economic and Ethical Issues*, 1 JOURNAL OF ACCOUNTING, ETHICS & PUBLIC POLICY 294-299 (Spring 1998).

<sup>11</sup> For discussions of the ability to pay principle, see Robert W. McGee, *Is the Ability to Pay Principle Ethically Bankrupt?* 1 JOURNAL OF ACCOUNTING, ETHICS & PUBLIC POLICY (Summer 1998); Robert W. McGee, *Are Discriminatory Tax Rates Ethically Justifiable?* 1 JOURNAL OF ACCOUNTING, ETHICS & PUBLIC POLICY (Fall 1998); Robert W. McGee, *Should Rich People Pay More than Poor People? An Ethical Look at the Graduated Income Tax*, COMMENTARIES ON THE LAW OF ACCOUNTING & FINANCE (1998).

<sup>12</sup> Gordon Cohn, *The Jewish View on Paying Taxes*, 1 JOURNAL OF ACCOUNTING, ETHICS & PUBLIC POLICY 109-120 (Spring 1998), also published as *The Ethics of Tax Evasion: A Jewish Perspective*, in THE ETHICS OF TAX

Meir Tamari states that there is a moral obligation on society to fund social costs, which are recognized by halakhah (the corpus of Jewish law). This obligation goes beyond funding for defense and infrastructure and includes the needs of the poor, the sick and the old as well as religious study and the religious needs of the community.<sup>13</sup> But the tax laws may be disregarded where the king usurps power or where the laws are capricious or discriminatory.<sup>14</sup> This view would seemingly allow for tax evasion in some cases. However, Tamari goes on to say:

Jewish legal literature is clear that non-payment of taxes is theft and is therefore forbidden. This is shown in all the Codes of Jewish law as well as in the responsa literature ... The element of theft applies not only to the internal taxes of the community but also to those of the non-Jewish authorities.

Tax evasion is regarded either as theft from other citizens who now have to pay more and from the recipients of the services funded by the tax money, since they now receive less...

However, theft from the public, which is what tax evasion is, is more heinous than theft from private people. This is solely a reflection of the spiritual damage done to the perpetrator since in the former case his atonement is more difficult. The only way one can atone for theft is by returning the stolen goods or money to the original owner. This is far more difficult in the

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EVASION 180-189 (Robert W. McGee, ed 1998); Meir Tamari, *Ethical Issues in Tax Evasion: A Jewish Perspective*, 1 JOURNAL OF ACCOUNTING, ETHICS & PUBLIC POLICY 121-132 (Spring 1998), also published in THE ETHICS OF TAX EVASION 168-179 (Robert W. McGee, ed. 1998). References to these two authors are to the book.

<sup>13</sup> Tamari, *supra*, at 169.

<sup>14</sup> Mishnah Torah Hilkhoh Gezeilah Chap. 5 halakhah 11, cited in Tamari, *supra*, at 169, n. 2.

case of public theft since all the owners and beneficiaries are unknown to the perpetrator.<sup>15</sup>

In this statement, Tamari turns the traditional "taxation is theft" argument on its head by stating that it is tax evasion that is theft. This position can easily be criticized, at least in cases where the tax is unjust. If a tax is unjust, there is no obligation to pay. The fact that others must pay more if you pay less merely means that the tax collector must steal more from others. That sin is on the head of the tax collector, not those who are able to evade the tax. Tamari does not address this possibility.

Tamari also states that tax evasion is unethical because it must necessarily involve lies and falsehoods, which can lead to corruption in other areas of life as well.<sup>16</sup> According to Tamari, telling a lie, even when not under oath, amounts to a denial of the existence of God.<sup>17</sup>

The literature on the ethics of lie-telling could be discussed here, but Tamari does not do it. This literature, going back to Plato and Aristotle, points out that telling lies is not always unethical. For example, if a crazed husband barges into your home shouting "I am going to kill my wife, where is she?" there is no moral obligation to tell him where she is. You can say you don't know, even if you do know.

However, Tamari's point is well-taken. Where lying is rampant in one area, such as in tax evasion, there is a tendency for it to spread into other areas, thus corrupting the society. However, the blame for that corruption should be placed on those who have made the unjust tax laws (assuming they are unjust), not on those who merely try to protect their property. Tamari goes on to say:

So even if the tax evasion seems justified morally,  
because of the high tax rates or waste in the public

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<sup>15</sup> Tamari, *supra*, at 170-171, citations omitted.

<sup>16</sup> Tamari, *supra*, at 176.

<sup>17</sup> Tamari, *supra*, at 176, citing Midrash Rabah Kedoshim.

sector, it seems that these should be combatted by the ballot box, political pressure or a taxpayers revolt, perhaps involving a jail sentence, rather than accepting the unethical effects of tax evasion.<sup>18</sup>

One problem with Tamari's position is that a wasteful public sector or a government that has high tax rates cannot easily be changed via the ballot box. The literature that has been generated by the Public Choice School of Economics over the last thirty years or so makes this point clear. Special interests convince the legislature to pass some spending bill that benefits them at the expense of the general public. Every special interest group under the sun tries to influence the legislature to pass laws that benefit them and the legislature often responds favorably. So, as a practical matter, the ballot box is almost useless. In the meantime, Tamari would allow the taxpaying public to continue to be fleeced.

Serving a jail sentence rather than evade unjust taxes seems a bit extreme, especially if one has to support a family. It is not unethical to hide money from a thief, even if the thief would spend the money wisely. How can it be unethical to hide money from a corrupt government that squanders the money it raises from tax collections?

Perhaps the central flaw in Tamari's reasoning is that he thinks that individuals have some duty to "society." The problem with this view is that "society" does not exist. Society is just a convenient collective term that describes a collection of individuals who share certain things in common, like geographic location, language (maybe) and culture (maybe). All obligations are individual in nature. Individuals owe obligations to other individuals, not to some collective term.

Another flaw in Tamari's argument is that he ignores property rights. The State does not have an unlimited claim on the property of taxpayers. There is a limit. The State does not own all the assets, merely

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<sup>18</sup> Tamari, *supra*, at 177.



allowing individuals to keep and use some of them.<sup>19</sup> Individuals own assets. Before the State can spend money it first has to take it from those who have earned it. Tamari ignores this point. If Tamari's position can be summed up in a single sentence, it would be that tax evasion is always unethical, even where the government is corrupt.

Gordon Cohn, the other Jewish author, arrives at the same conclusion using different arguments and citing different Jewish sources. For Cohn, tax evasion is unethical for four reasons:

The *Halachic* (Jewish legal) perspective on paying taxes has four components. First, there are laws related to a citizen's duty to follow his country's statutes. This is called *dina damalchusa dina*. Second, laws prohibit lying. Third, a Jewish person may not do anything which could discredit the religion. This is known as *Chillul Hashem*. Finally, since it is essential for a Jewish person to perform the maximum number of mitzvos (commandments and good deeds), he is required to refrain from any activity which could result in confinement in a place where Judaism cannot be properly practiced, e.g., jail.<sup>20</sup>

I will examine these arguments one at a time. Cohn's first argument is that there is a duty to follow the laws of one's country. While there may be a duty to follow just laws, strong arguments have been made that there is a duty to disobey unjust laws. Thus, one cannot categorically say that one must obey all the laws of the country where you live because some laws may be unjust. Certainly it would not be

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<sup>19</sup> When Louis XIV of France heard that the people were complaining about high taxes, he said that since everything belonged to him, he was only taking what was his. CHARLES ADAMS, FOR GOOD AND EVIL: THE IMPACT OF TAXES ON THE COURSE OF CIVILIZATION 217 (1993).

<sup>20</sup> Cohn, *supra*, at 182.

unethical to disobey some of the laws of Nazi Germany. One may even have a duty to do so. Cohn ignores this possibility. If unjust laws (like segregation in the United States, for example) were not openly disobeyed, they might never be changed.

Cohn points out that there are laws prohibiting lying. However, as was pointed out above, lying is not always unethical. It is not unethical to tell an enraged husband that you do not know where his wife is. It is not unethical not to tell a thief that you are hiding \$20 in your shoe. And it is not unethical not to disclose the fact that you have unreported income if the tax collector is not morally entitled to the funds. Cohn does not allow for any of these possibilities, although he does mention later that lying in certain situations might not be unethical.<sup>21</sup>

The view that a Jewish person may not do anything that would discredit the religion is based on the premise that someone can owe a duty to a group or to a group of ideas. However, duties can be owed only to individuals. Thus, he begins his argument from an incorrect premise.

The view that one must not do things that might result in a jail term runs contra to one of Tamari's suggestions, that one should protest unjust taxes even if it means a jail term, rather than evade the tax in question. It might also be possible that more mitzvos could be performed in jail than out of jail, since the jail population has more needs unfulfilled than the general population.

Cohn elaborates on each of these four reasons, so I will comment on some of his elaborations as well. Cohn points out that the Jewish literature states that "the king owns the country and therefore everyone is required to give him a portion of their income as rent."<sup>22</sup> There are a number of problems with this line of reasoning.

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<sup>21</sup> Cohn, *supra*, at 184-185.

<sup>22</sup> Cohn, *supra*, at 182.

First of all, most countries don't have kings anymore. Even if we concede that a modern government might assume the power that kings formerly had, it does not follow that tax evasion is always unethical because the king (or the government) is not entitled to all the income or property of the people living under the government's protection. At most, they are only entitled to a portion of it. When tax collections exceed this portion, tax evasion may be justified. Cohn ignores this possibility, although he does state that "In cases where the king or leader is not legitimate, *dina damalchusa dina* could not suffice to forbid tax evasion."<sup>23</sup>

Cohn also states that "Continuing to live in a country is an implicit agreement to abide by its rules."<sup>24</sup> There are at least two problems with this position. For one thing, it may not be possible to leave a country if you disagree with its rules. You may not have the financial resources to leave. You may not be able to find another country willing to admit you due to immigration restrictions. Or the country in which you live might not allow you to leave. Thus, it cannot be said that you must obey the rules of the country in which you live because of some implicit agreement.

The second problem with Cohn's position is that it is possible that an individual may not agree with the rules of any country. Yet it is a physical necessity that the individual must live somewhere. Even with free immigration and emigration and sufficient financial resources to live anywhere, it is quite possible that an individual would choose to live in the country that violates his rights the least. So it cannot be said that the individual in question consents to the laws of the country of residence. He may have chosen the country in question because it is the least evil of a number of possible choices.

Cohn states that "...someone living in a society where there is an illegitimate dictatorship should still pay taxes in order to avoid

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<sup>23</sup> Cohn, *supra*, at 183.

<sup>24</sup> Cohn, *supra*, at 183.

prison.<sup>25</sup> Presumably, this would include an ethical duty to pay taxes in Nazi Germany. To push this line of reasoning to its logical conclusion, one might say that there is an ethical duty to pay taxes to support concentration camps since failure to do so might result in being placed in a concentration camp. Very few ethics scholars would agree with this position.

The reasons these two Jewish scholars advance to support their positions that tax evasion is unethical tend to crumble upon close examination. The authors do not address a number of arguments that would justify tax evasion at least some of the time.

### **Christian Perspectives<sup>26</sup>**

The various Christian positions differ somewhat. Some Christian scholars take the position that tax evasion is sometimes justified while others hold that tax evasion is never justified. These groups even cite some of the same literature to support their position.

The most comprehensive study I could find on the ethics of tax evasion from the Christian perspective was Crowe's 1944 study.<sup>27</sup> The strength of his study is its comprehensiveness. Because he was able to read Latin, he was able to read source material going back to the days when Church documents were written in Latin.

If one were to summarize Crowe's paper in a single sentence, it would be that one should pay just taxes but there is no ethical duty to pay unjust taxes. This begs the question, of course, since the next logical

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<sup>25</sup> Cohn, *supra*, at 187.

<sup>26</sup> Some of the material for this portion of the article was taken from Robert W. McGee, *When is Tax Evasion Unethical?* in *THE ETHICS OF TAX EVASION* 5-35 (Robert W. McGee, ed. 1998).

<sup>27</sup> Crowe, *supra*. If you can't get a copy of Crowe's study, you can get a flavor for its contents by reading Robert W. McGee, *Is Tax Evasion Unethical?* 42 *UNIVERSITY OF KANSAS LAW REVIEW* 411-435 (Winter 1994) or Robert W. McGee, *When Is Tax Evasion Unethical?* in *THE ETHICS OF TAX EVASION* 5-35 (Robert W. McGee, ed. 1998).

question to ask is what is a just tax? He goes into a rather lengthy discussion of this point, citing numerous religious scholars who do not always agree with each other.

The most recent Catholic pronouncement that addresses this point is the new (and improved?) catechism, which states that tax evasion is a sin.<sup>28</sup> The catechism does not go into much detail and many of the authors Crowe cites would dispute the position given in the new catechism. Given the fact that the new catechism does not go into much explanation, coupled with the fact that dozens of Church scholars have given more detailed explanations that often disagree with the conclusion given in the new catechism, one may reasonably conclude that the new catechism's position does not fairly represent the Catholic Church's view on the matter. If one were to take the catechism's position literally, that tax evasion is (presumably always) a sin, then it would be a sin not to pay taxes to the Roman authorities who would fund programs to throw Christians to the lions, which is ridiculous.

Crowe sets out three criteria for a just tax.<sup>29</sup> To be just, the tax must:

- be imposed by a legitimate legislative authority;<sup>30</sup>
- for a just cause;<sup>31</sup> and
- where there is a just distribution of the tax burden.<sup>32</sup>

These criteria seem like a good starting point for determining whether a tax is a just tax. However, upon closer analysis, one finds

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<sup>28</sup> For some brief summaries of the new catechism, see *New Rules for an Old Faith*, NEWSWEEK, November 30, 1992, at 71; *Sins, ancient and modern*, THE ECONOMIST, November 21, 1992, at 50. For those who don't know what a catechism is, it might be described as a collection of rules that Catholics are expected to follow. The new catechism was the first one issued since 1566.

<sup>29</sup> Crowe, *supra*, at 22-26.

<sup>30</sup> *Id.*, at 22-23.

<sup>31</sup> *Id.*, at 23-24.

<sup>32</sup> *Id.*, at 24-26.

problems. For example, what is a legitimate legislative authority? Hitler and Mussolini both came to power via the democratic process. Many older Russians would eagerly elect Stalin if he were on the ballot. Many people in China would still vote for Mao even though he killed 30 or 40 million Chinese through a combination of brutality and stupid economic policies that caused millions to starve to death.

If any legislative authority is legitimate, it is probably the U.S. Congress. Elections are more or less open and fair. The problem is that the vast majority of elected representatives represent special interests rather than the general public, which the Public Choice School of Economics has been pointing out for several decades. If most tax laws are heavily influenced by special interests, how legitimate is the legislative authority?

Another problem with determining whether a tax is just is to determine what is a just cause. Taxes that support activities that protect life, liberty and property would be the easiest taxes to justify. But what about the many other activities that bloated welfare states engage in? Some of those activities are much more difficult to justify. Is a tax just if the proceeds force some people to pay for other people's leisure? The unemployment compensation laws in most western democracies are so attractive that many people find it makes more sense to be on welfare than to work.

What about forcing those who work to pay retirement benefits for those who are retired? That is what Social Security taxes do. People who are still working are forced to pay for those who do not work. There is no such thing as a legitimate Social Security trust fund. The people who pay into the fund have no claim on any of the proceeds. The money in the "trust fund" is not really in trust for anyone. If a private insurance company established such a fund, the corporate officers would be convicted of fraud.

The bottom line is that it is questionable, at best, whether a tax can be just if it forces some people to pay for the benefits that other people receive. Basically, any redistributive tax is suspect.<sup>33</sup>

Crowe's third requirement, that there is a just distribution of the tax burden, is also fraught with ethical problems. The central problem with Crowe's view is that he subscribes to the ability to pay principle. "Moralists are unanimous in their teaching that the ultimate basis of apportioning a tax is the ability of the citizen to pay."<sup>34</sup>

First of all, moralists are not unanimous in their views that the ability to pay principle is ethically legitimate.<sup>35</sup> Secondly, even if they were unanimous, that would not make it so. At one time, everyone thought that the world was flat and that the sun revolved around the earth. That did not make it so. Morality and truth are not determined by majority opinion.

The third problem with the ability to pay principle is that it begins from an incorrect premise. There are basically just two relationships that can exist between the State and the individual. Either the State is the master and the individual is the servant or the individual is the master and the State is the servant. The United States government was founded on the principle that the State was created to protect life, liberty and property, and that when the State no longer adequately performed these functions, individuals had the right to abolish it and

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<sup>33</sup> For more on the ethics of redistribution, see BERTRAND DEJOUVENEL, *THE ETHICS OF REDISTRIBUTION*.

<sup>34</sup> Crowe, *supra*, at 24.

<sup>35</sup> For more on this point, see Robert W. McGee, *The Case for a Maximum Tax: A Look at Some Legal, Economic and Ethical Issues*, 1 *JOURNAL OF ACCOUNTING, ETHICS & PUBLIC POLICY* 294-299 (Spring 1998); Robert W. McGee, *Is the Ability to Pay Principle Ethically Bankrupt?* 1 *JOURNAL OF ACCOUNTING, ETHICS & PUBLIC POLICY* (Summer 1998); Robert W. McGee, *Are Discriminatory Tax Rates Ethically Justifiable?* 1 *JOURNAL OF ACCOUNTING, ETHICS & PUBLIC POLICY* (Fall 1998); Robert W. McGee, *Should Rich People Pay More than Poor People? An Ethical Look at the Graduated Income Tax*, *COMMENTARIES ON THE LAW OF ACCOUNTING & FINANCE* (1998).

form a new government that was more to their liking.<sup>36</sup> The State was supposed to be the servant and the people were to be the masters.

The other view is that the State is the master and the people are supposed to serve. Perhaps Marx summarized this viewpoint best when he said: "From each according to his abilities: to each according to his needs."<sup>37</sup> Former President John F. Kennedy espoused this view in a different way when he said: "Ask not what your country can do for you; ask what you can do for your country." Under this approach, whether one takes the Marxist or Kennedy variant, individuals are treated as means rather than ends in themselves which, for Kant, Rand and many other moral philosophers, is illegitimate.

Crowe examined the views of a number of religious and secular writers on the topic of the just tax. One of them, Angelus of Clavasio,<sup>38</sup> said:

... When those who impose these taxes do not provide for the common good, for example, in caring for roads, bridges, the safety of people and other things, according to their ability as they are bound to do, the subjects do not sin if they evade the tax without lying and perjury, nor are they bound to restitution ... Nor do I believe that those sin who defraud taxes, even when the aforesaid (i.e., those who impose the tax) do provide for the common good.<sup>39</sup>

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<sup>36</sup> U.S. DECLARATION OF INDEPENDENCE (1776).

<sup>37</sup> KARL MARX, CRITIQUE OF THE GOTHA PROGRAM (1875). The original wording was "Jeder nach seinen Fähigkeiten, jedem nach seinen Bedürfnissen." Louis Blanc, the French socialist, said basically the same thing in 1848. GEORGE SELDES, THE GREAT THOUGHTS 274 (1985).

<sup>38</sup> 1411-1495.

<sup>39</sup> ANGELUS OF CLAVISIO, SUMMA ANGELICA, *Pedagium* section (1494 Lyons edition), as cited in Crowe, *supra*, at 29.



Berardi, a later thinker on the subject, takes the position that there is probably no moral duty to pay a tax even if lying and deceit are involved.

What therefore about subjects who have found a way to avoid paying a tax? ... probably there is no obligation of restitution after the tax has been evaded. For the duty of paying taxes probably does not arise from a tacit pact by which the subjects bind themselves to pay the prince whatever is necessary for the public expenses -- each one contracting to pay an allotted percentage of the debt; but this duty arises rather from the law of the prince who determines how that sum of money which is necessary shall be raised.<sup>40</sup>

Crowe cites numerous other Christian scholars who debate the ethics of evading various types of taxes. For example, there have been debates on the relative merits of paying or evading direct taxes such as per capita taxes, inheritance, land, building or income taxes, as compared to indirect taxes, such as customs, duties, imposts and sales taxes.<sup>41</sup> Others have argued that the morality of paying a tax has nothing

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<sup>40</sup> BERARDI, PRAXIS CONFESSARIORUM II (1898), quoted in Crowe, *supra*, at 35.

<sup>41</sup> Crowe, *supra* at 17 and elsewhere in the text. Those who take the position that there is a moral duty to pay only direct taxes are in a curious position. For example, in 1881, the U.S. Supreme Court held that the income tax was an indirect tax. *Springer v. U.S.*, 102 U.S. 586 (1881). But in 1895, it reversed its position and held that the income tax is a direct tax. *Pollock v. Farmers Loan & Trust Co.*, 157 U.S. 429; 158 U.S. 601 (1895). Does that mean that anyone who evaded the U.S. income tax before 1895 was not committing a sin but those who evaded it thereafter were sinners? But in France, certain income taxes are legally classified as indirect taxes, which means that evaders do not commit a sin, which leaves one in the curious position of being a sinner if one evades the U.S. income tax but not the French tax. Crowe, *supra*, points this out at 139.

to do with whether the tax is direct or indirect. Some scholars have taken the position that it is a sin to break any law.<sup>42</sup>

A few Christian scholars have more recently addressed the ethics of tax evasion. Robert T. Pennock wrote an article on conscientious war tax resistance.<sup>43</sup> While this topic is not limited to Christians, much of what he has to say could be taken as a Christian approach and some of his citations are to Christian (Quaker) sources.<sup>44</sup>

Pennock's basic premise is that it is not unethical to refuse to pay taxes if the proceeds go to finance war. Pennock personally refused to pay the telephone excise tax during the 1980s because this tax was earmarked to pay for Reagan's military buildup.<sup>45</sup> He mentions several other forms of tax resistance that would please an accountant. For example, some war tax resisters refuse to pay the portion of their current income tax that goes for current military spending. Some resisters refuse to pay not only for current military spending but also compute what they would pay for past military spending that was financed by increasing the national debt -- interest and veteran's benefits.<sup>46</sup> A book has even been published that helps war tax resisters

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<sup>42</sup> The logic of this position is as follows. "It is sinful to act unreasonably. But it is unreasonable to break a law. Therefore, it is sinful to break a law." Crowe, *supra*, at 97. But this line of reasoning begs the question: What if the law is unreasonable or unjust? Few, if any, modern theologians would take this position. But this position was common when it was thought that the king derived his authority from God. The divine right of kings is supported by Romans 13, 1-2, which says: "Let every soul be subject unto the higher powers. For there is no power but of God: the powers that be are ordained by God: and they that resist shall receive to themselves damnation."

<sup>43</sup> Robert T. Pennock, *Death and Taxes: On the Justice of Conscientious War Tax Resistance*, 1 JOURNAL OF ACCOUNTING, ETHICS & PUBLIC POLICY 58-76 (Winter 1998), also published in THE ETHICS OF TAX EVASION 124-142 (Robert W. McGee, ed. 1998). Citations are to the book.

<sup>44</sup> Pacifists need not be Christians, or even believers in God. They may be pacifists for secular, philosophical reasons.

<sup>45</sup> Pennock, *supra*, at 126-127.

<sup>46</sup> Pennock, *supra*, at 127.

compute the percentage of their total tax bill that goes for military spending.<sup>47</sup> Some resisters refuse to pay any federal income tax because they are not able to earmark the money they would otherwise send for nonmilitary purposes.

Pennock takes an approach that is different from that of other tax evasion authors in at least two distinct respects. For one, war tax resisters who refuse to pay taxes are not necessarily tax evaders. They may more properly be classified as tax protesters if their nonpayment is open. They are evaders only if they hide the fact that they are not paying taxes. The second difference between Pennock and most other scholars on this topic is that Pennock takes the position that not paying taxes is ethical. Indeed, he might say that there is an ethical duty not to pay, at least in cases where one can avoid payment.<sup>48</sup>

Schansberg<sup>49</sup> takes the position that one should usually pay taxes, subject to some exceptions. He points to the Biblical passage where Christ said "give to Caesar what is Caesar's, and to God, what is God's,"<sup>50</sup> and concludes that tax evasion has, at most, "a limited role within any ethic developed from Biblical Christianity."<sup>51</sup>

He also cites Romans 13:1-7, where Paul instructs the people to "submit to the governing authorities."<sup>52</sup> The reasoning he gives is that those in authority are established by God and anyone who rebels

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<sup>47</sup> ED HEDEMANN, *WAR TAX RESISTANCE: A GUIDE TO WITHHOLDING YOUR SUPPORT FROM THE MILITARY*, 4th ed., (New York and Philadelphia: The War Resisters League and New Society Publishers, 1992), cited in Pennock, *supra*, at 127, n. 6.

<sup>48</sup> I am putting words in Pennock's mouth here.

<sup>49</sup> D. Eric Schansberg *The Ethics of Tax Evasion Within Biblical Christianity: Are There Limits to "Rendering Unto Caesar"?* 1 *JOURNAL OF ACCOUNTING, ETHICS & PUBLIC POLICY* 77-90 (Winter 1998), also published in *THE ETHICS OF TAX EVASION* 144-157 (Robert W. McGee, ed. 1998). References are to the book.

<sup>50</sup> Matthew 22:17, 21.

<sup>51</sup> Schansberg, *supra*, at 148.

<sup>52</sup> Schansberg, *supra*, at 148.

against authority rebels against God. Again, citing Paul: "This is also why you pay taxes ... Give everyone what you owe him; If you owe taxes, pay taxes; if revenue, then revenue; if respect, then respect; if honor, then honor."<sup>53</sup>

Schansberg raises the interesting question of whether submission must be absolute or whether some balance must be struck.<sup>54</sup> He interprets Romans to mean that they should give honor and respect where it is due. When obedience to the State results in disobedience to God, men should be disobedient to the State.<sup>55</sup>

Schansberg raises another interesting point about tax evasion and the spirit versus the letter of the law. What about barter? If you pay for something by giving something else, either products or services, rather than money, are you liable for taxes? The U.S. Internal Revenue Code states that income includes anything received of value. It does not specify that money need be received. There are many rules and court cases regarding the taxability of barter transactions. Does it make any difference whether the barter transaction is entered into to evade taxes or merely to facilitate the transaction? For Schansberg the answer is yes, it does make a difference. He points to I Corinthians 4:5, which states that God will judge "the motives of men's hearts."<sup>56</sup>

Another interesting point Schansberg raises is the obligation to pay taxes even if some of the proceeds are wasted. For example, what if it is legitimate to pay government \$1X for national defense but the government has to collect \$1.5X to pay for the waste that is inherent in the Defense Department budget? Schansberg concludes that tax evasion is not acceptable in such a situation because, for one thing, it is not possible to accurately measure the amount of waste. He states that

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<sup>53</sup> Schansberg, *supra*, at 148. He also cites Titus 3:1, where Paul tells believers "to be subject to rulers and authorities." He also cites I Peter 2:13-17, where Peter tells listeners to submit themselves to every authority "for God's sake."

<sup>54</sup> Schansberg, *supra*, at 149.

<sup>55</sup> Schansberg, *supra*, at 149-150.

<sup>56</sup> Schansberg, *supra*, at 151.

it is better to turn the other cheek and be taxed twice rather than not be taxed at all.<sup>57</sup>

However, there are cases where tax evasion at some level is legitimate. "If much of what government does is sinful or promotes sin, a case could be made for a subsequent level of tax evasion."<sup>58</sup> Examples might include prosecuting an inappropriate war, subsidizing abortions, making SSI payments to substance abusers, promoting indigence and illegitimacy through redistribution of income to the poor and the many programs that redistribute income to the non-poor.<sup>59</sup> Another possible reason for ethically evading taxes is if the government takes so much in taxes that there is not enough left to "give tithes and offerings to the Lord."<sup>60</sup>

One of the problems that must be faced once the possibility of ethical tax evasion is recognized is one of measurement. How many of my tax dollars must be taken to subsidize sinful behavior before I am ethically justified in evading taxes? At what point does government take so much in taxes that it interferes with my duty to tithe? If I am ethically justified in evading some taxes, how much am I ethically justified in evading? Schansberg concludes that the answer is a matter of individual conscience.<sup>61</sup>

Another instance where tax evasion may be ethically justifiable is where tax evasion is a matter of survival. In some countries, the tax burden is so heavy in comparison to the income level that it may at times be literally required to evade taxes in order to keep enough money to pay for basic needs. In such cases, there is nothing unethical about tax evasion.<sup>62</sup>

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<sup>57</sup> Schansberg, *supra*, at 154.

<sup>58</sup> Schansberg, *supra*, at 155.

<sup>59</sup> Schansberg, *supra*, at 155.

<sup>60</sup> Schansberg, *supra*, at 155.

<sup>61</sup> Schansberg, *supra*, at 155.

<sup>62</sup> Schansberg, *supra*, at 156.

In a word, the bible does not endorse tax evasion except in cases where obedience to God supersedes obedience to the state. Moreover, a spirit of the law interpretation recognizes that tax evasion of some sorts is a necessary aspect of life. The bottom line from the perspective of a biblical Christian ethic is to "render unto Caesar" -- most of the time.<sup>63</sup>

Gregory Gronbacher takes a slightly different approach to the Christian view of tax evasion.<sup>64</sup> After reviewing the Catholic literature he concludes that the traditional Catholic teaching on taxation is compatible with the classical liberal view that taxation should be kept to a minimum and that the State should engage in activities that benefit only the common good. He contrasts this traditional Catholic view with the views of contemporary bishops, who take a more statist view in advocating all kinds of State intervention and support for special interest group projects, to the detriment of the general public.<sup>65</sup>

Classical liberalism does not so much oppose collection of taxes but only the use to which the funds are put. It balks at the use of the tax system for redistribution and social engineering.<sup>66</sup> Citing Adam Smith, he says:

Taxes should only be used to fund the legitimate purposes of government: courts, police, and defense. To use it for other purposes would inhibit capital

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<sup>63</sup> Schansberg, *supra*, at 157.

<sup>64</sup> Gregory M.A. Gronbacher, *Taxation: Catholic Social Thought and Classical Liberalism*, 1 JOURNAL OF ACCOUNTING, ETHICS & PUBLIC POLICY 91-100 (Winter 1998), also published in THE ETHICS OF TAX EVASION 158-167 (Robert W. McGee, ed., 1998). All references are to the book.

<sup>65</sup> Gronbacher, *supra*, at 165-167.

<sup>66</sup> Gronbacher, *supra*, at 160.

accumulation. Smith also thought that high rates of taxation might cause businessmen to turn to the underground economy in order to thwart the government levy.<sup>67</sup>

In the papal encyclical *Rerum Novarum*, issued by Leo XIII, the right to property was recognized as important. This encyclical also expressed the classical liberal idea that taxes could not be levied other than for purposes of the common good. "The common good was defined as that set of social conditions which permitted the individual, and groups of individuals, to freely attain self-actualization and reach their final end in Christ."<sup>68</sup> In this encyclical, Leo XIII renounced both socialism and redistribution and egalitarian taxation.

Another papal encyclical, *Quadragesimo Anno*, issued by Pius XI, broadened the definition of property.<sup>69</sup> It stated that the State's authority to confiscate property was limited.

The American bishops issued a letter castigating legislators for passing tax legislation that resulted in arbitrary wealth redistribution and stressed that taxes should be levied only to support the natural functions of government.<sup>70</sup> They also pointed out that forced charity was no charity at all. They went on to say that taxation could never be justified for special interests. "The placing of the interest of one group of people over another, in terms of taxation, was unjust."<sup>71</sup>

Gronbacher does not address the question of whether tax evasion is justified when the government is evil or corrupt. He merely quotes a scholar who addressed the question of what should be done when the burden of taxation is too heavy.

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<sup>67</sup> Gronbacher, *supra*, at 160.

<sup>68</sup> Gronbacher, *supra*, at 163.

<sup>69</sup> Gronbacher, *supra*, at 163.

<sup>70</sup> Gronbacher, *supra*, at 164-165.

<sup>71</sup> Gronbacher, *supra*, at 165.

Where the burden of taxation is too heavy, reform must be sought by legal methods, and by influencing public opinion and parliament. Most would be gained by a revision of the whole financial policy, perhaps by confining the state to its more proper functions.<sup>72</sup>

### **The Mormon Perspective**

First of all I would like to point out that Mormons<sup>73</sup> are Christians, too. The reason I separated Mormons from other Christians is because the Mormon literature is significantly different from other Christian literature. In addition to the Old and New Testaments, Mormons have religious literature that is strictly theirs.

The one article I could find that expresses the Mormon view on the ethics of tax evasion<sup>74</sup> concludes that tax evasion is always unethical, presumably even in cases where the State is evil or corrupt. One of the basic statements on the relationship of the individual to the State is as follows:

We believe that all men are bound to sustain and uphold the respective governments in which they reside, while protected in their inherent and inalienable rights by the laws of such governments; and that sedition and rebellion are unbecoming every citizen thus protected,

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<sup>72</sup> Paul Jostock, *Grundzuge der Sociallehre und der Socialreform*, quoted by JOHANNES MESSNER, *SOCIAL ETHICS: NATURAL LAW IN THE WESTERN WORLD* 680 (1965), cited in Gronbacher, *supra*, at 166.

<sup>73</sup> The official title is The Church of Jesus Christ of Latter-day Saints.

<sup>74</sup> Sheldon R. Smith and Kevin C. Kimball, *Tax Evasion and Ethics: A Perspective from Members of The Church of Jesus Christ of Latter-day Saints*, 1 *JOURNAL OF ACCOUNTING, ETHICS & PUBLIC POLICY* (Summer 1998), also published in *THE ETHICS OF TAX EVASION* 220-229 (Robert W. McGee, ed. 1998). References are to the book.



and should be punished accordingly; and that all governments have a right to enact such laws as in their own judgments are best calculated to secure the public interest; at the same time, however, holding sacred the freedom of conscience.<sup>75</sup>

This view was reiterated in a letter from Joseph Smith to the editor of the *Chicago Democrat*: "We believe in being subject to kings, presidents, rulers, and magistrates, in obeying, honoring, and sustaining the law."<sup>76</sup> Another Church document states:

Church members in any nation are to obey applicable tax laws. "If a member disapproves of tax laws, he may attempt to have them changed by legislation or constitutional amendment, or, if he has a well-founded legal objection, he may attempt to challenge them in the courts. A member who refuses to file a tax return, to pay required income taxes, or to comply with a final judgment in a tax case is in direct conflict with the law and with the teachings of the Church."<sup>77</sup>

Smith and Kimball cite a number of other Church documents and statements by Church leaders, all of which say basically the same thing -- tax evasion is not in keeping with Church law. Church doctrine views tax evasion as a form of dishonesty, even fraud. None of the documents Smith and Kimball cite make exceptions for unfair tax laws,

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<sup>75</sup> *The Doctrine and Covenants*, Sec. 134, Verse 5, quoted by Smith and Kimball, *supra*, at 222.

<sup>76</sup> *The Articles of Faith*, THE PEARL OF GREAT PRICE, The Church of Jesus Christ of Latter-day Saints, 1989, quoted in Smith and Kimball, *supra*, at 222.

<sup>77</sup> GENERAL HANDBOOK OF INSTRUCTIONS, The Church of Jesus Christ of Latter-day Saints, 1989 as quoted in *ENCYCLOPEDIA OF MORMONISM*, Vol. 3, 1097 (1992), as quoted in Smith and Kimball, *supra*, at 224.

tax rates that are deemed to be too high, or taxes that are paid to an evil or corrupt State.

The Mormon Church has addressed the issue of tax evasion on more occasions than most other churches. The views of the Church are also consistent. Tax evasion is wrong -- period. Nowhere in the literature the authors cite is there any possibility for concluding that there might be an exception.

Several criticisms may be made of the Mormon position. For one, Mormon doctrine would apparently require Church members to comply with even the worst laws of an extremely corrupt or evil State, which does not make sense. Political theory for the last few hundred years recognizes cases where obedience to the State is not absolute. If one begins with the basic premise that the State exists to serve the individual and that evil laws may (or must) be disregarded, then the Mormon position is untenable.

Any issue relating to tax fairness could also be raised to criticize the Mormon position. Assuming there is such a thing as paying one's "fair share," it might be argued that if one is forced to pay well beyond one's fair share there is no longer any moral duty to pay. Excessive redistribution and taxes that aim at social engineering rather than raising revenue for legitimate governmental purposes might also be cited as legitimate reasons for evasion. Using tax proceeds to kill Jews, Palestinians or Mormons might also be used to justify evasion. The Mormon view does not take any of these cases into consideration. Assuming that God exists and that God gave us reason, it follows that tax evasion might not be unethical under certain circumstances. The Mormon position disregards reason entirely.

### **The Muslim Perspective**

Paying zakat is one of the five requirements for being a Muslim.<sup>78</sup> Zakat is a voluntary form of payment, along the lines of charity. It differs from taxation in that the motive to pay is internally generated rather than imposed by the State.

Islam recognizes strong property rights. However, all property is owned by Allah. Humans merely are custodians for Allah's property.<sup>79</sup> They are required to give some of their property to the community for charitable activities. Zakat is "the pivot and hub of the Islamic public finance"<sup>80</sup> system. In an Islamic State where expenditures are sufficiently low, zakat could be sufficient to pay for all government expenses. Problems arise either when zakat is not sufficient to cover all expenses in an Islamic State or where the State is not Islamic. What is the duty to pay in these circumstances? Alternatively, is it unethical not to pay all that the State demands?

At certain times in Islamic history, zakat ceased to be voluntary and became required by the State.<sup>81</sup> Murtuza and Ghazanfar go into some details of the history of Islamic public finance, which includes some other forms of revenue raising in addition to Zakat. Unfortunately, they do not spend much time discussing the ethics of tax evasion in Islam. If one may infer anything from their discussion of Islamic public finance, it would be that failure to pay legitimate zakat could be viewed as an offense against Allah.

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<sup>78</sup> Athar Murtuza and S.M. Ghazanfar, *Taxation as a Form of Worship: Exploring the Nature of Zakat*, 1 JOURNAL OF ACCOUNTING, ETHICS & PUBLIC POLICY 134-161 (Spring 1998), also published in THE ETHICS OF TAX EVASION 190-212 (Robert W. McGee, ed. 1998). All references are to the book.

<sup>79</sup> Murtuza and Ghazanfar, *supra*, at 190-191.

<sup>80</sup> M.A. MANNAN, ISLAMIC ECONOMICS: THEORY AND PRACTICE 284 (1970), as cited in Murtuza and Ghazanfar, *supra*, at 195.

<sup>81</sup> Murtuza and Ghazanfar, *supra*, at 196.

What is legitimate is another question. Assessment of zakat can be only on surplus wealth, not on wealth that the owner needs.<sup>82</sup> Thus, zakat that is assessed on property that the owner needs might be viewed as illegitimate zakat.

Some forms of taxation are considered illegitimate. Presumably, there is no ethical duty to pay illegitimate taxes. To be legitimate, the tax must be direct.<sup>83</sup> Zakat is a proportional tax on property, not on income. Progressive taxes are illegitimate because of the implication that the income is illegitimate.<sup>84</sup> Any taxes on income are illegitimate because they dilute the incentive to produce and be productive. Inheritance taxes are also illegitimate, as are customs duties, since trade should be free.<sup>85</sup> Any laws that protect domestic industry from competition, such as high tariffs, are also illegitimate.<sup>86</sup> Any tax that causes prices to rise artificially is also illegitimate.<sup>87</sup> Such taxes would include sales and excise taxes as well as value added taxes.

While Muslims have a duty to pay some taxes, it does not follow that they have a duty to pay any and all taxes that the State assesses.<sup>88</sup> Their duty to pay is limited to the amount needed to provide

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<sup>82</sup> Murtuza and Ghazanfar, *supra*, at 204.

<sup>83</sup> Murtuza and Ghazanfar, *supra*, at 209. A simplified definition of a direct tax is a tax that individuals or corporations pay directly. See JOSEPH E. STIGLITZ, *ECONOMICS OF THE PUBLIC SECTOR* 387 (2nd ed. 1998). Indirect taxes are taxes on commodities. However, the burden of a corporate tax is ultimately borne by individuals, either shareholders, customers or the corporation's employees. So a case can be made that a corporate income tax is actually an indirect tax.

<sup>84</sup> Murtuza and Ghazanfar, *supra*, at 209.

<sup>85</sup> Murtuza and Ghazanfar, *supra*, at 210.

<sup>86</sup> Murtuza and Ghazanfar, *supra*, at 211.

<sup>87</sup> Robert W. McGee, *The Ethics of Tax Evasion in Islam*, *supra*, at 217.

<sup>88</sup> S.M. YUSUF, *ECONOMIC JUSTICE IN ISLAM* 96 (1971), cited in Robert W. McGee, *The Ethics of Tax Evasion in Islam*, in *THE ETHICS OF TAX EVASION* 214-219 (Robert W. McGee, ed. 1998), at 214, n. 2. *The Ethics of Tax Evasion in Islam* also appeared in 1 *JOURNAL OF ACCOUNTING, ETHICS & PUBLIC POLICY* 162-168 (Spring 1998). All references are to the book.

for the general welfare of society.<sup>89</sup> Thus, there is no ethical duty to pay for taxes that support special interests.<sup>90</sup>

The scant Muslim literature on tax evasion that I have been able to find does not directly address the issue of whether it is unethical to evade taxes that would be paid to an evil or corrupt State. Very little is said about the ethics of tax evasion. The discussion usually takes the form of which kinds of taxes are legitimate, which might lead one to logically conclude that there is nothing unethical about evading an unjust tax.

### **The Baha'i Perspective**

The Baha'i religion incorporates viewpoints from numerous other religions. Thus, one would think that the Baha'i religion would have the most diverse views on the ethics of tax evasion. But such is not the case. At least, that is what one may conclude from reading the one article I could find that has been written about the ethics of tax evasion from the Baha'i perspective.<sup>91</sup>

The Baha'i position is remarkably similar to the Mormon position, although the literature cited is different. Basically, tax evasion is never justified, presumably even in cases where tax proceeds are used to kill members of the Baha'i faith. DeMerville's article focuses on the ethics of tax evasion as a form of civil disobedience and on the

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<sup>89</sup> Mushtaq Ahmad, *Business Ethics in Islam* 134 (1995), cited in Robert W. McGee, *The Ethics of Tax Evasion in Islam, supra*, at 215.

<sup>90</sup> This raises an interesting point, since many taxes go to support special interests at the expense of the general public. If one defines a special interest as some subset of the general population that is less than 50 percent of the total, then Social Security taxes would qualify as a special interest tax. Those who work pay the tax while those who are retired reap the benefits. Thus, a case can be made that there is no ethical duty to pay Social Security taxes.

<sup>91</sup> Wig DeMerville, *The Ethics of Tax Evasion: A Baha'i Perspective*, 1 JOURNAL OF ACCOUNTING, ETHICS & PUBLIC POLICY (Summer 1998), also published in THE ETHICS OF TAX EVASION 230-240 (Robert W. McGee, ed. 1998). All references are to the book.

relationship of the individual to the State. Basically, individuals must obey the laws of the State in which they live.

In every country where any of this people reside, they must behave towards the government of that country with loyalty, honesty and truthfulness. This is that which hath been revealed at the behest of Him Who is the Ordainer, the Ancient of Days.<sup>92</sup>

...the Baha'is are the well-wishers of the government, obedient to its laws and bearing love towards all peoples. Such obedience and submission is made incumbent and obligatory upon all by the clear Text of the Abhá Beauty. Therefore the believers, in obedience to the command of the True One, show the utmost sincerity and goodwill towards all nations; and should any soul act contrary to the laws of the government he would consider himself responsible to God, deserving divine wrath and chastisement for his sin and wrongdoing.<sup>93</sup>

Perhaps the most interesting and revealing quote DeMerville makes is a letter written by a Baha'i religious leader to the Baha'i community in Germany in 1934, shortly after Hitler's rise to power.

At the outset it should be made indubitably clear that the Baha'i Cause being essentially a religious movement of a spiritual character stands above every political party or group, and thus cannot and should not act in

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<sup>92</sup> BAHÁ'U'LLÁH, TABLETS OF BAHÁ'U'LLÁH 22-23 (1978), cited in DeMerville, *supra*, at 233.

<sup>93</sup> ABDU'L-BAHA, SELECTIONS FROM THE WRITINGS OF ABDU'L-BAHA 293 (1978), as cited in DeMerville, *supra*, at 234.

contravention to the principles, laws, and doctrines of any government. Obedience to the regulations and orders of the state is indeed, the sacred obligation of every true and loyal Baha'i. Both Baha'u'llah and Abdu'l-Bahá have urged us all to be submissive and loyal to the political authorities of our respective countries. It follows, therefore, that our German friends are under the sacred obligation to whole-heartedly obey the existing political regime, whatever be their personal views and criticisms of its actual working. There is nothing more contrary to the spirit of the Cause than open rebellion against the governmental authorities of a country, specially if they do not interfere in and do not oppose the inner and sacred beliefs and religious convictions of the individual. And there is every reason to believe that the present regime in Germany which has thus far refused to trample upon the domain of individual conscience in all matters pertaining to religion will never encroach upon it in the near future, unless some unforeseen and unexpected changes take place. And this seems to be doubtful at present.<sup>94</sup>

Although the religious literature cited by DeMerville is different than that cited in the Mormon article, the content is remarkably similar. Individuals must submit to the laws of the State in which they live. Thus, the criticisms I made of the Mormon view could be made of the Baha'i view as well. There is no need to repeat my criticisms here.

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<sup>94</sup> SHOGHI EFFENDI, *THE LIGHT OF DIVINE GUIDANCE*, VOL. 1 54-55 (1982), cited in DeMerville, *supra*, at 234-235. The letter was written by Abdu'l-Baha's grandson.

### **Concluding Comments**

Since the various religious views do not agree on when tax evasion is unethical, it is tempting for the lazy individual to pick the view that is most convenient rather than the view that makes the most sense. Practically any view under the sun is supported by some religious scholar, just as practically every economic view under the sun is supported by some Nobel prizewinning economist. It is comforting to know that some eminent scholar supports your view on some particular issue. But that is not enough, or at least it should not be enough, to make a personal decision on an issue. Positions should be determined based on the quality of the argument, not by the person who made the argument.<sup>95</sup>

The views expressed by the Jewish, Mormon and Baha'i scholars give new and modern meaning to the Marxist idea that religion is the opiate of the people. Those who are oppressed by government are told that they must not rise up and challenge their oppressors lest they pay a heavy price in the next world.

The rationalist approach to the question of tax evasion leads in an entirely different direction. The rationalist approach recognizes that not all taxes are automatically just. Some taxes are unjust. Where a tax is unjust, perhaps there is no ethical duty to pay. Rationalists would

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<sup>95</sup> I find it necessary to make this point because of the disturbing trend that is taking place in the United States and elsewhere. Classical Marxists judged the value of an argument by the individual who made it. Any arguments made by a member of the bourgeoisie were dismissed immediately while the views of members of the proletariat were immediately taken to heart and recognized as the truth. Modern Marxists readily accept the views (any views, no matter how ridiculous) made by gays, lesbians and various assorted oppressed minorities and immediately dismiss the views of white heterosexual males, living or dead. This anti-intellectualism is rampant in American universities. For critiques of political correctness in American universities, see *SPEAKING FREELY: THE CASE AGAINST SPEECH CODES* (Henry Mark Holzer, ed. 1994); *ALAN CHARLES KORS AND HARVEY A. SILVERGATE, THE SHADOW UNIVERSITY: THE BETRAYAL OF LIBERTY ON AMERICA'S CAMPUSES* (1998); Robert W. McGee, *Hate Speech, Free Speech and the University*, 24 *AKRON LAW REVIEW* 363-392 (1990).



recognize that what is illegal is not automatically unethical. Rationalists may differ regarding the definition of an unjust tax but their premise is the same, that people are ethically obligated to pay only just taxes. A closer examination of what constitutes a just tax reveals that few, if any, taxes fall into this category.<sup>96</sup> However, we will leave discussion of that question for another day.

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<sup>96</sup> For a discussion of this point, see Robert W. McGee, *Is Tax Evasion Unethical?* 42 UNIVERSITY OF KANSAS LAW REVIEW 411-435 (Winter 1994).