



Raise the rate: A decent and dignified standard of living
for all

Submission to the Inquiry into the adequacy of Newstart and
related payments and alternative mechanisms to determine the
level of income support payments in Australia

26 September 2019

www.hrlc.org.au

Freedom. Respect. Equality. Dignity. **Action.**

Contact

Adrienne Walters & Monique Hurley
Human Rights Law Centre Ltd
Level 17, 461 Bourke Street
Melbourne VIC 3000

T: + 61 3 8636 4451

E: adrienne.walters@hrlc.org.au

W: www.hrlc.org.au

About the Human Rights Law Centre

The Human Rights Law Centre uses a strategic combination of legal action, advocacy, research, education and UN engagement to protect and promote human rights in Australia and in Australian activities overseas. It is an independent and not-for-profit organisation and donations are tax-deductible.

The Human Rights Law Centre acknowledges the people of the Kulin and Eora Nations, the traditional owners of the unceded land on which our offices sit, and the ongoing work of Aboriginal and Torres Strait Islander peoples, communities and organisations to unravel the injustices imposed on First Nations people since colonisation and demand justice for First Nations peoples.

Follow us at [@rightsagenda](https://twitter.com/rightsagenda)

Join us at www.facebook.com/pages/HumanRightsLawResourceCentre

Introduction

1. The Human Rights Law Centre (**HRLC**) welcomes the Senate Community Affairs References Committee's inquiry into the adequacy and determination of social security payments.
2. Any measure that would raise the standard of living of families and individuals in Australia should be supported by the Federal Government.
3. The rate of Newstart has not increased in real terms in the last 25 years and, as other submissions point out, unemployed Australians have not shared in increases in living standards that the rest of the community has enjoyed.
4. A good government would ensure that every person has the means to buy nourishing food, keep warm on a cold night, sleep in a safe and secure home and pay for school excursions for their kids. Raising the rate of social security payments to a level that allows people to live, rather than scrap to "survive", is a critical step to achieving that goal.
5. The HRLC has worked closely with the Aboriginal Peak Organisations NT (**APO NT**) in relation to social security laws and economic justice in remote communities in the NT, which is the focus of the second part of this submission. As APO NT has noted, the current, inadequate rate of social security payments has a disproportionate impact on Aboriginal and Torres Strait Islander people, and particularly those living in remote communities where poverty rates have grown according to the 2016 Census.
6. We hope that this inquiry will hear from as many people as possible who are experiencing or have experienced life on Newstart or other social security payments, including Aboriginal and Torres Strait Islander people whose voices and experiences are often excluded. This submission provides a human rights lens on the inadequacy of the current rate of many social security payments and is intended to support the evidence of those who are living, or have lived the experience.

Recommendations

7. The HRLC has reviewed the submission of the Australian Council of Social Services (**ACOSS**) and endorses its recommendations in relation to immediately increasing a range of social security payments. In particular, the HRLC endorses the recommendation that the maximum rates of Newstart, Youth Allowance and related payments for all single people, should be raised by a minimum of at least \$75 per week with indexation, and that Rent Assistance and the Family Tax Benefit for single parents with older children should be increased.
8. The HRLC has also reviewed the submission of **APO NT** and endorses the recommendations made in their submission.

9. In addition, the HRLC recommends:
- (a) an independent review of the Remote Area Allowance, with a view to increasing it to an amount that more accurately reflects the rising costs of living in remote areas.
 - (b) the establishment of an independent, statutory social security commission to advise the Federal Parliament on the setting of social security payments to ensure that allowances and pensions are adequate, accessible and non-discriminatory. We note that this should not delay the immediate increase of the current, woefully inadequate social security allowances as recommended in ACOSS' submission.
 - (c) that such a social security commission should be empowered to advise on the appropriateness and proportionality of mandatory activity and compliance frameworks and how these impact on the accessibility of payments.
 - (d) that the Government work with Aboriginal and Torres Strait Islander communities and organisations, consistent with the United Nations *Declaration on the Rights of Indigenous Peoples*, and transition away from top-down interventions, like the remote work-for-the-dole program and compulsory income quarantining, to Aboriginal-led models, such as the *Fair Work and Strong Communities: Remote Development and Employment Scheme*.¹

An equal opportunity to live our best lives

10. Social security is about sharing our national prosperity fairly to make sure that no one gets left behind and trapped in poverty. Article 9 of the International Covenant on Economic, Social and Cultural Rights (**ICESCR**) protects the right to social security, by providing that “States Parties to the present Covenant recognize the right of everyone to social security, including social insurance”.²
11. This is deeply intertwined with the realisation of the other rights set out in ICESCR and other UN conventions, like the Convention of the Rights of the Child (**CROC**). Article 26 of CROC provides that “State Parties shall recognise for every child the right to benefit from social security”.³
12. Social security “must be adequate in amount and duration in order that everyone may realise his or her rights to family protection and assistance, an adequate standard of living and adequate access to health care”.⁴ The adequacy of social security “should be monitored

¹ Aboriginal Peak Organisations NT, *Fair Work and Strong Communities: Proposal for Remote Development and Employment Scheme* (May 2017).

² See the UN General Assembly, International Covenant on Economic, Social and Cultural Rights, 16 December 1966, United Nations, Treaty Series, vol 993, 3.

³ UN General Assembly, Convention on the Rights of the Child, 20 November 1989, United Nations, Treaty Series, vol. 1577, 3.

⁴ UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 19: The right to social security (Art. 9 of the Covenant), E/C.12/GC/19 (4 February 2008) [22].

- regularly to ensure that beneficiaries are able to afford the goods and services they require to realise their [ICESCR] rights”.⁵
13. Successive federal governments have, through harsh changes to social security rules and a refusal to increase payments, let down First Nations communities, single parents and their children, people living with long term illnesses and disabilities, people locked out of work and many others. With the cost of living on the rise, the financial and emotional strain caused by the Federal Government’s social security policies to individuals and families struggling to cope is of huge concern.⁶
14. It is clear that Australian governments have not, and are not, doing enough to proactively tackle poverty in Australia when:
- (a) one in eight people and one in six children under 15 years live in poverty;⁷
 - (b) nearly one-third of sole parent families, 82 per cent of whom are headed by women, live in poverty;⁸
 - (c) roughly one-third of Aboriginal and Torres Strait Islander people are living in poverty;⁹
 - (d) women are more likely to be living in poverty when compared to men;¹⁰
 - (e) the poverty gap between Aboriginal and Torres Strait Islander people living in remote and urban Australia has grown;¹¹
 - (f) within remote communities, the gap between Aboriginal and Torres Strait Islander people and non-Indigenous people experiencing poverty has grown;¹² and
 - (g) of those people living in poverty, around 38 per cent have a disability.¹³
15. Instead of using social security as “a mere instrument”¹⁴ of economic policy, it is now time for the Federal Government to work towards the full realisation of the right to social security so

⁵ UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 19: The right to social security (Art. 9 of the Covenant), E/C.12/GC/19 (4 February 2008) [22].

⁶ In relation to CDP, see Commonwealth of Australia, *The many pathways of the Community Development Programme – Summary report of community voices and stakeholder perspectives from eight communities* (2018). In relation to ParentsNext, see Luke Henriques-Gomes, ‘Welfare program has devastating impact on single parents, inquiry told’ (The Guardian, 27 February 2019).

⁷ ACOSS and UNSW Sydney, *Poverty in Australia 2018* (ACOSS/UNSW Poverty and Inequality Partnership Report No. 2) 12.

⁸ ACOSS and UNSW Sydney, *Poverty in Australia 2018* (ACOSS/UNSW Poverty and Inequality Partnership Report No. 2) 13. We note that the Federal Government’s shifting of sole parents from Parenting Payment to Newstart when their youngest child turns eight has pushed more women into poverty.

⁹ This estimate is derived from 2016 Census data, using a before-housing poverty measure and the same equivalence scale as the present study. This is likely to result in a lower poverty rate than the method used in this study because before-housing poverty rates are generally lower. Further, the relatively high level of non-declaration of income among Indigenous census respondents reduces estimated poverty rates. See Francis Markham and Nicholas Biddle, *Income, poverty and inequality - Census Paper 2*, Centre for Aboriginal Economic Policy Research (2017).

¹⁰ ACOSS and UNSW Sydney, *Poverty in Australia 2018* (ACOSS/UNSW Poverty and Inequality Partnership Report No. 2) 42.

¹¹ ACOSS and UNSW Sydney, *Poverty in Australia 2018* (ACOSS/UNSW Poverty and Inequality Partnership Report No. 2) 65.

¹² Francis Markham and Nicholas Biddle, *Income, poverty and inequality*, Census Paper No 2, Centre for Aboriginal Economic Policy Research (2018).

¹³ ACOSS and UNSW Sydney, *Poverty in Australia 2018* (ACOSS/UNSW Poverty and Inequality Partnership Report No. 2) 58.

¹⁴ UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 19: The right to social security (Art. 9 of the Covenant), E/C.12/GC/19 (4 February 2008) [10].

that no person in Australia is forced to choose between eating three meals a day or having a safe place to sleep.

16. Australia can afford to raise social security payments. We are a wealthy nation with enough money and resources to share. Despite this, Australia has the 14th highest poverty rate of all 34 Organisation for Economic Co-operation and Development (OECD) countries.¹⁵
17. Unless the Federal Government takes urgent steps to address poverty in Australia, inequality will continue to grow. Action needs to be taken now to reverse this trend and do so in a way that respects the dignity and freedoms of those who turn to social security in times of need.

Raise the rate of social security payments

18. The Newstart rate for a single person is \$105 below the poverty line, while for a family with two children, it is \$150 below the poverty line.¹⁶
19. ACOSS has recommended that the single rates of Newstart and related allowances increase as soon as possible by at least \$75 per week, including the living away from home Youth Allowance rate and single parent rates. ACOSS has also recommended an increase in Rent Assistance and the Family Tax Benefit for single parents with older children.¹⁷ The HRLC endorses these recommendations.
20. The HRLC strongly opposes the suggestion that an increase in social security payments be made conditional on blanket compulsory income quarantining laws through the Cashless Debit Card, which we understand is supported by the Federal National Party. These policies are discriminatory, coercive, ineffective and expensive to administer (see further paras 36 and 45).

Create an independent statutory social security commission

21. The HRLC supports the establishment of an independent statutory social security commission to advise the Federal Parliament about the adequacy and accessibility of payments. We refer to our submission to the House of Representatives Standing Committee on Social Policy and Legal Affairs in March 2019, which expressed support for the Social Security Commission Bill 2018.¹⁸
22. Any such commission should have explicit powers to:
 - (a) review the compliance measures that are attached to social security payments, as well as the level of the payments themselves, given the financial and emotional stress caused by discriminatory and punitive compliance frameworks; and

¹⁵ ACOSS and UNSW Sydney, *Poverty in Australia 2018* (ACOSS/UNSW Poverty and Inequality Partnership Report No. 2) 12.

¹⁶ ACOSS and UNSW Sydney, *Poverty in Australia 2018* (ACOSS/UNSW Poverty and Inequality Partnership Report No. 2) 53. The poverty line used was set at a conservative 50% of median income, and figure is for if Newstart is paid at maximum rate.

¹⁷ See ACOSS, *Surviving, not living: the (in) adequacy of Newstart and related payments: Submission to Senate Community Affairs Committee* (September 2019). ACOSS has noted that the \$75 per week figure needs to be updated, based on wage and price movements since this target was first adopted using June 2016 figures.

¹⁸ See Human Rights Law Centre, *Submission to the Review into the Social Security Commission Bill 2018* ([Submission](#) to Inquiry to the Standing Committee on Social Policy and Legal Affairs, 15 March 2019).

- (b) review allowances, like the Remote Area Allowance, and make recommendations that they be increased to more adequately compensate for the higher cost of living in remote and very remote areas in Australia.
23. The HRLC reiterates that the urgent and long overdue payment increases proposed by ACOSS should happen immediately and do not require establishment of a commission.

End the illusory emphasis on employment

24. The Federal Government's decision not to raise the rate of Newstart and other social security payments and keep them low is often justified on the basis that people experiencing poverty just need to "get a job". As pointed out by the United Nations Special Rapporteur on extreme poverty on his recent missions to the United Kingdom and United States, this justification is based on a flawed assumption.¹⁹
25. The Federal Government has been perpetuating a harmful myth that there is a job waiting for every person when there simply isn't – there are eight people unemployed or under-employed for every job vacancy.²⁰ As the Special Rapporteur has observed, in reality, the job market for people is limited, especially for people living with a disability, or those with care responsibilities, or limited educational qualifications, or compromised access to affordable housing and healthcare, or who face discrimination in the job market or are without basic forms of social protection and support.²¹
26. These concerns are just as applicable in Australia as they are in the United Kingdom and in the United States. They are particularly compounded in remote communities, where a discriminatory Federal Government policy has been stifling waged work and other community development opportunities by forcing people to "work-for-the-dole". This issue will be revisited and discussed in further detail below.

Economic inequality and remote communities

27. The HRLC has worked in close partnership with a number of Aboriginal community controlled organisations in response to social security reforms that threaten the communities and families they represent, especially in the NT. Our comments below are informed by their experiences and expertise, and as noted below, we endorse the recommendations of APO NT.

¹⁹ See UN Special Rapporteur on poverty and human rights, Visit to the United Kingdom of Great Britain and Northern Ireland, UN Special Rapporteur on poverty and human rights, A/HRC/41/39/Add.1 (23 April 2019); Report of the Special Rapporteur on extreme poverty and human rights on his mission to the United States of America, A/HRC/38/33/Add.1 (4 May 2018).

²⁰ ACOSS and Jobs Australia, *Faces of Unemployment* (September 2018) 5.

²¹ UN Special Rapporteur on poverty and human rights, Report of the Special Rapporteur on extreme poverty and human rights on his mission to the United States of America, A/HRC/38/33/Add.1 (4 May 2018) 9.

Discriminatory government interventions are contributing to growing poverty

28. A significant proportion of people living in remote communities experience poverty. It has been estimated that, for example, 38.3 per cent of Aboriginal and Torres Strait Islander people in remote communities, and 54 per cent of Aboriginal and Torres Strait Islander people in very remote communities live in poverty.²²
29. Alarming, poverty rates are growing. According to 2016 Census data, poverty in remote communities grew between 2011 and 2016, as did the gap in poverty rates between urban and remote communities:
- For the first time that we are aware of, more than half of the Indigenous population in very remote Australia was in income poverty, with rates in most very remote regions well above 50% in 2016. Indigenous incomes in very remote areas fell further behind non-Indigenous incomes, with the median Indigenous income in these areas averaging just 44% of the median non-Indigenous income.²³
30. This is partly because, in remote communities, there are very few *paid* jobs. As APO NT has noted, successive failed and discriminatory government policies have contributed to this.²⁴ There are, however, many people in remote communities working hard in *unpaid* roles that are not valued by the Federal Government's economic policies – caring for country and culture, caring for children, caring for family members and helping fly-in/fly-out government and non-government workers navigate their jobs in remote communities.
31. Without paid work opportunities, the only source of money for food, housing and clothing is to apply for social security payments. For many people in remote communities, that then means being forced onto the Government's discriminatory income management and remote work-for-the-dole programs.²⁵
32. Around 30,000 people are stuck in the remote work-for-the-dole program (called the Community Development Program (**CDP**)), knowing that there is little, if any, prospect of long-term jobs becoming available in their communities. The limited paid work opportunities in remote communities have been stifled by the very existence of the CDP, a program that has been described by some providers as 'decreasing the emphasis on employment'.²⁶ With a pool of CDP "work-for-the-dole" workers, and a program emphasis on compliance with work-for-the-dole "activities", there is little incentive for businesses and organisations to create paid opportunities. People must work up to 20 hours of work-for-the-dole per week, which sees a

²² Francis Markham and Nicholas Biddle, *Income, poverty and inequality*, Census Paper No 2, Centre for Aboriginal Economic Policy Research (2018).

²³ Francis Markham and Nicholas Biddle, *Income, poverty and inequality*, Census Paper No 2, Centre for Aboriginal Economic Policy Research (2018).

²⁴ APO NT, Submission to the Inquiry into the Social Security Commission Bill 2018 (13 March 2019).

²⁵ For a human rights analysis of CDP, see Human Rights Law Centre, *Submission: A fair and community-led approach to remote community and economic development* (Submission to Inquiry to the Senate Standing Committees on Finance and Public Administration, 23 June 2017).

²⁶ Lisa Fowkes, Community Development Program Background Briefing (prepared for Jobs Australia, undated) https://17-jobsaust.cdn.aspedia.net/sites/default/files/cdp_background_briefing.pdf.

- single person make the equivalent of \$13.98 per hour in Newstart payments, or \$12.62 per hour for someone partnered. The national minimum wage of \$19.49 per hour.
33. As highlighted by APO NT, it is disingenuous for the Federal Government to say that the current, low rate of social security payments is justifiable on the basis that it is short term and transitional. Remoteness, language and cultural differences and, as noted above, discriminatory policies implemented by the Federal Government, mean that many people living in remote communities have no choice but to turn to the social safety net.
34. Many people living in remote communities in the Northern Territory are also subjected to compulsory income quarantining, and have been for 12 years. Income quarantining sees the Federal Government quarantine a portion of a person's income support and impose rules about how and where it can be spent.
35. Compulsory income quarantining has been a costly failure in the Northern Territory and the Government's current attempt to expand it through the *Social Security (Administration) (Income Management to Cashless Debit Card Transition) Amendment Bill 2019* should be opposed.
36. The Parliamentary Joint Committee on Human Rights has repeatedly raised concerns that compulsory income quarantining unjustifiably limits human rights,²⁷ while a comprehensive evaluation of Income Management in the NT found that it had failed to meet its objectives.²⁸ There is even research demonstrating a link between Income Management and an alarming drop in birth weights in babies.²⁹
37. Instead of pouring money into a coercive measure with such serious human and financial costs, the Government should be raising the rate of social security payments.

Cost of living in remote communities is high

38. The cost of living in remote communities is high. An example of this is demonstrated by the Northern Territory Government's Market Basket Survey, which annually reports on the cost, availability, variety and quality of food in remote community stores. The most recent survey found that the average cost for a basket of healthy food in a remote store in the Northern Territory was \$319 more than in a major supermarket.³⁰ This means that the gap between the cost of healthy food has also grown from 22 per cent in 2012 to 60 per cent in 2017.³¹
39. The costs of other daily essentials – like fuel for the car – are also exceptionally high and growing. For example, it was 250.0 cents per liter to purchase unleaded fuel in Central

²⁷ See e.g. Parliamentary Joint Committee on Human Rights, *2016 Review of Stronger Futures Measures* (16 March 2016) 52.

²⁸ Rob Bray et al, *Evaluating New Income Management in the Northern Territory: Final Evaluation Report* (Report 25/2014, Social Policy Research Centre, UNSW, 2014).

²⁹ Mary-Alice Doyle et al, *Do Welfare Restrictions Improve Child Health? Estimating the Causal Impact on Income Management in the Northern Territory* (Life Course Centre Working Paper No 2017-23, Dec 2017).

³⁰ NTCOSS, *Cost of Living Report: Food Costs in the Northern Territory, Issue 24* (July 2019).

³¹ NTCOSS, *Cost of Living Report: Food Costs in the Northern Territory, Issue 24* (July 2019).

Australia in June 2019 and 295.0 cents per litre to purchase diesel prices in the East Arnhem region.³²

40. This has happened at the same time as the Government has refused to raise the rate of Newstart in real terms, and during the same period that the Census recorded a real *decline* in disposable incomes of low income households in very remote areas.³³

The Federal Government needs to raise the rate

41. The inadequacy of Newstart and related payments is a significant factor in the incidence of poverty, particularly in remote Aboriginal and Torres Strait Islander communities. The Federal Government must therefore take immediate action to raise the rate of social security payments.
42. In addition to this, in order to help address the specific issue of endemic poverty in remote communities, the HRLC recommends that the Federal Government raise the rate of the Remote Area Allowance, which is paid in recognition of the higher costs of living in remote areas. The Remote Area Allowance is currently only \$9.10 per week for a single person and \$7.80 for someone in a relationship (with an extra \$3.65 available per week, per child). This is clearly insufficient to meet the costs of living in remote communities, including things as basic as buying healthy food and petrol for the car.

The Federal Government should abolish the CDP and compulsory income quarantining

43. The HRLC also recommends that the Federal Government abolish racially discriminatory social security programs like the CDP and compulsory income quarantining.
44. The paltry amount of Newstart and other social security payments is not nearly enough for families to thrive. The impact of this is, however, made worse by the harm being inflicted on Aboriginal and Torres Strait Islander people in remote communities by programs like the CDP and compulsory income quarantining.
45. An evaluation commissioned by the Federal Government found an increase in hunger, mental illness, sleep deprivation, survival crime and family violence after CDP was introduced into remote communities.³⁴ As noted above, Income Management has been linked to lower birth weights, which predisposes those children to chronic illness later in life. We also note the evidence of Olga Havenen, CEO of Danila Dilba Health Service in the Northern Territory, to a recent Senate inquiry, that compulsory income quarantining had caused “untold misery and hardship” in the NT.³⁵

³² NTCOSS, Cost of Living Report: Food Costs in the Northern Territory, Issue 24 (July 2019) 60.

³³ Most of those in the lowest income quintile were on Newstart, Youth Allowances, or related payments. Markham, F. & Biddle, N., 2018. Income, Poverty and Inequality: 2016 Census Paper 2, ANU. p.11

³⁴ Commonwealth of Australia, *The many pathways of the Community Development Programme – Summary report of community voices and stakeholder perspectives from eight communities* (2018).

³⁵ Greg Roberts, 'Aboriginal Groups Reject Cashless Cards' (PerthNow, 23 September 2019)

<https://www.perthnow.com.au/politics/policy/aboriginal-groups-reject-cashless-cards-ng-s-1969210>

46. As APO NT has previously stated:

The growing poverty and income inequality faced by Aboriginal households, particularly those in the Northern Territory, is not a coincidence. It is the result of historically racist decision-making by successive governments, the effects of which are further entrenched by contemporary local, territory and federal governments' social and economic decision-making...

The Commonwealth Government has increasingly been applying paternalistic and onerous compliance measures to social security payments, despite there being little to no evidence that these measures... actually help people to improve their life circumstances or to move out of the welfare system. The reality is that these measures reduce an individual's ability to exercise autonomy and self-determination which in turn has a negative impact on a person's health and wellbeing.

47. The Federal Government should therefore adopt an approach to social security that respects Aboriginal and Torres Strait Islander people's right to self-determination and to freely pursue their economic, social and cultural development.³⁶

48. The HRLC therefore recommends that the Federal Government work with Aboriginal communities to transition from top-down interventions, like CDP and compulsory income quarantining, and replace them with Aboriginal-led models, such as the *Fair Work and Strong Communities: Remote Development and Employment Scheme*.³⁷

³⁶ UN General Assembly, United Nations Declaration on the Rights of Indigenous Peoples, 2 October 2007, A/RES/61/295. See also Article 21, which provides for the right, without discrimination, to the improvement of economic and social conditions, including via social security.

³⁷ See Aboriginal Peak Organisations NT, *Fair Work and Strong Communities: Proposal for Remote Development and Employment Scheme* (May 2017).