

Framing the Facts: Wordsmiths, Wordmongers, and the Establishment Clause
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Words - so innocent and powerless as they are, as standing in a dictionary, how potent for good or ill they become, in the hands of one who knows how to combine them!

Nathaniel Hawthorne,
American Notebooks

In the context of a politically polarized society, where words take on singular importance, what is, or can be, the quality of public discourse concerning faith-based organizations (FBOs) as providers for government-funded social service contracts? To what extent does language contribute to, or hinder, public discourse about this topic?

Recent, earnest discourse about secular and religious social service delivery began with the passage of the so-called 'charitable choice' provision of the 1996 Personal Responsibility and Work Opportunity Act and continues today in light of the work of the White House Office of Faith-Based and Community Initiatives. The troublesome discourse regarding the role of FBOs in delivering social services attests to divided public sentiment regarding barriers -- perceived or real -- about what the Constitution says about government's relationship vis-à-vis religion.

Central, then, to this debate about faith-based organizations as deliverers of social services is the language used to describe the relationship between faith-based providers and the government. The language invoked in public discourse often does not reflect the mandates, or even the subtleties, of the law. Given the fact that legal analysis never takes place in a vacuum, public discourse -- of both the probative and inflammatory variety -- affects legal discourse, and, ultimately, legal and political consensus.

Importantly, we assume that legal or policy conclusions, perceived to result from an open and fair debate, will be supported by a broader consensus among various constituencies in America's pluralistic society. The policy resulting therefrom will serve a greater number, and the

law supporting such policy will be accepted more securely by the community bound by the law. Accordingly, we invite legal, policy, and social work professionals to think about the language they use in professional discourse as well as in popular writing. The metaphor of the telephone game makes our point briefly.

You will recall that the telephone game is a popular children's activity whereby kids, gathered in a circle, whisper a sentence to one another; oftentimes, the sentence (e.g., "The grass is wet.") changes by the time it reaches the last kid (e.g., "The mass is yet.") precisely because words have been lost or misheard during the exchanges.

The telephone game teaches us that the manipulation of language can have humorous – or worse – damaging effects. On the topic of government contracting with FBOs, the manipulation of language can distort honest discussions about the serious legal and public policy issues that have been, and remain to be, analyzed. Indeed, as scholarly and popular debates proceed, complex social and legal policy issues, not yet articulated, will surface. For those who ardently separate 'faith' from the business of government, the word 'faith,' or spirituality regardless of its context, is synonymous with 'religion.' It is then a short leap to connect 'religion' or 'religious influence' to the 'establishment of religion.' The argument trajectory concludes that the government cannot recognize or relate to anything dealing with 'faith,' i.e., 'religion.' Is 'faith' commensurate with 'religion'? Is such a connection between faith and religion, even if appropriate, the intent of the meaning of religion within the history and text of the First Amendment? Religion, too, is a word with several denotative and connotative meanings. Religion has a remarkable capacity to provide a sense of identity. For others, religion is servile acceptance of imposed dogma.

Herein lies the double bind. Proponents of “charitable choice” tend to emphasize the value of fairness, describing it as an attempt to clarify rules by which government buys social services and ensuring that those rules create a 'level playing field.' Opponents, on the contrary, emphasize that the positive role of religion is better preserved by a separation between church and state. So, what constitutes fairness? By juxtaposing these positions according to the same principle -- respect for an appropriate relationship between religion and the state -- we offer a thesis (explained more fully in our 2001 White Paper): Words, and the order in which they are used in legal discourse, the media, and politics, are gateways to building informed public opinion, societal consensus, and ultimately, legal analysis, regardless of the philosophical approach invoked to achieve constitutional adjudication. Words are the gateways to understanding among citizens because words are the tools by which citizens share experiences and draw common understanding.

We thus ask the reader to suspend one's definitions long enough to listen to, and consider, the use of words in public discourse and, subsequently, in the technical context of a court opinion. In brief, we suggest that the current use of language by professionals, including the courts, needs to be honestly re-examined to filter out any possibility for bias.

The choice and use of words contributes to the civility and quality of the debate in the public forum, the potential efficacy of ideas that become institutionalized in welfare policies, and, ultimately, receptiveness to the rule of law. If we persist, for example, in describing government *contracts* (a bargained-for exchange) as government *support* for particular programs -- or even faith traditions -- then we will likely find ourselves backtracking -- like in the telephone game -- to understand how “contract” became “establishment.”