

Perspective

Tax Policy

Susan Pace Hamill, professor of law at the University of Alabama School of Law, also holds a master's degree in theological studies from Beeson Divinity School in Birmingham, Alabama. In 2002, she generated considerable controversy with the publication of "An Argument for Tax Reform Based on Judeo-Christian Ethics," a paper that attacked Alabama's tax structure as immoral under biblical principles of justice. Hamill's paper earned her the enmity of the Christian Coalition and a spot on *The New York Times* list of best ideas. In this interview, Hamill discusses how her scholarship has expanded beyond Alabama to all 50 states.

Alabama Law Professor Uses Her Bible as a Roadmap For Analyzing, Correcting Injustice in State and Local Tax Policy

BY DOLORES W. GREGORY

BNA: You've spent roughly the past seven years analyzing tax policy through the lens of Judeo-Christian ethics, starting with a paper on Alabama's tax system, and most recently, publishing a book looking at the burdens imposed by various state tax systems. What are you hoping to accomplish through this Bible-based approach to taxes?

HAMILL: My goal as a scholar is to change the moral conversation surrounding tax policy, so that the laws become more fair. If you're going to make a big deal about being people of faith, you can't run around and promote tax policy that overwhelmingly benefits the wealthy at the expense of the middle class and the poor.

BNA: How did you get started on this path?

HAMILL: I chose to spend my sabbatical getting a theological studies degree at the Beeson Divinity School, which is a conservative evangelical seminary. And part of the degree was the thesis. And there was a newspaper article in the *Tuscaloosa News* in March of 2001 about the income tax structure and how it reached down into poverty level income—\$4,600 a year. And I thought: "That has to be a misprint. That's impossible." So I looked into it, and it was true. Then I started digging around more. And within about two hours, the broadest outline of my 2002 article, in terms of the empirical study of Alabama, was firmly before me. And of course it caused a big stinkeroo and spread to other states.

BNA: In this paper you essentially attacked Alabama for promoting a tax structure that you said violated Judeo-Christian principles of justice.

HAMILL: We are tolerating unbiblical, unjust laws in a population that is mostly evangelical. So it was a family fight thing—a plea and an attack on hypocrisy.

BNA: Attacking hypocrisy doesn't tend to make one very popular.

HAMILL: I can assure you I have offended some very powerful people in Alabama.

BNA: You recently published *As Certain as Death: A Fifty-State Survey of Local Tax Laws*, which you described as the first part of a two-part project. You are effectively planning to do for the other states what you did for Alabama, correct?

HAMILL: Since 2002, I've been getting inquiries from other states, asking how they compare to Alabama. The first step was to pull together the information I needed, in a systematic way. The 50-state tax book was a product of two years of hard work, with two different generations of research assistants. The second part, and the part I'm really pumped about is, what does the book tell me? And that's what I'm working on right now. We hope to have a paper on the moral analysis of the states ready for publication by the end of the summer. Whether that will be the first in a series, or the definitive article, I can't say right now.

BNA: I've looked at a few of the entries in *As Certain as Death* and what leaps out at me is that, even though in a lot of states the income tax structure itself is progressive, the tax systems overall tend to be regressive because of the impact of property taxes, sales taxes, and excise taxes.

HAMILL: For the most part, that is true. The income taxes tend to be progressive, but not as progressive as they should be. When you have an income tax where the top rate kicks in at \$65,000, that's not very progressive. And when you look at the burden analysis: I don't think there is any state income tax structure—and we're in the process of digesting all of this—that shows the same degree of progressivity as the federal. And when you add on the effects of the sales tax,—which is very regressive—and property taxes, what you end up with is overall regressivity. And the severity varies from state to state. A handful are slightly regressive or maybe a little bit regressive, or almost flat. And for everybody else, it's a question of what degree of disgusting regressivity do you have?

BNA: The sales tax has been around for something like 70 years now, and a lot of states rely on it very heavily. What would you do about that?

HAMILL: You cure regressivity by realigning to what degree you rely on each type of tax. In Alabama, for example, we under-rely on property tax, but within the classes of property, there's a lot of inequality. Big timber, covering up 71 percent of our land, contributes less than 2 percent of our measly property taxes. So if all we did was up the millage rates, the timber industry would pay less than 2 percent of a little bit more than nothing.

BNA: So Judeo-Christian ethics requires a tax system that is progressive?

HAMILL: Moderately progressive. The moral requirement is to support laws that embrace reasonable opportunity.

BNA: But, in essence, you're saying that the wealthy are morally obligated to pay more taxes than they are paying now?

HAMILL: To whom much is given, more is required. Where the left gets it wrong is to assume that wealth is a sign of sin. That somehow it is bad to be rich. That's not true. But it is bad to misuse your wealth. Tax policy is a huge high-sacrifice issue in this way. With charity, you get your tax deduction, you get to feel good that you're a nice person, and if you give a lot, you can have your name on a building. But with fair tax policy, you don't get any kind of direct reward at all for it.

Here's the problem with Christianity today. We have a lot of people claiming to be of faith. They go to church and they tithe and they are anti-this and anti-that. They want to use the cross to oppose stem cell research, gay marriage. That doesn't cost much; but they can feel really good for it. But they want to ignore the cross on the high-sacrifice issues. Look at [Republican presidential candidate] Mike Huckabee. He's an evangelical. And what is he touting for what he thinks good tax policy would be? A 23 percent national sales tax.

BNA: Is it really appropriate—in a country in which the separation of church and state is enshrined in the Constitution—to evaluate tax policy on the basis of the Bible?

HAMILL: In my 2006 article, I took great pains to work that out. The short answer is: yes it is. Because tax policy is a product of our voting. We vote for the legislators or the members of Congress who are responsible for putting tax policy in place. If you are a legislator and you decided how you will cast your vote, you have, under the Free Exercise Clause, the constitutional right to

bring whatever values you have to the table, whatever those values are.

BNA: The 2006 article you refer to was the one published in the *Virginia Tax Review*, where you took on President Bush's first-term tax cuts as immoral.

HAMILL: The *Virginia Tax Review* article came about because it's one thing to condemn an extremely horrible structure, but it's another thing to have a theology that's worked out biblically, that's capable of taking on any structure. The 2006 article took the theology from the 2002 paper and built on it. That's how I was able to go after the Bush tax cuts. And, then, the next step, after that was to look at the other states.

BNA: According to a recent article in *The New York Times*, you've developed a list of the worst offenders.

HAMILL: That's the "Sinful Six:" Alabama, Florida, Louisiana, Nevada, South Dakota, and Texas.

BNA: How did those states make your list?

HAMILL: They are extremely regressive, they have a significant reliance on sales tax, and they have per capita K-12 funding significantly below the national average. And they also are judged, in Education Trust terms, as a "negative negative." That's a measure of how much less per low-income kid they are spending.

BNA: What is the Education Trust?

HAMILL: That's a think tank study that the No Child Left Behind committee relied on. Equal is not enough. Equity demands 40 percent more per low-income kid.

BNA: Because they're already behind?

HAMILL: They're already behind; their parents can't help them with math; they don't have the resources. So a "negative negative" means not only are you not spending 40 percent more, you're actually spending less than the average. So if a state is way below the national average in overall K-12 spending, all the kids are getting short-changed. And then you add on top of that the "negative negative"—which means that low income kids are getting less per low-income child in actual dollars than the average across the state. So you are short-changing all the kids, but you are especially short-changing the low-income kids. You're pulverizing them. Those states are the worst.

BNA: You say you've received inquiries from other states. Have you gotten inquiries from people in a position to change state policy?

HAMILL: Yes, but state policy people aren't my biggest responders. My biggest responders so far are ministers and people of faith and churches. This is a bottom-up, grassroots movement. If we get anywhere with making tax policy more fair because of the moral persuasion, it will be because the people have demanded it. Having said that, you probably know that our Gov. Riley in 2003 actually tried to move us significantly forward. I believe that plan was motivated by his faith and his morals. Had Riley's plan passed, I feel pretty certain that Alabama would not be one of the sinful six today. I studied the plan carefully. It was a solid first step; it would have significantly improved us.

BNA: Even though the governor's tax reform plan was rejected, you mention in your book that the income tax threshold in Alabama has since been raised from \$4,600 to \$12,500.00.

HAMILL: Yes. One step and a thousand miles to go.