

A fair and compassionate safety net for all

Submission to the inquiry into the Social Services Legislation Amendment (Strengthening Income Support) Bill 2021

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Human Rights Law Centre.

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Human Rights Law Centre

The Human Rights Law Centre uses strategic legal action, policy solutions and advocacy to support people and communities to eliminate inequality and injustice and build a fairer, more compassionate Australia. We work in coalition with key partners, including community organisations, law firms and barristers, academics and experts, and international and domestic human rights organisations.

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. We support the self-determination of Aboriginal and Torres Strait Islander peoples.

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1. Summary

- 1.1. The Human Rights Law Centre (**HRLC**) welcomes the opportunity to contribute to the Senate Community Affairs Legislation Committee's inquiry into the Social Services Legislation Amendment (Strengthening Income Support) Bill 2021 (the **Bill**).
- 1.2. The Bill amends the *Social Security Act 1991* (Cth) with the effect of increasing the maximum basic rates of working age social security payments by \$50 per fortnight (or \$3.57 per day). The change would take effect from 1 April 2021, when the current Coronavirus Supplements is scheduled to cease.
- 1.3. As the Coronavirus Supplement is currently \$150 per fortnight, in real terms this change will result in a **decrease** in payment rates of \$100 per fortnight.
- 1.4. The payment rates proposed in the Bill are woefully inadequate to address the poverty crisis in Australia. The feeble increase to pre-coronavirus payment rates falls well short of an amount that would provide a decent and dignified standard of living to the 1 in 8 people, including 1 in 6 children, who currently live in poverty in Australia.¹
- 1.5. Experts, stakeholders and people who have experienced life on social security payments have clearly and repeatedly articulated why the Australian Government must permanently and substantially raise the rate for good. The Australian Council of Social Services (**ACOSS**) has recommended that the basic rates of all payments be increased to at least \$65 per day, before additional supplements based on need. The Bill would leave the Jobseeker basic rate for a single person, with no children, at just \$44 per day.
- 1.6. Economic inequality in Australia disproportionately impacts Aboriginal and Torres Strait Islander people, particularly people living in remote communities. The Australian Government is failing First Nations people and families living in remote communities where higher costs of living, and discriminatory income management and work-for-the-dole programs, exacerbate the hardships of inadequate income support.
- 1.7. In the context of the coronavirus pandemic, the harmful myth that intentionally low rates of social security payments will encourage people to "get a job" has never been further from reality. There are far more people struggling to find paid work than there are jobs available. In many remote communities there is little, if any, prospect of long-term paid work opportunities becoming available. Despite this, the Federal Government seeks to keep the rate of payments well below the poverty line and to toughen the already punitive compliance framework at a time when the coronavirus pandemic, and its economic impacts, are far from over.
- 1.8. 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 in dignity, rather than scrape to survive, is a critical step to achieving that goal.
- 1.9. **The rate of all working age payments should be raised to a level that allows everyone to afford the basic essentials of life.** The Australian Government must take action to provide a decent and dignified standard of living to people who are forced to turn to our social safety net in times of need. The Committee should recommend that the Bill be amended to provide a substantially greater increase to payment rates. In

¹ ACOSS and UNSW Sydney, *Poverty in Australia 2020 Part 1: Overview* (2020).

addition, HRLC repeats the recommendations made in our previous submission to the inquiry into the adequacy of Newstart² that:

- (a) An independent review of the Remote Area Allowance should be conducted, with a view to increasing it to an amount that more accurately reflects the rising costs of living in remote areas.
- (b) An independent, statutory social security commission should be established to advise the Federal Parliament on the setting of social security payments to ensure that allowances and pensions are adequate, accessible and non-discriminatory. This should not delay the immediate increase of the current, woefully inadequate social security allowances.
- (c) 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. The current plans to increase mutual obligation requirements and introduce a harmful and stigmatising employer reporting line should be immediately abandoned.
- (d) In line with the United Nations Declaration on the Rights of Indigenous Peoples, the Federal Government should work with Aboriginal and Torres Strait Islander communities and organisations to 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.³

2. A fair and compassionate safety net for all

Australia is a wealthy nation with enough resources to ensure that no one is forced to choose between feeding their families or paying the rent. Yet the Federal Government is failing in its responsibility to provide a decent standard of living to people who are forced to turn to our social safety net in times of need. Unless the rate of social security payments is meaningfully increased, economic inequality in Australia will continue to grow and people, children and families will be left struggling to survive.

The right to a social safety net

- 2.1 Social security is about sharing our national prosperity fairly to make sure that no one gets left behind and trapped in poverty. This concept is enshrined in numerous international human rights conventions to which Australia is a party. Australia is obliged to realise and protect these rights in its domestic laws. 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”.⁴

² HRLC, *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), available at < <https://www.hrlc.org.au/submissions/2019/10/1/submission-raise-the-rate-a-decent-and-dignified-standard-of-living-for-all>>.

³ Aboriginal Peak Organisations NT, *Fair Work and Strong Communities: Proposal for Remote Development and Employment Scheme* (May 2017).

⁴ See the UN General Assembly, *International Covenant on Economic, Social and Cultural Rights* (16 December 1966), United Nations, Treaty Series, vol 993, 3.

- 2.2 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”.⁵
- 2.3 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”.⁶ The adequacy of social security “should be monitored regularly to ensure that beneficiaries are able to afford the goods and services they require to realise their [ICESCR] rights”.⁷
- 2.4 Despite these clearly established human rights standards, prior to the introduction of the Coronavirus Supplement the rates of working age social security payments had not increased in real terms since 1994. Those rates are now significantly below the poverty line - the Jobseeker rate for a single person is \$117 below the poverty line, and the combined rate for a couple is \$126 below the poverty line.⁸

Economic inequality in Australia

- 2.5 It is clear that successive 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;⁹
 - (b) nearly one-third of sole parent families, 82 per cent of whom are headed by women, live in poverty;¹⁰
 - (c) roughly one-third of Aboriginal and Torres Strait Islander people are living in poverty;¹¹
 - (d) women are more likely to be living in poverty when compared to men;¹²
 - (e) the poverty gap between Aboriginal and Torres Strait Islander people living in remote communities and urban Australia has grown;¹³
 - (f) within remote communities, the gap between Aboriginal and Torres Strait Islander people and non-Indigenous people experiencing poverty has grown;¹⁴ and
 - (g) of those people living in poverty, around 38 per cent have a disability.¹⁵

⁵ UN General Assembly, *Convention on the Rights of the Child* (20 November 1989), United Nations, Treaty Series, vol. 1577, 3.

⁶ UN Committee on Economic, Social and Cultural Rights (CESCR), *General Comment No. 19: The right to social security (Art. 9 of the Covenant)*, (4 February 2008) E/C.12/GC/19 [22].

⁷ Ibid.

⁸ ACOSS and UNSW Sydney, *Poverty In Australia 2020 Part 1: Overview* (2020), p 16.

⁹ Ibid, p 9.

¹⁰ 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.

¹¹ Ibid, p 23.

¹² Ibid, 65.

¹³ Ibid, p 65.

¹⁴ Francis Markham and Nicholas Biddle, *Income, poverty and inequality*, Census Paper No 2, (2018) Centre for Aboriginal Economic Policy Research.

¹⁵ ACOSS and UNSW Sydney, *Poverty in Australia 2018 (ACOSS/UNSW Poverty and Inequality Partnership Report No. 2)* [58].

- 2.6 It is well documented that poverty is often a driver of criminal offending, particularly offending motivated by financial distress such as theft. Leaving people behind in poverty increases their chances of entering the criminal legal system, which in turn further entrenches poverty. By refusing to pay for an adequate social safety net, governments and societies ultimately pay a far higher price by funding criminal legal and carceral systems. Choosing to invest in adequate social security instead has the potential to break prolonged, and often intergenerational, cycles of poverty and to reduce the types of offending linked to poverty.
- 2.7 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 hardship.

Raising the rate to allow an adequate standard of living

- 2.8 Australia can afford to raise the rate of social security payments. We are a wealthy nation with enough money and resources to share. It is time for the Federal Government to work towards the full realisation of the right to social security so that no person in Australia is forced to choose between eating three meals a day or having a safe place to sleep.
- 2.9 In April 2020, following its review into the adequacy of Newstart and related payments, this Committee recommended that the Federal Government increase the rates of Jobseeker, Youth Allowance and Parenting Payment to ensure that all eligible income support recipients do not live in poverty. The Bill currently before the Committee falls far short of giving effect to that recommendation. The Committee should recommend the Bill be amended to provide for an increase that will lift people into an adequate standard of living.
- 2.10 As a community that values fairness, dignity and compassion, we need a minimum income floor that keeps everyone out of poverty and allows people to cover the basics they need. ACOSS has called for the rates of all working age social security payments to be raised to at least \$65 per day, in line with the current Age Pension rate, supplemented by additional payments based on need. ACOSS has also recommended increased or new supplementary payments to recognise the additional costs associated with the cost of housing, living with disability or illness, and single parenthood. HRLC endorses these recommendations.
- 2.11 A meaningful increase to the rate of payments must not be accompanied by increased conditionality on access to social security, such as through expanded compulsory income management schemes.
- 2.12 Through punitive social security policy, successive governments have failed to raise the rate to a liveable amount and have let down Australians who are locked out of paid work. In its April 2020 report, this Committee recommended the establishment of an independent Social Security System Expert Group to examine the adequacy of the social security system and report to Parliament to ensure the Australian Government meets its responsibilities. HRLC supports this recommendation and refers 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 2018.¹⁶

¹⁶ See HRLC, *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).

3. Remote communities must not be left behind

Not only do Aboriginal and Torres Strait Islander people living in remote communities experience higher rates of poverty, but the cost of living in remote communities is higher and there are fewer job opportunities. Economic inequality is further exacerbated by racist and punitive policies like compulsory income management and the Community Development Program. To address this inequality, the Australian Government should increase the Remote Area Allowance and invest in community-led job creation programs in partnership with Aboriginal and Torres Strait Islander people.

Economic inequality in remote communities

3.1 Economic inequality is greater, and has harsher impacts, in remote communities. We refer to our previous submission to the Committee's inquiry into the adequacy of Newstart,¹⁷ which stated that:

- (a) It is estimated that 38.3% of Aboriginal and Torres Strait Islander people living in remote communities, and 54% of Aboriginal and Torres Strait Islander people living in very remote communities, live in poverty. Poverty rates are also increasing in remote communities, as is the economic gap between urban and remote communities.
- (b) The cost of living in remote communities is high. The average cost of a basket of healthy food in a remote store in the Northern Territory is 56% (\$306) more than in a major supermarket.¹⁸ The price of fuel in remote areas can be more than double the price in urban centres.¹⁹
- (c) There are very few opportunities for paid work in remote communities. Many people do, however, work 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.
- (d) 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, which cause social and emotional harm, strip people of autonomy and stifle job creation. The restrictive and punitive nature of these programs causes some people to disengage from the social security system entirely, leaving them with no source of income.²⁰
- (e) As highlighted by Aboriginal Peak Organisations NT, it is disingenuous for the Federal Government to say that the current, low rate of payments is justifiable because social security is short term and transitional. Lack of paid work opportunities, remoteness, language and cultural differences and 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 for longer periods of time.

¹⁷ HRLC, *Raise the rate: A decent and dignified standard of living for all* (26 September 2019), accessible: <https://www.hrlc.org.au/submissions/2019/10/1/submission-raise-the-rate-a-decent-and-dignified-standard-of-living-for-all>

¹⁸ Northern Territory Council of Social Services, *Cost of Living Report No 28* (July 2020), accessible: <https://ntcoss.org.au/media-releases/cost-of-living-report-no-28/>.

¹⁹ Northern Territory Council of Social Services, *Cost of Living Report No 29* (September 2020), accessible: <https://ntcoss.org.au/media-releases/cost-of-living-report-no-29/>.

²⁰ Aboriginal Peak Organisations NT, *Submission: Inquiry into the adequacy of Newstart and related payments and alternative mechanisms to determine the level of income support payments in Australia* (30 September 2019), p 12.

Prolonged periods of poverty and disadvantage can become entrenched across generations, as children in families experiencing poverty have fewer opportunities to secure improved circumstances as they move into adulthood.

Raise the rate and the Remote Area Allowance

- 3.2 The inadequacy of Jobseeker and related payments is a significant factor in the incidence of poverty in remote Aboriginal and Torres Strait Islander communities. A permanent and substantial increase to the rate of income support payments is essential to addressing this inequality. Reducing poverty in remote communities would support a number of the key Closing the Gap targets, such as strengthening economic participation, increasing access to housing, improving social and emotional wellbeing, and improving health outcomes.
- 3.3 As well as failing to provide an adequate increase to payment rates, the current Bill takes no steps to address the inequity between remote communities and urban areas. HRLC supports the recommendation of the Committee, made in its April 2020 report, that the Australian Government review the adequacy of the Remote Area Allowance with the view to:
- (a) setting an adequate rate of payment to address the higher costs of living in remote Australia; and
 - (b) setting a remote-area measure of inflation to be used to index the payment annually.

Abolish harmful, coercive policies and invest in community-led job creation

- 3.4 To address economic inequality in remote communities, HRLC further recommends that racially discriminatory social security programs like the Community Development Program and compulsory income management be abolished. The Federal Government should instead 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.²¹
- 3.5 The Australian Government should work with Aboriginal communities to transition away from top-down interventions and replace them with Aboriginal-led models, such as the *Fair Work and Strong Communities: Remote Development and Employment Scheme*.²²

4. Lessons and legacy of COVID-19

As the COVID-19 pandemic unfolded, the Australian Government knew those with the least would be hit hardest. The Coronavirus Supplement lifted thousands of people out of poverty overnight. This crucial support should not be ripped away when the pandemic, and its impacts on people's health, lives and ability to find work, are far from over. Instead, we must create a permanent safety net that affords the same degree of compassion and dignity to people experiencing hard times beyond the pandemic.

²¹ UN General Assembly, *United Nations Declaration on the Rights of Indigenous Peoples* (13 September 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.

²² See Aboriginal Peak Organisations NT, *Fair Work and Strong Communities: Proposal for Remote Development and Employment Scheme* (May 2017).

- 4.1 In 2020, as borders closed and communities were locked down in response to the COVID-19 pandemic, the Federal Government took swift and decisive action to address the economic consequences. Among other measures, it introduced the Coronavirus Supplement which increased Jobseeker, Youth Allowance, Parenting Payment and related payments by \$275 per week.
- 4.2 The increase caused profound improvements to people's lives. A study conducted by ACOSS found that:
- ...people were reporting dramatically reduced levels of financial and personal distress since the introduction of the new JobSeeker rate, with significant declines in the number of people skipping meals, as well as people reporting they could not afford fresh fruit and vegetables, medicines, bills and rent, and other essential expenses...Overwhelming numbers of people are reporting that it is now easier to cover the cost of essential items.²³*
- 4.3 The Coronavirus Supplement at its initial rate lifted hundreds of thousands of people out of poverty.²⁴ By effectively doubling the rates of social security payments, the Australian Government acknowledged that the previous rates of payments, as low as \$40 per day, were simply not enough to survive.
- 4.4 The pandemic itself is far from over, and the economic impacts are still unfolding. As the Federal Government withdraws Jobkeeper support for businesses, more people will be struggling to find paid work. Longer-term impacts on industries like higher education, tourism and aviation remain in question. In this context, the illusory justification for maintaining cruelly low rates of social security payments as a means to "incentivise" people into paid work is now more inaccurate than ever.
- 4.5 As the Committee explored in its April 2020 report, there are numerous barriers to employment experienced by people who are receiving social security payments. As well as labour market conditions such as lack of jobs and the casualisation of the workforce, poverty itself is a major barrier to employment. When people are struggling to meet their basic needs for food, shelter, healthcare and transport, they are less able to effectively look for a job or obtain new skills.
- 4.6 Looking for work is also a process which itself costs money; it requires money to dress appropriately, travel to interviews, and access a mobile phone or the internet. The Australian Government's refusal to raise payment rates to an amount above the poverty line is actively impeding many people's ability to find and secure paid work opportunities.
- 4.7 The Government's characterisation of Jobseeker as a short-term payment is unfortunately far from the reality for many. The average length of time that a person spent on Newstart (the predecessor to Jobseeker) was over three years.²⁵ The longer a person is out of paid employment, the harder it becomes to secure a position.²⁶ The barriers to employment outlined above combined with the ongoing aftermath of the pandemic mean this situation is unlikely to improve without intervention.

²³ ACOSS, 'I Can Finally Eat Fresh Fruit And Vegetables' - Survey Of 955 People Receiving The New Rate Of JobSeeker And Other Allowances (June 2020), accessible: https://www.acoss.org.au/media_release/survey-shows-increased-jobseeker-payment-allowing-people-to-eat-regularly-cover-rent-and-pay-bills-2/.

²⁴ Ben Phillips, Matthew Gray and Nicholas Biddle, *COVID-19 JobKeeper and JobSeeker impacts on poverty and housing stress under current and alternative economic and policy scenarios*, ANU Centre for Social Research and Methods, (29 August 2020).

²⁵ Department of Social Services, *DSS Payment Demographic Data* (December 2019), accessible: <https://data.gov.au/data/dataset/dss-payment-demographic-data/resource/1ab39d1b-328a-4311-8b35-ee13c3f0dfc7>.

²⁶ See discussion of long-term unemployment as a barrier to employment in Committee's report in the inquiry into the adequacy of Newstart and other payments (April 2020), at pages 90-91.

- 4.8 The unprecedented circumstances of the COVID-19 pandemic abruptly exposed thousands of people who had previously enjoyed comfortable standards of living, to the challenges of trying to survive on social security. The Government chose to introduce the Coronavirus Supplement to prevent these people, who had lost jobs through no fault of their own, from living below the poverty line. There is no distinction between these people and those who have found themselves in times of hardship before the pandemic, or will so find themselves in the future – they are no less worthy of support, compassion and adequate assistance to cover the basic essentials of living.
- 4.9 Particularly when Australia is in a state of fragile recovery, the crucial support provided by increased payment rates should not be ripped away from people who are locked out of paid work. The Australian Government has shown that it understands what is needed to lift up struggling people and families and provide a quality of life that allows everyone to buy nourishing food and have a safe, secure home. This was essential in the worst periods of the pandemic, and remains equally essential into the future. Fair and adequate support must continue beyond the pandemic and form a permanent and substantial increase to the rate of payments, so that everyone can live a decent and dignified life.

5. Punitive compliance framework must be reformed

- 5.1 The Federal Government introduced the Bill alongside an announcement that the mutual obligation scheme for those receiving Jobseeker payments will change.²⁷ The mutual obligation scheme forces people receiving income support payments to complete certain tasks or risk having their payment reduced or cancelled.
- 5.2 The Government announced that those receiving Jobseeker payments will be required to search for a minimum of 15 jobs per month from early April, increasing to 20 jobs per month from 1 July. More people will also be required to “work for the dole” after six months of receiving payments.
- 5.3 The Government also intends to establish an employer reporting line, through which employers can report people who are “not genuine about their job search” or who decline an offer of employment. A person may then be considered to have breached their mutual obligations (which include a requirement not to refuse an offer of a suitable job), which can result in a financial penalty.
- 5.4 The Government has not provided any evidence that refusal of suitable job offers is a real problem justifying the expenditure of resources to establish a reporting line. This endeavour serves only to further stigmatise people who are forced to rely on social security and to perpetuate the harmful myth that people do not wish to find work.
- 5.5 The punitive mutual obligations and penalties system already operates to cause additional financial distress to people who are struggling to get by on income support payments. Further reducing a person’s income will not assist anyone in securing a job. Evidence shows that penalties for non-compliance are disproportionately applied to Aboriginal and Torres Strait Islander people.²⁸

²⁷ Prime Minister, Minister for Families and Social Services, Minister for Employment Skills Small and Family Business, *Media Release: Morrison Government Commits Record \$9B to Social Security Safety Net* (23 February 2021), Prime Minister’s Office, accessible: <https://www.pm.gov.au/media/morrison-government-commits-record-9b-social-security-safety-net> (“**Press Release**”).

²⁸ See APO NT’s analysis of Department of Prime Minister and Cabinet data relating to the Community Development Program in APO NT’s submission to the inquiry into the adequacy of Newstart and related payments (30 September 2019), pp 12-13.

- 5.6 The introduction of more onerous mutual obligation requirements serves no valid purpose. People will only be more successful in applying for jobs when there are more job opportunities available, in industries and at skill levels appropriate to their circumstances. Tougher requirements and harsher penalties will only see more people struggling to make ends meet, and further entrench the cycles of disadvantage that lead to longer-term needs for social security.
- 5.7 A reporting line for employers also introduces a dangerous power imbalance, in which people may feel coerced into accepting jobs that are unsuitable for their skills, unworkable in their personal circumstances, or based in environments that they do not feel safe. The fear of being “dobbbed in” and suffering a financial penalty puts people at risk of exploitation by potential employers in their working conditions and rates of pay.
- 5.8 The increasing conditionality of welfare, through paternalistic policies like mutual obligations and compulsory income control, is contrary to the social purpose of a safety net and does not align with the international human rights frameworks which seek to guarantee an adequate standard of living for all.
- 5.9 In its April 2020 report, this Committee recommended that it be referred an inquiry into the mutual obligations requirements for working age income support recipients, and the adequacy and effectiveness of employment programs. HRLC supports this recommendation and further recommends that the Committee call on the Australian Government to abandon the proposal to introduce harsher mutual obligation requirements and a dangerous, unnecessary reporting line.