

**Submission of Equality Rights Alliance to the inquiry
of the Senate Community Affairs References
Committee into Centrelink's compliance program**

20 September 2019

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Equality Rights Alliance

Equality Rights Alliance (ERA) is Australia's largest network advocating for women's equality, women's leadership and recognition of women's diversity. We bring together 64 non-government organisations and social enterprises with a focus on the impact of policy or service delivery on women.

ERA believes the advancement of women and the achievement of equality are matters of fundamental human rights and advocates for gender equality, women's leadership and government policy responses that support women's diversity.

We are one of the six National Women's Alliances, funded by the Commonwealth Office for Women.

Summary of recommendations

- 1. Apply an intersectional gender lens to this review of Centrelink's compliance program and debt collection processes.**
- 2. Collect and make publicly available gender-dissaggregated data on Centrelink's compliance program and debt collection process, as well as data that is disaggregated to account for disability, CALD status, and Aboriginal and Torres Strait Islander status.**
- 3. End Centrelink's compliance program and debt collection process in light of its incompatibility with Australia's human rights commitments.**
- 4. Investigate and consult on models of Gender Responsive Budgeting for integration into the budget process, including design of and changes to the social security system.**

This submission is endorsed in whole or in part by the members of the Equality Rights Alliance:

- 2020Women
- Aboriginal Legal Rights Movement
- Alevi Federation of Australia
- Australasian Council of Women and Policing
- Australian Baha'i Community – Office of Equality
- Australian Centre for Leadership for Women
- Australian Federation of Graduate Women
- Australian Federation of Medical Women
- Australian Motherhood Initiative for Research and Community Involvement
- Australian National Committee for UN Women
- Australian Women's Health Network
- CARE Australia
- Children by Choice
- COTA Australia
- FECCA Women's Committee
- Feminist Legal Clinic
- Fitted for Work
- Gender Equity Community of Practice
- Girl Guides Australia
- Good Shepherd Australia New Zealand
- Homebirth Australia
- Human Rights Law Centre

- Immigrant Women's Speakout Association NSW
- International Women's Development Agency
- JERA International
- Jessie Street National Women's Library
- Justice Connect
- Maternity Choices Australia
- Migrant Women's Lobby Group of South Australia
- Multicultural Women's Advocacy ACT
- National Association of Services Against Sexual Violence
- National Council of Churches of Australia Gender Commission
- National Council of Jewish Women of Australia
- National Council of Single Mothers and Their Children
- National Council of Women of Australia
- National Foundation for Australian Women
- NSW Council of Social Services
- National Union of Students (Women's Department)
- Older Women's Network NSW Inc
- Project Respect
- Public Health Association of Australia (Women's Special Interest Group)
- Reproductive Choice Australia
- Safe Motherhood For All Inc
- Sexual Health and Family Planning Australia
- Soroptimist International
- Sisters Inside
- Union of Australian Women
- United Nations Association of Australia Status of Women Network
- Victorian Immigrant and Refugee Women's Coalition
- VIEW Clubs of Australia
- Women in Adult and Vocational Education
- Women in Engineering Australia
- Women on Boards
- Women with Disabilities Australia
- Women's Equity Think Tank
- Women's Electoral Lobby
- Women's Environment Network Australia
- Women's Housing Ltd
- Women's Information Referral Exchange
- Women's International League for Peace and Freedom
- Women's Legal Services Australia
- Women's Property Initiatives
- Women Sport Australia
- Working Against Sexual Harassment
- YWCA Australia
- Zonta International Districts 22, 23 and 24



Equality Rights Alliance

Women's Voices for Gender Equality

Introduction

Equality Rights Alliance thanks the Senate Community Affairs Committee for the opportunity to make a submission to the inquiry into Centrelink's compliance program. In this submission we aim to:

- a) demonstrate the need for an intersectional gender lens in reviewing Australia's social protection system, including Centrelink's compliance program,
- b) outline Australia's international human rights commitments to provide social protections which are non-punitive, and which promote gender equality, and demonstrate their incompatibility with Centrelink's compliance program, and
- c) recommend Gender-Responsive Budgeting (GRB) as a method of ensuring social security policies meet Australia's gender equality goals.

ERA strongly opposes the continuation and expansion of Centrelink's compliance program and debt collection process for social security recipients. We note there is some concern that the program is unlawful and that a class action to this effect is currently in progress.¹ More broadly, we are concerned about the framing of social protections as entitlements rather than rights in addition to significant flaws in implementation which have a disparate and disproportionate impact on women. We note that this submission draws on ERA's joint submission with economic Security4Women to the *Inquiry into the adequacy of Newstart and related payments* currently being conducted by this Committee.

Centrelink's compliance program is marked by a curtailment of access to social protection. According to the Office of the Commonwealth Attorney General:

"[The UN Committee on Economic, Social and Cultural Rights has stated] there is a strong presumption that retrogressive measures taken in relation to the right to social security are prohibited under ICESCR. In this context, a retrogressive measure would be one taken without adequate justification that had the effect of reducing existing levels of social security benefits... If any deliberately retrogressive measures are taken, the country has the burden of proving that they have been introduced after the most careful consideration of all alternatives and that they are justified, in the context of the full use of the maximum available resources of the country".²

Centrelink's compliance program and automated debt collection is retrogressive in relation to the right to social security, and has resulted in severe impacts on the people on whom it has been imposed. We note that, as stated above, when retrogressive measures are introduced "the country has the burden of proving that they have been introduced after the most careful consideration of all alternatives... and are justified.". In considering the impacts of compliance and debt collection processes on women who are income support recipients and their families, it is evident that neither of these criteria have been met. Further, as many as

¹ 'Centrelink robodebt class action lawsuit to be brought against Federal Government', *ABC News*, 17 September 2019, available from: <https://www.abc.net.au/news/2019-09-17/centrelink-robodebt-class-action-lawsuit-announced/11520338?section=politics>, accessed 18 September 2019.

² Attorney-General's Department. 2019. 'Right to Social Security', Australian Government: 2019, available from: <https://www.ag.gov.au/RightsAndProtections/HumanRights/Human-rights-scrutiny/PublicSectorGuidanceSheets/Pages/Rightsocialsecurity.aspx>, accessed 18 September 2019.

70,000 debts have been wiped, reduced or written off as a result of errors,³ and the cost of running the program has absorbed a significant proportion of the amount recovered.⁴

It is clear that the compliance program and debt collection process compound with other structures to create particularly severe impacts for particular groups of people, including single mothers, who are already disadvantaged within the income support system. The compliance program undermines the Australian government's priorities for the advancement of women, including women's economic security and workforce participation, and ensuring that women and their children are safe from violence. As we show, the program also violates Australia's commitments under the Convention to End all forms of Discrimination Against Women and Girls (CEDAW).

An intersectional gender lens on social security and Centrelink's compliance program

Poverty, and the provision of social protections in Australia must be considered through an intersectional gender lens. Applying a gender lens involves an analysis which considers how the impacts of a law, policy or intervention creates different outcomes for people which are dependent on their gender, including the different outcomes for men and women. We note that there are no gendered statistics on Centrelink's debt collection process available. In this submission we demonstrate how particular groups of women experience greater poverty and vulnerability under Newstart Allowance, and so are more likely to experience hardship as a result of the Centrelink's compliance program.

Intersectionality refers to the way in which social norms such as racism, laws, policies and interventions act together to compound the impacts of inequality on particular groups of people, for example on women who are also of migrant and refugee background, or also from low-socioeconomic background. An intersectional gender lens is a tool for analyzing how social norms, policies and interventions act alongside gender inequality to create more severe impacts on particular groups of women and people. It requires looking at a particular intervention systemically alongside other policies and other systems of disadvantage to enable understanding of disparate impacts of a policy on particular groups of women and people. An intersectional gender lens begins with considering how poverty is experienced disparately in Australia.

The social protection system in Australia is gender-blind. It is not appropriately structured to account for gender discrimination or gendered roles and division of caring and labour, and creates disparate disadvantage as a result. An important way in which the system is gender blind is in failing to account for the over-representation of women in unpaid work and care.⁵

Women's employment rate is 64% in comparison with 75% for men, and women aged 30-34 years old are three times more likely than men to be out of the labour force⁶ as a result of over-representation in unpaid work and care. While women's participation in the labour force has been increasing, this increase reduces available hours for unpaid work and care and has resulted in a growth in women in part-time and casual

³ Henriques-Gomes, L. 'Centrelink cancels 40,000 robodebts, new figures reveal', *The Guardian Australia*, 6 February 2019, available from: <https://www.theguardian.com/australia-news/2019/feb/06/robodebt-faces-landmark-legal-challenge-over-crude-income-calculations>, accessed 18 September 2019.

⁴ Henriques-Gomes, L. 'Robodebt scheme costs government almost as much as it recovers', *The Guardian Australia*, 22 February 2019, available from: <https://www.theguardian.com/australia-news/2019/feb/22/robodebt-scheme-costs-government-almost-as-much-as-it-recovers>, accessed 18 September 2019.

⁵ Another way in which the system is gender blind is for not accounting for how transphobia and the high rates of health burdens for non-binary transgender people limit access to long-term employment and perpetuate financial security, and by not structuring payments and support accordingly. There is little data or evidence to indicate how people who are transgender have experienced the Centrelink compliance program. As a result, in this submission we focus on disparate impacts which are a result of gendered care work.

⁶ ABS 6224.0.55.001 Labour Force, Australia: Labour Force Status and Other Characteristics of Families, June 2016.

work.⁷ Women make up nearly 70% of people in part-time employment;⁸ many of these positions are also categorised as 'precarious' – referring to lower paid positions with few or no benefits, reliant on short-term contracts, and holding little power in the organisational context. Given that many Centrelink debts are calculated by averaging weekly income,⁹ it is crucial to recognize that women are over-represented in casual and part-time work and are more vulnerable to Centrelink's debt collection process.

Women make the majority of income support recipients, including 49.3% of people in receipt of Newstart payments in Australia,¹⁰ and are more likely to be in receipt of payments for longer periods. This reflects a broader trend of women in Australia experiencing poverty for longer periods than men.¹¹ Importantly, women also make up 66% of part-rate recipients of Newstart payments, which indicates that those payments are a crucial supplement to the low income, part-time and casual work in which women are over-represented.¹²

Poverty among households relying mainly on Newstart payments rose by 17% between 1999 and 2015, and 84% of recipients report skipping meals to cope.¹³ In 2013 changes to eligibility for Australia's parenting social security payments transferred 80,000 sole parents onto unemployment payments. Rates of poverty among unemployed sole parents increased by 24% from 2013 to 2015.¹⁴ The ramifications of this are gendered, as 83% of single parent families are led by single mothers.¹⁵ While Newstart can provide support to some women performing unpaid care work, the National Council of Single Mothers and their Children (NCSMC) points out that Newstart is not a payment that is appropriately structured for sole parent families.¹⁶

We refer the committee to evidence presented in the submission made by the NCSMC to this inquiry. The single mothers who responded to NCSMC's survey on the impacts of Centrelink's compliance program and debt collection¹⁷ reported impacts including skipping meals, homelessness, a loss of financial security and savings, anxiety and constant worry, depression, reliance on charities and family, difficult paying utilities and threats of disconnection, being unable to afford schools, equipment and children's activities, and missing medical appointments and healthcare needs. 12% reported they no longer had money to stay safe. The inadequacy of Newstart payments for supporting single parents, and the high rates of poverty they experience render single parents extremely vulnerable in the face of Centrelink's compliance program and debt collection process. Given that the vast majority of single parent families are led by mothers, the impacts of the program are indisputably gendered.

⁷ economic Security4Women, 2016. *Discussion paper: A Lack of Fair Sharing – the Care Economy*. NSW: eS4W, available from https://www.security4women.org.au/wp-content/uploads/eS4W-Discussion-Paper_A-Lack-of-Fair-Sharing-eS4W-Care-Economy_20160701.pdf, access 28 August 2019.

⁸ Workplace Gender Equality Agency, 2019. 'Gender workplace statistics at a glance 2018-19', Sydney: WGEA, available from: <https://www.wgea.gov.au/data/fact-sheets/gender-workplace-statistics-at-a-glance>, accessed 18 September 2019.

⁹ Goldie, Cassandra. 'Robodebt is an abuse of power. It should never have seen the light of day', 28 August 2019, *The Guardian Australia*, available from: <https://www.theguardian.com/commentisfree/2019/aug/28/robodebt-is-an-abuse-of-power-it-should-never-have-seen-the-light-of-day>, accessed 18 September 2019.

¹⁰ 2018 data on Newstart commissioned from Department of Social Services by ERA.

¹¹ Australian Government, "Indicator 1.2.1 Proportion of population living below the national poverty line, by sex and age" *Sustainable Development Goals Data*. 17 July 2018, <https://www.sdgdata.gov.au/goals/no-poverty/1.2.1> (accessed 24/10/18)

¹² 2018 data on Newstart commissioned from Department of Social Services by ERA.

¹³ ACROSS, "More food for my kids"; "replace worn-through clothing"; "keep a car running to get a job" – ACROSS survey shows what a Newstart increase would really mean', ACROSS Media Release, 29 July 2019, available at: https://www.across.org.au/media-releases/?media_release=more-food-for-my-kids-replace-worn-through-clothing-keep-a-car-running-to-get-to-a-job-across-survey-shows-what-a-newstart-increase-wou, accessed 16 August 2019.

¹⁴ ACROSS and UNSW Sydney, *Poverty in Australia 2018*. (Sydney, 2018). 12

¹⁵ ABS 6224.0.55.001 Labour Force, Australia: Labour Force Status and Other Characteristics of Families, June 2016.

¹⁶ National Council of Single Mothers and their Children, "A Small Investment for a Significant Gain – Budget Submission" 2016 <http://www.ncsmc.org.au/wp-content/uploads/2016/02/Budget-Submission-2016.pdf> (accessed 6.11.18)

¹⁷ The National Council of Single Mothers and their Children Inc. 2019. *Submission of the National Council of Single Mothers and their Children to the inquiry of the Senate Community Affairs References Committee into Centrelink's compliance program: Robo-Debt "The loss of integrity" 2019*. Australia: NCSMC.

Further, this occurs in a context in which the average superannuation balances for women aged 60-64 are just over half (58%) those of men.¹⁸ The economic insecurity created by Centrelink's compliance and debt collection will compound with other sources of economic insecurity accrued by women over the lifecycle resulting from the unequal distribution of unpaid work and care, gender discrimination in the workforce and the gender pay gap. The outcomes and cost of this disparity are evident when viewed through housing insecurity. Between the 2011 and 2016 censuses there has been a 31% rise in homelessness among older women¹⁹ and a 97% increase in the number of older women forced to rent in an increasingly unaffordable private market.²⁰

Some women and people are exposed to more severe and specific poverties, as a result of the way interventions, policies and social norms compound. These groups are likely to be more severely and disparately impacted by the Centrelink compliance program. For example, people who identify as transgender are more likely to experience poverty and more likely to be discriminated against in employment as a result of transphobia.¹ In addition, transgender people also report high rates of mental health and depression, increasing their vulnerability to the stress associated with debt collection.

Women from culturally and linguistically diverse backgrounds are over-represented in insecure employment fields,²¹ and face additional barriers in obtaining formal recognition of education and other qualifications and skills.²²

Aboriginal and Torres Strait Islander women are paid an annual average of \$11, 200 less than non-Indigenous women,²³ and some women (especially Aboriginal and Torres Strait Islander women) using cashless debit cards. Aboriginal and Torres Strait Islander women also experience particularly high rates of domestic and family violence.²⁴ All of these factors increase Aboriginal and Torres Strait Islander women's vulnerability to severe impacts as a result of Centrelink automated debt collection, including a restricted ability to leave domestic and family violence as a result of restricted income.

25-30% of people with a disability have been forced from the Disability Support Pension onto lower rate Newstart payment despite the additional costs of health care they carry over the lifetime and between 38-41% of people living in poverty are people with disability.²⁵ Women with disability experience lower rates of employment and pay than men with disability and are more likely than men with disability to be in insecure employment.²⁶

¹⁸ Equality Rights Alliance. Forthcoming. 'Economic Wellbeing', in *National Plan for Gender Equality*. ACT: ERA.

¹⁹ National Older Women's Housing and Homelessness Working Group. 2018. *Retiring into Poverty – A National Plan for Change: Increasing Housing Security for Older Women*. ACT: YWCA Canberra.

²⁰ Equality Rights Alliance. Forthcoming. 'Affordable and Appropriate Housing for Women', in *National Plan for Gender Equality*. ACT: ERA.

²¹ Federation of Ethnic Communities' Councils of Australia, 2017. 'Submission to Independent Inquiry into Insecure Work', (ACT: FECCA). Available at http://fecca.org.au/wp-content/uploads/2017/07/Independent-Inquiry-into-Insecure-Work-submissionv_02.pdf

²² economic Security4Women, 2019. Discussion Paper: *Issues confronting Australian women from culturally diverse backgrounds*. NSW: economic Security4Women, available from: <https://www.security4women.org.au/wp-content/uploads/eS4W-Discussion-Paper-Issues-confronting-Australian-women-from-culturally-diverse-backgrounds-20190205.pdf>, accessed 28 August 2019.

²³ Howlett, M, M Gray and B Hunter, 2016, 'Wages, Government Payments and Other Income of Indigenous and Non-Indigenous Australia', *Australian Journal of Labour Economics*, vol 19, no.2 pp. 53-76.

²⁴ 'Submissions Received by the Senate Community Affairs Legislation Committee into the Social Services Legislation Amendment (Cashless Debit Card) Bill 2017, available at https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/CashlessDebitCard/Submissions, accessed 8 August 2019.

²⁵ Australian Council of Social Services, *Poverty in Australia 2018* (NSW: ACOSS, 2018), 58.

²⁶ Women with Disabilities Australia. 'An Overview of the Status of Women With Disabilities in Australia', WWDA: 2019, available from <http://wwda.org.au/about/snapshot/>, accessed 18 September 2019.

Further, the telecommunication and digital inclusion divide in regional, rural and remote (RRR) Australia,²⁷ renders RRR women at a greater disadvantage in challenging or responding to debt notices, and accessing support services.

While data on the experience of particular groups of women and people as part of Centrelink's compliance and debt collection program is limited, it is reasonable to suggest that systemic interventions and social norms are compounded by Centrelink's compliance framework to make the impacts more severe and more likely for some individuals and groups of women. An intersectional gender lens, informed by disaggregated data, is crucial to ensure that Australia's Centrelink compliance program and social security system do not discriminate against women, or work systemically with other interventions and social norms to further disadvantage particular groups of women and people.

Recommendations:

- 1. Apply an intersectional gender lens to this review of Centrelink's compliance program and debt collection processes.**
- 2. Collect and make publicly available gender-disaggregated data on Centrelink's compliance program and debt collection process, as well as data that is disaggregated to account for disability, CALD status, and Aboriginal and Torres Strait Islander status.**

Australia's international human rights obligations

Through international human rights frameworks, Australia has committed to an intersectional and gender-responsive approach to social security and protections.

The right to social security is set out in article 9 of the Convention on Economic, Social and Cultural Rights, to which Australia is a signatory.²⁸ Article 9 is significant, because it establishes social security as a human right, as opposed to an optional grant or endowment by States.

Under the Convention on the Elimination of Discrimination Against Women, Australia has committed to *"take all appropriate measures to eliminate discrimination against women in the field of employment... in particular... the right to social security"*,²⁹ and under Goal 5 of the Sustainability Development Agenda, to:

*recognize and value unpaid care and domestic work through the provision of public services, infrastructure and social protection policies and the promotion of shared responsibility with the household...*³⁰

In early 2019, the sixty-third session of the UN Commission on the Status of Women (CSW63) negotiated Agreed Conclusions on the theme of *social protection systems, public services and sustainable*

²⁷ Barraket, T., Wilson, C.K., Rennie, E., Ewing, S., MacDonald, T. 2019. *Measuring Australia's Digital Divide: The Australian Digital Inclusion Index 2019*, Melbourne: RMIT University and Swinburne University of Technology, Telstra.

²⁸ General Assembly. 1966. *International Covenant on Economic, Social and Cultural Rights*, Art. 9, A/RES/2200A(XXI), available at: <https://www.ohchr.org/Documents/ProfessionalInterest/cescr.pdf>, accessed 18 September 2019.

²⁹ *Convention on the Elimination of All Forms of Discrimination Against Women – Part II*, (Art.11.1, (e)), A/RES/34/180, available at <https://www.ohchr.org/en/professionalinterest/pages/cedaw.aspx>

³⁰ General Assembly, *Transforming our world: the 2030 Agenda for Sustainable Development - Goal 5. Achieve gender equality and empower all women and girls*, (5.4), A/RES/70/1, available at https://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/70/1&referer=http://www.un.org/en/documents/index.html&Lang=E

infrastructure for gender equality and the empowerment of women and girls. In adopting the conclusions, Australia agreed to:

*Ensure the right to social security in national legal frameworks, as well as ensure universal access to social protection, supported by national strategies, policies, action plans and adequate resources, to enhance gender equality and the empowerment of women and girls;*³¹

Australia has also made significant commitments to social protections for unpaid work and carers, including mothers, older women, and on welfare conditionality. Under the 2030 Sustainable Development Agenda, Australia committed specifically to social protection schemes which support unpaid workers and carers, with a view to recognising and valuing unpaid work and care:

*Ensure access to social protection for unpaid caregivers of all ages, including coverage for health care and pensions, and in this regard strengthen social protection schemes that promote, as appropriate, the economic, social and legal recognition of unpaid care and domestic work, and allow such work to be valued within contributory schemes;*³²

Further, at CSW63 Australia committed to social protections which safeguard older women's economic security, and reduce economic inequalities, namely to,

*Promote legal, administrative and policy measures that strengthen unemployment protection schemes and ensure women's full and equal access to pensions, including access to income security for older women... and reduce gender gaps in coverage and benefit levels;*³³

Finally, we note that this review takes place in circumstances where the Australian Government has committed to:

*Assess the need for and promote the revision of conditionalities, where they exist, related to cash transfer programmes, inter alia, to avoid reinforcing gender stereotypes and exacerbating women's unpaid work; and ensure that they are adequate, proportional and non-discriminatory and that non-compliance does not lead to punitive measures that exclude women and girls who are marginalized or in vulnerable situations;*³⁴

Centrelink's compliance program is punitive, and serves to exclude women and girls who are marginalized and in vulnerable situations. We again refer the Committee to the evidence put forward to this inquiry by the National Council of Single Mothers and their Children (NCSMC). One respondent to NCSMC's survey likened the experience to abuse:

"It honestly felt like I was in a domestic violence situation again.", and another reported,

"I have now paid it as I was frightened not to but now wish I had had the support to fight the debt."

Many respondents noted how the process of engaging with Centrelink was exhausting, time-intensive, invasive and punished them with the onus of proof. We note that for women, and in particular single mothers, time is an incredibly valuable currency. Women spend 64.4% of their average weekly working time on unpaid work and care in comparison to 36.1% for men.³⁵ The birth of a baby raises a woman's average caring duties from 2 hours to 51 hours per week, and household duties from 16 hours to 25 hours

³¹ United Nations Economics and Social Council, *Commission on the Status of Women Sixty-third Session – Strengthen normative, legal and policy frameworks*, (para.47, (f)), E/CN.6/2019/L.3/, available at <https://undocs.org/en/E/CN.6/2019/L.3>

³² *ibid* para.47, (l)

³³ *ibid* para.47, (jj)

³⁴ *ibid* para.47, (mm)

³⁵ ABS 6224.0.55.001 Labour Force, Australia: Labour Force Status and Other Characteristics of Families, June 2016.

a week.³⁶ This is a total increase of an average of 76 hours a week. Further, we note that while 40,000 debts have been withdrawn as a result of errors there are indications the program will now be extended toward 'vulnerable Australians', including pensioners, Aboriginal and Torres Strait Islander people and people with disability.

The evidence presented by NCSMC demonstrates that the debt collection process undermines the purpose it aims to fulfil by increasing the financial insecurity of low-income Australians, and therefore increasing the burden on the social protection system, including long-term need for income support payments and social and public housing. Some respondents spoke of how the anxiety and worry associated with the debts was debilitating, and some participants felt their careers and jobs were now at risk as a result of taking sick leave due to anxiety. Others spoke of or how they were issued debts for undertaking traineeships intended to upskill themselves for employment. Several of the respondents noted that while they were targeted for debt collection as social security recipients, their ex-partners owed thousands of dollars in child support that has not been recouped. This evidence points to the way in which Centrelink's compliance program and debt collection punishes income support payment recipients, including single mothers, by creating a climate of fear and increasing financial insecurity, rather than a measured or just approach to reducing the economic costs of inequality, abuse and disadvantage.

The assumption underpinning the program that social security payments are an entitlement rather than a right is inconsistent with Australia's human rights commitments. The Office of the Commonwealth Attorney General confirms that,

*"qualifying conditions for benefits must be reasonable, proportionate and transparent."*³⁷

The debt collection process attached to Centrelink's compliance program cannot be said to be reasonable, proportionate or transparent. Single mothers have reported inconsistency in the amounts they are alleged to owe, a lack of transparency in debt calculation, and the severe impacts of debts. According to the evidence presented by NCSMC,³⁸ 41% of single mothers in their survey had "[n]o idea as to why they have or had a DHS-Centrelink debt".

The disparity of impacts on women amounts to indirect discrimination. In communication to the Australian Government, the Special Rapporteur on Extreme Poverty and Human Rights Philip Alston stated,

"discrimination through differential impact on the basis of sex... is patent. Pursuant to international human rights law, there is no justification for discrimination. Even if something is said to be "reasonable and proportionate," it may in fact be unreasonable as a result of its very disparate impact."

In calculating debt based on automated averaging of income, people with a history of casual or part-time work are more likely to be affected by automated debt calculations. As outlined above, women are more likely to be or have been in casual work or part-time work when compared with men. This likelihood is even higher for women from migrant and refugee backgrounds and women with disability.

ERA reiterates the severity of the impact of the debt collection processes on single mothers, as demonstrated by NCSMC. These impacts on single mothers have been exacerbated by previous changes to the social security system which previously resulted in the transfer of 80,000 sole parents from the

³⁶ Australian Institute of Family Studies, *Mothers still do the lion's share of housework*, (Melbourne: AIFS, 2016), available from <https://aifs.gov.au/publications/mothers-still-do-lions-share-housework>, accessed 19 August 2019.

³⁷ Attorney-General's Department. 2019. 'Right to Social Security', Australian Government: 2019, available from: <https://www.ag.gov.au/RightsAndProtections/HumanRights/Human-rights-scrutiny/PublicSectorGuidanceSheets/Pages/Rightsocialsecurity.aspx>, accessed 18 September 2019.

³⁸ NCSMC, 2019.

Parenting Payment – Single to Newstart Allowance, which is widely accepted to be below the cost of living. 83% of single parent families are led by single mothers. The way in which these factors intersect significantly reduce the capacity of women in these circumstances to recover from, pay and challenge automated debt collections.

Further, the Special Rapporteur condemned Australia’s increasing use of welfare conditionality, noting that,

“it is important to acknowledge that the right to social security is a right to access and maintain cash or in-kind benefits, without discrimination, in order to secure basic social protection. It is both a safety net for those who require temporary financial support and a means of living for people who are unable to earn their own livelihood on a long-term basis. It is not a charitable concession who recipients should be demonised and subjected to further social exclusion.”

It is inconsistent with Australia’s obligation to ensure secure basic social protection and the right to an adequate standard of living³⁹ that the outcome of Centrelink’s compliance program and automated debt collection is that some people are left without money to pay for immediate basic needs such as food or rent. We note that the Parliamentary Joint Standing Committee on Human Rights has previously raised concerns that payment suspensions for non-compliance with Welfare to Work programs are administered without a waiver for consideration of hardship or vulnerability.⁴⁰ It is deeply concerning that these consequences are also being passed on to children. Further, we note the impact that payment suspensions may have on women and people who are experiencing additional gender inequalities in the form of domestic and family violence, and create additional danger for those who are leaving situations of violence by curtailing access to income. For example, women have reported returning to situations of domestic and family violence when being moved onto lower payment rates and no longer able to afford the cost of living.⁴¹

The linking of payments to compliance with activities which discriminate and cause extreme disadvantage to particular groups of people including single mothers, women with disability and women who have experienced casual and insecure work is unacceptable. ERA calls on the Committee to view payments as social protection floors which are human rights that the Australian government has an obligation to ensure, rather than costs or charitable concessions which can be punitively stripped without due consideration of a person’s circumstances or the impacts on their ability to fully enjoy their human rights.

Recommendation:

- 3. End Centrelink’s compliance program and automated debt collection process in light of its incompatibility with Australia’s human rights commitments.**

Gender-responsive budgeting

Public policy research has established that government policies are not gender neutral. This research shows that consideration of the gendered effects of policies can be a powerful means to promote gender

³⁹ General Assembly. 1966. *International Covenant on Economic, Social and Cultural Rights*, Art. 9, A/RES/2200A(XXI), available at: <https://www.ohchr.org/Documents/ProfessionalInterest/cescr.pdf>, accessed 18 September 2019.

⁴⁰ Hurley, M. ‘Supercharging discrimination: the Targeted Compliance Framework and the impact of automated decision making’, *Power to Persuade*, 21 August 2019, available from: <https://www.powertopersuade.org.au/blog/supercharging-discrimination-the-targeted-compliance-framework-and-the-impact-of-automated-decision-making/20/8/2019>, accessed 26 August 2019.

⁴¹ The National Council of Single Mothers and Their Children Inc. (NCSMC). 2016. *Family Payments: Critical Support not a Cost Saving Measure*. Australia: NCSMC.

equality as well as more efficient policymaking. A common technique used in this process is Gender Responsive Budgeting (GRB). GRB analyses whether and how revenue collection and policy expenditure will affect women and men differently.⁴² It takes many forms and can be implemented at different stages within the policy process.⁴³ GRB aims to ensure that policies either produce gender equal outcomes or redress current gender inequalities.⁴⁴

GRB is widely accepted internationally as a means of assessing whether a country's resource allocations match its gender equality goals.⁴⁵ More than half of the OECD countries have implemented it or are in the process of considering or implementing it.⁴⁶ Globally more than 90 countries have tried some form of GRB.⁴⁷ Moreover, while the different forms and contexts of GRB make it difficult to evaluate, recent studies show that in some countries GRB has contributed to gender-oriented changes in health, education and infrastructure budgets.⁴⁸ The automated debt collection system is a prime example of a policy which has been implemented without consideration of its effect on women. Without some form of GRB or other gender analysis in policy development, the Australian Government will continue to deliver policy which actively discriminates against women.

Recommendations:

- 4. Investigate and consult on models of Gender Responsive Budgeting for integration into the budget process, including design of and changes to the social security system.**

⁴² Stotsky, Janet. (2016). Gender Budgeting: Fiscal Context and Current Outcomes. *IMF Working Papers*, 16(149), 4.

⁴³ Hodgson, Helen. and Morrissey, Suzy. 2017. *Gender Budgeting – Governments, Civil Society and Gender Bias in Tax Policy*. Conference Paper – Australasian Tax Teachers Association Conference, Wellington, New Zealand

⁴⁴ Williams, Greta and Gissane, Hannah. Forthcoming. *Analysing the Gap: Enhancing Australia's gender-aware public policy process with Gender Responsive Budgeting*. ACT: ERA.

⁴⁵ Sharp, Rhonda, & Broomhill, Ray. (2013). *A Case Study of Gender Responsive Budgeting in Australia* (Research Report) (p. 32). The Commonwealth Secretariat., 26.

⁴⁶ Downes, Ronnie, von Trapp, Lisa., & Nicol, Scherie. (2017). Gender budgeting in OECD countries. *OECD Journal on Budgeting*, 16(3), 71–107.

⁴⁷ Sawyer, Marian, & Stewart, Miranda. (2018). Gender Innovation: The Global Movement for Gender Budgeting. *Broad Agenda*, available from <http://www.broadagenda.com.au/home/gender-budgeting-why-we-need-it/>, accessed 23 November 2018.

Sawyer & Stewart, *Gender Innovation: The Global Movement for Gender Budgeting*.

⁴⁸ Williams, Greta and Gissane, Hannah. Forthcoming. *Analysing the Gap: Enhancing Australia's gender-aware public policy process with Gender Responsive Budgeting*. ACT: ERA.