

## Yes to Charitable Choice

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Charitable choice, a set of rules that encourage “faith-based organizations” (FBOs) to participate in government-funded welfare programs, was once an obscure player in the drama of welfare reform. But no longer. In campaign 2000 charitable choice is playing opposite the two leading men, George W. Bush and Al Gore. Both have been falling all over themselves to praise FBOs as providers of social services, and the party conventions will feature more of the same.

Bush was the first of a small number of governors to aggressively implement charitable choice. When he emerged on the national scene, many progressives shrugged off his pursuit of FBOs, saying in effect “we don’t have a dog in that hunt.” But Gore soon stunned the left by out-triangulating the great triangulator. In a speech at a Salvation Army drug rehabilitation center on May 24 last year, Gore embraced charitable choice and took the left to task for “hollow secularism” and “self-perpetuating” welfare bureaucracies, a maneuver some likened to Clinton’s rebuke of Sister Souljah. Indeed, senior Gore adviser Elaine Kamarck indiscreetly blurted, “The Democratic Party is going to take back God this time.”

Some critics see charitable choice as a stalking horse for stripping social services of public support. Others draw a straight line from Bush’s association with Marvin Olasky, author of the Gingrichite favorite *The Tragedy of American Compassion*, to charitable choice. Critics have also traded on fear of the Christian Right. After Gore’s speech, Elliot Minberg of People for the American Way said, “I’m sure Gore is sincere about his faith, but why embrace the agenda of the Christian Coalition?” But charitable choice is not a creature of the right wing: Olasky himself has criticized charitable choice precisely because it does not comport with his vision of a purely voluntary approach to welfare. Under charitable choice, if welfare services are opened up to any private providers, FBOs must be allowed to apply—but public money will be spent regardless.

Philosophically, charitable choice is linked not to the religious right but to a new religious center, a confluence mainly of Roman Catholic, black Protestant, and moderate to left evangelical streams. This emerging alignment features, among others, the Call to Renewal, led by *Sojourners* editor Jim Wallis and allied groups like Catholic Charities, the Ten-Point Coalition (a church-based inner-city program led by Boston’s Eugene Rivers) and the Center for

Public Justice (a moderate evangelical group in the Reformed “principled pluralism” tradition). Such groups may possess conservative theological and moral sensibilities, but they bring to the table a powerful social ethic that demands care for the poor, and not just through charity.

Charitable choice thus presents an unusual opportunity: a broad cross-section of groups has found terms under which it wants to spend public money on the poor. And polls suggest that three-quarters of the public approve of giving federal funds to service-providing FBOs. What’s more, charitable choice does not privilege conservative Christianity, because it is rooted in the constitutional paradigm of “substantive neutrality” (no favoritism for secularism over religion, religion over secularism, or for one religion over another). Before the 1996 welfare law, FBOs were ineligible for funding if their programs had religious components and they hired only co-religionists. Since then, charitable choice has aimed to level the playing field for all FBOs, Buddhist to Baptist. It provides protections for their religious identity but does not itself grant special exemptions from government accountability and performance standards.

Furthermore, the government is required to make equivalent secular programs available to welfare beneficiaries who don’t want a religious program, while FBOs are barred from religious discrimination against clients and from making religious activities mandatory. In addition, just as secular nonprofits that receive federal grants are required to demonstrate that public funds do not pay for their political speech (such as issue advocacy), FBOs must demonstrate that public funds do not pay for religious speech (specifically, “sectarian worship, instruction, or proselytization”).

Some church-state watchdog groups have rushed to defend a high wall of separation and are warning religious organizations that there are never shekels without shackles. Questions are also being asked about how to insure that FBOs don’t abuse the system, since good-faith compliance can’t always be assumed. Still, the legislative momentum behind charitable choice is overwhelming. At least ten bills before Congress would expand it, including the “new markets” package announced in May by House Speaker Dennis Hastert and President Clinton. Opponents are trolling for a test case, but the odds are against success in the courts, given that recent Supreme Court rulings seem to be tacking toward the substantive-neutrality vision.

To be sure, critics raise a number of legitimate concerns, and it would be naïve to assume that simply being religious makes a program competent. But there has never been and never will be a completely fail-safe government contract or grant. Whether the worry is publicly funded politicking (a longstanding right-wing bugbear), publicly funded proselytizing or some other worst-case scenario, all sides need to take a sober look at the whole nonprofit sector and forgo special pleading.

The left would do well to think beyond this year’s presidential posturing and consider the long-term politics of social services. A strong and diverse

FBO community, more engaged than ever in public-private partnerships that serve the poor, may be a strong ally in defending federal funding when the good economic times stop rolling. Progressives can't afford to ignore realistic opportunities to help poor people and should instead concentrate on exercising constructive vigilance as charitable choice moves forward. Doing so advances social justice and a robustly impartial pluralism in the relationship between religion and public life.

The danger is that by sitting on their hands, progressives will unwittingly aid those far-right conservatives who would embrace charitable choice now only to abandon it later in favor of an imagined utopia of private welfare. The stakes for the poor are too high to allow charitable choice to be used as a bridge to the nineteenth century.

## Old Alliance, New Ground Rules

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For those who remember the urban policy of the 1960s, President Bush's new Office of Faith-Based and Community Initiatives seems like *déjà vu* all over again.

Searching for a bottom-up approach to rescuing impoverished urban neighborhoods, the architects of Lyndon Johnson's Great Society seized upon black churches as their local partners. Before long, church-controlled nonprofits were springing up in cities across the nation, using federal funds to supply job training and counseling, build affordable housing and otherwise promote community development.

Some of these enterprises, as Republicans at the time happily pointed out, were marred by fraud, waste, and mismanagement. But they built upon the traditional commitment of American congregations generally, and the black church in particular, to provide for the needs of their members and the community at large. And they were consistent with the character of much social service provision in postwar America—namely, that government collected the money while contracting with nonprofit agencies to provide the services.

These days, many service-providing nonprofits are, in fact, "faith-based." The largest, Lutheran Services in America, receives 39 percent of its \$ 7 billion annual budget from government sources. For Catholic Charities and the Salvation Army, two other major players, the numbers also are substantial: 62 percent of \$ 2.3 billion and 18 percent of \$ 2.1 billion respectively.

In return for their nearly \$ 4.5 billion in government contracts, the three undertake a host of services: care for children and the elderly, settlement of new immigrants, construction of affordable housing, you name it. With agencies throughout the country (Catholic Charities, for example, comprises 1,400 independently incorporated entities), they constitute an integral part of the nation's service delivery system. So it was ill-informed, to say the least, of President Bush to declare at the National Prayer Breakfast earlier this month, "Government cannot be replaced by charities, but it can welcome them as partners instead of resenting them as rivals."

If the government already routinely funds faith-based nonprofits now, what's different about the president's initiative? When he talks about "mobilizing the armies of compassion," he seems to have religious congregations in mind. There, the picture is more complex.

The 1998 National Congregations Study, a geographically and denomi-

nationally representative survey conducted by University of Arizona sociologist Mark Chaves, found that most of the country's 300,000 congregations do engage in some form of social service—but only 3 percent of congregations run programs funded by government. Most of that assistance is short-term or emergency intervention, such as collecting food for the hungry, helping staff a homeless shelter or spending a day building a Habitat for Humanity house. According to the study, respondents from 28 percent of predominantly white congregations and a whopping 65 percent of predominantly African American ones said they would be interested in applying for such federal funding. Even accounting for many second thoughts, this suggests that there are indeed troops out there waiting to mobilize.

In line with the charitable choice provision of the 1996 welfare reform law, the president's initiative aims to make it easier for them to do so by no longer requiring them to set up separate nonprofits or otherwise cease being "pervasively sectarian." To be sure, churches are not supposed to use government funds to pay for proselytizing or to condition the government-funded services they provide on active participation in religious activities. But neither must they take the crucifixes off the wall or do anything else to hide their spiritual light under a bushel—precisely because their religious identities and motives, in the president's view, will contribute to the success of their efforts.

Bush's belief in what religion can do in this regard is clearly related to his personal faith journey. In 1999 during a presidential primary debate in Des Moines he explained that Jesus was his favorite political philosopher because "he changed my heart." While that might have seemed philosophically vacuous to many, it expressed the traditional evangelical Protestant theology of social betterment: The way to make people, and thereby society, better is to change their hearts by bringing them to Jesus.

When asked after the election to name the highlights of his presidential campaign, Bush cited a visit to the Teen Challenge center in Colfax, Iowa. Teen Challenge International identifies itself as "a Christian nonprofit addiction treatment ministry with 130 centers (2,885 beds) in the United States." The Teen Challenge program makes bringing addicts to Jesus the sine qua non of recovery. While permitting the government to underwrite such a program would make a travesty of the First Amendment, the president may well be thinking along these lines.

But it is one thing to use taxpayers' dollars to fund a Teen Challenge center and another to support a homeless shelter where there is a regular but optional Bible study group. In fact, most faith communities do not share evangelicals' theological understanding of what they do, or why they do it. Mother Teresa didn't seek to bring Hindus into the Catholic Church; classic Catholic social teaching says that the poor should be helped independent of proselytizing. The same holds true for the mainline Protestant churches,

whose members are far more engaged in social ministries than their evangelical brethren. If Bush has difficulty seeing beyond the evangelical model, the rest of us shouldn't make the same mistake.

Poor Americans are going to need all the help they can get. The federal government may have ended Aid to Families with Dependent Children in 1996, but it didn't do away with poverty. For those who have been on welfare continuously since then, the 60-month federal clock runs out this year, and while some states have taken steps to maintain coverage, thousands of Americans are going to find themselves dropped automatically from public assistance. As for the current economic slowdown, it will unquestionably place greater strains on social services.

The strains are already showing. According to Sharon Daly, vice president for social policy of Catholic Charities USA, in 2000 there was a 23 percent increase in the amount of food and shelter her organization gave out through its member agencies, and that fell far short of what was requested, mostly by the working poor. A recent survey by Lutheran Services shows that some of its programs have had to be discontinued because of lack of funding, and that nearly half have extensive waiting lists.

Will there be sufficient funds to meet the needs? Thus far, White House officials associated with the new initiative have talked mostly about encouraging more private charitable giving. In saying the initiative will involve billions of dollars, they appear to mean only that charitable choice provisions will be written into all relevant federal social service programs at whatever level they happen to be funded.

And there's a hitch. Enabling religious congregations to create new social services with government funds without increasing the total amount available will mean, by the law of zero sum, that existing providers, including experienced faith-based providers, will get less. The result will be some disruption of the current system at a minimum. New players will have to spend time figuring out how to run their programs, and there will inevitably be those that do badly or fall by the wayside.

In any event, states and localities will have to choose from among all who apply, and studies have not yet been done to determine whether faith-based providers do the job any better than secular ones. There are areas where the faith-based have proven themselves solid performers. These include providing affordable housing for the elderly, day care and after-school care, and tutoring and mentoring for teenagers, all of which may be funded through the current federal welfare program, Temporary Aid for Needy Families (TANF). If the president's faith-basistas don't want to be working for the Herbert Hoover of the 21st century, there may well come a time when they start talking about the need to "fully fund" their new initiative, perhaps by increasing the appropriation for TANF when it comes up for reauthorization next year.

At the end of the day, the initiative may be important not for changing the social service landscape of America, but for creating the political coalition necessary for Congress to appropriate enough money to support at least minimally those Americans who are most in need. If, in the name of faith, this ends up looking a lot like welfare as we knew it, don't tell anyone.

## Faith-based Update: Bipartisan Breakdown

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On July 10, the *Washington Post* set the day's news agenda with Dana Milbank's front-page report that the Salvation Army had agreed to support President Bush's charitable choice initiative in exchange for a rule exempting faith-based organizations from state and local policies banning discrimination against gays.

Based on a leaked internal Army document, the story forced the administration into a swift and undignified retreat. By nightfall, the White House had announced not only that there had been no such agreement, but that any regulatory change to that effect was unnecessary and no longer under consideration.

It was the latest pothole in what has been the bumpiest of roads for an initiative that was supposed to be the Bush domestic policy's answer to motherhood and apple pie.

Initially, news coverage of the President's initiative tended to give the plan the benefit of the doubt, and the balance of editorial opinion was cautiously positive. Politicians on both sides of the aisle had previously voted in favor of charitable choice rules. And the appointment of University of Pennsylvania professor John DiIulio was evidence of its bipartisan lineage.

"My message to my fellow Democrats is this: I'm not in this administration because I feel like being Republican," DiIulio told Rebecca Carr of the *Atlanta Journal and Constitution*. "I'm in this administration because like Vice President Gore, like Senator Lieberman and like most Democrats in the House who have voted for this previously, I believe this is the way to get poor people and people in need the services they need."

Moreover, many important religious groups supported the initiative—including some strange bedfellows (see table). The policy's crossover appeal offered the possibility of a new religious center to replace the "culture war" politics of religious right vs. religious left. Emblem of compassionate conservatism, bipartisanship, and "bringing the country together," it is no wonder that charitable choice was rolled out by the new administration in its second week on the job.

But by March the honeymoon was over, and the centrist antecedents of charitable choice were quickly forgotten. By the time the White House got around to trying to stop the bleeding in May and June, there was so much partisan blood in the water that the initiative's survival was very much in doubt.

Trouble started on the right, even before the initiative was introduced as



### The New Religious Center and the Faith-based Initiative

	<i>Mostly supportive</i>	<i>Somewhat supportive</i>	<i>Neutral</i>	<i>Somewhat opposed</i>	<i>Mostly opposed</i>
<u><i>Religious traditions and denominations</i></u>					
Mainline Protestants					
American Baptist				x	
United Church of Christ					x
Episcopal		x			
Presbyterian (USA)		x			
United Methodist		x			
White Evangelicals					
right-wing				x	
center-right to progressive	x				
Roman Catholics	x				
Black Protestants	x				
Hispanic Protestants	x				
Jews					
Reform and Conservative					x
Orthodox	x				
Muslims					
		x			
Nation of Islam					
					x
Mormons					
			x		
Unitarians					
					x

Source: Author's assessment based on press accounts, denominational statements, and survey data. For another breakdown of religious traditions, see [www.beliefnet.com/index/index\\_405.html](http://www.beliefnet.com/index/index_405.html).

legislation. In early March Christian Coalition founder Pat Robertson wrote a *USA Today* op-ed suggesting that the whole initiative be converted into a tax credit scheme; and Jerry Falwell, the other aging pillar of the religious right, went on record in a Beliefnet.com interview with his own collection of worries.

This was a big story. Deborah Caldwell and Steven Waldman of Beliefnet.com cut straight to the heart of the matter: “Bush forced to the surface the anxieties of these conservative leaders. How? By being a strong pluralist.” Falwell and Robertson wanted to exclude programs run by religious groups they consider fringe or cultic (such as Scientologists and Hare Krishnas), whereas charitable choice is open to all qualified faith-based organizations (FBOs).

Caldwell and Waldman explored the possibility that a Bush face-off with the Christian Right was to his benefit. It could yield a “Sister Souljah” moment for Bush, Michael Cromartie, director of evangelical studies at the Ethics and Public Policy Institute, told Beliefnet.com. “This is a good chance for Bush to tutor the religious right about what religious freedom means in this country.”

Critics from the left quickly joined the fray. When a House Judiciary subcommittee held hearings on the issue in April, chair Steve Chabot (R-OH) noted that all the returning members had previously voted for charitable choice. But Democrats immediately signaled their change of tune. “Religion has never needed government, and it doesn’t need it now,” declared Jerry

Nadler (D-NY), according to the AP. With opposition to the initiative now full-throated and on the march, journalists gravitated to a theme of “initiative in trouble” (see sidebar), often noting with surprise that it was being attacked from the right as well as the left.

The defections on the right (which ought to have been expected) were nothing compared to what was happening elsewhere on the political spectrum. Through the early spring it was hard to find anyone outside of the African American clergy to say something nice about charitable choice. On March 21 Oklahoma Republican J.C. Watts and Ohio Democrat Tony Hall announced their co-sponsored Community Solutions Act, which attempted to embody all of Bush’s initiative (including his package of tax incentives for charitable giving). They did so with every expectation of quickly picking up more Democratic support. But for months Hall stood alone.

When Bush visited a Catholic hunger center in Cleveland on May 24 to tout his plan, Hall was there, but fellow Ohio representative Stephanie Tubbs Jones turned a cold shoulder, telling the *Akron Beacon Journal*, “It’s definitely a partisan issue, because George Bush is playing to the conservative Christian Right...It’s payback.” Hall admitted to the Cleveland *Plain Dealer*’s Elizabeth Auster and Susan Ruiz Patto that, “I’ve been surprised. I thought it would be embraced quickly.”

Journalists monitoring the initiative’s declining fortunes took note of two racially charged subplots involving Boston’s sharp-tongued Pentecostal pastor Eugene Rivers. DiIulio set the stage for the first in a March 7 address to the National Association of Evangelicals that obliquely blasted Robertson and Falwell: “With all due respect and in good fellowship, predominantly white, ex-urban evangelical and national para-church leaders should be careful not to presume to speak for any persons other than themselves.” (The speech prompted Lou Sheldon of the Traditional Values Coalition to call for DiIulio to be replaced.)

In case the distinction between “white ex-urban” and black urban was lost on some listeners, Rivers quickly made it plain. As Mary Leonard reported in the March 17 *Boston Globe*, Rivers declared, “The white fundamentalists thought the faith-based office would finance their sectarian programs...and they are infuriated because John DiIulio wants resources to go to people who are poor, black, and brown.” Huffed Richard Land of the Southern Baptist Convention, “Like Johnny Cochran with a clerical collar, Rev. Rivers plays the race card.”

Then there was the April 25 “faith-based summit” organized by congressional Republicans. Attended by some 400 black religious leaders, the meeting prompted complaints from critics who saw the event as a crude Republican attempt to buy off black opposition. Elizabeth Becker reported in the May 24 *New York Times* that some Democrats were concerned that “Republicans are using the program to woo black voters, giving money to black inner-city

churches in what they see as an increasingly partisan program.”

In an interview with Beliefnet.com’s Holly J. Lebowitz, Rivers responded: “My sense is that they [Republicans] are no more trying to get the support of black people than the Democrats. In other words, are they indifferent to any residual political benefits? Of course not.” Rivers told CBS Morning News May 21 that it would be a “stupid thing” for black Democrats to casually dismiss the initiative. “We are simply in a situation where the other white guy won. Now we’ve got to deal with it.”

Critics’ allegations about partisan motivations were of much less consequence than the charge that charitable choice amounts to tax-funded religious discrimination in employment. Charitable choice attempts a constitutional balancing act, permitting FBOs to hire by religion while empowering clients to decline services from religious providers. Religious hiring exemptions historically have been more controversial when the form of government assistance is direct (contracts/grants) than when it is, like the GI Bill and analogous programs, indirect (vouchers). Most opponents rallied around the discrimination argument, regardless of the form of aid.

A day before the start of the congressional summit for black leaders, a group called the Coalition Against Religious Discrimination announced that it had collected 850 signatures from religious leaders opposing charitable choice. “This legislation is intended to permit some fundamentalist organization to put a sign on the door saying, ‘No Jews Need Apply,’ surmised Barry Lynn of Americans United for the Separation of Church and State, according to several reports.

Watts called the hiring issue a red herring—“Planned Parenthood receives federal funds, but do we raise Cain because they don’t hire Alan Keyes?” Nevertheless, on the Senate side, the hiring discrimination issue was the principal reason why charitable choice expansion was not even introduced as legislation.

The Senate point man on the initiative was Republican Senator Rick Santorum of Pennsylvania. Santorum wanted (and, after Senate control switched to Democrats, needed) bipartisan backing. So he looked to Connecticut Senator Joe Lieberman, who initially positioned himself as a supporter, posing with Bush for faith-based photo-ops in January. But it soon became clear that he was interested in charitable choice lite, and wouldn’t support legislation until various issues, especially hiring discrimination, were addressed to his (or his party’s) satisfaction.

Santorum decided to introduce only the tax incentives part of the initiative (popular with virtually everyone), and wait on charitable choice. On the other side of the Capitol, a few days before the full House Judiciary Committee was to take up the Watts-Hall bill, committee chair James Sensenbrenner told the *Milwaukee Journal Sentinel* that there were still “legal problems.” “It’s basically up to the administration to get it together if they want it passed.”

For its part, the White House put it out that the problem started when Congress failed to draft a bill that mirrored existing charitable choice law. “Some White House officials say House conservatives overreached when they were writing the bill, giving too much leeway to churches,” reported Mike Allen in the June 25 *Washington Post*. So the scaling back was done. On June 20, DiIulio told Laura Meckler, who covered the issue closely for the AP, “A number of really excellent modifications have been suggested.” By June 26 a deal had been struck with House Republicans, and Judiciary passed it on a party line vote June 28.

Some of the changes simply clarified and beefed up provisions that were always part of charitable choice as originally conceived, such as the requirement that religious activities be optional for service recipients, and the requirement that public funds not be commingled with private. A measure in the original Watts-Hall bill allowing religious groups who are denied funding to sue the government for damages hit the cutting room floor. And on the crucial issue of hiring, new language said FBOs could consider religion in hiring but not “religious practices”—a phrase critics thought too easily justified other kinds of discrimination.

Lieberman continued to play hard to get. “An aide said today that while the senator considered the new changes in the House helpful, he was still withholding support,” reported Elizabeth Becker in the June 28 *New York Times*.

Part of the administration’s problem with rounding up support had to do with inattention. As Allen reported in the June 25 *Washington Post*, White House officials acknowledged that they had allowed the faith-based initiative to founder while they were preoccupied with passing the tax cut.

But the problem ran deeper. The expansion of charitable choice had been proposed without any increase in public funds. This threatened the bottom line for key religious groups already involved in government-funded social services (e.g., Catholic Charities, Lutheran Family Services, the Salvation Army). The math was not fuzzy: As originally proposed in the House, every dollar granted to a new FBO was, in effect, one dollar less for present grantees.

In his May 20 commencement address at Notre Dame University, Bush implicitly acknowledged the problem. With a nod to Dorothy Day and praise for the tradition of Catholic social teaching, Bush pledged that his next budget request would include increases for housing and drug treatment programs. Journalists covered Bush’s Notre Dame speech as part of a political overture to Catholic voters (which it was), but it was also a significant (and largely unnoticed) development in the charitable choice story.

In late May, with the tax cut bill on the verge of final passage, the religious center made its presence felt again. As the *Boston Globe*’s Mary Leonard reported, “A religious coalition headed by the group Call to Renewal directly linked the tax plan to the group’s continued support for another key element of Bush’s agenda, his faith-based initiative.”

Conservative Republicans had been looking to eliminate refundable tax credits for low income families in order to help make room for rate cuts, but the coalition—which included the Congress of National Black Churches, the United States Catholic Conference, Evangelicals for Social Action, World Vision, and the Christian Community Development Association—lobbied for it to be retained. (It was.)

Even when the Catholic Bishops offered their support for the initiative June 14, Cardinal Roger Mahoney of Los Angeles hastened to lament that Bush's original proposal to establish a Compassion Capital Fund was not included in the House bill, noting, "More competition over the same or fewer resources is not the answer. Indeed a commitment to increase federal resources...would strengthen the proposal and assist its supporters." Further lamentations followed the House Ways and Means Committee's evisceration of Bush's tax incentive proposal for the charitable giving of non-itemizers (reduced to \$6.3 billion from the proposed \$84 billion over 10 years). "We support it in principle, but the amount is so small it's almost funny," Sharon Daly of Catholic Charities told the *Washington Post*.

And then came the Salvation Army flap in July. After the story broke, journalists began preparing to write charitable choice's obit. The *Washington Post's* second-day story concluded that, "Despite the administration's swift response to the controversy, the president's effort to fund religious charities—one of his core legislative initiatives—may have suffered lasting damage." "Faith-based Proposal May be Left at Altar," announced the *Houston Chronicle*.

Such warnings may ultimately prove to be premature. On July 19, the House passed the bill with a smattering of bipartisan support (15 Democratic yeas), though only after hints were given that the hiring issue would be up for further negotiation in conference with the Senate.

With Senate Majority Leader Tom Daschle signaling that his body would set the anti-discrimination bar very high, the White House had its work cut out for it.