

IN  
GOOD  
FAITH

A DIALOGUE ON  
GOVERNMENT  
FUNDING *of*  
FAITH-BASED  
SOCIAL SERVICES

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# Government Cooperation with Faith-based Social Service Providers

*A Statement Arising from Discussions Convened by The American Jewish Committee  
and the Feinstein Center for American Jewish History at Temple University*

## *Background*

The debate over the 1996 welfare reform legislation turned national attention to a question of critical and enduring importance—what is the best way for our nation to assist those in need? This question has triggered many wide-ranging discussions about the role of the federal and state governments in social services, the most effective way to move people from welfare to work, and how better to coordinate government services with the business sector, nonprofit organizations, and community groups. Another issue about which welfare reform has generated debate is financial collaboration between government and faith communities to serve the needy. This issue has sparked great interest and also strong concern. It is this question that is the focus here.

The conversation regarding cooperative efforts between government and religious organizations occurs at a time when there is great enthusiasm for the contribution of faith communities to social well-being, and a sense that some on the Supreme Court of the United States are moving toward a narrower interpretation of the Establishment Clause of the First Amendment. This conversation also occurs, however, in the context of concern that some forms of collaboration between religious organizations and the government could seriously undermine the religious freedom of social service beneficiaries, religious providers, and taxpayers generally.

This document originated in two discussions: a project to seek common ground concerning government funding of faith-based groups to provide social services, organized by The American Jewish Committee and the Feinstein Center for American Jewish

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History at Temple University and underwritten by The Pew Charitable Trusts;<sup>1</sup> and monthly meetings of persons who in 1998 were participants at a conference on welfare reform and faith-based organizations organized by the J. M. Dawson Institute of Church-State Studies at Baylor University. The two groups merged in the fall of 1999 to work on this document in a process that has included a series of consultations with experts and practitioners with a range of views.

The group formed in an effort to provide guidance to those involved in the policy process. We hope also to provide illumination to others interested in government's relations with religious organizations and the shifting structure of the social safety net. While each participating organization has formulated its own policy statement, we recognized the unique value of forming a representative panel of the various points of view on these issues. By engaging in sustained conversation we worked to identify areas both of agreement and disagreement regarding collaboration between the government and religious organizations. This document is the fruit of that labor.

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<sup>1</sup> The opinions expressed herein do not necessarily reflect the views of The Pew Charitable Trusts.

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## *Introduction*

The shape and scope of government collaboration with faith-based organizations<sup>2</sup> has been undergoing a historic transformation. The legislative focal point for this attention has been “charitable choice.” “Charitable choice” is a term of art that refers to a specific legislative proposal first enacted by Congress in the 1996 federal welfare reform law. Although the concept is often used loosely to refer to government funding of faith-based social service programs in general, in fact it refers more particularly to the new statutory conditions under which states may enter into funding relationships with religious organizations that provide social services<sup>3</sup> using federal or state funds that originated with enactment of the TANF<sup>4</sup> Program in 1996. Other legislative initiatives also popularly referred to as “charitable choice” have since been introduced in Congress and the states, and some have been enacted.<sup>5</sup> These apply variations of the TANF language to other program areas, such as drug rehabilitation or housing.

The new idea represented by “charitable choice” is not the involvement of faith communities in the social service arena, as many religious organizations have a history of involvement in such services. Nor is government funding of religious social service providers in itself an innovation, as many organizations with a religious affiliation have long received government funds<sup>6</sup> to carry out their work. Before “charitable choice,” governments at all levels awarded grants and contracts to religiously affiliated organizations. There are no uniform statutory provisions regarding the participation

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<sup>2</sup> The terms “faith-based organization” or “religious organization” are used here as umbrella terms encompassing any organization that is motivated by faith, affiliated with a faith tradition, or that incorporates religion in its activities in any way. The term applies, therefore, to a range of organizational forms including houses of worship as well as separately incorporated nonprofits.

<sup>3</sup> For the purposes of this document, the phrase “social services” includes services such as job training, counseling, child care, and job search assistance, but does not include elementary and secondary education.

<sup>4</sup> TANF is Temporary Assistance for Needy Families, the program that in 1996 replaced the long-standing Aid to Families with Dependent Children (AFDC) welfare program.

<sup>5</sup> The “charitable choice” provision applies to the following government funds (as of December 31, 2000): the Temporary Assistance to Needy Families (TANF) funds provided in the Personal Responsibility and Work Opportunity Reconciliation Act (Public Law 104-193 [1996]); the Community Services Block Grant funds provided in the Community Opportunities, Accountability, and Training and Educational Services Act (Community Services Block Grant Act, Public Law 105-285 [1998]); the Children’s Health Act of 2000 (Public Law 106-310 [2000]); and the New Markets Venture Capital Program Act (Public Law 106-554 [2000]).

<sup>6</sup> Government funds means any funds received by government by taxation or any other means.

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of religious providers, and there was and remains controversy over whether an organization could be a pervasively religious entity<sup>7</sup> (such as a house of worship) and receive government money to provide social services.

“Charitable choice” alters previous practice through new federal statutory language that specifically addresses the participation of religious providers. “Charitable choice” permits all faith-based organizations to compete for government social service funding, regardless of their religious nature. Thus “charitable choice” significantly broadens the scope and extent of government financial collaboration with faith-based organizations. This change is welcome to some but highly problematic to others. The legal, philosophical, and ethical dimensions of the change have generated substantial controversy.

People who care deeply both about religious liberty and about the provision of effective social services disagree about the constitutionality and advisability of “charitable choice.” Some believe that “charitable choice” is a long overdue correction to the discriminatory exclusion of some religious providers on the basis of an unconstitutional judgment about their religious character, and that the changes benefit society by expanding the capacity of faith communities to address social problems. Others believe that by allowing government funds to flow to pervasively religious entities like houses of worship, or to religiously affiliated programs without appropriate safeguards, “charitable choice” unconstitutionally and unwisely opens the door to government advancement of religion, excessive government entanglement with religion, government support of religious discrimination, and a general weakening of religious autonomy.

Our dialogue has been undergirded by the following common core values:

- Concern for human needs, particularly those of the economically and socially disadvantaged, and for the social health of the nation.
- Affirmation that promoting the well-being of the nation is a responsibility jointly of the private sector, faith communities, nonprofit organizations, and government, and that religious organizations cannot replace government’s role in upholding the social safety net.
- Preservation of religious liberty under the Constitution of the United States.

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<sup>7</sup> The phrase “pervasively sectarian” has been used by the Supreme Court in some of its decisions. Some have criticized the term “sectarian” as being pejorative and reflecting bias. See the plurality opinion in *Mitchell v. Helms*, 530 U.S. 793 (2000). Because the term “sectarian” is controversial, this document will use the phrase “pervasively religious” in place of “pervasively sectarian.” The concept of religious pervasiveness is discussed in the “Conflicting Perspectives” section, below.

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- Identification of common ground while bringing clarity and civil discourse to bear on areas of significant disagreement.
  - Recognition that the support by businesses, philanthropies, and other non-governmental organizations of the good work done in society by religious organizations is valuable, and, of course, constitutional.

Within this broad framework, this document discusses specific areas of agreement regarding government collaboration with faith-based social service programs. The discussion bears on relationships structured by “charitable choice,” but it is not limited to this concept and it is not an attempt to interpret any statute. The document also outlines areas of substantive disagreement on matters of constitutional interpretation and policy implementation related to collaboration.

We hope that this document will produce several benefits for policymaking and policy implementation. First, we hope that those who design and implement policies will be guided by the significant points of agreement we have forged as a way to promote healthy cooperation between government and religious organizations in the social service realm. Second, we hope that the document will provide a clear statement about where the agreements and disagreements lie in a complex area of the law as an aid for readers to develop their own informed conclusions. Third, we hope that the document will obviate the need for decision makers to collect from different sources the various positions on this matter. While we continue to differ about what is constitutional and advisable on some points, all of us believe that religious organizations and the government can work together in productive ways to bring about the greater good of society.

This topic will continue to be at the forefront of policy debates. Those engaged in the debate should acknowledge that no one side is the sole protector of the poor or of religious liberty. The most fruitful public debate will result when all acknowledge our shared stake in both the general welfare of our nation and the flourishing of religious freedom.<sup>8</sup>

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<sup>8</sup> This document does not constitute legal advice, nor does it create any attorney-client professional relationship. A knowledgeable attorney should be consulted for specific advice about religious organizations and government funding.

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## *Agreement Concerning Government Nonfinancial Cooperation with Religious Organizations*

**R**egardless of one's position on the constitutionality and advisability of "charitable choice," certainly government may, in many ways, include religious organizations among the community organizations with which it cooperates. Legitimate nonfinancial support includes:

- Providing information to the public and to persons in need about the availability of programs offered by religious and other community organizations.
- Providing access to education and training opportunities for program staff and volunteers of religious and other community organizations.
- Inviting faith community representatives to join community wide program task forces.
- Calling attention to the successful work of religious as well as secular providers.
- Providing letters of recommendation for faith-based and other community organizations that can help them raise funds from other sources.
- Advising social service beneficiaries of mentoring, support, and advocacy resources available from community organizations, including religious nonprofit agencies or houses of worship.
- Listing houses of worship and religious nonprofit agencies among the organizations that may provide community service placements to welfare recipients.
- Making information about the community, such as census tract data, directories of service providers, or needs assessments, available to help community service providers, including religious organizations, do planning, networking, and grassroots organizing.
- Encouraging charitable contributions through appropriate tax relief.

In addition, last year's enactment of the Religious Land Use and Institutionalized Persons Act (Public Law No. 106-274 [2000]) prevents zoning and other land use authorities from discriminating against or unnecessarily burdening the religious practices of houses of worship and other religious institutions, including their ability to provide social ministries.



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## *Areas of Agreement Concerning Government Funding of Religious Organizations To Provide Social Services*

**O**ur shared values lead us to agree on the following important considerations, even as there remain strong differences among us as to the constitutionality and advisability of “charitable choice” (see Section IV):

1. *Government funding for social services provided by religiously affiliated entities*

Organizations that are affiliated with a house of worship or other religious body but are separate institutions performing secular functions should continue to be permitted to receive government money to fund their secular work.

2. *Availability of a secular alternative*

Beneficiaries have a right to a secular alternative if they do not wish to receive services from a religious organization. When government contracts with or awards grants to religious organizations for services, it must have a mechanism in place to provide a readily accessible secular service of equal value should any beneficiary require it. When the service is provided via a voucher mechanism, government should seek to include at least one secular alternative. If that is not possible, then government must have a mechanism in place to supply a readily accessible, equal value secular service in some other way.

3. *Notice to prospective and current beneficiaries*

Government must inform prospective and current beneficiaries about the religious nature of any participating programs and providers and of their right to receive equivalent services from a secular provider if they want.

4. *Nondiscrimination in the provision of government-funded social services*

Religious providers of government-funded social services should not discriminate against beneficiaries on the basis of religion or religious belief, either in admitting them into a program or in providing the government-funded services.

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5. *Ability of beneficiaries to opt out of religious activities*

Whenever social service programs are funded by government, or participation in such programs is mandated by government, beneficiaries have the right not to participate in religious activities. Beneficiaries should be able to exercise this right within a program that has a religious component or dimension by declining active and passive participation in religious activities.

We disagree about the threshold question of whether government should fund programs where religious exercise is an integral element of the program. Notwithstanding the underlying objection of some of us to any government funding of these programs at all, if such programs do receive government funds, beneficiaries should be given notice of the religious and integral nature of the program, their right to choose between such a program and programs which do not require religious participation (including secular programs), and their option to leave the integral program at any time. If government does fund an integral program, then a beneficiary's religious liberty should be protected by ensuring choice between readily accessible programs of equal value, rather than through the right to opt out of the religious activities in a particular program.

6. *Prohibition on use of government grant or contract funds for religious activities*

The Supreme Court has held that organizations may not constitutionally use government grant or contract funds for religious activities. In federal statutes, this proscription is commonly expressed as a requirement not to use government funds for worship, religious instruction, or proselytizing. It is difficult, if not impossible, to define these concepts. In most situations, determining whether particular activities fall into these categories will depend on the facts and circumstances of each case. Some situations will present difficult questions.

Teaching values or beliefs as religious tenets constitutes religious instruction or proselytizing. An example would be urging a beneficiary to accept Jesus Christ or some other religious faith as the only way to move from welfare into employment. Discussing with a beneficiary commonly held values such as abiding by the law and being honest does not automatically represent religious instruction or proselytizing, although most, if not all, religions also teach these values. Worship includes such acts as offering prayers and reading scripture, but observing a neutral moment of silence does not constitute worship.

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7. *Privately funded religious activities*

A provider that receives government contract or grant money may offer religious activities as well as the government-funded services as long as the religious activities are privately funded, purely voluntary, and clearly separate from the activities funded by government. For example, a religious provider that offers government-funded welfare-to-work counseling may post notices about support groups that engage in prayer and Bible study as long as the support groups are privately funded, participation in them is voluntary, and it is clear that the groups are separate from the welfare-to-work counseling. A provider that offers government-funded services may leave religious literature on tables in waiting rooms if the religious literature is paid for with private funds and it is clear that acceptance of the materials is voluntary and not a part of the government-funded program.

8. *Employment decisions on the basis of religion*

Federal law does not prohibit religious organizations from taking religious beliefs and practices into account in making decisions about hiring, promotion, termination, and other conditions of employment. The Supreme Court has not addressed whether a religious organization retains the liberty to make employment decisions on the basis of religion in the case of employees who work in programs or activities funded (in whole or in part) by, or paid with, government money. Although the law is not settled in this area of government-funded positions, we agree that religious organizations retain their ability to use religious criteria in employment for those positions in nongovernmental programs that are wholly privately funded, regardless of whether other programs or activities of the organization receive government funds.

9. *Display of religious art and use of a religious name*

A religious provider receiving government funds is permitted to display religious art, icons, symbols, and scripture under certain conditions. Religious providers should not be required to eliminate religious references from their names (e.g., government should not require a St. Vincent de Paul Center to be renamed the Mr. Vincent de Paul Center). In constitutional rulings, the presence of religious art, icons, symbols, and scripture within a private organization offering social services has not, by itself, disqualified an entity from receiving government funds. However, the presence of such art, icons, and symbols has been considered by the Supreme Court in the overall determination of whether an entity is constitutionally permitted to accept government funding.<sup>9</sup>

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<sup>9</sup> The Supreme Court has in some cases used the presence of religious symbols as one of the indicators of whether an organization is, in the Court's words, "pervasively sectarian." This concept of "pervasively sectarian" and its validity are discussed in the "Conflicting Perspectives" section below.

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10. *Fiscal accountability*

The federal government has the right to audit the funds it disburses. If a religious organization does not segregate the government contract and grant funds it receives, all of its accounts could be subject to an audit. Segregating the government money will decrease a religious organization's risk that all of its funds will be examined in a government audit.

11. *Creation of a separately incorporated organization*

Government is not precluded from requiring a pervasively religious organization to create a separate organization to provide government-funded services.<sup>10</sup> Even if government does not require such a separate organization, houses of worship and other pervasively religious organizations may wish to (and, some of us believe, should) create one. A separate organization facilitates keeping separate accounts to limit audits and helps to shield them from certain federal requirements that otherwise are triggered by the receipt of federal funds (see paragraph 12 below). Separate incorporation can also afford protection for the religious organization against liabilities incurred by the separate corporation.

12. *Civil rights regulation of social service providers receiving government funds*

Receipt of federal funds triggers the application of a number of federal civil rights statutes. These laws prohibit discrimination on the basis of race, color, national origin, sex, age, disability, and visual impairment.<sup>11</sup> Religious organizations that receive federal funds are subject to these laws. Religious organizations should consult legal counsel regarding the requirements of these laws and other regulations that may apply, including other federal, state, and local laws and ordinances.

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<sup>10</sup> In cases where separate organizations are created, we disagree about whether they have to be secular. Some of us believe the Constitution requires that a separate organization cannot be pervasively religious if it is to receive government funds. Others of us believe that the Constitution does not permit government to require such a separate organization to have a particular religious or secular character.

<sup>11</sup> 20 U.S.C. Section 1681 et seq. (1990), 29 U.S.C. Section 794 (1985), 42 U.S.C. Section 2000d et seq. (1994), 42 U.S.C. Section 6101 et seq. (1995).

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## *Conflicting Perspectives on Government Funding of Religious Organizations To Provide Social Services*

**N**otwithstanding the broad areas of agreement noted above concerning government funding of religious social-service organizations, the groups involved in this discussion remain deeply divided about “charitable choice.” Some are strong supporters of “charitable choice”; others are equally strong opponents of this change in law and policy. The disagreements involve political philosophy, interpretation of current law, beliefs about the best way to protect and support the work of religious institutions, and pragmatic concerns. The contrasting positions are briefly sketched below both to illuminate the importance of the concerns raised on the two sides and to highlight the importance of the agreements we have reached after extensive discussion.

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### IN FAVOR OF “CHARITABLE CHOICE”

“Charitable choice” is an innovative and carefully crafted means to expand government financial collaboration with religious organizations to meet critical social needs, while protecting beneficiaries, providers, the public trust, and constitutional values.

The past approach was, roughly, for government to permit funds only to religiously affiliated organizations providing secular services in a secular setting. “Pervasively religious” organizations, which displayed an integral religious character, were excluded. “Charitable choice” instead permits religious and secular organizations alike to participate as government-funded social service providers. “Charitable choice” enables government to fulfill its constitutional obligation not to establish religion and its constitutional duty to protect the religious liberty of beneficiaries without imposing illegitimate secularizing requirements on religious social service providers.

*“Charitable choice” is constitutional.* The U. S. Supreme Court, which has never wholly excluded “pervasively religious” organizations from government funding, has turned away from the strict separationist concept that undergirds opposition to “charitable choice.” Recently, the Court did not use the “pervasively religious” criterion as the determining factor in deciding whether a religious organization may receive government funded services.<sup>12</sup> Even before this decision the Court had upheld direct

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<sup>12</sup> *Mitchell v. Helms*, 530 U.S. 793 (2000).

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governmental cash reimbursements for secular services performed by institutions that had been considered pervasively religious.<sup>13</sup>

*“Charitable choice” ends government discrimination in the treatment of religious providers.* The new standard is government neutrality. Government may now select from among all providers, based only on their ability to supply the needed social services.

“Charitable choice” does not guarantee funds to religious organizations; it creates a level playing field, removing the past bias against religious providers whose faith visibly shapes the organization’s staff, character, and service delivery. This is not government endorsement of religion, but rather the end of the presumption that government should endorse only secular prescriptions for poverty and need.

*“Charitable choice” protects the religious character of faith-based providers without establishing religion.* It safeguards their autonomy by protecting their religious character if they accept government funds. They may maintain a religious environment and continue to select staff of like beliefs as long as they provide the assistance that government seeks and do not spend direct government funds on inherently religious activities. They may accept vouchers to aid beneficiaries who seek faith-based help. Providers are accountable for how they spend government funds, but without excessive government entanglement. They may limit government audits by establishing a separate account for government funds; government may require them to establish a separate organization for the government-funded services. When government buys services, it is not aiding the religious organization, but rather obtaining needed social services.

*“Charitable choice” protects the religious liberty of beneficiaries.* Beneficiaries may not be denied help on account of their religion nor be forced to participate in inherently religious activities to obtain help. Government must ensure that a secular alternative is available. These are specific requirements of “charitable choice” as enacted in the 1996 federal welfare law and they are crucial to guard against religious coercion. Early experience shows that beneficiaries have not had to bend to someone else’s faith in order to receive help, but rather have enjoyed an expanded range of services and providers.<sup>14</sup>

*“Charitable choice,” prudently implemented, enhances social provision.* Religious organizations are not required to contract with government nor to stop seeking donations and voluntary support. They should evaluate carefully the new funding opportunities, being mindful of the risk of dependency on government funds, the paperwork and regulatory burden, and the temptation to mute criticism of government or to adapt their mission

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<sup>13</sup> *Committee for Public Ed. and Religious Liberty v. Regan*, 444 U.S. 646 (1980).

<sup>14</sup> A. Sherman, “The Growing Impact of Charitable Choice,” Center for Public Justice (March 2000).

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to whatever government will fund. They should reject government money if accepting it will compromise their convictions or undermine their effectiveness. Government officials, for their part, should welcome the opportunity to select whichever provider offers the most effective help and the chance to offer a greater diversity of services. They must ensure that their rules effectively protect both the religious character of providers and the religious liberty of beneficiaries.

*“Charitable choice” serves the needy.* Government’s desire for effective social services often coincides with faith-based organizations’ ability to serve the poor with excellence and respect. There is no need to choose between the First Amendment and the expanded involvement of faith-based providers. “Charitable choice” is a constructive alternative to an inequitable strategy which sought to protect beneficiaries and prevent religious establishment—but at the price of excluding many religious providers. It is constitutionally sound, socially valuable, and pragmatically wise that such organizations are now permitted to use government funds, as other providers do, to provide the services government desires and that hurting families, individuals, and communities need.

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#### OPPOSED TO “CHARITABLE CHOICE”

“Charitable choice” undermines governmental neutrality toward religion and promotes government funded discrimination. It also jeopardizes beneficiaries’ rights to religious liberty, and threatens the autonomy and vitality of religion and religious liberty.

*“Charitable choice” undermines governmental neutrality toward religion.* “Charitable choice” is designed to allow houses of worship and other organizations that integrate religion into their social services to receive funds generated through taxation. When the government funds these institutions, it inevitably results in governmental funding and advancing religion itself, which is unconstitutional. Every member of the current Supreme Court has expressed concern about government funds flowing directly to pervasively religious organizations.<sup>15</sup>

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<sup>15</sup> In *Mitchell v. Helms*, 530 U.S. 793 (2000) (upholding a program of government-funded loans of computers to religious schools), a four-justice plurality of the Court observed: “Of course, we have seen ‘special Establishment Clause dangers’ [cite omitted], when money is given to religious schools or entities directly rather than... indirectly [cites omitted]. But direct payments of money are not at issue in this case....” 530 U.S. at \_\_\_\_ (Thomas, J., for the Court). The views expressed by the five concurring and dissenting justices were even firmer on the Establishment Clause concerns that are presented when taxpayers’ funds flow to religious institutions. As Justice O’Connor noted, “our concern with direct monetary aid is based on more than just [concern about] diversion [of tax-funded aid to religious use]. In fact, the most important reason for according special treatment to direct money grants is that this form of aid falls precariously close to the original object of the Establishment Clause’s prohibition.” 530 U.S. at \_\_\_\_ (O’Connor, J.) (concurring).

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Governmental advancement of religion is not just some abstract legal problem. It creates resentment when taxpayers are forced to support religions they reject. Legal and ethical claims are triggered when taxpayers are denied tax-funded employee positions because they aren't the "right" religion or don't hold the "right" religious beliefs. Furthermore, by requiring elected leaders to pick and choose among competing religions to award a limited number of social service grants and contracts, "charitable choice" creates an opportunity for using religion as a political tool and heightens religious divisions.

*"Charitable choice" promotes government-funded discrimination.* "Charitable choice" expressly allows religious organizations that receive government funds for their services to discriminate on the basis of religion in their employment practices. We believe that this results in government-funded discrimination and violates the Establishment Clause by using taxpayer money to advance a particular religious viewpoint. While churches and religious agencies retain the ability to make employment decisions on the basis of religion for privately funded positions, that right should not extend to those who provide the services that are funded by the government.

*"Charitable choice" jeopardizes beneficiaries' rights to religious liberty.* By making it possible to integrate tax-funded secular services with religious ones, "charitable choice" practically invites the use of social service beneficiaries as a captive audience for proselytizing and other religious activities. Although "charitable choice" ostensibly requires access to alternative providers and a limited right to opt-out from religious activities, it will be very difficult for some beneficiaries to exercise these rights. Our concern is not with religious activities themselves, of course, but with governmental coercion in religious matters.

*"Charitable choice" threatens the autonomy and vitality of religion and religious liberty.* It is the government's obligation to demand accountability for its funds. When government funds flow to houses of worship and other pervasively religious groups, this obligation will invite excessive and unconstitutional entanglement between the institutions of church and state. If a house of worship accepts government money, for example, the regulation that attaches to the government money could bind the entire church, the church's books could be audited, and "charitable choice" lawsuits could jeopardize the church's assets.



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Furthermore, we are concerned about religion's dependency on government funds and the effect that this will have on religion's willingness to serve as a prophetic critic of government. We also fear that, as many policymakers come to view religion as simply a cog in the vast engine of social reform, religion will be distorted, distracted, and demeaned. Religion in America is vibrant because it is fully owned and operated by believers, rather than by any governmental bureaucracy.

*“Charitable choice” is part of several laws; therefore, we offer the following general recommendations to religious organizations:*

- Houses of worship and other pervasively religious organizations (those that cannot or do not wish to clearly separate any privately funded religious activities from secular activities and refrain from discrimination on the basis of religion in hiring with government funds) should refrain from seeking government funds. Houses of worship and other pervasively religious institutions should remain self-supporting to protect taxpayers' consciences, governmental neutrality, and religious vitality. These organizations may cooperate with the government in nonfinancial ways (see areas of agreement) and seek funding from various private sources, including charitable foundations and corporate sponsorships.
- If houses of worship or other pervasively religious organizations would like to create separate organizations to receive tax funds, they must ensure that the secular services that are offered are clearly distinct from any privately funded religious activities, that tax money is not used for religious activities, including discrimination on the basis of religion in hiring, and that any participation in religious activities by beneficiaries is purely voluntary. These organizations must be prepared to be subject to the same general regulations that apply to any other recipient of government funds. Many organizations already operate in this fashion and we strongly recommend that other religious organizations create such religious affiliates.

Because government officials are charged not only with implementing “charitable choice,” but also with upholding the Constitution, we urge them to seek guidance from an attorney because “charitable choice” conflicts in many respects with the Constitution.

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## *Appendix: Non-government Community Support for Faith-based Organizations*

**R**egardless of one's position on the constitutionality and advisability of "charitable choice," partnerships and sources of funding in the private sector are available to religious organizations that desire to serve members and neighbors in need.

Funding possibilities include special appeals within houses of worship or denominations, grants from charitable foundations, and corporate giving alliances. Partnerships with various other sectors in the community could include:

- Partnerships with banks to create non-profit housing programs.
- Partnerships with businesses in job training and placement programs.
- Partnerships with private hospitals in staffing and supplying congregation-based health clinics.
- Partnerships with community organizations in adult education, literacy, ESL, childcare and youth violence intervention programs.
- Partnerships with national social service coordinating organizations (such as Catholic Charities or United Jewish Communities) that facilitate local community work.

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SIGNATORIES

The undersigned are a diverse group of religious, charitable, civil rights, and educational organizations. Each recognizes and respects the historical and contemporaneous importance of the role that religious freedom, as embodied in the Free Exercise and Establishment Clauses of the First Amendment, has played and will continue to play in the life of this country. Each also recognizes that government and the private sector, including religious organizations, have legitimate, distinct, and important responsibilities in addressing societal needs. Organizations that share these core assumptions may nevertheless have differing interpretations of the United States Constitution, particularly as applied to the question of government funding for the social work of religious organizations. The legislative provisions known as “charitable choice,” which represent a particular approach to the participation of religious organizations in the delivery of government-funded social services, have focused attention on this controversial area. Some of the organizations listed below supported the “charitable choice” provision; some opposed it and some took no position. While not every organization listed below agrees with every statement in this document, it is their hope that the document will provide useful insights for government officials, social service providers, and beneficiaries in this complex and sensitive area.

*(list in formation)*

American Jewish Committee	First Amendment Center, The Freedom Forum World Center
Baptist Joint Committee	Friends Committee on National Legislation (Quaker)
The Becket Fund	Islamic Supreme Council of America
Call to Renewal	National Association of Evangelicals
Catholic Charities USA	National Ministries, American Baptist Churches USA
The Center for Public Justice	The Salvation Army
Columbus School of Law, Catholic University of America	Sikh Mediawatch and Resource Task Force (SMART)
Evangelicals for Social Action	United States Catholic Conference
Feinstein Center for American Jewish History, Temple University	

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