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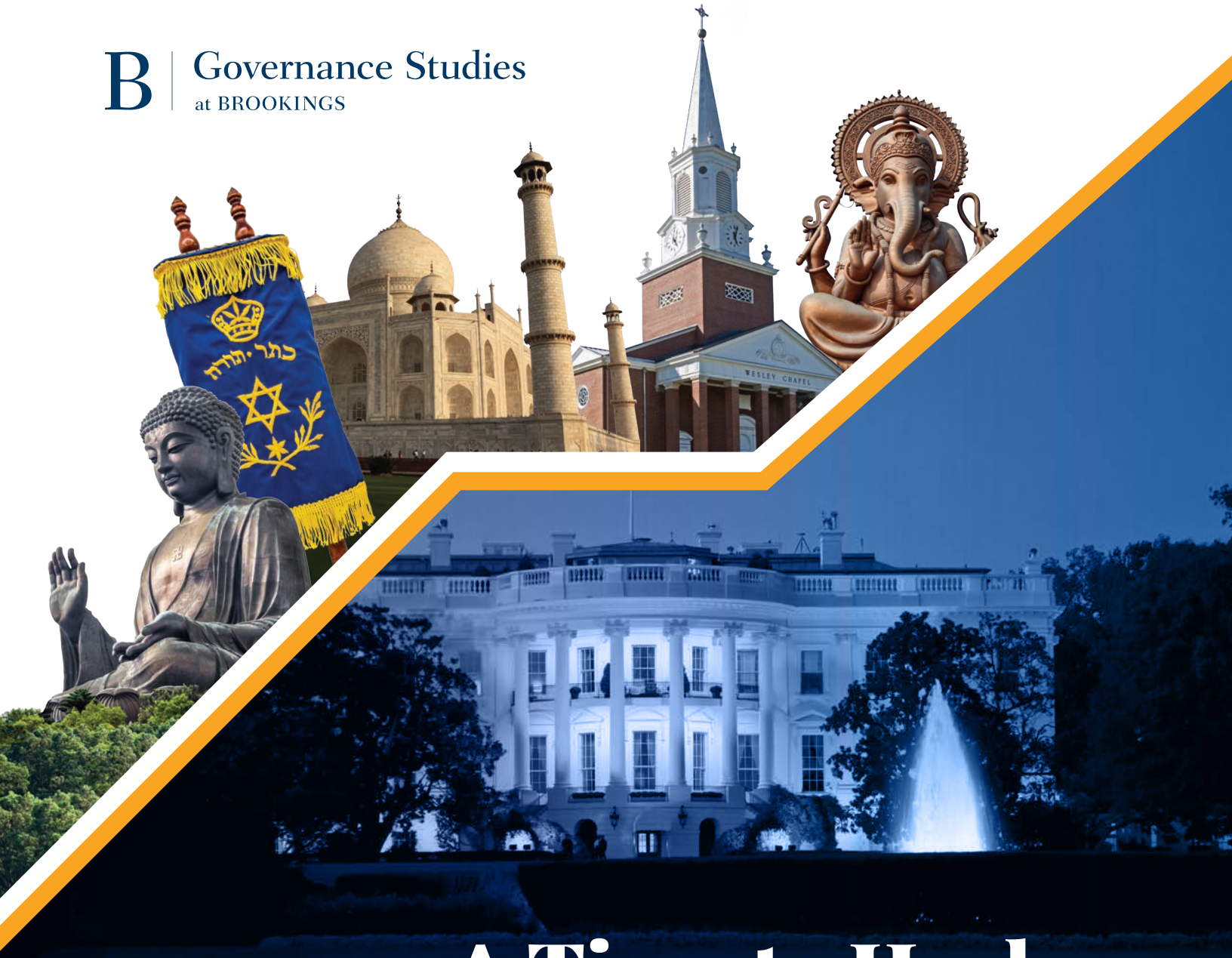

A Time to Heal, A Time to Build

Recommendations for the next administration on respecting religious freedom and pluralism, forging civil society partnerships, and navigating faith's role in foreign policy

By Melissa Rogers and E. J. Dionne Jr.

We offer this report to encourage the next administration to understand how important government's relationship to both religion and civil society will be in bringing our nation together.

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Introduction
A Time to Heal

Our nation is more divided than it has to be. It is both possible and urgent to reduce polarization, division, and the tensions they create.

Healing these divides is not a utopian aspiration. Nor does this hope entail denying that citizens in a democratic republic will always have disagreements. They will treasure their freedom to argue about them, to persuade and convert each other—and ultimately to win the debate at election time and with the public. A free society cannot escape, and shouldn't want to evade, the legitimate clash of interests. Although we sometimes think so, anger in politics is not unique to our moment, or to our country. And anger over injustice can be a productive emotion when it is linked to considered action. Some of the struggles of our time are inevitable and necessary, none more so than a reckoning with a four-century history of racial injustice.

One can believe all these things and still recognize that misunderstanding and mistrust have reached toxic levels in the United States. Large groups of Americans currently fear that the triumph of their opponents will render the country unrecognizable and inhospitable to their deepest beliefs. Many have said we are in the midst of a cold civil war, which implies the possibility of violence.

Religion defines only one dimension of our coming apart, but it is the source of some of our deepest divisions. Faith defines the ultimate concerns of many of our citizens even as others, who do not count themselves as religious believers, fear that their rights will be overlooked or violated by the pious and the devout. And of course, there are sharp divides among those who belong to the same religious traditions and read the same scriptures.

Consider how these issues often present themselves: One side fears that marriage equality and *Roe v. Wade* will be reversed and that Americans will be denied basic health care, commercial goods and services, and government-funded benefits based on an individual's gender, sexual orientation, or gender identity. The other side fears their government will brand them as bigots for their religious opposition to marriage equality, close their colleges and universities, press them to engage in activities that violate their consciences, and strip their institutions' tax-exempt statuses because of their beliefs.

Religion has become more polarizing for another reason: As religious conservatism has become an important force inside the Republican Party, the proportion of Americans who do not identify with any religious tradition has skyrocketed, especially among the young, and these nonbelievers are an important part of the Democrats' constituency. Americans'

religious commitments have often had an impact on their political views over the course of our history, but religious and partisan loyalties now reinforce each other more than ever.

A president cannot instantly alter these underlying forces, but he (and, some day, she) can acknowledge that the weaponization of such divisions for political purposes is dangerous to the nation's long-term stability; give fellow citizens across religious traditions and religious divides evidence that their views and concerns are being taken into account, even when their policy preferences are not enacted into law; and take seriously the powerful contributions that religious groups make to problem solving and community-building as part of the United States' vibrant civil society—while also honoring work done in this sphere by secular and resolutely nonreligious institutions working on behalf of charity and justice.

The task begins with respecting the dignity of all citizens and being candid about how deeply divided we are. As Pete Wehner, a top official in George W. Bush's administration put it: "Giving voice to what each side fears can help us make progress. An administration should never underestimate the importance of people feeling like they are heard."

Our leaders should also never underestimate the power of a call to service as they confront a pandemic, the scourge of systemic racism, a deep economic recession, and a dangerously warming planet. Government must act boldly in all these spheres, yet government will not succeed alone. At the outset, the president should recognize the work of community-serving leaders and organizations, both religious and nonreligious—and seek their help to move forward. "Our nation is hurting and dangerously divided," said the Rev. Brian McLaren, channeling what a president might say. "We ask you to represent not only your own interests but also to help us seek the common good together." Religious institutions and congregations, with their deep roots in communities across our nation, have a special opportunity and responsibility to help address the profound racial disparities revealed by the pandemic. These include, as the Kaiser Family Foundation has documented, the "disproportionate burden of COVID-19 cases and deaths" on communities of color. Joshua DuBois, the director of the Faith-based and Neighborhood Partnerships Office in President Obama's first term, sees the task of addressing these disparities as a "focusing lens" for partnerships between government and civil society. An effort to remedy the nation's racial injustices may provide a path for healing some of our divisions around religion even as the quest for racial justice might also bring home the ways in which religious bodies themselves have been complicit in racism and discrimination.

When the next administration takes office, it will confront a pandemic, the scourge of systemic racism, a deep economic recession, and a dangerously warming planet. Government must act boldly in all these spheres, yet government will not succeed alone.

We offer this report to encourage the next administration to understand how important government's relationship to both religion and civil society will be in bringing our nation together. It must staff itself properly to deal with these questions and reflect in its actions the genuine respect for the careful

balances that the First Amendment requires. Issues related to faith and faith-based institutions will only occasionally be top-of-mind for those organizing a government, given the range of challenges the country faces. But issues related to religion are implicated in a wide range of policy issues, both domestic and foreign, and they need to be surfaced and addressed. Mishandling church-state issues (often because they have been overlooked) can be terribly damaging, both to religious freedom and to a president's other projects. You might say that even when public officials are not particularly interested in religion, religion will find a way to be interested in them.

Religion can be a cause of societal tensions and strife. But it can also be a constructive force in conflict resolution and play an important role in economic development.

"These issues may seem tertiary, until they aren't," said Denis McDonough, who served as President Obama's chief of staff. Yet matters related to the First Amendment's religion clauses are not always treated with the consideration they require. From the start, the next administration must have a considered and detailed plan for meeting the challenges of issues implicating the relationship between church and state. We offer this report to suggest ways in which an administration might deal with these issues—and avoid unforced errors. And we hope it might contribute to a new public discussion of these questions that is less divisive and more inclusive.

We should be candid about our own perspective. One of us served as the director of the Office of Faith-based and Neighborhood Partnerships in President Obama's second term and is a Baptist committed to religious freedom and church-state separation. The other is a columnist, an academic, and a Catholic who writes from a broadly liberal or social democratic perspective. Both of us identify with the social justice and civil rights orientations within our religious traditions, and we embrace America's commitment to pluralism and openness.

Yet while we take our political and religious commitments seriously, we have both tried in our work in this area over the last two decades—both together and separately—to take seriously the views of the many people of good faith working in this sphere whose perspectives differ from ours. We have long believed that it is possible to find wider agreement on the proper relationship between church and state, and government and faith-based organizations—and to get good public work done in the process. We have shared the hope that although differences on church-state matters will inevitably persist (our nation, after all, has been arguing about some of these questions since the beginning of the republic), those differences can be narrowed, principled compromises can be forged, and the work of lifting up the least among us can be carried out and celebrated across our lines of division. That hope lies behind what we have tried to do here.

We also stress the opportunities the next administration will have to bring Americans together when it turns to the intersection of faith and foreign policy. In the past, even those with serious differences over domestic issues, including controversies touching on religious freedom, have nonetheless allied to insist that promoting religious freedom for all should be a key foreign policy objective. Broad consensus has also been forged around the proposition that diplomats must understand the religious landscapes where they work, since, as Ruth Messinger, the

former CEO of American Jewish World Service notes, "many people around the world look at life through a religious lens." Religion can be a cause of societal tensions and strife. But it can also be a constructive force in conflict resolution and play an important role in economic development. Religious institutions have often been vital providers of education and health care. Their feeding programs, homeless shelters, and support at times of crises provide immense social capital in many nations across the globe. Statecraft must recognize these realities.

We offer guidance for the next four years no matter who takes office in 2021. References throughout to the "next administration" refer to whoever takes the presidential oath on January 20.

In preparing this report, we have attempted to model the spirit of consensus-building we recommend to others. We have thus consulted with a wide range of former officials of Republican and Democratic administrations; with religious leaders of very different theological, ideological, and political orientations; with those who identify as secular; and with organizers, civil servants, lawyers, academics, and political activists. We have quoted many of them here and regret that space precluded our citing them all, although we thank members of this remarkable group at the end of this report. The generosity they displayed in sharing their ideas moved us deeply. And their enthusiasm for the project told us that there is a deep hunger to revisit issues related to religion in ways that could ease our divisions and solve embedded national problems. Our debt to them, for their past work and for the help they gave us, is immense.

A word about the organization and immediate purpose of this report: As we've noted, we're aware that issues related to religion and civil society will be down the list of immediate concerns for those involved in a presidential transition. Yet questions related to religion are often embedded in urgent issues such as public health and education. An administration must organize itself, from the beginning, to deal with church-state matters effectively and fairly. We therefore offer proposals on policy but also provide considerable detail on how the White House itself and different agencies of government might be structured to deal with issues related to religion. "Bureaucracy" is often used as a negative word, but how an entity—public or private—arranges its various offices and functions can determine how successful it is and whether certain issues are buried or brought to the forefront.

Beyond our specific ideas, we hope to spark a better, more inclusive and less fractious public conversation around these questions. And while we touch on many of the issues at stake, we know there is a long list of potential flash points that we could not explore in a report of this length. Our aspiration is that this effort might be seen as an invitation to dialogue among those who might disagree with some our suggestions—and also with each other. Such a conversation could open with Martin Luther King, Jr.'s observation that the church "is not to be the master or the servant of the state, but the conscience of the state."

What King said applies to all religious traditions, and it's hard to find a better reflection on religion's role in public life. Presidents should bear this in mind whenever they discuss religion. For none of the ideas we offer here will have any chance of narrowing our divides unless a president sets out, from the start, to unite Americans across religious lines, including the lines of belief and nonbelief. We would defend the rights of all Americans to bring ideas inflected or inspired by faith to the public square. We know that in doing so, they will spark disagreement. But honest and searching debates are very different from the confrontations sparked by the hyperpoliticization of

faith. "Religion has become an instrument of partisan politics," notes William Galston, a senior fellow at the Brookings Institution, "and that is not good for religion, politics, or the country." The evidence for the truth of his proposition is all around us.

As a model of presidential communication on this topic, Supreme Court Justice Elena Kagan cited President George Washington's celebrated letter to members of the Touro Synagogue in Newport, R.I. honoring American Jews. It pointed, she wrote, to one of the most remarkable achievements of the American republic that is also one of the United States' lasting contributions to nations across the globe: Its insistence that no matter how individuals worship or how they identify religiously, "they will count as full and equal American citizens." This idea must always be central to what any administration says—and does.

We thus write to defend American pluralism. It is a commitment that vindicates the rights of religious and racial minorities, of immigrants and refugees. It stands against the proliferation of hate crimes against Jews, Muslims, Sikhs, Black Americans, LGBTQ people, and others. It honors the equal dignity of every American. It is the only approach that can restore unity to a deeply divided nation.

On issues related to religion, our country needs a new start, no matter who occupies the White House in January. Presidential policies and pronouncements will be neither effective nor just if they are rooted in nostalgia for a more homogeneous America or are influenced by a racially-inflected Christian nationalism. They must instead recognize that our circumstances are very different from those of even just a half century ago. They must also acknowledge the divisions that have widened over the last four years. "Healing within targeted communities," said Zaki Barzinji, an Obama administration official, "is as important as healing across communities." It is a cliché to say that our country is increasingly diverse, but it is important to recognize that this diversity has made our country more religiously heterogeneous than ever. "Whatever we once were, we are no longer just a Christian nation," then-Senator Barack Obama observed in 2006. "We are also a Jewish nation, a Muslim nation, a Buddhist nation, a Hindu nation, and a nation of nonbelievers."

Less than a week after the attacks of September 11, 2001, President George W. Bush visited the Islamic Center in Washington to offer words of support for American Muslims. "America counts millions of Muslims amongst our citizens, and Muslims make an incredibly valuable contribution to our country," Bush declared. "Muslims are doctors, lawyers, law professors, members of the military, entrepreneurs, shopkeepers, moms and dads. And they need to be treated with respect. In our anger and emotion, our fellow Americans must treat each other with respect."

We offer this report in an effort to restore and advance this spirit of pluralism and to call on all of us to honor each other's dignity.

Part One
A Time to Build: Relaunch and Refocus the Partnerships Initiative

"Powerhouses for the common good." It's the apt phrase used by Melody Barnes, who directed the Domestic Policy Council during President Obama's first three years in office, to describe the religious and community groups that partner with government while also deploying their own resources to ease the effects of poverty, neglect, and social isolation.

The next administration should relaunch partnerships with nongovernmental organizations, both faith-based and secular, that played an important role in both the Bush and Obama years. Despite important differences, there was a high degree of continuity across their administrations in this sphere. Uncharacteristically for an incoming president of another party, Obama retained this signature Bush initiative, while reforming some aspects of how the partnerships worked and instituting new religious liberty protections for program recipients. It's notable that many of the partners, religious and secular, were often opposed to aspects of administration policies. This did not stop either side from finding ways to cooperate. They could shelve other battles while agreeing, for example, that young people need nutritious lunches, whether school is in or out of session.

But it's not 1998 or 2008, as John Dilulio, the first director of President Bush's White House Office of Faith-Based and Community Initiatives notes. Currently, there is a part-time White House Advisor for President Trump's "Faith and Opportunity Initiative" in the Office of Public Liaison. The White House partnerships office of the Bush and Obama years no longer exists, and there has been little effort to seek common ground on contested issues. Divisions around questions related to religion are far deeper than they were in either the Bush or Obama years, even if the battles during the Obama years over a variety of church-state matters were fierce.

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Many of the original advocates of compassionate conservatism continue to do their work, but its emphasis on faith-based charity has largely been displaced by a harder-edged ideology on the Right that

stresses conflict with secular forces. Progressivism's embrace of religion's prophetic role on behalf of justice is alive and well. It was celebrated at the time of John Lewis's death and remains central to the work of leaders such as the Rev. William Barber, Jim Wallis, Sister Simone Campbell, the Rev. Bernice King, Rabbi David Saperstein, Bishop Michael Curry, Sister Carol Keehan, the Rev. Traci Blackmon, Imam Mohamed Magid, and the Rev. Dr. Liz Theoharis, to name just a few of our country's many religious witnesses to justice. But the culture war dynamic has also affected the liberal and left side of politics as advocates of LGBTQ rights, women's rights, and the rights of nonbelievers rally to protect social advances. It is an understatement to say that the next administration will confront a more volatile playing field.

Clarifying the Mission

January 29, 2021 will mark the 20th anniversary of the opening of the White House Office of Faith-Based and Community Initiatives. This could become the occasion for reestablishing but also refocusing the work of a comparable office appropriate to this era.

A renewed effort must be clear about these principles:

1. **The *mission* of the initiative is serving people in need.** Working with religious and secular organizations is the *means* to achieve that mission. The mission should not be promoting faith—that is the job of religious institutions and individuals.
2. **The metrics for evaluation should focus on whether vulnerable people's lives are being improved, not on whether the amount of government funding that flows to faith-based organizations increases.** The latter metric would conflict with the principle that religious and nonreligious entities must compete on a level playing field for government grants and contracts, with the most meritorious proposals winning the awards. As President Obama said in a 2010 executive order: "Decisions about awards of Federal financial assistance must be free from political interference or even the appearance of such interference and must be made on the basis of merit, not on the basis of the religious affiliation of a recipient organization or lack thereof." Posting a Frequently Asked Questions (FAQ) document, or similar explanatory documents, on relevant websites reiterating these points would be a helpful step toward this end. The White House Office of Faith-based and Neighborhood Partnerships' FAQ is a good place to start.
3. **Partnerships with nonreligious communities are as important as partnerships with religious communities.** Too often, efforts in this sphere are referred to as "the faith-based initiative." Again, this is in some ways a misnomer since these initiatives should be aimed at serving people in need, not at promoting faith. No religion should be preferred over others, and initiatives must be equally open to religious and nonreligious bodies. Nonreligious communities include those that claim no religious affiliation or mission, and those that are intentionally secular. It is important to recognize that intentionally secular groups serve their communities too. As Tom Krattenmaker, a writer specializing in religion and public life, notes: "Humanists and adherents of other secular belief structures deserve to be treated as worthy Americans, equal to all others, and deserve the same consideration as deliverers of important community services." More specifically, Sarah Levin of Secular Strategies stresses that nontheistic communities should

compete with religious communities for government awards. Referring to these efforts as "partnerships initiatives" would help to communicate this.

4. **Nonfinancial partnerships with government are as important as financial partnerships.** Indeed, many nongovernmental organizations prefer nonfinancial partnerships because they lack the capacity to comply with requirements associated with the receipt of taxpayer funds or simply prefer more independence from the state.

What's in a Name?

The names chosen by both the Bush and Obama administrations for the White House partnerships offices were instructive. Bush's Office of "Faith-Based and Community Initiatives" became the Office of "Faith-based and Neighborhood Partnerships" under Obama. Both names rightly put the efforts of religious groups in the larger context of civil society activity—"Community" and "Neighborhood." It's important that both sides in politics recognize what's going on here. Liberals who, often and understandably, worry about too much entanglement between government and religion should recognize faith-based groups as an essential part of a larger network of community organizations. Conservatives who are, often and understandably, interested in lifting up the social contributions of religion must recognize that government's interest is in building civil society, not advancing any particular faith or faith itself.

We thus recommend reestablishing a White House office on civil society partnerships (using whatever name might properly recognize its multiple roles) that would also be part of an early warning system for government officials about issues affecting religion and religious freedom. In addition, we recommend maintaining the 11 agency partnership centers that have already been established in federal agencies via executive orders and suggest that centers be established at the Corporation for National and Community Service (CNCS) and the Environmental Protection Agency (EPA) through an executive order. Based on past experience, Joshua DuBois suggests that heads of agency partnership centers should report to senior agency leadership while also maintaining close contact with the White House partnerships office.

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Indeed, DuBois' former colleague, Michael Wear, points to daily calls between staff of all agency centers and the White House partnerships office and a weekly call between the White House office and the Cabinet secretary as some of the keys to a successful partnerships initiative. Not every White House office is fortunate enough to have team members placed in agencies across the federal government. This gives the partnerships initiative special reach and power.

Using executive orders to establish these offices would help clarify their missions, both inside and outside government, and could make these structures more durable.

Stanley Carlson-Thies, a former Bush White House official, sees the White House office as having responsibility for "coordinating, facilitating, and strengthening the work of the agency centers." Agency centers are well-placed to notify potential partners about opportunities to apply for federal grants and contracts and to form and administer nonfinancial partnerships. CNCS, the federal agency that leads service, volunteering, and grantmaking efforts in the United States, should also be given a leadership role in organizing administration efforts in this sphere. Indeed, at a time of great national need and high levels of unemployment among young people, we hope the next administration will consider a large expansion of service programs that have already shown how effectively they can work with community groups, both secular and religious. Promoting service, strengthening civil society, and providing young people with opportunities are objectives that transcend our ideological divides.

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In our view, the White House partnerships office will be most effective if it is based in the Domestic Policy Council (DPC), as it was during the Obama administration. It has the task of engaging potential partners with government, but it also has programmatic and policy functions that are a better fit for DPC. Those who staffed these issues for both the Bush and Obama administrations agree that such a move would be beneficial in making clear that the office is not a "public relations" arm of the administration, as Kim Colby of the Christian Legal Society put it. Nor, said John Carr, the director of Georgetown University's Initiative on Catholic Social Thought and Public Life, should it be seen as an office of political mobilization.

The heads of the White House and agency offices should be full-time government employees, and they should observe all applicable ethics rules. These offices need multiple staff members throughout the duration of an administration.

Also, as Mike McCurry, White House press secretary in the Clinton years, suggests, the head of the White House partnerships office should have the highest rank—assistant to the president—and participate in senior advisers' meetings. The next administration will immediately face a range of urgent challenges, and faith-based and community organizations will be essential to tackling them.

We emphasize the need for adequate staffing—and offer more suggestions on this topic in the third part of the report—because of a paradox in this area. Some might fairly ask why a government operating under the strong strictures of the First Amendment should want *any* officials dealing with religious matters. The answer is that in a government with substantial reach into a society where religious ideas, individuals, and institutions play such a substantial role, church-state questions will arise often and sometimes urgently. Averting conflict, preventing mistakes, and respecting both religious freedom and church-state separation requires work and attention. Better that the need for this work be recognized in advance by a sufficient number of officials who understand its importance.

Transparency is also essential, and those who might seek to partner effectively with government need to know which doors to knock on. "Let the

American people know what these offices are doing on a regular basis," one former government official said. Administration officials should include updates on this work as part of routine briefings, and staff of these offices should be made available to the press.

The next administration should integrate the White House partnerships office into the Executive Office of the President (EOP), and the centers should be similarly part of their broader agencies' missions. These offices should not be "box-checking exercises," said Kevin Appleby, a former official at the United States Conference of Catholic Bishops. Rather, said Carter White House official Bob Maddox, they should be "a viable component of government."

Making partnerships part of "the work and machinery of government," as one civil servant told us, promotes innovation and policy creativity. This approach, he said, led to two of the Bush administration's most successful partnership projects, the Prisoner Re-Entry Initiative and the Access to Recovery program.

The Urgency of Outreach and Inclusion

There is an irony about an initiative that, in principle at least, is designed to expand the number of voices an administration hears and to include their views and values: In both the Bush and Obama years, representatives of views that were politically out of sync with the administration said they did not always feel welcome at the tables where decisions were made.

One former leader of a religious organization, for example, felt the Obama administration sometimes sent the signal that certain partners were in and others were out based on their policy views. Richard Foltin of the Freedom Forum had a comparable critique of the Bush administration. "While officials met with partners representing a range of policy perspectives," he said, "the administration seemed to have a narrow view of what religious communities want, looking largely to conservative religious communities as the more authentic religious voices."

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It's a teaching of many faiths that human beings are imperfect creatures. And it's a fact of democratic politics that each side is trying to win the next election. Thus, showing a certain preference for friends and allies and a suspicion of political adversaries is hardly shocking. But in the religious area more than in most, it behooves an administration to keep lines of communication broadly open, partly because much work can be done in common even as political differences persist. "The last thing an administration should do is to say some people are in and some people are out because of religion," John Dilulio notes.

The same rule might be usefully applied to the religious and civil society groups themselves: Every political disagreement cannot be turned into the equivalent of a deal-breaking mortal sin. There might be a battle today over the proper definition of religious liberty, but tomorrow, the same government and many of the contending religious groups will find themselves as partners in providing sustenance to refugees, shelters for battered women, and second chances to ex-offenders. Brie Loskota, executive director of the Center for Religion and Civic Culture at the University of Southern California, highlighted the importance of not "shrinking the number of actors in the public square" and thereby "excluding many who have resources, skills and know-how to offer on issues of vital importance, especially to our most unserved communities."

Especially in an area that implicates the deepest convictions of many Americans, it is important that government officials reach out to those who find themselves on the losing side of particular decisions.

And perhaps especially in an area that implicates the deepest convictions of many Americans, it is important that government officials reach out to those who find themselves on the losing side of particular decisions. Russell D. Moore, the president of the Ethics and Religious Liberty Commission of the Southern Baptist Convention, said that such outreach sends a signal of an ongoing desire to work together on other matters while conveying respect and a desire for inclusion. It is part of a set of habits that need cultivation at a polarized moment.

Galen Carey of the National Association of Evangelicals points to another way government officials can form relationships of integrity across religious and ideological divides: They can seek information and advice from religious leaders and not simply summon them to offer support when new programs and policies are rolled out. This approach would do more than just win the respect of stakeholders. It would also help an administration govern better.

Inclusion is not just about ideology, politics, or theology. The voices of current and former beneficiaries of social services have not been given adequate attention in recent years. While the interests of religious organizations were repeatedly highlighted in a recent administration's rulemaking, for example, beneficiaries' religious liberty interests were undermined. Commenting on these proposed rules, Holly Hollman of Baptist Joint Committee for Religious Liberty said: "No one should be forced to pray or attend a worship service to participate in government-funded programs." The Obama administration was not able to forge complete consensus regarding the church-state rules that apply to these partnerships, but it was able to find common ground on some key issues and reduce certain tensions in this area. The next administration should seek to revive this approach.

And if these partnerships are to gain long-term legitimacy in the eyes of their critics, government must also bring those critics to the table. As we have already stressed, the rise in the number of Americans who think of themselves as secular, atheist, agnostic, or simply disconnected from traditional religion makes the quest for civil society partnership more complicated than in either the Bush or Obama years. Similarly, as Guthrie Graves-Fitzsimmons of the Center for American Progress notes, while the LGBTQ community often finds itself battling religious conservatives on same-sex marriage and other

issues, many LGBTQ people—and their allies—are themselves religious. Partnership initiatives must recognize the complexity of human beings and their identities. They should also recognize the vital role women play as leaders across all our religious communities.

The Black church has played a role in struggles for racial justice since the time of slavery, and in our time, Black churches have been at the center of both prophetic witness and extraordinary networks of service provision for the needy. They will continue to be central to partnership efforts—and, as we note later, their voices need to be included far more than they have been when religious liberty issues are debated and decided.

The next administration must also launch fresh efforts to include younger leaders. Pastor Michael McBride of Faith in Action notes that the first encounter many Black people have with government are interactions with police. And Paul Monteiro, former head of AmeriCorps VISTA and the Community Relations Service of the Department of Justice, recalls that when he and traditional community leaders—including pastors and police chiefs—sat down to talk about ways forward in response to protest movements, young people who were leading the protests were often not in the room at all. The energy and viewpoints of the Black Lives Matter movement and its allies must become key components of a new round of collaboration early in the next administration.

This applies to young people more broadly. As Pastor Gabriel Salguero of the National Latino Evangelical Coalition notes, Millennials and members of Generation Z have varied and distinctive perspectives on religion, civil liberties, and democracy itself. The next administration must open lines of communication with emerging as well as traditional community activists—and the engagement must be more than symbolic. "There's frustration with an approach that does not move from conversation to collaboration and real results," said Adam Taylor of Sojourners. And Jenny Yang of World Relief voiced a common and often justified complaint about government: "Meetings and reports are helpful, but they are not end goals."

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Racial justice cannot simply be an add-on to the partnerships initiative; it should, in Joshua DuBois's phrase that we cited in the introduction, be "a focusing lens." The Obama Administration's My Brother's Keeper Initiative, dedicated to young men of color, and the White House Council on Women and Girls, were important initiatives that continue to bear fruit. The next administration should expand work in this area with an eye toward the role of faith-based and civil society groups in promoting police and criminal justice reform and battling racial disparities in health and education.

And in light of attacks on religious pluralism during the last four years, outreach to Bahá'ís, Buddhists, Hindus, Jains, Jews, Muslims, Native Americans, Sikhs, and other non-Christian groups, is critical. So is recognizing their contributions to civil society, says Maggie Siddiqi of the Center for American Progress. This should be coupled with a reinvigoration of interfaith and multifaith initiatives. Examples include the work of Eboo Patel's Interfaith Youth Core and the Know Your Neighbor initiative, led by Gurwin Ahuja.

Such outreach should make every effort to be religiously literate. In the case of Native American communities, for example, the language of spirituality, rather than religion, is a better fit, says Kara Bobroff of NACA Inspired Network Schools.

Building Capacity in Civil Society

Community-serving organizations, including houses of worship, are often the central civil society organizations in marginalized neighborhoods, providing multiple and diverse services to their neighbors. Yet these groups often "find it difficult to raise adequate resources because the surrounding community cannot offer much in private donations," Stanley Carlson-Thies, the Bush White House official, says. Further, these organizations frequently lack capacity to compete successfully for or manage extensive government or private grants. And, "because they offer multitudes of holistic programs to diverse beneficiaries, rather than high-volume siloed programs, these organizations are not good candidates for typical social service and health grants," Carlson-Thies notes.

Government officials have tasks that are sometimes in tension: to act as ombudsmen for potential partners *and* to ensure that recipients meet the requisite standards.

Yet people often turn to these organizations for many different kinds of support and services. Carlson-Thies recommends, therefore, that the next administration, in collaboration with Congress, develop a program for investment in such communities by pairing them with intermediary organizations that can provide extensive capacity-building help and awarding grants for this purpose.

Of course, the First Amendment would apply to any government grants. Religious and nonreligious organizations should be equally eligible for such programs, and the constitutional bar on religious uses of direct taxpayer funding would need to be honored. We believe nondiscrimination rules binding the use of such funds should be respected as well.

Professor Rebecca Sager of Loyola Marymount University offers another caution related to capacity-building initiatives—the danger of both the appearance and, sometimes, the reality that awardees are chosen based on political considerations, not on their track records. We'd stress again that all government awards must be made on merit, not political or religious affiliations. Particular attention must be given to these matters in the context of capacity-building grants.

On the other side of capacity building for civil society groups is training for community groups on the grants process and for government officials overseeing the projects. Government officials have tasks that are sometimes in tension: to act as ombudsmen for potential partners to help them through a complicated process *and* to ensure that recipients meet the requisite standards, including those related to religious liberty and non-establishment. During the Obama years, much work was done in cooperation with diverse leaders to establish rules balancing these two obligations. This work can be built on and refined by the next administration.

Remembering History

All of this serves as a reminder that partnerships with religious groups and other civil society organizations were not the inventions of recent administrations. As we noted in a 2008 report, partnerships between the government and religious organizations in the United States date back at least two centuries. We cited the examples of orphanages and hospitals, some of which had religious roots and ties, that were receiving government help in the early 1800s.

And while President George W. Bush made rallying "the armies of compassion" in civil society, including religious congregations, a signature proposal of his 2000 campaign for president, he was not alone. His opponent, then Vice President Al Gore, made similar pledges.

Both Bush and Gore were building on programs established during President Bill Clinton's administration. In 1994, Secretary of Education Richard Riley began the Partnership for Family Involvement in Education and invited religious organizations to join. In 1997, the Secretary of the Department of Housing and Urban Development (HUD), Andrew Cuomo, established a Center for Community and Interfaith Partnerships within the agency. The center's objectives were to listen to community and religious groups, educate them about the department's activities and resources, and build partnerships with them. Its work was directed by a Roman Catholic priest, the late Rev. Joseph Hacala.

It's true that when Bush established the Office of Faith-Based and Community Initiatives in January 2001, he was the first president to include a bureau in the White House that included the word "faith" in its name. But this involved lifting up an approach that was already enshrined in law through the "charitable choice" provisions of the 1996 Welfare Reform Act sponsored by the late Senator John Ashcroft.

Our hope is that the country might turn again toward greater bipartisanship in this endeavor; learn from mistakes made in both the Bush and Obama years; and adjust the partnership idea to a new and more diverse religious and cultural landscape.

Our hope is that the country might turn again toward greater bipartisanship in this endeavor; learn from mistakes made in both the Bush and Obama years; and adjust the partnership idea to a new and more diverse religious and cultural landscape. The good work done by civil society, including its faith-based component, is all the more important in light of the profound problems the country will be facing in 2021.

Part Two
Faith, Foreign Policy, and Religious Freedom

For many years, much of the United States diplomatic corps frowned on efforts to recognize religion's intersection with foreign policy. Some thought doing so would be unconstitutional, Father Bryan Hehir, a professor at Harvard's Kennedy School, notes, while others thought it simply improper.

During the past four years, some good work has been done by the United States government to promote religious freedom around the world, but the intersection of faith and foreign policy has become increasingly fraught.

Today, however, a foreign policy briefing will usually be recognized as flawed and inadequate if it does not account for religion's impact on the matters under discussion. While there is still controversy over what role religion should play in the spheres of diplomacy and foreign policy, Hehir says, there has been significant movement in this direction, including through the creation of two offices at the State Department: the Office of International Religious Freedom (IRF) (established in 1999) and the Office of Religion and Global Affairs (RGA) (established in 2013).

During the past four years, some good work has been done by the United States government to promote religious freedom around the world, but the intersection of faith and foreign policy has become increasingly fraught. A glaring and growing gap, for example, has opened between the positive steps themselves and a series of statements and actions by President Trump and State Department leadership.

President Trump has taken a selective approach to human rights generally and religious liberty specifically. He has imposed human rights sanctions on countries he disfavors, such as Iran and Venezuela, while largely ignoring human rights abuses by countries he considers friendly, such as Saudi Arabia.

President Trump's criticisms of North Korea's staggering human rights violations stopped when he began to talk to Kim Jong-un about a nuclear deal. And Trump kept China's detention of one million Uighur Muslims out of trade talks entirely. In a subsequent meeting with President Xi Jinping, former National Security Advisor John Bolton wrote, the president "said that Xi should go ahead with building the camps, which Trump thought was exactly the right thing to do." We know that other administrations have had inconsistent records on human and religious liberty rights issues. But the transactional approach of the past four years is nonetheless disturbing, and it often undercut some

helpful statements by the administration about religious liberty.

The administration has decimated the refugee admissions and resettlement programs. It has also proposed rules that would gut protections for asylum seekers.

The State Department's dismantling of the Office of Religion and Global Affairs has "further fuel[ed] the perception that its engagement with religion is driven by domestic partisan and sectarian considerations," said Judd Birdsall, a former State Department official.

The next administration must repair this damage without retreating from the conversation about religion's intersection with foreign policy. The temptation to do so will be enormous. "One of the greatest challenges likely to face the next administration," former Religion and Global Affairs official Peter Mandaville observes, "is the possibility that the highly partisan resonance of religion, religious freedom, and perceived religious activism in the current political environment may give rise to a widespread reluctance on the part of any new administration—and the civil service upon which it relies—to appreciate the ongoing importance of religion and religious actors to advancing U.S. priorities both at home and abroad."

The polarization of the last four years should not be allowed to obscure the benefits—to American foreign policy and to marginalized and suffering people around the world—when government works cooperatively with willing humanitarian groups, both religious and nonreligious. Father Tom Reese, former chair of the U.S. Commission on International Religious Freedom, offered a useful aphorism: While religion is often seen as part of the problem, it is frequently part of the solution. One powerful example of such positive interaction is the creation of the United Nations Sustainable Development Goals. These goals, said Cole Durham, a professor at Brigham Young University, could not have been established—and would be far less likely to be implemented—without the cooperation of religious leaders and their communities.

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From the start, said Katherine Marshall, a professor at Georgetown University, the next administration will be called upon to seek the right balance and to set the right tone: to correct errors and roll back injustices while building bridges and closing divides. This involves recognizing that simply reestablishing offices, reverting to older strategies, and restoring the consensus that has traditionally supported this work is not enough. The next administration must combine restoration where appropriate with transformation.

Recognizing Religion's Role in Foreign Policy and International Development

Recognizing religion's role in foreign policy reflects both the necessity of this work and its constitutionality. As we noted in the introduction, it honors the truth advanced by Ruth Messinger, the former CEO of American Jewish World Service, that so many around the globe "look at life through a religious lens."

This does not involve writing a blank check for any and all interactions between government and religion. It should go without saying but needs to be said: Government must refrain from promoting religion, preferring one faith over another, and taking sides in theological disputes. Upholding principles such as these, basic to an understanding of the First Amendment, does *not* prohibit the government from meeting with leaders of religious communities, forming appropriate partnerships with religious as well as secular groups to serve people in need, and seeking to understand how religion intersects with foreign policy.

Government must refrain from promoting religion, preferring one faith over another, and taking sides in theological disputes.

As Justice William J. Brennan wrote: "Religionists, no less than members of any other group, enjoy the full measure of protection afforded speech, association, and political activity generally." The government can and should engage religious leaders on the same basis it engages leaders of secular organizations.

The government may also educate diplomats about religious facets of the nations and communities in which they work. A good way to think about this is to consider what the United States Supreme Court has said regarding teaching about religion in public schools. The Court has distinguished between academic teaching about religion, which is a proper task for government, and preaching faith, which is not.

We simply cannot understand our nation or our world without understanding religion. To take the most basic of examples, a diplomat who will serve in Iraq must know the difference between Shia and Sunni Muslims. "Religion is a multivalent force, not reducible to good religion and bad religion," former Secretary of State John Kerry observed: Whether religion is a part of a problem or a part of a solution, "we ignore the global impact of religion at our peril."

Reestablish the State Department's Office of Religion and Global Affairs

A diverse group of religious and nonreligious civil society leaders welcomed Kerry's establishment of the State Department's Office of Religion and Global Affairs (RGA) in 2013. The office was the product of years of work, including the efforts of the Religion and Foreign Policy Working Group established as part of former Secretary of State Hillary Clinton's Strategic Dialogue with Civil Society.

This office advised the secretary, the diverse bureaus in the State Department, and other diplomats across the globe on religion's intersection with foreign policy, led diplomatic engagement with religious and belief groups around the world, and coordinated with the heads of other executive branch offices and staff handling religion-related matters. The office, said Shaun Casey, the office's director under Kerry, "served as the portal for anyone who wanted to connect with the department on issues related to religion."

Under Casey's leadership, the office assembled a staff of more than 30 and drew on expertise inside and outside the State Department to help diplomats understand "lived religion, in geographical context." RGA provided support, for example, for the Israeli-Palestinian negotiations; helped with peace efforts in Cyprus, Myanmar, Sri Lanka, and Ethiopia; assisted with the Paris Climate talks; enhanced U.S. refugee resettlement work; supported post-conflict reconstruction in Iraq; promoted LGBTQ rights in parts of the world where criminalization and rising violence were prevalent; and combated anti-Semitism and Islamophobia.

Upon taking office, the Trump administration dismantled RGA, folding its remnants into the Office of International Religious Freedom (IRF) and rebranding it as "Strategic Religious Engagement." We believe this was a mistake.

Folding RGA into the IRF office creates the impression that engaging stakeholders on religion should be regarded "as a subordinate function of religious freedom promotion," Mandaville, the former RGA official, argues. RGA's mission extends to a broad range of U.S. diplomatic and national security equities, whereas IRF has a tighter focus. "The existing IRF office," Judd Birdsall, a former State Department official, says, "with its specific congressional mandate to report on and address violations of religious freedom, was not designed to serve as the Department's hub for engagement on all issues at the intersection of religion and diplomacy."

The Trump administration's approach is also inconsistent with "the fact that religious engagement is a relevant toolkit in many parts of the world where issues of religious freedom are not a focus of U.S. diplomatic engagement," a panel of civil society leaders has emphasized. This includes "countries with excellent religious freedom conditions where religious groups and faith-based organizations play roles in public life and in addressing societal needs."

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In any event, the term "Strategic Religious Engagement" is problematic. "In government parlance, 'strategic' can have a securitized ring to it," Birdsall notes. Especially when coupled with the word "religion," it harkens back to "largely counterproductive 'strategic communications' efforts aimed at Muslim audiences after 9/11," he said. "The phrase 'religious engagement' can also be misconstrued by those unfamiliar with the field to imply that the engagement itself is focused on theological matters or is somehow normatively religious."

Reestablishing an office that is separate from the religious freedom office along the lines of the Office of Religion and Global Affairs is the better approach. Directing the secretary of state to do so via executive order will help ensure that the office's mission is understood and may make the office more durable. As was true during the Obama administration, this

office must be equally open to religious leaders and secular leaders who are interested in religion.

RGA should be led by a Special Representative for Religion and Global Affairs or an official of similar title and rank. This official would be "the American counterpart to a growing number of similarly titled diplomats in Europe," Birdsall says. Austria, Czech Republic, Finland, France, Germany, Lithuania, The Netherlands, Spain, and Sweden are among the countries that have created ambassador-level positions charged with leading their foreign ministry's outreach to religious and inter-religious communities. "In most cases," Birdsall notes, "the mandate of these officials is distinct from the religious freedom portfolio, which is covered by a different official or unit."

People are being held in prisons today in some nations simply because of their faith or beliefs.

In at least two cases, the next administration should reconsider the placement of a special envoy that had been assigned to RGA. RGA was not necessarily the best fit for the Special Envoy to the Organization of Islamic Cooperation (OIC), according to Arsalan Suleman, who formerly held that position. The OIC is a multilateral organization of Muslim-majority countries. It's a political body, like other international organizations, such as the European Union, the African Union, and the Organization of American States, and U.S. engagement with the OIC is principally focused on political issues. "As such," Suleman says, "the OIC-related work falls most directly within the ambit of the Undersecretary for Political Affairs under whom all of the regional bureaus and the international organizations bureau fall." Also, the former Special Envoy to Monitor and Combat Anti-Semitism, Ira Forman, believes this post is best placed within the State Department's Bureau of Democracy, Human Rights and Labor, where the religious freedom office is housed.

Promote Religious Freedom to Protect Human Rights and Advance National Security

People are being held in prisons today in some nations simply because of their faith or beliefs. Certain governments single out members of particular religious communities for persecution and abuse, and some have been subjected to genocide and other crimes against humanity. Many countries threaten citizens with jail time—and even execution—for criticizing an established faith. Because of their religious beliefs and affiliations, individuals are sometimes barred from holding public office and exercising other civil and human rights. Some countries require religious groups to register with the government and get approval for houses of worship and religious materials. In many places around the globe, missionary activities are legally prohibited, as is the wearing of religious clothing or symbols at work or in public schools.

As Knox Thames, the former Special Advisor for Religious Minorities in both the Obama and Trump administration notes, "religious persecution knows no boundaries and impacts every community somewhere, including people who are not religious." In 2019, the Pew Research Center reported that 52 governments around the world either place "high" or "very high" levels of restrictions on religion.

The United States' critics often suggest that our government's efforts to promote religious freedom abroad are not what they claim to be but are an undertaking rife with double standards that can also serve as a Trojan horse for the promotion of Christianity. While we acknowledge that past administrations have sometimes treaded lightly in advocating religious freedom for reasons of *realpolitik*, we would like those who lead U.S. efforts in this area to feel a responsibility to prove the skeptics wrong.

An important step toward doing so involves making the promotion of religious freedom part of a larger human rights agenda. It must not be seen as an effort to thwart the progress of other human rights. While parts of the report of the Commission on Unalienable Rights affirmed widely shared values, other aspects of it raised legitimate concerns. The report suggests, for example, that religious liberty and property rights are the foremost unalienable rights, while it refers to "abortion, affirmative action, and same-sex marriage" as "divisive social and political controversies," and cautions against "[t]he temptation to cloak a contestable political preference in the mantle of human rights …." The religious freedom initiative should be staffed by leaders whose dedication to religious freedom for all is unquestioned, who affirm other human rights, and work cooperatively to promote them.

Promoting freedom of religion and belief abroad is not simply an altruistic task; it is also a national security objective. The world is a safer place when each person's dignity and freedom is respected. Accordingly, promoting this freedom, along with other human rights, should be part of every administration's plan to protect the nation's security.

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The Importance of a Highly Qualified Ambassador at Large for International Religious Freedom

The International Religious Freedom Act (IRFA) calls for the appointment of an Ambassador at Large for International Religious Freedom (AAL). If there is a new administration, it's especially important to begin vetting a potential nominee during the transition period because this is a Senate-confirmed position.

Swiftly nominating a prominent, highly quailfied person to this position helps to demonstrate seriousness about the issue and opens doors to more effective partnerships. An experienced foreign service officer or career civil servant should stand in for the Ambassador at Large while the nominee is awaiting confirmation.

Shaun Casey has suggested that the AAL should be a career diplomat, not a political appointee. "This would help take politics out of religious freedom and allow a president to seat an ambassador quickly and eliminate the inevitable year-long wait each term for a political appointee to be vetted and confirmed by

the Senate," Casey says. (Casey believes that the Special Representative for Religion and Global Affairs should also eventually transition to a career position.) Others disagree. Former Ambassador at Large David Saperstein, who was nominated by President Obama, and Knox Thames, the former Obama and Trump official, believe it would be better to maintain this post as a political one. "This would ensure that the Ambassador at Large position is led by someone with visibility and rank, who can engage at high levels both domestically and abroad," Thames says.

> Naming a prominent person to this position who is highly qualified helps to demonstrate seriousness about the issue and opens doors to more effective partnerships.

For the reasons Saperstein and Thames suggest, a new administration is likely to maintain the religious freedom ambassador's post as a political position. The best response to Casey's concerns would be to nominate an ambassador who is highly engaged in the field with credibility to a wide audience and an understanding of the workings of the State Department.

Coordinate Offices Working on Faith and Foreign Policy

Largely out of public view, there has been some fear that rebuilding the Religion and Global Affairs office would come at the expense of the Office of International Religious Freedom. This would not be "smart politics or smart diplomacy," Birdsall contends. Our view is that the next administration should acknowledge the importance of both offices and coordinate their complementary missions. And both offices need the strong support of the secretary of state, says Rabbi David Saperstein, former Ambassador at Large for International Religious Freedom. The leaders of these offices should participate at regular meetings with the secretary, assistant secretaries, and other top State Department staff.

In Birdsall's view, both the religion and global affairs and religious freedom offices, "should ideally be roughly equal in size, led by comparably senior officials, and institutionally positioned to be well-coordinated." The next administration could send a strong signal about the importance of both—and a desire to reduce unnecessary conflict between them—by announcing its choices for Ambassador at Large and the head of the Office of Religion and Global Affairs at the same time.

These offices, in turn, need to be networked with USAID's Center for Faith-Based and Neighborhood Partnerships—and all of them need to be coordinated with their White House counterparts, including the head of the White House Office of Faith-Based and Neighborhood Partnerships and National Security Council staff.

We noted earlier that issues relating to bureaucracy rarely capture anyone's imagination outside the ranks of those closely involved in the work of the agencies in question. But getting issues related to religion right matters no less in foreign policy than in domestic policy, which means organizing our government in ways that will increase the chances of making progress—and avoiding mistakes. And as in the domestic sphere, transparency matters. This is why Susie Hayward of the United States Institute of Peace is right to say that the various offices working on these questions need to be more visible. They should do more to explain what they do and how they interact by way of making it easier for potential external partners to understand how to work with them.

Include a Religious Freedom Expert Within the Staff of the National Security Council

The National Security Council (NSC) is the president's principal forum for considering national security and foreign policy matters with senior advisers and cabinet officials. The next administration should include an expert on freedom of religion within the staff of the National Security Council. In the International Religious Freedom Act (IRFA) of 1998, Congress expressed its sense that the National Security Council should include such an adviser. "The Special Advisor should serve as a resource for executive branch officials, compiling and maintaining information on the facts and circumstances of violations of religious freedom … and making policy recommendations," the Act says. The adviser should work closely with relevant NSC and State Department staff.

Build Bridges Across Domestic Differences Over Religious Freedom

Religious liberty battles at home often focus on issues such as school vouchers, religious exemptions, and governmental religious displays. International religious freedom advocacy, on the other hand, often involves matters of life and death. Even when religious liberty advocates could not agree on domestic questions, they have, in the past, found ways to come together to promote religious freedom abroad.

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We can differ on school vouchers but surely agree on the urgent need to stop the genocide of Uighur Muslims in China, the persecution of Christians in many parts of the Middle East, the spike in anti-Semitism worldwide, and the persecution of the Rohingya Muslims in Myanmar—and address other egregious religious freedom violations. The next administration should make every effort to work with leaders and groups across the philosophical spectrum to support an end to oppression rooted in religious conflict.

Rebuild the Refugee Admissions and Refugee Resettlement Systems

Refugees are individuals who are fleeing persecution, including persecution for their faith or beliefs. Every year, the president, in consultation with Congress, sets the ceiling for the number of refugees who can be admitted to our country. Once refugees undergo a rigorous series of security checks, they are resettled by nongovernmental groups, including many faith-based groups.

Until a few years ago, the refugee admissions and resettlement programs had been treasured and strengthened by administrations of both parties. Participating in a robust, global system of refugee resettlement has helped the United States to make good on its promise to protect human rights and to ease conflicts around the world. The refugee resettlement program has also long been an excellent example of the fine work government can do in cooperation with faith-based and humanitarian organizations.

Participating in a robust, global system of refugee resettlement has helped the United States to make good on its promise to protect human rights and to ease conflicts around the world.

Since 2017, however, the resettlement program has been dismantled and the ceiling for refugees has been driven to an historic low. Leaders from across the political and religious spectrum have called for the refugee admissions and resettlement programs to be restored. The United States can be both secure *and* compassionate.

Continue Outreach Initiatives to Create Global Alliances

In 2018 and 2019, the State Department hosted two ministerials on religious freedom—high-level meetings that brought together foreign ministers and other leaders from around the world to discuss religious liberty challenges and ways to meet those challenges. Survivors of religious persecution from Muslim, Christian, Jewish, Baha'i, Yezidi, Hindu, Buddhist, and atheist communities addressed these meetings. The second ministerial included a bipartisan discussion between Speaker Nancy Pelosi and Congressman Frank Wolf.

"These events are useful and unique forums to press for greater respect for freedom of religion or belief," Thames says. "U.S. leadership will be critical to ensure these events maintain a focus on religious freedom *for all*, not just a special focus on favored groups." The meetings were a constructive innovation. They should continue, with the secretary of state's ongoing involvement.

The State Department also has created a helpful alliance to bring together countries to advance religious freedom for all. More than 30 members currently belong to this group. The Department should continue this International Religious Freedom Alliance.

The next administration, said Georgetown's Katherine Marshall, should strengthen efforts to ensure that all diplomats are trained on international human rights issues, including religious freedom, and insist that cultural literacy programs be linked to religious literacy. Zeenat Rahman, a former State Department and USAID official, highlights the need for continued work to improve relationships between political appointees and career civil servants on these issues. Another promising practice is the participation of the Ambassador at Large for International Religious Freedom in regular meetings convened by civil society leaders.

Commit to Diversity in Staffing and Outreach

As the Diversity in National Security Network has suggested, the next administration should increase access to national security careers for underrepresented communities, including underrepresented religious, racial, and gender communities. Similar steps are needed regarding governmental posts handling domestic issues.

The next administration should strengthen efforts to ensure that all diplomats are trained on international human rights issues, including religious freedom.

These efforts must also include expanding the role of women. Former Ambassador at Large for International Religious Freedom Suzan Johnson-Cook, for example, developed the Female Faces of Faith initiative with an aim of "integrating female religious actors into U.S. policy and engagement."

Sister Joan Chittister, co-chair of the Global Peace Initiative of Women, also has done pathbreaking work in building peacemaking networks among women, bringing Irish and English women and Muslim and Jewish women together, for example. These networks can motivate others to cross boundaries too. Government officials can learn much from Sister Joan's work.

Part Three
Religious Freedom at Home

Americans have argued about the meaning of religious freedom from the beginning of our republic. More recently, from the 1960s to the 1990s, our debates largely revolved around how to interpret the First Amendment's prohibition against government-established religion. Controversy accompanied Supreme Court decisions prohibiting school-sponsored prayers and Bible readings, certain public displays by government (often around Christmastime) that included religious elements, and the flow of government funding to religious schools. Despite their differences on these questions, religious liberty advocates often stood together when it came to honoring the First Amendment clause protecting free exercise.

We urge the next administration to broaden the discussion about religious freedom.

Around the turn of the century, even the free exercise consensus began breaking down as new issues emerged, particularly around the struggle for LGBTQ equality. When legal protections for LGBTQ people were put in place—by courts, executives, and legislatures—those religiously opposed to marriage between individuals of the same sex asserted rights to exemptions from honoring these protections.

To support their case, they pointed to longstanding religious exemptions from certain nondiscrimination requirements, including gender nondiscrimination requirements that apply to educational programs and activities receiving federal funding.

Other religious freedom advocates rejected this approach, arguing that blanket religious exemptions on LGBTQ discrimination issues were no more justified than blanket religious exemptions would be from protections for individuals against racial discrimination.

This debate, in turn, rekindled older arguments about when religious exemptions or accommodations are invalid under the First Amendment's Establishment Clause because they place inappropriate burdens on third parties, such as LGBTQ individuals or women seeking contraception or abortions.

When the Supreme Court upheld marriage equality, these debates became far more intense. "The polarization on religious freedom issues is worse than anything we've ever seen," Cole Durham notes, "and it continues to trend in a bad direction." University of St. Thomas Law School Professor Tom Berg adds:

"Religious liberty has become an extra engine of polarization when it should be a remedy for polarization."

The next administration will confront many difficult issues in this area, and the following recommendations speak to both the merits of some of the questions themselves and the best process for resolving them. At the same time, we urge the next administration to broaden the discussion about religious freedom in several ways. The most urgent involves protecting religious minorities from hostility and attacks, including deadly violence.

End Policies Reflecting or Motivated by Religious Bias and Protect the Right to Practice Faith without Fear

On Day One, the next administration should rescind executive actions placing indefinite entry restrictions on individuals from certain countries. The next administration should also work with Congress to pass the No Ban Act, which would prevent such restrictions from being imposed by future presidents.

The Attorney General should pledge to make hate crime prevention and prosecution a top priority. Working with Congress to pass the Khalid Jabara-Heather Heyer NO HATE Act will help advance this cause. The NO HATE Act will improve reporting of hate crimes and encourage law enforcement prevention, training, and education on hate crimes. As the Rev. Dr. Otis Moss, a prominent civil rights leader, reminds us, "when one temple is bombed, it sets all houses of worship on fire."

> The president should use his own voice and the power to command national attention on behalf of religious freedom for all and an inclusive nation.

The president should use his own voice and the power to command national attention on behalf of religious freedom for all and an inclusive nation. "There's been a loss of trust between religious minorities and their government," remarked Johnathan Smith who served in the civil rights division of the Justice Department. That trust needs to be restored. The president and other administration officials could advance this goal by visiting diverse religious communities—particularly those that have been under attack.

Church-State Executive Actions Requiring Immediate Review

In October 2017, the Department of Justice (DOJ) published guidance that offered the Department's understanding of key religious liberty provisions, including the First Amendment's religion clauses, and set forth 20 principles for the executive branch to follow. In early 2018, DOJ amended its Justice Manual to provide further instructions on religious liberty for Department attorneys to follow.

In July 2018, then-Attorney General Jeff Sessions announced the creation of a Religious Liberty Task Force to ensure that this guidance is implemented. According to Sessions, DOJ staff must look to the guidance when making decisions about "the cases they bring and defend, the arguments they make in court, the policies and regulations they adopt, and how [the Department] conduct[s] [its] operations."

The guidance and task force, therefore, are defining the current administration's approach to religious liberty and ensuring that that approach is consistent across government. We agree that DOJ should take a vigorous and consistent approach to enforcement of a fundamental right like religious freedom, and we agree with some of the guidance. Other parts of the guidance, however, ignore or distort important legal principles. The 2017 memo's discussion of free exercise issues, for example, dwarfs its treatment of the Constitution's no-establishment command. That's inappropriate since both religion clauses are "co-guarantors" of religious freedom. Likewise, the guidance barely mentions key no-establishment principles including consideration of the burdens that requested accommodations may impose on those who don't benefit from them. And it entirely ignores the constitutional bar on governmental promotion of religion generally. The guidance, therefore, has contributed to a spate of executive actions that undermine rather than uphold religious liberty. The next administration must move quickly to stop certain forms of implementation of this guidance and to correct parts of the guidance itself. As it does so, it must avoid making the opposite mistake—overreaching in the name of no-establishment while ignoring free exercise concerns.

DOJ should begin its review of these materials immediately, with an eye toward publishing revised guidance as early as possible. Once revised, such guidance can serve useful purposes. The administration will have to respond to ongoing litigation over religious exemptions from law and policy and a variety of other church-state matters, for example. That litigation must be carefully handled and coordinated across the executive branch. A task force and guidance can help it do so.

In collaboration with other agencies, the DOJ religious liberty task force should also review a series of executive actions taken during the past four years. For example:

- In August 2019, the Department of Labor (DOL) proposed a major expansion of the religious exemption of the federal contracting order, Executive Order 11246. The rule would allow federal contractors to invoke the exemption so long as they could point to a sincere religious purpose that is a public part of their mission. According to DOL, the rule is to be construed in favor of the broadest possible protections for religious interests.

  If adopted, this rule would greatly expand the types of federal contractors and the kinds of employment decisions that could be shielded from nondiscrimination obligations. To qualify for the exemption, entities would no longer have to be deemed primarily religious, which is a much higher bar. Closely held businesses, some of which are quite large, for example, could invoke the exemption if they meet relevant requirements, and the rule would give exempt entities wide latitude to disregard nondiscrimination obligations.

- The Department of Health and Human Services waived religious nondiscrimination requirements in order to permit government contractors to refuse to work with potential foster parents who

do not share their religious beliefs, allowing an evangelical contractor, for example, to turn away Catholics and Jews, among others.

- Three federal agencies have issued rules permitting even publicly traded businesses to deny their employees (and employee dependents) the cost-free contraception coverage to which they are entitled under federal law, if those businesses cite religious objections to providing this coverage. The rules also exempt nonprofits and closely held for-profit corporations that have moral objections to providing some or all forms of contraception coverage. Under this policy, the government does not ensure that others (such as plan administrators) would extend such coverage to these employees. In other words, these rules could allow the religious or moral objections of business owners to eliminate their employees' entitlement to benefits that help reduce unintended pregnancies and abortions.

- Nine federal agencies have proposed rules that would end religious liberty protections for beneficiaries of federally funded social services and unnecessarily alter longstanding rules that govern federally funded partnerships with faith-based and secular providers.

We offer this list as illustrative of the kinds of executive actions taken since 2017 that should be revisited. The upshot is that the next administration must find a better balance that respects the legitimate interests of all stakeholders.

Clarify the Religious Freedom Restoration Act

Congress passed and President Clinton signed the Religious Freedom Restoration Act (RFRA) in 1993 to respond the Supreme Court's ruling in *Employment Division v. Smith*. In that 1990 decision, a Court majority reduced the level of protection afforded to the free exercise of religion under the First Amendment. With RFRA, Congress sought to restore the compelling interest test the Supreme Court had used prior to the *Smith* decision. That test requires the government to justify the substantial burdens it places on religious exercise with narrowly tailored compelling interests. If the federal government cannot meet these requirements, the religious claimant must be accommodated. Congress intended to restore that test as used in pre-*Smith* jurisprudence, not invent a new test that departed from precedent. Yet the Act has not always been interpreted in a manner that's faithful to the statute's text and history.

RFRA needs to be clarified in several respects. First, the government should defer to religious claimants on religious questions but not on purely legal questions. Second, the government generally does not substantially burden religion when it requires government contractors and grantees to comply with neutral and generally applicable nondiscrimination obligations regarding the use of government-provided funds. Third, when an exemption or accommodation would harm the interests of third parties—individuals who do not benefit from a religious exemption or accommodation—that harm must be taken seriously in the RFRA balancing test. And fourth, the compelling interest and least restrictive means tests must be read in light of pre-*Smith* precedent, not divorced from such precedent.

When Congress passed RFRA, it noted that "the compelling interest test as set forth in prior Federal court rulings is a workable test for striking sensible balances between religious liberty and competing prior governmental interests." Clarifications such as these are needed to make good on that understanding.

Work with Congress to Promote Federal Protections for LGBTQ Equality and Religious Liberty

With its decision in *Bostock v. Clayton County*, the Supreme Court settled an important civil rights issue: Title VII of the 1964 Civil Rights Act's prohibition on sex discrimination in employment includes discrimination on the basis of sexual orientation or gender identity. The Court did not settle, however, other important issues in this area.

The Supreme Court noted, for example, that the case did not involve any free exercise claims for exemptions from this prohibition, and thus the decision did not speak to those issues. While litigation is inevitable, the country would be well served if Congress didn't leave all these issues to the courts.

The next administration should work with Congress to pass legislation that will promote LGBTQ equality and resolve the religious exemption issues.

The next administration should work with Congress to pass legislation that will promote LGBTQ equality and resolve the religious exemption issues. Two pieces of pending legislation—the Equality Act and the Fairness For All Act—would handle the matter of religious exemptions in strikingly different ways. The next administration should engage supporters of both bills to explore if differences between them might be narrowed.

In these discussions, the administration should acknowledge that, at times, there are conflicts between the religious beliefs and practices of some and the equality of others. As former Equal Employment Opportunity Commissioner, Chai Feldblum, notes, it does not help to act as if these conflicts don't exist. These conflicts must be resolved so that human rights can coexist, and resolution of these matters will sometimes depend on the context in which they arise.

Both of us strongly support LGBTQ rights, including marriage equality. We identify with the deep frustration of many advocates of same-sex marriage who note that some on the other side sought compromise only after they were forced to do so by Court decisions and a sharp shift in public opinion. At the same time, we support a legislative solution that seeks at least some common ground on these issues. Doing so could also guard against future setbacks for LGBTQ rights in a more conservative judicial environment.

As government does this work, it should not make the mistake of describing debates in this area as ones between "religious people" and "LGBTQ people," "religious rights" and "LGBTQ rights," or between "religious liberty advocates" and "LGBTQ advocates," Guthrie Graves-Fitzsimmons of the Center for American Progress says. Many LGBTQ people, not to mention their allies, are religious. And these issues are a matter of debate among religious liberty advocates as well.

Easing Conflict Over COVID-19 Restrictions

During the COVID-19 crisis, many government officials have rightly restricted large indoor gatherings where people are in close proximity to one another for long periods of time, whether in casinos, bars, restaurants, sports events, theaters, lectures—or houses of worship. Comparable steps may be necessary for some time.

But government officials who include religious gatherings in a category of "nonessential" activities aroused understandable ire within many religious communities. The next administration should encourage state and local officials to acknowledge that, for people of faith, worship and other religious gatherings are absolutely essential, as John Inazu of Washington University notes.

The COVID-19 crisis requires difficult measures. But seeming to render a value judgment about religion itself, even unintentionally, is a mistake, and needlessly alienating people of faith does not advance public health. Many religious leaders have shown enormous leadership in keeping their congregations and communities safe. They have shut down in-person, indoor services for long periods, while creating other worship opportunities online, outdoors, and in small groups. Clergy and other religious leaders have also helped maintain a sense of community during the pandemic, reorganized their congregations to find new ways to provide desperately needed social services to a growing number of their neighbors, and extended essential pastoral care, especially to the many who are sick and grieving the loss of loved ones.

The COVID-19 crisis requires difficult measures. But seeming to render a value judgment about religion itself, even unintentionally, is a mistake.

Affirm a Robust Role for Religion in the Public Square

The Clinton administration produced a statement highlighting the many ways students could exercise their religion and express their faith at public schools under current law. President Clinton rolled out the statement with a speech emphasizing that public schools were not "religion-free zones." Clinton also tipped his hat to the civil society effort that prompted the White House to act—a group of lawyers who often couldn't agree on what the law in this area *should be*, but were able to agree in many cases on what current law *was*. Clinton said, "This is a subject that could have easily divided the men and women that came together to discuss it, but they moved beyond their differences and that may be as important as the specific document they produced." The Department of Education sent the statement to every school district in the country.

A 2010 consensus document, *Religious Expression in American Public Life: A Joint Statement of Current Law* followed this model. The statement highlights many ways in which Americans can express and exercise their faith in the public square more generally.

The next administration should help Americans better understand the right to religious expression and free exercise, former acting Solicitor General

Walter Dellinger says. The Court was correct, he notes, when it said that there is a "crucial difference between *government* speech endorsing religion, which the Establishment Clause forbids, and *private* speech endorsing religion, which the Free Speech and Free Exercise Clauses protect."

One way to accomplish this educational aim would be to share consensus statements like these. As President Obama has said, we make a mistake when "we discuss religion only in the negative sense of where or how it should not be practiced …."

The next administration should help Americans better understand the right to religious expression and free exercise.

Beware of Selectivity in Free Exercise Matters

Every administration needs to give its staff the charge of ensuring that there is no selectivity in free exercise matters. Free exercise (and RFRA) claims must be evaluated on their merits, not based on whether the administration is sympathetic to the religion of the claimant or whether it agrees with the underlying policy that prompted the claimant's request for an exemption or accommodation. Judgments on exemptions should not be based on partisan or ideological preferences. The next administration should insist on free exercise standards that can be applied consistently.

Government Can't Take Sides in Theological Debates

As citizens, we all have the right to take sides in debates over theological matters. But in their official roles, those who work for government do not.

Consider the debate over religious exemptions from rules prohibiting discrimination on the basis of sexual orientation or gender identity. One side might assert that they have religious objections, often rooted in scripture, to aspects of these non-discrimination requirements. Those who disagree might cite different passages from the same scriptures—or their own religious motivations—for supporting LGBTQ rights.

These are legitimate arguments among citizens and within religious traditions. But government should have no role in adjudicating them. If the First Amendment means anything, it means that there should be no such thing as a government theology. As the Supreme Court has said, government officials are not "arbiters of scriptural interpretation." Governmental decisions about religious exemptions must thus be made without taking sides on theological questions.

Seek Evaluation of the Conscience and Religious Freedom Division of Health and Human Service's Office of Civil Rights

In 2018, the Department of Health and Human Services (HHS) established a "Conscience and Religious Freedom Division" within its Office of Civil Rights (OCR). The work of this office has triggered much controversy. The next administration should immediately launch a review of this division to evaluate the need for this office and its effectiveness. It is critical that HHS generally and OCR specifically uphold all Americans' civil rights, including the equality of LGBTQ people and religious freedom for people of all faiths and none.

Include Church-State Experts in Administration Leadership

As former White House Chief of Staff Denis McDonough has said, governmental decisionmakers must understand the church-state aspects of issues just as they must understand every other relevant aspect of law and policy. To make sure that happens, the next administration must have the right staff in the right places. Cecilia Muñoz, a former head of the Domestic Policy Council, explains that it does no good to have a "czar" on certain issues unless that person is at the table when those issues are being decided and people listen to them.

Especially because the president serves all Americans and many church-state issues are both sensitive and contested, staff must also have a track record of listening to people on different sides, as legal scholars Tom Berg and Douglas Laycock note. In this and other respects, Nathan Diament of the Union of Orthodox Jewish Congregations of America says, the adage that "personnel is policy" certainly rings true.

A person with expertise on religion and law should be appointed to the White House Counsel's Office, and such persons (including scholars) should serve throughout the administration. During the Clinton administration, Elena Kagan (now a Supreme Court Justice) and William P. Marshall were among those who filled this role.

White House Counsel's Office staff typically offer opinions on what the law requires, permits, and prohibits, leaving policy judgments to others, including the Domestic Policy Council (DPC). The next administration, therefore, should also appoint a church-state policy expert to DPC staff. As Muñoz notes, these are issues that the "average policy nerd" would miss. This staff person can serve as a "catcher's mitt" for these issues as they arise across domestic policy, Muñoz says. Like other DPC staff, this person would also suggest new policies that would advance the president's agenda.

Because the president serves all Americans and many church-state issues are both sensitive and contested, staff must also have a track record of listening to people on different sides.

Former Department of Justice officials advise that several offices within the Department, including the Office of Legal Counsel, Office of Solicitor General, Office of the Deputy Attorney General and the Civil Rights Division, should include senior staff who are knowledgeable about church-state issues and prepared to analyze and address them.

> If the First Amendment means anything, it means that there should be no such thing as a government theology.

Other federal agencies also need experienced staff in legal and policy components. Both political appointees and career civil servants should handle these issues. The leadership of longtime career civil servants within the Department of Justice's Civil Rights Division who are expert in this area has helped make enforcement of the Religious Land Use and Institutionalized Persons Act relatively consistent across administrations of both political parties, for example.

The Office of Information and Regulatory Affairs (OIRA), a division of the Office of Management and Budget (OMB), should help coordinate an administration's work on church-state issues. OIRA describes itself as "the repository of expertise concerning regulatory issues," and staff there regularly review, and coordinate the review of, proposed regulations and other executive actions. The next administration should ensure that certain OIRA staff are charged with collecting and reviewing issues that have church-state angles and ensuring that the relevant teams at the agencies and the White House review them as well. Because church-state issues regularly arise across the federal government, OIRA can play a particularly important role in ensuring that the administration's approach to these issues is coherent and consistent.

The next administration should fill open slots early, if only on an acting basis, Elliot Mincberg of People for the American Way says. And "the White House has to set the tone," Marshall, the former Clinton White House official, emphasizes. "It must signal to the agencies that these issues are important and put the right staff in place to handle them."

End "#religiousfreedomsowhite"

Discussions about religious freedom often entirely omit the fact that the same Constitution that contains majestic guarantees of religious liberty also initially sought to blot out the humanity of a large group of Americans who were enslaved and denied Black Americans the opportunity to practice their faiths. These discussions also frequently ignore the fact that government officials brutally forced thousands of Native Americans from their lands, which took an enormous human toll. Acts of governmental discrimination and injustice against Native Americans and Indian tribes remain a moral challenge.

There are also other historical reasons why conversations about religious liberty are often largely confined to white people, including the use in the 1970s and 1980s of religious liberty claims to defend schools that were established largely to get around federal school integration orders.

Professor Corey Walker of Wake Forest University calls this phenomenon "#religiousfreedomsowhite," a play on the #OscarsSoWhite hashtag.

The next administration can help push back against this. A project, Religious Freedom: African-American Perspectives, headed by Dr. Sabrina Dent and the Freedom Forum offers helpful resources on this topic. As Bishop Yvette Flunder reminds us, the United States must have "no state religion and no master race."

Ask Americans to Listen to One Another and Lead by Example

Even the words "religious freedom" have become toxic in recent years, meaning that they shut down conversations at least as often as they open them up. The next administration can't solve this problem by itself, but it can and should take steps to encourage Americans to talk and listen to one another on these questions.

As William Marshall has suggested, one way to do so is to organize listening sessions during the transition period about specific matters the administration will need to resolve. This will help to send the signal that the campaign is over and governing has begun.

Conclusion

Religion's role in American public life will be a matter of debate, dialogue, and disagreement for as long as we remain a free and democratic republic. Americans have been arguing with each other over the merits of particular faiths, the existence of God, and the meaning of their scriptures from the inception of our nation. They have also engaged each other over the merits of religion itself—whether it is primarily a force for progress or regression, whether it is more unifying or divisive.

It's something worth remembering at a particularly polarized time. This generation neither invented divisions over religion nor will it end them. The virtue of our First Amendment is that it accepts and even celebrates this. It is a charter for a people who understand that building a thriving democracy requires citizens to accept the deep differences they might have with each other and to respect the dignity of those whose views of existence and reality themselves may clash with their own. Living with pluralism does not mean diminishing the importance of faith, but it does mean that citizens must be free from government-backed religion.

The First Amendment might be said to be a celebration of humility. It is the humility the philosopher Glenn Tinder was describing when he called on us to acknowledge our need both to give and receive help on the road to truth. It is the intellectual modesty embodied in Reinhold Niebuhr's injunction that we would all do well to acknowledge the truth in our opponent's error, and the error in our own truth.

Our government's approach to issues related to religion are most likely to encourage freedom, a degree of harmony and an ability to work together when citizens look to the state with this sort of humility. We can and should expect our government to protect the free exercise of faith and to refrain from establishing religion. But we must accept that interpreting these guarantees and understanding how they interact is challenging in theory and can be immensely difficult in practice.

We have offered this report based on our own best understanding of how the balance between free exercise and non-establishment should be struck, and how government can partner with civil society groups, including faith-based organizations, without entangling itself in the promotion of any faith, or religious belief. We have tried to do so with an open spirit and with great respect for those with whom we consulted, many of whom disagree with us on at least some questions—and also, in many cases, disagree with each other. Especially after the ferocious divisiveness of the last four years, we need to consider that starting off by accepting the good will on the part of those with whom we disagree would make for better debates and help us reach

more optimal solutions. Those that touch on religion cry out for that spirit. But people on each side must make themselves worthy of such trust.

We have said a great deal about how the next administration should structure itself to deal with questions touching on religion. As we noted earlier, we have done so not because we seek to build religious bureaucracies so deeply alien to our traditions. Rather, we think it important that agencies across our government acknowledge that balancing legitimate interests in the religious sphere can be complicated and vexing. Officials of good will can make decisions that impinge upon religion without even realizing that they are doing so. Controversies arise that might have been avoided if church-state issues had been addressed at the outset. The temptation that Ruth Messinger described in relation to questions involving religion—"We'll get to those issues later"—should be resisted because later is often too late. It is in the nature of human beings that those who believe their interests were ignored at the outset are likely to be less accommodating toward the interests of others as conflicts are allowed to fester.

The words "religious liberty" should again become an aspiration that transcends ideology and party. Some on the right have been too ready to upset what we see as the careful balances that the First Amendment requires. Some on the left are too quick to oppose religious accommodations even when they safeguard rights and protect interests on all sides. Without denying that politics can be a hard business and that concord is easier to talk about than to achieve, we'd like to think that a measure of openness on both sides might help us find new ways to respect the rights of all of us.

While we see real dangers to both religion itself and our form of government from too much entanglement between religion and government, we have also seen throughout our lives the enormous amount of work carried out by institutions inspired by faith. This work includes prophetic witness against injustice as well as charitable work on behalf of the excluded, the poor, immigrants, refugees, the homeless, and the abandoned. We think the experiences of the Bush and Obama administrations suggest that government may partner with civil society groups, including those that are faith-based, in ways that are constitutional and respectful of the rights of the growing number of Americans who are not religious. We also believe that a new round of partnerships can learn from mistakes made in the Bush years (we wrote a report together 12 years ago to address them) but also in the Obama years. We have tried to reflect on some of these lessons here.

The United States' national motto *E Pluribus Unum*—out of many, one—remains a sure guide for a pluralistic nation.

Paul Horwitz of the University of Alabama Law School draws on France's national motto to suggest that our heated debates pitting liberty against equality might be enriched and perhaps calmed a bit if we didn't forget about fraternity—community.

And the United States' national motto *E Pluribus Unum*—out of many, one—remains a sure guide for a pluralistic nation that respects both particularity and common purpose. It reminds us that the first word of our Constitution is "We," and that every generation is called upon to take up the struggle to make the Constitution's "We" genuinely inclusive of every American.

Executive Summary

Our nation is more divided than it has to be. It is both possible and urgent to reduce polarization, division, and the tensions they create. Religion defines only one dimension of our coming apart, but it is the source of some of our deepest divisions.

A president cannot instantly alter the underlying forces of division but he (and, someday, she) can acknowledge that the weaponization of faith for political purposes is dangerous to the nation's long-term stability; give fellow citizens across religious traditions and religious divides evidence that their views and concerns are being taken into account, even when their policy preferences are not enacted into law; and take seriously the powerful contributions that religious groups make to problem solving and community-building as part of the United States' vibrant civil society—while also honoring work done in this sphere by secular and resolutely nonreligious institutions working on behalf of charity and justice.

It is a time to defend the American idea of pluralism that has been under attack for the past four years, and to insist that no matter how individuals worship or how they identify religiously, "they will count as full and equal American citizens," as Justice Elena Kagan has said. As we noted at the outset, our country must make a new start on issues related to religion.

It is a time to defend the American idea of pluralism that has been under attack for the past four years, and to insist that no matter how individuals worship or how they identify religiously, "they will count as full and equal American citizens," as Justice Elena Kagan has said. Our country must make a new start on issues related to religion.

We're aware that these matters will be down the list of immediate concerns for those involved in a presidential transition. Yet questions related to religion are often embedded in urgent issues such as public health and education. An administration must organize itself, from the beginning, to deal with church-state questions effectively and fairly. They need to be surfaced and addressed. Mishandling church-state issues (often because they have been overlooked) can be terribly damaging, both to religious freedom and to a president's other projects. You might say that even when public officials are not particularly interested in religion, religion will find a way to be interested in them.

Thus we offer proposals on policy but also provide considerable detail on how the White House itself and different agencies of government might be structured to deal with issues related to religion. "Bureaucracy" is often used as a negative word, but how an entity—public or private—arranges its various offices and functions can determine how successful it is, and whether certain issues are buried or brought to the forefront.

Beyond our specific ideas, we hope to spark a better, more inclusive and less fractious conversation around these questions. And while we touch on many of the issues at stake, we know there is a long list of potential flash points that we could not explore in a report of this length. Our aspiration is that this effort might be seen as an invitation to dialogue among those who might disagree with some our suggestions—and also with each other. Such a conversation could open with Martin Luther King, Jr.'s observation that the church "is not to be the master or the servant of the state, but the conscience of the state." What King said applies to all religious traditions. We offer this report in an effort to restore and advance the American tradition of pluralism and to call on all of us to honor each other's dignity.

Our report is divided into three parts. What follow are major recommendations within each section:

A Time to Build: Relaunch and Refocus the Partnerships Initiative

1. The next administration should relaunch partnerships with nongovernmental organizations, both faith-based and secular, that played an important role in both the George W. Bush and Obama years. When it takes office, the next administration will confront a pandemic, the scourge of systemic racism, a deep economic recession, and a dangerously warming planet. At the outset, the president should recognize the work of community-serving leaders and organizations, both religious and nonreligious—and seek their help to move forward.

2. The aim of a partnerships initiative must be clear. The *mission* of the initiative is serving people in need. Working with religious and secular organizations is the *means* to achieve that mission. The mission should not be promoting faith—that is the job of religious institutions and individuals. No religion should be preferred over others, and nonreligious communities, including intentionally secular groups, must be equally eligible for partnerships. Nonfinancial partnerships with government are as important as financial partnerships.

3. We recommend reestablishing a White House office on civil society, including faith-based, partnerships that would also be part of an early warning system for government officials about issues affecting religion and religious freedom. The White House partnerships office will be most effective if it is based in the Domestic Policy Council. The head of the office should have the highest rank—assistant to the president.

4. We also recommend maintaining the 11 agency partnership centers that have already been established in federal agencies via executive orders, and suggest that centers be established at the Corporation for National and Community Service (CNCS) and the Environmental Protection Agency (EPA) through an executive order. Both the White House and agency offices must be adequately staffed throughout the administration and effectively integrated into the Executive Office of the President and their wider agencies, respectively.

5. The next administration should work with Congress to explore the possibility of crafting capacity-building programs for community-serving organizations that are consistent with the First Amendment. Strengthened training programs are also needed for both community groups and government officials on understanding the church-state principles that apply to partnerships.

6. In light of the racial disparities the COVID-19 crisis has revealed, one focal point for partnerships should involve addressing such inequities across a wide variety of fields, including health, education, economic opportunity, and criminal justice. An effort to remedy the nation's racial injustices may provide a path for healing some of our divisions around religion even as the quest for racial justice might also bring home the ways in which religious bodies themselves have been complicit in racism and discrimination.

7. The Obama administration was not able to forge complete consensus regarding the church-state rules that apply to these partnerships, but it was able to find common ground on some key issues and reduce certain tensions in this area. The next administration should seek to revive this approach.

8. Outreach and inclusion across the lines of age, race, ethnicity, gender, religious tradition, ideology, and party is essential if these initiatives are to be unifying and durable. Engagement must by more than symbolic—it must lead to collaboration and results for vulnerable communities.

Faith, Foreign Policy, and Religious Freedom

1. Recognizing religion's role in foreign policy and international development reflects both the necessity of this work and its constitutionality. We cannot understand our nation or world without understanding religion. Statecraft must recognize that fact. Doing so is not unconstitutional.

2. To this end, the president should direct the secretary of state to reestablish the Department's Office of Religion and Global Affairs. It should be led by a Special Representative for Religion and Global Affairs or an official of similar title and rank.

3. Promoting freedom of religion and belief abroad is not simply an altruistic task; it is also a national security objective. Advancing religious freedom should be part of larger human rights agenda.

4. If there is a new president, he should nominate the Ambassador at Large for International Religious Freedom early on, and the post should be filled by someone highly engaged in the field with credibility to a wide audience and an understanding of the workings of the State Department. The Department's annual ministerials on religious freedom were a useful innovation that should continue.

5. Announcing its choices for Ambassador at Large and the head of the Office of Religion and Global Affairs at the same time would send a strong signal about the importance of both posts. The complementary missions of their offices—and that of USAID's partnerships office—should be closely coordinated.

6. The next administration should include an expert on freedom of religion within the staff of the National Security Council.

7. Rebuilding the refugee admissions and refugee resettlement systems must be a top priority.

8. The next administration should strengthen efforts to ensure that all diplomats are trained on international human rights issues, including religious freedom, and that cultural literacy programs be linked to religious literacy.

9. The next administration should increase access to careers for underrepresented communities, including underrepresented religious, racial, and gender communities.

Religious Freedom at Home

1. End policies reflecting or motivated by religious bias and protect the right to practice faith without fear. The next administration must restore trust between the government and religious minorities.

2. The Department of Justice should promptly review and revise its religious liberty guidance. The Department should also review a series of executive actions of recent years that failed to adequately balance the legitimate interests of all stakeholders.

3. The Religious Freedom Restoration Act (RFRA) was intended to restore the compelling interest test as used in pre-1990 Supreme Court jurisprudence, not invent a new test that departed from precedent. Clarify RFRA to make good on that understanding.

4. Work with Congress to promote federal protections for LGBTQ equality and religious liberty. Two pieces of pending legislation would handle the matter of religious exemptions in strikingly different ways. The next administration should engage supporters of both bills to explore if differences between them might be narrowed.

5. Avoid needless conflict while fighting COVID-19 by refraining from deeming some gatherings, including religious gatherings, as "nonessential." In terms of public health restrictions, treat comparable gatherings the same way.

6. Affirm a robust role for religion in the public square and help Americans better understand their rights in this area by highlighting consensus statements about church-state law. Distinguish between *government* speech endorsing religion, which the Establishment Clause forbids, and *nongovernmental* speech endorsing religion, which the Free Speech and Free Exercise Clauses protect.

7. Beware of selectivity in free exercise matters. Remember that the government can't take sides in theological debates.Review the effectiveness of the Conscience and Religious Freedom Division of the Department of Health and Human Service's Office of Civil Rights and whether it is needed.

8. Include church-state experts in administration leadership. An expert on religion and law should be appointed to the White House Counsel's Office. The Domestic Policy Council should also include a staff member with deep knowledge of these issues as should several offices within the Justice Department and other agencies. The Office of Information and Regulatory Affairs (OIRA), a division of the Office of Management and Budget, should help coordinate an administration's cross-cutting work on church-state issues.

9. End #religiousfreedomsowhite—recognize that religious freedom discussions too often exclude Black Americans, Latinos, Native Americans, and other communities of color.

10. Even the words "religious freedom" have become toxic in recent years, meaning they shut down conversations at least as often as they open them up. The next administration can't solve this problem by itself, but it can take steps to encourage Americans to talk and listen to one another on these questions. During the transition period, the next administration should hold listening sessions about specific church-state matters it will need to resolve.

The United States' motto *E Pluribus Unum*—out of many, one—remains a sure guide for a pluralistic nation that respects both particularity and common purpose. It reminds us that the first word of our Constitution is "We," and that every generation is called upon to take up the struggle to make the Constitution's "We" genuinely inclusive of every American.

Acknowledgements

In 2008, at the outset of a new administration, we made a series of recommendations on government partnerships with faith-based and secular organizations to serve people in need. The report was intended to assist the incoming administration—it turned out to be President Barack Obama's—as it navigated issues related to religious freedom and social services.

Now, in 2020, we revisit those issues, offering a broader set of recommendations about religion's intersection with law, public policy, and partnerships in both the domestic and international spheres.

Our 2008 report, as well as Melissa Rogers' *Faith in American Public Life* (Baylor University Press, 2019) helped inform parts of this report.

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This report would not have been possible without the generous contributions of many friends and colleagues, whose keen insights and deep experience helped to guide our conclusions. **They do not endorse the report—indeed, some will no doubt disagree with different parts of it, and none is responsible for our conclusions.** But we are very grateful that knowledgeable people with diverse views shared their thoughts and criticisms in good faith. It made us more hopeful that some common ground might be found on the issues we discuss here. They helped shape our thinking and expanded our understanding. Their affiliations are listed for identification purposes only. A few of those with whom we consulted asked not to be named. We thank them, too.

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Mary Ellen Giess, Interfaith Youth Core

Arielle Gingold, Bend the Arc: Jewish Action

Rev. Brenda Girton-Mitchell, Grace and Race Ministries, Inc

Guthrie Graves-Fitzsimmons, Center for American Progress

Brian J. Grim, Ph.D., Religious Freedom & Business Foundation

Rev. Dr. Derrick Harkins, Former Pastor, Nineteenth Street Baptist Church

Charles C. Haynes, Religious Freedom Center of the Freedom Forum

Susie Hayward, United States Institute of Peace

Father Bryan Hehir, Harvard Kennedy School

Holly Hollman, Baptist Joint Committee for Religious Liberty

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John Inazu, Washington University in St. Louis

Greg Jao, InterVarsity Christian Fellowship/USA

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Suzan Johnson-Cook, Former US Ambassador at Large for International Religious Freedom, the Obama Administration

Wendy Kaminer, Secular Coalition of America

Woody Kaplan, Civil Liberties List

Sister Carol Keehan, Former President and CEO of the Catholic Health Association

Alexia Kelley, Foundations and Donors Interested in Catholic Activities (FADICA)

Douglas L. Koopman, Calvin University

Tom Krattenmaker, Formerly with the Yale Humanist Community

Doug Laycock, University of Virginia School of Law

Sarah Levin, Secular Strategies

Brie Loskota, Center for Religion and Civic Culture, University of Southern California

Rev. Bob Maddox, Former speech-writer and religious liaison for President Jimmy Carter

Peter Mandaville, Schar School of Policy and Government, George Mason University

Robin Maril, Human Rights Campaign

Sister Donna Markham, Catholic Charities USA

Katherine Marshall, Berkley Center for Religion, Peace, and World Affairs, Georgetown University

William P. Marshall, University of North Carolina

Rev. Dr. George A. Mason, Wilshire Baptist Church

Rev. Michael McBride, Faith in Action's LIVE FREE Project

Mike McCurry, Center for Public Theology, Wesley Theological Seminary

Denis McDonough, Chief of Staff to President Obama (2013–2017)

Rev. Brian McLaren, Center for Action and Contemplation

Ruth Messinger, American Jewish World Service

Elliot Mincberg, People for the American Way

Joshua L. Mogil, WilmerHale

Rabbi Jack Moline, Interfaith Alliance

Paul Monteiro, Former White House Office of Public Engagement; Former National Director, AmeriCorps VISTA

Russell Moore, The Ethics & Religious Liberty Commission of the Southern Baptist Convention

Rev. Dr. Otis Moss, Jr., Olivet Institutional Baptist Church

Cecilia Muñoz, Public Interest Technology and Local Initiatives, New America

David L. Myers, David L Myers Consulting, LLC

David Newman, Former Special Assistant to the President and Associate White House Counsel to President Obama

Matt Nosanchuk, Former White House Liaison to the American Jewish Community

Jim Oleske, Lewis & Clark Law School

Ted Olsen, Christianity Today

Eboo Patel, Interfaith Youth Core

Rabbi Jonah Pesner, Religious Action Center

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Steve Pomper, Former NSC Senior Director for Multilateral Affairs and Human Rights

Jody Rabhan, National Council of Jewish Women

Zeenat Rahman, Inclusive America Project, The Aspen Institute

Thomas J. Reese, Religion News Service

Bob Roberts, Glocalnet

Rebecca Sager, Loyola Marymount University

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Rabbi David Saperstein, The Religious Action Center of Reform Judaism

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Maggie Siddiqi, Center for American Progress

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Sally Steenland

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Knox Thames, Former State Department Special Advisor for Religious Minorities in the Obama and Trump administrations

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