On July 1, Barack Obama, the Democratic Party's presumptive nominee for president, took up an early idea of the Bush White House and proposed to extend it, should he win the presidency. This is the concept that religious groups that provide services to the poor should be eligible to apply for government funds to support those programs. This right would apply only to non-religious activities, such as soup kitchens, health clinics, and adult literacy classes.

President Bush argued that government funding for such programs should not have a litmus test for religion applied to the potential provider, but that the providers, whether secular or religious, should be evaluated on whether they can actually provide such services.

On the surface this is a wonderful idea, having government support to allow such religious institutions to continue providing services to the needy. However, the idea of religions taking money from the government, for whatever purpose, raises many ethical, religious, and legal issues.

Unfortunately, before President Bush could get his program up to speed, it ran afoul of political problems both from the right and the left. And so it has failed to approach its potential throughout the Bush presidency.

Obama's support could give new life to this approach for helping the poor, moving it beyond the political issues into full implementation. However, to overcome the legal hurdles, implementation will require careful attention to the legal concerns of church and state, as I wrote in a column from February 2001.

The primary legal issue will be: Which religions will be eligible to receive money? The very first phrase of the Bill of Rights states, "Congress shall make no law respecting an establishment of religion." The courts have interpreted this to mean that the U.S. government cannot favor one religion over another, i.e., by "establishing" one as better than another. This means religions could receive money for their charitable work providing that the government treats all of them equally and does not favor one religion over another.

President Bush made clear that his initiative would not be limited to a few branches of Christianity alone. Mr. Bush regularly used the phrase "churches, synagogues and mosques" as organizations whose charitable activities should be eligible for his program. Unfortunately, the program's limited implementation made it difficult to achieve this intended balance.

Obama's approach, if he is elected, will not only need to achieve this balance, but also extend the grant program to non-Western religions as well. Will Buddhist temples and meditation organizations be permitted, for instance? This is an important question for western states; although Wyoming contains few Buddhists, both Colorado and Utah have significant populations, as does the West Coast. How about Native American religious organizations, to bring matters closer to home? Will the government treat these religions without disfavoring them in comparison to Western religions?

Another category that will need care is that of religions with the same names as ones condemned by Scripture in antiquity, such as Paganism and Wicca, whose practitioners are colloquially known as "witches." Will soup kitchens or medical centers run by these groups be eligible for government funding? This is more than a rhetorical question. In Wyoming, some sources indicate that more citizens claim to be Pagan or Wiccan than claim to be Jewish.

Furthermore, at least one charity organization operates under their auspices in Wyoming. Will the government be able to work with these groups in its faith-based charity program despite predictable pressure from some Christian groups arguing they are illegitimate?

Finally, what about religions with strong political enemies? Take Falun Gong, for instance, a meditation society based on Buddhism with millions of adherents in mainland China. The Chinese government has declared it an "evil cult" and has carried out an extensive campaign of persecution, including arrest, rape, torture and execution. What if Falun Gong adherents in the United States applied for government funds for their charity operations in New York City and the Chinese government opposed it? Would the U.S. government be able to evaluate Falun Gong's application fairly?

If Obama has the chance to develop President Bush's "faith-based charities" initiative, he will face a number of challenges. Our forefathers placed the separation of church and state at the beginning of the Bill of Rights to indicate the pitfalls of having the government make decisions about religions. The program may be able to meet the legal requirements of constitutional law, but it will be able to do so only by seeing and carefully negotiating those pitfalls of equal treatment.

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