

## **CAN RELIGION HEAL AMERICA'S DISADVANTAGED?**

*The United States is currently debating the full-scale implementation of a piece of legislation contained in the Welfare Reform bill of 1996 that permits the direct government subsidy of religious organizations engaged in public social service delivery. Known as Charitable Choice, this law requires state governments to consider the applications of faith-based organizations on equal footing with secular social service organizations. The rationale behind the law is to tap into the unique power of faith to heal the soul and inspire legions of compassionate social workers to take to the field and cure America's social ills. Always a contentious issue, the interaction of church and state is coming to the fore in America. "Is this the innovation the country needs to address its poor and disadvantaged," "is it even legal," and "will it even work" are some of the questions this paper addresses.*

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Upon entering office in January 2001, one of the first executive actions of United States President George W. Bush was to create the Office of Faith-Based and Community Initiatives (OFBCI) charged with “identifying barriers that separate Americans in need from effective social service programs.” The goal sounds great, but what do government social services have to do with faith? And furthermore, what does the president mean by barriers?

There have been three major upheavals in U.S. social welfare policy, all occurring in the 20<sup>th</sup> century. The first was during the Great Depression in the 1930s when President Franklin Roosevelt enacted Aid to Families with Dependent Children (AFDC) under the New Deal in response to widespread poverty and joblessness. AFDC was an open-ended entitlement program that funneled federal money and services to eligible recipients via their state of residence. This marked the first time the federal government perceived itself obligated and able to look after the disadvantaged. Each state would claim the number of eligible families, ranging from public housing to food vouchers to financial assistance and receive appropriate service from the federal government.

The second social service revolution occurred in the 1960s when President Lyndon Johnson enacted the Great Society program. Though Great Society left AFDC largely unchanged, it shifted the emphasis from monetary assistance to the provision of services and greater nonprofitization. No longer would local branches of the government handle AFDC and welfare services, rather nonprofits would submit applications for federal funds to carry out the services. The federal government still recognized its obligation to look after the disadvantaged, now believed that programs for the needy were a better investment than financial and tangible assistance.

The third social welfare revolution was in 1996, when President Clinton signed the Personal Work Opportunity and Responsibility Act (PWORA). This is by far the greatest change in welfare policy since the New Deal. Known as Welfare Reform, PWORA changed the very nature of welfare from open-ended entitlement to a fixed-amount block grant. Calculated at state welfare expenditures for 1994, the program Temporary Assistance to Needy Families (TANF) provided \$16.9 billion annually for all welfare financial and in-kind assistance, to be reduced piecemeal over the next couple decades. The basic thrust of Welfare Reform is to get people off of the welfare rolls and into fulltime work. While it was Democratic President Clinton who signed the bill into law, it was the product of a Republican Congress. PWORA reflects a Republican view of the country and social service: it devolves power to the states; it increases competition between states for high-performance bonus grants from the federal government; it centers the conversation on work, not entitlement; and it sanctions recipients for non-compliance with welfare rules.

Welfare rolls nationwide were halved in a matter of five years and in some states a majority of former welfare recipients were in fulltime employment or job training. Of course, strong economic growth in the U.S. during that period contributed to Welfare Reform’s success by providing an insatiable job market. Also, many states used budget surpluses to shift federal welfare recipients to the state rolls in order to comply with the

federal rules, and in some cases be awarded high-performance bonuses. To Welfare Reform's credit, many of those parties defrauding the welfare system were scared off the rolls by mandatory welfare office visits and forced job training participation. Needless to say, when the results came, Democrat and Republican alike clamored for credit.

### ***The New Law: Rallying the Armies of Compassion***

Within the PWORA document, one important section received little attention until the Gore-Bush 2000 presidential campaign. Known as Charitable Choice, it requires states to consider the grant applications of faith-based organizations (FBOs) on equal footing with secular organizations. In other words, when states are deciding where to distribute their block grant, they could not systematically maintain preferences for secular nonprofits over religious nonprofits delivering secular social services. An FBO is defined as being affiliated with a religious denomination, its members being of that faith, and the faith itself is a pervasive aspect in delivering the social service. As mentioned earlier, the nonprofitization of Johnson's Great Society began in earnest the distribution of money to non-profits for social services such as family counseling, homeless shelters, criminal rehabilitation centers, neighborhood health clinics, and job training centers. Before Charitable Choice, if a Presbyterian Church in Florida wanted to run a soup kitchen for the homeless, it had to create a secular entity operating on a not-for-profit basis. The new entity could then in turn receive money to buy soup and rent out space to distribute it. However, like secular nonprofits, it must meet all accounting and regulatory standards to receive public dollars and must abide by the rules of pervasive religiosity. In the world of social service, this meant that the Presbyterians in Florida could not have Jesus Christ on a crucifix hanging on the wall or distribute biblical psalms with the soup. Charitable Choice changed the law to allow funds to go directly to the FBO without forcing them to create a secular nonprofit as long as the money was not used for religious proselytizing. The FBO may not use the money to print psalms from the bible or buy extra crucifixes, but they can still insert the psalm and have Jesus Christ on the wall.

FBOs and social service delivery in the US is by no means new. At the turn of the 20<sup>th</sup> century, FBOs like the American Sunday School Society gave English instruction to immigrants and the Young Men's Christian Association provided recreation for urban young men. Catholic Charities and Jewish Family Services ran and funded a host of services for the needy, often outdoing the government in certain areas of service. Since the Great Society program, the Salvation Army, the National Council of Churches of Christ and Lutheran Social Services have been extremely active in reaching the poor with everything from remedial education to family counseling to clothing for the poor and homeless.

In recognizing this service and the potential of FBOs to do more, Charitable Choice reasons these organizations should be supported without being forced to change their religious character. When President Bush was talking about barriers, he was referring both to the fact that FBOs could not be directly funded before Charitable Choice and the belief that states would not consider the applications of FBOs for public money on a level

playing field with their secular counterparts. As stated in Section 104 of PWORA, Charitable Choice allows

...states to contract with religious organizations, or to allow religious organizations to accept certificates, vouchers, or other forms of disbursement under and program...on the same basis as any other nongovernmental provider without impairing the religious character of such organization, and without diminishing the religious freedom of beneficiaries of assistance funded under such a program.

While it is the state's responsibility to consider the applications of FBOs on equal footing with secular organizations, it is the responsibility of FBOs to provide their publicly funded services to all that seek them. In other words, a Jewish FBO running a soup kitchen cannot deny soup to a homeless Christian because he is Christian if the FBO is publicly funded.

### ***Why Are FBOs So Important?***

Charitable Choice was not written just to give more money to FBOs, the real impetus behind Charitable Choice is the "faith-factor." The belief that FBOs are somehow able to harness the power of faith to transform the individual, whether it be in getting a job, staying off of welfare, breaking a drug addiction, or not recidivating upon release from prison. Richard Nathan and David Wright from the Roundtable on Religion and Social Welfare Policy clearly spell out the purported core advantages of FBOs over their secular counterparts. FBOs:

- Are more holistic in their approach, treating the whole person by stressing spiritual renewal and personal transformation
- Are better at placing program recipients in an ongoing support network which provides role models and connects clients with the community
- Have "front-line" workers who are more caring and more personal in their approach
- Can translate these features into effective services

### ***The Constitutional Debate***

Though Charitable Choice changed the law to allow FBOs direct funding without impinging on the religious nature of the organization, it still does not change the First Amendment of the U.S. Constitution. The government cannot impinge upon the free exercise of religion, nor can it establish, or in other words support, any particular religion. Technically, Charitable Choice does not directly fund the religious activities of the FBO and therefore does not support its religious activities. However, this does not rule out the possibility that government subsidy of the secular activities of an FBO constitutes indirect support for sectarian activities through supplantation. For example, if a Church of Christ school receives public subsidy to buy sports equipment, does that not free up money the school would have been spending on sports equipment for proselytizing missions or more bibles?

Along the lines of excessive entanglement with religion proscribed in the Constitution, requisite accounting for all grant money runs the risk of doing just that. If the government is in a position to monitor how the FBO spends its public money, then it is inherently in a position to monitor how the FBO conducts its faith-based services. On the surface, this question is easily answered. If the FBO agrees to government subsidy, it is essentially agreeing to government auditing. But in reality, the whole point of Charitable Choice is the faith-factor. FBOs are so enthusiastically supported by advocates of Charitable Choice for the sole reason that they do what their secular counterparts cannot do: convert people. In this case, the government will inevitably become entangled in the business of faith transformation in ensuring that monies are not used for faith-based activities, even though this is what it wants to indirectly encourage. The fundamental conundrum is Charitable Choice wants to support the faith-factor, precisely the element secular social service delivery organizations lack, but it can neither fund it directly nor instruct the FBO on how to apply the faith-factor in a manner congruent with the Constitution, and consequently Charitable Choice.

It is interesting that we are seeing some liberals and conservatives opposing Charitable Choice on First Amendment grounds for different reasons. According to Leslie Lenkowsky of Purdue University, some liberals have advanced that Charitable Choice will necessitate the government picking religions to fund, in turn creating religious strife. On the other hand, she notes some conservatives worry the government will be forced to support religions outside of mainstream America like Islam, Buddhism, and the Church of Scientology. From the latter argument, it is clear that these conservatives hope FBOs will not just share compassion, but actually convert souls.

Perhaps an even bigger problem is the issue of hiring. The 1964 Civil Rights Act that mandated equality in hiring, barring employers from considering gender, creed, sexual orientation, age, physical handicap or race in hiring, exempted religious organizations to selectively hire co-religionists. Forcing FBOs not to discriminate against alien religions would constitute excessive entanglement. However, this exemption did not consider FBOs receiving public money to carry out public social services. Is it not illegal for an FBO to selectively hire members of the same faith to carry out a public task? As of now, the ruling on this issue is currently being played out in the courts in a few high-profile wrongful termination suits. Either way the court rules on this issue, it has already proven itself to be a formidable impediment to the smooth implementation of Charitable Choice.

### ***The Debate over Effectiveness***

Charitable Choice today has significant bipartisan support, evidenced by the attention proffered it by Vice President Al Gore and Governor Bush during the 2000 campaign. It also enjoys widespread public support. According to the Pew Forum on Religion and Public Life, roughly 75% of Americans support the idea of Charitable Choice in principle. In light of all the enthusiasm, there is little empirical data to confirm the efficacy of FBOs, let alone their superiority to secular alternatives. The dearth of empirical evidence is made up for by a plethora of anecdotal evidence to support the existence of the miraculous faith-factor. In response to this evidence, I can raise four

concerns that undercut the perceived advantage of FBOs: two-way selection, evaluation, volunteer staff, and frontline appeal.

### *Selective Recipients*

Many FBO success stories may be the result of an FBO working unrepresentative populations. A good example is Prison Fellowship Ministries. In this program, prison inmates apply to be housed in a separate wing of the prison to participate in drug treatment and family counseling, along with intense bible study. Upon release, the inmates are linked with ombudsmen from the church community who act as mentors and sources of support for reintegration into the community. Graduates of the program have a much lower rate of recidivism and are statistically more likely to reunite with their families and successfully rejoin in their communities. Proponents of the program cite faith as the clear source of success. However, a few circumstances make these results suspect. The application process allows Prison Fellowship to select candidates who are more likely to succeed, such as first-time offenders who have exhibited good behavior while incarcerated and a willingness to seek out drug and family counseling. In other words, they may not be the typical prison inmates. Furthermore, their self-proclaimed dedication to Christ may make them more amenable to the brand of Christian rehabilitation offered by Prison Fellowship. Also, housing inmates in a separate facility removes them from some of the bad influences that the mainstream prison population is subjected to, like overcrowding and exposure to violence and drugs. Perhaps the selection process and subsequent inmate segregation contributes to Prison Fellowship's success rate.

### *Evaluation*

Evaluating the success of publicly funded FBOs will be a daunting task. The government cannot measure the success of a FBO by the number of drug treatment recipients who become devout Christians; it must evaluate how many of the recipients manage to stop using drugs. If the service offered is one-on-one counseling by a member of the FBO, how can the government evaluate the success of the secular service provided without evaluating the quality of the religious content in the counseling sessions? Ignoring the religious content of patient-counselor interaction is almost tantamount to reading only the nouns in a speech and ignoring the verbs.

Aside from some of the larger FBOs like United Jewish Charities, the Salvation Army, and Catholic Charities, smaller FBOs being targeted by Charitable Choice for their frontline statutes simply do not have the accounting experience of other secular nonprofits. Receiving money from the government entails an overwhelming amount of paperwork and budget management that small FBOs may not be able to handle. One of the most appealing possibilities of Charitable Choice is tapping into the widely recognized success that churches in black America have had in reaching and communicating with poor urban and rural blacks. While churches in the black community are seen as having unmatched proximity and legitimacy to their constituencies, many of them do not have the staff or expertise to write adequate grant proposals or handle complicated budget reports. If FBOs such as these receive public

money, it will not only be difficult for them to keep up with grant conditions, it will also be difficult for the government to measure their success.

### *Volunteer Staff*

In recognizing the powerful volunteer spirit in the America, President Bush wants to use the OFBCI to “rally the armies of compassion.” He hopes the millions of Americans who volunteer every year will replace the hundreds of thousands of paid service delivery staff working for states and secular nonprofits. While trying to mobilize the volunteer spirit of America is nothing new for a president, President Bush is the first to try to replace the existing social service apparatus with volunteers. This is a dangerous move. Volunteers cannot perform the work of professional staff. For instance, many in the religious community, particularly the Christian right, favor a families-first approach to social issues. In other words, whenever it is possible to reunite a family, family-first advocates push for reunification. If domestic violence counselors were replaced with church volunteers, this attitude could cost lives, for there is a clear danger in sending an abused spouse back to her husband. Assessing the safety of domestic violence victim at home is a decision only trained professional staff should be charged with making. This is one case where the compassion of Christ may not be suitable for the real life problems of domestic violence.

### *Frontline appeal*

In response to the latter criticism, a Charitable Choice advocate might appropriately counter that the law should not be scrapped simply because it is not suitable for certain services. Let us not forget that one of the unique advantages of FBOs is their frontline status in hard-to-serve communities. The unparalleled legitimacy of black churches in gaining the trust of their service recipients may not be due to religion, but to the trust they earn as not being part of the system, a system associated with indifference to the plight of black America. While many FBOs report that they would welcome government money, many black churches have expressed reservations. In taking money from the government, churches may begin to dance to the tune of the government and compromise their unique legitimacy.

### *Good Programs Work*

Suppose the government was to find a way to fund solely the secular services of FBOs, it still leaves the question open as to whether it is just a good program that works rather than faith. Let us look at Prison Fellowships again. It is reasonable to ask why a similarly structured program without Christian indoctrination would not be equally successful. Imagine a program that selected high-potential inmates and trained them in carpentry, along with drug and family counseling. Upon release, these inmates were paired with carpenter ombudsmen who helped them find jobs and reintegrate into the community. They would have the same segregation housing while incarcerated, a sense of purpose in their learned trade, and a support system in place once they reach the community. In this case, is it so clear that the presence of bible study is superior to the study of carpentry?

There are also a number of successful services offered by organizations that have a religious background but offer strictly secular services. Catholic, Jewish and Presbyterian hospitals provide secular medical treatment, Eastern Orthodox nursing homes provide secular health care, and Christian community development organizations provide housing and job training services with great success. While their staff may be motivated by the passion that only religion can provide, they deliver strictly worldly services. It is not clear that permitting these organizations to simultaneously offer the power of faith will make them any more successful. Perhaps in the end it is just good programs that work and the government may be better served spending its energy looking for them and avoiding the headache of funding the secular services of religious organizations.

### *A Voucher Solution?*

The best solution to the Charitable Choice debate is the voucher. A voucher is a subsidy that permits limited purchasing power to the recipient to receive a particular service. The Community Solutions Act of 2001 allows the individual service recipient to elect to receive services from an FBO with a voucher. An ideologically neutral tool, the voucher is based on achieving an end, not the promoting a mean, much along the lines of Charitable Choice. Vouchers issued directly to the individual do not eliminate the option of a faith-based service but leave the choice strictly to the service recipient. If a recipient wants to participate in a drug treatment program that features heavy evangelization and a conversion of the soul to Christianity, it is her choice and not the government's.

Vouchers offer an effective solution to the contentious debate over the constitutionality of direct contract funding of congregations. If a parent decides to use a voucher to receive childcare services from a sectarian provider, voucher reimbursement may go to the FBO but it is still considered assistance to the parent, not the FBO. Charitable Choice undeniably involves support to the FBO in the form of grant money. Vouchers clearly circumvent the dispute because sectarian institutions would receive government funding indirectly based on free decisions made by adults. Of course, FBOs are still restricted from discriminating against beneficiaries on the basis of religion, a religious belief, or refusal to hold a religious belief.

The real answers to the efficacy of Charitable Choice will come from the field. I do not see any real danger in simultaneously funding FBOs and secular nonprofits, though that may not be possible in lean economic times. It is worth noting that Charitable Choice was drafted during robust economic growth when experimentation was affordable. As for now, it may really be a question of one or the other. Although President Bush has recently made it much easier for Americans to deduct charitable giving from their taxes, which is designed to encourage individuals to give to charities engaged in social service, it is doubtful that this effort at spurring giving will make up for smaller state budgets.

While the world is debating religion and politics at the national level, this debate in America should be followed closely. It may offer useful information on alternative ways of state engagement of religion. One positive outcome of the Charitable Choice debate is it has forced the state to recognize that religion is also working for at least a few of the

same public ends. The question seems to be for the government: if FBOs are having such success, should the state tamper with it? And the question for FBOs is: if we are really more effective than the government, why would we invite it to interfere?