



GUEST SPEAKER PRESENTATIONS

Launch of [The complexities of 'relationship' in the welfare system and the consequences for children.](#)

Mangere East Community Learning Centre
Mangere East, Auckland
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Introduction

This report has been a long journey. The authors, Susan St John, Catriona MacLennan, Hannah Anderson and Rebecca Fountain thank CPAG for this launch. It is a great organisation for supporting projects like this that largely have been put into the too hard basket by others.

The motivation for the project came several years ago from hearing disturbing reports from Barristers Catriona MacLennan and Frances Joychild QC who were defending women in the courts for alleged relationship fraud.

As we collected case studies and realised the full and ugly extent of the problem, the project seemed very daunting. A bigger picture began to emerge in which NZ's ugly attitudes to low income women and their relationships was just one part of an overall unchallenged but inappropriate use of relationship status in many parts of the welfare system—notably most often those parts that affect women and their children.

But underpinning CPAG's report is a huge concern that punitive attitudes in the legal system and in our state institutions are very damaging to children and their mothers. We will begin the discussion this morning with some words from Catriona who is a very well-known expert in family and domestic violence and benefit law and has wide experience in defending women accused of relationship fraud.

Catriona MacLennan

PUNISHING CHILDREN FOR THEIR MOTHER'S ALLEGED SINS - OUR DOUBLE STANDARD ON DEBT

Tena koutou. Talofa lava. Malo e lelei. Welcome.

For me, today and this report are about the mothers on benefits I've acted for over the years. These women are doing their best to bring up their children on their own. The women and children have incredibly tough lives. There is never enough money and there is no security about money. Work and Income is extremely powerful and can cut off benefits really quickly if an allegation is made that a woman is not entitled to the benefit. Many of these women are subjected to domestic violence for years and years. So this report is for -

My client who was beaten and abused by her partner for years. He kicked her in the head several times and as a result she had brain damage. Work and Income decided she'd been in a relationship in the nature of marriage and was not entitled to a benefit. She was assessed as owing a debt of \$65,000. After the Joychild report, which found that Work and Income had not been applying the law properly, she came to meet with me to help her get the debt cancelled. Because, even though the Joychild report said Work and Income had not been following the law, Work and Income didn't put this right itself. Instead, women had to apply to the department to have their debts cancelled. So, many never, ever had the debts cancelled because they didn't know about the Joychild report or didn't know what to do.

And this report is for my client who was convinced for two years that she was going to jail for benefit fraud, even though she'd been entitled to a benefit all along. When she ended her relationship, her ex-partner doxed her in to Work and Income. They said she wasn't entitled to her benefit and owed \$46,000. In some cases, it might be unclear whether a person is entitled to a benefit or not. But this was a really clear case. It was obvious all along that there was no doubt she was entitled to the benefit. But Work and Income wouldn't listen. They refused to refer the case to their lawyers. The woman had English as a second language. When Work and Income investigators turned up at her house, they asked her whether she lived with the father of her child. She replied "yes" because she didn't understand a distinction between "lived" and "stayed". They stayed odd nights at each other's homes and she thought "stayed" and "lived" meant the same. I explained all this to the investigators and said that there was no relationship in the nature of marriage. But they wouldn't listen. We had a Benefits Review Committee hearing and the decision that she was not entitled to a benefit was upheld. Then we went to the Social Security Appeal Authority. At that point, Work and Income finally referred the case to their lawyer. He told them that there was no relationship in the nature of marriage and my client was entitled to the benefit. But the case worker and her manager disregarded the lawyer's advice and insisted on having a hearing at the Social Security Appeal Authority. The Authority held that the woman was entitled to the benefit. Unfortunately, my client was so stressed about what was happening that she saw a counsellor. The counsellor told her she would be going to jail and it didn't matter how much I told her she wouldn't be, I couldn't convince her of that. So for two years she was absolutely convinced she would be going to jail.

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And this report is for the woman whose violent ex-partner took her to the cashflow every benefit day and stood over her while she withdrew her benefit money. And then he took it away. Lots of people might ask “Why did she let this happen?” The reason is that, when she was pregnant, he kicked her in the stomach and killed one of her babies. Later, he threatened to do the same thing again. So, after that, all he had to do to control her was say, “Remember what I said to you” and they both knew exactly what that meant. When I first visited this woman at home, she’d just moved into a new flat. She and her mother were really excited about it and said they planned to be there for a long time. The woman showed me around and there was almost no furniture. They didn’t have beds and the family’s clothes were in plastic bags on the floor. I and the community worker from the law centre I worked in went to Monte Cecilia and got a trailer load of furniture and took it to the woman. But the following week I got a call from the landlord to say the rent hadn’t been paid and he didn’t know where my client was. Her violent ex-partner had come round and she and her children had fled. So, not only did they once again have no home, but they also owed money to the landlord.

This report is also for a woman whose child was killed by her partner. Her other children were taken away from her. Child Youth and Family told her that it would help to get her children back if she got into a stable relationship. So she started a relationship with a man who later sexually abused her children. Work and Income established a debt of over \$100,000 against her. She went to jail for six months and when she came out she still owed more than \$100,000. She will never be able to repay that debt in her lifetime. This means that she can never improve her family’s financial position. If she could ever get a job – despite poor health, lack of skills, family commitments and interrupted work experience – her family would be no better off. Because, if she had extra money, Work and Income would immediately increase the amount it takes from her each week in repayment of the “debt.”

I’d like to thank Child Poverty Action Group and particularly Susan St John for researching and publishing this report. I hope that it will lead to change in the way we treat single parents who receive benefits.

At the moment, our approach is incredibly punitive towards these women. Work and Income is obsessed with seeking out alleged fraud and gives little thought to how its actions impact on the children involved.

When mothers are sent to jail, it’s the children who suffer most. These children have already had a bad start in life through coming from families where there is not enough money. They have gone through parental separation, and there is likely to be violence or abuse towards the mother and sometimes the children as well. The family’s housing will be incredibly insecure and they will move multiple times. This is seriously disruptive to the children’s schooling as well as to any sense of security and stability. The lack of money in the family means that the children don’t have enough food, don’t have healthy food and – as we all know – lack basic necessities like raincoats, shoes and money to take part in school activities.

The way in which we vilify and penalise single mothers is in marked contrast to the almost complete lack of attention given to tax avoidance and evasion, the non-payment of child

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support and so-called white collar crime. The New Zealand economy loses between \$6 billion and \$9 billion a year from these sources, while benefit fraud is \$80 million a year. At the moment the Inland Revenue Department is owed \$9.3 billion by 425,000 people – the debts are taxes, child support and student loans. How often do we see these debtors vilified and their names and photos published in the paper? It's a real double standard. For those of you who don't know, Work and Income has a unit which investigates allegations of benefit fraud. People can make anonymous tip-offs. This is often done by disgruntled ex-partners. Work and Income seems to give little thought to the motivations of the men who make these allegations. Instead, they rush to take action against the mothers on benefits. The benefit may be cut off and the woman told she has to repay all the past benefit she's received.

If people want to challenge a decision by Work and Income, they first have to apply for a Benefits Review Committee hearing. My experience is that these are a complete waste of time and almost invariably uphold the original decision. There are three people on the committee and two of them are from Work and Income. Beneficiaries can't get Legal Aid for going to the Benefits Review Committee, so most of them have to represent themselves. If the decision goes against them, they can then go to the Social Security Appeal Authority. They really need a lawyer to help them do this and there are very few lawyers that do this work.

There needs to be an independent review process. Benefits Review Committees should be abolished. People can't have confidence in reviews when two-thirds of those on the committee are from the department whose decision is being reviewed. Work and Income's lawyers should also be required to examine files before they go to the review process so that they can hopefully ensure that the correct law is applied to cases at an early stage.

We should also stop sending mothers to jail for so-called benefit fraud. We need to go back to the original aims of benefits – to support people who need them. To enable people to live in dignity and to bring up their children to be fully participating and contributing members of society. Sending mothers to jail hugely penalises children. The mother is already a single mother, so who is going to care for the children while she is in jail is hugely problematic. The children may end up in the care of a father who is violent or abusive. He may actually be the reason the woman left the relationship and became a single mother in the first place. Sending the mother to jail will also do huge damage to the relationship between her and the children. It may be irreparably damaged.

At the moment, we are sending women to jail on the basis of an unclear legal test which is not always properly applied. The Joychild report showed that Work and Income had been wrong in its application of the law about whether or not single parents were entitled to benefits.

We are also punishing these women twice over and treating them far more harshly than other offenders. Usually, the reparation imposed on people convicted of offences is in some way proportionate to their ability to pay. However, with these women, Work and Income seeks to recover the entire debt, regardless of whether or not there is any realistic chance

that the woman will be able to repay it in her lifetime. These women have debts of tens of thousands and sometimes more than \$100,000 hanging over them for the rest of their lives.

So we need to change policies and laws to state that the maximum amount recoverable by Work and Income is a sum that the woman can realistically repay within five years. We should also require the Chief Executive to take into account the welfare of children when deciding whether or not to recover debts. This should be a primary consideration in making this decision. The Chief Executive has in the past had discretion as to whether or not to recover the debt, but that was more and more rarely used. Instead, it was largely assumed that the full amount of the debt would always be recovered. Even worse, a law change earlier this year toughened up the section to place the Chief Executive under a legal duty to recover the debt. We should repeal that law change and instead pass a law saying the debt should only be recovered if repayment will not adversely affect children.

Let's stop focusing on punishing women and instead make decisions based on the long-term interests of children. What children need is to be with their mothers, having an adequate family income and living in dry, good quality and secure housing. Giving children a good start in life benefits the entire country economically as it makes it far more likely that they will grow up with skills enabling them to sustain jobs and contribute to the community. Saddling their mothers with life-long debts and wringing \$10 or \$20 a week out of already impoverished families does the opposite of this.

Susan St John

What if? What if we looked at the world from the viewpoint of the best interests of the child? Almost all social policy would look different and most certainly we would not have a relationship-based welfare system like our current one.

We would start by considering what does a child need to thrive? Happy parents who are well-resourced and supported by the wider community might be a primary requirement.

If so, you would think we might have policy that **encourages** supportive adult relationships. Instead – and astonishingly, despite rhetoric about strong families - welfare policy is actually designed to ferret out and punish relationships. Even when there is no real relationship or the so-called partner is a dead loss providing no financial support, or is abusive, violent and unreliable.

It is time for women to stand up and say this is not right; it is bad for our children and not acceptable. We ought to be promoting more equality and empowering women to be strong for their children.

The widely accepted view in the tax system is that it is best to treat people as individuals and not treat married people worse just because they are married. In days gone by a spouse's rebate in the tax system meant that if two people were married they were actually **advantaged**. More recently there has been some interest in income splitting for tax, which of

course would be **highly advantageous** for one earner couples. Imagine the outcry if your tax **increased** once you got married.

In the welfare system, a couple is treated far worse than they would be if they were single. The welfare system operates as if **we hate** relationships, whether formal marriage or simply in the nature of marriage according to the written and unwritten definitions.

The Herculean task for one parent on their own is that they have to be both mother and father at the same time while society looks down on them and while they are expected to also role model the paid work ethic. Our sole parents suffer from stress, isolation, ill-health depression and poverty of material things and poverty of kindness and understanding from others. Woe betide them if they are so bold as to have a man in their lives, boots at the door, car in the driveway....

If we looked at the world from the viewpoint of the best interests of the child we would wrap around the sole mother all the support we could muster. We would recognise that re-partnering well, or being able to call on the support of male friends/ future partners is to be encouraged, not penalized. We would support her to take time and care over re-partnering and support her to get out of violent and unrewarding relationships. We would not reward vindictive ex-partners by criminalising her. Work and Income would not be encouraging dobbing in, spying on and intrusive investigations into sole parents.

What would the world be like if women **themselves** could determine when a true lifelong equal partnership begins? That might be the point of formal marriage – or it could be the stage when she is entitled to an equal share of the partnership property under the law. That would be good for her and good for her children and for equality of women.

If we did not treat married persons so punitively there would be no reason for the loss of privacy and bureaucratic meddling in these sensitive aspects of the lives of sole parents. The only possible justification for current policy is that it saves the government money. The faster a relationship can be judged in the nature of marriage the more money the state saves. The more she can be found to be deviant the more can be saved through penalties and repayments

It does not have to be this way. For tax purposes it does not matter whether you are married or not - your PAYE is the same. For ACC and New Zealand Superannuation you can get a payment without anyone reducing it because your partner has money. Paid Parental leave is the same, whether you are married or not.

So we can do it.

Hannah Anderson

This project was suggested well over a year ago and it is complex in both topic and task. The insertion of complexity in the title will become apparent very quickly as one reads through the report. Where do we start: the subjective definition of relationship, the inconsistencies in the use of relationship in the welfare system, the invasive process from a department that is meant to support our most vulnerable, the lack of appreciation of the impact on children, the incarceration of mothers, the dismissive adoption of Joychild's recommendations...I could go on...

The intention of listing these points is in an attempt to highlight the fact that there are many reasons that welfare policies such as this, which can so quickly appear as a done deal, a bill, a media headline, must be unpicked and understood.

During the development of the report we noted the absence of investigative work around the policy. This is concerning when you combine it with the fact that the media significantly influence the public's perception and interpretation of issues using persuasive and loaded language. We found headlines such as 'Benefit fraud grows as repayments trickle in', 'Benefit fraud costs millions', and use of terms such as 'bludgers' and 'fraudsters'. This negative discourse feeds the general acceptance of harsh and enduring sanctions and a tolerance of stigmatisation. We firmly encourage a change of tone.

I'd like to take the opportunity, as a representative of the younger population, to take us back to the headline of the report, the point that should seem obvious, except at the same time has been continuously ignored by Government and policy makers: The outdated and punitive approach to relationships in the welfare system. This is an issue that will only become more apparent and uncomfortable as time passes.

The place and definition of relationships in the policy is so incredibly out of touch with how modern day relationships develop that we are damaging the foundation of the welfare system by ignoring its archaic nature. Society has become more accepting of different living patterns, of the uncertainty that often comes with re-partnering, we claim we are more prepared to deal with domestic violence, and that we understand how difficult it is to survive on a small income. However, such concepts are not reflected in policy

We have to reframe the way we think about welfare policy. Children need to be at the heart of it. Individuals need to be treated as just that, not part of a unit which dictates their income. Beneficiaries in no way deserve to be demonised the way they are.

We are only human in the humanity of others, it's time to see some of that humanity in our welfare system, in the values we want our society to be based on, and in the way we treat all New Zealanders.

Rebecca Fountain

Motherhood is the most important job. We take that for granted, we take the love the care the time and energy the blood sweat tears and tantrums – we take all the work it takes to raise a whole human being for granted. It is not a vocation that receives accolades, it's not even a paid position, yet growing healthy secure well-loved children is fundamental to ensuring the wellbeing of our society as a whole. Kids who care about themselves and one another, are kids who thrive. Nurturing kids to grow on all levels is why we're here, it's what a strong progressive society with their feet in the present and their eyes upon the future aims for. Children are the heart of our future.

Creating an inner sense of strength and security in children is like mothers milk for the soul – we as adults know that how you feel in the world, your sense of self, is just as important as food, shelter and clothing in regards to your ability to participate fully in the world around you and succeed in your life, to feel happy, to feel whole. All of the base necessities required to grow kids are gifts imparted from mother to child. Everything I am as a parent I share with my children – I can make or break their experiences and anything that impacts me directly impacts them.

The best way to grow well balanced, well-loved kids is to support their mother. Give her financial support and she has less stress, more energy, more mental and emotional space to do her job and do it well. Offer her kindness and she can take a breath, maybe even consider herself for a moment, while her kids watch on learning how to be in the world directly through the experiences of their mother.

When there is no support, no-one to help clean up, no one to play with your child so you can take a nap, no-one to help you make decisions about your kids life or even your own, when you cannot do your unpaid job of mothering and earn enough to feed, house and clothe yourself or your children, you need help.

The social security system in New Zealand was founded on the desire to help people in need. It's problematic no doubt to provide financial support, but because the role of mothering receives no wage in our culture - let alone a much deserved pay rise - it is a position that inherently necessitates financial help from another source.

It is not a crime for a woman to be a single parent and need financial help for her and her child. It would be a crime if we as a community did not strive to support those of us who require assistance, particularly for our most vulnerable. And being a solo mother who needs the financial support of Work and Income is a vulnerable position to be in. As you no doubt are already aware – and will discover more about in this report - there is huge stigmatism against beneficiaries in our culture on many levels. It's not just the community at large that holds prejudice; it's the social security system and our approach to welfare as a whole that renders beneficiaries other or less than non-beneficiaries. In fact, society's response to providing financial resources to the poor directly mirrors the approach taken by our government, reflects the tenets of our legislation and the attitude and approach taken by the Ministry of Social Development.

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Women in New Zealand have historically been assessed for social security support based upon their relationship to or dependence upon men. The Social Security Act has been piecemealed together upon a framework that inherently disadvantages women and their children. There are already so many traps for women needing welfare support to fall into – but they don't fall in alone, their children fall too.

How we measure entitlement to welfare is a measure of our cultural beliefs and attitudes towards the poor and vulnerable in our society. Using relationship status as a measure for benefit entitlement means you have to police those on the benefit to ensure what their relationship status is. Relationship status is unfortunately only one of many complex and discretionary based policies that enable the high regulation and monitoring of beneficiaries lives.

When a mother walks into a work and income office seeking help she already is on the back foot. She is alone, has children and carries massive responsibility for the life of that child. She may have lost her partner, the father of her child may never have been available, she may have pulled herself out of an abusive relationship, she may just want to stay home and be a mother while her kids are young but have no one around to help her financially. In order to receive financial support she must comply – when you don't comply there are serious consequences; processes and penalties that are so complex and multifaceted that they would require several reports of their own.

When beneficiaries are under investigation by the Ministry of Social Development the costs are immense to both mother and child. It's easy to imagine that beneficiaries are afforded the same rights as non-beneficiaries in our culture, that regardless of their status beneficiaries and non-beneficiaries are all citizens under the same law. It's easy to take for granted that irrespective of politics and policy there are some basic human rights afforded to all of us – as a beneficiary or non-beneficiary. We might even take for granted that children of beneficiaries are considered worthy of protection within an investigation process. Unfortunately and with little oversight, some adverse welfare policy and practice has developed upon the patchwork social security framework – and these practices and procedures foster an environment where beneficiaries are not afforded the same rights and protections we would expect New Zealanders to have. The impact is in many cases beyond repair for women and their children.

The Ministry of Social Development is tasked with providing the support and security a woman on her own with children requires. But this is not a loving partnership. In a way it is an outdated model of an imbalanced relationship – where power and control are used to keep the woman in her place. When she doesn't behave accordingly - to rules designed to benefit the Ministry not the mother - she is subject to unjust and unwarranted investigation processes, with little recourse to defend herself or protect her children from the impact the investigation has upon their lives.

This report highlights the great need for a serious investigation and process of reflection upon the state of Social Security in New Zealand - from the legislative layer that is the social security act 1964 to the implementation layer that is the MSD and the practices within Work

and Income. It is problematic at best that the institution our most vulnerable garner financial support from is the same governmental body policing and punishing the needy.

The social cost of an unhealthy welfare system in this country is too much for us to afford – women and children bear the brunt of policy and procedure that does not take into account the reality of the beautifully complex world that we live in today nor value the lived experience of the men women and children these outdated policies directly affect.

When the scales tip and the impact of a malfunctioning system begins to outweigh many of the benefits that system is trying to impart for its citizens – beneficiary or not - we have to take stock, wade through the muck and the mire and remember that this structure is not innate. The system is not broken, it just needs mindful attention to develop and grow to the best of its abilities.

To grow well-balanced children we need to create a well-balanced Social Security System. Let's not take anything or anybody for granted.