



Mr Harry Jenkins MP
Committee Chair
Parliamentary Joint Committee on Human Rights
PO Box 6100
Parliament House
Canberra ACT 2600

By email: human.rights@aph.gov.au

15 June 2012

Dear Mr Jenkins,

RE: Request for inquiry by the Parliamentary Joint Committee on Human Rights into the Social Security Legislation Amendment (Fair Incentives to Work) Bill 2012

We write to you to seek an inquiry by the Parliamentary Joint Committee on Human Rights, pursuant to your functions under section 7 of the *Human Rights (Parliamentary Scrutiny) Act 2011*, into the Social Security Legislation Amendment (Fair Incentives to Work) Bill 2012 (“the Bill”) introduced to Parliament on 31 May 2012 by the Hon Bill Shorten MP.

We believe that the Bill’s intention to cease parenting payments when a single parent’s youngest child turns 8 years old is a violation of human rights, as defined by the core United Nations treaties.¹ We believe that the Bill violates the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). Moreover, the Bill removes existing benefits aimed at realising the right to social security and thus violates the principle of non-retrogression.

We note that there are already over 40,000 Principal Carers currently on the Newstart Allowance who have had their human rights violated by the effect of the 2006 “Welfare to Work” changes. The current Bill now seeks to extend those human rights violations to sole parents and their families who were subject to the “grandfathering provisions” in 2006.

The operation of the Bill

The Bill will remove the “grandfathering” provisions established in 2006 to protect sole parents on parenting payments. This means that if sole parents cannot obtain sufficient hours of paid work when their youngest child is 8 years or older, they will have to apply for other income support payments such as the much lower Newstart Allowance. All single parents, whether in casual or part-time employment will stand to lose a portion of their income, and in some circumstances they

¹ Clause 3, the Bill.

may lose up to 12.8% of their income, or \$223.23 per fortnight.² This could affect as many as 100,000 sole parents, the majority of whom are women (90%).

The Bill is a violation of human rights

The proposed cuts to sole parents social security payments target some of the most marginalised and impoverished members of Australian society, many of whom are struggling with basic living costs on existing social security payments.³ The cuts also disproportionately impact women, who make up the major portion of single parent recipients.

In general terms, reductions to social security entitlements violate the following rights:

1. Article 9 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) recognises “the right of everyone to social security including social insurance”. Article 9 encompasses the right to access and *maintain* benefits,⁴ including, due to an inability to obtain or maintain suitable employment,⁵ and to realise the rights of children and adult dependents. General Comment 19 of the Committee on Economic, Social and Cultural Rights (CESCR) on the right to social security indicates that cash benefits and social services should be provided to families, and these would ordinarily cover food, clothing, housing, water and sanitation, or other rights as appropriate.⁶ The result of any cuts to payments means that sole parents are unable to *maintain* benefits that are already inadequate, and they may be further forced into poverty; being unable to afford food, clothing, housing, water and sanitation, as required in terms of the General Comment to the Covenant.
2. The Bill violates the rights of single parents to non-discrimination under Art 2, paragraph 2 of the ICESCR and Art 11(1)(e) of the International Covenant on the Elimination of All Forms of Discrimination against Women (CEDAW). Since the majority of recipients are women, they will suffer indirect gender discrimination should the Bill become law. In addition, sole parent families, identified for special measures due to their greater vulnerability, will suffer discrimination through the loss of these measures.
3. The Bill violates the principle of non-retrogression by removing a benefit previously available to sole parents. This goes against the requirement of progressive realisation of social and economic rights.

We would welcome an opportunity to elaborate on our position in this respect.

² Patricia Karvelas, ‘Budget crackdown will penalise single working mums’, *The Australian* (online), (2 June 2012), <<http://www.theaustralian.com.au/national-affairs/industrial-relations/budget-crackdown-will-penalise-single-working-mums/story-fn59noo3-1226380955711>>.

³ See: The Salvation Army Australia Southern Territory, Territorial Social Program Department, *The economic and social impact of cost of living pressures on people accessing emergency relief: a national survey* (16 May 2012), The Salvation Army Australia <http://www.salvationarmy.org.au/salvwr/_assets/main/documents/reports/impact-of-cost-2012-report.pdf>, page 8. Also see letter from ACOSS dated 30 May 2012, summarising the poverty experienced by sole parent families <http://www.acoss.org.au/images/uploads/Final_Letter%20to%20Senators%20and%20MPs_30%20May%202012.pdf>.

⁴ General Comment No. 19, the right to social security (art.9), page 2.

⁵ General Comment No.19, the right to social security (art.9), page 5.

⁶ General Comment No. 19, the right to social security (art.9), page 6.

Statement of Compatibility with Human Rights

A Statement of Compatibility with Human Rights (“the Statement”) accompanies the Explanatory Memorandum to the Bill and justifies the changes to the provisions for grandfathered parenting payments. The Statement explains that the right to social security has been engaged, and the changes to eligibility rules for grandfathered payments will:

- Make “access to parenting payment ... consistent for all claimants”;
- Help to “restore equity across the parenting payment population”;
- Encourage “parents with older children to re-enter the workforce earlier, thereby reducing long term welfare reliance and, over time, the prevalence of intergeneration welfare dependency”.⁷

The Statement concludes that:

- The Bill is compatible with human rights because it generally advances human rights; and,
- To the extent that the Bill may have any adverse impact on human rights, that impact is reasonable and for legitimate reasons.⁸

The reasons provided for the removal of the grandfathered payments are manifestly inadequate. There is an absence of explanation and justification as to how the reasons given for the engagement of the right of social security, support the conclusions drawn in the Statement.

Additionally, the Statement does not address central questions: how cuts to sole parents “generally advance human rights”, or if the cuts are taken to have an adverse impact on human rights, why the cuts are “reasonable and for legitimate reasons”.

Call for inquiry

Adequate consideration of the above issues ought to be given through a public inquiry established by the Committee.

We believe that, at the very least, calling for submissions from individual members of the public or interested organisations would allow the Committee to consider “more thoroughly”⁹ the human rights issues surrounding the Bill and the issues posed in this letter. We would welcome an opportunity to expand on our position in further detail.

If you have any queries arising out of this letter, please do not hesitate to contact us (contact details are provided below).

We look forward to your response.

Kind Regards,

⁷ Explanatory Memorandum, Statement of Human Rights Compatibility, page 15.

⁸ Explanatory Memorandum, Statement of Human Rights Compatibility, page 17.

⁹ Explanatory Memorandum, page 4.

Signed:

Beth Goldblatt, Visiting Fellow, Australian Human Rights Centre, University of New South Wales

Claerwen Little, CEO, UnitingCare Children Young People and Families

David Thompson, CEO, Jobs Australia Ltd

Dr Cassandra Goldie, CEO, Australian Council of Social Services

Dr John Falzon, CEO, National Council of the St Vincent de Paul Society

Elsbeth McInnes AM, Convenor, WEAVE (*Women Everywhere Advocating Violence Elimination*)

John Lawrence, CEO, UnitingCare Gippsland

Joy Nunn, CEO, UnitingCare Sunshine and Broadmeadows

Kelvin Alley (Major), National Secretary, The Salvation Army National Secretariat

Lin Hatfield Dodds, National Director, UnitingCare Australia

Maree O'Halloran AM, President, National Welfare Rights Network

Paul O'Callaghan, Executive Director, Catholic Social Services Australia

Philip Lynch, Executive Director, Human Rights Law Centre

Sara Charlesworth, Principal Research Fellow, Acting Director, Centre for Work + Life, Hawke Research Institute, University of South Australia

Terese Edwards, CEO, National Council of Single Mothers and their Children

Contact: Dr Cassandra Goldie
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CC:

The Honourable Julia Gillard MP, Prime Minister

The Honourable Tony Abbott MP, Leader of the Opposition

Senator Christine Milne, Leader of the Australian Greens