

Faith-Based Social Services and the Role of the State
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Introduction

The “faith-based” initiative, the key social service goal of the Bush administration, has sought and is now implementing the provision of social services by overtly religious organizations. The President has claimed, as have right-wing legal scholars associated with the “equal treatment of religion” legal theory, that religious organizations have been unlawfully discriminated against in the past (Monsma and Soper, 1998). He has also asserted that religiously-affiliated social services can be more effective services providers than are public or other private agencies. As Governor of Texas, Bush strongly supported social service delivery by religious agencies, including evangelical ones, and as President, he has established an executive office to promote such services and has, so far unsuccessfully, sought legislation to enhance funding for them. Recently, the President has pushed his agenda through Department of Health and Human Services administrative regulations.

The initiative has been pushed as if it were a new concept. But, as this paper will show, public money—including federal money—has long been used to pay for services provided by organizations with religious affiliations. What is new is the current administration’s overt endorsement of religion as a therapeutic and rehabilitative process at the same time as it seeks to diminish public and secular social welfare programs.

This paper begins with an historical review of public support for faith-affiliated services and then discusses the current situation, using the contracting system in Massachusetts as an example. It also probes the question of the efficacy of faith-based services, using drug treatment

as the example, and suggests minimum criteria for assuring programmatic and treatment integrity as well as choice for consumers of services.

Faith-Based Services in Historical Context:

Intersections between the public and private spheres of social service provision have characterized the American system of care virtually from its inception (Hegar, 1998), and one scholar has stated that as a consequence, purely publicly provided services have been seen as residual and are less supported than in other countries (Kramer, 1964); still other scholars have called the U.S. a “reluctant welfare state” (Wilensky and Lebeaux, 1965).

Except for Civil War-related social programs, public policies to alleviate and remedy the difficulties associated with various classes of dependents remained the responsibility of local and state governments until the Depression in the 1930’s (Skocpol, 1992; Trattner, 1999). These governmental bodies often relied upon purchased care from private institutions and agencies, including religious ones. By the 1880s, for instance, several states, particularly on the East Coast where private charities were well established, had developed patterns of paying for children placed in privately run institutions, many of them through annual lump-sum subsidies. In New York, legislation required that children be placed in institutions run by members of their own faith (Hegar, 1998; Rosenthal, 2000).

These practices were seriously criticized around the same time. Amos G. Warner (1894), a leader in American philanthropy, decried the duplication of services resulting from the system of sectarian agencies, the absence of public control over intake policies in private institutions, and the politicized nature of public support of private institutions. The system was unregulated and wasteful of taxpayers’ money. Soon afterwards, the movement to establish public programs for children began in earnest. The Progressive Era, known for its championing of developing

and extending the public sector as a means of creating responsive and responsible educational and social programs, had begun.

Of critical importance during this era was the U.S. Children's Bureau, established in 1912, whose mission was to research and formulate policy recommendations in "all aspects of child life" and whose mantra was "public responsibility." The Bureau was unable to do more than make recommendations to state and local governments prior to the writing of the Social Security Act. Its efforts to include in the Act provisions to establish public child welfare programs throughout the country were thwarted by the organized Catholic charities whose spokesman feared both governmental control and displacement. The compromise that was reached, Title V of the Act, limited federal grants-in-aid to "primarily rural states" where there were few private agencies (Witte, 1963). For years, the Bureau and its many supporters endeavored to increase both the level of federal funding for public child welfare services and the extent of the Bureau's jurisdiction. It was not until 1958 that the Act was amended to extend federally assisted public child welfare programs to all states and localities in the country. At least through the 1960s, social welfare advocates supported the growth of the *public sector*, with private agencies, including religious ones, relegated to performing only "specialized" functions (Rosenthal, 2000).

Harry Hopkins, FDR's chief welfare administrator, strictly forbade the use of federal money to purchase services from private agencies (Coughlin, 1965, p. 126). By the early 1960s, however, and in conjunction with a service approach to ending welfare dependency, the federal government began to move in the direction of allowing federal money to be used for the first time for care services purchased from voluntary (private) agencies. Private agencies serving families and children were strapped for money in the 1960s and supported this change. They

recommended, though, that services be purchased, cautiously, on a “case by case basis” rather than through a lump sum subsidies (Rosenthal, 2000). With new federal funding available from the various federal health and welfare initiatives of the 1960s and ‘70s (Title IVA [later Title XX], Medicaid, Medicare, and community mental health funds, for instance), voluntary agencies and hospitals moved toward procuring government contracts. These were administered by the state health and welfare departments and were federally and state funded, often on a matching basis. At the same time, advocates for a strong “independent sector” of voluntary agencies warned that this sector might disappear if it became dependent on government funding (Rosenthal, 2000).

By the early 1970s, the die had been cast. The voluntary agencies, including religiously affiliated ones, became increasingly dependent on public funding. By 1989, for instance, Catholic Charities of Boston received 75 percent of its funding from public sources. Joseph Doolin, its head, made a deliberate effort to *reduce* the reliance on public dollars “so that we could pursue initiatives that are totally privately funded and that reflect our values.” Doolin was objecting to state restrictions of overtly religious symbols and practices in programs that were publicly funded. In 1998, public funding of the agency had been reduced to 50%. (Valdes-Rodrigues, 1998)

The First Amendment: Separation of Church and State or the Free Exercise of Religion

The wording of the First Amendment of the U.S. Constitution, “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof,” has spawned continuous controversy over the legality of public funding of public functions performed in or by religious institutions. For the most part, legal challenges have focused on state aid to parochial education and, at least until the mid-20th century, those cases held against

such aid because doing so would abet the establishment of religion. There was to be a *wall* between church and state.

In the 1960s, with increased public funding becoming available to them, there was considerable discussion within the voluntary sector and among religious leaders about the appropriate relationship between state and church. The main supporter of church-sponsored social welfare was the Catholic Church: Catholics emphasized the importance of religious institutions and the moral superiority of charity over public function but wanted unfettered public support. Protestants favored an enlarged public sector and were wary of receiving public funds; Jews agreed with the Protestants on principle but accepted public funds to support their agencies.² One point could not be agreed upon: should religious agencies be able to refuse to help non-religionists? (Coughlin, 1965; Kramer, 1966). Bernstein (2001) has shown that such discrimination continued, with disastrous consequences for African American children in New York City.³ The issue of non-discrimination plays an important role in recent policy decisions related to the faith based initiative.

In June, 2002, in a very important 5:4 decision, *Zelman v. Simmons-Harris*, the U.S. Supreme Court upheld the constitutionality of a publicly supported school voucher program, where most vouchers have been used to purchase education from Catholic schools, has been upheld. Interestingly, there appear to have been very few challenges to the use of public money to purchase health and welfare services from religious institutions, despite its long use.⁴ The faith-based initiative, now promulgated through administrative regulation, would seem to invite such challenges.

The decision in the *Zelman* case rested on the claim that parents requesting vouchers have *choice* in the decision about where their children will attend school and thus are engaged in “free

exercise.” The recently published “charitable choice” funding regulations issued by the Department of Health and Human Services are careful to articulate that service recipients have choice to obtain services from non-faith based organizations. There is to be no religious discrimination applied to consumers; however, despite considerable controversy generated in the summer of 2002 over this issue, the regulations permit faith-based agencies to discriminate in their hiring practices. The regulations also state that public money may not be used for “inherently religious activities, such as worship, religious instruction, or proselytization.... This restriction does not mean a...service organization cannot engage in inherently religious activities” (Department of Health and Human Services, 2002, p. 6).

The Current Situation: The Case of Massachusetts

Survey of Faith-Based Agencies

Because of my interest in the current status of public funding of religiously-affiliated agencies, I conducted a small study in Massachusetts in 2001. It is noteworthy that, notwithstanding the fact that the Massachusetts Constitution contains a specific prohibition against the public funding of any religious school or charity (Art. XVIII, ¶4)⁵, virtually every state health and human services department has contracts with religiously affiliated agencies, and the total annual allotment to those agencies runs into many millions (personal communication, Peter Bates, 2001).

A survey designed to assess public contracting and monitoring, religious denomination and practices, and services provided was mailed to 100 social service agencies that we identified as having a religious affiliation. Although there was a very poor response rate of 15% and 4 of the 15 responses could not be used, the results are probably suggestive of the general situation.. Eleven agencies or 73% of the respondents, were receiving state and/or federal money to provide

services. Fifty-five percent of the 11 respondents stated that they considered themselves to be secular agencies; the remainder self-identified as religious (9%) or a combination of religious and secular (36%). Seven agencies (64%) reported that there were religious components of their services, including denomination-specific 12-step programs, religious speakers, invitations to worship, and optional Bible study. Six of these programs stated that public money accounted for more than 50% of their budgets. While it is impossible to generalize about the practices of the many agencies that did not respond to our survey, it is worthwhile noting that none of the 11 Salvation Army agencies, which receive considerable “welfare to work” training grants from the Department of Transitional Assistance, responded. The Salvation Army’s, however, is an overtly religious organization with a missionary history.⁶

Monitoring by State Agencies

Most agencies (72%) in our survey reported at least yearly monitoring by the public contracting agency; monitoring consists of examining records of program expenditures, the number of clients served, programmatic content and “effectiveness” form the basis of most monitoring. No agency reported being monitored for their religious activities or for holes in the “wall” between religious activities and public functions.

The administrator responsible for overseeing the contracts for the Massachusetts Executive Office of Health and Human Services, the state’s umbrella office for all human services, has stated that over the last few years, there has been a significant decrease in the number of state personnel responsible for monitoring state contracts (personal communication, Peter Bates, April 3, 2002). Telephone interviews with monitoring staff from each of the major public agencies that contract with the voluntary sector revealed that contracts are performance-based, and there is no distinction made between religiously-affiliated and other agencies in

evaluating service proposals or contracts. There appeared to be no mechanism in place to examine the potential incursion of religious doctrine into service-delivery. In fact, monitoring appears to be rather *pro forma*. Massachusetts has seen a decline in its capacity for performing rigorous monitoring, and the situation is getting worse. The state is currently in a severe budget crisis; many civil servants took advantage of an early retirement buy-out last year that has resulted in unfilled positions, and there are concerns that there will be many layoffs in the year to come. It can be assumed that all program monitoring is being reduced, and the threats to such concerns as consumer choice, religious content, proselytizing, as well as program efficacy are going by the board. How will the “choice” guarantees be better assured under the faith based initiative? It seems very likely that they will not.

Are Faith-Based Services More Effective than Others?

In January, 2001, when President Bush made his announcement of the creating of the White House Office of Faith-Based and Community Initiatives, he claimed that such organizations were both more effective and more cost-efficient in providing such services as drug rehabilitation (Press, 2001) . However, these claims cannot be substantiated, because good research in this area has simply not yet been done. As stated by Press (2001, p.2): “Given how frequently such claims are repeated, it may come as a surprise to learn that there is virtually no scholarly evidence to support them.” Similarly, according to Confessore, (2001) “There has never been a single, large-scale, independent study in this country showing that faith-based services are more effective than secular services.”

The Teen Challenge, a privately-funded, faith-based drug rehabilitation program for youth with more than 120 branches throughout the United States can serve as an example. According to its backers, “Studies demonstrate that Teen Challenge’s success rates in curing

substance abusers are seven to eight times higher than those of secular drug rehabilitation programs” and are less expensive to operate (Press, 2001, p.3). However, the National Institute on Drug Abuse (NIDA) denounced these statistics, citing a 1998 General Accounting Office report that concluded that there is insufficient evidence to evaluate the Teen Challenge programs, in part because many participants drop out. Additionally, “NIDA found that more than one-third of the clients who dropped out of the program cited ‘an excess of religion’ as one of the reasons” (Press, 2001, p.7). Within the field of medicine, too, assertions that religious belief is curative are controversial and challenged (Duenwald, 2002). It seems that the claims that faith-based services are superior to secular ones are more a matter of faith than fact.

President Bush has also supported alternatives to traditional professional educational and licensing procedures. Professionally trained service providers have something to be concerned about in fundamentalist-oriented healers who can, apparently, receive their minimal credentials through correspondence courses.⁷ The relationship between the faith based movement and Christian fundamentalists appears to be close.

Conclusion

Paul Krugman (2002) has suggested that the Bush administration’s support of the faith initiative is a matter of political expediency and patronage for the Christian right. The support of the American public for the initiative, on the other hand, is mixed. The Pew Charitable Trust found (2001) that while 75% of Americans supported the concept of public funding of service-provision by religious groups, most would not extend funding to non-Judeo-Christian groups. Nearly 60% opposed allowing funds to go to groups that encourage religious conversion and, contrary to the announced decision of the administration, 78% opposed publicly supported agencies to employ only those of their own faith.

The American approach to social welfare provision has been dubbed “reluctant,” not only because of our comparatively ungenerous commitment to social provision, as compared to the European countries, but also because of our preference for voluntary over public welfare programs (Kramer, 1964; Wilensky and Lebeaux, 1965), and the American population is also more religious than that of the other industrialized countries. Thus, the initiative to move service-provision into the religious quarter can be seen as both traditional and reactionary, because at least through the first $\frac{3}{4}$ of the 20th century, the growth in social services was in the public sector. Indeed, the initiative can be seen as an attack on the public sector because it is accompanied by claims of outcomes superior to those provided by governmental or voluntary secular organizations and because it deflects money away from them.

Contracting with the voluntary sector has become the dominant approach to social service provision in the U.S. since the 1970s. While contracting with religiously affiliated organizations is not new, it is now being favored in a way not seen before. At the same time, there has been a relaxation of regulation from the federal government which has resulted, along with budgetary restrictions coming from the states, in greatly reduced program monitoring of the vast array of social service programs purchased with public money. As the situation in Massachusetts has demonstrated, faith based service programs have not been monitored for their religious content or practices. How, given increased financial pressures, will they be monitored to assure that consumers of service indeed have choice or are not pressured to conform to the particular religious dogma practiced by the religious service provider? It seems clear to this writer that the initiative leaves gaping holes in the wall between church and state. Whether there will be successful legal challenge the Constitutionality of the faith based initiative remains to be seen.

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Notes

1. The author acknowledges the considerable assistance of two M.S.W. students at Salem State College, Kathy O'Maley, her research assistant in Academic Year 2001-2, and Keisha Kenny some of whose research related to faith based drug treatment has been used herein.
2. Coughlin (1965) reported on a survey of 407 sectarian agencies that he conducted in the early 1960s; only 18 Protestant agencies had policies that prohibited receipt of such funds, and most agencies were getting at least some public money.
3. The foster care system was privatized and relied primarily on the Catholic and Jewish child welfare agencies and did not serve the mostly Black and Protestant children requiring care; as a consequence, the children landed disproportionately in deteriorated public institutions not designed to care for dependent children (Bernstein, 2001).
4. Johnson (1931) reviewed the legal history for the 19th and early 20th centuries for charitable institutions in Illinois.
5. Article CIII. Article XLVI , Sec. 2 of the Articles of Amendment to the Constitution of the Commonwealth of Massachusetts states: No grant, appropriation or use of public money or property or loan of credit shall be made or authorized by the Commonwealth or any political subdivision thereof for the purpose of founding, maintaining or aiding any infirmary, hospital, institution, primary or secondary school, or charitable or religious undertaking which is not publicly owned and under the exclusive control, order and supervision of public officers or public agents authorized by the Commonwealth or federal authority or both..., and no such grant, appropriation or use of public money or property or loan of public credit shall be made or authorized for the purpose of founding, maintaining or aiding any church, religious denomination or society. ...
6. The Salvation Army's website states and, at least in Lynn, Mass., its telephone "hold" messages states: "The Salvation Army, an international movement, is an evangelical part of the universal Christian Church. Its message is based on the Bible. Its ministry is motivated by the love of God. Its mission is to preach the gospel of Jesus Christ and to meet human needs in His name without discrimination."
7. For instance, this description of "How to Become a Certified Faith-Based Biblical Therapon Counselor" or "Belief Therapist." For \$290, an individual receives a correspondence course consisting of 8 cassette tapes and 4 textbooks or participates in a 28-hour (3 day) training session. According to the Therapon Institute's website, which includes an accolade from George W. Bush, "hundreds have and are realizing their dream of Christian counselor certification...." and others have been "saved" (www.therapon.org, retrieved 9 May, 2002). This institute is located in Texas.