

## **Child support compliance and tax return non-filing: A feminist analysis**

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### **ABSTRACT**

In this paper I examine the 2011–12 federal budget measure to strengthen child support compliance in light of gendered assessments of child support reform, particularly those that identify an emphasis on men's financial autonomy and the buttressing of men's financial authority beyond the couple relationship. By changing the way non-resident (payer) parent income is calculated for those who fail to lodge tax returns, the government aims to save \$78.7 million over four years, with savings to be recouped directly from increased child support assessments and decreased Family Tax Benefits to resident (payee) parents. Given that 87 per cent of child support payers are men, this reform unintentionally legitimises men's non-compliance with the Australian Tax Office by circumventing the tax system in determining payer income. At the same time, women and children stand to bear indirect financial costs as they face increased reliance on their ex-partner for financial support—a move that increases men's financial authority over women and children beyond the couple relationship.

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## Introduction

In this paper, I examine a recent change to Australia's child support policy, enacted during the federal budget process of 2011–12. I do so in order to identify the different gender interests that are served by recent child support reform processes in general and this budget measure in particular. I argue that this reform has produced and reinforces existing gendered consequences of what might be regarded as an administrative process. I suggest that while the direct financial impact on women is minimal, the indirect financial impacts may substantially change women's financial position. In addition, such changes, when considered within the broader child support context, reflect differences in men's and women's financial autonomy vis-à-vis the state, and their respective control over money within and across households.

Child support refers to money due to children from their liable parent following the breakdown in the parental relationship or the birth of a child to parents who are not in a couple relationship. Child support typically refers to a regular cash transfer and is exclusive of other forms of 'spousal' or 'matrimonial' support (International Network of Child Support Scholars 2012). In Australia, payment liabilities are calculated on the basis of each parent's income, how much it costs to raise a child and the percentage of care each parent provides (Child Support Agency 2009). Each parent's income is based on their taxable income minus a self-support amount.

The child support system in Australia affects approximately 1.5 million separated parents and 1.1 million children (Australian Bureau of Statistics 2011a). Of these parents, approximately 87 per cent of resident parents are women (Child Support Agency 2010a); indicating the deeply gendered nature of caring for children in society. With respect to the income of the child support parent population, the most recently published figures (House of Representatives Standing Committee on Family and Community Affairs 2003) reported that in 2003, 74 per cent of recipient parents had an annual income of less than \$20,000; whereas 57 per cent of payers had incomes between \$10,000 and \$50,000 per annum.

For low-income payee parents, the 103,952 single parents in receipt of Parenting Payment Single benefits (Department of Human Services 2012) are compelled to seek child support if they wish to receive Family Tax Benefits above the base rate (Centrelink 2011a). Family Tax Benefit (FTB) payments are cash transfers that provide financial assistance to families in relation to the costs of raising a child (Department of Human Services 2012). FTB payments comprise two parts: Part A (FTB(A)) is an income-tested payment paid for each child; Part B is a further income-tested payment provided to single parents and families with one main income. Only FTB(A) is affected by the budget measure under analysis here.

The 2011–12 budget was announced and promoted as a budget to reduce government spending (Swan 2011). One measure that was introduced was a change

in the way some child support payers' income is calculated when they have not filed a tax return for the previous two years or more, to more accurately reflect their actual income and provide more child support to payee parents and their children (Commonwealth of Australia 2011a). As the Commonwealth (2011a, p. 197) described, 'this change will increase the average rate of Child Support payments, reducing Child Support recipients' FTB entitlements, which will result in savings of \$78.7 million over four years'. I argue that given the gendered nature of previous Australian child support reform processes and outcomes (Cook & Natalier 2012, 2013; Smyth & Henman 2010), a detailed, feminist examination of this most recent reform is also required.

Accordingly, I examine the federal government's budget measure in light of feminist analyses of family law reform processes (Bacchi 1999; Boyd 2003, 2004; Boyd & Young 2002; Collier 1994, 2006; Fehlberg & Maclean 2009; Graycar 2000, 2005; James 2005), particularly those that have identified men's financial autonomy as a key consideration in the recent child support reform process (Cook & Natalier 2013). In doing so, I identify how the administrative processes of the child support scheme, and this budget measure therein, prioritise men's financial autonomy while at the same time increasing the regulation of women's finances. In addition, this most recent child support policy reform inadvertently buttresses men's authority over women's finances after relationship dissolution.

The focus on men's financial autonomy and authority is referenced to socio-legal constructions of male financial control and authority in the domestic and political spheres (Collier 2010; Diduck 1995) and normative assumptions regarding women's dependence on a male breadwinner within the nuclear family and the resultant authority of the breadwinner therein (Gerhard 2001; Gittins 1993; Vogler 1998; Yeatman 1990). Given that the vast majority of child support payers are men (Child Support Agency 2010a), post-separation, child support policy rightly enforces father's financial responsibility for children (Collier 2010; Diduck 1995). However, by enforcing father's financial responsibility for children, child support policy also promotes men's financial authority over the family that extends beyond the couple relationship as men have an ongoing role in providing (or withholding) necessary income. Within the Australian context, they can also decide how up to 30 per cent of their child support payments will be spent.

Here, I assert that men's 'choice' regarding how they participate in the child support process is primary. Building on Diduck's (1995) depiction of men's family formation and financial support as a 'choice', I argue that the current child support system perpetuates men's discretion. As Kristin Natalier and others (Cook & Natalier 2013; Natalier & Hewitt 2010) state elsewhere, men's choice to support their family post-separation may be revisited or contested. As Natalier and I have argued previously, 'at separation or divorce a father may decide to withdraw their financial contribution,

they may decide to continue it or they may decide to continue paying with caveats on how the money is to be spent; in each of these scenarios, a fathers' intent remains the core of the issue' (Cook & Natalier 2013, p. 31).

### **Child support in Australia: Developments and critiques**

While the child support system has had a long and controversial history of reviews and reforms, in this account I focus only on the most recent reforms that were initiated by the House of Representatives Standing Committee on Family and Community Affairs (2003) inquiry into child custody which called for a Ministerial Taskforce review of the child support system. The Ministerial Taskforce on Child Support (2005) made a number of recommendations, which were taken up in policy in three stages between 2006 and 2008, and contextualise the most recent budget measure.

Stage one changes came into effect on 1 July 2006 and consisted of modifications to the way child support is calculated. These changes included: the indexing of minimum payments to the Consumer Price Index; child support waivers for payer parents on income support who have contact with their children; and caps on maximum child support payments. Another important reform was the increase in the percentage of child support that payers can provide directly to children from 25 per cent to 30 per cent of their total liability (Child Support Agency 2009). This change, where child support payments can be 'earmarked' for particular items, is important for all women but especially women affected by the budget measure reviewed here, as will be discussed below.

Stage two changes were largely administrative and began on 1 January 2007. New measures included: greater resources for agency staff, staff training and quality control (Caruana 2007); an independent review of child support decisions by the Social Security Appeals Tribunal; a simplified relationship between the courts and the Child Support Scheme; more time for single parents to agree on parenting arrangements before their FTB(A) was affected; and improved arrangements for parents (that is, fathers) who dispute child paternity.

Stage three changes were implemented on 1 July 2008 and significantly altered the way child support is negotiated and calculated. Parents were afforded greater opportunities to negotiate their child support arrangements privately and the new formula took into account both parents' income as opposed to only the non-resident parent's, which had been the case under the old scheme. The assessment of both parents' income is another step towards the 'de-gendering' of child support policy as women's finances are folded in with the finances of men, as if both compete in the labour market on a level playing field. As Australian research has shown, women take on the majority of domestic and care-giving responsibilities both within couple relationships and when separated (Baxter 2006, 2010; Chesters, Baxter & Western

2009; Craig & Mullan 2010). Such caring and domestic responsibilities limit women's ability to participate in the paid labour force equally with men, thus limiting their earning potential (Budig, Misra & Boeckmann 2012). However, women's deeply gendered experience of securing an income and parenting has been written out of child support policy that describes both parents equally as carers and earners (Child Support Agency 2009; Ministerial Taskforce on Child Support 2005). The gender neutral framing of the policy obscures men's and women's differential experience of financial autonomy, and in doing so, contributes to women's subjugated experience. Overall, assessments of the 2006–08 reforms have revealed them as being both financially (Smyth & Henman 2010) and symbolically (Cook & Natalier 2013) advantageous to men at the expense of women, and point to gender inequities within the child support scheme.

One of women's primary issues within the Child Support Schemes is compliance, as was raised during the 2003 Inquiry and identified by the 2005 Taskforce, although 'enforcement' lay outside the Taskforce's terms of reference. Highlighting the significance of this issue for women, the Child Support Agency's (CSA) (2010a) own figures report that less than 50 per cent of non-resident parents paid their full child support obligations in 2009, with 12 per cent of those parents paying nothing at all. In 2011–12, the Department of Human Services (2012) reported that 24.7 per cent of payers with CSA arrangements had outstanding debts, of whom, only 53.6 per cent had a payment arrangement in place to resolve it.

These figures assume that private payments made outside of the purview of the CSA are 100 per cent compliant (Ministerial Taskforce on Child Support 2005). Such an assumption obscures the true nature of compliance rates, particularly given that the CSA 'encourages and supports separated parents to independently manage their child support responsibilities through Private Collect arrangements' (Department of Human Services 2011, p. 54). Support for private arrangements has increased this payment type to 54.2 per cent of the payment caseload (Department of Human Services 2012). The promotion of private arrangements with the assumption that payers will be 100 per cent compliant renders the problematic nature of low-income women's financial dependency upon their ex-partner invisible.

In addition to poor or unknown compliance rates, the Ministerial Taskforce noted in 2005 (p. 60) that 'a large minority of child support payers do not lodge tax returns', making an assessment of their actual capacity to pay child support impossible and likely resulting in an underestimating of their actual income. Similarly, Shephard's (2005) analysis of 1,113 CSA debt files found that 40 per cent of payers with major child support debt were also tax return non-filers. The relationships between income minimisation (including tax return non-filing) and child support debt have led government bodies including the CSA (2010b), Australian Law Reform Commission (2011, 2012) and members of parliament (Commonwealth of Australia 2011b) to

concur with the Ministerial Taskforce on Child Support (2005, p. 96) that ‘tax minimisation and avoidance are both significant problems for the Child Support Scheme’. Such concerns also led the CSA to introduce the Lodgement Enforcement program in the 2010–11 financial year. This program refers customers to the Australian Tax Office (ATO) for investigation of tax return non-filing and/or attempts to avoid their child support obligations by under-declaring their income (Department of Human Services 2011). While the Department of Human Services (2012) reports that this process was enacted for all non-lodgers, if this action was successful, ATO investigation and associated action would negate the need for the 2011–12 budget measure under analysis here. It also falls short of addressing tax return non-filing and non-compliance for the majority of parents with private arrangements.

There have been few studies of the child support system conducted since the 2006–08 reforms (see Cook, McKenzie & Knight 2010 for a review). However, many commentators, including Labor and Greens senators (Commonwealth of Australia 2006), suggest that these reforms were disproportionately influenced by and benefited the interests of men (Cook & Natalier 2012, 2013; Fehlberg & Maclean 2009).

Cook and Natalier’s (2013) analysis of the child support reform process highlights the differential response to men’s and women’s concerns. While fathers’ rights groups pursued a range of amendments to reduce their maximum liabilities and enable them to exert greater control over the use of child support transfers, women’s primary concerns were with the low value of minimum payments and compliance concerns, including child support debt and the minimisation of payer income for assessment purposes. Cook and Natalier’s analysis of the ‘trajectories’ of each 2003 Inquiry recommendation shows that all of men’s concerns were taken up in the 2006 legislative changes, while only marginal changes were made to minimum payments and, as stated previously, child support compliance was excluded from the 2005 Taskforce terms of reference and 2006–08 reforms.

These criticisms suggest systemic gender inequities in both the conduct and outcomes of the reform process. The financial inequities faced by women are further identified by the work of Smyth and Henman (2010, p. 26) whose economic analysis of the reforms identify that ‘non-resident parents (mostly fathers) are more likely than resident parents (mostly mothers) to experience net gains under the new Scheme’ and that low-income families and resident parents with part-time or casual employment ‘appear to be among those most likely to be hit’. Taken together, the net losses experienced by women as a result of the reforms and the failure of the process to address income minimisation and poor compliance has resulted in a system that unfairly burdens women as they seek to provide for their children post-separation.

The most recent budget measure amendment to the child support formula builds on what have already been identified as gendered policy outcomes (Smyth & Henman 2010; Cook & Natalier 2013). Further, in child support policymaking to date, reference to ‘mothers’ and ‘fathers’ have been replaced with statements about ‘parents’, ‘payers’ and ‘payees’—done in part to recognise the increasing proportion of men who are resident or shared care parents. Such gender neutral language, rather than providing gender equality, obfuscates the operation of gendered power within and beyond the couple relationship (Natalier & Hewitt 2010; Neale & Smart 2002)—power relationships that are particularly relevant to parents who manage their arrangements privately, as these arrangements are made without the protection of CSA assessment and enforcement.

In light of these issues, in this paper I examine the 2011–12 budget measure and identify how, for the small number of women affected, the change in income assessment increases women’s reliance on payments from their ex-partner. I contend that while the number of women affected is small, the issues raised here expose pervasive gendered inequities in the distribution of risk and responsibility in the child support system, that disproportionately disadvantage women, in particular the system’s most vulnerable women, in relation to men. To begin this analysis, I first provide a brief overview of recent reforms to the Australian child support system, focusing on the 2011–12 budget measure in particular.

### **A measure to ‘strengthen child support compliance’**

In order to make a more accurate assessment of non-resident parents’ capacity to pay, the federal government recently introduced a change to the way child support obligations are calculated for tax return non-filers. This amendment was listed in the budget papers under the heading of ‘strengthening compliance for child support’ (Commonwealth of Australia 2011a, p. 197). Previously, payers who had not filed a tax return had their taxable income for the purpose of a child support assessment calculated as 2/3 male total average weekly earnings (MTAWE). Based on Australian Bureau of Statistics (2011b) figures at the time of writing, this is estimated at \$919.47 per week (\$47,812.44 annually), and is considered by the federal government to result in a likely underestimation of the non-resident parents’ income and thus child support obligations (Commonwealth of Australia 2011a). As the government outlined during the passage of the budget measure, since 1 July 2008 there has been a 570 per cent increase in the use of the 2/3 MTAWE default where the parent’s previous taxable income had been higher, although it is not stated how many parents would be affected by this reform (Commonwealth of Australia 2011b). The most recent Department of Human Services (2012) figures indicate that in the 2010–11 financial year, 125,418 cases of tax-return non-filing were referred for tax-lodgement enforcement, with a further 81,500 referred in 2011–12. Again, these figures do not include parents with private arrangements.

Following the enactment of the 2011–12 budget measure, a child support estimate based on the 2/3 MTAWWE was replaced by an assessment of the payer parent's last known taxable income, indexed by growth in average wages during the period since their last return. This change in income assessment applies only to those parents who are obliged to pay child support, who have failed to lodge a tax return in the previous two years or more, and whose previous tax return reported an income more than 2/3 MTAWWE. According to the government's explanatory memorandum:

this rule will remove the unintended incentive for parents on higher incomes to benefit from a lower child support assessment based on 2/3 MTAWWE by failing to lodge a tax return to have their current income assessed by the ATO (Parliament of Australia 2011, p. 35).

Given the above criteria, only a proportion of non-resident parents who fail to lodge tax returns will be affected by this reform and only a proportion of these will be financially motivated to lodge a tax return if their estimated income then exceeds their actual income. However, the amount of money to be saved by government is significant—and will be recouped from reduced Family Tax Benefits to resident parents (Commonwealth of Australia 2011a). It is government's contention that the money to be saved will be funded by increased transfers from non-resident to resident households. While the government's assumption is that non-resident parents will transfer a greater proportion of their income as child support, the co-occurrence of child support debt and tax return non-filing (Shephard 2005), is likely to create an unintended consequence. As payers who fail to lodge tax returns are also likely not to pay child support, women will bear these costs; or the government's forecast savings will be depleted as they compensate women for unpaid child support. While the government's intention regarding this budget measure may have been to improve child support outcomes for recipient parents and their children, the following analysis reveals that the policy response fails to address the underlying issue of child support non-compliance and in doing so buttresses men's financial autonomy.

## **Methods**

In order to demonstrate the effect of this budget measure on the finances and financial autonomy of low-income women, Centrelink's (2011b) online Family Assistance and Child Support estimator was used to derive child support, rent assistance, Family Tax Benefit Part A and Part B payment estimates for a resident parent whose partner's annual income was calculated as 2/3 MTAWWE (\$47,812.44), and salaries estimated using the new formula at \$5,000 increments from \$50,000 to \$100,000. Child support, Family Tax Benefit and rent assistance estimates were calculated for a single, resident parent in receipt of Parenting Payment (Single) and rent assistance for a \$200 per week property with one child aged five who does not attend child care.



It is impossible to construct a profile that represents every child support recipient. However, the most recently published data on the family and income profiles of child support payers and payees (House of Representatives Standing Committee on Family and Community Affairs 2003) indicates that there is an average of 1.5 children per case, and that 74 per cent of single parents have incomes below \$20,000 per annum. Such families would be entitled to Parenting Payment (Single), Family Tax and rent assistance benefits and as such the constructed profile is deemed to provide an adequate approximation to demonstrate the effects of this policy on similar recipients. Such generic child support profiles were employed in Smyth and Henman's (2010) modelling of the economic impact of the 2006–08 reforms and in the 2005 Ministerial Taskforce report. Further, one child has been chosen for the profile modelled here for simplicity. According to the child support formula, where there are multiple children, the percentage of care, and thus child support liability for each child may differ, affecting the total liability.

In the scenario modelled here, the non-resident parent was defined as not having any other dependent children, or receiving a government benefit. While the treatment of second families was an issue for discussion in the 2003 Inquiry report, and the subject of a recommendation that was later enacted in the 2005 Taskforce report, no data are provided regarding the frequency of payer parents with new or step children as dependents. As the representativeness of the profile cannot be determined, a payer with no additional children has been used for simplicity. These calculations would not apply to payers with new dependent children, as their total child support liabilities would be reduced.

Calculations were made for a non-resident parent with contact for 10 per cent, 20 per cent and 40 per cent of nights per year. These percentages are situated in the mid-range of various child support and Family Tax Benefit care thresholds, including 'less than regular care' (less than 14 per cent of nights), 'regular care' (14 per cent to 34 per cent of nights) and 'shared care' (more than 35 per cent of nights) (Ministerial Taskforce on Child Support 2005).

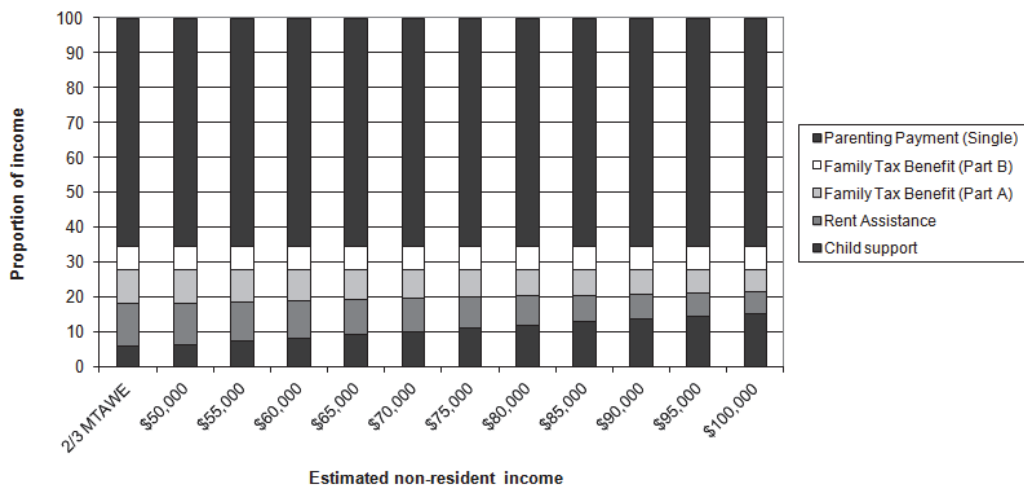
The difference in women's total income using the 2/3 MTAWWE default and the estimated non-resident parent income was calculated, as was the percentage of income that women would receive from each income source.

### **The costs to low income women**

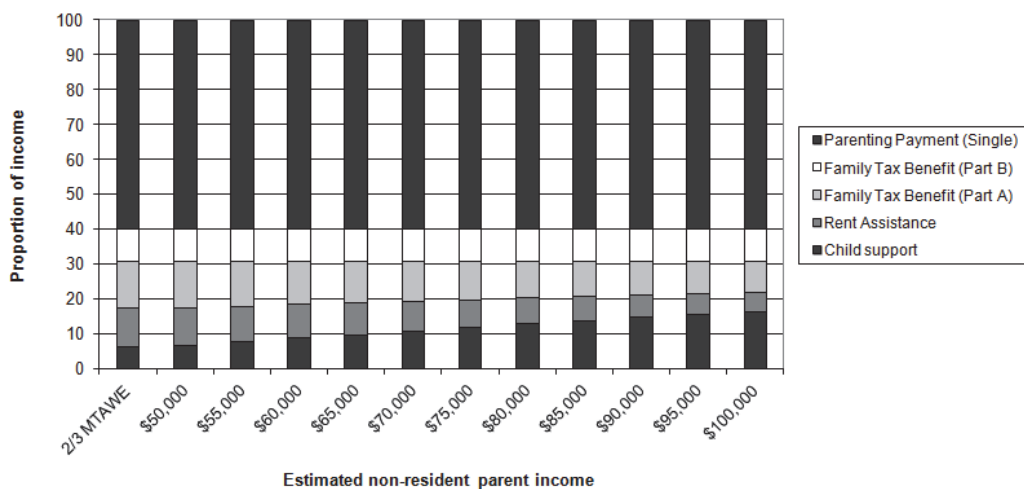
In all but three of the income scenarios modelled here, resident parents' total income was less than when calculated using the 2/3 MTAWWE proxy. Consistent with the policy intent, the net impact on resident parents was negligible, as the greatest loss experienced by resident parents was \$0.11 per week when the non-resident parent earned \$80,000 per annum and had 'regular care', defined as between 14 per cent and 34 per cent of nights (Ministerial Taskforce on Child Support 2005).

While the total amount of money that resident parents were entitled to did not change substantially, the proportion of income derived from each source did (Figures 1–3). Whereas, in this scenario, child support contributed a small proportion (5.6 per cent–7.9 per cent) of the resident parent’s household income using the 2/3 MTAWWE proxy, the budget measure increased the contribution of child support to over 10 per cent of household income in 70 per cent of the scenarios modelled here; and to over 15 per cent of household income in 27 per cent of scenarios.

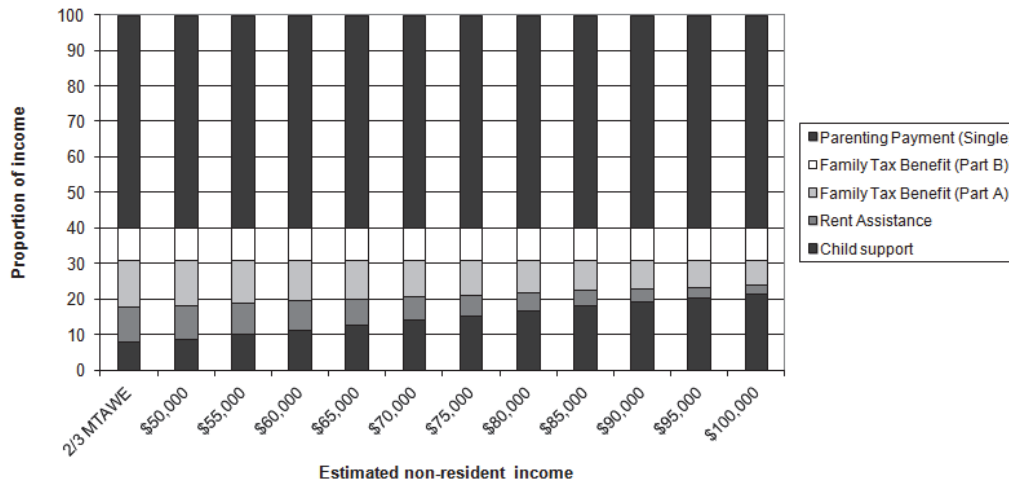
**Figure 1. Sources of resident parent income where a non-resident parent has ‘shared care’ (40 per cent of nights)**



**Figure 2. Sources of resident parent income where a non-resident parent has ‘regular care’ (20 per cent of nights)**



**Figure 3. Sources of resident parent income where a non-resident parent has ‘less than regular care’ (10 per cent of nights)**



The change in income distribution was particularly significant where non-resident parents had ‘less than regular care’ (Figure 3), as the proportion of income derived from child support in this scenario increased from 7.9 per cent to more than 20 per cent where their ex-partner was assessed as earning in excess of \$95,000 per annum. Again, these results are entirely consistent with the policy intent. As this budget measure intends (Commonwealth of Australia 2011a), men are being required to provide an increasing proportion of women’s income. As estimated non-resident parent income rises, the amount of child support they are liable to pay also increases.

While there are no significant direct ‘costs’ to low-income women as a result of this budget measure, a situation exists where there is the potential for substantial unintended financial costs for the small number of women affected. By conducting this analysis, however, I am not suggesting that there should be an economic ‘clean break’ where women should rely solely on the State for financial support post separation. This proposal would be financially unviable, is contrary to the aims of the Child Support Scheme (Ministerial Taskforce on Child Support 2005) and would erode the important role fathers play in the economic lives of children. Rather, I am suggesting that if an increased proportion of women’s income is to be derived from fathers, safeguards need to be put in place to ensure that women actually receive this money and that women are able to use it to support their children as they see fit. However, when we are focusing specifically on a payer population who have failed to lodge tax returns, a behaviour that is often associated with child support non-payment, women’s increased reliance on child support income is problematic. A suite of gendered power dynamics may be operating here, including child support non-compliance and tax-return non-filing being used as a means of financial abuse (Patrick, Cook & McKenzie 2008). This reform offers inadequate protection to

women who have experienced family violence, as the burden of responsibility to remedy the situation is placed upon the victim. The gendered nature of the child support system renders these processes invisible and, in doing so, creates a situation where existing gender hierarchies are perpetuated.

In light of the increase in the percentage of income that women can expect from their previously non-ATO-compliant ex-partners, two issues raise immediate concern about the redistribution of the sources of women's income; namely poor child support enforcement (Child Support Agency 2010a) and the 2006–08 reform that increased the proportion of child support that can be earmarked by non-resident parents for 'prescribed purposes' (Ministerial Taskforce on Child Support 2005). Given that this reform was promoted as a measure to improve child support compliance, this issue will be addressed first, followed by an examination of the implications of women's increased reliance on income received directly from their ex-partners.

### *Child support compliance and men's financial autonomy*

While this budget measure is framed as a measure to strengthen compliance, I argue that it is a version of compliance that protects men's financial autonomy and instead increases the demands placed on women, as I outline in the following section. In this section, I focus on how this budget measure implicitly condones men's non-compliance with both child support legislation and the ATO. While 'payers under a child support assessment are required to lodge a tax return, regardless of other exemptions to tax return lodgement that might apply' (Ministerial Taskforce on Child Support 2005, p. 173), the significance of payers' non-compliance with the ATO is downplayed by this budget measure and supporting CSA documentation (Child Support Agency 2010b). Rather than enforcing men's requirement to lodge tax returns, the budget measure circumvents the tax system when making a determination of child support liability; buttressing men's financial autonomy and freedom from regulatory authority.

While this budget measure seeks to make men pay more child support, men remain equally free to 'choose' whether to comply with the ATO, and then whether to comply with their child support obligations. While non-compliance with the ATO and CSA is contrary to Australian tax and family law, in practice, non-compliance is inadvertently legitimised, as there would be no need for this budget measure if all complied. Further, men's choice regarding whether to comply or not is maintained as it is only when men's estimated income is more than their actual income that they will have a compelling incentive to file. In all other cases, it would remain financially beneficially for them not to do so. However, men's 'choice' whether to subject their finances to the scrutiny of the ATO and CSA stands in stark contrast to the experience of the vast number of low-income child support recipients.

### *Increasing the regulation of women's financial lives*

For low-income women, their FTB(A) entitlement is based, among other things, on the amount of child support that the CSA assesses that they are entitled to, rather than the amount agreed on by the parents or the amount received by the payee. The CSA (2009) notes, however, that if the entitled amount is not received by the payee parent, only the received proportion of the assessed amount is used in Centrelink's FTB(A) calculation. As a result, payee parents who experience a shortfall in child support income should receive an increase in FTB(A). Once again, this compensation inadvertently legitimises men's non-compliance with their child support obligations. In addition, such compensation will limit the full extent of the government's forecast savings as a result of this budget measure. Again, while I do not suggest that this economic safety net for women is removed, the assumptions embedded within the child support system, such as the condoning of men's non-compliance and the buttressing of men's financial autonomy, need to be identified and addressed. Within this counter-productive system of compensation, several issues threaten women's actual receipt of Centrelink's compensatory payments.

While FTB(A) compensation is possible, three potential issues have been identified where payees with child support underpayments may not seek increased benefits. These include: (1) payees not knowing that reporting child support underpayment can result in increased FTB(A) payments; (2) the potential for FTB(A) over-payment and subsequent Centrelink debt recovery if child support arrears are subsequently paid; and (3) fear of repercussions from the payer parent for reporting an underpayment. Each of these scenarios, as outlined below, may contribute to payee parents' acceptance of less child support and FTB(A) than they are entitled to. In all three cases, men are afforded autonomy over their finances and obligations (Diduck 1995) whereas women's lives are increasingly regulated as they are required either to comply with increased Centrelink surveillance or forego their FTB(A) entitlements. I argue that increased government scrutiny should be placed on the non-compliant party, in this case men who do not lodge tax returns, rather than women who seek to collect their statutory child support entitlements on behalf of their children. Each of the above issues will now be discussed in turn.

First, it cannot be assumed that payee parents will be aware that FTB(A) entitlements can be increased due to child support underpayments. As research by Patrick, Cook and McKenzie (2008) highlights, low-income child support recipients may be unaware of the interactions between the child support and welfare benefit systems. Centrelink does not specifically list a change in child support payments as a reason why recipients should inform them that their circumstances have changed (Centrelink 2011c). Further, the variability of FTB(A) payments due to child support underpayment is not documented on the Centrelink website (Centrelink 2011a) and the only information provided by Centrelink about FTB(A) payment adjustment

pertains to the recipient's annual filing of a tax return; a filing that is not framed as 'optional', as my analysis of men's compulsion to file seems to suggest.

Further, Centrelink's 'one-stop shop' for payments and services, where 'the onus [is] on Centrelink to match the circumstances of the customer with the products and services that have been legislated and made available by client departments' (Centrelink 2005, p. 2) and customers being required simply to inform Centrelink when their circumstances change (Centrelink 2010), creates a system where recipients may unwittingly act in ways that are not in their best interests (Cook & Marjoribanks 2005; McKenzie & Cook 2007). As a result, the most vulnerable child support recipients are often the least well placed to ensure their correct entitlements are received. The limits of this self-advocacy approach for Centrelink customers in general have been explored by Sleep (2002) in her examination of the dramatic increase in Centrelink 'breaches' from 1996 to 2001 and the corresponding stagnation of formal appeal rates across the entire Centrelink payment population. One explanation Sleep (2002, p. 11) puts forward is that 'the low appeal rates reflect the government's targeting of the most vulnerable people, because they are the least likely to have the skills and resources necessary to navigate the appeals process'. Similar processes may prevent low-income single parents from advocating for their full FTB(A) entitlements when shortfalls in child support payments are experienced.

Second, while the circumstances under which FTB(A) payments can be increased are not well publicised by Centrelink, information highlighting that over-payments due to income underestimation would need to be paid back and could result in fraud charges is prominent (Centrelink 2011d). While payees who report child support underpayments are entitled to receive a FTB(A) increase (Child Support Agency 2009), by seeking to increase their FTB(A) income at the time a child support shortfall was experienced, payees may be required to repay this money if child support arrears are later received and not reported to Centrelink as 'arrears' from previous years. While Centrelink and the CSA state that arrears received are taken into consideration and applied to the financial year in which they were owed, the onus is once again on some of the system's most vulnerable recipients to navigate this complex policy system and advocate for their full entitlements. The same barriers as outlined above apply. As a result, while the payee has no control over whether child support arrears are received, they bear the responsibility for any FTB(A) overpayment that may occur if they fail to correctly inform Centrelink. Women then also face the financial and social sanctions that are imposed for an unwarranted FTB payment. As previous research has identified that avoiding Centrelink surveillance is important to welfare recipients (Daniels 2003; Ferguson 2010), the resultant government scrutiny may lead payees to underreport child support arrears in order to avoid FTB(A) over-payment and subsequent debt-recovery. The proportion of women who would take this option, however, is currently unknown.

The surveillance of those who receive FTB(A) overpayments due to the unanticipated payment of child support arrears, reflects a social (and in this case gendered) division in government scrutiny. Such a division has also been identified by Henman and Marston (2008) in their analysis of welfare and tax surveillance. Here they identified extreme disparities in the level of debt recovery conducted by Centrelink for over- or ineligible payment compared to the ATO's efforts for tax evasion. These same issues play out in the child support context where, despite a legal requirement to file tax returns, payers who fail to do so and make late or no child support payments receive less scrutiny than payees who seek increased FTB(A) payments due to child support arrears. However, to this end, the CSA's new enforcement program goes some way to address this imbalance (Child Support Agency 2010b), and future evaluations of the associated ATO enforcement program, including the net financial gains to resident families, are welcome.

Third, as suggested in Branigan's (2005) examination of financial abuse, and reiterated by Patrick, Cook and colleagues (Patrick, Cook & Taket 2007; Patrick, Cook & McKenzie 2008) and the Australian Law Reform Commission (2011, 2012), the minimisation and non-payment of child support is a strategy sometimes employed by payer parents to perpetuate financial abuse beyond the couple relationship. Further, it has been suggested that women may be reluctant to report child support underpayments for fear of retribution from their ex-partner. It is currently unknown what percentage of payees with child support debts fail to report payment shortfalls to Centrelink, although research on financial abuse (Patrick et al. 2008; Branigan 2005) suggests that this unintended outcome may be a very real possibility for some of the system's most vulnerable recipients. This issue was recently taken up by the Australian Law Reform Commission (2011, 2012) in their examination of family violence and family law. However, similar to the 2005 Ministerial Taskforce review, child support enforcement lay outside the commission's terms of reference. More work is needed to examine the gendered nature of child support and family law reform processes more broadly (Bacchi 1999; Graycar 2000, 2005), perhaps in the form of a specific inquiry into child support compliance, which has been overlooked in official reform processes to date.

By examining the sites where policy structures may create barriers for women, I am not suggesting that women are victims of the child support scheme or lack any agency to navigate the child support or Centrelink systems. Rather, in this article I seek specifically to describe the structural forces that shape women's experiences and the opportunities for action that are enabled or constrained within these policy contexts. As this analysis shows, there are numerous sites where men's agency is fostered. Unfortunately, the agency men are afforded serves to subvert legal requirements such as tax return lodgement and child support payment. On the contrary, women's opportunities for agency within this system extend only to whether or not they choose to pursue their legal entitlements when these have been

denied. Women in this instance have the choice to pursue their child support debts, or 'give up'. As Hayley McKenzie (2012) reported in her recent doctoral thesis, women in her study often accepted 'unacceptable' child support arrangements, such as irregular, partial or absent payments, as the emotional and time costs required to pursue their entitlements outweighed the possible financial gain. As such, in this analysis I seek to identify some of the structural barriers that create conditions where women find it easier to 'give up' rather than fight for their child support payments, and the financial implications that they experience as a result.

### ***Prescribed payments and men's financial authority***

While the previous section described how the 2011–12 budget measure privileges men's financial autonomy and subjects women to increased government scrutiny, this section examines how the budget measure promotes men's financial authority over the affairs of women and children beyond the couple relationship. While this increase in financial authority is not a direct result of this budget measure, the financial implications of the measure and their interaction with other child support policy conditions creates a scenario where financial authority is distributed along gender lines. To examine these relationships, this section focuses on the interaction of two related issues that produce or exacerbate women's financial vulnerability, namely the increased proportion of income women now derive from their ex-partner and the 2008 legislative change that enables men able to contribute up to 30 per cent of their child support obligations for prescribed purposes, 'regardless of the wishes of the payee parent' (Ministerial Taskforce on Child Support 2005, p. 186).

In light of reduced rent assistance and FTB(A) payments, in cases where men exercise their option to prescribe women's expenditure, women are left with an increasingly small amount of money to spend at their discretion. This is particularly worrisome for low-income women, as research has shown that women already tend to prioritise spending on children (Pahl 2000, 2005). Reducing the amount of money women have available to make spending choices may undermine the intent of this policy to improve children's standard of living.

For women with concerns over family violence, the increased reliance on an ex-partner is particularly worrying, as it provides greater scope for men to exert abusive influence over the affairs of their ex-partners through the withholding of child support or the manipulative use of the 30 per cent prescribed payment option. Given the Commonwealth Ombudsman reported to the Australian Law Reform Commission (2012) that a high proportion of CSA customers in the Child Support Family Violence Risk Identification Pilot program identified safety concerns, increasing the proportion of income derived from their ex-partner and the control payers have over the use of this income, may be counter-productive. This is particularly the case for payees whose ex-partner has not lodged a tax return, as this



may be a deliberate means of perpetuating financial abuse (Australian Law Reform Commission 2011; Branigan 2005).

## Conclusions

This paper examined the 2011–12 budget measure, which aims to more accurately assess child support payer income, in light of the implications for low-income women. An analysis of the economic impact on payees revealed that, as intended, the revision was unlikely to have a significant financial impact on women and children. However, an analysis of child support compliance through a feminist lens revealed indirect financial impacts of the decision, which may substantially change women's finances. These changes have different outcomes for men's and women's financial autonomy vis-à-vis the state. Men's financial autonomy is buttressed as this reform frames the 'problem' to be solved as the cost of family benefits to the Treasury rather than men's compliance with the tax or child support systems. Women's autonomy, on the other hand, is limited to reacting to underpayments and navigating the CSA and Centrelink bureaucracies. While the state provides the majority of low-income women's income, and has the capacity to compensate for un-received child support payments, the inadequacy of welfare benefits and the burden placed on women to navigate these complex systems means that low-income women's financial autonomy is undermined.

In 2005, the Ministerial Taskforce review into the child support scheme argued for changes that provided 'fairness' to both parents. Recent analyses of these reforms, however, have identified that the subsequent revisions were far from fair as they disproportionately favoured the financial interest of men (Smyth & Henman 2010) and resulted in policy changes that sidelined the concerns of women (Cook & Natalier 2013). This latest measure follows a similarly gendered trajectory. The reported aim of the budget measure was to improve child support compliance and improve financial outcomes for children. However, the result is that women whose partners were previously non-compliant with the ATO will be increasingly reliant on financial support from their ex-partners and less able to decide how this money can be spent. Given poor child support compliance rates that are often correlated with tax return non-filing (Shepherd 2005), perhaps indicating deliberate financial abuse, women in this situation may indeed be financially disadvantaged as a result of this reform. The unintended effect of this budget measure strengthens the criticism that there are indeed systemic gender inequities embedded in the Child Support Scheme.

While the 2006–08 reforms were preceded by a decade of reviews, it may be time once again to examine the Scheme, this time with an explicit focus on gender, the role the child support scheme plays in the structure of gender relations, and how further reforms could enhance gender equity. It is widely acknowledged that men's rights groups were particularly vocal in calling for the 2006–08 reforms and the

preceding reviews (Smyth & Henman 2010). During these inquiry processes, men's claims included greater financial and care giving responsibility; which are laudable aspirations. However, equal parenting outcomes are impossible if employment and care-giving inequities continue to exist. The policy and social challenges posed by these inequities are beyond the scope of the Child Support Scheme, but this does not preclude action to redress the power imbalance that currently exists.

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