A series of memos to President-elect Obama identifying policy areas where his words line up with our vision.

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Protecting and Strengthening Religious Freedom

A Memo to President-elect Obama

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Secularists are wrong when they ask believers to leave their religion at the door before entering into the public square. Frederick Douglass, Abraham Lincoln, William Jennings Bryan, Dorothy Day, Martin Luther King—indeed, the majority of great reformers in American history—were not only motivated by faith but repeatedly used religious language to argue for their cause. To say that men and women should not inject their "personal morality" into public policy debates is a practical absurdity. Our law is by definition a codification of morality, much of it grounded in the Judeo–Christian tradition.

—Barack Obama, "Call to Renewal Keynote Address," June 28, 2006[1]

PRESIDENT-ELECT OBAMA, you spoke truthfully when you said that "[o]ur law is by definition a codification of morality, much of it grounded in the Judeo–Christian tradition."[2] That being the case, it is, as you note, a "practical absurdity" to expect Americans not to "inject their 'personal morality' into public policy debates."[3] We agree with you that "[s]ecularists are wrong when they ask believers to leave their religion at the door before entering into the public square."[4]

Our Constitution rightly forbids establishing an official national church, but it does not call for the separation of religion from politics. Doing so would clearly be "out of tune" with the proper understanding of the role that "religion and morality play in the civic and public life of a self-governing people."[5] Americans are, as you note, "a religious people."[6] From our earliest days as a nation, religion and morality have been "indispensable supports of good habits, the firmest props

of the duties of citizens, and the great pillars of human happiness."[7]

During your presidency, you will likely be challenged to ignore or violate these founding precepts by some who think that religion has no place in the civic arena. As you have noted, "there are some liberals who dismiss religion in the public square as inherently irrational or intolerant, insisting on a caricature of religious Americans that paints them as fanatical."[8] This dismissive approach misunderstands or ignores the prominent role that religion plays in nurturing morality and sustaining freedom, moral discernment, and a healthy social order.[9] Accordingly, you should resist attempts to purge religion from public life and at the same time articulate the importance of "protecting the right of all individuals to honor their consciences and practice their religious beliefs."[10]

In particular, your Administration should give its full-throated support to the following policies:

- **Protect the ability of faith-based social service providers to honor their religious identity and integrity by maintaining their right to make employment decisions based on religious ideals.** Although you have expressed support for continuing President Bush's faith-based initiatives, you have also suggested that your Administration will force faith-based organizations that receive federal funds to abandon their convictions when it comes to hiring the employees who carry out their mission.[11]

  Forcing faith-based organizations to abandon their religious identity and religious integrity whenever they partner with the federal government to serve the needy would be a major mistake. As colleagues of ours have previously stated:

  > There is no more vital protection for organizations with a religiously-rooted approach to social assistance than the freedom to hire according to their convictions. The leadership and staff of an organization determine its destiny. They alone will carry out its mission, uphold its priorities, and embody its deepest values. If the First Amendment guarantee of religious liberty does not protect the employment decisions of faith-based organizations—their right to free association—then it has become a meaningless abstraction.[12]

  As you have made clear, it would be wrong to ask religious organizations to "leave their religion at the door before entering into the public square"[13]—but for many religious organizations, forcing them to abandon their hiring rights whenever they participate in publicly backed social service efforts would do just that.

  Previous Administrations and Congresses have consistently protected and reinforced hiring protections for faith-based organizations that partner with the government to serve the needy.[14] This respect for the

1. Senator Barack Obama, "Call to Renewal Keynote Address," Call to Renewal Conference on Building a Covenant for a New America, June 28, 2006, at *http://www.barackobama.com/2006/06/28/call_to_renewal_keynote_address.php* (December 11, 2008).
2. *Ibid.*
3. *Ibid.*
4. *Ibid.*
5. Matthew Spalding, "The Meaning of Religious Liberty," Heritage Foundation *WebMemo* No. 1722, December 5, 2007, at *http://www.heritage.org/Research/Thought/wm1722.cfm*.
6. Obama, "Call to Renewal Keynote Address."
7. Spalding, "The Meaning of Religious Liberty."
8. Obama, "Call to Renewal Keynote Address."
9. See Spalding, "The Meaning of Religious Liberty," and Ryan Messmore, "Giving Faith Its Due on the Campaign Trail," Heritage Foundation *Commentary*, December 18, 2007, at *http://www.heritage.org/Press/Commentary/ed032808d.cfm*.
10. Thomas M. Messner, "Same-Sex Marriage and the Threat to Religious Liberty," Heritage Foundation *Backgrounder* No. 2201, October 30, 2008, at *http://www.heritage.org/research/family/bg2201.cfm*.
11. See "Remarks of Senator Barack Obama: Council for Faith-Based and Neighborhood Partnerships," Zanesville, Ohio, July 1, 2008, at *http://www.barackobama.com/2008/07/01/remarks_of_senator_barack_obam_86.php* (December 11, 2008); see also "Barack Obama's Plan to Engage Faith-Based and Community Organizations," at *http://obama.3cdn.net/c2c74198bb57fc007c_e906mvllj.pdf* (December 10, 2008).
12. Joseph Loconte and Jennifer Marshall, "Religious Hiring Protection Under Assault," Heritage Foundation *WebMemo* No. 413, February 3, 2004, at *http://www.heritage.org/Research/Religion/wm413.cfm*.
13. Obama, "Call to Renewal Keynote Address."
14. For example, "President Clinton signed four laws stipulating that faith-based organizations preserve their right to staff on a religious basis when they receive federal funds, including the 1996 Welfare Reform Act and the 1998 version of the Community Services Block Grant Act." Loconte and Marshall, "Religious Hiring Protection Under Assault." But the policy proposed by President-elect Obama "directly contradict[s] the Charitable Choice

Constitution and the integrity of the government's faith-based partners should not diminish on your watch.

- **Ensure the availability of federal conscience protections that free physicians and other medical professionals to serve patients without violating their religious beliefs.** Though you have recognized that abortion is a divisive issue in itself,[15] some advocates will pressure you to go beyond your advocacy of legalized abortion to support policies requiring health care institutions and individuals to facilitate abortions and other morally controversial procedures.[16] In the case of faith-based health care organizations and religious health care providers, it is hard to see how forcing them to participate in procedures they consider to be morally objectionable does not require them to "leave their religion at the door before entering into the public square."[17]

  Congress has a rich tradition of protecting conscience rights in the health care context. For example, a federal statute protects individual providers and facilities from compelled participation in any sterilization procedure or abortion if it would be contrary to the religious or moral beliefs of those persons or entities.[18] Additional federal legislation protects entities and facilities from government pressure to provide abortions or to undergo or provide abortion training.[19] These laws secure basic freedoms that are necessary for justice, and you should express your full support for the policies they promote.

  In addition, the United States Department of Health and Human Services has recently proposed regulations that would increase awareness of and compliance with laws protecting federally funded health care providers' right of conscience.[20] Based on your speech regarding the importance of honoring religious commitments in public life, you should certainly agree with HHS Secretary Mike Leavitt that "'[d]octors and other health care providers should not be forced to choose between good professional standing and violating their conscience.'"[21]

  Urging the immediate adoption of the proposed HHS conscience rights regulations is an important part of ensuring that Americans are not forced to abandon their religious convictions in the course of their work.

- **Call on all citizens to respect the ability of religious citizens to participate in public policy debates—including debates about marriage—without fear of intimidation and reprisal.** You correctly stated that it would be a "practical absurdity" for Americans not to "inject their 'personal morality' into public policy debates."[22] Regrettably, there are many in America who express contempt and disdain toward those who bring their faith to bear on their politics. That attitude can encourage a climate of hostility and intimidation.

provision signed into law by President Clinton for three federal programs." Stanley Carlson-Theis, "The Importance of Religious Staffing Freedom," Center for Public Justice, July 16, 2008, at *http://www.cpjustice.org/content/importance-religious-staffing-freedom* (December 11, 2008). Indeed, says Carlson-Theis, "[t]here has never been this kind of sweeping federal restricting of the Title VII religious staffing exemption."

15. See, e.g., BarackObama.com, where President-elect Obama is described as a "consistent champion" of abortion rights. "Where Barack Stands: The Impact of the Obama Economic Plan for America's Working Women," BarackObama.com, at *http://my.barackobama.com/page/content/womenissues* (December 11, 2008).

16. For example, recent documents issued by the American Board of Obstetrics and Gynecology and the American College of Obstetricians and Gynecologists raised concerns that physicians would be forced to "violate their conscience by referring patients for abortions or taking other objectionable actions, or risk losing their board certification." News release, "HHS Secretary Calls on Certification Group to Protect Conscience Rights," U.S. Department of Health and Human Services, March 14, 2008, at *http://www.hhs.gov/news/press/2008pres/03/20080314a.html*. The release quotes a March 14, 2008, letter from HHS Secretary Michael Leavitt to Norman F. Gant, Executive Director of the American Board of Obstetrics and Gynecology.

17. Obama, "Call to Renewal Keynote Address."

18. See Robin Fretwell Wilson, "Matters of Conscience: Lessons for Same-Sex Marriage from the Health Care Context," in *Same-Sex Marriage and Religious Liberty: Emerging Conflicts*, eds. Douglas Laycock, Anthony R. Picarello, Jr., and Robin Fretwell Wilson (Lanham, Md.: Rowman and Littlefield, 2008), p. 83.

19. *Ibid.*, pp. 85–86.

20. News Release, "Regulation Proposed to Help Protect Health Care Providers from Discrimination," U.S. Department of Health and Human Services, August 21, 2008, at *http://www.hhs.gov/news/press/2008pres/08/20080821a.html* (December 11, 2008).

21. *Ibid.*

22. Obama, "Call to Renewal Keynote Address."

In the days since your election, for example, this country has witnessed acts of blatant religious hatred directed against those who supported Proposition 8, the ballot measure in California defining marriage as a relationship between a man and a woman.[23] People who donated to Proposition 8 have been pressured out of their jobs;[24] their businesses have been targeted for reprisals;[25] churches have been vandalized;[26] a copy of The Book of Mormon has been set on fire on the steps of a Mormon church;[27] and suspicious white powder has been sent to Mormon temples.[28] An open letter recently published in *The New York Times* condemned the violence and intimidation directed against Mormons and other religious individuals and institutions simply for supporting traditional marriage policies.[29]

Because you have stated your support for marriage between one man and one woman and for the expression of religious viewpoints, you should condemn all efforts to intimidate religious people in the civic arena and should welcome the contributions and perspectives that stem from their "personal morality."

Conclusion

You say, "Secularists are wrong when they ask believers to leave their religion at the door before entering into the public square." We agree. Accordingly, we respectfully urge you to uphold the hiring rights of faith-based social service providers, to strengthen laws protecting conscience rights in the health care arena, and to condemn acts of hostility and intimidation directed against religious individuals and institutions that choose to put their faith into action by supporting important public policies that correspond with their moral views.

23. See, e.g., "'Blatant Religious Hatred' in California," posting of Thomas Messner to *The Foundry*, December 8, 2008, 3:10 p.m., at *http://blog.heritage.org/2008/12/08/blatant-religious-hatred-in-california*.

24. See, e.g., Rachel Abramowitz, "L.A. Film Festival Director Richard Raddon Resigns," *Los Angeles Times*, November 25, 2008, at *http://www.latimes.com/entertainment/news/la-et-raddonresigns26-2008nov26,0,5947908.story* (December 11, 2008); Jesse McKinley, "Theater Director Resigns Amid Gay-Rights Ire," *The New York Times*, November 12, 2008, at *http://www.nytimes.com/2008/11/13/theater/13thea.html* (December 11, 2008); and Neal Broverman, "L.A. Restaurant Manager Who Donated to Prop. 8 Resigns," Advocate.com, December 9, 2008, at *http://www.advocate.com/news_detail_ektid67979.asp* (December 11, 2008).

25. See, e.g., Tami Abdollah and Cara Mia DiMassa, "Proposition 8 Protesters Target Businesses," *Los Angeles Times*, November 14, 2008, at *http://www.latimes.com/news/printedition/front/la-me-boycott14-2008nov14,0,4880904.story* (December 11, 2008).

26. See, e.g., Jennifer Garza, "Mormons Step Up Security After Anti-Prop. 8 Vandalism," *Sacramento Bee*, November 17, 2008, p. A9, at *http://www.sacbee.com/101/story/1403369.html* (December 11, 2008), and CBNNews.com, "Churches Vandalized Over Prop 8," November 12, 2008 at *http://www.cbn.com/cbnnews/479857.aspx* (December 11, 2008).

27. TheDenverChannel.com, "Book of Mormon Set Ablaze on Church Door Step," November 12, 2008, at *http://www.thedenverchannel.com/news/17964575/detail.html* (December 11, 2008). The report states that the incident is being investigated as a "bias-motivated arson" related to the church's support for Proposition 8.

28. See Tami Abdollah, "L.A. Mormon Temple Closed After Suspicious Envelope Arrives in Mail," *Los Angeles Times*, November 13, 2008, at *http://www.latimes.com/news/local/la-me-mormon14-2008nov14,0,7206616.story?track=rss* (December 11, 2008); see also Yahoo News, "FBI: Powder Sent to Mormon Headquarters Nontoxic," November 14, 2008, at *http://news.yahoo.com/s/ap/20081114/ap_on_re_us/suspicious_powder* (December 11, 2008).

29. The letter can be viewed at *http://www.nomobveto.org* (December 11, 2008).

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