

# LIFT

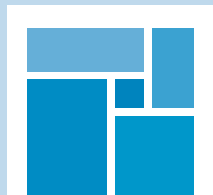
A REPORT ON RELIGION

# EVERY

IN AMERICAN PUBLIC LIFE

# VOICE

2002



THE PEW  
FORUM  
ON RELIGION  
& PUBLIC LIFE

I would like to express my gratitude to the following people who were critical to the formation of this report. First, profound thanks go to Amy Sullivan, Editorial Director of the Pew Forum on Religion and Public Life, who is the principal author of the report, and the one who brought together the report's component parts in such a creative and thoughtful way.

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As always, I am grateful for the leadership and wisdom of our co-chairs, E.J. Dionne, Jr., and Jean Bethke Elshtain, whose essays appear at the end of the report. I also want to express my deep gratitude to The Pew Charitable Trusts for its support and its vision on issues of religion and public life.

Finally, I would like to thank the many distinguished people who have participated in Forum events. Their voices appear in this publication, some explicitly and some implicitly. Participants in the Forum have been willing to offer their perspectives on sensitive, controversial topics and engage those who see matters quite differently. They deserve a special word of thanks, for their generous contributions have created the Pew Forum on Religion and Public Life.

Melissa Rogers  
Executive Director of the Pew Forum on Religion and Public Life

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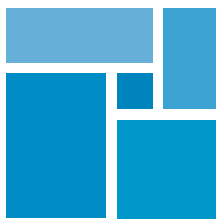
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The Pew Forum on Religion and Public Life seeks to promote a deeper understanding of how religion shapes the ideas and institutions of American society. By creating a platform for research and discussion of issues at the intersection of religion and public affairs, the Forum bridges the worlds of scholarship, public policy and journalism.

The Forum serves as both a town hall and a clearinghouse of information, providing independent research, new polling information, analysis and referrals to experts in the field. In addition, the Forum provides a place to draw together many perspectives for fruitful exchange of ideas. The Forum is nonpartisan and does not take positions on legislative issues. It is supported by The Pew Charitable Trusts through a grant to Georgetown University.

Based in Washington, D.C., the Forum is co-chaired by E.J. Dionne, Jr., Senior Fellow at the Brookings Institution, and Jean Bethke Elshtain, Laura Spelman Rockefeller Professor of Social and Political Ethics at the University of Chicago.

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THE TOPIC OF RELIGION AND PUBLIC LIFE HAS BEEN ON EVERYONE'S LIPS IN 2001. IN LIVING ROOMS, HOUSES OF WORSHIP AND HALLS OF CONGRESS, AMERICANS DEBATED: HOW SHOULD POLITICIANS TALK ABOUT THEIR RELIGIOUS COMMITMENTS? SHOULD FAITH-BASED ORGANIZATIONS BE ELIGIBLE TO RECEIVE GOVERNMENT FUNDING TO PROVIDE SOCIAL SERVICES? EVEN STEM CELL RESEARCH—A PREVIOUSLY OBSCURE BIO-ETHICS ISSUE—BECAME THE SUBJECT OF POPULAR CONVERSATION ABOUT MORALITY AND ETHICS. WITH RELIGION ALREADY HIGHLY VISIBLE, THE DISTINCTLY AMERICAN OUTPOURING OF RELIGIOSITY FOLLOWING THE TERRORIST ATTACKS OF SEPTEMBER 11 SEEMED UNSURPRISING. THERE ARE MORE KINDS OF RELIGIOUS VOICES TO BE HEARD, ON A BROADER RANGE OF TOPICS, THAN PERHAPS EVER BEFORE. HOW DID WE GET TO THIS POINT? WHAT DOES IT MEAN? AND WHERE ARE WE GOING? THIS IS A REPORT ON RELIGION IN AMERICAN PUBLIC LIFE.



mily Post strongly advised against discussing either politics or religion in polite or public company. Mixing the two topics together would surely constitute a dangerous breach of good manners. Yet the Pew Forum on Religion and Public Life was established in the firm belief that the public discussion of religion and politics is not only acceptable, but essential for both a healthy democracy and a society of robust religious communities.

From the 2000 presidential candidates' comments on faith-based social services to the establishment of a White House Office of Faith-Based and Community Initiatives to the extraordinary outpouring of religiosity in the wake of the tragedy of September 11, the role of religion in public life is now at the forefront of public discourse.

The fact that we are having this discussion is good news. People of faith, and the institutions they build, play a critical role in our nation, and these contributions are not a purely private matter. At the same time, the Forum recognizes that people of good will and sincere faith often differ in their politics and policy positions, and there is a wide range of views about how and when religion should be part of public life. So it is essential that these issues be engaged in an environment of candor, respect and reflection. At a time of heightened interest in religion's public roles and responsibilities, the Forum provides a platform for diverse perspectives to be expressed on a wide range of policy issues. In addition, the Forum explores the ways in which religious issues, commitments and communities shape the ideas and institutions of American society. The Forum is, in the words of co-chair E.J. Dionne, Jr., "a living op-ed page."

We define the term "public life" broadly to encompass not only issues of church and state, but also the engagement of religious communities within their larger community and the roles religion and faith play in the formation of public policy. Many voices are heard on religion's proper relationship to American public life. The growing diversity of religious faiths in our country, as well as the prominence of a wide variety of religious issues in the political arena, give us the opportunity for more comprehensive and substantive discussions than in the past.

In a biennial Report on Religion in American Public Life, the Forum aims to highlight current issues at the intersection of religion and public life, and to examine the state of debate on these issues in the public square. Many of these topics overlap the spheres of public affairs and religion. Some are religious matters that have gained relevance in the political world. Others are public policy issues that have attracted attention because of the unique role religious perspectives have played in public debate. The interrelationship of the two areas is often missed by those who focus simply on one sphere of understanding, resulting in a loss of context and nuance. This explains the large number of observers who were perplexed in early 2001 when Reverend Pat Robertson declared his opposition to portions of President Bush's faith-based initiative.

In addition to highlighting and providing historical context for the most dominant issues in religion and public life, the report will analyze and comment on the broad form of public discourse regarding religion and public life.

In short, the Forum aims to lend some perspective on current issues while looking ahead toward future debates. For there can be no doubt that Americans will continue to discuss issues of religion and public affairs. Even in polite company.

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# INTRODUCTION



very few years it seems that political and social commentators "discover" the role of religion in American public life. National newsweekly magazines feature cover stories on the revival of religion in America and newspapers run profiles on the increasing influence of individual religious leaders throughout American society and politics. Despite historical evidence and public opinion data to the contrary, writers assert that the involvement of religious communities in public debate is unprecedented and that religious participation is on the rise.

This religion "phenomenon" is good for business – magazine covers featuring religious themes are consistently among the highest-selling newsstand issues. It is also sometimes accurate. The vitality and influence of religious leaders and communities ebb and flow as they do for other social and political actors. But in general, the conclusion that religion is experiencing a comeback around the country must come as something of a surprise to ordinary Americans who were never aware that religion had gone away. After all, over 90% of Americans have consistently reported a belief in God since the advent of scientific polling in the mid-1930s<sup>1</sup> and nearly two-thirds of Americans

(64%) currently call religion very important.<sup>2</sup> Even a cursory glance through U.S. history reveals the active participation of religious communities on issues ranging from abolition to labor laws to abortion.

So it is certainly not our intent to "rediscover" religion in American public life in this report. What this report does is trace the remarkable events of the past year and the ways in which issues at the intersection of religion and politics grabbed headlines. We witnessed the unprecedented establishment of a White House office to promote government cooperation with religious organizations and a national search for understanding of Islam following the attacks of September 11. And while religious individuals, communities and ideas have always played an important role in the life of our country, they have not always enjoyed the same level of acceptance or attention on a national level that was in evidence throughout 2001.

It is not that Americans suddenly became more religious during the past year. Even the

*Breaking with decades of steady public opinion, an astounding 78% of citizens believe that the influence of religion is increasing in American life.*

initial rise in the number of those praying and attending worship services following September 11 has returned to normal levels. But while Americans may not have fundamentally altered their personal religious practices, they have changed their perceptions about religion's importance in American life. A November 2001 poll found that the percentage of citizens who believe that religion is increasing its influence on American life has risen sharply. Breaking with decades of steady public opinion, an astounding 78% of citizens believe that the influence of religion is increasing in American life.<sup>3</sup> In addition, the manner and quality of public discourse—while still rich with difficult and unresolved questions—is a welcome change from the recent past in which opposing factions parodied the others' views about religion and society. In some ways, news coverage of religion in public life has improved as well. News outlets are taking a more nuanced approach to the role of religion, rather than relegating the subject to human interest stories or scandal pieces.

This report begins with a brief description of the tradition of religious and public interaction in America to shed light on how we have arrived at the current public debate. It examines recent history to provide a context for the past year in religion and public life.

Next, the report turns to the issues that have commanded attention in headlines, public discussions and even social conversations in 2001. Not a day went by without a news story or commentary on an issue connected to religion and public life. The report highlights select issues that drove policy debates and captured public attention: the religious beliefs of political figures, the White House Office of Faith-Based and Community Initiatives, faith-based legislation, the death penalty, religion and public schools, stem cell research and reaction to the tragedy of September 11. In some instances, policymakers sought out religious

perspectives on specific issues; in others, religious communities made the decision to enter public debate on issues that struck a chord with their moral traditions. Some issues certainly came to prominence because of political agendas. Others became major issues due to a confluence of interests. The role of faith-based organizations in providing social services is an example of an area where the convergence of liberal and conservative hopes and fears has formed interesting coalitions on all sides. And on still other matters, technological advances in research and DNA testing have brought stem cell research and use of the death penalty to public attention.

The report concludes with analysis and commentary on the current state of religion in American public life. Forum co-chairs E.J. Dionne, Jr., and Jean Bethke Elshtain reflect on the events and discussions in our crowded public square. Drawing on public opinion data, news coverage and new research, this report places the past year in perspective while anticipating the path and nature of future debates in religion and public life.

When the Forum was established in 2000, it was already clear that the discourse surrounding religion in public life was changing. Both major party presidential candidates ran on a platform of greater partnership between religious social service providers and government. Religious progressives and liberals were raising their voices again, and religious conservatives were breaking out of the constraints associated with the "Religious Right" label. The Forum's mission is to highlight the richness and plurality of religious voices and the ways in which these voices shape American ideas and institutions.

We could never have predicted the events of the past year. There are still many issues to discuss and more perspectives to include. But religious voices are raised high and strong. America is listening.

## LOOKING BACK: FROM THE HILL TO THE MOUNTAINTOP

*“Religion in America, takes no direct part in the government of society, but it must be regarded as the first of their political institutions...I do not know whether all Americans have a sincere faith in their religion—for who can search the human heart?—but I am certain that they hold it to be indispensable to the maintenance of republican institutions. This opinion is not peculiar to a class of citizens or to a party, but it belongs to the whole nation and to every rank of society.”*<sup>4</sup>

Alexis de Tocqueville



No self-respecting commentary on religion in America can refrain from citing Alexis de Tocqueville. And with good reason—170 years after his visit to our country, the Frenchman’s observations still ring true in their astute analysis of the unique political and moral character of America. When Tocqueville noted that beliefs “about God and human nature are indispensable to the daily practice of men’s lives,” he identified the role religion has always played in shaping both American institutions and civil society.<sup>5</sup> Tocqueville predicted that America would thrive as a model of democracy and equality precisely because of this pervasive

religiosity and the cultural mores it helped form and popularize.

America’s religiosity was self-evident to Tocqueville. And religion has remained a powerful influence in American public life throughout the intervening decades. Yet by 1976 when Jimmy Carter ran for the White House, personal religiosity had become an unusual phenomenon to some political and cultural observers. During the presidential campaign, NBC News anchorman John Chancellor showed a clip of Carter talking about the fact that he was “born again,” and then felt obligated to inform the audience: “By the way, we’ve checked this out. Being ‘born again’ is not a bizarre, mountaintop experience. It’s something common to many millions of Americans—particularly if you’re Baptist.”<sup>6</sup>

Twenty-five years later, it seems unthinkable that any commentator would make such an aside. In the 2000 presidential election, the profession of being “born-again” seemed almost a requirement for candidates for the Republican nomination. Vice President Al Gore even commented on what the catchphrase “WWJD—What Would Jesus Do?” meant for his personal faith.

*By 1976 when Jimmy Carter ran for the White House, personal religiosity had become an unusual phenomenon to some political and cultural observers.*

The acceptance of religion throughout the general culture and civil society has followed a similarly circuitous path. To understand our current situation, it is necessary to trace this development. The following is not an attempt to chronicle a definitive history of religion and public life in America, but is instead a description of some of

the ways in which religious ideas and communities have been involved with American politics and public policy. America has always been home to a healthy variety of faiths, but different traditions have dominated public discourse during various eras in our history.

#### **“The New Jerusalem”?**

From the very beginning, religious pluralism and religious liberty have been vital to the American project. The centrality of religious

freedom and of the sacredness of individual conscience in matters of religious belief did not necessarily translate into tolerance for other religious traditions, as many early Baptists, Catholics and Quakers discovered. But it did serve as an anchor for developing conceptions of America and the society it would foster.

When John Winthrop laid out the Puritan vision for the New World, referring to “a City upon a Hill” that he hoped the Massachusetts Bay Colony would become, he voiced the belief of many who viewed the land as the blessing of a divine promise, “the New Jerusalem,” the promised land. “The eyes of all people are upon us,” Winthrop reminded his fellow colonists, so it was incumbent upon them to model the faithful Christian life.<sup>7</sup> The contrast between theocratic government and religious freedom was never more clear than when Roger Williams and others were banished from the Massachusetts Bay Colony. Williams, who founded Rhode Island on the principle of religious freedom, later wrote that “God

requireth not a uniformity of religion to be enacted and enforced in any civil state.”<sup>8</sup>

#### **The Flavor of Mainline Protestantism**

A predominantly Protestant flavor of civic religion, while never officially established as the national religion, has always been pervasive in American public life. It has influenced general public policy, such as the way in which voluntary and charitable organizations have taken on many roles that the state plays in European countries. The current debate over cooperation between religious social service providers and the government can be seen as a clear continuation of these ideas in the public discourse. But the interplay of religion and politics has also resulted in the influence of democratic—and, later, capitalist—ideas on American religious communities. The notion of potential congregants acting as consumers choosing among a variety of denominations is quintessentially American.

The influence of Enlightenment thinkers like John Locke and Baron de Montesquieu on some of the founders of the republic and drafters of the Constitution has been covered elsewhere in significant detail and breadth. The same is true of the debate that led to the formation of the First Amendment guarantee of the free exercise of religion without the establishment of religion. The history of these subjects will not be reproduced here. It is important to note, however, that the free exercise of religion—and even the First Amendment provision for the freedom of speech—provided the foundation for an American society in which even the smallest of minority faiths could stake their claim for a voice in public discourse. Whether they chose to do so or not has often depended on an array of social and political factors.

In the 1800s, the robust interplay of religion (primarily mainline Protestantism) and politics influenced issues as various as the concept of manifest destiny, the abolition movement, women’s suffrage

and the Civil War. Interestingly, in most of these debates, people on both sides employed religious language and theological justifications. Discussions about public assistance to religious schools are hardly unique to today, but have their roots in the years before the Civil War when immigrant Catholics began to develop a parochial school system in response to Protestant pervasiveness in public schools.

### **New Voices**

Religious communities and traditions have developed their own understandings of what it means to be part of society. Discussion of these beliefs was reinvigorated by industrialization, which created concerns about labor, distribution of wealth, urbanization, care for the poor and other social issues. The Progressive Movement developed in response to this fundamental socio-economic change in American life and led to the collaboration of liberal mainline denominations and Catholics on a number of fronts. Catholics began increasingly to enter American public life during the Progressive Era. Under the leadership of such seminal thinkers as John Ryan, a progressive Catholic reform movement arose that combined the nascent Catholic social thought tradition with American progressive liberalism.<sup>9</sup> For their part, many liberal Protestants were prompted by a post-millennialist belief in the ability to hasten the Kingdom of God on earth by pursuing social justice through the resources of society and the state.

By the mid-20th century, sociologist Will Herberg could note that America was a nation of Protestants, Catholics and Jews, but that the common characteristic was their American identity.<sup>10</sup> And yet for most of American history, the public sphere was dominated by mainline Protestantism. Catholics and Jews were embattled religious minorities who often opted to coalesce into self-contained communities or quietly assimilate rather than openly challenge cultural practices. In the 1950s, however, some members of this mixed composition began to challenge the primacy of

Protestant culture, particularly in public school systems where daily prayer and readings from the King James Bible were still the norm. The role of African-American religious leaders in the civil rights movement provided an opportunity for that community to enter the public square in a vocal and dynamic manner. And as the nation became more diverse—particularly in the wake of increased immigration from non-Western countries—American public life was altered by a series of U.S. Supreme Court decisions dealing with the free exercise of and establishment of religion. The Protestant hegemony dating back to the Puritans lessened and a greater degree of pluralism in the public sphere took its place.

### **Changing the Debate**

Court decisions on school prayer and abortion polarized public opinion and created an environment in which the movement known as the “Religious Right”—characterized by the Moral Majority, Christian Coalition and other national organizations engaged in policy debates—rose to prominence. Religious conservatives had previously retreated from the public square for a number of reasons. The pre-millennialist belief that the moral condition of the world was degenerating compelled many to maintain a separation from public affairs. This interpretation led many conservative religious communities to focus their spiritual efforts on individuals and not the society as a whole. Some religious conservatives were also still stung from public reaction to their role in debates over evolution and the prohibition movement. Renewed concern about what they viewed as dangerous changes in social policy, however, spurred religious conservatives to involvement in public debate.

The rise of the religious conservative movement, in turn, created a strong reaction among religious liberals and progressives, and certainly among secular segments of society. The decades of the 1970s, 1980s and part of the 1990s were dominated by arguments for and against the “Religious

Right.” As public debate focused on social issues and debates about family values, some social observers commented that American society seemed to be polarized around two groups, with religious fundamentalists at one pole and secularists at the other. Although Catholics continued to gain influence—particularly with the American bishops’ pastoral letters on the economy and on disarmament—other religious voices were often lost amid high-decibel debates over religious and political legitimacy. The movement known as the “Religious Right” began to lose its sway in the 1990s due to a number of factors. But a broad range of conservative religious leaders and communities continued to exert an important influence in public life.

### **The Harmonies of Liberty?**

With the successive introduction of more and more religious voices to public life, Americans are in the midst of navigating the benefits and challenges presented by a diversity of views in public discourse. While different religious traditions have dominated various eras in American history, it seems fair to say that there are perhaps more religious communities actively engaged in public life now than ever before. Many agree with the perspective of University of Richmond law profes-

sor Azizah al-Hibri, who notes: “After decades of being coy and hesitant, people of faith have finally given themselves the permission to speak about God and religion in the public square.”<sup>11</sup>

*There are perhaps more religious communities actively engaged in public life than ever before.*

The recent discussion of government aid to religious social service providers is an illustration of the way in which an increasingly diverse group of religious communities is participating in national policy discourse. Although Americans endorse the desire to help others, many are

uneasy about the call for more engagement because of the fear that excessive entanglement with government will diminish the primary spiritual mission of churches, synagogues and mosques or that religion will have too much influence on public life. The issue has shaken up traditional discourse by bringing together unlikely partners and by prompting Americans to consider the ways in which religion directly impacts their communities.

Religious ideas and individuals—embraced most publicly in recent years primarily in Republican politics—are gaining acceptance in Democratic circles, giving religious voices a broader platform. After the emotional upheaval of the 2000 election, both presidential candidates gave speeches reflecting their personal religiosity and the degree to which expressions of piety have become an accepted—and some would say, expected—part of American politics. In his acceptance speech, George W. Bush asked for prayers for the nation and noted that the country would move forward “with God’s help.” For his part, Al Gore commented on the possible divine role in the election, referring to the outcome as “one of God’s unforeseen paths.”<sup>12</sup> In addition, President Bush has made extensive efforts to reach out to Muslim, Catholic and African-American religious leaders, bringing some of the concerns and teachings of these communities to greater public attention.

The proliferation of religious voices in the public square does not mean that the issues of the day will suddenly be resolved. There will always be conflicts among religious perspectives. But the acceptance of diverse views and voices does allow communities to explore the civic possibilities of religious reflection. It should no longer come as a surprise to observers—be they visitors from other countries or television newscasters—that Americans of many backgrounds take religion seriously.

# AT THE CENTER OF DEBATE: KEY ISSUES IN RELIGION AND PUBLIC LIFE

POLITICS AND RELIGION

WHITE HOUSE OFFICE OF FAITH-BASED AND COMMUNITY INITIATIVES

FAITH-BASED LEGISLATION

DEATH PENALTY

PUBLIC SCHOOLS AND RELIGION

STEM CELL RESEARCH

SEPTEMBER 11 AND BEYOND

## POLITICS AND RELIGION

Religious language has been invoked throughout American history for a wide variety of social and political purposes. From George Washington to George W. Bush, presidents have employed religious themes and references in their speeches. And religious leaders as diverse as Martin Luther King, Jr., and Cardinal John O'Connor have drawn on their traditions in their efforts to bring about political and cultural reform. In 2001 we saw much of the same as the personal religiosity of the most prominent politicians—principally Bush, John Ashcroft and Joseph Lieberman—caused debate on talk shows, in homes and in houses of worship.

The question of whether organized religion should take an active role in politics is one on which pub-

lic opinion has oscillated over the years. In 1968, 53% of Americans opposed political expression by churches. But by 1995, majority opinion had shifted, with 54% believing that churches should indeed express their views.<sup>13</sup> Despite changing public views about political participation by religious leaders and communities, issues such as the dis-

tribution of voter guides in churches have concerned some. Alan Wolfe voiced one perspective when he warned that “any attempt to judge political leaders by the standards of religious values raises questions about which values should be used.”<sup>14</sup>

*A 2000 survey found that while 70% of people thought it was important for presidential candidates to be strongly religious, 50% were uncomfortable when candidates expressed how religious they were.*

Yet many religious communities and organizations continue to play a vocal role in electoral politics. Many African-American churches have been active in urban political campaigns and get-out-the-vote drives. And in the recent New Jersey governor’s race—during which Democrat, and Catholic, Jim McGreevey made abortion rights a prominent part of his platform—the state’s Catholic bishops issued a letter two weeks before the election that urged Catholic voters to “use their voting privilege to reflect a choice of candidates who respect and sustain the dignity of all life.”<sup>15</sup>

The most prominent issue in religion and politics this year, however, has been how religious beliefs should inform the way politicians approach decision-making. It is a question that is far from resolved. A survey released by the Forum and the Pew Research Center for the People and the Press in September 2000 found, for example, that while 70% of people thought it was important for presidential candidates to be strongly religious, 50% were very uncomfortable when presidential candidates expressed how religious they were.<sup>16</sup> Joseph Lieberman reflected on this conundrum when he spoke about the 2000 campaign:

When Al Gore broke a barrier by asking me to be his running mate, the fact of my faith seemed happily to be cause for celebration. But once I opened my mouth and actually professed my faith, to give glory and thanks to God for the extraordinary opportunity I had been given, some of the hosannas quickly turned to how-dare-he’s.<sup>17</sup>

### History

The intersection of religion and politics has always been complicated for American politicians, and

particularly for presidents. Thomas Jefferson spent much of his 1800 campaign battling rumors that he was an atheist. Abraham Lincoln was forced to defend the fact that he did not belong to a church despite the biblical imagery and theological illusions that characterized many of his speeches, including the words of his second Inaugural Address which are inscribed on the walls of the Lincoln Memorial. And Theodore Roosevelt opined that the President should attend church regularly in order to set an example for the nation.<sup>18</sup> In general, however, many presidents seemed to prefer the topic of civil religion to professions of personal belief.

During his time in the White House, Dwight Eisenhower famously said that “Our form of government has no sense unless it is founded in a deeply felt religious faith, and I don’t care what it is.”<sup>19</sup> A great number of his fellow citizens agreed with the first half of that statement, but cared very much about which religious belief it was. For in the 1960 presidential campaign, John F. Kennedy was dogged with questions about his loyalties as a Catholic. In order to dispel accusations that he would answer to the Vatican on matters of policy, Kennedy felt compelled to go before the Greater Houston Ministerial Association to declare that he would make presidential decisions “without regard to outside religious pressure or dictate.”<sup>20</sup> Although this landmark address on religion and politics appeared to resolve the issue temporarily, many Americans still harbored doubts—Kennedy earned 80% of the Catholic vote, but received less than one-third of the Protestant vote in November.<sup>21</sup>

Sixteen years later, Jimmy Carter’s candidacy also raised questions about the personal religiosity of politicians. Carter made no apologies for his stout evangelical faith, but while he represented a tradition shared by millions of Americans, many political observers were skeptical. “When I said I was a born-again Christian,” remembers Carter, “a lot of people thought it was some kind of strange cult, but it had

been part of my life, like breathing.”<sup>22</sup> In the post-Watergate era, political observers may have been skeptical of politicians, but voters were ready for a president who embraced personal morality and piety. In a televised debate during the 1980 campaign, Ronald Reagan tapped into this desire for moral leadership and echoed the words of John Winthrop when he declared that Americans should “meet our destiny and that destiny can build a land here that will be for all mankind a shining city on a hill.”<sup>23</sup> At a campaign rally, Reagan promised 15,000 members of the Roundtable—a nondenominational evangelical group—that he would govern according to “old time religion.”<sup>24</sup> And Reagan’s farewell address from the Oval Office eight years later ended with a reflection on the work his administration had done to rebuild the “shining city.”

Reagan’s successor, George H.W. Bush, was less comfortable discussing religion in public and was defeated by a man who possessed a remarkable dexterity for religious language. Although his presidency engendered numerous debates about moral leadership and the personal virtue of a president, Bill Clinton was completely at ease with the vocabulary of personal faith and gave some of his most eloquent speeches from the pulpits of churches. Even so, during the Lewinsky scandal, more than 140 theologians were moved to sign a “Declaration concerning Religion, Ethics and the Crisis in the Clinton Presidency,” in which they protested what they called “the manipulation of religion and the debasing of moral language” by the president and those around him.<sup>25</sup>

### Recent Developments

The 2000 presidential campaign was steeped in religious language from the start. In one early Iowa debate, five of the six Republican candidates invoked the name of God or Christ or both, with more than twenty references made throughout the course of the evening.<sup>26</sup> It was at this debate that candidates were invited to name their favorite political philosophers, prompting some now-

famous responses. George W. Bush replied: “Christ, because he changed my heart.” Gary Bauer quoted from Scripture and explained, “Christ...taught all of us about our obligations to each other.” And Orrin Hatch named Jesus, along with Ronald Reagan.<sup>27</sup>

On the Democratic side of the 2000 campaign, Al Gore selected Joseph Lieberman, an

*Dwight Eisenhower famously said that ‘Our form of government has no sense unless it is founded in a deeply felt religious faith, and I don’t care what it is.’*

Orthodox Jew, to be his running mate and brought a new kind of religiosity into Democratic politics. At their first joint appearance, Lieberman quoted a verse from Chronicles and offered a prayer of thanks to God.

Lieberman continued to talk about morality and religion throughout the campaign, earning praise

and criticism from a wide spectrum of voices. At one point, *The New York Times* scolded Lieberman for “cross[ing] the boundaries of tolerance” when he declared that “George Washington warned us never to indulge the supposition ‘that morality can be maintained without religion.’”<sup>28</sup> And the Anti-Defamation League—a Jewish organization—urged Lieberman to avoid “overt expressions of religious values and beliefs” during the campaign.<sup>29</sup>

Before George W. Bush even took office in 2001, one of his nominees caused a raucous debate over his religious beliefs. Supporters of John Ashcroft accused Democrats of hypocrisy for raising questions about the former senator’s religiosity. “The nomination of a passionate and devout Christian for attorney general set off the old liberal anti-religious reflexes as if Joe Lieberman had never existed,” charged Charles Krauthammer.<sup>30</sup> Ashcroft’s opponents insisted that their position should not imply concern about his Pentecostal faith. As Democratic senator Evan Bayh wrote: “It is possi-

ble for moderates to respect and even admire his religious devotion—I do—and still be alarmed by his secular views and the consequences of their implementation.”<sup>31</sup> Many news reports and opinion columns, however, focused on anecdotes regarding Ashcroft’s Pentecostalism, including stories about how Ashcroft’s father had anointed him with vegetable oil before he was sworn into the Senate. It seemed difficult for some political observers to separate discomfort with Ashcroft’s religious beliefs from discomfort with his nomination for Attorney General.

During Ashcroft’s confirmation hearing in the Senate Judiciary Committee, he was asked whether any senator had “suggest[ed] there should be a religious test on your confirmation.” Ashcroft replied that “No senator has said ‘I will test you.’ But a number of senators have said to me, ‘Will your religion keep you from being able to perform your duties in office?’”<sup>32</sup> As John Kennedy did in 1960, Ashcroft insisted that his faith would not interfere with his commitment to enforce the law, and he vowed to resign if the performance of his duties conflicted with his religious beliefs.

Finally, President Bush’s inauguration was significant on a number of fronts. He made history by being the first president to use the word “mosque” in an inaugural address, continuing his practice of referring to “churches, synagogues and mosques.” However, this inclusive act was coupled with more exclusive statements by the two ministers who took part in the ceremony. Both Franklin Graham and Kirbyjon Caldwell invoked the name of “Jesus” in their prayers, and Caldwell concluded his benediction with the words “We respectfully submit this humble prayer in the name that’s above all other names, Jesus the Christ. Let all who agree say ‘Amen.’”<sup>33</sup>

This use of language exclusive to one religious tradition is a key part of the public discussion of political religiosity. Many believe that politicians should be able to discuss the extent to which their

political views are rooted in religious beliefs, but some would also urge politicians to use terms that are accessible to those who don't also share their particular faith. After George W. Bush answered that the political thinker he most identified with was "Christ," he was asked to elaborate for viewers who might not understand why. Bush replied "Well, if they don't know, it's going to be hard to explain."<sup>34</sup>

Many felt that this answer was either exclusive or too personal, lacking an explicit link to why Bush was running for the presidency. Conservative columnist Cal Thomas put the onus both on members of the media—"Rather than ridiculing and attempting to intimidate Mr. Bush into silence on his beliefs, the press should investigate what difference Mr. Bush's often-declared faith has made not only in his personal life but in his worldview"<sup>35</sup>—and on the candidate himself—"I'm happy that he thinks he knows the way to get to heaven. I'm more interested, from a political viewpoint, if he knows how to get to Washington and what difference it's going to make when he gets [there]."<sup>36</sup> And E.J. Dionne, Jr., stated that "A politician in a free society has to explain why he's bringing God and faith into a campaign—or not drag God into politics at all."<sup>37</sup>

This is not a new issue in public debate. In 1984, at a televised presidential debate held in Louisville, Kentucky, journalist Fred Barnes quizzed the candidates on what effect their religious beliefs might have on their decisions. Not content with the answers given, Barnes followed-up with a question to Reagan about why, if he was a believer, he did not regularly attend church. Reagan's answer was that he feared exposing the congregation to terrorism.<sup>38</sup> Many feel that the motivation behind Barnes' question—to force politicians to go beyond using God as a "running mate"—is missing from contemporary political dialogue. The question that has not been resolved is whether the responsibility for broadening the discourse lies with voters, candidates, the press or all of us.

## A WALL COMES TUMBLING DOWN

One way of looking at the American public is to see a very strong commitment to the constitutional separation of church and state. But that doesn't require a separation of religion and politics. With respect to that second kind of separatism, a powerful change has unfolded before our eyes in the last 40 years of American politics. In 1960, when John Kennedy was running for president, he went before a group of Protestant ministers to try to lay the religious issue to rest once and for all. He made the point very eloquently that he was not the Catholic candidate for president; he was the Democratic Party candidate for president. He wanted to be judged in those terms.

Now the argument Kennedy made—which politically was a tremendous success—was that his religious faith and convictions were a purely private matter, and that they would have no bearing on the conduct of his office. He said, I believe in a president whose views on religion are his own private affair, whose fulfillment of his presidential office is not limited or conditioned by any religious oath or obligation. So religion was private.

He went on later in the speech to state a position that is difficult to fit entirely with the first. Kennedy said, I will make my decision on issues in accordance with what my conscience tells me to be in the national interest. At the time, no one quibbled with the flaw in that picture of how one's conscience could inform one's view about what the national interest required and yet religion could be a wholly private matter.

Think about the difference, 40 years later, with Joseph Lieberman, a Jew on the national ticket who was very explicit about his faith. He did not shrink from the idea that his faith informed his moral and political convictions and judgments. To the contrary, he made it a point of pride and an explicit feature of his political discourse in the campaign. Lieberman's nomination was presented as being in the "bold tradition" of the Democratic Party that nominated a Catholic in 1960, and in some ways it was. But it also represented a reversal of the idea of the relationship between religion and politics, a rejection of the separation on which John F. Kennedy insisted.

Michael Sandel  
*Professor of Government, Harvard University*<sup>39</sup>

## THE WHITE HOUSE OFFICE OF FAITH-BASED AND COMMUNITY INITIATIVES

Less than two weeks into his administration, President George W. Bush signaled that increased cooperation between religious groups and government would be a major piece of his domestic agenda. Building on the words of his Inaugural Address—“Compassion is the work of a nation, not just a government”—Bush announced a “national effort to expand opportunities for faith-based and other community organizations and to strengthen their capacity to better meet social needs in America’s communities.”<sup>40</sup> It was an ambitious undertaking and prompted an immediate flurry of debate.

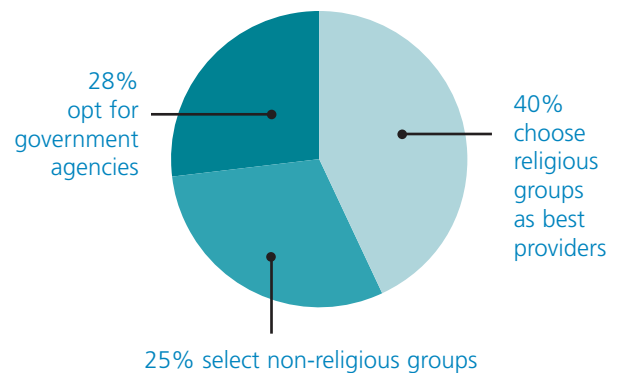
The idea that the community work of congregations can have effective and direct results has resonance in the public square. Americans generally believe that religious organizations can be more effective than non-religious groups or government agencies in some areas of social service. A survey by the Forum and the Pew Research Center found that a 40% plurality believes that religious groups could do the best job feeding the homeless (with 28% choosing government agencies and 25% opting for non-religious community groups.) The same percentage also believe that religious organizations can be more effective at providing counseling and education to prisoners.<sup>41</sup>

Volumes of anecdotal evidence attest to the good works of religiously based social service organizations. And in recent years, empirical research—such as that undertaken by Mark Chaves at the University of Arizona—is beginning to evaluate the effectiveness of these programs. In addition, discussions such as those sponsored by the Sacred Places, Civic Purposes project at the Brookings Institution have focused attention on the ways in

which religious communities have been empowered to serve civic needs and purposes.

President Bush has drawn on this public sentiment and academic inquiry in developing his “faith-based initiative” and generating public support for

### Who Could Do the Best Job Feeding the Homeless?



both its general mission and its specific proposals. In a commencement address at the University of Notre Dame in May, Bush placed his initiative in the tradition of Lyndon Johnson’s Great Society and other social reform projects. “The war on poverty established a federal commitment to the poor,” Bush said, and “the welfare reform legislation of 1996 made that commitment more effective. For the task ahead, we must move to the third stage of combating poverty in America. Our society must enlist, equip and empower idealistic Americans in the works of compassion that only they can provide.”<sup>42</sup> Bush even invoked the words of Dorothy Day, founder of the Catholic Worker Movement in the 1930s, arguing that “any effective war on poverty must deploy what Dorothy Day called ‘the weapons of spirit.’”

### The Bush Faith-Based Initiative

The “national effort to expand opportunities for faith-based and other community organizations” is made up of three separate planks that form what is referred to as the “faith-based initiative.” The first two of these pieces are primarily administrative and were introduced in two executive orders issued on January 29. Noting that “faith-based and community organizations are indispensable in meeting the need of poor Americans and distressed neighborhoods,” President Bush established the White House Office of Faith-Based and Community Initiatives, the first office within the executive branch dedicated entirely to promoting the work of religious and other community-based organizations. The Office was charged with a number of different responsibilities that include integrating the faith-based policy agenda throughout the federal government, showcasing the work of grassroots nonprofit organizations and encouraging private charitable giving.

Bush appointed John DiIulio, Jr., a University of Pennsylvania political science professor and a Democrat, to serve as director of the Office. DiIulio has been an important scholarly voice in the discussion of the social service work of religious communities.

*Bush has invoked the words of the founder of the Catholic Worker Movement, arguing that “Any effective war on poverty must deploy what Dorothy Day called the weapons of spirit.”*

to head the Corporation for National Service to expand public-private partnerships and recruit more volunteers. The Corporation was one of the

first initiatives passed under the Clinton Administration and is an annual target of congressional Republican budget-cutters. However, the Corporation’s mission of expanding America’s volunteer base plays a vital role in the faith-based initiative.

The second executive order signed on January 29 created Centers for Faith-Based and Community Initiatives in the Departments of Health and Human Services, Housing and Urban Development, Labor, Justice and Education. Each Center was charged to conduct an audit of the agency to evaluate current federal government policy with regard to faith-based and community organizations and to determine whether there are barriers to their participation in federal social service programs.

Finally, the Bush administration developed a legislative version of the faith-based policy agenda that contains three separate goals: 1) expand “charitable choice” provisions to cover more social services other than welfare services, mental health and substance abuse; 2) encourage philanthropy by, among other things, expanding charitable deductions, permitting charitable contributions from IRAs without penalty and raising the cap on corporate charitable donations; and 3) create a variety of new government programs to provide social services for vulnerable populations. The legislation is discussed in greater detail in the next section of this report.

### History

The idea behind Bush’s faith-based initiative and the creation of the White House Office of Faith-Based and Community Initiatives has its roots in a couple of different strains of thought. One is the belief of some that religious voices have been kept out of the public square by government and that policies that prevent faith-based organizations from receiving government funding to provide services are discriminatory. A distinct belief is that volunteer and community groups—particular-

## **MIXED OPINIONS REGARDING GOVERNMENT POLICY TOWARD FAITH-BASED SOCIAL SERVICE PROVIDERS:**

Reaction to “Unlevel Playing Fields,” a Report Released by the White House Office of Faith-Based and Community Initiatives<sup>45</sup>

### ***Stanley Carlson-Thies, White House Office of Faith-Based and Community Initiatives***

At the start of his administration, President Bush issued two executive orders: one to set up the White House Office of Faith-Based and Community Initiatives; the other set up five cabinet department centers – at HHS, HUD, Justice, Labor and Education – with the mandate to look through departmental programs and see if there were barriers to the involvement of faith-based and community initiatives.

One important observation should be made about what we found. With minor exceptions, we did not find grant programs that explicitly exclude, in so many words, community-based or faith-based organizations. In fact, what the programs normally say is that non-profit organizations are eligible to take part. The actual operating definition of non-profit is in the finer details or the way the programs operate. Is it defined in such a way that groups that have a distinct faith basis can't really participate? And are those further details and restrictions required by the statute or by the Constitution? Do they allow the government to serve people in the best way possible? And if not, what should we do about them? These are the questions we have tried to answer.

### ***Darren Walker, Abyssinian Development Corporation***

The Abyssinian Development Corporation is a faith-based, community-based organization that is the outgrowth of the ministry of the Abyssinian Baptist Church – a 200-year old religious institution with a deep and rich history. We have, in the last 12 years, been extensively involved in contracting with the government across a number of agencies. What I can say, quite unequivocally, is that we have not encountered restrictive conditions as a result of our religious orientation and our religious affiliation with a Christian organization. There are some restrictions – restrictions that are articulated quite well in the White House report. It is our opinion that those restrictions are appropriate.

The restriction that is mentioned most often is that of separate status – the 501(c)(3) requirement. In fact, this requirement protects and under-girds the integrity and autonomy of the religious institution that is doing this work. It concerns us greatly that a scenario could exist whereby the federal government would actually have the right to oversee and monitor our work as a religious institution.

### ***Stephen Burger, Association of Gospel Rescue Missions***

My organization represents some 280 rescue missions across the United States, in the big cities like New York and the little cities like Salinas, Kansas. I think the biggest problem is inconsistent policy and regulation interpretation. We hear different things from different government departments, but also from different regions of the country. With a consistent policy, even if we disagree, we know what we're getting into. Clarity is necessary, and there has been a lack of clarity. One of our missions was invited to take part in a FaithWorks program in the State of Indiana, but was not allowed to participate because they actually believe that faith works. The state said they were "too faith-oriented."

One of the questions that has often amused and confused me is how organizations are determined to be religious. How does a bureaucrat decide those kinds of questions? Some of our missions have been asked to set up secular boards in order to access federal money; others have not. Often when I look at the organizations, they look identical. One organization asked what a secular board was and they were not able to get a clear definition of what it was.

ly those with a religious affiliation—make valuable contributions towards solving social ills. The reliance on voluntary associations to play a role in maintaining the health of society has always been part of the American experiment. Long before there was a welfare state, religious congregations were working to alleviate poverty. Those efforts have continued since the establishment of government programs to help the poor, and congregations have often worked with government agencies to help feed and clothe and care for the poor; to set up after-school activities; to provide teen pregnancy counseling; and to develop programs to prevent crime.

The most recent government emphasis on this idea has been manifested in President George H.W. Bush's "thousand points of light" and the "Partnership for America's Future" established during the Clinton Administration and headed by Colin Powell. The issue of expanding cooperation between government and faith-based organizations took the form of "charitable choice" legislation starting in 1996 and was addressed in the 2000 presidential campaign by Bush and Vice President Al Gore.

### Religious Perspectives

Whether and how government should interact with religious organizations and vice versa is at the heart of many debates within religious communities. Religious conservative and former presidential candidate Gary Bauer represents the view that religious communities have been discriminated against in public life and particularly in regard to federal funding: "With this initiative, [Bush] is attempting in some ways to reverse the last 35 years of hostility to religious faith in the public square. We've not only had government reticent to help religious organizations who are doing a great job feeding the hungry and helping the poor and so forth, but even large American corporations in many cases won't give their charitable dona-

tions to religious groups."<sup>43</sup> This perspective is countered by that of other religious leaders, including some prominent religious conservatives, who fear that government partnerships could too easily turn into government entanglement, with dilatory effects on the ability of religious communities to retain their spiritual missions and effectively reach those they wish to help.

Rabbi David Saperstein, of the Religious Action Center of Reform Judaism, additionally warns of the need to make distinctions between the proper relationship of religion to public life and to the sphere of government: "Many of the thinkers in this area fail to distinguish between the public forum and the government forum. They talk about them as though they are one. It is the limited question of the government forum that is a controversial issue. And we do not help the debate in addressing what the proper role is of religion in the government forum by mixing it with the very interesting question of whether or not in the public forum robust religious expression can offset problems with the secular culture in America."<sup>44</sup>

### Recent Developments

The executive order that provided for the creation of Centers for Faith-Based and Community Initiatives within five federal agencies required these Centers to submit audits of the agencies to the White House Office of Faith-Based and Community Initiatives. The Office, in turn, was required to submit a report summarizing the findings of the internal agency audits. The report, "Unlevel Playing Field: Barriers to Participation by Faith-Based and Community Organizations in Federal Social Service Programs," was released in August and pointed to areas in which the Centers determined faith-based organizations might experience difficulty obtaining federal support for their work.

## FAITH-BASED LEGISLATION

The legislation that is at the heart of Bush's faith-based initiative—particularly the expansion of “charitable choice” provisions to a wealth of federal government programs—has been the focus of much public debate throughout 2001. Many political observers were surprised to hear conservatives such as Marvin Olasky and Pat Robertson express qualms about parts of the legislative proposal.<sup>46</sup> Others did not expect the degree of enthusiasm that came from many African-American religious communities in response to Bush's announcement of his ideas about government and community partnerships. And as the public learned more about the details of the initiative, they expressed a complex variety of reactions.

While Americans tend to support the idea of faith-based groups receiving government funding to provide social services, many find the practical implications of this idea troubling. In particular, most Americans would not extend that right to non-Judeo-Christian groups such as Muslim Americans, Buddhist Americans, the Nation of Islam and the Church of Scientology. Beyond the questions of which religions are acceptable, the public expresses strong concern about both the influence of government on particular religious organizations and the impact of religious groups on the people they are trying to help. On the one hand, fully 68% worry that faith-based initiatives might lead to too much government involvement with religious organizations. On the other, six-in-ten express concerns that religious groups would proselytize among recipients of social services, and about the same percentage believe that groups that encourage religious conversion should not receive government funds. Americans have even greater apprehensions about government-funded organiza-

tions hiring only those who share their beliefs: 78% oppose the idea that religious groups receiving government funding should be allowed to hire only people who share their religious beliefs.<sup>47</sup>

Still, many Americans find arguments in favor of faith-based funding to be compelling and a strong majority acknowledges the contributions churches, synagogues, mosques and other religious groups make to society. Nearly three-quarters (72%) cite the care and compassion of religious workers as an important reason for supporting the concept of faith-based groups receiving government funding. This reflects a public recognition of the strong connection between religious practice and social service. Three-quarters think that churches and other houses of worship contribute significantly to solving America's social problems.<sup>48</sup>

### Terms of the Debate

It is important to be clear about the terms used in the public discussion. Although the phrase “charitable choice” is often popularly used to refer to the general concept of government funding of

#### Important Reasons for Backing Faith-Based Programs

	Important Reason %	Not an Important Reason %	Don't Know %
People should have a variety of options	77	20	3=100
Service providers more caring & compassionate	72	25	3=100
Power of religion can change people's lives	62	35	3=100
Faith-based programs more efficient	60	36	4=100

faith-based social service programs, it is more accurately a term of art that refers to a precise legislative provision first enacted by Congress in the 1996 federal welfare reform law. Additional charitable choice provisions have since become law as part of other federal and state legislation.

Charitable choice does not represent the birth of involvement by faith communities in the social service arena –groups like Catholic Charities and Lutheran Social Services have a long history of receiving government funds to perform their work. But charitable choice does change previous practice through new federal law that specifically addresses the participation of religious social service providers. It permits all religious organizations to compete for government social service funding, regardless of their degree of religiosity. It does not set aside tax funds for religious organizations.

The phrase “faith-based initiative” has been broadly applied both to the White House Office of Faith-Based and Community Initiatives established by President Bush in January and to legislation proposed by his administration that would, among other things, expand charitable choice provisions to cover additional social services.

### History

In 1996, Senator John Ashcroft (R-MO) devel-

oped a provision called charitable choice that denoted the new statutory conditions under which states may enter into funding relationships with any religious institution to provide social services using federal TANF (Temporary Assistance for Needy Families) funds. It was passed as part of the 1996 welfare reform law.

Congress has since passed additional legislation involving various charitable choice provisions, including the Welfare-to-Work program (1997); the Community Services Block Grant program funded by the Health and Human Services Reauthorization Act (1998); and drug treatment programs funded by the Substance Abuse and Mental Health Services Administration (SAMHSA) (2000). In addition, the Community Renewal and New Markets Act of 2000 included charitable choice language that referred to the same funds authorized in the SAMHSA legislation. Other legislative initiatives also popularly referred to as charitable choice have been introduced in a number of states. These apply variations of the original legislation to other program areas, such as drug rehabilitation or housing.

### Religious Perspectives

The potential of charitable choice to significantly alter government financial collaboration with faith-based organizations has been applauded by some, but greeted with concern and skepticism by others. Organizations including the Center for Public Justice, the Christian Legal Society, the Free Congress Foundation, the National Association of Evangelicals, the National Center for Neighborhood Enterprise and the Union of Orthodox Jewish Congregations of America generally support the concept of charitable choice and believe that it is a necessary and belated correction to the exclusion of some religious providers. These groups believe that charitable choice will have a beneficial effect on society by strengthening the ability of faith communities to solve social problems.

#### Important Concerns about Funding for Faith-Based Programs

	Important Concern %	Not an Important Concern %	Don't Know %
Gov't too involved with religious organizations	68	30	2=100
People forced to take part in religious practices	60	38	2=100
Would interfere with church-state separation	52	45	3=100
Might increase religious divisions	46	48	4=100

Groups like the American Civil Liberties Union, the American Jewish Committee, Americans United for the Separation of Church and State, the Baptist Joint Committee, the Coalition Against Religious Discrimination and the Interfaith Alliance generally oppose charitable choice. They are concerned that by allowing government funds to flow without adequate safeguards to pervasively religious institutions or to religiously affiliated programs, charitable choice unwisely and unconstitutionally permits government advancement of religion and risks a general weakening of religious autonomy and integrity.

Despite the wealth of differing opinions on this issue, there have been some notable areas of agreement. In February, a diverse group of religious and civic organizations issued a report, *In Good Faith: A Dialogue on Funding Faith-Based Social Services*, discussing ways in which the government and religious groups may work together to serve those in need. Although the group continued to disagree about some crucial issues, including the constitutionality and advisability of charitable choice provisions, they did agree that the government in some instances may fund religious groups' social service work and that religious organizations and the government may cooperate in a variety of ways to assist those in need.

### Recent Developments

On July 19, the House of Representatives passed H.R. 7, "the Community Solutions Act of 2001," by a vote of 233-198. Before a vote on final passage of the legislation took place, amendments to ban religious groups that receive government funds from discriminating on the basis of religion in hiring with regard to tax-funded employee positions were defeated. Under H.R. 7, religious groups could apply for federal money to provide social services. They would be allowed to consider a person's religion when hiring employees and would be exempt in certain circumstances from state and local anti-discrimination laws.

The bill was sent to the Senate, where, as of the writing of this report, Senators Santorum and Lieberman are working on a compromise bill. Some in the Senate would prefer to separate the charitable giving incentives from the larger bill and simply vote on that aspect of the legislation. These provisions would encourage philanthropy to provide private funding for social services by, among other things, expanding charitable deductions, permitting charitable contributions from IRAs without penalty and raising the cap on corporate charitable donations. On November 16, a broadly bipartisan working group that includes civil libertarians and religious leaders issued a statement in support of these tax incentives: "These incentives will generate substantial increases in revenue for crucial community-based and faith-based organizations, groups that will leverage the dollars given with the time, energy and compassion of volunteers."<sup>49</sup>

Additionally, in the wake of spontaneous generosity that followed September 11, the President has renewed his call for the Senate to act on the legislation. "Although individual generosity is evident everywhere, thousands of our nation's charities paradoxically have been suffering," Bush said in a letter to Senate leaders. He also called for "equal treatment" of faith-based charities, along with the creation of a "compassion capital fund" to provide technical help for faith-based and other community charities.<sup>50</sup> Citing divided public opinion about allowing minority religious groups to apply for and receive funds to provide social services, a coalition of some Christian, Jewish, Muslim, Sikh and Jain groups sent a letter to the President requesting postponement of the legislation. They argue that minority faiths have come under attack since September 11 and "would only be further ostracized in the funding and selection process due to misinformation, false stereotyping and retaliation."<sup>51</sup> In addition, they feel that this is not the time to debate legislation that will divide a Congress that has been less partisan since September 11.

## RELIGIOUS AND POLITICAL PERSPECTIVES DIFFER ON CHARITABLE CHOICE<sup>52</sup>

### ***Richard Foltin, American Jewish Committee***

There is a fundamental problem with the notion of faith-based action, or "charitable choice." We have here a program which seeks to allow the government to depend on and utilize the spiritual ministry of churches, synagogues, mosques and other pervasively religious institutions as a tool in the provision of social services. At the same time, the government seeks to assure that the programs are administered in a fashion that protects the beneficiaries of those services from religious coercion, and that protects the religious institutions from undue interference by the state with their autonomy. At the end of the day, this is an approach to social service provision which is untenable because of the practical—to say nothing of unconstitutional—problems of attempting to reconcile what are fundamentally inconsistent goals.

What are these problems? First, charitable choice opens the door to publicly funded programs in which recipients of social services—notwithstanding provisions of that law that might say they may not use public funds for sectarian worship or instructional proselytization—are going to be made to feel that they have to take part in those activities. In addition, it's impossible to see how these religious institutions – even in the best of faith—are going to be able to separate out their religious teaching missions from the provisions of these services.

Charitable choice also allows religious providers to engage in religious discrimination in terms of who they hire to provide these services with taxpayer dollars. Religious institutions are rightly exempt from the prohibition on discrimination on the basis of religion in who they hire to run their institutions with their own money. But when they start to carry out government-funded programs and then put up signs that say, in effect, no Catholics need apply, no Jews need apply, no persons of whatever faith need apply, we are seeing a terrible precedent being set in terms of the use of government money to support religious discrimination.

The last point – and perhaps the most crucial – is that with government dollars comes government oversight. Faith-based organizations are inevitably going to be held accountable for the use of the dollars they receive and this intrusion into the affairs of churches and other pervasively religious organizations is exactly the type of entanglement between religion and state against which the Constitution guards.

### ***U.S. Senator Rick Santorum (R-PA)***

I want to take issue with the term "charitable choice" and suggest instead "beneficiary choice." This is not about charities having choices; this is about the people who receive services. If you talk to people in the community who are looking for assistance, they want to have the opportunity to go to the service provider of their choice, not of the government's choice. What we're doing here is providing opportunities for faith-based organizations who heretofore have had to limit their abilities to help people because of resources. If you look in the African-American community, you see individual small churches instead of churches with large denominational resources behind them to funnel into poor communities.

We should focus on the importance of recognizing people who have taken ownership of the problem at the local level. In Catholicism, we call the principle "subsidiarity," and I truly believe that if we are going to change our society and transform our communities, that we have to look to ourselves to solve the problems. This isn't about the government coming in to dictate solutions to any problem. This is, in fact, about building connections with people in communities who have taken ownership of the problems and who have relationships with the people in order to build a more permanent solution to the problems.

On the issue of discrimination, I look at this from a social science perspective, not a religious one. The methodology of these programs includes faith. It's absurd to suggest that you have to hire people who don't agree with your methodology or it's discrimination. If you are at a drug and alcohol clinic that has a non-religious way to get people sober and someone comes in and says, "I don't believe that your plan works and I'm not going to teach what your institutions says," and you don't hire them, that isn't discrimination. You shouldn't have to hire people who do not support the methodology that has proven successful in transforming lives. It is not discrimination. It is what works for the organization.

## DEATH PENALTY

Few public policy issues have inflamed passions as consistently and as strongly as the debate over the legitimacy of the death penalty. Religious communities have been deeply involved on both sides of the issue, drawing on teachings and traditions of justice and on those that emphasize the dignity of human life. But while the death penalty is a subject of perennial discussion, the debate became louder and more focused this year as the first federal executions since 1963 took place.<sup>53</sup> The fact that one of the executed prisoners was Oklahoma City bomber Timothy McVeigh only served to complicate and crystallize traditional reactions to the death penalty.

Indeed, while the heinous nature of McVeigh's acts galvanized supporters of the death penalty and while public support for the punishment remains high, the news this year was the increase in numbers and vitality of death penalty opposition. Support for the death penalty has fallen from a high of 77% five years ago to 63% today. Fully half of Americans support the concept of a nationwide moratorium—a halt to executions while a government commission studies whether the death penalty is applied fairly. And when pollsters give people the sentencing alternative of life without parole, only 46% of respondents continue to choose the death penalty.<sup>54</sup>

Some of this change in public opinion may be traced to reconsideration of the issue within religious communities. Earlier this year, the Forum and the Pew Research Center conducted a survey that uncovered an interesting finding. When people were queried for their views on the death penalty and then asked what influenced their view—personal experience, family and friends, the media or religious belief—42 percent of death

penalty opponents cited religious belief as a reason for opposing the punishment. Only 15 percent of death penalty supporters said that religious belief led them to support the death penalty.<sup>55</sup>

In the flood of news coverage that preceded the McVeigh execution—and, to a much smaller extent, the execution of federal prisoner Juan Raul Garza—nearly every major paper ran a story on religious voices in the death penalty debate. Headlines such as “McVeigh Case Tests Religious Concepts of Repentance, Forgiveness and Law” and “‘Eye for an Eye’ Challenges Faithful” indicated the ways in which various religious communities are confronting traditional positions on the death penalty.

Why are religious individuals and communities reevaluating their views now? Growing doubts about whether innocent people might be accidentally executed has raised a series of practical moral questions. A fundamental step in leading many to reconsider their view on the death penalty was the moratorium imposed by Governor George Ryan of Illinois. Internal questioning has also taken place within religious communities. The debate over the execution of born-again prisoner Karla Faye Tucker had a powerful effect in the evangelical community, causing even staunch death penalty supporters to express some doubts. And the pope's visit to the United States in 1999, accompanied by a plea for an end to the death penalty, had a profound impact on the Catholic community. Appealing “for a consen-

*42% of death penalty opponents in a 2001 survey cite religious belief as a reason for opposing the punishment.*

sus to end the death penalty,” the pope stated that human life should never be taken “even in the case of someone who has done great evil.”<sup>56</sup>

## History

In 1608, Captain George Kendall became the first person in American history to be executed when he was put to death in Virginia for the charge of spying for Spain.<sup>57</sup> Other states in the colonies soon followed Virginia’s lead in adopting the practice of capital punishment. Serious consideration of abolishing the death penalty did not appear until the mid-18th century, and it did not become a reality until 1846, when Michigan eliminated it as a punishment for all crimes except treason.<sup>58</sup>

The first part of the twentieth century saw the total abolition of capital punishment in six states, and limited abolition (in which the death penalty may be granted only in cases of treason or first degree murder of a law enforcement officer) in three additional states. As the country entered World War I, however, and fear of treason and socialism grew, support for abolition waned. By 1920, five of the six states that had previously abolished the death penalty reinstated the punishment.<sup>59</sup>

Between 1920 and 1940 the death penalty gained popular support and was applied with more frequency. More executions were performed during the 1930s than in any other decade in U.S. history, with an average of 167 per year.<sup>60</sup> Enthusiasm for capital punishment diminished following World War II, and during the 1960s, a number of legal battles took place regarding the constitutional validity of the practice.

In 1972, the Supreme Court ruled in *Furman v. Georgia* that the death penalty as applied was “cruel and unusual punishment,” thereby violating the Eighth Amendment. The Court’s ruling effectively voided 40 state death penalty statutes, commuting the sentences of death row inmates and suspending the use of the death penalty.<sup>61</sup>

Because the overall holding in *Furman* was that specific death penalty statutes, and not the punishment itself, were unconstitutional, states were free to revise their laws in order to eliminate constitutional problems. Many rewrote their statutes to provide sentencing guidelines for judges and juries, and the Supreme Court approved such guided discretion statutes in 1976 in the landmark case *Gregg v. Georgia*. The Court also held that the death penalty itself does not invariably violate the Constitution. Consequently, the first state execution in a decade took place in Utah in 1977, and many more have followed.<sup>62</sup>

The 1998 execution of Karla Faye Tucker in Texas sparked a debate regarding the possibility of reform and rehabilitation. Before her death, Tucker professed to have become a born-again Christian while in prison and gathered support among evangelicals who believed that she had indeed reformed. Tucker’s death prompted the evangelical magazine *Christianity Today* to run an editorial criticizing her execution and calling for an end to the death penalty in the United States.<sup>63</sup> “One should not underestimate the significance of [her] execution to the psyche of American evangelicals,” said Richard Cizik of the National Association of Evangelicals. “It’s left a long-standing impression. It certainly did with me. It was wrong.”<sup>64</sup>

Debate over the application of the death penalty became even more heated in January 2000 when Governor George Ryan imposed a moratorium on the death penalty in Illinois, noting that since 1977 more death row inmates had been exonerated than executed in the state. In one highly publicized case, an inmate came within two days of being executed before being cleared through the discovery of new evidence.<sup>65</sup> The moratorium in Illinois invigorated supporters of death penalty moratoria in other states and at a federal level.

*It is impossible to say that there is any religious consensus on the death penalty.*

These supporters include the American Bar Association, which voted in 1997 to call for a moratorium on all executions until “critical flaws” in the criminal justice system have been fixed.<sup>66</sup>

While the federal death penalty was reauthorized by Congress in 1988 and expanded to address additional crimes in 1994, there had not been a single federal execution since 1963. In 2001, there were two in consecutive weeks, with Timothy McVeigh joined by Juan Raul Garza, a federal prisoner convicted of three drug-related murders. Garza’s execution had been postponed twice by President Clinton in 2000 while the Justice Department conducted a study of the application of federal death sentences.<sup>67</sup>

*God...has established capital punishment as a just and appropriate means by which the civil magistrate may punish those guilty of capital crimes.*

The Southern Baptist Convention

the current term, the Court will tackle the broader question of whether executing mentally retarded individuals convicted of capital crimes violates the Eighth Amendment prohibition against cruel and unusual punishment.

### Religious Perspectives

It is impossible to say that there is any religious consensus on the death penalty. Most discourse surrounding the death penalty relies upon the political, philosophical and legal dimensions of the practice, and its racial and social implications. Quite often in this debate, religious traditions and

theological perspectives are not fully explored beyond an occasional reference to “an eye for an eye” or calls for mercy and forgiveness. Religious voices, however, provide unique standpoints and important reflective dimensions that can illuminate important aspects of the debate.

Both the principle and the application of the death penalty have been hotly debated in recent years, often revealing splits along theological and ideological lines. The issue of state and federal moratoria, however, has caused traditional camps of support and opposition to realign somewhat.

Support for the death penalty has been affirmed in resolutions by the National Association of Evangelicals and the Southern Baptist Convention, and comes from a number of victims’ rights organizations. The most common arguments in favor of the death penalty are: that it serves as an effective deterrent; it is a divinely mandated punishment; and that victims, and perhaps society as a whole, have a right to just compensation for ultimate crimes. A resolution adopted by the Southern Baptist Convention in 2000 states that “God forbids personal revenge (Romans 12:19) and has established capital punishment as a just and appropriate means by which the civil magistrate may punish those guilty of capital crimes (Romans 13:4).” And the Lutheran Church—Missouri Synod explains its position “that capital punishment is in accord with the Holy Scriptures and the Lutheran Confessions.”<sup>68</sup>

Organizations seeking to abolish capital punishment include People of Faith Against the Death Penalty and the Southern Poverty Law Center. They, and other death penalty opponents, rebut deterrence theories with the argument that states without the death penalty have lower crimes rates. In addition, a statement of the Evangelical Lutheran Church in America asserts that, “Renewed by the Gospel, Christians, as the salt of the earth (Matthew 5:13) and the light of the world (Matthew 5:14), are called to respond to

*Renewed by the Gospel, Christians, as the salt of the earth and the light of the world, are called to respond to violent crime in the restorative way taught by Jesus.*

The Evangelical Lutheran Church in America.

violent crime in the restorative way taught by Jesus (Matthew 5:38-39) and shown by his actions (John 8:3-11).”

While a 2000 Zogby poll of American Muslims found that the overwhelming majority approved of the death penalty as an appropriate punishment for “heinous” crimes, the practical application of the sentence prompts more nuanced responses.<sup>69</sup> In particular, the June sentencing of men involved

with the 1993 bombing of the World Trade Center raised the question of how a death penalty sentence would be received in American Muslim communities.

Calls for a moratorium have also gained support following the release of a Justice Department study last year that found substantial racial and geographic disparities in federal death sentences. Such new evidence has caused even organizations traditionally in favor of the principle of capital punishment, such as the Union of Orthodox Jewish Congregations of America, to endorse the idea of a moratorium. Additionally, nearly 1700 organizations—most of them religious communities—have signed onto the “Moratorium Now” campaign.<sup>70</sup> Whether as a first step towards abolition or as a precautionary measure in the face of uncertainty, the idea of a moratorium has found resonance with some religious communities.

## THE DEATH PENALTY: RELIGIOUS TRADITIONS INFORM THE DEBATE<sup>71</sup>

### *John Carr, United States Catholic Conference*

I come from a community of faith whose understanding of the moral dimensions of capital punishment has evolved over time and in light of changing circumstances. There is not a little irony in the fact that the church I serve at one time participated in public executions—Joan of Arc comes to mind—and yet is now led by one of the world's foremost opponents to the death penalty, Pope John Paul II. I would suggest that the development of Catholic teaching on the death penalty has not been abrupt or radical, but a response to changing realities, especially in the criminal justice system, and it has developed out of great concern for how our culture sees human life.

The application of Catholic teaching on this subject has had three major elements: the articulation of the right of the state to resort to the death penalty in order to protect society; the expression of growing reservations on how that right is exercised, questions of fairness, and whether the use of the death penalty is still necessary to protect society; and the rejection of the use of the death penalty in our own time and situation.

The Bishops' Conference supports measures to restrain, restrict, or limit the death penalty and encourages policies to seek greater fairness in capital cases. We support moratoria and, eventually, the abandonment of the death penalty because we believe that although the state has the right to take life, we should forego that right. We have other means to protect society and we have an obligation to build a culture of life, not of death. We cannot defend life, we believe, by taking life.

### *Nathan Diament, Union of Orthodox Jewish Congregations of America*

It goes without saying that there is a range of views in the Jewish community on practically any issue. But if I have to sum up the position of my organization as the umbrella group for Orthodox synagogues around the country, it would be: We're not abolitionists, but we are for a moratorium.

One of Judaism's great teachings to the world is an appreciation for the infinite value of human life. It is in the creation story in Genesis that we learn that humans were created in God's image. It is from the account of Cain and Abel that we first learned about the consequences of murder. And it is from the binding of Isaac that the repugnance of human sacrifice was taught to the world. The task for modern Orthodox Jews is to elicit from our teachings relevant lessons for today. The considerations for this issue are the premium value placed on human life and the critical need on a societal level for implementing justice, particularly against those who would take another life.

We think sufficient questions have been raised with regard to accuracy, fairness, racial disparities and so on to call for a halt to this practice, to put into place a moratorium and to examine how these processes should best work in the American judicial system. On the other hand, we are not about to take the position of abolition, because of a critical component of Jewish teaching—that of implementing justice for society.

### ***Barrett Duke, Southern Baptist Convention***

Historically, Southern Baptists have supported capital punishment in our rank and file. There were some attempts in the late 1960s to have Southern Baptists go on record as opposed to capital punishment, but that effort was opposed by our membership. At our annual meeting in 2000, the Convention passed a resolution stating our support for capital punishment. Our main reason for that position is that we believe it is a biblical position. We believe that the Bible is God's Word and that it applies in all ages and all times.

The first statement in the Bible related to capital punishment is in Genesis 9:6. Immediately after the flood, God speaks to Noah and his family, and He says, "Whoever sheds the blood of man, by man shall his blood be shed." The location of that passage is significant because, as we understand the development of history, God issued this mandate for capital punishment prior to the establishment of the Nation of Israel. There was no Abraham or Moses at this time; there was just Noah and his family, which means that God gave this requirement to the people who provided the foundation of all subsequent civilization.

The question for us then is: Why did God call for capital punishment? Because killing another person violates the image of God, in which every person is created. In a sense, the civil government is making a statement about the sanctity of life. If you kill someone, you are damaging the image of God and it is the state's responsibility to call you to account. The state also represents God's burden for the weak. Society must protect its weakest members by ensuring its citizens that it will pursue and punish anyone who preys on them. We believe that all people are conceived with the right to life, but some forfeit that right by their own actions.

### ***Joseph Lowery, Southern Christian Leadership Conference***

The death penalty is a matter of place and race, of inequity and iniquity. It's a matter of place. In the year 2000, 80 percent of executions in this country took place in the South. In the South, defendants are vigorously prosecuted, but poorly defended. In the South, where the execution of Jesus Christ is most deplored, the execution of human beings is most employed. It's a matter of race. In the 20th century, eight out of ten persons executed in the South were African-American. In Georgia, where I live, black males constitute 15 percent of the population, but 50 percent of those who are on death row.

It's a matter of inequity. Capital punishment is for people who have no capital. Lewis Lawes, the former warden of Sing Sing, said, "Not only does capital punishment have no justification, but no punishment could be invented with so many inherent defects. It is an unequal punishment in the way it is applied to the rich and to the poor. The defendant of wealth and position never goes to the electric chair or to the gallows."

We cannot defend life by destroying life. The state sets the wrong example when it seeks to address its social problems by killing. For those of us who are Christian, forgiveness and redemption are the tools of the community of faith. The death penalty seeks vengeance: an eye for an eye and a tooth for a tooth. Martin Luther King, Jr., transposed it, saying, "An eye for an eye would leave us all blind." This practice extends the cycle of violence; it affirms killing as an acceptable means of resolving social problems. It's a matter of iniquity.

## PUBLIC SCHOOLS AND RELIGION

Although a variety of student religious activity in and around public schools is constitutionally permissible in the United States, the issue of public schools and religion is a perennial topic of heated debate. Growing concerns over the morality of today's youth are balanced by fears that students in public schools are captive audiences and should be free from school-sponsored religion. The education of America's children is a high-stakes debate drawing on emotions and strongly held beliefs. It is no surprise that the issue has often led to litigation.

*Public schools can neither foster religion nor preclude it.*

Former Education Secretary  
Richard Riley

This year is no exception. From the *Good News Club v. Milford Central School* case to “moment of silence” laws, legal attempts to clarify the appropriate interplay between religion and public schools are prevalent. And with good reason. This aspect of constitutional law is one of the most misunderstood, with some claiming that skittish public school officials are illegally banning religion from public schools while others argue that the Supreme Court has officially declared public schools “off-limits” to religion.

The balance is somewhere in between those two points. In 1995, a diverse group of religious and public-policy organizations drafted a statement of agreement about the law regarding religion in public schools.<sup>72</sup> In that same year, the Department of Education issued guidelines to public school superintendents regarding religious freedom in schools that was based heavily on the groups' earlier statement. Education Secretary Richard Riley noted, “Public schools can neither foster religion nor preclude it.”<sup>73</sup>

These statements emphasize that there is widespread agreement on certain issues related to religion and public schools. Nevertheless, from time to time skirmishes develop over even these principles in some religiously homogeneous regions. And, as these statements acknowledge, many other religion and public school issues continue to be open and controversial questions.

### History

As noted above, the history of religion in public schools can be traced through a series of court decisions that began in the late 1940s and continue steadily to the present day. The issue gained particular resonance as increasingly diverse public school systems began to encounter growing numbers of students from minority faiths.

The issue of releasing students for on- or off-campus religious instruction was dealt with in *McCullum v. Board of Education* and *Zorach v. Clauson*, but was quickly overshadowed by the more controversial topic of prayer in schools. In the early 1960s court challenges led to Supreme Court decisions banning school-sponsored prayer and other state-endorsed devotional exercises in the public schools. In 1985, the court further ruled in *Wallace v. Jaffree* that an Alabama moment of silence statute was unconstitutional because it was a thinly veiled attempt to encourage prayer. In 1992, the Court ruled in *Lee v. Weisman* that clergy-led prayers at graduation ceremonies were unconstitutional, and the court most recently ruled in *Santa Fe Independent School District v. Doe* that schools could not hold votes on student-led prayer and turn over the use of public address systems at sporting events for such prayer.<sup>74</sup>

In 1990, in *Westside Board of Education v. Mergens* the Court upheld the federal statute recognizing the rights of high school students to meet on campus during noninstructional time for prayer and religious activity. In a related decision, the court ruled in *Lamb's Chapel v. Center Moriches Union Free School District* that a school district that was open during weekend or evening hours for community groups to address family issues could not exclude a private religious group from presenting films at a school based solely on the films' discussion of family values from a religious perspective. And this year, in *Good News Club v. Milford Central School*, the Court ruled that a community religious club offering prayer and Bible instruction could not be prevented from holding after-school meetings when other community organizations were permitted such access to school grounds.<sup>75</sup> (See box for further discussion of the *Good News* case.)

In general, there is widespread agreement that religious expression that is sponsored by a public school is legally impermissible, but that student religious expression should be protected. Difficulties arise when the categorization of activities as those of the state or the student are unclear. It is likely that we will continue to see more such cases as the courts and society try to determine how best to allow students the freedom to express their beliefs while protecting them from imposition of school-sponsored religious expression.

## Recent Developments

Another notable court decision on religion in public schools was a federal appeals court ruling in July that a Virginia law requiring public school children to begin each day with moment of silence in which students could “meditate, pray or engage in other silent activity,” did not violate the constitutional ban on state-sponsored religion.<sup>76</sup> The Supreme Court refused to hear the case. The Supreme Court's refusal to hear the case allows the decision to stand, but is not a positive or negative comment on the merits of the lower court's decision. The Virginia law had been challenged by a group of families who argued that including prayer among the approved activities violated the constitutional ban on state-sponsored religion.

Looking forward to the coming year, surely the most important church-state decision will come from the United States Supreme Court when it rules in *Zelman v. Simmons-Harris* on the constitutionality of a publicly financed school voucher program in Ohio. Cleveland's Pilot Project Scholarship Program pays private school tuition up to \$2,250 per low-income student. The overwhelming number of children currently enrolled through the program attend religious schools.<sup>77</sup> This decision is likely to be an extremely close one that could create some important new benchmarks regarding tax funds and religious institutions.

## GOOD NEWS FROM THE SUPREME COURT?

*Melissa Rogers*

The sacred use of civic space has been a frequent source of friction in American life. Through its decision this year in *Good News Club v. Milford Central School*, the U.S. Supreme Court cleared the way for greater access to government property for citizens engaged in religious expression.

The case arose when the Good News Club, a Christian community organization for children ages 6-12, sought to use public school facilities immediately after the school day for their meetings. The Club described its activities as offering “a fun time of singing songs, hearing a Bible lesson and memorizing scripture.”<sup>78</sup>

Under the school’s policy, members of the community were permitted to use the facilities for educational activities as well as for social and civic purposes pertaining to community welfare. The policy also stated, however, that use of the facilities for religious purposes was prohibited. The school interpreted this prohibition to allow “discussion of secular matters from a religious perspective” but to bar the use of the facilities “for the purpose of conducting religious instruction and Bible study.”<sup>79</sup> Under this reasoning, the school rejected the Club’s request. The Club then took the school to court, arguing that its free speech rights had been violated.

After the trial court and the court of appeals ruled against the Club, the Supreme Court agreed to hear the case. The Court ruled that the school had violated the free speech rights of the Club and that there were no valid church-state concerns to preclude the Club’s use of school facilities. The Court majority believed it was constitutionally unjustifiable to allow the public forum to be used for speech on the subject of community welfare and education from secular perspectives while barring religious speech geared toward the same end. Indeed, the Court believed that the lower courts should have recognized that the Court’s earlier decisions had already resolved the question in favor of the Good News Club.

The Court dismissed arguments that special constitutional dangers were raised by the fact that elementary school children were the target audience for the Club. The Court emphasized the fact that the case involved after-school activity rather than activity during the school day, and that the Club required parental permission slips. Noting that the religious speech in this case was that of members of the community rather than the government and that “there is simply no integration and cooperation between the school district and the Club,”<sup>80</sup> the Court stated that “we have never extended our Establishment Clause jurisprudence to foreclose private religious conduct during nonschool hours merely because it takes place on school premises where elementary school children may be present.”<sup>81</sup>

In an opinion concurring in part, Justice Breyer joined in many of the guiding principles of the Court’s decision, but emphasized that, if they wished, both parties should have a fair opportunity to return to the lower courts for more fact-finding on issues such as whether a child participating in the Good News Club’s activities could reasonably perceive the school’s permission to use its facilities as an endorsement of religion. The dissenters shared Justice Breyer’s concerns and registered some of their own. Justice Souter’s dissenting opinion distinguished earlier Court cases approving the religious use of government facilities, arguing that the age of the children involved and timing and format of the Good News Club’s activities “may well affirmatively suggest the imprimitur of officialdom in the minds of young children.”<sup>82</sup>

Perhaps the most interesting part of the Court’s consideration of the case was its discussion of the nature of the Club’s religious activities and the issue of whether religious expression can be divided into component parts by the government.

There were several fascinating exchanges on this topic during the oral argument of the case. An issue that many of the justices seemed to find most vexing was whether the religious activities at issue in the case were religious worship as they defined it. One of the justices stated, for example: “[The counsel for the Club states that] this is essentially a religious worship service. Now, I think people might quarrel with that. ...I think one of my colleagues here described [the Club’s activities] as more like Sunday school, and I think that’s probably an accurate description, but it certainly isn’t religious worship in the sense that most people think of it.”<sup>83</sup>

Indeed, some of the justices’ comments on the issue provided a glimpse of their own religious roots. Those from a “high church” background, for example, seemed to have real difficulty equating the Club’s evangelism and informal activities with religious worship. Justice Scalia observed: “I mean, just because [the children] go, you are going to suddenly convert Sunday school into a Mass?...They were more religious, but they were not necessarily the same thing as a church religion—as a church worship service, teaching the Scripture, teaching what the Scripture has to say about morality. I mean, I think it’s a great distortion to call that a worship service...[e]ven if you throw in a prayer or two.”<sup>84</sup> Chief Justice Rehnquist stated: “...I think you can say that the school . . . couldn’t exclude religious viewpoints or religious groups and still not necessarily say that it had to be open for a full dress religious service.”<sup>85</sup>

As Chief Justice Rehnquist's comments indicate, these notions begin to take on legal significance if one determines that some types of religious expression by citizens should be permitted in public school facilities while other types, such as religious worship, should not. For those who take this position, in other words, there is obviously a need to define and separate permissible uses from impermissible ones.

In his concurring opinion, Justice Scalia made clear his belief that such distinctions need not and, indeed, should not be made in the case.<sup>86</sup> Religious activity should be permitted when other, analogous community uses are permitted, and the Court had previously rejected attempts to distinguish worship from other religious speech, Scalia stated. In its majority opinion, the Court skirted the specific issue of religious worship in an odd way by stating that, in any event, the Club's activities "do not constitute mere religious worship, divorced from any teaching of moral values,"<sup>87</sup> As the case excerpts below demonstrate, for dissenting Justices Souter and Ginsburg, the proposition that any public school opened for civic meetings must be opened for use as a church was "remarkable," and not in the positive sense of the term.

These exchanges demonstrate how difficult it can be for the government to draw clear, reliable distinctions regarding religious expression. Indeed, all agree that the government ought to avoid this task whenever possible. When is the task unavoidable? It looks like there will continue to be some disagreement about that.

### **The Taxonomy of Religious Expression, According to the U.S. Supreme Court in *Good News Club v. Milford Central School***

"Speech for 'religious purposes' may reasonably be understood to encompass three different categories. First, there is religious speech that is simply speech about a particular topic from a religious point of view... Second, there is religious speech that amounts to worship or its equivalent. . . Third, there is an intermediate category that is aimed principally at proselytizing or inculcating belief in a particular religious faith...The novel question that this case presents concerns...whether a school can, consistently with the First Amendment, create a limited public forum that admits the first type of religious speech without allowing the other two ...I am persuaded that the school district could (and did) permissibly exclude from its limited public forum proselytizing religious speech that does not rise to the level of actual worship." Justice Stevens, dissenting<sup>88</sup>

"It is beyond question that Good News intends to use the public school premises not for the mere discussion of a subject from a particular, Christian point of view, but for an evangelical service of worship, calling children to commit themselves in an act of Christian conversion. [footnote omitted] The majority avoids this reality only by resorting to the bland and general characterization of Good News's activity as 'teaching of morals and character, from a religious standpoint.' [citation omitted] If the majority's statement ignores reality, as it surely does, then today's holding may be understood only in equally generic terms. Otherwise, indeed, this case would stand for the remarkable proposition that any public school opened for civic meetings must be opened for use as a church, synagogue, or mosque." Justices Souter and Ginsburg, dissenting <sup>89</sup>

"Despite [the school's] insistence that the Club's activities constitute 'religious worship,' the [lower court] made no such determination. It did compare the Club's activities to 'religious worship' [citation omitted], but ultimately it concluded merely that the Club's activities 'fall outside the bounds of pure 'moral and character development.' [citation omitted] In any event, we conclude that the Club's activities do not constitute mere religious worship, divorced from any teaching of moral values." Justices Thomas, Rehnquist, O'Connor, Scalia, Kennedy and Breyer (the Court majority) <sup>90</sup>

"The dissenters emphasize that the religious speech used by the Club as the foundation for its views on morals and character is not just any type of religious speech – although they cannot agree exactly what type of religious speech it is. . . . [Our previous decisions rejecting attempts to distinguish worship from other religious speech] are surely proved correct today by the dissenters' inability to agree, even between themselves, into which subcategory of religious speech the Club's activities fell. If the distinction did have content, it would be beyond the courts' competence to administer. [citations omitted] And if courts (and other government officials) were competent, applying the distinction would require state monitoring of private, religious speech with a degree of pervasiveness that we have previously found unacceptable. [citation omitted] I will not endorse an approach that suffers such a wondrous diversity of flaws." Justice Scalia, concurring <sup>91</sup>

## RELIGIOUS COMMUNITIES AND STEM CELL RESEARCH: CREATING MEANINGFUL DEBATE <sup>92</sup>

As one would expect from our religiously pluralistic country, organized religious groups advocated for many of the possible positions that President Bush could have taken on stem cell research. While almost all of the religious communities in the United States support medical research to relieve the suffering of disease, traditions that believe embryos have the same moral standing as born persons—such as the Roman Catholic Church—were sharply critical of the decision. Religious groups who do not believe an early embryo has that same status—such as the Union of Orthodox Jewish Congregations and the Presbyterian Church (USA)—would have preferred a less restrictive decision, perhaps providing funds for research on embryos left over from in vitro fertilization procedures.

The embryonic stem cell debate is reflective of religious groups' historic concern with understanding what it means to be human. Most of these teachings have centered around the more well known, and much more theologically articulated, debate over the morality of abortion. In terms of official teachings, the Roman Catholic Church has held since at least the 19th century that a fully equal human life begins at the moment of conception. Evangelical Protestants began publicly to articulate a similar perspective beginning in the 1970s. On the other hand, the three branches of Judaism generally hold that an embryo outside of the womb does not have the same status as a born person. In general, mainline Protestants have held that an embryo does not have the same status as born persons, and can in some instances be aborted or used for medical research that promises to alleviate suffering.

Members of religious communities generally tend toward the official teachings of their tradition, but public opinion polls have shown that members of groups whose leaders take the most "conservative" stances tend to be more "liberal," while members of groups whose leaders take the most "liberal" stances on policy issues tend to be more "conservative" personally. None of these positions—organizational or individual—however, are necessarily iron-clad. It is reflective of the theological complexity of this issue that some groups supportive of legal abortion, such as the United Methodist Church, oppose the creation of embryos for research purposes.

With the degree of pluralism in views about the status of embryos and embryonic stem cell research, it is hard to imagine that President Bush's decision fully satisfied any of the religious communities in this debate. However, what all of the groups share is a belief that moral deliberation on issues such as this must be "thicker" than the thin debate in which some scientists and policymakers tend to engage. Religious groups are unified in the belief that the morality of embryonic stem cell research does not simply concern the promotion of health or patient autonomy in medical decisions, but deeper issues concerning the boundaries of legitimate human action and of our own human community. While the stem cell compromise may not satisfy the substantive concerns of all religious communities, it has satisfied their concern for a more meaningful debate.

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## STEM CELL RESEARCH

Technology, ethics and politics converged this year to launch a flurry of public debate and commentary on a once-arcane bioethical issue. President Bush's decision on whether to allow federal funding for research on stem cells prompted discussion outside the expected venues of the scientific community and patient advocates. Theologians and ethicists sent letters and petitions to the White House, with one coalition urging Bush to support funding of the research and another arguing for a ban on funding. Politicians gave impassioned speeches on the issue, based on religious convictions and on personal experience. And when Bush traveled to Italy to meet with

*Many agree with Pope John Paul II when he argues that any action that does not respect the inherent value of all life is indicative of "a tragic coarsening of consciences."*

life, but in an even more nuanced and complex fashion. The costs and benefits, for instance, are much murkier, with supporters arguing that week-old embryos cannot be compared to fetuses and that the therapeutic possibilities for patients outweigh opposing ethical concerns. Many opponents, however, agree with the pope when he

Pope John Paul II in July, the pontiff did not mince words, calling the issue one with "the gravest consequences for the future of civilization" and grouping the research with euthanasia and infanticide.<sup>93</sup>

Although the issue of stem cell research was originally cast in terms of the abortion debate, this comparison was quickly revealed to be too simplistic. The question of whether this research should be performed at all, much less funded with government dollars, does indeed touch on similar questions of the inherent value of

argues that any action that does not respect the inherent value of all life is indicative of "a tragic coarsening of consciences."<sup>94</sup>

Moral, ethical and theological issues are appropriately a large part of the debate over stem cell research. Jean Bethke Elshtain has noted that "This controversy is shaped in part by the enormous enhancement and increase in knowledge about the developing embryo. Additional information about its early complexity has made moral concerns ever more exigent, coming from the scientific direction to the people engaged in moral and religious thinking."<sup>95</sup> Stem cell research is a policy issue begging for moral elucidation, and plenty of religious voices and traditions are willing to oblige.

### History

In the late 1990s, medical research led to a discovery that could potentially change the face of medicine—the use of embryonic stem cells to grow healthy cells and thus possibly alleviate a number of medical problems ranging from Alzheimer's disease and diabetes to spinal cord injuries. Although a 1996 federal law barred federal funding for "research in which a human embryo or embryos are destroyed," this new development led to pressure to loosen that restriction and in August of 2000, President Clinton accepted a compromise offered by the National Institutes of Health.<sup>96</sup> The new guidelines would allow federal money to be used for research, but only on stem cells obtained by private companies, thereby prohibiting federally funded researchers from harvesting the cells in the first place. In the midst of the presidential campaign, Al Gore promised to continue this policy if elected and George W. Bush pledged to uphold a ban on all stem cell research funding. Shortly after taking office,

President Bush placed a hold on the NIH plan and commenced a review of the ethics of stem cell research.

In early 2001, Britain became the first country to legalize the creation of cloned human embryos when the House of Lords approved a change to government regulations that would allow stem cell research, but not “reproductive cloning.”<sup>97</sup> The issue was also considered in Congress when “The Human Cloning Prohibition Act of 2001” was passed by the House of Representatives on July 31. Before voting on passage of the full measure, the House rejected an amendment favored by those who would allow the creation of embryos for the purpose of “therapeutic research,” the stated purpose of stem cell research.<sup>98</sup>

Seeking to find a compromise between the various factions in this long-running debate, on August 9, 2001, President Bush announced his much-anticipated decision to allow the federal government to fund research on embryonic stem cells that have been grown from cells already removed from embryos.<sup>99</sup> As expected, the decision was both lauded and bemoaned, and has not put an end to the discussion. Since Bush’s decision hinged on funding for research on existing stem cell lines, the question has been how many of these lines are available and whether they will be sufficient to sustain medical research. Following the president’s announcement, congressional leaders in both parties indicated that Congress would refrain from addressing the issue this year. However, as of the writing of this report, the Education, Health and Labor Appropriations Bill being debated in the Senate contains a provision that would give the president discretion to increase the number of embryos available for research beyond the more narrow list originally announced.

### **Religious Perspectives on Stem Cell Research**

Since stem cell research is a relatively recent issue in scientific circles, much less the public square,

much of the debate within religious communities has taken the form of more familiar arguments regarding the issue of human cloning. “Any discovery that touches upon the human creation is not simply a matter of scientific inquiry,” President Clinton said in an Oval Office ceremony in March of 1997. “It is a matter of morality and spirituality as well.”<sup>100</sup> While public opinion regarding stem cell research has been mixed and reflects a general lack of knowledge about the specifics, Americans are firmly opposed to human cloning. In a poll presented by the Forum and the Pew Research Center, 81% of Americans were opposed to allowing “unrestricted scientific research related to human cloning” and respondents most often cited their religious belief as having the strongest influence on this view.<sup>101</sup>

There has been significant disagreement over the status of human embryos created by cloning for therapeutic research. Roman Catholic tradition teaches that the preimplantation human embryo is entitled to full moral respect and dignity, a view shared by many evangelical Christian scholars. Jewish law, on the other hand, does not attribute full moral status to the human embryo, and Islamic scholarship is divided on the question. Such differences have led to very different ideas about the appropriateness of cloning human embryos for use in scientific research.

Another question raised by this debate is the responsibility of religious communities to heal and care for others. The ethicists and theologians who urged President Bush to support funding for stem cell research wrote that “Many of our traditions teach a duty to pursue research that promotes healing, health and human well being. This duty is consistent with the principle of full respect

*Any discovery that touches upon the human creation is not simply a matter of scientific inquiry. It is a matter of morality and spirituality as well.*

President Bill Clinton

for human life.”<sup>102</sup> At the same time, a coalition of their peers argued that “Some forms of research are, in themselves, morally wrong, regardless of the potential good to be gained. Destroying nascent life in order merely to further our purposes, however worthy those purposes may seem, violates the claim that such life makes on us.”<sup>103</sup>

In spite of serious differences, a number of themes have been consistently explored as schol-

ars from Western faith traditions have examined the ethics of reproductive and therapeutic cloning. Among them are responsible human dominion over nature, human dignity and destiny, procreation, and family life. The official statement of the Church of Latter-Day Saints on cloning asserts that “Individuals who tamper with the sacred powers of creation stand accountable before God.”<sup>104</sup>

## PLAYING GOD? RELIGIOUS PERSPECTIVES ON STEM CELL AND OTHER BIO-ETHICS RESEARCH <sup>105</sup>

### *Nigel Cameron, Wilberforce Forum*

There has been an attempt to separate the two fundamentally related questions of how we approach the issue of “reproductive” cloning and the cloning of the embryo for so-called “therapeutic” purposes, which are not therapeutic to the embryo, but are allegedly so to others.

The supreme Christian belief is that of the Incarnation. The Incarnation did not take place, despite what the Christmas cards tell us, in a stable in Bethlehem. The Incarnation, according to Christian teaching and the teaching of Holy Scripture, took place when Mary conceived, and the Godhead was born in the second person not simply in a baby—which is a miracle enough—but in a zygote. This is the central Christian belief, that the Incarnation took place in utero. If our Lord became man in a zygote, then we have the most compelling theological justification for treating every zygote with an appropriate respect due to one who bears human form. Therefore the notion that the asexual reproductive technique of cloning should be used at any stage is foreign to our view of human dignity.

### *Rabbi Moses Tendler, Yeshiva University*

Natural versus artificial is a fundamental conceptual difference between the Jewish tradition and many of the Christian faith. In Judaism, the natural is not preferred over the artificial. On the contrary, in Genesis 1:28, we are told, “And God said to man, be fruitful and multiply and fill the earth.” That’s about all everyone remembers of that verse. But there are other words: “And master thy world.” That’s part of man’s obligation in this world, to make the world a better place than God left it when He made man. Therefore, the fact that something is artificial is not synonymous with bad. Artificial may mean man fulfilling his obligations to God. God gave us molecules, God gave us atoms. We put them together differently. We are not playing God by doing that. We can’t get along without Him.

### *Abdulaziz Sachedina, University of Virginia*

There is no human action without intention in Islam. So science is not amoral—God judges the intention that precedes action and that applies in cases of scientific research. But it is very important to avoid probable harm to society, especially in this case in which we are talking about benefits that are almost at the limit of speculation. The ultimate question is, is it really going to help us? If the answer is yes, then I think Islamic law and Islamic ethics would support [stem cell research].

In the area of stem cell research, there is a very clear indication in Jewish law that life does not begin from day one, so extra embryos can be used for research. Some Muslim jurists would say that ensoulment does not take place until the first trimester, after 120 days. But the majority of the panel says 40 days is the period recognized in Islamic law. So there is no problem with stem cell research.

## SEPTEMBER 11 AND BEYOND

The tragic events of September 11, 2001, focused the nation's attention more than ever on the role of religion in public life, particularly as many turned to houses of worship and to religious leaders in search of answers and consolation. President Bush declared the Friday after the attacks a National Day of Prayer and Remembrance and spoke to Americans from the pulpit of the Washington National Cathedral. Catholic, Jewish, Muslim and Protestant religious leaders also spoke during the prayer service as politicians and policymakers filled the seats of the enormous building, the motto of which is "A National House of Prayer for All People."

Religious communities and leaders have led the way in encouraging consideration of traditional religious responses to war, including both the just war tradition and pacifism. Many non-Muslims have reached out to American Muslims, holding community meetings between local churches and mosques, even as most Americans struggle to gather information and an understanding about Islam. Already active in the public square on a number of different fronts—from the faith-based initiative to the death penalty to stem cell research—religious communities are uniquely situated to lend guidance and insight as the nation responds to and recovers from the events of September 11.

### Public Religiosity

In the weeks immediately following the terrorist attacks, Americans flooded into houses of worship, packing weekend services and engaging in prayer and reflection. It is still unclear whether this spontaneous reaction will translate into sustained increases in church attendance or whether it was characteristic of a national period of mourning,

with Americans primarily in search of solidarity and comfort. "The Yankee Stadium memorial service provided a kind of public outlet for concerns about the possibility of terrorism and for the expression of grief," observed sociologist Robert Wuthnow. "That doesn't necessarily translate into long-term commitments to religious organizations."<sup>106</sup> Many clergy agree, noting that they saw similar temporary increases in attendance at worship services after President Reagan was shot and during the Gulf War.<sup>107</sup> And, in fact, a poll released on September 19 by the Pew Research Center found that although 69% of Americans report that they are praying more in the wake of the attacks, a similar percentage reported the same practice during January 1991 when the Gulf War was taking place.<sup>108</sup>

And yet on Beliefnet.com, a multi-faith website that provides commentary in addition to community discussion forums, web traffic increased significantly for the month of September. The website provided interactive tutorials on Islam, dialogues allowing Muslims to chat directly with people of other faiths and daily columns on different aspects of the aftermath of September 11. Other religion-oriented websites such as Crosswalk.com and Christianity.com saw similar increases in the number of visitors to their sites immediately after September 11.<sup>109</sup>

A few localities have reacted to the outpouring of religiosity and to the shock of the attacks by introducing proposals to post the Ten Commandments

*In the weeks immediately following the terrorist attacks, Americans flooded into houses of worship, packing weekend services and engaging in prayer and reflection.*

in local government buildings.<sup>110</sup> In Congress, Rep. Ernest Istook (R-OK) announced that he will introduce a new version of his proposed constitutional amendment to allow more religious speech in classrooms and other public forums, arguing that, “Now with the national focus on asking for God’s help in the country...there’s a need to support people’s right to religious speech.”<sup>111</sup> A number of legislative proposals introduced following September 11 seek to encourage public religious expression.

### Religious Perspectives

On September 20, before his address to Congress, President George W. Bush spent over an hour talking and praying with a diverse group of religious leaders. The gathering of mostly Christian clergy, including two Roman Catholic cardinals and the presidents of the Southern Baptist Convention and the Mormon Church, also included Jewish, Muslim, Hindu and Buddhist representatives. According to Jean Bethke Elshtain, who attended the meeting, the President “offered twenty to twenty-five minutes of reflection on the situation, indicating the need to steer a careful course between calling for Americans to be attentive but doing so in a way that doesn’t instill fear in hearts already bestirred and stunned by what had happened.”<sup>112</sup>

The group of clergy drafted and issued a statement offering their counsel on the situation now facing Americans. They noted that “the common good has been threatened by these attacks, and we have both a moral right and a grave obligation as a nation to protect the sanctity of life and the common good.” In addition, the group expressed its gratitude that “the President has spoken out early and clearly to denounce acts of bigotry, racism and violence directed against Arabs, Muslims and others in our midst who have been erroneously connected to terrorism.”<sup>113</sup>

This gathering of clergy and scholars represents just one of the religious coalitions that have spo-

ken up in the wake of September 11 to provide guidance to policymakers and to the public. Academic forums have engaged discussions around the proper religious responses to attacks while religious organizations have drafted statements and petitions urging particular action or restraint on the part of political leaders. “Deny Them Their Victory: A Religious Response to Terrorism” was initiated by, among others, Bob Edgar of the National Council of Churches and Jim Wallis of Call to Renewal. As of the writing of this report, the statement has been signed by over 3,500 religious leaders and appeals above all for “sober restraint” in responding to the attacks. Calling for policy actions that provide food for the Afghan people, honor Ramadan and stop the bombing, the signers state, “We must not allow this terror to drive us away from being the people God has called us to be...Let us deny them [the terrorists] their victory by refusing to submit to a world created in their image.”<sup>114</sup>

There are certainly those in America who agree with the views expressed by Jerry Falwell, who caused an uproar with an appearance on “The 700 Club” in which he said that “God continues to lift the curtain [of protection] and allow the enemies of America to give us probably what we deserve.”<sup>115</sup> More common are the sentiments expressed in “A Prayer By the Nation For the Nation,” issued by a coalition of Christian organizations including the National Association of Evangelicals. “As never before,” the prayer which ran as a full-page ad in national newspapers reads, “awaken and sustain us as a nation with the triumphant hope we have in You and in You alone.”<sup>116</sup>

In addition, the Becket Fund for Religious Liberty, a Washington, D.C.-based law firm, sponsored a full-page ad in *The Washington Post* on October 17 that included comments by prominent Muslim leaders around the world. The ad included the following statement from the Organization of the Islamic Conference, which includes representatives from 56 nations: “These terrorist attacks

## CAN JUST WAR PRINCIPLES BE APPLIED TO A WAR ON TERRORISM? <sup>120</sup>

### *Jean Bethke Elshtain, University of Chicago Divinity School*

From President George W. Bush to the average man and woman on the street, Americans are evoking the language of justice to characterize our response to the despicable deeds perpetrated against innocent men, women and children on September 11th. When they do this, they tap into a complex tradition called just war. The origins of the just war tradition are usually traced to St. Augustine's fourth century masterwork, *The City of God*. In that text, Augustine grapples with the undeniable fact that Christian teaching challenges the use of violence. He comes to the conclusion that wars of aggression and aggrandizement are never acceptable, but there are occasions when resort to force may be tragically necessary; not a normative good, but tragically necessary.

When a wound as grievous as that of September 11 has been inflicted on a body politic, it would be irresponsible, it would be a dereliction of duty, it would be a flight from the serious vocation of politics to fail to respond. The Christian tradition also tells us that government is instituted by God. This does not mean that every government and every public official is godly, but rather that he or she is charged with a solemn responsibility for which there is a divine warrant.

So respond we must, respond we shall. We must stop those who use civilians against other civilians by turning a great symbol of human freedom of movement—the commercial airplane—into a deadly bomb. If we abide by just war restraints, we will put our combatants in harm's way to punish and interdict those who put our non-combatants in harm's way. That is the burden of the just warrior.

### *Stanley Hauerwas, Duke Divinity School*

What makes the outbreak of violence war? War is an honorific term that people use to distinguish war from murder. In talking with reporters about these matters, I oftentimes bring up Hiroshima and Nagasaki as issues of just war, and they always say, "Oh, but that was war." Well, murder can occur in war. The British blanket bombing in World War II, the firebomb raid on Tokyo—does that mean World War II must be described as something other than war, if war is an honorific term that distinguishes war from murder?

If, from a just war perspective, you can only describe war as just war, then you need to distinguish war from what is not a just war. What is war when it is not a just war? Many people have said that there's no one to declare war against in terms of the attacks on the World Trade Center. But you need to declare a war where your enemy will know under what conditions they can surrender. Does the mere fact that you are declaring war against a terrorist organization mean that just war has somehow become unintelligible because you can only deal with state agencies?

And finally, how would Christians prepare themselves for a just war? Before we receive the Eucharist, we wish one another the peace of Christ. How would that peace be understood if we said, “Except”? Christians don’t develop theories of “just adultery.” How is it that we develop theories of just war, and what does that do to our understanding of what we mean when we wish one another the peace of Christ? Because I take it that the deepest issue here is the doctrine of God. And when Christians cross their fingers, we turn God into a spirit, rather than the material presence found in Jesus Christ through whom we continue to be made God’s material people in the world through body and blood. What I fear about just war is that it always leads to the spiritualization of the Christian faith. And that’s why I must remain committed to Christian non-violence.

***James Turner Johnson, Rutgers University***

Is this war or is this criminal activity? This issue has surfaced in the debate as a way of arguing that we ought not to use military force against Osama bin Laden and Al Qaeda, that we ought instead to use the judicial process. This confuses the issue. Morally speaking, there is no difference between the use of force in the context of police action or in the context of international projections of military force. This was reflected very directly in Augustine’s view of just war. The central issue was the public use of force versus the private use of force. In the tradition, any private use of force is wrong. The one who has the authority to use force is the one with responsibility for the public good and who must think about moral uses of force.

It should be pointed out that there are very important overlaps between the just war and jihad traditions. First, the jihad tradition also requires right authority. Historically, the leader of the community—the caliph for the Sunnis and the imam for the Shiites—had to authorize the use of force. There was a responsibility for individuals to defend against an attack on the Islamic society. But there were very stringent restrictions placed on this. So the fatwa of 1998 which Osama bin Laden issued justifying war against Americans is simply against what the normative tradition allows in the way of defensive jihad. Furthermore, the jihad tradition includes very explicit limits on whom you may fight. There are number of traditions associated with the prophet Mohammed which include the language “you shall not kill the women and children.” Some of the traditions also include other groups of people: the aged, the infirm, the mentally incompetent. These are exactly the same kinds of lists that we find in the just war tradition and in contemporary international law of armed conflicts.

So there is no culture conflict here. There is fundamental agreement on these issues. There is good reason to say from the standpoint of Islam, as well as from the standpoint of just war tradition, that the attacks of 9/11 were indeed evil and that there is a just necessity for a response to them.

contradict the teaching of all religions and human and moral values.”<sup>117</sup>

### Understanding Islam

One of the effects of the terror attacks of September 11 was to highlight how little most Americans know about Islam and about Muslims, a religious community that is rapidly growing in the United States. Statements by Muslim leaders have been eagerly sought as Americans have tried to distinguish between the radical Islam of a few

and the religion practiced by millions of Muslims around the world. Questions posed by Americans have ranged from the hostile to the curious—“Can Islam and democracy co-exist?”—to the plaintive query that headlined so many magazine covers after the attacks—“Why do they hate us?”

Several waves of press coverage followed September 11. The first wave included a series of articles on the peaceful tenets of

Islam and comments by New York City Mayor Rudy Giuliani and other political leaders urging peace and acceptance of American Muslims. This round of coverage was quickly followed, however, by a series of op-eds critical of Islam. Syndicated columnist Tony Blankley was just one of many

who responded to the first wave by writing “Many commentators are claiming that only a handful of fanatics share the vision of a triumphant Islam violently marginalizing the secular, materialistic West. That is not true. The recrudescence of activist Islam over the last 80 years has been consistently presaged by Muslim intellectual thought. And the trend line is not good.”<sup>118</sup>

America’s religious history is a history of coming to terms with the faith commitments of new arrivals to our shores—and of an increasingly rich dialogue among traditions. The international conflict that followed September 11 made this process simultaneously more complicated and more urgent where Islam is concerned. Building on his outreach earlier in the year to Muslim groups, President Bush is providing leadership on this issue. In October, the White House brought on its first staff member assigned specifically to act as a liaison with Muslim groups. And within a week after the attacks, President Bush visited the Islamic Center of Washington, D.C. Standing with leaders of various Muslim groups such as the Council on American-Islamic Relations and the American Muslim Council, the President told Americans that “The face of terror is not the true faith of Islam. That’s not what Islam is all about. Islam is peace. These terrorists don’t represent peace. They represent evil and war. When we think of Islam we think of a faith that brings comfort to a billion people around the world.”<sup>119</sup>

*The face of terror is not the true faith of Islam. That’s not what Islam is all about. Islam is peace.*

President George W. Bush

## LOOKING FORWARD: “GOD BLESS YOU AND GOD BLESS AMERICA”

**I**n early 2001, Michael Kinsley wrote a humorous column tracking the near-ubiquitous use of the phrase “God bless you, and God bless America” by American politicians and observing that everyone from the president down to local officials seemed to feel obligated to use the rhetorical farewell. “It’s starting to be suspicious if a politician doesn’t conclude a public statement that way,” he wrote, tongue firmly planted in cheek. “What’s your problem, buddy? You don’t want God to bless America?”<sup>121</sup>

On October 16, 2001, the House of Representatives unanimously passed a resolution expressing the sense of Congress that public schools may display the words “God Bless America” as an expression of support for the nation. While the resolution and its Senate companion have gone no further than the Senate Judiciary Committee, it appears that at least one political institution has indeed lent its endorsement to the request for divine blessing. Americans have clearly experienced quite a lot between the beginning and end of 2001. And yet

the support for a simple phrase with religious and political overtones is an example of the appeal that religion in the most generic sense holds for many Americans. A survey released in January by Public Agenda found that “Of those who want religion to become more influential in America, the majority, 76 percent, say it does not matter to them which religion it is.”<sup>122</sup> Deborah Wadsworth, president of Public Agenda, reflected on these findings with the comment that “Most Americans today wind up talking about moral decay. And in their view, the antidote to this problem is a greater dose of religion in American life. For most citizens, the primary benefit of faith, therefore, is the capacity to improve individual behavior and personal conduct.”<sup>123</sup> This line of thought is not far removed from Eisenhower’s remark that America makes “no sense unless it is founded in a deeply felt religious faith, and I don’t care what it is.”<sup>124</sup> The embrace of the power of religion—any religion—seems to lie behind much of the general support for government funding of faith-based social service providers. Although the public recognizes that religious groups can’t do all of the work of providing social services, data show that they do believe that faith-based organizations are

uniquely suited to address certain issues, such as feeding the homeless and counseling prisoners.<sup>125</sup>

And yet even while many embrace the generic virtues of religion, a large number of Americans are influenced by specific religious commitments and beliefs. The role of religion in shaping Americans' views on public policy issues was reflected in a poll by the Forum and the Pew Research Center. When questioned about several controversial issues—ranging from human cloning to the death penalty—and asked about the most important factor in shaping their views on these subjects, Americans named religious belief and personal experience most frequently. Overall, 61% said that religion was the most important influence on their opinion about at least one of seven issues probed. Even among those with a low level of religious commitment, one-third still reported that religious beliefs are most important in forming their views on at least one issue.<sup>126</sup> It is unlikely that generic religion would influence the devel-

opment of specific positions on public policy issues, particularly in areas where religious traditions are quite clear about the theological foundations of their teachings.

These forms of religion—the generic and the specific, or prophetic—are two ways in which religion performs a civic role. The first reflects the idea that good citizenship is sometimes encouraged by religion, simply because most religions involve teachings regarding community and ethical norms. As Deborah

Wadsworth noted, Americans “see

religion as a unique course capable of righting the ship on its wrong moral course.”<sup>127</sup> And generic religion does often seem to provide that kind of civic glue.

But religion also plays an important prophetic role in the public square, calling societies and govern-

ments to task. In recent days, for example, the prophetic role of religion has prompted some to caution the use of the phrase “God Bless America.” The Rev. Kenneth Carder, United Methodist bishop of Mississippi, writes that “Prayer for God’s blessings is presumptuous when we expect God to bestow blessings in accordance with national boundaries and preconceived notions. . . . To seek God’s blessings for America and not for the world fails to recognize the wideness in God’s mercy and the expanse of God’s love.”<sup>128</sup>

This prophetic religion requires not just capital-R Religion, but a specific tradition with teachings and moral arguments that can be brought to bear on public questions. And while the generic role of religion seeks to build up the moral fabric of the country by inculcating shared values, the prophetic role of religion is less likely to uphold the existing order than to criticize and, sometimes, seek to disrupt it. Michael Sandel has commented on this tension:

Let’s go back to the abolitionists, to the contemporary anti-abortion movement, to those who would invoke the biblical tradition to criticize the market economy, or to argue for debt relief for Third World countries, or to oppose the death penalty. This is a civic role for religion that can’t be generic, because it requires particular moral and religiously informed arguments. But it’s important to recognize that it is in tension with the other civic purpose for which people look to religion, which is to preserve a kind of social order.<sup>129</sup>

This tension between the generic and prophetic roles of religion has been especially strong in the area of government partnership with religious social service providers. The argument made by many proponents of the policy is that the unique character of faith-based organizations enables them to provide effective solutions to many social

*These forms of religion—the generic and the specific, or prophetic—are two ways in which religion performs a civic role.*

*There is clearly no consensus regarding whether this rising religious influence is qualitatively good or bad. But Americans are unarguably attuned to the different roles of religion in public life.*

problems. They propose, therefore, to harness the power of religion for its social utility. Yet whenever religion is enlisted to be socially useful, there is the danger that the prophetic role of faith—the ability to be a critical, independent voice—will be compromised.

On issues from the death penalty to stem cell research to war policies, religious communities have brought their prophetic voices into public debate this year. At the same time, the appeal of generic religion has been apparent in discussions of the faith-based initiative and as communities struggle to recover from the events of September 11. According to a November 2001 poll by the Forum and Pew Research Center, an astounding 78% of Americans believe that religion as a whole is presently increasing its influence on American life. This question

has been part of Gallup polls dating back more than forty years and, with few exceptions, the percentage of Americans who believe that religion is increasing its influence has consistently hovered between 35 and 45%.<sup>130</sup> There is clearly no consensus regarding whether this rising religious influence is qualitatively good or bad. But Americans are unarguably attuned to the different roles of religion in public life. And on this subject their voices will no doubt continue to resound.



## FAITH'S PARADOXES

E.J. Dionne, Jr.

Was religion the cause of the horrific events that engulfed our nation on September 11, or is it the solution?

It's an impudent—some might fairly say irreverent—question. But it's a question that was very much on American minds following the terrorist attacks on the World Trade Center and the Pentagon. There was an immediate inclination to blame what happened on "fanatical Islam"—even when, at the time of the attacks, we know little about the hijackers' religious commitments. It was widely—perhaps, in the end, accurately—thought that only true believers filled with hope that God would reward them with immediate entry into paradise could be inspired to destroy their own lives and those of so many others.

Yet if many Americans saw this tragedy as rooted in a perverse religious impulse, our own response was deeply religious. We poured into churches, synagogues and mosques to ask God's consolation, to seek understanding and to find fellowship with our neighbors. President Bush's most inspiring address of the terrible week was as much a sermon as a speech. "God's signs are not always the ones we look for," the president said at the National Cathedral. "We learn in tragedy that his purposes are not always our own."

Are we talking about different gods or different illusions? We can begin by dispensing with the obvious: Every government and every political cause will invoke the divine whenever doing so is convenient. This, you might say, is not God's fault but our own. To assume that religious opportunism invalidates faith is the same as assuming that political opportunism invalidates democracy, or that cheaters invalidate all market transactions.

As so many have rightly pointed out—the president and New York City Mayor Rudy Giuliani were especially powerful about this—it is also wrong to assume that loyalty to the Muslim faith automatically ties someone to terrorism.

In her book "God Has Ninety-Nine Names," the journalist Judith Miller quotes Hassan Alfi, Egypt's interior minister in the 1990s, on the subject of terrorism in his own country. The public, Alfi said, should be "made aware that the killers who conduct violence against officials and innocent tourists are not Muslims; they do not practice any religion. There is nothing in the Koran that justifies such murder. These men are using Islam as a cover for their political goals."

This statement is interesting in at least two ways. First, Alfi is entirely right that the use of Islam for political purposes by some should not discredit the faith of all believers. Those of us who are Christian or Jewish would readily acknowledge that our own faiths have also been used in political ways. Yet Alfi's statement was itself political: The Egyptian government at the time was engaged in a crackdown on members of the Muslim Brotherhood and other Islamist groups. Alfi and his government had every interest in discrediting the religious claims of their enemies.

If faith is reduced to its uses and misuses, a profound skepticism is inevitable. But does this discredit faith?

I posed the question to Monsignor Martin Geraghty, the pastor of St. Francis de Sales Church in Rockaway, Queens, a church I attend when I visit my wife's family. Rockaway was devastated by the events of September

11. It was—and is—home not only to a large number of fire fighters, but also to many who had found work in the financial industry. For weeks, Msgr. Geraghty conducted one funeral and memorial service after another for victims of the attacks. Later, his neighborhood would be devastated again when Flight 587 crashed a block and a half from St. Francis de Sales during 9 a.m. Mass.

When I asked him if religious commitment can lead to fanatical and irrational acts, he replied candidly: “It does happen. It has happened. It’s not what faith and religious commitment and an understanding of God in the world is all about. But the relationship between religion and psychology is too close. We can end up with fanatics. What do we say about fanaticism in anything? It’s even been known to happen in sports once in a while.”

The conundrum, he says, is that “religion is so close to life that it’s always there. It’s close to the life of people and groups and the power of nations and nation states. But it isn’t the midwife of violence.”

Religious faith cannot be supported just because it brings comfort in moments of anguish. Neither can it be discredited by the horrid acts committed in its name. The irony is that while faith can inspire activism on behalf of justice and a commitment to solidarity, faith becomes suspect when God is too closely harnessed to immediate human ends and identified entirely with a personal, political or national cause. Faith is brought down by a pridefulness that expresses an unwavering conviction that our own desires and interests coincide perfectly with those of the divine.

Faith is more credible when it stands as a challenge, when it insists on aspirations beyond those of our own political movements, communities or nations. The prayers of this faith do not express certainty that God is on our side, only the hope that because of what we do and how we reach out to others, this might yet prove to be true. Paradoxically, faith’s greatest contribution to public life comes more when it provides a critical perspective—when it serves as a prod or even as a provocation—than when it is invoked to offer certainties that are not subject to debate.

The nation’s spontaneous response to September 11 was a reminder of how closely religion and public life are linked in our nation. No law or government decree forced Americans to spontaneous acts of prayer and meditation in response to this frightening public moment—or to the acts of generosity and mercy that so often followed. No piece of legislation was required to produce the commitment to mutual assistance that arose after the attacks, let alone the heroism of those who gave their own lives in an attempt to save others. The nation was gripped by discussions about the urgency of religious toleration and the paradox that religious commitment, depending upon how it is understood, can bring communities closer together or divide them from each other.

Such questions are always near the heart of any serious discussion of religion and public life. And while religion and the state can and should be kept separate, religion will always be in, near and around the public arena. “Religion,” Richard Wightman Fox has written, “allows people to grapple with the human mysteries that neither science nor politics can address. But it also provides a force that science and politics can call on in their effort to understand and transform the social world.” Since the events of September 11, we have learned that once again.

*(Portions of this article originally appeared in The Washington Post. Reprinted with permission.)*



## POLITICS REFRACTED BY RELIGION

Jean Bethke Elshtain

The past year has been so eventful on the religion and public life front that it is difficult to pick and choose which of the many events, themes and controversies surrounding this general topic one should emphasize. I will, therefore, concentrate on the way that political questions were refracted from the point of view of "religion," understanding as I do that religion is no monolith but a variety of belief systems and orientations.

Although the 2000 election seems long ago indeed—especially in light of the events of September 11—the role of religion in public life emerged as a hot topic. Both candidates for president described themselves as evangelical Christians, so there was no particular dispute between them. Most interesting was Senator Joseph Lieberman's Vice-Presidential candidacy and that for two reasons: (1) He was the first Jew to be on a major party ticket, and (2) He openly—some might say effusively—evoked God in his campaign speeches. This occasioned a debate in the religious community about just how much "God talk" was appropriate in the thick of an electoral campaign. My hunch is that, had Lieberman's been the voice of a Fundamentalist Christian, say, bringing to his campaign speeches the level of religious invocation that Lieberman did, there would have been much more controversy. Senator Lieberman got something of a pass for several reasons. Voters and pundits, well aware of the specter of anti-Semitism that many thought would dog Lieberman's candidacy—it did not, in fact—were loathe to criticize the Senator for his religiously laced rhetoric. Then, too, the majority of editorial writers and editors of "op-ed" pages share Lieberman's liberal orientation and that, too, muted criticism. The criticism that came from the religious community was much less about the appropriateness of any God-talk in public life than about whether it was a good idea for a *political* candidate to lead voters attending a partisan political rally in a prayer, as did Senator Lieberman on at least one occasion. But, over-all, the issue was never a huge controversy so much as the mild continuation of a long-simmering controversy.

A second major religion-politics issue was, of course, the faith-based initiative. So many words have been spilled on this question one wonders if there is anything fresh to say. Perhaps a simple observation of the way the discussion tended will suffice. From the religious side of the debate, the primary concerns were whether or not this proposed, explicit entanglement of government and "faith-based organizations"—for the purpose of helping to make more robust already extant social ministries, or to encourage churches, synagogues and mosques who might be strapped for funds to design programs to deal with homelessness, drug and alcohol addiction, teen pregnancy and the like—would or would not diminish the central ministry of faith over the long run. That central ministry has to do with religious belief itself and the traditions that keep it alive. The voiced worry was that turning religious institutions more and more into social welfare entities by another name might erode the evangelizing, "caring for souls" mission of religion. Would receiving matching government funds for social ministries undermine religion? Would that be the ironic outcome? This has by no means been resolved.

Finally, the horrific events of September 11 have occasioned a flurry of comments from the pulpit. Many of those that have come to light seem, at least to this observer, not terribly astute politically. What does this tell us about the understanding of political and civic life—especially in situations of dire civic necessity and emergency—in America's central religious institutions? This is an issue worth exploring in the months ahead. Strikingly, the fact that Americans from President George W. Bush down to many ordinary citizens evoked the language of a "just cause" or a "just war" to characterize America's response to the September 11 attacks demonstrates just how enduring is the powerful tradition of "just war" inaugurated by Saint Augustine in the 4th century. This is a tradition that aims to set ethical limits to the occasions for war and to how a war is fought. In the months ahead, this debate will become ever more important. We at the Forum have already facilitated a debate on this topic and we will continue to cover the way in which the United States war effort touches not only on just war themes, but on debates between advocates of just war or pacifism, respectively, and on the vital question of how to distinguish extremist, radical Islam from Muslims who deplore the September 11 attacks. Clearly, we have our work cut out for us.

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