

Playing with Fire Churches, Welfare Services and Government Contracts

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EXECUTIVE SUMMARY

Welfare reform is forcing Australians to rethink a problem that is literally centuries old. How should we, as a society, care for the needy among us?

In recent years, religious groups have become more involved in direct delivery of welfare services that for much of the 20th century were considered by many to be the domain of the state.

In one sense, this development should be welcomed. It reflects not only increasing recognition that the state is not always the best organisation to help those in need, but also that religious bodies are among the few organisations that can provide the needy with more than just material assistance. Unlike the state, religious groups can also give explicit moral and spiritual guidance to those afflicted by poverty who have lost hope or whose self-destructive habits have helped to precipitate their decline into misery, material hardship and despair.

There are, nonetheless, many potential pitfalls associated with church organisations accepting government contracts to perform welfare activities. International experience suggests that there is a high likelihood of the following phenomena occurring:

- As the funds from state contracts begin to constitute the bulk of the financial resources of church welfare groups, the culture of these organisations changes—for the worse. Instead of remaining relatively autonomous institutions of civil society, they could find themselves developing into pseudo-state organisations which cater to the state's welfare priorities rather than following their own agenda. A regulatory mentality, bureaucratic mindset and non-religious motivations may undermine the religious spirit of *caritas* that created and shaped these organisations.
- The explicitly religious foundations and identity of church welfare bodies may be steadily diminished. This would nullify the capacity—and even willingness—of such organisations to articulate the distinct moral messages of their faith-commitments to those in need. This will not help the poor. In fact, it will only unnecessarily limit the ability of religious welfare organisations to help them

'Outsourcing' welfare services is not a costless exercise. The temptation for the churches is the access that it offers to taxpayers' dollars to help them do good works. But before going too far down this path, churches and their various welfare agencies would do well to pause. The cost, they may find, is far too great. They could well discover that there is much truth in the statement that those who 'have harnessed themselves to the coach of the State . . . must obey the reins' (Macadam 1934: 27).

MORE THAN MATERIAL NEED

Numerous social analysts recognise the special ability of religiously based bodies to assist the needy. Among other things, churches have demonstrated a remarkable capacity to transform the often dysfunctional outlook of some of the less fortunate members of our society by providing them with a coherent belief system and a hope filled vision of life.

Study after study confirms that religious practice (especially regular church attendance) is one of the most important factors associated with reduced levels of nearly every major social pathology, including drug abuse, crime and suicide (Fagan 1996). Men who attend church once a week, for example, are 50% less likely to commit domestic violence (Ellison, Bartkowski, Anderson 1999). Couples who frequently attend religious services are only half as likely to separate (Laumann, Gagnon, Michael, Michaels 1994).

Indeed, despite the non-empirically verified Freudian tradition that persists in blaming religion for neurosis and prejudice, empirical studies consistently find that high rates of religious commitment and activity are associated with above average mental health, reduced stress, increased life-satisfaction, longer lives, lower rates of cancer, stroke, hypertension, and heart disease (Ellison 1993; Levin 1994; Iannaccone 1998).

When it comes to helping the needy, organised credal religion is one of the few bodies that can give people a set of authoritative do's and don't. Its compassion for the less well off is not expressed in terms of therapy-speak. Nor does it pretend to be 'value-neutral'. Rather, religion's concern for the poor is capable of assuming concrete ethical form by challenging people to rethink the moral dimension of their lives, rather than subtly articulating the empty slogans of relativism. It also stresses the importance of personal responsibility, offers membership in faith-filled communities, and encourages—indeed, requires—people to strive to overcome their personal failings.

The problem of welfarism

The Christian churches have been involved in welfare provision from the very beginning. Following in the footsteps of the Jewish people, Christians built entire welfare systems to assist the poor, the sick, and the unwanted in the Roman Empire—without any help from the imperial authorities.

At the end of the 19th century, however, many thought that this function would be better handled by the state. The early Fabians (Gray 1908), for example, viewed charitable and philanthropic work in quite negative terms, not least because they believed that it was 'inefficient' compared to the heaven-on-earth that they imagined could be realised by the rational approach embodied in direct state activism.

As we all know, this has not occurred. Apart from the welfare state's well-recognised efficiency and effectiveness problems, state-directed welfare has also had some unforeseen and counterproductive effects. Pope John Paul II, for example, has had occasion to state:

By intervening directly and depriving society of its responsibility, the Social Assistance State leads to a loss of human energies and an inordinate increase of public agencies, which are dominated more by bureaucratic ways of thinking than by concern for helping their clients, and which are accompanied by an enormous increase in spending. In fact, it would appear that needs are best understood and satisfied by those close to them and who act as neighbours to those in need. (1991: para. 48)

Recent moves by Western states to decentralise their welfare functions by devolving them to civil society reflect widespread recognition of the modern state's tendency to treat people as 'mere objects of assistance' (John Paul II 1991: para. 49), rather than as people with more than material needs. As the social philosopher Michael Novak points out:

today the social democratic welfare states are all broke. They all see they cannot go on this way. . . . practically everywhere, the welfare state is being

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questioned on account of the bad moral habits it is inducing at every level of society—not just among the poor, not just among the clients, but among the providers. Thus, two facts—that the welfare states are going broke and that they are not having the moral effects that they thought they would have—give rise to much restlessness about the foundations of social democratic belief. That is why every major welfare state is wrestling with how to turn in a new direction. (1996: 3)

A POISONED CHALICE?

In one sense, the devolution of welfare activities from the state to church bodies as well as other organisations of civil society with a charitable dimension should be applauded. This policy of decentralisation has been underway for some time in the United States as well as Britain.

It also appears to be gathering pace in Australia. Throughout 1999, the Federal Government decided to devolve certain welfare functions to the sphere of civil society, through offering contracts to groups willing to perform activities such as job-search. Four church-based welfare agencies were successful in their bids for these contracts.

But before we rejoice at these developments, it should be noted that there are many potential pitfalls involved in church bodies—or, for that matter, *any* institution of civil society—accepting contracts from the state to perform welfare activities. This is not to say that church bodies should not engage in welfare work. Indeed, many would agree that these and other organisations of civil society should be providing the bulk of welfare services rather than the state.

The problem is that accepting government contracts can, in the long term, have seriously counterproductive effects upon the ability of churches to help those in need to the best of their ability. Perhaps even more seriously, such contracts have real potential to compromise the ability of church welfare organisations to be faithful to the moral and doctrinal teachings of their religion.

Some of those who are not religious may wonder why this should be an especially important issue. It is, however, a matter of the upmost seriousness for religious organisations who care about their integrity and who have managed to retain a sense of their primary mission.

From love of the poor to welfare professionals

The reasons that Jews, Muslims and Christians have laboured throughout history to help the needy are well known. In the case of Christians, their charitable work springs directly from obedience to the command to love God and their neighbour as themselves, not to mention specific directives to pay special attention to the poor.

There is, however, much evidence to suggest that government contracts gradually corrupt the *culture* of church welfare groups. Their autonomy as institutions of civil society is undermined as they gradually become transformed into pseudo-state organisations. In the United States and Britain, this transmutation has manifested itself in several ways.

Regulation, regulation, regulation

Provisions requiring adherence to regulations designed to produce accountability for the expenditure of taxpayers' money invariably accompany government contracts. The American experience indicates that the demands of such regulations facilitate the expansion of massive bureaucracies. Large numbers of accountants, lawyers and managers are employed by church agencies to ensure that the provisions of such regulations are met. In the words of one U.S. church charity director, 'What government agencies don't understand is that the more they regulate us, the more we have to spend what little money we get on business people and secretaries' (cited in Loconte 1997: 29). Reflecting on this phenomenon, one Australian Catholic academic perceptively notes:

Government funding increases the pressure for agencies to develop bureaucratic structures parallel to those of the public service. Governments like big projects, large structures and bureaucracies that can keep track of every penny spent. Already we have seen agencies develop new corporate

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structures in order to comply with tendering requirements. If church agencies simply duplicate the big bureaucracies of government, if they neglect the issues, concerns and resources of local communities, then they run the danger of violating basic principles of subsidiarity, much as present government bureaucracies do. (Ormerod 2000: 15)

The same regulations undermine the very flexibility that enables many church charities to deal more effectively with complex and difficult cases than state agencies. The managers of one Salvation Army project in Boston, for example, have found that the government regulations written into their contracts prevent them from using state money in ways best able to meet different families' financial crises. Brian Anderson, for example, observes that 'Charities must follow time-wasting rules that reduce flexibility and require a one-size-fits-all approach to treating people with endlessly various problems' (Anderson 2000).

Mission creep

Religious welfare agencies that accept government contracts often find that their mission becomes wider and, in many respects, more confused. In order to compete for such contracts, some American church bodies have found themselves taking on tasks that have little to do with their original purpose and for which they are not especially well equipped. According to one Salvation Army officer in Boston, the perennial temptation is to take your programme and try and fit it into the provisions of what the state will give you money for (cited in Loconte 1997: 32).

Moreover, once church welfare agencies begin to accept these contracts, it is not an exaggeration to say that political fashion begins to drive their agenda. As the composition of legislatures and governments change, so too do their welfare priorities. State funding is highly volatile. It can change at very short notice, as a result of an election or a change in funding priorities.

Hence, in an effort to keep their contracts, religious bodies may begin to fashion their welfare priorities in ways that seek to maximise their chances of obtaining government contracts. They consequently lose a sense that they should be determining their *own* welfare priorities—not all of which will always accord with the desires of the government of the day.

It follows that the more church welfare agencies choose to accept such contracts, the more precarious becomes their ability to think independently about welfare matters. It is by no means impossible that some church groups in receipt of these contracts will become increasingly reluctant to criticise government policies for fear of endangering their funding. To cite one Australian commentator: 'Will the church's acceptance of government funding result in its silencing on government policy? Would Centacare be willing to lose funding over a major policy conflict?' (Ormerod 2000: 15)

A responsibility deficit

Welfare contracts allow politicians and state bureaucrats to establish a high degree of indirect control over church welfare bodies, but without incurring any responsibility for the actions of the latter. It is, after all, the state that lays down the terms and conditions of such contracts: the more stringent the conditions, the greater the state's degree of indirect control. But if things happen to go wrong, it is more than likely that church agencies that have accepted such contracts will receive the bulk of the enmity. Politicians, on the other hand, will be able to keep failure at arm's length.

Robbing Peter to pay Paul

Welfare contracts often cover a narrowly defined set of costs, for which church groups have to offer competitive tenders. One British study has illustrated that most such contracts make no allowances for core costs. These can escalate steeply if a religious welfare agency receives very large sums to administer large-scale projects that require bigger offices, more staff etc. These organisations thus find themselves having to draw on their own resources to meet these overheads. This often means that religious welfare bodies are actually *worse off* in financial terms than if they had not received the contract (Whelan 1999: 18-9).

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In many cases, British church groups have found themselves becoming so heavily dependent on government contracts that they feel that there is no going back. This appears to be associated with a distinct tendency for their voluntary supporters to melt away (Whelan 1999: 18-9; Prochaska 1992). In the end, it amounts to a cultural takeover by stealth.

DILUTING THE MESSAGE

Leaving aside these problems of organisational culture, the American experience of religious groups accepting welfare contracts suggests that it entails a real risk of diluting the capability of church welfare bodies to impart the distinct religious and moral messages of their faith. Yet the church welfare bodies which are especially successful in helping the poor are invariably the organisations that unashamedly communicate their doctrinal and moral beliefs, thereby helping many people to transform the moral dimension of their lives.

In simple terms, the ability of many church welfare groups in America to express their religious commitments has become muzzled by contract and neutered by subsidy. Much of this is a consequence of the seemingly endless litigation of church-state issues in the United States. The U.S. Supreme Court, for example, ruled in 1988 (*Bowen v. Kendrick*) that the state can subsidise religious charities as long as they are not 'pervasively sectarian'. The precise meaning of 'sectarian' has yet to be clarified. Nonetheless, the Court insisted that church agencies had to separate their 'secular' and 'religious' activities if they were to qualify for public funding in any form. This means that church welfare groups must excise any expression of faith from their taxpayer-funded programmes.

This can have profound effects, especially upon those religious bodies that are not embarrassed to expose their 'welfare clients' to religious activities and expressions of religious and moral belief. The Salvation Army in Boston, for example, has an enviable record in this regard. Its mission statement is unabashedly religious: 'to preach the Gospel of Jesus Christ and to meet human needs in His name'. Hence, the Army holds church services, bible readings and prayer meetings for the needy that they try to help. There is, however, a problem:

The contract system prohibits the Salvation Army from directly incorporating these activities into state-funded programs. No public funds can be used for them, and no publicly-funded staffer can perform them on program time. . . . [Nevertheless] the Salvation Army manages to keep religion close at hand as it helps the needy. But in order to avoid violations of the First Amendment, it pushes explicit expressions of faith to the periphery. (Loconte 1997: 36)

In the same city, Catholic Charities is legally incorporated as a 'not-for-profit non-sectarian agency'. This leaves many wondering why this organisation maintains the name 'Catholic' in its title. In any event, it has been noted that there is hardly any religious content in any of their state-funded programmes:

The charity's largest daycare program in Boston, for example, offers no religious instruction for its children. Youth intervention programs avoid discussion of religious topics. Education and parenting programs . . . are short on references to distinctive Catholic religious teaching. (Loconte 1997: 35)

The situation of church welfare bodies in America is further complicated by the apparently inexhaustible number of anti-discrimination provisions applicable to government contracts and state funding. Many anti-discrimination laws, for example, prevent church welfare officials from asking job applicants about their beliefs or the way they live their lives. Hence a 'don't-ask, don't-tell' policy prevails.

But even if an employee of a church welfare agency were to proclaim openly that he was, for example, a serial adulterer who had no intention of changing his ways, such an employee could not be dismissed if his position was state-funded. Such an action would breach anti-discrimination legislation. Though the recent U.S. Supreme Court decision (*Boy Scouts of America et al. v. Dale*) indicates that some American courts are willing to protect autonomous civil organisations from being forced to

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admit people who by conspicuous word or action would evidently compromise such an organisation's integrity, there is little question that acceptance of public funding changes the situation dramatically.

Taken together, the end result is often church welfare bodies that barely retain any distinctive religious identity. Yet employees and their religious commitments virtually define a faith-based welfare group. More than one study has demonstrated that if a faith-based group is forbidden to insist that most of their employees are committed members of that faith (or to expect that their employees who do live their lives in different ways to refrain from openly expressing views on moral issues contrary to the teaching of that institution), then the specifically religious identity of that welfare group is gradually destroyed (Monsma 1996).

A prominent example of how easily this can occur is Catholic Charities in Boston. Before the 1960s, it received very little federal assistance. Now over 65% of its funding is from government contracts (Loconte 1998; Anderson 2000). At a national level, only 13.3% of Catholic Charities' income comes from the church and wider community. For Lutheran Social Services in New York, the figure is about 80% (Loconte 1998). In Britain, 72% of funding for Methodist Homes for the Aged comes from the state (Whelan 1999).

In the case of Catholic Charities in Boston, 'Agency officials seem surprised that religious questions would even be discussed in the job application process'. According to one of its directors, 'When a person becomes an employee of Catholic Charities, I'm not sure that they are doing it because of any spiritual thing, or because of our mission. It's a job. They're a social worker and there's a position available' (cited in Loconte 1997: 35). In short, the demands of faith and the subsequent charitable motivations have been undermined and replaced by a 'it's-a-job-like-any-other' mentality.

Even worse, acceptance of government contracts by Christian organisations in America has resulted in many such groups being faced with the prospect of either acting in ways that clearly contradict the teachings of their faith, or losing their government contracts. It seems that some of these organisations would rather sacrifice their principles. The following example of a priest who began a psychology internship at a Catholic Charities clinic illustrates the point:

The clinic supervisor tested [the priest] on three hypothetical counselling situations: a depressed pregnant woman who wants to abort her child; two homosexuals seeking advice on their relationship, and a divorcing couple asking for counselling. In keeping with Catholic teachings, the priest advised against the abortion, refused to endorse homosexual unions, and encouraged the divorcing couple to save their marriage. He failed the test. The supervisor explained: 'We get government funds, so we are not Catholic'. (Anderson 2000)

Regardless of where one stands on these moral issues, acceptance of government contracts seems to have compromised many American religious charities' integrity as institutions operated by communities committed to certain beliefs. It is, of course, this very integrity that allows churches to communicate their distinctly spiritual and often tough moral messages about right and wrong that have proved so effective in helping many of the needy.

The contrast between Catholic Charities in Boston and Sister Connie Driscoll's house for homeless women in Chicago could not be greater. Since 1983, Driscoll's St Martin de Porres House of Hope has treated over 11,000 women, most of whom have been prostitutes and substance abusers. No men may visit the house. Apart from Alcoholics and Narcotics Anonymous classes as well as strict requirements to engage in manual work, Driscoll's charges receive constant moral instruction on irresponsible sexual behaviour. About 95% of the women overcome their addictions and less than 6% return to the streets (Sirico 1995).

Sister Driscoll refuses to accept state funding for her house. Her reason is quite simple. She is unwilling to 'play down', 'take the edge off', or 'nuance' her faith's unambiguous teaching concerning, for example, the sinfulness of drug abuse and various forms of sexual activity.

The anti-discrimination provisions attached to federal and state funding would require precisely such a dilution. Such requirements would effectively separate Driscoll's

organisation from the moral teachings that make her organisation distinct from, and more effective, than off-the-shelf welfare programmes that scrupulously avoid touching upon moral questions in order not to appear 'intolerant' or 'judgmental'.

Some churches, such as the Catholic Archdiocese of New York, have resorted to fighting long and costly court battles to maintain their ability to choose who they wish to employ and to adhere to the Church's moral teaching in the way that they deliver welfare assistance. Other churches have simply withdrawn their welfare agencies from state-funded contracts. They now find themselves having to rebuild their welfare services from the bottom-up.

Of course, the situation concerning constitutional and legislative protection of religious liberty in Australia is not the same as in the United States, not least because of the many legal battles fought over the meaning of the U.S. Constitution's First Amendment. The applicability of anti-discrimination law, however, continues to spread remorselessly in Australia, not least because of pressures exerted by quasi-judicial bodies such as the anti-discrimination boards and Human Rights and Equal Opportunity Commissions that increasingly litter our legal and political system.

Recent amendments to the Anti-Discrimination Act 1977 (NSW) passed by the NSW Parliament, for example, narrowed the protections that Church bodies enjoy from anti-discrimination legislation. The irony is that this has occurred precisely as church welfare bodies have begun to accept welfare-type contracts from government and subsequently to expand their staff numbers.

As a consequence, there is a real possibility that those church agencies who care about their integrity as religiously-inspired organisations will increasingly find themselves having to resort to lengthy and costly litigation to protect themselves from being forced to employ people who, by conspicuous word or acts, compromise the integrity of church organisations who wish to remain faithful to what their religious beliefs tell them to be true. We do not believe that it is reasonable to expect, for example, the Labor or Liberal parties to employ committed Marxists or Fascists. Why then is religious conviction apparently less important than political belief?

Conclusion

If religious organisations wish to maintain their distinctive and effective culture of helping the needy, they should be very wary of allowing their welfare agencies to accept government contracts. Like any institution of civil society that becomes overly enmeshed in the state, church welfare groups could well find their autonomy from the state being steadily eroded, their distinctive culture being undermined, and their capacity to remain faithful to their creeds severely compromised.

If, however, in spite of all these very real risks, churches decide to go down this path, they may wish to consider the following guidelines:

- Religious welfare groups should point out that they have been invited to tender for such contracts, presumably because the state has acknowledged its inadequacies at accomplishing such tasks. They are, in effect, the ones who are being asked to help. Hence, they should recognise that they are in a strong position to set some of the terms, not least because, in many respects, the state has nowhere else to turn.
- Church welfare agencies should stress that if they are going to perform these welfare activities, they will not do so in ways that contradict the moral expectations and teachings of their faith. This has been the condition attached to acceptance of state assistance for church schools and hospitals. There is no reason why the religious freedom of church welfare bodies should not enjoy the same protection. If governments are unwilling to accept these conditions, then church welfare groups should not accept such contracts. As the Protestant theologian Stanley Hauerwas notes, the 'first social ethical task of the church is to be the church' (Hauerwas 1983: 99). Once church bodies begin to compromise their beliefs in order to avoid jeopardising their welfare contracts, their integrity and autonomy is in real danger of being watered down.
- If religious welfare agencies are serious about retaining their distinctive religious identity, they should look seriously at their core mission statements to see how closely they adhere to the teachings of their faith. Expressions such as 'Anglican identity', 'Catholic ethos', 'inspiration of the order', or 'spirit of the Institute' are

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ambiguous to the point of being meaningless. They consequently constitute a potential weakness for church welfare agencies should they find themselves obliged to explain in court why they believe that someone's conspicuous beliefs or actions disqualify them for employment in such an agency.

In the end, it is up to church leaders to ensure that faith-based welfare organisations preserve their autonomy from the state as well as their religious integrity. One does not have to be religious to recognise that thousands of people would benefit greatly from programmes that seek to do more than just deliver material services by also attempting to transform people's lives at a moral and spiritual level. To abandon this moral and spiritual work for the sake of gaining welfare contracts would be a travesty.

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