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THE DANGERS OF VOUCHERS

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The arguments in favor of vouchers as an interim solution to America's educational crisis, and as a means for putting Islamic and other faith-based and private schools on an equal footing with the government schools (so-called "public" schools) are strong and deserve to prevail. However, it would be foolish of Muslims to blindly support vouchers without recognizing their inherent dangers.

The first danger is the risk of discriminatory treatment. As it now stands, Muslim schools are at a competitive disadvantage in relation to the schools operated by the government, coercively funded with tax money, but on an equal footing with secular schools and parochial schools of other denominations that, like the Muslim schools, must rely on voluntary funding sources like tuition, scholarships, grants, and donations of various kinds. Voucher systems may be set up in such a way as to exclude faith-based schools altogether. Both Vermont and Maine now exclude religious schools from their voucher programs. Under such programs Muslim schools would be in a disadvantaged position, not only with regard to government schools, but to secular private schools as well, making our problems worse.

Nor should we assume that legislation would only disadvantage us with regard to secular schools. Ever since the 1990 Smith decision, U.S. Supreme Court Justice Antonin Scalia has been attempting to lay the groundwork for the Court to rule that the clause in the first amendment prohibiting the establishment of a state religion applies only to the Federal government. Although his main concern is probably providing an opening for states to ban abortion, such a ruling would also permit states to discriminate in their voucher programs against Muslims schools. While an overt discrimination of this kind would violate the 14th amendment clause guaranteeing equal protection, an indirect discrimination that, for example prohibited the wearing of headscarves by students or teachers would pass muster by Scalia's standards.

The most generally recognized danger in any sort of government funding is the risk of regulation. The regulation in Wisconsin's voucher law include an opt-out provision prohibiting making participation in any religious activity a condition of school attendance. A Florida program requires a lottery in the event of excess applicants. Thus, if a Muslim school has room for 100 incoming students and 150 Muslims and 350 non-Muslims apply, the school could not admit, say 60 Muslims and 40 non-Muslims, but would have to admit 30 Muslims and 70 non-Muslims.

The voucher program in Cleveland shows how cumbersome risks involved with challenges to vouchers may be, even when the challenges are eventually defeated. A

number of students denied participation in the program by a judge could not participate even though months later the judge's ruling was overturned.

There is also the danger of the federalization of the Muslims schools. Those of us who attended government schools in the fifties and early sixties recall that, although they had their problems, they were nowhere near as bad as they have become recently under the pressures of federal funding and the accompanying federal mandates—including consolidations that have ballooned class sizes. The voucher movement runs the risk of instituting federal as well as state and local vouchers with all the damage the accompanying federal interference in Muslim schools would mean.

Finally, vouchers may be a death sentence for the nascent movement for separation of school and state. This small but growing movement would replace the current system of education in America with one more like that of the Islamic classical civilization in which *awqâf* (public foundations) built and maintained the *madrassahs*, colleges and universities. If the vouchers are not means-tested (restricted to the poor and needy) then the middle and upper class that come to benefit from them will constitute an insurmountable lobbying group preventing any disentanglement of state from education.

There is no need for Muslims to wait until a sound, locally funded, means-tested method of government vouchers circumventing these pitfalls is devised. We can establish private voucher programs funded by directly by the Muslim community right now, and we can try to obtain tax credits for such programs as they have in Arizona. In addition to providing a means for our poor children to attend Muslim schools now, such a system has the benefit of “multiple layers of private choice.” Donors, distributing organizations, parents, and participating schools all have full freedom of choice in the process.