

## Safeguarding the Sacred Sector During the COVID-19 Health Crisis

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### Abstract

*A unique public health crisis requires compassion, care, and resilience from all sectors of society. Religious communities have sprung into action, sustaining social ties in a time of social distance and caring for those most at risk of homelessness, food insecurity, and isolation. These same religious communities and faith-based institutions will need support now and as the crisis persists. As Congress and the Administration undertakes emergency measures, it should take care to safeguard the sacred sector, attending to both faith-based organizations and their employees. CPJ recommends all emergency policies do the following:*

- ***Empower faith-based organizations to contribute to the social safety net while preserving their religious freedom***, enabling funds to flow to faith-based organizations without restrictions that limit their religious freedom.
- ***Mitigate expected economic hardship for faith-based organizations as well as their employees*** by rapidly reimbursing employers for mandated sick and family leave payments. The unemployment insurance safety net should be expanded so that groups excluded from coverage - clergy, employees of religious organizations as well as gig-economy and contingent workers - are included.
- ***Incentivize charitable giving in this time of economic and social crisis.*** Congress should enact a universal charitable deduction that gives a deduction on taxes owed to all taxpayers who contribute to the charitable sector.

*The COVID-19 crisis presents our nation with not a sprint, but a marathon. Public policy responses must respond to urgent needs while protecting those institutions -- including religious communities, faith-based charities, and the family -- that help keep our society strong.*

The COVID-19 virus and associated steps needed to contain its spread will strain every institution in American society and has likely already pushed our economy into a recession. Both the health impact of the virus and the measures needed to slow its spread and save lives will slow down commerce. By one estimate, [3.5 million Americans could lose their jobs](#) in a pandemic-propelled recession. Job loss, in turn, means economic hardship for many households, including those with children.

Facing a unique public health crisis, proponents of fiscal discipline and public spending alike have emphasized the [need for financial stimulus](#) to sustain the economy. The social safety net needs to be both adapted and fortified as schools and other congregate sites close and small businesses and employees lose income. As of March 19th, 2020, Congress has passed and the President has signed an [\\$8.3 billion emergency package](#) to boost vaccine development and fund rapid response as well as a second emergency bill, the [Families First Coronavirus Response Act](#). Additional emergency pieces of legislation are under consideration.

**Each emergency measure, intended to be broadly supportive of employees, people needing help, and governmental and private organizations, may have particular consequences for faith-based organizations, those who work for these organizations, and the communities they serve.** We identify several principles and potential challenges in crafting policies in ways that respond forthrightly to the twin health and economic crises and that harmonize with and strengthen civil society and charitable safety nets while preserving institutional religious freedom.

**1. Response policies should empower faith-based organizations to contribute to the social safety net while preserving their religious freedom.**

Faith-based schools, childcare centers, homeless shelters, health clinics, substance abuse treatment programs and meal programs are all on the front lines of caring for neighbors and addressing human needs. Almost all houses of worship offer some or many services to their local communities, and some of these sacred places are major sites and sources of community services. Emergency aid will need to flow through these institutions to provide essential goods and services to people in need. Any form of aid should be designed so as to avoid religious freedom-limiting provisions, now and in the future.

That is to say: An adequate response to the current crisis will involve expanded government spending to flow through and extend the safety net to alleviate suffering and economic dislocation. Food and housing insecurity and barriers to accessing health care are among the most urgent human needs facing individuals and families. These are likely to grow. The government's expanded spending will, in part, rely on faith-based organizations to administer safety net programs; in doing so, it must not undermine the religious identity and mission of these vital civil society institutions.

The [Families First Coronavirus Response Act](#), enacted into law on March 18, 2020 includes provisions to sustain the safety net including a boost in food assistance provided for women and infants, school-age children, and households. Future legislation will need to extend and refashion TANF and medical assistance to vulnerable populations and expand unemployment insurance.

Federal law includes many carefully designed features to ensure that faith-based organizations, including houses of worship, are not inappropriately excluded from, nor their religious freedom harmed by the requirements of, federal programs that partner with private organizations to provide educational, health, community development, or social services. The rules for special education funding, for example, are specifically designed to support eligible students in whichever school they are enrolled, public or private, secular or religious. Some programs, such

as federally funded child care for low-income families, mainly utilize vouchers as the funding method specifically so that faith-based providers can participate without suppressing their religious practices—the very features that make them attractive to some families.

It is vital that, in its necessary haste to enact federal responses to the COVID-19 crisis, policymakers not exclude or wrongly restrict faith-based organizations. Legislators and regulators should be mindful that many nonprofit service organizations, many of which are faith-based, are small in size and can easily be overwhelmed by well-intended rules meant to ensure financial accountability and reporting. Similarly, small organizations, including faith-based organizations, do not have the financial reserves required to wait any significant length of time for reimbursement of required new expenditures, such as for extended paid leave for employees affected by the pandemic. Legislators and regulators should devise ways to front-load reimbursements.

The easiest way to ensure that faith-based organizations are not excluded from, nor wrongly restricted in their participation in, expanded federal spending, is for the spending bills to include language specifically protecting against inappropriate church-state restrictions, such as the limitation on explicitly religious activities when a federal grant supports a program. The legislation might simply state that, with respect to religious organizations, none of the federal funds constitute “federal financial aid.”

## **2. Response policies should mitigate expected economic hardship for faith-based organizations as well as their employees**

Faith-based organizations employ hundreds of thousands of workers across the country. They will face at least three challenges in their role as employers:

- Employees who cannot work because of illness from or exposure to the COVID-19 virus.
- Employees who cannot work because closures related to COVID-19 require them to be at home with young children or other dependents.
- The economy, triggered by COVID-19, slows or halts charitable donations, tuition payments, and other forms of income, leaving organizations unable to pay their employees.

### *Paid leave that works for employees and employers*

For employers and workers of all types, the COVID-19 public health crisis introduces a new, complicated set of challenges and incentives around work. In order to contain the virus, many workers will need to stay home and *should* stay home in order to care for themselves, to limit others’ exposure to disease, and to participate in the social distancing that public health experts so urgently recommend. But, the economic slow-down that results from social distancing will dramatically drain employers’ capacity to pay their workforce, resulting in layoffs. And all of the above-circumstances will leave working families in an economic lurch. Those without a savings cushion could find themselves unable to meet rent or mortgage payments, health co-payments and other necessities.

The Families First Coronavirus Response Act contains measures addressing the complications of work in the midst of a public health crisis. The bill requires employers to provide 10 days of fully

paid sick leave and 12 weeks of partially-paid family and medical leave for absences related to COVID-19 diagnosis, care, quarantine, childcare closure, or school closure. Employees who cannot work due to school closure or who meet health or caregiving criteria for a family and medical leave must receive at least two-thirds of their pay for up to 10 weeks. To cover the cost of providing sick and paid leave, employers can apply for a refundable tax credit against their payroll taxes. The bill applies to employers with fewer than 500 employees. It empowers the Secretary of Labor to exclude small businesses with fewer than 50 employees from the emergency family leave requirements. All sick and family care leave provisions are temporary. They sunset at the end of 2020.

Paid sick and family leave are vital to protecting public health and economic stability at all levels from the nation to household. The payment structure enacted in the Families First Coronavirus Response Act places employers—especially smaller organizations and financially vulnerable ones—in a challenging position by requiring them to pay up front. Notably, the bill does *not* place big businesses in this bind by exempting organizations with 500 employees from emergency sick or family leave pay requirements. For faith-based organizations with fewer than 500 employees, the employer-pay-upfront approach means that the obligations that organizations face as employers could threaten their crucial contributions to the safety net.

Legislators and regulators need to ensure that employers - especially small employers and nonprofits - receive reimbursement as soon as possible. Or establish an alternative approach, contemplated in earlier versions of the Families First legislation, that pays sick and family leave days directly to workers through the Social Security Administration (financed independently from existing trust funds). This arrangement enables workers and families to stay afloat financially when they cannot or should not work but keeps churches, synagogues, human services providers and other faith-based and community organizations from going underwater.

Legislators and regulators should resist the temptation to carve out categories of employers from an emergency paid leave scheme. **The COVID-19 virus does not distinguish between the employees of small businesses, large businesses, nonprofit and faith-based employers. The American population is best positioned to weather this public health crisis if emergency paid leave for sick, caregiving, and quarantined workers is available to all who need them.**

### *Unemployment Insurance*

Paid sick and family leave are important acute responses to COVID-19. Policymakers also need to address the hardship and economic threat of millions of crisis-related layoffs. As charitable and faith-based organizations face drops in donations, tuition payments, and other forms of income, they also will likely need to lay off staff and terminate contracts with freelance workers. The nation's unemployment insurance system provides crucial economic stability to workers in exactly this situation.

For faith-based employers and employees, the role of unemployment insurance (UI) is complicated. Since 1970, the federal unemployment law—Federal Unemployment Tax Act (FUTA)—has exempted employment services performed by churches or church-operated institutions (with “churches” applicable to religious institutions of any faith). UI is executed through state and federal government collaboration and many states similarly exempt religious

institutions from their unemployment programs. In some states, religious institutions can elect to participate. Alternatively, religious organizations could provide employees with severance packages upon termination via a self-funded system or a third-party insurer hired directly by the organization. Many church-related schools and some faith-based charitable services are among those exempt from UI. The faith-based employers and employees who are not part of the UI system or who opted to self-insure could now face the prospect of laying off staff and those staff going without the economic stability provided by unemployment insurance. Federal and state policymakers are likely to enact a series of extensions and financial infusions to shore up the unemployment system. This package should include, at a minimum, the extension of unemployment benefits to employees of previously exempt employers, including religious employers.

The nation's unemployment insurance system is funded through payroll taxes levied on employers and supplemented by state and federal appropriations. From the perspective of employers, the system aims to balance two considerations: protecting workers from economic hardship due to layoff while also disincentivizing employers from undertaking profit-boosting layoffs by, for example, closing a plant and shifting operations overseas. The latter is accomplished by correlating employer-tax liability to the number of UI claims won by their former employees. The rationale for religious exemption from UI flows, in part, on the view that religious organizations do not need penalties for layoffs. Many are place-based and hire and fire employees based on missional goals and community needs. But any emergency unemployment insurance measures established in response to COVID-19 should be understood differently. They are intended to blunt the economy-wide impacts of a disease that falls outside the control of employers and workers alike. In this circumstance, the typical exemptions are harmful. Employees of for-profit and nonprofit workplaces alike face similar risk of job loss for substantially similar reasons. **Emergency expansions of unemployment insurance should cover as many workers and types of work possible, ideally without imposing additional costs to employers.**

### **3. The federal government can, and should, incentivize charitable giving in this time of economic and social crisis.**

Charitable contributions, of course, are the lifeblood of nonprofit organizations, including houses of worship and other faith-based organizations. In charitable giving, people are deciding to use some of their money for the sake of others. The federal tax system has long recognized the good of these decisions to donate to charity by including in the tax code an income-tax deduction for charitable giving. However, the Tax Cuts and Jobs Act of 2017, by greatly enlarging the size of the standard deduction, reduced the number of taxpayers able to include their charitable contributions as itemized deductions. Charitable giving has declined, and the incentive to give, and the habit of giving, has been harmed.

Various proposals have been introduced into Congress since then to restore the incentive to give. We recommend that Congress immediately enact a universal charitable deduction that gives a deduction on taxes owed to all taxpayers who contribute to the charitable sector. In the current emergency, Congress should permit taxpayers to donate now, as needs are accelerating and the economic burden of the pandemic is mounting, and then claim the benefit of the deduction on their 2019 tax returns, which will be due later than usual this year.

The COVID-19 pandemic, a global crisis with multiple dimensions and vast unknowns, tempts us all to be self-protective and even antagonistic to our neighbors, who loom large as competitors and bearers of the virus. Charitable giving, along with physical acts of service, counters this impulse to selfishness. The federal government will do well to support the nonprofit sector, including faith-based organizations, in this way that promotes personal action on behalf of others.

## Conclusion

COVID-19 presents a novel challenge. The decisions made by individuals, families and houses of worship are crucial. As [Andy Crouch recently wrote](#), “we are dealing with a virus that is transmitted person to person, in small and large groups of actual people. This is not a virtual crisis - it is a local, embodied one.” At the same time, the virus is impacting communities, populations, and our whole society. Individuals harmed will suffer irrespective of their virtue, responsibility, or merit.

Moreover, as a multi-dimensional crisis with many unknowns and in which a required action is social distancing, the incentives are strong to turn inward and to be self-protective. In this context, government plays a crucial role in navigating workable and responsive relationships not just between individuals, but also between the segments - or spheres - of society, and in acting to promote pro-neighbor responses, such as increased charitable contributions. Public money will need to flow through public and private institutions to meet acute needs and save lives. Whereas workplace benefits are often achieved through employer-employee, management-union negotiations, now social considerations come into play. In a pandemic, work has positive and negative externalities, including the potential for sick workers to spread the COVID-19 virus. Workers and organizations will be economically affected by the forthcoming recession for reasons entirely out of their control. A new relationship between work, quarantine, and caregiving will need to exist for a time and need to be negotiated society-wide. Thoughtful public policy responses should include and respect sacred sector institutions and families, helping to safeguard these diverse and crucial members of our society.

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