



January 24, 2011

**RE: ACLU Urges NO Vote on H.R. 290 and H.R. 2070—Bills Would Harm Freedom of Religion and Belief and Not Honor All Members of the Armed Services**

Dear Representative:

On behalf of the American Civil Liberties Union (ACLU), a non-partisan organization with more than a half million members, countless additional activists and supporters, and 53 affiliates nationwide dedicated to the principles of individual liberty and justice embodied in the U.S. Constitution, we are writing to urge you to oppose H.R. 290 and H.R. 2070 when they are considered on the floor. H.R. 290 would broadly authorize the use of religious symbols on any government memorial or monument honoring United States veterans. H.R. 2070 would require that an inscription of President Roosevelt's D-Day prayer be added to the WWII Memorial. Both are misguided attempts to sanction government promotion of religion and use religion to achieve political gain.

Our policy concerns with H.R. 290 are many. It is an ill-advised reaction to a federal appeals court decision that held a 43-foot tall cross that dominates a war memorial was an unconstitutional endorsement of religion because the cross is a preeminent Christian symbol that no other religion shares.<sup>1</sup> The Latin cross is the most widely recognized symbol of Christianity<sup>2</sup> and is venerated by many Christians because of what it represents to those believers. Thus, the government's use of this sacred symbol (or any other religion's symbol) harms religion and belief in two ways. First, it puts the government in the position of choosing which religious symbols and their attendant religious beliefs it will promote over all other symbols and beliefs. Second, the government is using a sacred religious symbol and attaching a secular meaning to it—in this case, making the cross a symbol of military service. This bill attempts to sanction the government use of religious symbols, which harms freedom of religion and belief.

Moreover, H.R. 290 endorses the false notion that all veterans are honored by war memorials that include only one religion's sacred symbol. So many of our citizens, service members, and veterans are not Christian. Department of Defense reports show that nearly one-third of all members of the U.S.

AMERICAN CIVIL  
LIBERTIES UNION  
WASHINGTON  
LEGISLATIVE OFFICE  
915 15th STREET, NW, 6<sup>TH</sup> FL  
WASHINGTON, DC 20005  
T/202.544.1681  
F/202.546.0738  
[WWW.ACLU.ORG](http://WWW.ACLU.ORG)

LAURA W. MURPHY  
DIRECTOR

NATIONAL OFFICE  
125 BROAD STREET, 18<sup>TH</sup> FL.  
NEW YORK, NY 10004-2400  
T/212.549.2500

OFFICERS AND DIRECTORS  
SUSAN N. HERMAN  
PRESIDENT

ANTHONY D. ROMERO  
EXECUTIVE DIRECTOR

ROBERT REMAR  
TREASURER

---

<sup>1</sup> *Trunk and Jewish War Veterans v. City of San Diego*, 629 F. 3d 1099, 1110-11 (9th Cir. 2011). ACLU was counsel in this case.

<sup>2</sup> It should be noted, however, that although the Latin cross is the most widely recognized Christian symbol, it is not a symbol revered or even accepted by all Christians and some denominations use no cross at all.

Armed Forces identify as non-Christian.<sup>3</sup> The four-story high Christian cross at a war memorial in San Diego (which prompted H.R. 290) in no way recognizes the religious background of *all* members of the armed services. Instead of being something that unites us as we remember the sacrifice of those who served, the use of a Christian symbol is divisive: It

sends a strong message of endorsement and exclusion. It suggests that the government is so connected to a particular religion that it treats that religion's symbolism as its own, as universal. To many non-Christian veterans, this claim of universality is alienating.<sup>4</sup>

It is clear, however, that all of those who served should be equally respected regardless of their religion.

This bill should be seen for what it is: playing politics with religion. Our Constitution affords special protections to freedom of religion. Because of these protections, each of us is free to believe, or not believe, according to the dictates of our conscience. These beliefs are too precious to be used for political gain.

Furthermore, this bill is not necessary to protect religious symbols found on headstones in military cemeteries throughout the country. These religious symbols reflect the personal faith of fallen soldiers, sailors, airmen, and marines and the choice of which religious symbol, if any, to carve on a headstone is made by individual service members and their families. This is a cherished and protected individual right of expression. In such cases, government simply respects and facilitates an expression of an individual's personal beliefs. With a war memorial, however, government is making an active choice to favor one religion over all others.

Finally, enactment of a statute would not overcome the constitutional prohibition on government endorsement of one religion over others (or religion over non-religion)—even at war memorials. Congress lacks the power to authorize violations of the First Amendment. Even if this bill passes, a religious symbol included in a war memorial favoring one religion over others would be no more constitutional than it was before such a law.

Because we share similar policy concerns about H.R. 2070—that the government should not try to assign secular meanings to religious symbols or prayer and Congress should not use religion for political gain—we urge you to also oppose this bill.

Please contact Legislative Counsel Dena Sher at (202) 715-0829 or [dsher@dcacclu.org](mailto:dsher@dcacclu.org) if you would like further information on this matter.

Sincerely,



Laura W. Murphy  
Director, Washington Legislative Office



Dena S. Sher  
Legislative Counsel

---

<sup>3</sup> Religious Diversity in the U.S. Military, Military Leadership Diversity Comm'n, Issue Paper No. 22 (June 2010).

<sup>4</sup> *Trunk*, 629 F. 3d at 1024–25.