



Brotherhood
of St Laurence

Working for an Australia free of poverty

Brotherhood of St Laurence submission

***Inquiry into Social Security and Other Legislation Amendment
(Welfare Reform and Reinstatement of Racial Discrimination Act) Bill
2009 and the Families, Housing, Community Services and Indigenous
Affairs and Other Legislation Amendment (2009 Measures) Bill 2009
along with the Families, Housing, Community Services and Indigenous
Affairs and Other Legislation Amendment (Restoration of Racial
Discrimination Act) Bill 2009***

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Introduction

The Brotherhood of St Laurence (the Brotherhood) welcomes this opportunity to contribute to the *Inquiry into Social Security and Other Legislation Amendment (Welfare Reform and Reinstatement of Racial Discrimination Act) Bill 2009 and the Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (2009 Measures) Bill 2009 along with the Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (Restoration of Racial Discrimination Act) Bill 2009.*

The Brotherhood is an independent non-government organisation with strong community links that has been working to reduce poverty in Australia since the 1930s. Based in Melbourne, but with a national profile, the Brotherhood continues to fight for an Australia free of poverty, guided by principles of advocacy, innovation and sustainability. Our work includes direct service provision to people in need, the development of social enterprises to address inequality, research to better understand the causes and effects of poverty in Australia, and the development of policy solutions to address social exclusion at both national and local levels.

This submission will examine the policy implications of the proposed amendments to the Racial Discrimination Act which will take the approach to income management developed in certain remote indigenous communities and extend them across the board to non-indigenous communities as well.

The import of such amendments for the future of welfare generally in Australia has been underlined by Minister Macklin. She has described it as a 'new approach to welfare reform' based on the principles of 'engagement, participation and responsibility'. The approach is designed to 'progressively reform the welfare system to foster individual responsibility and to provide a platform for people to move up and out of welfare dependence'; since, as a general principle, 'welfare should not be a destination or a way of life'. The progressive extensions to what is called a system of 'welfare conditionality' will begin with:

- young people who are not engaged in education, training or work;
- long-term unemployed who are seriously disengaged;
- parents who fail to show parental responsibility;
- families who are referred by child protection authorities to Centrelink to have their welfare payments income managed;
- those vulnerable Australians who have been identified by a Centrelink social worker as being at risk.

Our submission will emphasise that the concept of 'welfare conditionality' is not something new. As we will see below, some concept of conditionality has been involved in Australian social policy ever since the colonial days. Since the 1980s, efforts to reduce welfare dependency through programs to 'activate' the unemployed and sole parents to rejoin the labour market have been a feature of social policy since the 1980s. With the Northern Territory Emergency Response we have seen a further extension especially as it relates to promoting the welfare of children. The proposed amendments indicate ways in which the approach might extend across other areas of the welfare system.

The Brotherhood enthusiastically embraces the idea that Australia's welfare system is in need of a thorough overhaul and that this should definitely be guided by a new understanding of 'welfare conditionality'. However, getting this understanding right will not be easy. Thus since the early days of 'mutual obligation' the Brotherhood has been a strong critic of systems which impose counterproductive conditions on the unemployed (Ziguras et al 2003).

Equally we have been critical of a welfare system which could leave some young people with little more than basic income entitlement. As we have argued, "... in the case of young people who are making the transition from school to adulthood, the right to welfare should be replaced with the right to work, or the right to learn, or preferably, the right to simultaneously work and learn. Only in very exceptional circumstances would there be an entitlement to financial support when not working or learning" (Nicholson 2006). We saw this as the basis of a 'new deal' for young Australians; a new obligation to participate but matched by new obligations on the State to substantially improve its investment in the education and training of disadvantaged young people.

To have the constructive dialogue which is needed, the Brotherhood suggests it is time to turn the page on a prolonged 'welfare war' over conditionality (Mendes 2008). Put very simply, the pro-conditionality camp has typically portrayed the welfare state - or what they like to call the 'nanny state' - as the problem. We should 'end welfare as we know it' and this will free up individuals so that they can solve their own problems. The opposing group has typically dismissed the importance of individual effort on the grounds that social problems arise not from the actions of individuals but rather breakdowns in what they style as our social and economic 'structures'. In this submission we will argue that now is the time to move on from what has actually been a very important contest. We believe that both sides have a legitimate point. Now we need the synthesis.

We need a new approach to social policy which can reconcile and integrate a legitimate emphasis on the responsibility of individuals with due regard for the ways in which their choices are indeed shaped and structured by the economic and social environment. The Brotherhood believes that it is simply not a question of rights *or* obligations. But rather achieving an appropriate balance.

We propose that a one-sided approach to social rights in the welfare state period obscured their necessary links to economic rights and obligations. Further we find today – especially in policies to promote the wellbeing of children – a legitimate new emphasis on expecting behavioral change in response to significant new social investment.

At the same time, as Geoff Gallop demonstrated in his 2006 Sambell Oration to the Brotherhood, 'responsibilities without rights are empty'.

With the appropriate balance we support the proposed extensions to income management. We do argue, however, in the current state of Australian social policy, the existence of an appropriate balance cannot be taken for granted. Therefore, we need fundamental social policy renewal and believe that the Government's emerging Social Inclusion agenda offers the vehicle.

In our submission we indicate how the concept of social investment in an Inclusive Society (Smyth 2010) can provide the basis for a new statement of rights and responsibilities designed to deliver both a Fair Go and a Competitive Economy.

We note from the long history of requirements being placed on people receiving income and services from the wider community that great care has to be taken in their implementation. Here key factors are that citizens actually have the resources necessary to fulfill their obligations; that they have an effective voice in the deliberation of the requirements affecting them; and that any such requirements be simple, reasonable and unobtrusive.

To give these fundamental issues the scrutiny they require will not be a short and simple exercise. While not the job of this submission to delve into the academic literature we do think it is important to be aware of key developments which are shaping up new approaches to thinking about these issues. Here we flag significant new work in political theory touching on the meaning of rights, obligations and social justice associated with Sen and Nussbaum's so called 'capability approach'. Likewise in sociology, thinkers like Giddens, Beck, Bourdieu and Schmid have had major recent impacts on the way social policy researchers understand key terms of our debate such as 'agency', 'structure', 'risks' and 'transitions'. These all have important implications for the way we think about the role of conditionality in social policy today.

While our submission builds on these key insights from contemporary social science, the Brotherhood believes that it is equally important to ground them in the realities of the Australian experience. As we shall see the question of conditionality has been a perennial one which has had to be settled and resettled at each key turning point in our social policy history. An essential requirement of any successful new synthesis will be that it works in with this national policy grain. Our overview of the 'Australian way' will cover these critical phases:

- the British Poor Law in the colonies
- the creation of the old age pension (Federation)
- the first national welfare plan (1940s)
- the partial welfare state (1970s)
- Remaking welfare conditionality the Australian way

Back to the Poor Law?

A major challenge for the expansion of welfare conditionality today is the perception that it is nothing more than a reversion to the long despised English Poor Law model of the nineteenth century. Tracking the failures of this charity model and its eventual replacement by rights based welfare states in the middle of the twentieth century is the stock standard fare of welfare histories.

Indeed the slightest acquaintance with these histories ought to persuade us that any call to erase the welfare rights of Australian citizens in a return to a nineteenth century style Charity regime should be treated as nothing less than bizarre.

The more serious proposition is that the reaction against conditionality that came with the welfare state went too far so that earlier, legitimate concerns with conditionality came to be neglected. With this in mind we will very briefly revisit the period of transition from the world of Charity and the Poor Laws to the welfare state in order to review these somewhat neglected perspectives on conditionality in Australian welfare.

The Australian colonies, with the exception of South Australia, never formally adopted the British Poor model which originated in Elizabethan times and imposed an obligation on the State to ensure the provision of charitable relief by local government agencies. Nevertheless the main ideas and practice of colonial welfare were grounded in the British experience and in terms of the nineteenth century, the key influence was the Amendments to the Poor Law of 1834.

Against a backdrop of major economic transformations associated with the Industrial revolution and the consolidation of the free market economy the welfare system was perceived to be outmoded and often too permissive. The organizing ideas of the reform were developed from Adam Smith's theory of the free market, as it was developed by economists such as Nassau Senior and David Ricardo. Of particular concern for Senior were the ways in which the welfare system inhibited the development of a free market in labour. Thus existing laws of 'settlement' meant that the poor had to remain in their parish to receive assistance; while practices of wage supplementation through welfare encouraged the idea that labourers had a right to a living wage. Senior encouraged a new welfare system which would motivate people to move to where employment was available and to understand that the level of wages should depend entirely on what the employer was ready to pay. To similar ends, Thomas Malthus'

theory of over-population combined with David Ricardo's Iron Law of Wages to strengthen the idea that governments should never interfere in the free market for labour. Too many workers led inevitably to low wages, and if this meant their starvation then there was nothing governments could or should do about it. For Malthus these people had simply 'drawn a blank'... 'in the great lottery of life'.

Welfare reform then, as Ricardo explained, should be about 'contracting the sphere of the Poor Laws by impressing on the poor the value of independence, by teaching them they must not look to systematic or casual charity, but to their own exertions for support...'

While there were other very important philosophical and moral strands to this new thinking about welfare, here we simply note its basic economic thrust which so clearly resonates with much of our contemporary neoliberal rhetoric of 'welfare reform'. That is, the aim of cutting off the supply of welfare in order to promote individual self reliance and thrift as the essential personal characteristics needed for a free market based society. The approach was operationalised through a newly centralized and uniform system of workhouses across the country. Outdoor relief to the able-bodied was banned and assistance available only after admission to the workhouse upon accepting the 'offer of the house'. According to the principle of 'less eligibility', conditions within the workhouse had to be less than those available to persons of 'the lowest class subsisting on the fruits of their own industry'. From the breaking up of families on entry, the minimal diets, the workhouse uniform, the meaningless drudgery, the silence at meals ... the workhouses became, as historian Kathleen Jones observes, 'places of dread' for working class people' (Jones 1994).

This phase of Poor Law history represents the furthest extreme of the conditionality approach. From Charles Dickens' *Oliver Twist* to the Minority Report of the Royal Commission into the Poor Law in 1908, it was to become synonymous with what can go wrong in social policy if you focus only on the morality or behavioral characteristics of the poor. Indeed it would be hard to exaggerate the lasting impact on this historical episode on thinking about conditionality in British welfare – and by derivation in Australia. As the Australian scholar Mendelsohn in 1954 wrote, 'There has, however, been one recurring theme, grounded in history. The harsh administration of the Poor Law and especially the degrading nature of the means test have resulted in a firm emotional set against anything smacking of charity or inquisition into private circumstances, and in favour of any device which avoids those characteristics'.

By all accounts Australian colonists had a hatred of the Poor Law and this together with the much more buoyant economic circumstances of working people and absence of a developed system of local government meant that it was never formally adopted. The laissez faire economic model had few supporters and people generally looked to the state to take a lead role in promoting economic opportunity and in regulating industry. For much of the nineteenth century economic conditions were such that people saw unemployment, for example, as a temporary phenomenon and were not inclined to attribute its occurrence to individual moral failings or behavioral problems.

In terms of welfare, the colonists shared a similar understanding to their English counterparts that government 'outdoor relief' - especially cash payments - would likely undermine self reliance and thrift

and lead people down the path to 'pauperism'. Thus, in order to discourage any sense of entitlement, they initially preferred relief to come not directly through the State but through charities. In the event, the mixed system of private charities and government agencies that resulted actually operated in ways not unlike that of the mother country. The asylums and work houses were places of stigma and shame, while the voluntary organizations involved in outdoor relief intervened closely in the lives of the poor to ensure that assistance went only to the 'deserving'. Anne O'Brien (1988) provides an excellent account from the records of the St Vincent de Paul Society and the Benevolent Society of NSW of how the systems of 'Inspection' of the poor operated in practice. You not only had to be poor but you had to appear to be poor, she notes, and inspectors had to be alert to a range of undeserving behaviors from drinking to prostitution, from domestic violence to having undisclosed income and so on. Neighbours could sometimes assist by gathering intelligence on the behavior of those suspected of undeserving behaviors. Assistance might sometimes be in cash but more often in kind.

Welfare conditionality is thus deeply rooted in Australian social policy. It derived from the English Poor Law model but there were very significant differences. The economic conditions of the working class were superior and there was not the same belief in the 'Iron Laws' of the free market inhibiting government intervention to promote both economic opportunities and fairness in the labour market. This meant that in thinking about how to raise the level of welfare, less weight attached to behavioral change approach of the English workhouse. Nevertheless the morality and behavior of the poor was considered important. Life in the colonies may have offered more opportunities but these could be missed if people developed expectations of government assistance to the neglect of the individual effort which was required. In the result the application of welfare conditionality in the colonies never scarred the social imagination in the way the Poor Law amendments did in England. Nevertheless the very idea of welfare conditionality was in question at the end of the century as people began to consider the idea of welfare as a citizenship right.

From charity to rights: the Old Age Pension (1900s)

Why did Australians break with the idea of welfare as a charity and turn to the idea of welfare as a right? The key event was the creation of the old age pension at the time of Federation. At that time the world had seen the eclipse of that laissez faire liberalism which had underpinned the Poor Law amendments in 1834. The perception that poverty was less the result of individual moral failure and more the outcome of the systemic economic and technological changes associated with the rise of capitalism and the industrial revolution led to the rise of varieties of collectivism: from socialism to the so called 'new liberalism'. Along with the various strands of socialism and labourism informing the new Labor Party, the latter was a key strand in the evolution of welfare rights in Australia. The old liberalism had emphasized the freedom of the individual, the family and local community from interference by the State. The new liberalism understood them as comprising a society which collectively assumed a responsibility to ensure that all members had the resources necessary for a civilized existence. However

it is important to note the extent to which many Australians were regarded as not fit for full membership on grounds relating to their race, ethnicity and gender.

The several State and the Commonwealth inquiries into the old age pension afford a wealth of evidence of this new way of thinking about poverty in Australia. The immediate context was the concern with the large numbers of old people compelled to enter the loathed asylums in order to receive relief. Characteristic was the Victorian Royal Commission's comments that this outcome was not a matter of individual behavior at all but rather it was 'a disease which has its roots deep down in social, industrial and political conditions'. This being the case, it considered it a 'question of justice' that the State accept the obligation 'to ensure that the worn-out wealth-creating human machines who have contributed to its development and enrichment shall receive the means of subsistence and comfort' (p.26) The challenge for the Victorian Commission was how to 'afford equitable aid without weakening the individual initiative, or impairing the Anglo-Saxon characteristics of self respect and manly independence'. The writer of the major report for the NSW Government, J C Neild emphasized that the old age pension ought to be considered 'a duty of the State, and not a "Charity" of the Government', while the outstanding campaigner for the old age pension, E W O'Sullivan believed that it 'should go as a free gift from the State in recognition of services rendered to it. The pension should be conceded as a right, not as a pauper dole, and its reception ought not in any way to be looked upon as making an invidious distinction'. A pension for the aged was often compared to similar arrangements for those who had served their country in war or through civil service. It clearly implied that the recipient had indeed rendered a service; or, in today's terms, it was based on a mutual obligation.

An important feature of the old age pension in Australia was that it was means tested and paid from general revenue. Most other countries have chosen some form of social insurance, a model that requires a record of life time contributions and thus avoids any sense of the pension being a charity or dole and therefore available only upon certain conditions. While there was an aspiration in Australia for the pension to be universal so as to avoid potential stigma that option was considered to be financially impossible.

Thus when the pension was created there were certain statutory tests that had to be met in order to show that services had indeed been rendered. 'Aliens', 'Asiatics' (except those born in Australia) and certain Aboriginal groups were not eligible at all. Otherwise, applicants had to have resided in the country for at least 25 years and be of 'good character'. While this was not defined it was the case, for example, that misbehavior through drunkenness and offences punishable by imprisonment could mean the payment of the pension could be interrupted or cancelled. These conditions around good character remained in the legislation until well after the Second World War though they had become a dead letter for years. Nevertheless, for those who satisfied the statutes the pension had indeed become a right. As Kewley emphasized, it was paid not on some assessment of need at the discretion of an official but at a fixed rate defined under legislation.

In terms of the development of the Australian approach to welfare conditionality it is important not to exaggerate the impact of the enactment of the aged pension. Thus O'Brien refers to it as an 'isolated

welfare breakthrough' at a time when in other areas of welfare, the traditional charity model of 'preventing physical starvation... (while) ...supplying the incentive for the poor to take work, however badly paid' was growing stronger than ever. Mendelsohn also refers to the very limited impact of the pension on Australian policies for income support. He comments that its creators regarded it as 'an unpleasant necessity' and its recipients 'as little better than beggars'. It was for decades regarded as a 'special case', he continues and no interest was shown in extending the principle to other groups such as the unemployed. Thus in the Great Depression, he continues, relief was offered in the form of coupons to be used with designated traders; a policy he describes as an extraordinary intrusion on the recipients' privacy which was hard to reconcile with a people who were 'naturally generous'. In Australia, he summarizes, 'community responsibility for dependency in any group of the population has ... been accepted reluctantly'. (p.155)

This very limited achievement in the field of pensions and benefits sits strangely alongside Australia's much trumpeted international reputation as the 'social laboratory of the world' at the time of Federation. To understand the Australian approach to welfare we have to begin not with policies for income support but rather with those social interventions which produced what at that time was a remarkably egalitarian society by English standards. The core social protection strategy was intervention in the market to promote industrial development as the provider of more and better quality jobs while regulating wages and conditions to ensure that the benefits of growth flowed through to workers and their families. The rather carefree colonial neglect of the need for an effective system of income support was to be cruelly exposed in the Great Depression and led during the Second World War to the creation of Australia's first national welfare plan. The whole Federation approach to welfare was, of course, informed by a vision of the Fair Go which we would recognise today as profoundly impaired: the marginalization of the First Nation, the racism of the 'White Australia' policy, and the inferior status accorded women.

The first national welfare plan (1940s)

Around the world, the early twentieth century experiments with rights based welfare turned out to be tentative steps in a movement towards comprehensive social security systems which were widely enacted in response to the Great Depression and Second World War. The Beveridge plan in Britain for 'cradle to grave' social security epitomized the movement. In Australia, the mass unemployment of the 1930s proved decisive in shifting opinion to the idea that unemployment and poverty could be more about systemic market failure than behavioral failings of individuals. The assumption of the obligation to provide full employment as the foundation of social security effectively remade the social contract between State and citizen; and there was a new emphasis on the role of social services in strengthening the community. In keeping with the earlier history, while income support was widened to the unemployed and widows, it remained a residual affair on the old pattern of the aged pension rather than following the international trend to a more clearly rights based universal system.

The Joint Parliamentary Committee on Social Security (1941-46) offers us a snapshot of the Australian system in transition. It summarized the old model under two heads:

- First industrial rights had been secured to prevent exploitation and to give lower paid workers ‘a fair share in the product of their industry’; and second was,
- ‘social legislation’ designed ‘to give effect to the popular democratic belief that every individual should have as good an opportunity in life as his neighbor’; an example of the latter was free elementary education. In addition there had been what we would call ‘welfare’ or assistance for the poor.

Embedded in these arrangements had been an understanding that ‘in a democratic community’ the right of an individual to share in what the community produced...must be accompanied by an obligation to contribute to community welfare to the utmost of one’s physical and mental capacity.

It was in the area of assistance for the poor that the Committee identified a fundamental change of attitudes. In the past the emphasis had been on the ‘regenerative or moral’ aspects meaning that help was not to demoralize people and was to be denied to the ‘vicious’ and the ‘improvident’. (p.760) These attitudes however had been challenged by new thinking on the causes of poverty:

“For long it was held that poverty was the fault of the individual and was solely due to inefficiency, improvidence, dishonesty, drunkenness and the like. More modern opinion is that poverty is mostly not the fault of the individual but of the environment in which he lives. Social services were largely developed because of the conviction that it is misfortune, not inherent evil, which brings people into want, and therefore it is the duty of the community to mitigate the worst effects of that want.”

What followed in Australia was a basic shift of emphasis away from welfare or income support as the solution to poverty and towards full employment policy and social services as the means to attack its environmental causes. This new approach was very much the achievement of the Department of Postwar Reconstruction under the political leadership of Ben Chifley. His pamphlet *Social Security and Reconstruction* captured the main themes of what was indeed to become Australia’s new Social Contract. Thus he introduced the idea of social security as a ‘safety net’. In our own times, of course, this metaphor has sometimes been used in a disparaging way to denote a system of ‘passive welfare’ in need of replacement by the ‘trampoline’ of welfare conditionality. For Chifley, the new social security ideal was all about enabling people to master risk so that they can take better advantage of opportunity.

“The trapeze artist’s net protects him through the whole course of his flight. The net is not, of course, part of the main show; that goes on high above, and the higher it goes, the better we enjoy it. The more competent the performer, the less the net will be used. But anyone who has ever seen an artist miss his hold knows what peace of mind the constant presence of the net means to performers and audience alike. So it is with social security.”

The safety net thus meant the provision of a national minimum of income for all to meet life’s ‘emergencies’ and below which no one should fall. However this ‘cradle to the grave’ social security could be no more than a ‘palliative’. It was emphasized that while ‘vital’ for the individual receiving them and a fulfillment of a ‘moral obligation’ on the part of the nation, they could not be ‘any more than working or eating, ends in themselves’

The ‘main show’ of course was to be full employment. Social security was to be the by-product of an ‘increasing abundance’, equitably redistributed. Full employment, in this view, would allow the community to embrace more positive ideals of both social and economic security. Thus the community could be strengthened by progressively raising societal standards across the key areas of nutrition, health, housing, education, training and employment services.

The economic obligation to work, moreover, was not about ‘work for work’s sake’, but was about people contributing to create that ‘rising flow of goods and services which will bring within reach of all freedom from economic worries, the enjoyment of comfort, the realization of some of our ambitions for personal development, and the bringing up of happy, healthy, well educated families’

While the new income support arrangements were widened to include new categories they remained on the restricted pattern of the old age pension. Thus they were means tested and there were conditions to be met. The recipient must have had an honourable discharge from the previous employer and could not refuse suitable employment when it was offered.

In a further extension of the aged pension model, the benefits were to be paid in cash. Here a critical factor was the deep seated reaction against the use of groceries and ‘ration tickets’ for the unemployed in the great depression. The government was also mindful of the British reforms following the Beveridge Report which had said: “ People do not want to be kept by the State, either in institutions or by having more than a small proportion of their incomes doled out to them in kind. They want money, to spend according to their own varying circumstances and ideas’. It was allowed that some monies would be spent unwisely but this was thought to be ‘a price the community pays for freedom. A State in which every citizen received his income in kind, with no allowance for personal tastes, would be a slave state... This is not what the people want. They want social security under conditions consistent with freedom.

Thus the first national welfare plan continued the low priority accorded income support in an Australian way which prioritised economic opportunity over welfare. What was really new was the Keynesian based mandate for the State to offer the economic right to paid employment. In the new welfare state the 'offer of paid employment' replaced the 'offer of the house' of the old Poor Law.

The unemployed could refuse a reasonable offer but in that case would not be able to claim unemployment assistance. In the event so long as government was able to deliver on full employment nothing was heard of those individual behavioral problems which had preoccupied policy makers in the old regime. In terms of welfare rights, however, while there was now a 'safety net' of entitlements - these continued to be offered under a conditional means tested system which was quite different to the universal models evolving in Britain and Europe. 'Catching up' to them would provide the final stage of expansion of social rights before the reversal set in.

The partial welfare state (1970s)

Unlike Britain where full employment and the welfare state were a simultaneous creation of the 1940s Australia's (partial) welfare state was a second phase development in the 1970s. This time difference is very important because the understanding of welfare conditionality in the welfare state was quite divorced from its foundations in the earlier industrial relations and employment policies. The welfare state project itself was very much about widening the sphere of citizenship so that the truly egalitarian achievements of earlier Australian social policy would be extended to all. The social movements for gender equality, multiculturalism and recognition of the First Nation people evidenced a new conception of Australian society entailing a radical expansion of social rights. However this welfare state iteration of social rights presupposed that the economic conditions of the long boom would never end and that the task of social policy was now more about changing the way this unprecedented wealth was shared. In Australia's case, however, the welfare state movement had hardly gained momentum when the boom was disrupted. In the result, social policy and the welfare state would end up being portrayed as 'bad for the economy'.

In the first national welfare plan we saw how welfare was considered as a 'palliative' or reinforcement to full employment. How then did social rights in the welfare state become divorced from industrial and employment policies? In relation to industrial regulation, the old regime of a 'living wage' protecting the ordinary workers and their families from exploitation lost salience as in a booming economy most workers took home pay well in excess of the basic 'family wage'. Indeed the industrial court declared itself now not to be a welfare agency. Welfare was thought to have become a responsibility of the emerging 'welfare state'.

In the 1940s full employment had been a very explicit political compromise in the historic contest between the political forces of laissez faire (or as we say today, neoliberalism) and of communism.

What happened over time with persistent full employment giving way to expectations of continuous economic growth was that the political terms of this new 'social contract' between the citizen and the State slipped from view. Full employment was reinterpreted as simply a matter of scientific economic management. When the new welfare state social policy agenda began to emerge in the 1960s the social question was no longer about the survival of the economic system; it was more to do – as Galbraith observed - with how to handle the problems of affluence. The focus of social policy shifted to the roles of social services and income support.

This differentiation of the role of social policy into the dimensions of 'welfare' can be illustrated from a classic definition of the welfare state from the period by Asa Briggs. He said that a welfare state intervenes in the market in three ways. First, to guarantee 'individuals and families a minimum income...second, by narrowing the extent of insecurity by enabling (them) to meet certain social contingencies ... which lead otherwise to ... crises; and third, by ensuring that all citizens ... are offered the best standards available in relation to a certain agreed range of social services'. Note the absence of reference to employment and economic rights.

Not only was the scope of social policy narrowed in this way to what Crosland called the 'backcloth and fittings of society' but through the critically important influence of the British scholars Richard Titmuss and T H Marshall in the 1950s, the understanding of welfare conditionality was also fundamentally recast. Titmuss is famed for his understanding of the social division of welfare which broadened out the topic of public welfare to include fiscal and occupational welfare; but, in fact, the division remained confined to issues of distribution and did not touch on the economic roles of citizens in production. He also introduced the contrast between residual and institutional welfare states. The latter featured the structure of universal services which Titmuss understood as creating an altruistic sphere over against the egoism of the economic market place. Then in T H Marshall's famous theory of citizenship, the social rights achieved through the welfare state constituted the third phase in the evolution of full citizenship; the earlier phases having been civil and political rights. For Marshall the creation of these social rights allowing all citizens to participate in the mainstream represented what was another historic compromise in the class conflict engendered by the market economy.

Through this influential rewriting of the idea of social rights, the idea of welfare conditionality - especially the obligation to contribute to economic production - became attenuated. Indeed the idea of the 'economy' as a place of egoism or class exploitation encouraged what was to become a widespread analysis that it could not be a site of legitimate rights and obligations at all. Rather the gaining of social rights (in the new narrow sense of the term) was better understood as a form of 'politics against markets'. This narrow, welfarist approach to social rights became further entrenched in the 1990s with Esping Andersen's highly influential characterisation of the role of welfare states in terms of 'de-commodification' or the release of citizens from market forces.

As it was, these new understandings of social rights and obligations underpinned Australia's short lived experiment with the social democratic approach to welfare. Characteristic policies were national health insurance, free university education and the extension of the old age pensions to all Australians over 70.

In the practice of welfare the aim was to transform a residual model still imbued with ideas and practices of the age of charity into a modern welfare state which institutionalised the idea of welfare as a universal right. What this meant for understanding welfare conditionality can be briefly illustrated from the Brotherhood's iconic experiment in a rights based approach to welfare: the Family Centre Project.

If the Brotherhood's history of working with disadvantaged people has anything to teach us on the question of rights and obligations and it surely is the need to get the right balance. Long before neoliberals came forward with calls to abolish government welfare as the source of 'dependency' the Brotherhood's Family Centre Project launched a rights based approach aimed precisely at ending long term 'dependence on charity'! Emergency relief and one on one case work services were closed in 1972 because they were seen to be having no long term impact on the Brotherhood's clients. A rights based approach was adopted based on the idea that you had to change people's 'economic and social conditions and opportunities' as a precondition for any individual and familial behavioral change. The Centre's empowerment approach was designed to give clients power over decision-making, resources, relationships and information. It would end what we would call today 'welfare paternalism' and replace it with a system based on open files and developmental plans; staff as resources rather than counselors; a guaranteed minimum income; choice and opportunities as rights for poor people. Most of all the model was a rejection of the 'culture of poverty' approach, which is the view that poverty is primarily the result of the inter-generational transfer of poor values.

It would be hard to think of a better project to test the claims currently being made today for and against 'welfare conditionality'. So, what did the Brotherhood learn from this front on assault on 'culture of poverty' based welfare? In terms of outcomes for participants, Centre evaluations pronounced it an overall success. At the same time, it showed that much was learnt along the way in relation to the claims and counter-claims being made about the relative importance of structure and agency in policy design.

Thus Liffman observed that while structural factors were indeed paramount there were limits to a purely 'structure' based approach. Getting the 'conditions and opportunities' right was a precondition of success but, according to Liffman, individual behavior still mattered showing there was also an ongoing need for the much maligned 'counselling, casework and therapy' if you were to effect behavioral change.

The welfare state represented a critical phase in the expansion of social rights in Australia based on new social aspirations of racial, ethnic and gender equality. But in retrospect we can see how the welfare state project did not allow for the extent to which its approach to welfare reform depended on the continuation of the long economic boom. The focus was all about redistributing wealth and resources

not about their production which had been the central concern of social policy in the 1940s. Moreover social policy had come to be understood by its leading practitioners as indifferent to or even hostile to the 'economy' rather than as a reinforcement to full employment and growth. Thus when full employment began to break down in the latter 1970s, with it went the now hidden assumption that people's obligation to wealth creation was being met through participation in paid employment. The way lay open for the neoliberal critique of 'welfare' as an economically wasteful system encouraging an obligation free dependency on the state.

Remaking welfare conditionality the Australian way

From this short overview of welfare conditionality we can see that it is not a new issue but one that has been central to the Australian way from its inception. From the extremes of the Poor Law period to the height of welfare estate expansion there has always been an understanding of the need for conditionality.

So the question for us today is not 'should there be conditionality?' But simply, what form should it take?

Answering this question is difficult today when the overall architecture of Australian social policy is not clear. Our overview of the Australian way revealed a three phase expansion of social intervention from Federation to the national welfare plan to the welfare state with an associated accumulation of rights and responsibilities. What followed though was two decades of what Prime Minister Kevin Rudd has called 'neoliberalism'.

As the prefix 'neo' indicates, this was about a revival of the free market beliefs of the nineteenth century. Accordingly social policy entered an essentially negative phase which, in true David Ricardo fashion, was more about contracting the Welfare State and 'pressing on the poor the value of independence'. That enterprise proved utopian with Australian social expenditures continuing to rise. However the welfare sector reaction to the neoliberal tide has by and large remained a defensive recycling of the narrow welfarist arguments of the 1970s.

Neither side has offered a satisfying framework for understanding conditionality today. Quite simply the nation lacks a coherent set of social principles to inform its policy practice. The Brotherhood believes that it is time for a new beginning.

We have to reconstruct the idea of conditionality within a new pattern of rights and obligations adapted to the needs of the twenty first century. A first step is to recognize that we are not looking at a situation requiring incremental adjustment to an essentially sound framework but rather at systemic renewal. If we revisit the key social policy institutions in the light of the current state of play we begin to sense the kinds of realignment which are needed:

- At Federation social policy was primarily about industrial regulation (the living or family wage) which was meant to substitute for welfare. Though we have a residual minimum wage today, for most Australians this form of social intervention more or less ended with the industrial relation reforms of 1993.
- From being the cornerstone of the national welfare plan, full employment finally petered out in the 1990s with official acceptance of a 'natural rate' set by the free market.
- social services, once designed 'to give effect to the popular democratic belief that every individual should have as good an opportunity in life as his neighbor', have become increasingly second class, stigmatized and more likely reinforcing rather than releasing people from disadvantage
- income support, while larger and more necessary than ever, is a confusing picture of the 'socially acceptable' e.g. family payments; and the residualised, e.g. Newstart Allowance and Parenting Payment which are more like people's first experience of poverty than an experience of social protection.

The second step in the task of rebuilding is to settle on some statement of the kind of society we want. Whether expressed as a new 'Social Contract' or a new 'Australian settlement' we have to be clear about the basic values and institutions which we want to shape policy development. In each historical phase of the Australian way from Federation, to the 1940s, to the 1970s there was clear consistency of effort to achieve a more equal society than laissez faire would allow. Thus the 'Fair Go', and later, a society in which 'every individual should have as good an opportunity in life as his\her neighbor'.

In Australia today this egalitarian aim can no longer be taken for granted and the Brotherhood believes that the Government's adoption of the Social Inclusion agenda should offer an historic opportunity for it to be reaffirmed.

A third step is to recognize that achieving these goals involves a wide range of interventions both economic and social. Over recent years there has been an obfuscating tendency to talk about welfare or the welfare state as though it has been nothing but income support for sole parents and the unemployed! But as we have seen, this is merely the 'safety net' which should hardly be needed if the other arms of social policy are doing their job. One positive outcome of the neoliberal critique of the welfare state approach in the 1970s has been to bring home the fact that welfare cannot be all about people taking from the wealth of the community without any apparent obligation to contribute to wealth creation.

And so it should be central to our new social inclusion policy architecture that it integrates economic and social rights.

The social inclusion agenda is beginning to change the way we think about what these rights might be. Both neoliberals and welfare defenders have taken welfare to be mainly about money. Social inclusion, especially as articulated in Sen's capability approach, is beginning to attune us to think in terms of the various domains of inclusion and exclusion of which income is but one. Using this framework the Brotherhood believes that by taking a life course approach we can identify the key social and economic risks Australians face in each critical life transition. Certainly the economic and social risk profile faced by Australians today is vastly different to that which shaped our now outdated welfare system. Using this approach the community can then agree a new set of social guarantees to each citizen so that they will have the resources necessary to master risk and climb their ladder of opportunity.

Getting these social guarantees in place must be our first priority. This was the lesson of the Family Centre Project. And it has been the foundation of the Brotherhood's approach ever since the repeated lesson of its founder Fr Gerard Tucker that we must strive to place a 'fence the top of the cliff' not merely an ambulance below. It is a lesson of which the Brotherhood was reminded in Social Inclusion Board member, Dr Chris Sarra's (2007) address on 'Mutual Responsibilities: Policy Partnerships not People Punishment'. Reflecting on his great success as an educator in what had been dismissed as problem schools he found that if you get the quality school services in place then much of what looks to be problems of individual behavior simply disappears.

At the same time, because our approach is about more than giving money for mere subsistence the community will have an interest in what is done with the investment.

Thus in our inclusive society 'Contract' we cannot talk about rights without also including obligations.

As we have seen the idea of an obligation to put back into society has never been far from the surface in the Australian way. Rights to income support for the aged, for widows, for unemployed all came in on the understanding that they were in recognition of 'services rendered' to the community. Finding appropriate 'tests' that obligations were in fact fulfilled has always been somewhat problematic but were there if only to remind people that the payments were premised on a reciprocal obligation between the citizen and the community. Even the radical social work of the 1970s, with its focus on structure not agency, found it could not disregard issues of behavior and the moral decisions of individuals. The emphases on reciprocal obligation in the Social Security Review of the 1980s and Working Nation together with the more restricted 'mutual obligation' policies of the Howard Government were less aberrations than reaffirmations of what had been the traditional understanding of the importance of obligation in the Australian way.

However, our historical overview revealed also a rich history of resistance to any unnecessary oversight and control of individual behavior whether by state officials or charity workers. Hence the preference for cash over in kind. As Beveridge was quoted: 'A State in which every citizen received his income in kind, with no allowance for personal tastes, would be a slave state... This is not what the people want. They want social security under conditions consistent with freedom'. Certainly in the period following the Second World War the control of individual behavior was a much muted theme. Our inclusive society approach definitely shifts the emphasis back towards taking account of behaviors.

Here our argument is that only so much can be achieved through the actions of public and social agencies. Private decisions also have consequences for the community.

Here we agree with London School of Economics Professor, David Piachaud, who wrote recently: 'Social Policy, until recently, has been largely concerned with complementing or responding to private behavior – often literally picking up the pieces. In the future there may be much more of an attempt to alter private behavior for social reasons.' As he illustrates, we have no problem with intervention in the case of the reckless driver but hesitate when it comes to the matter of parents not encouraging their child to read.

When we think of the rediscovery of the importance of the early years in recent Australian social policy we see very significant increases in our social investment both through family payments and children's services. Researchers and the community generally are so much more aware of the importance to later life transitions of a good start in the early years.

And clearly this is a case where as a community we are reliant upon the effective behavior of parents and could reasonably look for certain behaviors in return. Here key factors are that parents actually have the resources necessary to fulfill their obligations; that they have an effective voice in the deliberation of the requirements affecting them; and that any such requirements be simple, easily understood, unobtrusive and not unduly burdensome.

We find the legislation under consideration to be largely consistent with these principles and find no a priori reason why income management should not be a legitimate item in an Australian social policy program. More importantly the legislation has invited us to think of it might be implemented within a 'new approach to welfare reform' based on 'welfare conditionality'. For the Brotherhood the vital matter is to get our approach to welfare conditionality right. We have seen how the welfare state model promoted a one sided rights based model which was followed by an equally one sided emphasis on obligations. Neither offers the basis for the kind of new Social Contract which is so sorely needed.

Of course we recognize that this is a task for many years; our job today is to get the foundations right. But already, in the new Youth Compact and policies for the early years, we have seen some important first steps towards the kind of approach that is needed.

Further, the Brotherhood is very encouraged by the Government's new social inclusion agenda statement, *A Stronger, Fairer Australia*. In it we see a new and bold expression not just of an aspiration to an inclusive society but the key elements of the practical policy framework needed to ensure that every individual has the personal capacities and the material resources needed to participate in the mainstream economic and social life of the nation. Any consideration of the proposed legislation cannot ignore this significant development. Whether it be working families, children, youth, or the retired and ageing our challenge today is to get on with the task of putting on the table that package of entitlements which we as an Australian community believe would allow every person an opportunity in life as good as his or her neighbor. It is a great ambition for the community and one in which everyone should be expected to pull their weight.

At the same time we need to agree the services that need to be rendered in return just as we did in past occasions of social policy renewal. In these agreements the Brotherhood the aim of any requirements placed on individuals should be with a view to enhancing their active economic and social participation. The requirements should be simple, reasonable for all parties and easy to undertake.

References

- Joseph Benedict Chifley (1994) *Social security and reconstruction*, Dept. of Post-war Reconstruction, Canberra.
- Geoff Gallop (2006) *Rights and Responsibilities: towards a genuinely Australian understanding* (G T Sambell memorial oration), Melbourne: Brotherhood of St Laurence, [http://www.bsl.org.au/pdfs/Sambell Oration 2006 Gallop.pdf](http://www.bsl.org.au/pdfs/Sambell%20Oration%202006%20Gallop.pdf)
- T H Kewley (1969) *Australia's Welfare State*, Macmillan, Melbourne.
- T H Kewley (1973) *Social Security in Australia 1900-72*, Sydney University Press, Sydney, 1973.
- Kathleen Jones (1994) *The Making of Social Policy in Britain 1830-1990*, The Athlone Press, London.
- Michael Liffman, (1978) *Power for the poor : the Family Centre Project, an experiment in self help*, foreword by David Donnison, Allen & Unwin, Sydney.
- Philip Mendes (2008) *Australia's welfare wars revisited*, University of New South Wales Press, Sydney.
- Ronald Mendelsohn (1954) *Social Security in the British Commonwealth*, The Athlone Press, London.
- Tony Nicholson (2006) *Excerpts from Speech to Annual General Meeting, Brotherhood of St Laurence, 29 November 2006*, http://www.bsl.org.au/pdfs/BrotherhoodStL_AGM_2006_TNicholson_speech.pdf
- Anne O'Brien, (1988) *Poverty's prison : the poor in New South Wales 1880-1918*, Melbourne University Press, Carlton.
- David Piachaud (2008) 'Social justice and public policy: a social policy perspective', *Social Justice and Public Policy*, Policy Press, Bristol.
- Chris Sarra (2007) 'Mutual Responsibilities: Policy Partnerships not People Punishment', http://www.bsl.org.au/pdfs/Mutual_responsibilities,_Policy_partnerships_not_people_punishment.pdf
- Paul Smyth (2010) *In or Out? Building an Inclusive Nation*, The Australian Collaboration, Melbourne.
- Social Inclusion Unit (DPM&C) (2009) *A Stronger, Fairer Australia*, Canberra.