



Submission of the Equality Rights Alliance to the House of Representatives Select Committee on Workforce Australia Employment Services Regarding ParentsNext

23 November 2022

Equality Rights Alliance

Equality Rights Alliance (ERA) is Australia's largest network advocating for women's economic empowerment, women's leadership and women's human rights. We bring together 67 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.

Submission

Equality Rights Alliance thanks the Select Committee on Workforce Australia Employment Services for the opportunity to make a submission to the inquiry regarding the pre-employment service known as ParentsNext. ERA is strongly opposed to welfare conditionality and supports ParentsNext as an opt-in program only.

It is ERA's submission to the Committee that welfare conditionality in Australia has evolved to the point that it is in breach of Australia's obligation to ensure the human right to social security.

Social Security - 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.¹ Article 9 is significant, because it establishes social security as a human right, as opposed to an optional grant or endowment by States.

95% of participants in the ParentsNext program are women.² 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”*,³ 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...⁴

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 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,⁵

Australia has also made significant international commitments to social protections for unpaid carers, including mothers, and on welfare conditionality. Under the 2030 Sustainable Development Agenda, Australia

¹ 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.

² Parliamentary Joint Committee on Human Rights *ParentsNext: examination of Social Security (Parenting payment participation requirements - class of persons) Instrument 2021 4 August 2021* https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Human_Rights/ParentsNext/Report

³ *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>

⁴ 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

⁵ 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>

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;⁶

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;⁷

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;⁸

In the case of ParentsNext, Centrelink's policy of 'mutual obligation' is marked by a curtailment of access to social protection where often oppressive levels of engagement are not met.

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***

⁶ *ibid* para.47, (l)

⁷ *ibid* para.47, (jj)

⁸ *ibid* para.47, (mm)

*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”.*⁹ [emphasis added]

Further, in 2021 the Special Rapporteur on Extreme Poverty and Human Rights, Philip Alston, made a Communication to the Australian Government concerning the *Social Services Legislation Amendment Act 2017* and Social Services Legislation Amendment (Welfare Reform) Bill 2017, in which he 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.”*¹⁰

We note that, as stated on the Attorney-General’s website (see quote 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 compulsory participation in the ParentsNext program on women who are income support recipients and their families, it is evident that neither of these criteria have been met. Continuing the compulsory enrolment of single parents in the ParentsNext program therefore constitutes a breach of the right to social security.

ERA’s Recommendations:

- A. That the Department of Social Security review the ParentsNext scheme and all associated legislative instruments to determine compatibility with Australia’s human rights obligations and with its international commitments made in the Agreed Conclusions of the 63rd Commission on the Status of Women.*
- B. That the Department of Social Security review the imposition of conditions on receipt of social security payments by Centrelink across all payments, pensions and programs at two-yearly intervals on an ongoing basis, to ensure that those conditions constitute proportional actions which are the least restrictive option available and that they*

⁹ 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/Righttosocialsecurity.aspx>, accessed 18 September 2019.

¹⁰ Communication 30 Jan 2018 *Australia AUS 1/2018*

are of limited duration as required by the UN Committee on Economic, Social and Cultural Rights.

We also refer the committee to the submission of the National Council of Single Mothers & their Children Inc to this inquiry and strongly endorse the recommendations made in that submission. In particular, **we endorse recommendations 1-3 of that submission, being:**

- 1. Institute a complete redesign and re-branding with no compulsion required for participation.*
- 2. Develop a Future Planning service with financial assistance available. Co-designed with single mother participants and their advocates, with representation to include First Nations advocates, linguistic and culturally diverse voices/advocates, trauma and gendered violence experts.*
- 3. Institute a stakeholder monitoring committee for a minimum of three-years. Legislation must include a sunset clause and procurement arrangements should require independent, high-quality evaluations.*