



AUSTRALIAN CENTRE FOR
CHRISTIANITY AND CULTURE

WISDOM FOR THE COMMON GOOD

**Church-related social welfare agencies
in Australia: a historical perspective on
their development and their
relationship with the state**

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Abstract

In this paper, I provide an account of the development of church-related social welfare agencies from European settlement to the commencement of the contracting era in the 1990s. In doing so, I explore the ideological, ecclesiastical and geographical influences that contributed to what emerged as a 'mixed economy of welfare', in which the state, while a significant actor, shares the provision of welfare with not-for-profit agencies. I then turn my attention to the constitutional arrangements underpinning church-state engagement in Australia that sit in the background to this structure.

Introduction

The structure of Australian church-related social welfare agencies, and the pattern of their relationship with government that emerged by the end of the 20th century, deserve more attention than they have so far received. I will trace the development of this structure from European settlement, focusing particularly on the eastern colonies, to the commencement of the contracting era in the 1990s. In doing so, I will draw attention to ideological, ecclesiastical and geographical influences, before discussing the constitutional arrangements arising from Federation that have shaped government policy since then.

Church-related agencies in social welfare in 19th century Australia

Commencing as a penal colony, European occupation quickly developed into communities shaped by both free settlers and ex-convicts. From the UK they brought institutions, as well as political, religious and social assumptions and aspirations, and quarrels and conflicts, which, despite the different circumstances in the colonies, had a profound bearing on the shaping of the non-government institutions and the structure of social welfare provision.

The principle of voluntary association had its roots in the ecclesiologies of both the evangelical revival and their fellow travellers in non-conformism, and had been developed in the organising techniques of the anti-slave trade movement and other social causes in the first half of the 19th century. This tradition of social organisation and community action was accompanied by the emergence of a formative tradition of mutual association with accompanying aspirations towards democracy, found largely in the lower class, including both nonconformists, such as the Rev. Dunmore Lang, and convicts sent out for the crime of political agitation.

Government policy and the structure of welfare provision were shaped by a commitment to laissez-faire economics, with its predisposition to limiting the role of government, though this tendency was modified in a pragmatic response to the existing realities of economic development in the colonies.¹ Local entrepreneurs wishing to develop export industries took the view that government should play a vital role in encouraging business enterprise, by bringing in labour and capital and building the required infrastructure. Under this modified version of laissez-faire, the government functioned as a public utility in cases where reliance on private enterprise was not feasible in the short to medium term. Consequently, an extensive infrastructure of railways, ports and roads was built and run by 19th century colonial governments.²

This compromise with laissez-faire economics by colonial governments reached its limits when it came to the provision of social welfare and human services. Beyond ensuring that every child received an education, there was a distinct reluctance by governments to undertake a comprehensive approach to social welfare.³ Behind this reluctance was a rejection of the English Poor Law model, whereby the Crown had guaranteed assistance for the 'impotent poor'. This reluctance was especially evident in the non-convict colonies of Victoria and South Australia, where there had not been the same tradition of at least minimal government funding for the elderly, sick and disabled as there had been in the convict states. Behind this was also a rejection of the idea of a right to relief, which created an expectation that the well-off would support the poor through the burden of rates on land owners; and a proclaimed trust in the efficacy of voluntary effort.⁴

Rather than making direct provision for the poor and the sick, governments 'encouraged leading colonists and their wives to form and support nonprofit organizations to provide services. These were commonly called "public charities". In turn, governments subsidized these organizations mainly on a dollar for dollar basis...'.⁵ The government reluctance to undertake a comprehensive approach to welfare laid the basis for the third sector of welfare

¹ Brian Galligan, Winsome Roberts and Gabriella Triffiletti, *Australians and Globalisation: The Experience of Two Centuries* (Cambridge, UK: Cambridge University Press, 2001), 55.

² Graham Maddox, 'The Australian Settlement and Australian Political Thought', in *Contesting the Australian Way: States, Markets and Civil Society*, ed. Paul Smyth and Bettina Cass (Cambridge, UK: Cambridge University Press, 1998). See also Jill Roe, 'The Australian Way', in *Contesting the Australian Way* (Melbourne: Cambridge University Press, 1998).

³ Mark Lyons, *Third Sector: The Contribution of Nonprofit and Cooperative Enterprises in Australia* (Sydney: Allen and Unwin, 2001), 99-101. See also Francis G. Castles, 'Australia's Institutions and Australia's Welfare', in *Australia Reshaped: 200 Years of Institutional Transformation*, ed. Geoffrey Brennan and Francis G. Castles (Cambridge, UK: Cambridge University Press, 2002).

⁴ Brian Dickey, 'Why were there no Poor Laws in Australia?' *Journal of Policy History* 4, no. 2 (1992): 111-133.

⁵ Lyons, *Third Sector*, 100. See also Lyons, *Third Sector*, 2-3.

provision that developed throughout the 19th century, though its exact shape varied between the colonies. In summary,

*religious organisations, partly funded by colonial governments, provided welfare service and influenced social policies from the founding period. This distinctive third sector of welfare provision between public and private developed as an attractive option for colonial government' with its promise of minimising government expenditure.*⁶

While the development of a significant third sector in colonial Australia was not confined to the provision of social welfare and education, these were areas where the Christian churches and the institutions they developed played a leading role.⁷

The structure of social welfare that emerged was grounded in the policy framework of 'a decent wage within a managed economy ... The model for a workingman's paradise in the late nineteenth century consisted of measures for fair wages, land taxation and worker cooperatives',⁸ supported by a residual third sector that provided social welfare for those falling into the gaps in the model, characterised by Castles as 'the wage earner's welfare state'.⁹

In assessing the stimulating, as opposed to the enabling, factors driving the creation of not-for-profits in the Australian colonies, Lyons has drawn attention to the importance of both religious belief and secular ideologies.¹⁰ Religious belief stimulated action that expressed deeply held commitments, for example to care for the poor and elderly, to establish institutions to carry on the faith into the future and to defend that faith against threats from other traditions. The Protestant-Catholic divide in the 19th century was in this respect a powerful driver of the creation of parallel institutions in welfare, health and education, a

⁶ Brian Howe and Renata Howe, 'The Influence of Faith-Based Organisations on Australian Social Policy', *Australian Journal of Social Issues* 47, no. 3 (2012): 320.

⁷ For an example of the proclivity of the colonists to set up bodies for all forms of social, religious and educational purposes and then seek government patronage and funding, see the account of the public activities of the first Baptist minister in Australia, the Rev John Saunders. Ken R. Manley and Barbara J. Coe, *'The Grace of Goodness': John Saunders - Baptist Pastor and Activist, Sydney 1834-1848: A Documentary Biography* (Macquarie Park, NSW: Greenwood Press, 2014).

⁸ John Murphy, 'The Other Welfare State: Non-Government Agencies and the Mixed Economy of Welfare in Australia', *History Australia* 3, no. 2 (2006): 44.5.

⁹ See Francis G. Castles, 'Historical and Comparative Perspectives on the Australian Welfare State: A Response to Rob Watts', *Journal of Sociology* 33, no. 1 (1997); and Rob Watts, 'Ten Years On: Francis G. Castles and the Australian "Wage-Earners' Welfare State"', *Journal of Sociology* 33, no. 1 (1997). This discussion connects to a wider debate as to how Australia fits into patterns of welfare state development. The importance of taking account of Catholic social teaching and the influence of social Protestantism in approaching such typologies is highlighted by Philip Manow, 'The Good, the Bad and the Ugly: Esping-Andersen's Regime Typology and the Religious Roots of the Western Welfare State', in *Working Paper* (Cologne, Germany: Max Planck Institute for the Study of Societies, 2004).

¹⁰ On the enabling factors, see Lyons, *Third Sector*, 105-109.

pattern that remains still visible, if fading, in the current institutional not-for-profit landscape to this day.

The ideological commitment to voluntary charity was attractive in that it enabled the prosperous to determine how much they would contribute to welfare provision. While cynicism about the self-interest of such an approach is clearly in order, the evidence indicates that many of the well-off actually made substantial voluntary contributions.¹¹ It should also be noted that taxation options for government were much more limited than was to be the case in the 20th century, and the popular assessment of the capacity of land and property owners to give was no doubt influenced by that fact.

The early church welfare initiatives in Victoria in the 1800s were shaped by this approach to charitable giving and were therefore characteristically

*small specialized services focused on emergency handouts and evangelism and run by volunteers. ... in the early days of Victorian settlement churches and other charitable organizations were assisted by government provision of large tracks of land and financial contributions. ... Individual citizens and philanthropists ... provided land and buildings from their own estates.*¹²

Outside Tasmania - where the high proportion of convicts and ex-convicts in the population resulted in a long delay in the establishment of non-government alternatives till the 1880s - and South Australia - with its distinctive pattern of settlement - subscription models of charitable provision were widely established across the colonies by mid-century. This involved subscribers supporting a given charity with a specified amount, say on an annual basis. Government provision of services, while significant in scale, was residual, and responsive to non-state initiatives that could not be sustained by charitable giving alone.

‘Third sector’ charitable organisations provided both indoor and outdoor relief to the sick, aged and disabled, as well as to women and children without reliable male breadwinners. Each colony established different systems for subsidising the organisations that provided welfare support. A plethora of bodies was established in each colony, leading to something of a lottery for settlers in terms of what and how much support was available, and who would provide the service. For example, it is estimated that, in 1861, subsidies were equivalent to

¹¹ The Victorian pattern is discussed in Chapter Two of Ray Cleary, *Reclaiming Welfare for Mission: Choices for Churches* (Canberra, ACT: Barton Books, 2012).

¹² Cleary, *Reclaiming Welfare for Mission*, 23. See also Chapter Three ‘A Very brief History of Charities in Australia’, in Stephen Judd, Anne Robinson and Felicity Errington, *Driven by Purpose: Charities That Make the Difference* (Sydney, NSW: Hammond Press, 2012).

about 60 percent of the funding for the relief activities of the Benevolent Society (originally the NSW Society for Promoting Christian Knowledge and Benevolence).¹³

As this model of charity provision spread, the colonial governments demonstrated a pragmatic pluralism that has characterised the Australian settlement of church-state engagement in welfare provision in a range of policy modalities ever since. This approach was a response to the sectarian rivalry between the Christian churches. Colonial governments,

*anxious to dampen sectarianism but unwilling to take on full responsibility for providing such services, responded by providing equivalent subsidies to parallel Catholic organizations, a practice that continued despite the abolition of state aid to religion and education in most colonies by the 1870s.*¹⁴

Given the relative scarcity of clergy, early Catholic welfare initiatives in the colonies were necessarily driven by the laity. From the 1840s, these lay initiatives were taken up and continued by the emerging religious orders rather than by the local diocesan authorities. The charitable activities of the religious orders were to have an enduring impact and became associated during the late 20th century with innovative responses to emerging social issues. In the longer term, however, this development had the effect of reducing the space for lay Catholic initiatives, a major exception being the St Vincent de Paul Society which established its first permanent presence in the colonies in 1865 in Perth and within two decades was represented in all the major cities.

The two strands of Catholic agencies, those run by the dioceses and those governed by religious orders, are still present, and the differences in governance are still important in shaping their ministry and engagement with government. In sketching Catholic engagement in welfare, it is worth noting the role of Catholic social teaching in laying the basis for the rethinking of social policy that was to bear fruit in the Harvester judgment in 1907, a landmark Australian labour law decision of the Commonwealth Court of Conciliation and Arbitration. The judgment provided that 'fair and reasonable' wages for an unskilled male worker required a living wage that was sufficient for 'a human being in a civilised community' to support a wife and three children in 'frugal comfort'. This argument provided the basis for the minimum wage system that, in turn, laid the basis for the 'wage earner's welfare state'. That is to say, a basic level of social support was guaranteed through the wage fixing system, supported by tariffs that prevented wages from being undercut by imports from low wage countries and that, therefore, encouraged local manufacturing. Social welfare in this system functioned as a residual support for those groups not covered by the wages system, rather than being a system of universal provision characteristic of social democratic states.

¹³ Ed Carson and Lorraine Kerr, *Australian Social Policy and the Human Services* (Melbourne, Vic.: Cambridge University Press, 2013), 46.

¹⁴ Carson and Kerr, *Australian Social Policy and the Human Services*, 46.

Among the Protestant churches, another model of community engagement by churches that was to have a long-lasting impact was that of the city mission. This approach took hold in colonial cities during the 1850s, drawing on slightly earlier developments in the UK. City missions were non-denominational bodies typically managed by committees of clergy, generally from evangelical and/or non-conformist backgrounds. They were ecumenical to the extent that they were not affiliated with a specific Christian denomination. They employed lay ministers to bring the gospel to inner city areas, but also offered a range of other services that included attending courts, visiting hospitals and prisons, offering material relief and providing social contact through various clubs for people in need. Various ministries addressing specific groups with identified needs not covered by existing social welfare agencies, such as the homeless and 'fallen women', were also developed in this context.¹⁵

By the 1880s, these non-denominational missions were faced with the challenge of new forms of socially engaged witness associated with the major denominations, or new ecclesial movements, particularly The Salvation Army which had recently established itself in the colonies.¹⁶ These initiatives took the form of mission halls, associated with specific denominations, that offered a range of welfare services. This development took a number of forms, with The Salvation Army taking the initiative in partnering with government to deliver social services. The Army established 25 institutions in its first 25 years in Australia, ranging from those set up to provide support for converts from its evangelistic work, through to more typical welfare services such as homeless shelters and soup kitchens. Other Protestant denominations followed the lead of The Salvation Army and the initiatives of the Methodist churches in England. Central city Wesleyan churches were re-established as Central Missions, with a mix of charitable and evangelistic services coordinated by an ordained clergyman linking worship and service. By the end of the 19th century, these missions were major providers of services in inner city slum areas, inspired by a social Christianity that combined 'an evangelical worry about the vices of the poor with campaigns for social reform'. Underpinning moral assumptions about the 'deserving' and 'undeserving' poor evidenced during this period have had a long, though fluctuating, presence in Australian social policy, and can be discerned in current debates about welfare provision.

The 'tyranny of distance' that shaped the urban/rural pattern of settlement and the largely independent development of each of the colonies throughout the 19th century, together with the legacy of colonial boundaries, have left a strong regional imprint on the structure and size of church-related agencies generally. Colonial boundaries determined the regions within

¹⁵ On the Melbourne City Mission, see Roslyn Otzen, *Dr John Singleton 1808-1891* (Melbourne, Vic.: Melbourne City Mission, 2008). See also Renata Howe and Shurlee Swain, *The Challenge of the City: The Centenary History of Wesley Central Mission* (Melbourne, Vic: Hyland House Publishing, 1993).

¹⁶ Roger C. Thompson, *Religion in Australia: A History* (South Melbourne, Australia: Oxford University Press, 2001), 25-29.

which both Anglican and Catholic diocesan boundaries were drawn and their church agencies developed. Given the governance arrangements underpinning diocesan operation in both the Anglican and Catholic churches, the influence of colonial boundaries has been long-lasting. In the 20th century, legislation was required on a state-by-state basis to underpin the establishment of the Uniting Church that arose from the merger of large parts of the Methodist, Congregational and Presbyterian Churches, each with their accompanying plethora of agencies, now being merged into large stated-based agencies under various labels that highlighted their relationship to the Uniting Church. These developments resulted in the colonies arriving at Federation with a complex, multi-layered economy of welfare, with diverse ideological underpinnings and motivations, creating multiple strata of diverse practices and structures of charity:

Subscriber-based asylums and hospitals grew out of the philanthropic efforts of middle class men, banding together to provide philanthropy and in the process to earn social prestige. A second type of welfare visiting the poor was based on networks of worthy citizens who took their charity into the homes of the poor ... A third form of provision, specialized church organizations were an inheritance of earlier institutions such as orphanages and refuges, now also overlaid with new agencies representing the rise of evangelical Christianity in missions to the urban poor. As much as these were organizations for producing charity, they were also associations for likeminded citizens.¹⁷

Social engagement seems to have driven institutional inventiveness, raising the question as to whether a clear distinction between churches and agencies can in fact always be made - a question that becomes even more pressing in contemporary Australia.¹⁸ The Salvation Army, for example, while displaying some analogies to the structure of a Catholic religious order, and active in establishing and running a wide diversity of social initiatives, emphasised its identity as a church and conducted regular meetings for worship and evangelism in close connection to its welfare activities. Inner city missions and mission halls were often centred around, or closely connected with, a congregation that met for worship and, in terms of its organisational structure, effectively owned the social welfare mission activities, though operating separately from existing denominations. The closeness of the connection between church agencies and government varied, particularly with respect to the extent and form of state funding. As John Murphy explains:

¹⁷ John Murphy, 'Church and State in the History of Australian Welfare', in *Church and State in Old and New Worlds*, ed. John Gascoigne and Hilary M. Carey (Leiden, Netherlands: Brill, 2011), 275.

¹⁸ The increasing complexity of institutional forms in contemporary society and the questions about where the boundary between church and government lies is helpfully discussed in Bruce N. Kaye, 'From Anglican Gaol to Religious Pluralism: Re-Casting Anglican Views of Church and State in Australia', in *Church and State in Old and New Worlds*, edited by John Gascoigne and Hilary M. Carey (Leiden, Netherlands: Brill, 2011).

*Only some parts of these welfare domains had a direct relationship to the colonial state. Significant public subsidies for the asylums ... were a transaction in which the colonial state held responsibility for poverty at an arm's length; while the organization would remain without regulation, the state would remain without responsibility. Other parts of this mixed economy such as orphans, missions, rescue homes and prison-gate visiting received little or no subsidy ...*¹⁹

This mixed pattern reflected a mutual interaction between community initiative and state activity, given that the state did not wish to take over complete responsibility for social welfare. Murphy has summarised the outcome of 19th century developments as arising from the interaction between two factors: a settler society that rejected a systematic approach to welfare; and a strong labour movement that relied on wage arbitration to deliver high wage outcomes as the principal means of ensuring social protection, capable of flexible and creative responses to newly perceived issues. The resulting social welfare structure, while giving a significant role to non-state not-for-profit agencies, did not develop an independent philanthropic sector, a lack still lamented today. Cooperative and mutual aid organisations did emerge but did not develop a strong presence or become indispensable elements in the overall pattern.

Government welfare policy and church-related agencies in the 20th century

Much of the 19th century pattern of church engagement in social welfare in the colonies was carried forward, along with its implicit ideological underpinnings, into the 20th century. There was, however, a marked change in government structure consequent on Federation and the establishment of the Commonwealth Government. This was to prove significant in the longer term in shifting the policy and governance context for welfare provision and the role of church-related agencies.

The first step towards state-funded income support in Australia was in 1900, with the introduction of a restricted and very limited old age pension in NSW and Victoria. This step shifted the boundary between state and church by providing a modest alternative for many who would otherwise have had to rely on charitable, largely church, institutions. Though the Australian Constitution had little emphasis on the role of the Commonwealth Government in the provision of social welfare, a brief reference in s51 (xxiii) provided the basis for the Commonwealth to legislate for the consolidation of existing state arrangements to provide for a non-contributory means-tested age pension.²⁰

¹⁹ Murphy, 'Church and State in the History of Australian Welfare', 275.

²⁰ Carson and Kerr, *Australian Social Policy and the Human Services*, 50; and Stephen Garton, 'Rights and Duties: Arguing Charity and Welfare 1880-1920', in *Welfare and Social Policy in Australia: the distribution of advantage*. ed. M. Wearing and R. Berreen (Sydney: Harcourt Brace, 1994), 23-38.

Despite these changes, the residual character of state welfare provisions, with emphasis instead on the wage system as the primary welfare framework, remained well into the 20th century. As a result, existing mission agencies of all denominations expanded their institutional provisions to meet emerging needs and to continue filling the gaps. The Great Depression of the 1930s provided a substantial challenge to the scope of existing service provision by agencies. Both The Salvation Army and the central city missions became major centres for relief, while denominations established unemployment relief funds to support churches in their assistance to members. The limits of this activity pointed toward the need for more systematic government activity of the kind that eventually emerged after World War II. Church leaders played a role in the debates about social policy, particularly related to housing and employment, that arose during the Depression and post-war reconstruction. The Brotherhood of St Laurence, founded by Fr Tucker, was one of the first organisations to undertake research as a critical underpinning for advocacy. Fr Tucker, Bishop Burgmann, the Rev. Alan Walker and others were all significant voices from the church in a period in which it was still part of a quasi-establishment arrangement.

The Depression saw the establishment of a range of new agencies, frequently created and driven into the public realm by charismatic leaders. Important institutions founded in this period include the Brotherhood of St Laurence in Melbourne and Hammond Homes in Sydney. Both of these agencies embodied innovative approaches to social needs, including housing.²¹ At the same time, Catholic agencies set the direction for their future with the introduction of professionally trained social workers and the establishment of the Catholic Family Welfare Bureau.²²

The move by the Commonwealth Government into income support and relief for the unemployed came after the Depression had demonstrated the inadequacy of the residual charity model. However, church-related welfare agencies did not disappear from the welfare sector, but retained their presence in children's institutional care and moved into involvement in care for the frail aged, an involvement that was to grow substantially over the second half of the 20th century. There is evidence of deliberate government policy intent to encourage this involvement, with matching grants for capital costs of accommodation being restricted to churches, charitable or benevolent bodies and ex-service organisations.²³ In the post-war period, the Commonwealth Government also looked to religious organisations and

²¹ Colin Holden and Richard Trembath, *Divine Discontent: The Brotherhood of St Laurence: A History*, Reprint 2010 edn (North Melbourne, Victoria: Australian Scholarly Publishing, 2008); Meredith Lake, *Faith in Action: Hammond Care* (Sydney, NSW: UNSW Press, 2013).

²² Damian J. Gleeson, 'Some Themes in Australia Catholic Social Welfare History', *Journal of the Australian Catholic Historical Society* 28, no. 2007 (2007); 'The Origins of Melbourne's Catholic Social Services Bureau', *Footprints* (2002); 'Professional Social Workers and Welfare Bureaus: The Origins of Australian Catholic Social Work', *Australasian Catholic Record* 77, no. 2 (2000).

²³ Murphy, 'Church and State in the History of Australian Welfare', 282-284.

the not-for-profit sector to participate in the provision of marriage counselling, while state governments looked to existing church-based children's institutions to accommodate state wards.²⁴

A critical element in shaping the pattern and scope of the involvement of church-related agencies in social welfare in the 20th century, as in the 19th century, was the government's underlying approach to social policy. Australia did not follow the UK down the path of the welfare state. Rather, in Australia, the Commonwealth Government extended the 19th century wage earners' welfare state, with its emphasis on wage fixing and import tariffs through employment and wage policy exercised via the arbitration system. Developments during the 1940s included the establishment of the child endowment, widows' pension and wife's allowance. These were intended as a supplement to, not as a fundamental replacement for, the existing pattern of provision. As Howe observes, 'initiatives in social welfare at the national level were piecemeal and there was no comprehensive national income programme'.²⁵ Initiatives to support this approach included the creation of the Commonwealth Employment Service and an investment-led approach to national development designed to support full employment along Keynesian lines.

The 1960s also saw the Commonwealth engage substantially with voluntary organisations through the use of subsidies to deliver specific services.²⁶ The Whitlam Government (1972-1975) made some moves towards a welfare system that was more comprehensive in its reach, through changes to pensions means testing, the sole parent pension, abolition of university fees and a national universal health insurance scheme.²⁷ However, its policies also had an impact on the non-government sector through the encouragement of community engagement in the Government's regional development and Australian Assistance Plan initiatives. This led to the creation of a new wave of locally-based community agencies, many of which became players in the welfare field along with the church-related agencies.

Also significant in shaping the policy debate during the postwar period was the assumption that Australia did not have entrenched poverty. The churches, informed by their agencies, challenged this assumption during the 1960s and were significant players in the campaign to establish the Commission of Inquiry into Poverty in 1972. In subsequent decades, church-related agencies such as the Brotherhood of St Laurence and the Centre for Urban Research

²⁴ Shurlee Swain, 'Welfare Work and Charitable Organisations', in *The Encyclopedia of Religion in Australia*, ed. J. Jupp (Melbourne: Cambridge University Press, 2009), 691.

²⁵ Howe and Howe, 'The Influence of Faith-Based Organisations', 323.

²⁶ Garton, 'Rights and Duties', 23-38.

²⁷ Carson and Kerr, *Australian Social Policy and the Human Services*, 56-58.

and Action played a key role in research and policy innovation in response to the needs identified by the Inquiry.²⁸

The balance between the various dimensions of the economy of welfare were shaped by government policy decisions, though on occasions the church agencies did, as previously noted, take the initiative in research, advocacy and policy innovation. Australian churches and their agencies were actively involved in social policy debates during the post-war period, ranging from statements by the Catholic Bishops on social justice issues in 1940-1962 and then again in 1973-1987, through welfare lobbying, to membership of the state, territory and Australian Councils of Social Service.²⁹ From 2000 onwards, the national coordinating bodies of various denominations took an increasingly active role in response to the profound changes brought about by the contracting of services.

Local or municipal government has largely been absent from the provision of social welfare in Australia, and has only had whatever responsibility and funding that state governments have been willing to provide. In most states, local government 'has never had a substantial welfare role, unlike in Britain where it was one of the key pathways of distribution under both the Poor Law and the post-war welfare state ... Local authorities resisted responsibility for social issues, though there were exceptions in Victoria'.³⁰ Local government has been involved in social welfare in recent years to the extent that it has been able to attract grants or contract funding from state and/or Commonwealth governments.

In characterising the broad pattern of social welfare policy in Australia as it relates to the role of church-related agencies in particular, and the not-for-profit sector in general, Murphy draws the conclusion that the 'mixed economy of the welfare model built in Australasia was relatively disorganized and distinctly reluctant. Historians ... all note that welfare provision remained unsystematic, marginal and archaic through the first half of the twentieth century'.³¹ Regardless, this model provided the basis on which the welfare system was built:

This consisted firstly of delivery of services through a voluntary public society drawing on the respectable middle classes and established to run specific services. Second it involved significant government subsidies towards their running costs. Third, ... was a relative absence of direct government control combined with an absence of responsibility for social problems ... state responsibility was held at arms length by working through largely autonomous and informal charities, which were then left to go their own way. ... The post-war development was consistent with the established pattern of the mixed

²⁸ Howe and Howe, 'The Influence of Faith-Based Organisations', 324-326.

²⁹ For a good survey see Philip Mendes, *Australia's Welfare Wars Revisited: The Players, the Politics and the Ideologies*, revised edn (Sydney: UNSW Press, 2008).

³⁰ Murphy, 'The Other Welfare State', 44.41-44.15.

³¹ Murphy, 'The Other Welfare State', 44.41-44.15.

economy of welfare based on informal care by subsidized private effort. It was not until the mid-1970s that the non-government sector began to find its autonomy reduced by greater state regulation of its action.³²

A key feature of the not-for-profit sector was its relative fragmentation driven substantially by different patterns of development between the colonies, creating models of operation between the state and community that remained largely unaffected by Federation.³³ Contributing to the fragmentation were the parallel organisations developed by Catholic and Protestant churches, as well as ‘their haphazard, serendipitous and even opportunistic development often based around the passions of key leaders. This is hardly particular to Australia, but when combined with federalism and with religious rivalry it exacerbated the fragmentation of the sector’.³⁴

The relatively large size of the not-for-profit social welfare sector in Australia, of which church-related agencies form a large element, has been driven by social heterogeneity and the role of the Christian churches as significant forces in the development of society:

... it is generally people associated with organised religion or some other ‘ideological’ sorganisation who have the motivation for (or intensity of preference) and most importantly access to capital via the wealth of the religious denomination who will start non-profit organisations.³⁵

While this paper focuses on church-related agencies, as Lyons observes many of the driving forces noted here are relevant to other ideological or values-operated organisations.

S116 of the Australian Constitution, church, state and welfare

The 19th century political struggle over church-state relations in Australia resulted in a plurality of churches with effectively equal legal standing, in a process that began with the abolition of Anglican hegemony. The result with respect to education, which is where this development was largely played out, was a secular system controlled by the state but with space for a generic Protestant account of Christianity.³⁶ Kaye’s summary of the development of the Australian settlement highlights the differences between Australia and the US:

Whereas the US tradition has moved to a doctrine of separation of church and state and a doctrine of non-entanglement, the Australian version has moved to a position of non-separation of church and state and a doctrine of equitable entanglement. The broader

³² Murphy, ‘The Other Welfare State’, 44.41-44.15.

³³ Murphy, ‘The Other Welfare State’, 44.41-44.15.

³⁴ Murphy, ‘The Other Welfare State’, 44.41-44.15.

³⁵ Mark Lyons, ‘The History of Non-Profit Organisations in Australia as a Test of Some Recent Non-Profit Theory’, *Voluntas: International Journal of Voluntary and Nonprofit Organizations* 4, no. 3 (1993), 305.

³⁶ Kaye, ‘From Anglican Gaol to Religious Pluralism’, 289.

and social institutional effect of this has been to assert that religion has a recognised place in public life and in public institutions in a way that is quite different from the USA. Australia may not be a religious state, but it is a state that incorporated religion in the statutory view of public life.³⁷

Institutional expressions of Christian, Jewish and to a lesser extent Islamic institutions and agencies have a place in public life and public policy in Australia. The language of these traditions, however, is not part of a commonly accepted vocabulary of public debate in the way that is true in, say, the US.

S116 of the Australian Constitution provides that ‘The Commonwealth shall not make any law for establishing any religion, or for imposing any religious observance, or for prohibiting the free exercise of any religion, and no religious test shall be required as a qualification for any office or public trust under the Commonwealth’. In other words, the Commonwealth Government is prevented from giving preference to any religion or recognising any denomination as the official religion of the Commonwealth, or preventing or impeding citizens from exercising their religion, while similarly preventing the placing of a religious test on any position in the public service or federal parliament.³⁸

There is an argument

about whether this implied some kind of separation of church and state on (sic.) the new nation. There may have been some members of the Constitutional Conventions of the 1890s who thought, or hoped, so. However, most delegates would not have supported it if they thought that it was going to over-rule existing principles in the colonies. Thus, it explicitly applies only to the Commonwealth, and does not bind State governments, let alone private organizations.³⁹

This argument, however, was firmly rejected by a clear majority of the High Court in the *Defence of Government Schools (DOGS)* case of 1981.⁴⁰

³⁷ Kaye, ‘From Anglican Gaol to Religious Pluralism’, 289-290.

³⁸ Tom Frame, *Church and State: Australia's Imaginary Wall* (Sydney, NSW: UNSW Press, 2006); and ‘Separating Church and State: What Does It Mean in the 21st Century?’ (Canberra: Baptists Today Conference, 2007).

³⁹ Michael Hogan ‘Worrying About Religion’, *Australian Review of Public Affairs*, October 2006 australianreview.net/digest/2006/10/hogan.html (Accessed 12 June 2009).

⁴⁰ Michael Hogan ‘Worrying About Religion’. The DOGS case remains the most expansive consideration of s116 to date. ‘Chief Justice Barwick drew attention to the phrase “respecting an establishment of religion” in the First Amendment to the US Constitution, which did require separation, and the words “for establishing any religion” in section 116, and noted the existence of quite different intentions in the two documents. The inclusion of the word “for” in the Australian Constitution meant that establishment had to be the specific intention of the contested legislation. Justice Mason focused on the word “any” in section 116 and concluded that “the text of section 116 more obviously reflects a concern with the establishment

The history of engagement by church agencies and government in social welfare throughout the 19th century in Australia shaped a pattern of commonly shared political assumptions about their respective roles. This pattern was carried forward into the 20th century, providing the background to their relationship in the changing circumstances of that period. The interpretation of S116 of the Australian Constitution as it evolved in the 20th century permitted the pattern inherited from the 19th century to continue, rather than being reshaped through innovative Constitutional interpretation. *Prima facie* support for this account is that none of the cases taken to the High Court on this section have related to questions of social welfare and/or the funding by the Commonwealth Government of church-related social welfare agencies.⁴¹ Thus, while S116 restricts the power of the Commonwealth, that restriction was probably implicit elsewhere in the Constitution, in that S51, which deals with the range of Commonwealth lawmaking powers, makes no provision for the Commonwealth to legislate on matters of religion.⁴² The most recent High Court case dealing with religion with respect to questions of funding of chaplains, the *Williams* case, did not add substantially to the jurisprudence on S116, focusing instead on questions of the limits to executive power relating to expenditure.⁴³

Hogan, in pointing to the ambiguous character of religious pluralism in Australian society, observes that

to say that Australian society is not very religious is not the same as saying that it is a secular society. Nor is it, as some Liberal Party politicians would like to assert, a Christian society. Rather, Australia's traditions are of religious pluralism, in which political and cultural institutions have tried to encourage acceptance of difference.⁴⁴

This very pragmatic, relatively non-dogmatic pluralism acknowledges the need for harmony amongst the diversity of religious communities and proceeds on the basis that an even-

of one religion as against others than the language of [the First Amendment] which speaks of the 'establishment of religion', not the 'establishment of any religion'". Justice Wilson found that "section 116 is a denial of legislative power to the Commonwealth ... The provision therefore cannot answer the description of a law which guarantees within Australia the separation of Church and State". Tom Frame, 'Separating Church and State: What Does It Mean in the 21st Century?'; and *Church and State: Australia's Imaginary Wall*, 69-70.

⁴¹ See Reid Mortensen, 'The Establishment Clause: A Search for Meaning', *University of Queensland Law Journal* 33, no. 1 (2014).

⁴² Technically any of the Australian states, except Tasmania, still have the power to establish a church or religion. The limits on this happening are political rather than constitutional. Michael Hogan, 'Separation of Church and State?', australianreview.net/digest/2001/05/hogan.html.

⁴³ Mortensen, 'The Establishment Clause'; Peter C. J. James and David Benson, 'School Chaplaincy, Secularism and Church-State Separation in a Liberal Democracy', *University of Queensland Law Journal* 33, no. 1 (Oct 2014); and Jeremy Patrick, 'Religion, Secularism and the National School Chaplaincy and Student Welfare Program', *University of Queensland Law Journal* 33, no. 1 (Oct 2014).

⁴⁴ Hogan, 'Separation of Church and State?'

handed treatment is both sensible and politically expedient.⁴⁵ This principle of pluralism has taken the form of state neutrality expressed in equal treatment with respect to funding, dating back to the early decades of the 19th century in colonial NSW,

... and extends all the way into contemporary Australia where government monies at all levels go quite happily to the churches so that they can run schools, hospitals, employment agencies, social welfare bureaux and even drug injecting rooms. This principle of neutrality is not entrenched in either the State or Federal Constitutions, and has no legal standing. ... Ultimately, the strength of the principle comes from the conventions hammered out in colonial Australia that saw English and Scottish established churches deprived of their priority in government funding.⁴⁶

The neutrality of pluralism in government funding has not always been complete or totally consistent. The agencies associated with the larger denominations, such as Anglicare, UnitingCare and The Salvation Army, have frequently done better in terms of funding than some of the smaller Christian groups and those churches that have arrived post World War Two. It is possible, however, that this has to do with questions of perceived reputation and professional competence arising from size and a history of dealing with government departments.

Where to from here? The brave new world of contracting

This paper has explored the pattern of engagement of church-related agencies with government in the delivery of social welfare in Australia. This pattern has been characterised by:

- Strong connections between churches and welfare agencies, with the form of governance varying depending on the denomination.
- Fragmentation in the sector as a result of denominational diversity in their regional presence, with few agencies having a strong national reach.
- Churches and emerging agencies displaying organisational inventiveness in response to changing social needs in periods of social and economic crisis, particularly during the late 1800s and the 1930s.

⁴⁵ On pluralism, see Veit Bader, 'Religious Pluralism', *Political Theory* 27, no. 5 (1999); Chapter 5: 'Australia: Pragmatic Pluralism', in Stephen V. Monsma and J. Christopher Soper, *The Challenge of Pluralism: Church and State in Five Democracies*, Second ed. (Lanham, Maryland: Rowman & Littlefield, 2000). See also Marion Maddox, 'Secularism and Religious Politics: An Australian Exception?', *Religious Studies* (Wellington: Victoria University, n.d.).

⁴⁶ Hogan, 'Separation of Church and State?'

- The reach and diversity of church-related agencies, leading them to become significant players in the shift by government to contracting during the 1990s.

The key elements of this pattern are the result of: the significant historical role of the third sector in welfare provision; pluralism or state neutrality with respect to the agencies funded; and the constitutional provisions governing the ability of government to engage with church agencies in the funding of welfare. While Australian governments have been interested in making use of not-for-profit agencies, until recently they have not been intentional about shaping the sector, which has 'more or less developed organically following the trends, pressures and decisions of governments, individuals, communities and others over the past two hundred years'.⁴⁷ This is because governments have viewed church-related agencies as a source of more effective service than that provided by public agencies, based on presumptions about church-related agencies being innovative and close to the community.⁴⁸ The increased engagement by government with church-related agencies, therefore, has had little to do with moral dimensions, despite rhetoric to the contrary, but has instead been driven by a concern with efficiency and to a lesser extent program effectiveness. The church agencies have been used because they were there.

This began to change at the end of the 20th century with the introduction of government contracting, which has impacted the character of church-related agencies and placed them under pressure to distance themselves from their founding sense of mission. In response, some agencies have become extensions of the state, particularly in the area of employment services, while others have employed a range of strategies to maintain their identity and mission. What has also been important has been the emergence at a sector level of denominational coordinating agencies that have played a significant role in policy advocacy and critique.

If church-related social welfare agencies are to intentionally work against the pressures to become an extension of the state, their boards and leadership need to pay attention to the key risk, which is that bureaucratic processes in contracting, particularly the reporting framework, can be powerful and distracting. They also need to pay attention to theology in thinking about their agency's mission, governance and just about everything else on their agenda, not just issues of 'faith' and 'religion'. Most important is the injunction to 'keep your eyes on the prize', holding on to the founding stories and finding ways of telling them to the staff who, in a post-secular age, will want to know and need to develop a stake in what it is that drives the agency.

⁴⁷ Judd, Robinson and Errington, *Driven by Purpose*, 56.

⁴⁸ Catherine McDonald and Greg Marston, 'Patterns of Governance: The Curious Case of Non-Profit Community Services in Australia', *Social Policy and Administration* 36, no. 4 (2002).

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