

The Monthly

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The Monthly **TODAY** by Paddy Manning

Duty free

On robodebt, the Morrison government is defending the indefensible



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It started in exactly 1996, when John Howard was elected prime minister and Pauline Hanson burst onto the political scene. “Downward envy” was the term coined that year to explain the middle-class resentment of those on welfare, whether unemployed or single parents or Indigenous or asylum seekers, which helped explain Labor’s downfall. Social researcher Hugh Mackay saw it as a delayed reaction to the country’s last recession, in 1991, and

drug tests for welfare recipients – a policy based on love. Despite that long and notorious history, today's news that the federal government does not believe it owes a duty of care to those welfare recipients on whom it inflicted the illegal robodebt scheme was truly breakfast-spluttering.

Some context: Gordon Legal has filed a class action against the Commonwealth on behalf of all those issued with debt notices calculated using the notorious income-averaging formula. More than 600,000 of those notices were issued under the robodebt scheme, which was recently ruled found to be illegal. The total value of these notices is unknown but could exceed \$1 billion. Not only were the robodebts illegal, but the government knew they were not lawful and kept the legal advice secret, preferring instead to settle any challenges out of court and to keep the dodgy scheme running in the hope of raising a bit more cash to prop up the federal budget. This was despite abundant evidence, including to a Senate inquiry chaired by Greens senator Rachel Siewert, that the debt notices were putting welfare recipients under enormous pressure, and could even be pushing people over the edge to suicide.

Gordon Legal has attracted about 11,000 registrations for its case, and that number is growing each day. The [statement of claim](#) argues that Services Australia (through Centrelink) had exclusive control over whether the claimants were entitled to receive social security payments. What's more, Services Australia knew that those people were vulnerable to any illegal or unreasonable exercise of that power, and would suffer financial loss and hardship. This gave rise to a duty of care, which the government breached by issuing debt notices it knew were false. The case argues not just for the return of money illegally raised, but also compensation for the loss of use of the money in the meantime, as well as for the stigma, stress and suffering that the debts caused.

According to today's [report](#) in *Guardian Australia*, based on documents filed in the Federal Court, the government is arguing that it should not be required to pay compensation because social security law makes no mention of a need to exercise "due or reasonable care", and insists its methods of debt recovery – which can include the use of debt collectors and garnishee notices through the tax office – "do not amount to duress", as claimed by Gordon Legal.

In a press release, Rachel Siewert said she was "gobsmacked" by the news, arguing there has always been a social contract between the Commonwealth and the people. "We work, pay our taxes to support our government so that when we and our fellow citizens fall on hard times we know that we will be assisted to get by – that is what our social safety net has always been. It is very clear that thousands of people have been put under duress by this government, and the robodebt scheme has had a devastating impact on those who have received debt notices ... This government is obsessed with punishing people on income support ... This government needs to take responsibility for the mess it has created."

One day robodebt will be a textbook case study of how not to govern. For all the pain and suffering it has inflicted, it is possible that robodebt will end up costing the government more in compensation than it raised. A decent, compassionate government would settle up. This government, instead, is doubling down.

No one loves a welfare cheat, but a tiny problem at the margins has been the excuse for a quarter of a century of punitive Coalition initiatives, from the job diary to the cashless welfare card – all while freezing Newstart in real terms and turning on a budget-wrecking fire hydrant of middle- and upper-class welfare.

