The Good, The Bad, and the Ugly: A Discursive Analysis of George W. Bush's Faith-Based and Community Initiative

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Introduction

Religious theory is rarely thought of as government work. Instead, the world assigns academia the difficult task of navigating religious quandaries and often doubts their applicability to real-world debates. However, whenever religion enters the political realm, as it so often does, government officials cannot help but engage in religious theory. They must answer questions like: What is religion? Which religions and religious practices fall under constitutional protection? And, how does a secular state negotiate its inevitable entanglement with religious institutions and organizations? Each of these questions requires specific attention to religious theory, and since religion is understood to be an object of legal and political debate in the U.S., these questions cannot be avoided. To reach solutions for how to handle each of these matters, the government must debate definitions of religion, the nature of religious practice and ritual, and the role religion should play in the world. Although we cannot deny that academia certainly informs these discussions surrounding religious theory, at the end of the day, it is not academics who write the Executive Orders or Supreme Court opinions that determine what the answers to these questions should be. This responsibility lies in the hands of the United States government.

The creation of George W. Bush's White House Office of Community and Faith-Based Initiatives, in 2001, presents us with one instance where U.S. policymakers were forced to engage in religious theory. The White House Office of Faith-Based and Community Initiatives was a notable transition away from the previous American status quo of strict separationism in church and state affairs and towards a "neutral" approach to federal funding of faith-based organizations across all federal departments and agencies. Bush's faith-based initiative followed the Clinton Administration's introduction of Charitable Choice, one of the first executive policies to allow for federal government funding of faith-based social service organizations.

Charitable Choice, a blanket term for "several laws that President Clinton signed into law" from 1996-2000, allowed four federal programs – including Temporary Assistance to Needy Families (TANF), the Community Service Block Grant (CSBG), the Substance Abuse and Mental Health Services Administration (SAMHSA), and the Welfare-to-Work program – to fund religious social service organizations.[1] In the process, Charitable Choice established new perspectives on theoretical questions such as the ones raised above, especially those related to U.S. domestic policy and constitutionality. These determinations would later serve as guidelines for Bush's faith-based initiative. For example, Charitable Choice clarified both the rights and limitations of faith-based organizations receiving federal funding. It asserted that faith-based organizations eligible to receive federal funds could "carry out their missions consistent with their religious beliefs" and would not have to strip their religious identity in order to receive funding.[2] However, it also simultaneously "imposed certain restrictions on faith-based organizations," spelling out "specific do's and don'ts for faith-based groups receiving Federal money."[3] These do's and don'ts spoke to the issues of religious hiring, discrimination, and an organization's engagement with "inherently religious practices," a phrase that will be discussed thoroughly in later sections.

The most significant difference between Charitable Choice and Bush's faith-based initiative, however, was its reach, influence, and evolution both within and across the federal government. The White House Office, established on the first day of Bush's presidency, would prove to be just the first of many offices, or centers. Throughout Bush's first term, more than 11 federal executive departments came to include faith-based and community centers. These centers

[1] "Faith-Based and Community Initiatives: Guidance - Charitable Choice." n.d. Accessed May 3, 2022.

[2] Ibid.

[3] Ibid.

were responsible for engaging with several matters in U.S. domestic policy, from spearheading educational programs meant to expand the influence of religion in American communities to safeguarding the neutrality of policy determinations regarding religious organizations and institutions in the U.S. However, the centers, much like Charitable Choice, are most known for their role in expanding pathways to provide federal funding to faith-based social service organizations. The Faith-Based and Community Initiative expanded well beyond the four departments and programs included in Charitable Choice, bringing federally funded faith-based programs into executive agencies such as the Department of Homeland Security, USAID, and many more. Moreover, the faith-based initiative has maintained its influence in American domestic and international policy, as it was adopted and re-shaped by each presidential administration following President Bush's two terms. President Biden has been the most recent to re-establish the White House Office, labeling it the Office of Faith-Based and Neighborhood Partnerships, its title under the Obama administration. Each administration has taken its own approach to the structure of the faith-based initiative and how it grapples with questions of religious theory important to American constitutionality and the nation's welfare. However, this thesis focuses exclusively on how these questions were addressed by the Bush administration and later debated by representatives within the first term of Bush's presidency.

In *Beyond Religious Freedom,* Elizabeth Hurd examines the government's often-expansive role in religious theory and labels this phenomenon "expert religion." Hurd defines expert religion as how religion is construed "by those who generate 'policy relevant' knowledge about religion in various contexts."[4] She draws attention to a sudden, almost urgent, need for expert religion over the past two decades in the U.S., citing a multitude of areas where expert

[4] Hurd, Elizabeth Shakman. "Beyond religious freedom." In *Beyond Religious Freedom*. Princeton University Press, 2015, 1.

religion has begun to flourish, including academic journals and conferences, universities, governmental agencies, humanitarian organizations, law, and many more.[5] In all of these areas, expert religion desperately tries to build "policy relevant knowledge" that informs issues such as constitutional debates over the separation of church and state, international security concerns, and nongovernmental organizational projects.[6] Within this heuristic, it is assumed that religion at the legal and political level has been neglected and expert religion is the genuine attempt by scholars and government officials to reinsert religious questions and perspectives into U.S. domestic and international policy.

While policymakers' new attentiveness to religion is unquestionably a positive development, Hurd calls attention to the fact that within the realm of expert religion, questions of religious theory are often subjected to a framework of analysis that dilutes religion to either "good" or "bad" objects of the modern secular state. Hurd uses Tony Blair's notion of the "Two Faces of Faith" to demonstrate these two categories of good and bad religion in policy. The first face of faith, which is otherwise known as "bad" religion, understands religion as something requiring "discipline and surveillance" due to an underlying assumption that religion is susceptible to escaping the "control of the state."[7] Bad religion is personified by religious extremists and religious individuals who "wear their faith as a badge of identity in opposition to those who are different."[8] These "bad" religious actors cause certain religions and religious practices to become a target of strict scrutiny and an object of both "securitization and a target of legitimate violence or reform" on behalf of the state, so as to bring certain religious actors back

[5] Ibid, 10.
[6] Ibid, 1.
[7] Ibid, 23.
[8] Ibid, 24.

under the control of the state.[9] On the contrary, the second face, or "good" religion, promotes religion as a "common international good through humanitarian campaigns, transitional justice efforts, and so on."[10] Moreover, this face is defined "by extraordinary acts of sacrifice and compassion" demonstrated by religious individuals and religious communities such as "caring for the sick, disabled, and destitute" which are viewed as invaluable to the welfare of the state.[11] Because of this inherent common good aspect that is unique to religion, the state is expected to harness and facilitate religion for the good of its citizens while also carefully avoiding the potential of uncontrollable religious fanaticism.[12] As a result, the reduction of religion to discourses of "good" and "bad," leaves the modern secular state with the nearly impossible task of determining what exactly good religion is and how to promote it without falling victim to bad religion or bad religious actors. This dilemma, Hurd argues, is the "distinguishing feature of modern secular power."[13]

Although the faith-based initiative received strong bipartisan support throughout most of Bush's presidency, confusion reigned over the initiative's constitutionality and the ability of faith-based organizations to effectively target American social ills such as addiction, poverty, and crime. From the inception of the initiative, most policymakers adopted a similar framework of "good" religion as it was described by Hurd's work. For example, we see throughout this thesis that Bush and his administration largely framed religious social service organizations and their volunteers as inherently good actors. As a result, the support of faith-based organizations, no matter their religious affiliation, was assumed to be an inherently good move for the welfare

[9] Ibid, 23.
[10] Ibid, 24.
[11] Ibid, 24.
[12] Ibid, 24.
[13] Ibid, 11.

of American society. Despite this agreement, policymakers still struggled to remedy the constitutional tensions that the faith-based initiative presented to the First Amendment principles of free exercise and disestablishment. Because the faith-based initiative's primary goal was to fund, and therefore uplift and expand, the work of faith-based organizations, there was a fine line to be drawn between promoting the free exercise of these organizations by allowing them to maintain some of their religious character and directly funding religious proselytization. In order to negotiate these tensions, debates surrounding the initiative were pushed down to the program level. In so doing, policymakers adopted similar frameworks of "good" and "bad" and attempted to measure their applicability through two primary discourses: one focused on the constitutionality of the faith-based initiative and the other on the effectiveness of faith-based programs. In other words, within the negotiations of the FBCI, "good" religion ultimately came to encompass faith-based organizations that provided effective social services without violating the Constitution. On the other hand, "bad" religion came to encompass faith-based programs that either failed to do their work effectively or did so in a way that made it impossible for the federal government to fund them without violating the Constitution.

However, it is within the two discourses of constitutionality and effectiveness at the program level that debates surrounding the initiative become increasingly messy. By reducing the discourses of constitutionality and effectiveness down to either "good" or "bad" frameworks of analysis, policymakers oversimplify the inevitable complexities of entangling religion with federal government domestic policy. These complexities lie within the difficulties of measuring and answering questions such as: What is free exercise? What constitutes government establishment of religion? What are the risks of overregulating or under regulating free exercise? And, how do we measure the effectiveness of a religious social service? In attempts to answer

these questions, policymakers are ultimately left with four possible evaluations of the constitutionality of the initiative and its benefits to American social welfare. These four evaluations are as follows: 1) the faith-based initiative is constitutional and good for the welfare of American citizens, 2) the faith-based initiative is constitutional but potentially bad for the welfare of American citizens, 3) the faith-based initiative is unconstitutional but good for the welfare of American citizens, and lastly, 4) the faith-based initiative is unconstitutional and bad for the welfare of American citizens. At some point in time throughout Bush's first administration, we see arguments that support each of these four differing evaluations. Each of these arguments are supported by policymakers' own subjective conclusions regarding the faith-based initiative's impacts on free exercise, government establishment, and American societal welfare. These four evaluations are the central focus of this thesis. I argue that they are present, either implicitly or explicitly, in nearly every conversation surrounding the faith-based initiative. Consequently, the presence of these numerous evaluations exemplifies the sheer difficulties questions of religious theory pose for American domestic policy. In conclusion, these difficulties make it nearly impossible to reach a consensus on what the exact role of religion should be within the domestic sphere and determine how the government is meant to judge its influence and necessity.

To demonstrate these four differing evaluations surrounding the initiative's constitutionality and impact on American societal welfare, I first begin with an analysis of early discursive approaches adopted by President Bush and his administration. These two discourses largely present the faith-based initiative as both good for societal welfare and good for American constitutionality. Next, I provide a juxtaposition of two Executive Orders, E.O. 13199 and E.O. 13279, demonstrating the difference in approach, purpose, and language used in each of these

orders as they relate to the four different perspectives and conclusions drawn on the initiative's stakes regarding American constitutionality and societal welfare. Lastly, I home in on two debates within congressional hearings surrounding the issue of religious therapy and faith-based healing. This section displays policymakers' true difficulty in navigating questions of religious theory as they relate to the Bush administration's faith-based initiative and American societal welfare and constitutionality more broadly. In conclusion, I present Bush's faith-based initiative as just one clear example of the difficulties religion presents to American domestic policy.

Section I- The Good and The Good: Bush and His Administration's Discursive Approach to the White House Office of Faith-Based and Community Initiatives

This section identifies the two initial discursive approaches to the White House Office of Faith-Based and Community Initiatives adopted by President Bush and his administration. Through an analysis of White House Archives, speeches, and an important document titled the *Unlevel Playing Field* report, Section I examines this administration's adoption of a twofold narrative of 'good' and 'bad' to describe religion as it relates to the faith-based initiative. The first "good" compares the work of religious social service organizations and their volunteers to the work of military heroes. This militaristically inclined discourse was utilized by Bush himself throughout the entirety of his administration. It ultimately presents and defends religion as necessary for combatting American social distresses such as poverty, crime, and addiction. Similarly, it presents religious social service organizations as the proper remedy to these social issues, placing these welfare tasks outside of federal government means and responsibility. This discursive approach works in direct parallel to Hurd's own analysis of "good" religion because

Bush promotes religious social service organizations as a common good for American society due to their defining acts of sacrifice and compassion.

The second narrative of "good" involves the Bush administration's description of the constitutional necessity of the initiative. By necessity, I mean the initiative's ability to remedy certain barriers to, biases against, and overregulation of faith-based organizations when the federal government either refused to fund them or made inordinate demands of the organizations when providing funding. It is clear in my analysis that Bush and his administration viewed these barriers and biases as unacceptable government treatment of religion, religious institutions and organizations, and religious individuals. Moreover, it is implied that these barriers and biases were not only illegal because of the Charitable Choice legislation which already existed but were also an encroachment of the Constitution's free exercise clause. As a result, Bush established the faith-based initiative not only as a necessary good for the welfare of society but also as a good for American constitutionality since it sought to expand federal government awareness of the First Amendment rights of religious social service organizations. These initial discourses focused less on issues of government establishment because early legislation adopted the pre-existing guidelines established by Charitable Choice, which had already attempted to address the issue of government establishment directly. As a result, we see these first two discursive approaches of "good" and "good" surrounding Bush's faith-based initiative focus solely on its impacts on the free exercise of religion and the positive contributions of faith-based organizations.

A Passionate Argument for the Office of Faith-Based and Community Initiatives

On January 29, 2001, George W. Bush signed into law his first ever Executive Order, E.O. 13199, creating the White House Office of Faith Based and Community Initiatives (FBCI).

Executive Order 13199 arose out of President Bush's adamant belief that faith-based social service programs and organizations existed at the heart of helping "Americans rally to the aid of their neighbors in need."[14] Calling the FBCI the "Quiet Revolution," Bush argued that Executive Order 13199 was the first step to leveraging federal and state resources to "'enlist, equip, enable, empower, and expand the heroic works of faith-based and community groups across America'" to combat issues such as poverty, addiction, and other "social distresses."[15] Throughout his time as president, Bush consistently described his faith-based initiative in a militaristic rhetoric, often comparing faith-based workers to military heroes. For example, Bush labeled the entire initiative as a "Determined Attack on Need" where the government would no longer ignore the work done by the volunteers of religious social service programs, whom he described as America's "quiet heroes."[16] Instead, the faith-based initiative would "address human need and remove obstacles" that hindered government partnerships with faith-based social service organizations and their volunteers, properly equipping the "foot soldiers in the armies of compassion" to do good work for American communities.[17] As a result, Executive Order 13199 was not merely a fulfillment of Bush's campaign promise to look to faith-based organizations, charities, and community groups first any time his administration faced a responsibility to help American people in need. Rather, the faith-based initiative was also established as a tool to enable the common good aspects of religion, religious institutions and organizations, and religious volunteers to combat American social distresses.[18]

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[14]George Bush, "The Quiet Revolution: The President's Faith-Based and Community Initiative: A Seven-Year Progress Report Letter from President Bush, February, 2008, " in *Public Papers of the President of the United States: George Bush, Chapter 1*. Accessed February 20, 2022.

[15] Ibid.

[16] Ibid.

[17] Ibid.

[18] Ibid.

The common good discursive approach to faith-based social service organizations was largely the result of Bush's belief that religious individuals and organizations were not only helpful to combating social ills but, in fact, were absolutely necessary to it. In Bush's view, faith-based organizations or, "neighborhood healers," were the only ones who could adequately meet "the needs of poor Americans and distressed neighbors."[19] He argued the federal government could handle things such as military affairs, but unfortunately did not have the ability to put hope in the hearts of American citizens or create a "sense of purpose" in their lives.[20] For this reason, Bush and many others in Washington called for an end to the "failed formula of towering, distant bureaucracies that too often" prized profit and process over performance.[21] These failed systems for targeting American social ills should instead focus their energy on encouraging the "indispensable" and transformative work "of faith-based and other charitable service groups" so as to reach a goal of "compassionate results" rather than merely "compassionate intentions."[22] In other words, Bush believed that, despite its best intentions, the federal government was ill-equipped to combat issues such as poverty and addiction on its own. As a result, Bush and his administration argued the government must defer to faith-based organizations to reach the heart of the problem (often rooted in saving the souls of American citizens), because they maintained a unique "monopoly on compassion" unattainable by the bureaucratic structures of secular governance.[23]

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[19] Ibid.

[20] George Bush, "Rallying the Armies of Compassion," in *Public Papers of the President of the United States: George Bush, Foreword.* Accessed May 3, 2022.

[21] Ibid.

[22] Ibid.

[23] George Bush, "The Quiet Revolution: The President's Faith-Based and Community Initiative: A Seven-Year Progress Report Letter from President Bush, February, 2008, " in *Public Papers of the President of the United States: George Bush, Chapter 1*. Accessed February 20, 2022.

This use of militaristic rhetoric and depiction of faith-based organizations as necessary tools of societal healing bolstered the common good discourse surrounding religion in America. We see later on that, as a result of this "good" framework of religion, many policymakers faced difficulties in negotiating religion's inherently "good" impacts on societal welfare with the challenges the faith-based initiative presented to American constitutionality. Along with these challenges, a competing discourse emerged that featured a reluctance and fear towards the federal government's uncritical sponsorship of religious social service programs. In many ways, it pumped the brakes on Bush's faith-based and community initiative, drawing attention not to the necessary good that religion can provide to society but rather to the constitutional complexity of the initiative itself. It is within this discourse where debates surrounding the line between promoting free exercise and breaching government establishment of religion take place. As a result, President Bush's faith-based initiative revealed constant tension and overlap between two discursive interpretations of religion. The first celebrates it, often wholeheartedly accepting religion and deeming it the only solution to America's greatest social distresses, as we witness here in the inception of the initiative. The second, however, was reluctant to accept religion with entirely open arms, viewing a lack of restriction and careful regulation as a potentially grave threat to American constitutionality.

A Constitutional Argument for Leveling the Unlevel Playing Field

On the same day as his signing of E.O. 13199, Bush signed Executive Order 13198, which established five Executive Department Centers for Faith-Based and Community Initiatives (CFBCI) at the Departments of Health and Human Services, Housing and Urban Development,

Justice, Education, and Labor.[24] These two executive orders aimed to conduct the "first ever audit of Federal programs undertaken by the newly-created Faith-Based & Community Initiatives" in order to identify "all existing barriers to the participation of faith-based and other community organizations in the delivery of social and community services.'"[25] The audit resulted in a Department of Justice report entitled *Unlevel Playing Field*, which ultimately outlined numerous barriers, biases, and general federal governmental negligence in supporting faith-based and community organizations. Within the findings of this report, there is a clear effort to argue that there has been prior unequal treatment of faith-based organizations when applying for federal funding. As a result, the report established Bush's faith-based initiative as a way to address the government's encroachment on organizational and institutional free exercise rights. Consequently, the *Unlevel Play Field* report leads to a perspective held by Bush, his administration, and policymakers that concludes the faith-based initiative is not only a good thing for the societal welfare of America but also a win for American constitutionality.

Although touching upon secular organizations, the report ultimately narrows its efforts to calling attention to the federal government's biases towards and reluctance to fund faith-based organizations. The section, "Barriers to Faith-Based Organizations Seeking Federal Support," identifies six major barriers to faith-based organizations. First, the audit found an overall "pervasive suspicion about faith-based organizations," or, rather, "an overriding perception by Federal officials that close collaboration with religious organizations is legally suspect."[26]

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[24] U.S. Department of Justice, Center for Faith-Based and Community Initiatives, "Unlevel Playing Field Report: Barriers to Participation by Faith-Based and Community Organizations in Federal Social Service Programs" (Washington, DC), 2001.

[25] George Bush, "The Quiet Revolution: The President's Faith-Based and Community Initiative: A Seven-Year Progress Report Letter from President Bush, February, 2008, " in *Public Papers of the President of the United States: George Bush, Chapter 1*. Accessed February 20, 2022.

[26] U.S. Department of Justice, Center for Faith-Based and Community Initiatives, "Unlevel Playing Field Report: Barriers to Participation by Faith-Based and Community Organizations in Federal Social Service

Despite a noticeable turn in U.S. Supreme Court decisions leaning towards "evenhandedness and pluralism" related to federal funding for faith-based organizations, government officials at the federal, state, and local levels were found to maintain a "no-aid, strict separationist framework that permitted Federal funding only of religiously affiliated organizations offering secular services in a secularized setting."[27] As a result, religiously affiliated organizations were far less likely to receive government funding for their social service programs, establishing a precedent of unequal regard for the funding of faith-based organizations. Even more troublesome, the audit found that some federal grant programs, such as one spearheaded by HUD, excluded faith-based organizations entirely from applying for funding, labeling "'religious organizations or ones that have religious purposes'" as ineligible recipients in its program handbook.[28] These two barriers in particular not only fueled constitutional justifications for the creation of the FBCI but also its continual expansion throughout Bush's administration.

Bush's executive orders targeted the next three barriers in order to expand the religious rights of faith-based organizations in applying for, receiving, and maintaining federal government funding. For example, the third barrier exposed "excessive restrictions on religious activities," or, in the words of the report, "requiring faith-based providers to endure something akin to an organizational strip-search" to approve federal grant awards and maintain them.[29] For example, some programs located in houses of worship were "locally pressured to remove or cover up religious art, symbols, and other items" despite no regulatory requirements in official guidance documents.[30] These particular restrictions are directly addressed in nearly all executive

Programs" (Washington, DC), 2001.

[27] Ibid.

[28] Ibid.

[29] Ibid.

[30] Ibid.

orders surrounding the FBCI and are consistently presented as unconstitutional restrictions on the free exercise of religious organizations. Similarly, "HUD regulations for Community Development Block Grants, among other programs, expressly required religious organizations not only to agree to avoid giving 'religious instruction or counseling' but even to affirm that they will 'exert no religious influence' at all in providing the Federally funded assistance."[31] Restrictions like these were found to be extended to new programs as well as to existing ones, creating the fourth barrier to faith-based organizations seeking federal support. This too would be addressed in executive orders, congressional hearings, and federal guidance documents.

The fifth, and one of the most highly contested barriers presented, was a denial of faith-based organizations' "established right to take religion into account in employment decisions."[32] The audit cites Title VII of the Civil Rights Act of 1964, which, despite prohibiting "employment discrimination based on race, color, national origin, gender and religion," still permits "religious organizations to staff on a religious basis."[33] Overall, the audit found that government officials were ignorant of this religious hiring right, and therefore oftentimes misled religious organizations when discussing restrictions and regulations for federal government funding. Despite being the subject of numerous heated debates, it is true that the Civil Rights Act does indeed single out religion for robust protection where hiring is concerned. As a result, the audit provided yet another demonstration of federal departments' lack of sensitivity towards the free exercise rights of faith-based organizations. This ultimately served as another constitutionally inclined justification for the elevation and expansion of representation for faith-based organizations within the federal government.

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[31] Ibid.
[32] Ibid.
[33] Ibid.

Lastly, the audit found that some federal executive agencies were thwarting Charitable Choice legislation. Charitable Choice, to recap, was "crafted in the mid-1990s, under the Clinton Administration, to remedy overly restrictive rules and confusion about the constitutional requirements" of federal agencies interacting with and funding faith-based social service organizations.[34] It was meant to safeguard the religious character of faith-based social service organizations by responding "point by point to various inappropriate restrictions by explicitly protecting religious charities from pressures to secularize their programs, abandon their religious character, or sacrifice their autonomy."[35] Similarly, Charitable Choice was meant to "replace government suspicion of religious providers with a welcoming environment by giving a 'green light' to expanded collaboration with Government" and making government and religious partnerships increasingly possible.[36] However, several agencies such as HHS were found to ignore the Charitable Choice requirements in their entirety when providing guidance to states on how to properly inform faith-based grant beneficiaries. This barrier in particular supported arguments that Charitable Choice alone clearly was not enough to combat the unequal constitutional treatment of faith-based social service organizations applying for federal aid. Therefore, the Bush administration presented the faith-based initiative as an additional safety measure to ensure the free exercise rights of faith-based organizations, supporting the guidelines already established in Charitable Choice legislation.

In conclusion, the findings of the audit conducted by the five Centers for Faith-Based and Community Initiatives articulated in the Department of Justice's report *Unlevel Playing Field* not only justified the constitutional importance of the Office for Faith-Based and Community

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[34] Ibid.
[35] Ibid.
[36] Ibid.

Initiatives but also supported the Bush administration's passion about the importance of the initiative. Although there were certainly individuals and parties who leaned more heavily into one perspective over another in regard to Bush's faith-based initiative and its relationship to American constitutionality and societal welfare, overall there was general agreement that the expansion of funding for religious social service programs was a positive move for American society. The constitutional challenges, however, often pushed the Bush administration to stress the faith-based initiative's positive constitutional contributions. It is within this effort that we see the second discourse of "good" religion arise in the *Unlevel Playing Field* report discussed above. By establishing a pattern of federal government hostility to organizational and institutional free exercise, the Bush administration was able to present the faith-based initiative as a remedy to existing constitutional problems. As a result, the Bush administration justified the creation of the White House Office of Faith-Based and Community Initiatives through two discursive approaches: one that established religion as a necessary societal good and the other that established the faith-based initiative as a constitutional remedy to restrictions on free exercise.

Section II- The Good and Maybe the Bad: A Juxtaposition of Executive Order 13119 and Executive Order 13279

After the release of the *Unlevel Playing Field* report, two other centers for Faith-Based and Community Initiatives were created through Executive Order 13280, released on December 12, 2002. This order would be followed by another three executive orders signed in 2002, 2004, and 2006, including Executive Order 13279, Bush's most widely cited Executive Order regarding the initiative and the order later amended by following administrations. In these executive orders,

one sees important clarifications regarding the rights of faith-based organizations, the purpose of the centers created, and regulations necessary to keep the initiative in line with constitutional requirements of the free exercise clause and establishment clause. Each of these clarifications imply, either explicitly or implicitly, certain limitations of, or freedoms granted to, faith-based social service organizations, uncovering the Bush administration's interpretations of proper balance between supporting the right of religious exercise while simultaneously avoiding government establishment of religion.

Additionally, these orders resemble the discursive approaches to the faith-based initiative discussed above, either choosing to address the beneficence of the program and its inherent good or choosing to address the constitutional shortcomings of it. In Executive Order 13199, for example, rhetoric resembling Bush's common good discourse can be found in the opening lines, establishing the faith-based initiative as a saving grace for American society. As a result, the order focuses its attention to strengthening the initiative's influence and, ultimately, religion's influence in policy and society. On the contrary, E.O. 13279 spends very little time acknowledging the common good aspects of religion and the faith-based initiative and instead devotes all of its time to clarifying the initiative's constitutional complexities. For example, E.O. 13279 addresses important questions of religious theory such as: What does the government consider to be religious practice? And, where must we draw the line between free exercise and establishment so as to promote the free exercise rights of organizations while avoiding government proselytization? I argue the contrasts between these two orders reflect the administration's impulse – and, later, policymakers' impulses – to highlight the frameworks of "good" religion as it applies directly to the initiative's impact on American constitutionality and societal welfare. Due to the inherent difficulties of this pursuit, however, Executive Order 13279

specifically falls short in providing a clear picture of the initiative's impact on American constitutionality. This is a result of the order's attempts to either define and clarify important concepts, leave them vague, or neglect them in their entirety. Consequently, many of the constitutional lines it draws have been the subject of debate from the time the Executive Order was drafted to the present day.

Executive Order 13119: Purpose, Regulations, and Language

Unlike Bush's later Executive Order, E.O. 13279, Executive Order 13119 clearly exemplifies the Bush administration's eagerness to include and expand religion's role in governance and society. This particular document is much more imaginative and conceptual, focusing far less on policy clarifications and instead painting a picture of not only government acceptance of religion but also a call for the expansion of religious influence in government agencies. For example, Section I, labeled "Policy," mirrors Bush's discourse surrounding the importance of faith-based organizations and their unique ability to accomplish results unattainable by the federal government. It begins by acknowledging that faith-based organizations "are indispensable in meeting the needs of poor Americans and distressed neighborhoods."[37] Similarly, it argues that, although the government "cannot be replaced by" faith-based organizations, it "can and should welcome them as partners."[38] These two lines draw direct parallels to Bush's discourse surrounding the creation of the initiative, as he described faith-based organizations as neighborhood healers who were some of the few able to adequately meet the needs of poor and distressed Americans. Moreover, the ultimate purpose of the

[37] "Executive Order 13199 of January 29, 2001, Establishment of White House Office of Faith-Based and Community Initiatives. *Code of Federal Regulations*, title 3 (2001): 84999-8500.
[38] Ibid.

Executive Order is presented as achieving "compassionate results."[39] Again, this is nearly a direct quote from Bush, who emphasized the ability of faith-based organizations to target social ills over that of the federal government based upon religion's unique "monopoly on compassion." In conclusion, the purpose of Executive Order 13119 is far less devoted to making important clarifications and distinctions regarding debates surrounding the constitutionality of the initiative, and instead focuses on a discourse which presents faith-based organizations as vital to healing America's social distresses.

Correspondingly, E.O. 13199 speaks very little to regulations of faith-based organizations or regulations of the White House Office of Faith-Based and Community Initiatives, and therefore speaks very little to the constitutional complexities of the initiative. Instead, it homes in on the principal functions of the OFBCI, which were to develop, lead, and coordinate the Bush "Administration's policy agendas affecting faith-based and other community programs and initiatives" as well as expand "the role of such efforts in communities" and increase "their capacity through executive action, legislation, Federal and private funding, and regulatory relief."[40] As a result, the White House Office, as opposed to the later centers created as extensions of it, was entrusted primarily with community outreach and internal influence in policy regarding federal funding initiatives. These two functions were unique to the White House Office alone and, I argue, speak far more to the common good rhetoric surrounding the initiative than its constitutional complexities. Similarly, unlike E.O. 13279, Executive Order 13199 centers the initiative around two sub-functions of the OFBCI: education and administrative action. These two sub-functions support the Bush administration's discursive approach to "good" religion, as each supports the initiative's ability to increase religion's influence in society and governance.

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[39] Ibid.
[40] Ibid.

The education of faith-based organizations, communities, and local, state and federal officials is highlighted numerous times in E.O. 13199 as a primary function of the White House Office of Faith-Based and Community Initiatives. For example, E.O. 13199 states the fourth function of the OFBCI is to "coordinate public education activities designed to mobilize public support for faith-based" initiatives through "volunteerism, special projects, demonstration pilots, and public-private partnerships."[41] Additionally, function (g) of the OFBCI is to provide "policy and legal education to State, local, and community policymakers and public officials" so as to "empower faith-based and other community organizations" and increase opportunities presented to them.[42] In these two tasks alone, one can see a clear effort to emphasize the expansion of faith-based initiatives through education and outreach. I argue that the choice phrase of "mobilizing public support" suggests an administrative goal to expand the influence of religion in communities. E.O. 13199 is one of the few federal documents where a function of the OFBCI is presented as mobilizing public support for faith-based organizations. Most later documents are careful to present Bush's faith-based initiative as nothing more than a tool to provide equal monetary support to faith-based social service programs as to secular ones, no doubt due to the later constitutional complexities that challenge the initiative's existence. Similarly, it is important to note that the OFBCI is not only tasked with educating policymakers but also communities themselves, encouraging the average American to utilize faith-based social service providers. One will not see any such language in E.O. 13279, as E.O. 13279 does not acknowledge the initiative's educational aspects at all, but instead focuses itself on addressing constitutional challenges the initiative presents to free exercise and establishment.

[41] Ibid.
[42] Ibid.

On top of education, administrative action and executive influence is possibly one of the most important functions of the White House Office of Faith-Based and Community Initiatives. The OFBCI was granted several authoritative abilities regarding policy, such as "ensuring Government policy decisions" consistent with the "President's stated goals with respect to faith-based and other community initiatives."[43] Similarly, function (f) designates the OFBCI to "bring concerns, ideas, and policy options to the President" in order to assist, strengthen, and replicate "successful faith-based…programs."[44] Lastly, function (h) designates the OFBCI to "develop and implement strategic initiatives under the President's agenda to strengthen the institutions of civil society and America's families and communities." All of these function together to essentially make the OFBCI a check on legislative policy. As a result, the OFBCI has the ability to directly report to the President if it feels any policy is harmful to faith-based organizations or the President's faith-based agenda and can introduce alternative policy options it sees as more favorable. I argue that this function increases the influence of religion in policy, as the OFBCI serves as a direct executive authority in checking and implementing policy which is favorable, or at least amicable towards, faith-based organizations.

Overall, the language in Executive Order 13199 is geared far more towards putting Bush's vision of the faith-based initiative into action than it is toward negotiating debates on the constitutionality of the initiative. Executive Order 13199 tells us two important things: 1) religion is in need of protection in policymaking and 2) the American public and all levels of government must be made aware of the positive influence that religion and religious individuals have in healing America's greatest social quandaries. Bush clearly viewed the White House Office of Faith Based and Community Initiatives as the starting point for accomplishing both of

[43] Ibid.
[44] Ibid.

these goals and, as a result, the American public and federal government were presented with E.O. 13199 on the first day of Bush's presidency. However, because of its focus on bolstering the influence of the initiative so as to increase the presence of religion in society and governance, it neglects to clarify or even address the initiative's constitutional challenges. To put it in the terms of my own adaptation of Hurd's framework, E.O. 13199 operated almost exclusively within the discursive realm of "effectiveness."

Executive Order 13279: Purpose, Regulations, and Language

Executive Order 13279 was signed on December 12th, 2002 and was titled "Equal Protection of the Laws for Faith-Based and Community Organizations." It followed a slew of Executive Orders signed by George W. Bush establishing the Office of Faith-Based and Community Initiatives as well as the eventual 11 centers (CFBCIs) in federal executive agencies. E.O. 13279 is arguably the most in depth executive order signed by Bush throughout his administration in regard to regulations, policies, constitutionality, and functionality of the OFBCI and CFBCIs. The majority of the executive orders related to the FBCI and CFBCIs are focused solely on the establishment of centers in other executive agencies and speak very little about faith-based organizations themselves and regulations guiding the FBCI. Moreover, E.O. 13279 is the most widely cited and the most amended executive order in regard to the FBCI and CFBCIs. It is also perhaps the most constitutionally controversial because it specifically addresses several of the barriers to faith-based organizations presented in the *Unlevel Playing Field* report discussed previously. This is imperative to the rest of my discussion throughout this section as it reveals the Bush administration's thoughts on several questions of religious theory as they play

out in constitutional debates surrounding the initiative's influence on free exercise and government establishment.

E.O. 13279 begins by citing the significance of the executive order itself as well as its overall purpose. Unlike E.O. 13199, however, Executive Order 13279 does not really speak to the benefits of faith-based social service organizations. Instead, it takes a much more secular tone, similar to the language presented in the *Unlevel Playing Field* report. In its opening lines, the purpose is stated as providing a "guide to Federal agencies in formulating and developing policies with implications for faith-based organizations and other community organizations" so as to ensure equal protection under the law for religious or secular social service programs.[45] From the start, one can observe the attempt to offer a constitutional justification, equal treatment under the law, as the overall purpose of E.O. 13279. Additionally, it argues that the assurance of equal treatment for faith-based and community organizations under the law will "further the national effort to expand opportunities for, and strengthen the capacity of, faith-based and other community organizations."[46] Therefore, its overall significance is its allowance for faith-based and other community organizations to "better meet social needs in America's communities and to ensure the economical and efficient administration and completion of Government contracts" by establishing equal regard for faith-based social service organizations.[47] Already, one can see a clear contrast in the language used in E.O. 13279 from that of its predecessor, 13199. As a result of this discursive shift, E.O. 13279 establishes a distinct relationship between the discourses of effectiveness and constitutionality. By creating clear constitutional guidelines, E.O. 13279 effectively contributes to the overall ability of faith-based organizations to target American

[45] "Executive Order 13279 of December 12, 2002, Equal Protection of the Laws for Faith-Based and Community Organizations," *Code of Federal Regulations,* title 3 (2002): 77141-77144.
[46] Ibid.
[47] Ibid.

social distresses. Consequently, E.O 13279 serves as a structure to both support and enable the effectiveness of faith-based social services.

Another major discursive difference between the two orders is E.O. 13279's attention to definitions. Section 1 of E.O. 13279, for example, makes a great effort to establish the faith-based initiative simply as a means of providing equal funding to social service programs. I argue the particular phrases it chooses to define impact the reader's understanding, and therefore, the government's understanding, of what the important focal points and clarifications are in the order and the faith-based initiative itself. For example, Section 1 of E.O. 13279 defines terms and phrases such as "federal financial assistance," "social service program," and "policies that have implications for faith-based and community organizations."[48] The definitions of each of these are very specific and provide ample context to the initiative itself as to what kind of organizations it is supposed to serve and what kind of monetary support can be provided at the local, state, and federal levels. As a result, it presents the Bush administration's faith-based initiative simply as a largely secular initiative that is strictly meant to provide guidance and clarification on how to best provide federal aid to faith-based organizations on an equal footing. Attention to these definitions and details of the program's funding focus, again, bring together the two discourses of effectiveness and constitutionality. By paying significant attention to clarifying the funding aspects of the initiative and its constitutional limits or boundaries, the order contributes more guidance on how the structure of the initiative impacts its overall effectiveness. As a result, the more effective the initiative is at providing adequate funding to faith-based organizations, the more good it is doing for American constitutionality and societal welfare.

[48] Ibid.

However, I argue that this section of Executive Order 13279 does fall short of its goal of providing clear constitutional guidance, eventually paving the way for confusion down the road regarding the order's use of specific phrases and words. For example, the lack of attention to defining terms such as religion, faith-based organization, and inherently religious activity (a phrase that will be discussed at length later) are far more telling in regard to the constitutional complexity of the initiative. There is no doubt that the avoidance of defining these terms was most likely intentional since there is no effort anywhere in the order to provide any specification to what the Bush administration means by religion or what categorizes an organization as faith-based. An inclusion of these terms, and an attempt by the federal government to define them, would subsequently open up a Pandora's Box of constitutional limitation or overreach. For example, one can contemplate the political consequences of defining religion too broadly. Suddenly, everything could possibly be defined as religion, allowing any organization to be afforded certain religious rights, such as discriminatory hiring, for example. On the flip side, if religion is defined too narrowly, it may strip some truly religious organizations of their constitutional rights such as preferential religious hiring.

We can think of these issues as broadly or as narrowly as we'd like to as they reflect on important concepts within religious theory. For example, we are presented questions like: What would be considered faith and how would that be determined? Would the government analyze certain religious practices such as prayer or daily attendance to church as a qualification for faith-based organizations? Is a religiously inclined organizational mission statement enough to meet government standards of a faith-based organization? These questions reflect the sheer difficulties presented when including religion, and inevitably measuring religiosity, when it is integrated into American domestic policy. I argue that this complexity is a large reason for the

discursive evolution from E.O. 13199 to E.O. 13279. In its beginning phases, Bush's faith-based initiative was much more willing to take an open arms approach to government acceptance of religion, whereas, later down the road, the government is forced to reconcile the difficulty of negotiating the lines between religion and governance. As a result, we end up with E.O. 13279, which must place itself within the discourses of the initiative that challenge American constitutionality. Subsequently, E.O. 13279 avoids any definitions of religion and instead uses its regulations section to address the more constitutionally complex boundaries that the faith-based initiative is forced to negotiate.

For these reasons, Section 2, which outlines "Fundamental Principles and Policy Making Criteria," is the real meat of this document since it provides guidance on regulations related to funding faith-based organizations and the constitutionality of the initiative as a whole. Section 2 begins by addressing issues of discrimination such as the federal government's previously unfair treatment of faith-based social service organizations when applying for funding. Section 2 (a) makes clear that "no organization should be discriminated against on the basis of religion or religious belief in the administration or distribution of financial assistance under social service programs."[49] This directly addresses the barrier of discrimination against faith-based organizations by some federal agencies outlined in the *Unlevel Playing Field* report. Additionally, this language contributes to a larger establishment shift, declaring a "neutral" approach to government establishment of religion as the correct constitutional approach. This move towards neutrality broke the longstanding government precedent of strict separationist approaches to church and state domestic affairs. Moreover, a neutral approach to government

[49] Ibid, 2157.

funding of faith-based organizations ultimately enabled the eventual major expansion of faith-based centers across and within federal executive agencies and departments.

After offering a vision of a clear federal government posture of neutrality towards faith-based social service organizations, Section 2 then moves on to address constitutional concerns surrounding unchecked religious free exercise and, therefore, an opening for religious discrimination. Section 2 (d) states federal financial assistance recipients "should be prohibited from discriminating against beneficiaries or potential beneficiaries of the social services programs on the basis of religion or religious belief."[50] Similarly, grant beneficiaries cannot discriminate against current or prospective program beneficiaries on the "basis of religion, a religious belief, a refusal to hold a religious belief, or a refusal to actively participate in a religious belief."[51] Overall, these clauses establish grounds of nondiscrimination on the behalf of the federal government as well as on behalf of the recipients of federal financial assistance. By doing so, the federal government hopes to avoid government establishment of religion that would come from either denying religious organizations funding entirely or from, for example, only funding Christian organizations over minority religious organizations. Similarly, by delineating a foundation of nondiscrimination to beneficiaries of grant recipients, the government places checks on unregulated free exercise of religious organizations and religious individuals receiving federal funding. These regulatory guidelines provided by E.O. 13279, and the impacts they have on the free exercise and establishment clauses, fall squarely within the discourse of constitutional "goodness". Each clarification suggests an ability to address the tensions of these two clauses and perhaps even remedy them. However, the more we get into religious free exercise rights, the more difficult these lines are to draw.

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[50] Ibid, 2158.
[51] Ibid, 2158.

Section 2, clause (e) and (f) move on from broad discrimination regulations to more specific regulations regarding the constitutionality of the initiative as well as the religious rights of faith-based organizations who are recipients of federal financial assistance. Clause (e) maintains that, in order for the federal government to fund faith-based organizations, it must implement "Federal programs in accordance with the Establishment Clause and the Free Exercise Clause of the First Amendment of the Constitution."[52] In order to comply with this constitutional requirement, the order states that faith-based social service programs may not "engage in inherently religious activities."[53] Clause (e) is where we first see the ambiguous phrase "inherently religious activities," which is used throughout the rest of the Bush administration in guidance documents. Although it never provides a direct definition of the phrase "inherently religious activity," the order does provide some context as to what the Bush administration considers to be inherently religious activity."[54] The document describes inherently religious activity as "worship, religious instruction, and proselytization."[55] One may argue that these three descriptors are equally vague, as different religions have different understandings of what qualifies as each of these. However, to avoid this ambiguity, E.O. 13279 clarifies that faith-based organizations must perform inherently religious activities "separately in time or location from any programs or services supported with direct Federal financial assistance."[56] Moreover, if a beneficiary of the social service program participates in any inherently religious activity, it must be on a voluntary basis. Here we can see where the Bush administration is attempting to draw a line between supporting religious organizations while also

[52] Ibid, 2158.
[53] Ibid, 2158.
[54] Ibid, 2158.
[55] Ibid, 2158.
[56] Ibid, 2158.

not directly assisting the promotion of any religious belief and government establishment of religion.

However, one can quickly see a balancing act appear between the restraint and freedom of religious exercise of faith-based organizations in clause (f). Despite limiting "inherently religious activity," clause (f) encourages faith-based grant recipients to maintain their "independence, autonomy, expression" and religious character under the auspices of the free exercise clause and the free speech clause. Ultimately, this section makes clear that faith-based organizations that are recipients of federal financial assistance should carry out their "mission, including the definition, development, practice, and expression of [their] religious belief" as long as they do not use federal financial assistance to directly fund inherent religious activities.[57] Additionally, faith-based grant recipients are permitted to use places of worship as a space to conduct their social service programs and are not required to "remove or alter religious art, icons, scripture, or other symbols" from their facility while they are carrying out their social service program.[58] In a similar spirit, section (f) states that these organizations may also "retain religious terms in [their] name, select [their] board members on a religious basis," and can continue to "include religious references in [their] mission statements and other chartering or governing documents."[59] So, despite initial regulation of faith-based organizations which are beneficiaries of federal funding, the Bush administration still asserts that religious social service organizations have every right to maintain their religiosity, whether that be through displays of religious art, practices of religious hiring, or propagation of religious organizational mission statements.

[57] Ibid, 2158.
[58] Ibid, 2158.
[59] Ibid, 2158.

It is within clauses (e) and (f), specifically, that we see the discourses of "good" and "bad" constitutionality come into tension with one another. Clause (e) attempts to address the issue of establishment, placing necessary restrictions on faith-based organizations' use of federal funds. In doing so, Executive Order 13279 presents a pathway for effectively "good" constitutionality. Clause (f) does the same but by addressing free exercise. Due to the restrictions already in place by clause (e), clause (f) seeks to balance proper overregulation and under-regulation in order to comply with faith-based organizations' free exercise rights. Despite its best efforts to nullify the potentially "bad" constitutional aspects of the faith-based initiative, these points of clarification ultimately find themselves at the heart of congressional hearings and debates, as policymakers continue to struggle with how to measure "good" and "bad" in the context of free exercise and establishment.

Section III- The Good, The Bad. The Bad, The Good: The Difficulty of Achieving Constitutional Balance in Religious Welfare Policy

In previous sections, I have provided a textual analysis of the *Unlevel Playing Field* report, E.O. 13199, and E.O. 13279 to draw attention to the interplay of good or bad discursive approaches to religion within Bush's faith-based initiative. Each of these analyses revealed/demonstrated two discourses that sought to expand religious influence in government and American society on the one hand and to abide by the Constitution concerning the intersectionality of religion and policy on the other. However, this next section expands upon the strictly textual analysis and brings the complexity of these discourses to life as they played out in congressional debates from 2001-2004. In the following discussion, I focus on two congressional hearings. The first addressed the effectiveness of faith-based healing programs' abilities to treat

drug addiction, and the second wrestles with the constitutional implications of funding religious social service programs that utilize faith-based healing practices. These two hearings saw policymakers each adopt at least one of the four evaluations of the initiative's constitutionality and effectiveness in targeting American social distresses such as addiction. To recap, these four evaluations understand Bush's faith-based initiative and the programs it funds as: 1) the faith-based initiative is constitutional and good for the welfare of American citizens, 2) the faith-based initiative is constitutional but potentially bad for the welfare of American citizens, 3) the faith-based initiative is unconstitutional but good for the welfare of American citizens, and lastly, 4) the faith-based initiative is unconstitutional and bad for the welfare of American citizens.

Before diving into a discursive analysis of religious therapy in congressional hearings, I first want to clarify what I mean by religious therapy and faith-based healing. Religious therapy is "a form of counseling that attempts to treat a person's soul as well as mind and body by accessing individual belief systems and using that faith in a higher power to explore areas of conflict in life."[60] In other words, faith-based healing is the treatment of conditions such as alcoholism, drug addiction, and crime through prayer, scripture, and creating a deep relationship with a higher power. It is believed that the power of these three things heals the soul in its entirety, and thus heals the individual's addiction or unwanted behavior as well. For example, witness testimonies describe drug addiction as a symptom of an individual's afflicted soul. On the grounds of this belief, faith-based organizations that utilize religious therapy view secular rehabilitation facilities as simply treating the symptom (addiction) and not the root problem itself (a purposeless individual who seeks comfort in drugs). As a result, faith-based organizations that

[60]"Spirituality in Therapy, Spiritual Counseling, Therapy for Spirituality – Support and Therapy for Spirituality." n.d. Accessed May 7, 2022.

use faith-based healing choose to focus on establishing or fixing an individual's relationship with God so as to heal the person's soul instead of using scientific or psychological means or ends to treat the addiction itself. Consequently, many of these organizations do not feel they are in need of licensed therapists, psychiatrists, or drug rehabilitation specialists, so many either choose or refuse to comply with federal certification and licensing standards.

The sensitive nature of religious therapy and faith-based healing practices forces policymakers to struggle with how to reconcile relationships between the effectiveness or ineffectiveness of the programs with the constitutional tensions of free exercise and government establishment. For example, these debates see policymakers and witnesses testifying that the initiative itself (if it were to fund faith-based healing social service programs) is inherently unconstitutional since, based upon the language in E.O. 13279, the direct funding of religious therapy would ultimately equate to government funding of proselytization. However, despite recognizing the unconstitutional aspects of funding religious therapy, policymakers nonetheless struggle to ignore the effectiveness of faith-based programs at targeting drug addiction in American communities. This works in the completely opposite case as well. For example, policymakers also argue that faith-based organizations should be able to maintain their free exercise rights to deliver religious therapy as a social service even if these services have in some cases proved to be harmful to societal welfare. Within this evaluation, policymakers view the refusal to fund faith-based healing social service programs as an intrusion into the organization's free exercise rights and, therefore, not funding them, even if there are cases where religious therapy has been proved harmful, would be unconstitutional. The back and forth possibilities of "good" and "bad" evaluations of program effectiveness and constitutionality is what makes these debates so dense and complex.

Moral and Constitutional Imbalance in Religious Therapy

Like Bush's Executive Orders and early rhetoric, the congressional hearings feature a similar twofold "common good" discourse. The strand of "common good" discourses of religion are strongest in a congressional hearing that took place on July 2nd, 2003 in San Antonio, Texas titled "The Role of Faith-Based Organizations in Providing Effective Social Services." Representative Mark Souder (R), Chairman of the Subcommittee on Criminal Justice, Drug Policy, and Human Resources, himself adopts very similar rhetoric to Bush, establishing himself as a clear proponent of the faith-based initiative, and later, a supporter of religious therapy. In the very beginning of the hearing, Chairman Souder calls for other members to "embrace new approaches and foster new cooperation to improve upon" existing social service programs.[61] Faith-based organizations, and their volunteers, is the primary target of the cooperation and partnerships Souder hoped the rest of his colleagues would explore. Souder notes that faith-based organizations are "especially effective in serving the needs of their communities" and "offer a unique dimension to that service," including a "corps of people motivated in many cases by their faith who are ready, willing, and able to help their neighbors around the clock."[62] Moreover, he argues that the ability of faith-based organizations to "competently fill the gap in community services" that the federal government "cannot adequately address" is the reason for "legislation and regulations that encourage" faith-based organizations to become "more involved in their communities through both action by Congress and the leadership of President Bush."[63] Chairman

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[61] U.S. Congress, House of Representatives, Committee on Government Reform, *The Role of Community and Faith-Based Organizations in Providing Effective Social Services*, 107th Cong., 1st sess., 2001.

[62] Ibid.

[63] Ibid.

Souder cites Bush's faith-based initiative as an important aspect of this because it expanded Charitable Choice's ability to create government partnerships with faith-based social service organizations. Ultimately, we can see strong discursive parallels between Chairman Souder's rhetoric and President Bush's rhetoric. Each of these men describe religion, and faith-based social service organizations, as having the unique ability to target American social ills that they otherwise view as outside of government capability. They therefore assume religious actors as inherently good ones who can benefit the societal welfare of American communities and neighborhoods.

As a result of this assumption, it is made clear from the beginning of the hearing that the purpose was not to judge the constitutionality of Bush's faith-based initiative or discuss the legal challenges it may present to free exercise and establishment. Instead, the hearing was called to decide how "the unique element of faith impacts the structure and success" of social service organizations and programs across the country.[64] In other words, the hearing was called to judge the effectiveness of religious therapy and faith-based healing tactics in treating drug addiction specifically. The testimonies begin with Pastor Freddie Garcia, founder of Victory Fellowship, a faith-based drug addiction rehabilitation center. Mr. Garcia, a former crack addict and criminal, founded the Victory Fellowship after defeating his own drug addiction through faith. In his opening testimony, he attests to the ability of religious therapy to aid drug addiction, arguing that "drug addiction is a spiritual problem" that only a relationship with Jesus Christ can be the "total cure for the total man."[65] His wife, Ninfa Garcia, made similar testimonies in her experiences with religious therapy. In recalling her similar battle with drug addiction, Mrs. Garcia testified that, upon entering the church and being "exposed to the gospel of Jesus Christ" for the first time

[64] Ibid.
[65] Ibid.

in her life, her "sick mind was gone" and her "heart lifted up," ridding her of her addiction and transforming her entire life for the better.[66] Both Mr. and Mrs. Garcia attest to the treatments they received in secular rehabilitative centers as well, expressing frustrations surrounding the ultimate inability these centers had in aiding their addictions. Mr. Garcia in particular describes his time being treated for his drug addiction. He recalls the 6 months he spent at Fort Worth Hospital and his ultimate discharge, where upon exiting the hospital he says he almost immediately "had a needle in [his] arm…[he] went to see the drug pusher before [he] went to see his wife."[67] Each of these personal testimonies provides evidence that religious therapy and faith-based healing is an effective means of treating drug addiction. Furthermore, they even imply a unique ability of religious therapy to target more than just the individual's ailment, providing an entirely positive transformative experience on top of targeted treatment.

The Garcias' personal testimonies regarding religious therapy were shared, supported, and clarified by several other witnesses who provided their own personal testimonies surrounding drug addiction and the Victory Fellowship's approach to faith-based healing. The testimony of Joe Willome, a volunteer with Victory Fellowship, is especially illustrative of this. Willome may have been the most adamant supporter of religious therapy and faith-based healing throughout the congressional hearing, outlining the benefits and effectiveness of the programs at targeting addiction and crime in otherwise forgotten or unreachable neighborhoods. In his testimony, Willome states that the Garcias' perspective on addiction and crime is that it "is a symptom of the problem and not the problem itself."[68] The problem, Mr. Willome testifies, "is the condition of the human soul."[69] He continues on, stating that the Garcias' religious therapy

[66] Ibid.
[67] Ibid.
[68] Ibid.
[69] Ibid.

approach is "well beyond the traditional ' 'treatment model'' utilized by secular rehabilitation facilities.[70] He argues that these treatment models only address the symptom (addiction, crime, poverty) of the problem by isolating individuals and getting them "out of their environment for 30 or 60 or 90 days" expecting their isolation to change their behavior so they may go back "into that environment…and be able to live successfully."[71] This traditional model of treatment, or the 'secular' rehabilitation model, however, "is met with failure after failure after failure."[72] The main difference between these programs and religious therapy programs, he argues, is the transformation of the individual themselves. This transformation can only be done "according to scripture" and "the power of the gospel of Jesus Christ."[73] By undergoing this transformation, religious therapy and faith-based healing of addiction, crime, and other ills proves to actually be *more* effective than secular rehabilitative treatments based upon Willome's testimony.

Willome also attests to the unique aspects of faith-based organizations that define much of the discourse surrounding the "common good" aspects of religion. One of these characteristics is a faith-based organization's ability to reach troubled neighborhoods and communities in ways that the federal government cannot. For example, Willome describes the Garcias as "agents and Ambassadors of the life transforming power of Jesus" who are able to "go back into the same crime and drug infested neighborhoods that they came from" and "be agents of reconciliation of transformation."[74] Moreover, he refers to faith-based organizations as "indigenous grassroots organizations" who operate entirely different from the federal government or secular businesses.[75] When a faith-based organization labels itself as such, he says "it truly means they

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[70] Ibid.
[71] Ibid.
[72] Ibid.
[73] Ibid.
[74] Ibid.
[75] Ibid.

are faith-based."[76] As a result, these organizations don't approach things logically or "with a strategic plan."[77] Instead, workers like the Garcias pack up their apartments and "go back into the crime and drug infested neighborhoods and express the love of God that was flowing through them."[78] After doing so, they target the community or individual's needs and just simply pray about it.[79] Mr. Willome concludes that, more often than not, "these needs get met."[80] These more personable and intimate aspects of faith-based organizations described by Mr. Willome are one of the many reasons why faith-based organizations are wrapped up in common good discourses of religion. They are seen as better able to reach damaged neighborhoods and communities than the otherwise insensitive and "out of touch" federal government organizations and secular businesses.

However, once the issue of religious therapy hits a conversation more centered upon the issues of free exercise and establishment, the discourses begin to shift. In a separate congressional hearing titled "Faith-Based Solutions: What Are the Legal Issues?" policymakers begin to raise concerns regarding the requirement of faith-based organizations to receive proper state licensing and certifications under Charitable Choice legislation. For example, Senator Leahy (D) of Vermont, brings this issue up not once but twice, citing the consequences of President Bush's "sponsored laws in Texas that exempted faith-based drug treatment and child care centers from State health and safety regulations" during his time as governor of Texas.[81] He describes one case of abuse, where a young girl at a center for troubled youth, was "bound with

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[76] Ibid.
[77] Ibid.
[78] Ibid.
[79] Ibid.
[80] Ibid.
[81] U.S. Congress, Senate, Committee on the Judiciary, *Faith-Based Solutions: What Are The Issues?*, 107th Cong., 1st sess., 2001.

rope and duct tape."[82] Similarly, he cites another where "police arrested the supervisor for unlawful restraint after he allegedly roped two children together and made them dig in a sewage pit."[83] Senator Leahy pointed out that both of these cases of abuse were only possible because of Bush's law, which exempted faith-based organizations from requiring appropriate supervision in these facilities.[84] These cases of abuse represent an apprehension on behalf of Senator Leahy to open government arms entirely to free exercise and therefore to grant religious and faith-based organizations exemptions that would otherwise be required of secular organizations that performed similar services. This reluctance, or even implied fear, gets at the question of how much free exercise is potentially too much free exercise in the case of protecting the well-being of some of America's most vulnerable.

The fears surrounding the under-regulation of the free exercise of religion by way of state or federal exemptions was discussed in further detail by John Avery, the then Government Relations Director for the National Association of Alcoholism and Drug Abuse Counselors. Mr. Avery clearly understood religious therapy as a dangerous form of unregulated free exercise and hence describes it not only as a potentially damaging constitutional practice but also as a potential harm to American citizens. He testifies that his issue is not "who provides the care, but rather by what clinical standards that care is provided."[85] He argues that addiction is a "chronic, complex illness requiring individualized assessment, treatment," and comprehensive care that extends "over a sustained period of time."[86] Furthermore, Mr. Avery establishes that it is "essential that a treatment plan evolve based on the needs and progress of the clients" and that

[82] Ibid.
[83] Ibid.
[84] Ibid.
[85] Ibid.
[86] Ibid.

the assessment of the client "must be provided by a competent professional."[87] As a result, he does not see prayer, scripture, or faith in any way as adequate treatment for addiction. Moreover, he states that any "overtly religious atmosphere which suggests, even if not stated, that treatment is somehow contingent on religious belief or practice is essentially implied coercion."[88] This coercion, he points out, "is in violation of the patient's civil rights" and "of the ethical code which most professionals practice."[89] Consequently, Mr. Avery paints a very different picture of religious therapy, pulling it far outside of the "common good" discourses of program effectiveness that we witnessed previously. Instead, Mr. Avery implants religious therapy into a twofold "bad" analytical framework of the discourses of program effectiveness at adequately treating social ills such as addiction. This discourse of program effectiveness presents religious therapy as not only an inadequate form of treatment but also a potentially dangerous one, subsequently implying an evaluation of unconstitutionality due to an unchecked free reign of religious free exercise rights of faith-based organizations.

Shifting to the focus of government establishment and religious therapy, Senator Leahy presents another instance that troubles him. He points to an example from Reverend John Castellani, the executive director of Teen Challenge, which is "a year-long residential drug treatment program which challenges the residents to embrace the Christian faith."[90] Leahy cites a quote by Reverend Castellani in which he admits to the forced conversion of Teen Challenge's program participants of differing faiths. Castellani states that, although the program accepts everyone, "including Jews," they would during their time at the program "'become 'completed

[87] Ibid.
[88] Ibid.
[89] Ibid.
[90] Ibid.

Jews,' meaning they converted to Christianity."[91] Leahy poses this example as a threat to government disestablishment of religion, concerned that if clear lines are not drawn regarding where exactly government funds are going, the government could be accused of proselytizing. Several other policymakers share similar concerns to Senator Leahy, making it difficult to reconcile the common good discourse presented by the Garcias with the constitutional limitations of government establishment of religion. In these contexts, how is the government able to support faith-based organizations that utilize religious therapy if religious therapy is in and of itself "inherently" religious? In these situations, policymakers may be inclined to sympathize with the "common good" discourse in which the Garcias describe religious therapy. Furthermore, they may even wholeheartedly agree that religious therapy does benefit the welfare of society. Nonetheless, if this is their perspective, they are essentially forced to prioritize free exercise of religion over government establishment of religion.

This exact dilemma of balance between exercise and establishment is also framed as potentially harmful to faith-based organizations' free exercise rights. As a result, we see faith-based arguments disputing the constitutionality of the initiative as well, considering the potential harm government involvement would have on faith-based organization's free exercise rights. Chairman Leahy includes a statement regarding a "letter signed by almost 1,000 religious leaders from across the theological spectrum" who adamantly believed that charitable choice and the faith-based initiative posed a "danger to religion because of the flow of Government dollars and the accountability for how those funds are used."[92] In other words, this letter presents the fear that the direct federal funding of faith-based organizations would essentially lead to excessive government "meddling" in and over regulation of the free exercise rights of organizations. These

[91] Ibid.
[92] Ibid.

fears stemmed from some of the barriers presented in the *Unlevel Playing Field* report, where certain organizations were entirely stripped of their religiosity as a result of receiving federal government funding. Mr. Garcia put this fear into perspective when describing the way he advertises his faith-based addiction program. When asked whether or not faith-based healing was appropriate for drug addiction, Mr. Garcia responded, "we don't do drug rehab, we save souls."[93] This response allowed Mr. Garcia's program to avoid being bogged down by state licensing and certification requirements that demanded licensed rehabilitative professionals, counselors, and psychiatrists in order to be considered a drug addiction rehab facility. Religious therapy, in his eyes, did not have the same goal, structure, or outcome that traditional rehabilitative centers did. The question remained then as to why he should be subject to state licensing and certification requirements if his program did not follow the same procedures and protocols as secular ones. The inability of faith-based organizations to maintain their practices was a genuine fear felt by many faith-based organizations who considered applying for federal government funding. The faith-based initiative, therefore, was looked upon suspiciously by many faith-based organizations, concerned that government establishment laws would overpower their organizational free exercise rights.

In closing, the issue of religious therapy within the context of the faith-based initiative presents a multitude of possible evaluations regarding the initiative's constitutionality and the effectiveness of faith-based social services. I chose the specific case of religious therapy because it most strongly exemplifies the genuine nature of most of these debates regardless of whether they fall on the "good" or "bad" discursive side. For example, through Mr. Garcia, Mrs. Garcia,

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[93]U.S. Congress, House of Representatives, Committee on Government Reform, *The Role of Community and Faith-Based Organizations in Providing Effective Social Services*, 107th Cong., 1st sess., 2001.

and Mr. Willomes' testimonies, we see authentic accounts of faith-based healing working to adequately and effectively treat drug addiction. At one point in time, it was even recognized that Victory Fellowship was the leading "drug rehabilitative center" in San Antonio, as it had the largest number of success stories among its clients. On the contrary, we also witnessed powerful testimonies surrounding the potential abuse and forced conversion of clients who were subjected to faith-based healing tactics. These witnesses testified to not only the damaging societal welfare aspects of religious therapy but also the challenges it could cause to religious free exercise and government establishment. Consequently, the case of religious therapy shows just how difficult it is to navigate religion in American domestic policy, as all across the board there are genuine accounts that seem to directly contradict one another regarding the effectiveness of faith-based social services and the constitutionality of the federal government funding of them.

Section IV: Conclusion

In conclusion, this thesis argues that Bush's faith-based initiative serves as a primary example of the inevitable challenges and complexities that the inclusion of religion in politics poses to American domestic policy. These challenges are a result of several different factors, whether they be policymakers' rationalization of religious theory or constitutional tensions. Nonetheless, anytime religion enters the domestic political sphere, policymakers must wrestle with the unavoidable quandaries that come along with it. In the case of the faith-based initiative, I concluded that White House archives, Executive Orders, and congressional hearings exemplified policymakers' adoption of a similar "good" or "bad" framework of analysis as presented by Elizabeth Hurd in *Beyond Religious Freedom.* I have shown this framework in the discourses utilized by Bush and his administration that largely framed religious social service

organizations and their volunteers as inherently good actors. As a result of this assumption on the domestic level, the federal government support of faith-based organizations, no matter their religious affiliation, was presented by Bush and his administration as a positive thing for American society and American constitutionality.

Despite the widespread bipartisan agreement on the inherent "goodness" of religious social service organizations, policymakers still ultimately struggled to remedy the constitutional tensions that Bush's faith-based initiative presented within the First Amendment clauses of free exercise and government establishment. Because the faith-based initiative's purpose was to expand pathways to fund the work and influence of faith-based organizations, policymakers' faced difficulties in determining the line between promoting the free exercise of faith-based organizations and government funding of religious proselytization. It was because of these tensions that debates surrounding the initiative were pushed down to the program level. Within this move, I have highlighted a moment where policymakers adopted similar frameworks of "good" and "bad" as they deployed discourses of constitutionality and program effectiveness. However, it is within the two discourses of constitutionality and effectiveness at the program level that we are ultimately left with four different evaluations of constitutionality and effectiveness. These four evaluations were as follows: 1) the faith-based initiative is constitutional and good for the welfare of American citizens, 2) the faith-based initiative is constitutional but potentially bad for the welfare of American citizens, 3) the faith-based initiative is unconstitutional but good for the welfare of American citizens, and lastly, 4) the faith-based initiative is unconstitutional and bad for the welfare of American citizens. As a result of these multiple evaluations, policymakers struggled to reach a consensus on whether to prioritize the free exercise rights of faith-based organizations, the avoidance of government

establishment, or the benefits and risks that faith-based social services posed to the welfare of American communities.

Although this work was narrowly focused, it speaks to much larger issues of the role that religion plays within modern understandings of secularism and American domestic and international policy. If I were to continue my work on this topic, I would bring theories of secularism into these conversations. By including an analysis of theories of secularism, I may be able to present a more thorough understanding of the ways that the secular state, and agents of it, interact with religion. For example, I may be able to ask questions like: Why do agents of expert religion impulsively reduce religion to frameworks of "good" or "bad?" Is this a result of secularism and the way a secular state interacts with religion? Do these same frameworks of "good" and "bad" religion apply to theocratic states? If so, how do they apply? If not, why don't they apply? Answering questions like this may open the door to viewing something other than religion as the problem. To clarify, perhaps the inevitable complexity of including religion in government affairs is not a *religion* problem but instead is a *governance* problem. For example, if theocratic states did not suffer from the same complexities, then maybe this suggests that secularism is a potentially unfeasible form of modern governance. If these same problems do apply to other forms of governance, then maybe we can conclude that the complexities of religion will always present extreme difficulties whenever religion is involved in a state's domestic affairs.

This work could also move its focus away from the state and, instead, take a deeper look into the ways that state policies impact the work of religious social service organizations. I imagine this focus would speak more to the concerns shared by some faith-based organizations regarding their loss of religiosity by taking part in federal government partnerships. The

advantages of this shift would be that it could potentially provide some insight into the ways we measure program effectiveness by examining the on-the-ground impacts of faith-based social service programs. Additionally, feedback from faith-based organizations in cooperation with the federal government could be collected to determine the genuine necessity of government and faith-based partnerships. If the responses are overwhelmingly positive, then perhaps it makes the difficulties of implementing programs like Bush's faith-based initiative worth it. It may even signal that programs like the faith-based initiative should be expanded. However, if feedback is overwhelmingly negative, then we could spend less time weighing the costs and benefits of initiatives like this and instead recenter our focus to finding a better, more workable solution (if there is one).

Although I started this thesis with the genuine intent to provide some sort of concrete solution for my readers, I cannot make the claim that this thesis provides solutions. In fact, I cannot guarantee that future works will either. Like so many others, I have found it increasingly difficult to navigate the tensions that religion poses to secular policy in my own works. There are so many biases, identities, and subjectivities to consider in religious studies that it makes it seem impossible that anyone will ever find exact truths, and, therefore, solutions in their works. However, despite my own initial disappointment at not being able to reach a solution to the complicated web created by Bush's faith-based initiative, I am left with the invaluable understanding that a solution is not always necessary to shed light on a problem. Similarly, just because there is no solution in sight does not mean that we should not ask questions or inquire about the nature of an issue. I argue this is not unique to religious studies but most scholarly pursuits.

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