

Journal of Indigenous Policy

Cover painting:

Artist: Teena McCarthy

Title: TERROR NULLIUS 2 (series 3)

Medium: Oil, Ochre, Charcoal from Finke River, NT and Acrylic.

Size: 33cm x 20cm

Year: 2011

Statement:

Reminiscent of past injustices, such as the *Aboriginal Protection Act*, I associate this work with the rolling out of the 'blanket' solution now known as the NT Intervention. My painting depicts the beauty of a Central Australian landscape which is being disrespectfully stomped upon.

About the Artist:

Teena McCarthy's work reflects her mixed Italian/Indigenous ancestry and her love, respect and connection to the country. Inherent in her work is a deep compassion and sorrow for the wounds and injustices perpetrated on both the First Australians and the land, whilst grappling with issues of Identity, displacement and the Stolen Generations.

McCarthy's current body of work synthesizes the personal with the political. With wit, humour and pathos she interrogates the legacy of colonisation; its effects on Indigenous people and ultimately, its universal effects.

The artist was born in 1962 in Perth, WA. Moving to Sydney in the early eighties, McCarthy has 35 years of experience as a Hairdresser /Makeup artist /Teacher having worked in fashion, film and television all over Australia, including four years in Alice Springs. In 1993, she created Hairdressing Training workshops for women on remote desert communities for the Department of Education, NT.

A self taught painter from an early age, McCarthy has studied Art at many institutions, including the 'Julian Ashton' Art School, The Rocks and the 'National Art School', Darlinghurst. She is currently studying for her Bachelor of Fine Arts degree at COFA, (College of Fine Arts) at UNSW.

McCarthy has exhibited on campus at 'COFA' with 'Err...SORRY your place or mine' 2010; Sydney Design 'Futurestories' 2010; 'Marginal-Democracy' 2010 at ATVP Gallery, Newtown; curating and exhibiting in the successful show 'iNtervention Intervention' 2011 also at ATVP Gallery, making local press and worldwide media attention; and in the 'MCAP'11 Finalists Exhibition' (Marrickville Contemporary Art Prize, 2011) at the Chrissie Cotter, Gallery, Camperdown.

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Journal of Indigenous Policy

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We would also like to acknowledge the assistance provided by Rebecca Peters in editing this publication.

Why the Journal of Indigenous Policy?

The *Journal of Indigenous Policy* has been established to provide a forum for intellectual discourse on Indigenous policy development and implementation as it affects the lives of Aboriginal and Torres Strait Islander peoples in Australia. It is an initiative of a group of Indigenous professionals seeking to provide opportunities for a diverse audience to access the perspectives of a wide range of authors.

The most fundamental value guiding the publication of this journal is that we respect and recognise Indigenous peoples right to self-determination as they define this right for themselves, their people, and their communities. Genuine exercise and enjoyment of this right on a collective level requires policy to play a crucial role. All too often, when programs designed to support Indigenous peoples advancement fail, poor policy development and implementation is a key collaborator.

Recognition of the right to self-determination must also be extended to the individual. So it is that while the *Journal of Indigenous Policy* maintains the highest editorial standards, this is also demonstrated in our respect for the personal choice of our contributors. For this reason readers may notice some fluctuations in the use of grammar and style by the authors.

It is the aim of the *Journal of Indigenous Policy* to become a respected contributor to Indigenous policy discourse particularly within Indigenous community based organisations. The *Journal of Indigenous Policy* does not solely publish articles that have been peer reviewed although this option is available to any contributor who so chooses.

CALL FOR PAPERS
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All articles must conform to the *Guidelines for Contributors* that are provided at the end of this issue.

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FOREWORD

The questions are often asked: why are we unable to close the gap? Why is it that we spend so much on Indigenous issues yet so little has been done to overcome Indigenous disadvantage?

These questions will continue to be posed until there is a clearer understanding of what works and what doesn't work in terms of programs and policies being introduced into Indigenous communities. And the only way to evaluate a framework to understand where and why policy success occurs is through an evidence-based approach.

Income management has been one of the most controversial policies introduced into Indigenous community in recent times and was one of the most contentious aspects of the Northern Territory intervention when it was rolled out in 2007. The need to suspend the *Racial Discrimination Act 1975* to enable the policy to be implemented added to the controversy and concerns.

While critics at the time questioned the policy on the basis that there was no evidence that it would work, others maintained that the issues facing the communities in the Northern Territory were so critical that drastic measures were appropriate and necessary.

As the policy has been reviewed, maintained and is being rolled out across other parts of Australia, we need an in depth assessment of what we can now learn about the program from analysis of how it has worked.

Eva Cox, one of Australia's leading public intellectuals, has been at the forefront of debates around welfare sector reform for decades and has continued at the vanguard of debates around welfare reform in recent years. She has engaged in fearless intellectual critique around income management right from the beginning of the announcement of it as a new policy direction.

She has used her practical and academic skills as a professional researcher and teacher of research methods, as well as her extensive policy development experience, to examine the 'evidence' used for government decisions and to challenge these. The many submissions made to various inquiries and data collected provide evidence of the flaws and limits of government processes and decisions.

The documents demonstrate how lack of evidence can contribute to bad policy making and program failures. This exegesis illustrates how many Government policies can waste money and effort, rather than the program recipients.

We are proud to publish this issue of the Journal of Indigenous Policy that focuses on her perspectives and judgement of the errors in this important policy

area. The case study also illustrates the dangers of ignoring bad Indigenous policies as they are now being expanded to cover the rest of the population.

Professor Larissa Behrendt
Director, Jumbunna I.H.L. Research Unit
University of Technology, Sydney.

EVIDENCE-FREE POLICY MAKING? THE CASE OF INCOME MANAGEMENT

Eva Cox*

Introduction

This issue of the *Journal of Indigenous Policy* covers one specific topic: how the Federal Government brought in policies, initially race-based, to manage the incomes of people receiving government payments. The various political processes since June 2007 show how two separate governing parties find common ground on these changes, despite the dearth of evidence that income management would or does bring benefits to the communities and individuals affected.

This case study shows how racially prejudiced changes can be used to disguise a major policy shift, raising questions about the inherent assumptions made by government ministers and bureaucrats. How did they manage to avoid any serious public debate on the fairness of shifting away from entitlement to welfare payments towards spending being controlled by the State? The post-war welfare system assumed that those who met criteria for payments had the same rights to spend their money as others had, so controlling expenditure is a big change.

By initially targeting the inhabitants of a limited number of Northern Territory communities, presumed to require emergency ‘assistance’, both Governments misled the public, using the Northern Territory Emergency Response (NTER) as a pilot for wider, ostensibly non-racially based changes. The not unreasonable assumption made by many of those affected and other advocates is that Indigenous people will continue to be targeted, even without *Racial Discrimination Act (RDA)* permission, but they will be joined by others who fail the Gillard good worker tests.

This policy process is quite different from the acceptable norm in policy making. In addition to an unusual lack of prior serious discussion and consultation on the merits and risks of such changes, there is a dearth of evidence that the process has net benefits to justify the financial and social costs.

* Eva Cox is a sociologist who has taught research methods at two universities and has twice run her own research consultancy. She has also worked with politicians and in senior public service positions and has engaged in policy making, evaluation, advocacy and bureaucratic implementation of programs. She delivered the 1995 ABC Boyer lectures on *A Truly Civil Society*. She is currently a Research Fellow at Jumbunna Indigenous House of Learning at the University of Technology, Sydney.

By examining both the Intervention and post-Intervention policy processes, this issue of the Journal raises serious questions about what is defined as ‘evidence’ and by whom. It also explores how various consultative processes, formal reports, submissions and statistics have been used and not used, both in the introduction of compulsory income management and in its more recent review and wider extensions.

The focus on income management is still very relevant as various forms of the program are being extended to many people outside the Northern Territory (NT). Five new areas in other states were named to host such a program in July 2012, of which none are particularly Indigenous but all have high proportions of working-age welfare recipients.

This case study of how Indigenous policy was used as a stalking horse in policy change illustrates with unusual clarity how little attention governments pay to evidence when they are driven by prior prejudices and beliefs. There is no doubt that the basis for quarantining 50 per cent of welfare income was a widespread assumption about Indigenous incompetence as parents, money managers and job seekers. It is hard to find other explanations for the failure, presumably by public servants, politicians and even Cabinet members, to accept counter arguments and evidence.

Defining what constitutes good government policy-making is particularly pertinent for Aboriginal and Torres Strait Islander populations, as their recent share of the history of Australia has been marked by many examples of poor government policies. Without canvassing coloniser sins of commission and omission, there are many recent and current examples that have not worked despite their sometimes stated good intentions.

This issue of the Journal draws on the documents used by Government in making and arguing about income management policy. It explores how this policy was developed as part of the NTER, its subsequent review and further extension. The various policy and review processes, spanning from mid 2007 to mid 2011, raise many questions about good and bad policy-making. In particular, the documented history raises questions about the Commonwealth Government’s and the Minister for Indigenous Affairs’ claims to practice ‘evidence-based’ policy making, when they seem to have ignored many findings that did not fit with their previously stated intentions.

There are always limits to the role of ‘evidence’ in policy making: research findings can be questioned or disputed and the *real politik* of government processes are likely to affect decision-making. However, our analysis suggests that more than the usual political pressures and compromises were operating in this case. Decisions appear to have been based on discriminatory beliefs about particular populations and human functioning; and these are now being applied to wider populations as the income management program is extended.

Apparent racial biases affected the initial decisions, but the recent retention and extension of income management also arise from perceived failures of non-Indigenous individuals and families to integrate into a particular model of good worker citizens. So the failure to hold paid jobs is officially their own fault. The policy makers have failed to recognise that disadvantage results from a mix of structural factors, including forms of discrimination. Income management is based on assumptions that the disorders of individuals make them unable to comply with necessary workplace and education efforts. Thus, imposing control over spending and other functions in Indigenous and other communities and individuals will improve their social and economic functioning.

This approach fails to note the increasing evidence of what does work in such communities – the consensus is that it is local control and involvement. Gary Banks, Chair of the Productivity Commission, is a major economic adviser to the current government on its policy options. He is a realist in his expectations of efficacy, as was evident in a recent lecture:

In an address to senior public servants in April last year, the Prime Minister observed that, ‘evidence-based policy making is at the heart of being a reformist government’. Tonight I want to explore why that is profoundly true; what it means in practice, and some implications for those of us in public administration...

The term ‘evidence-based policy making’ has been most recently popularised by the Blair Government, which was elected on a platform of ‘what matters is what works’. Blair spoke of ending ideologically-based decision making and ‘questioning’ inherited ways of doing things’.

It will be clear to all at this gathering in Canberra that policy decisions will typically be influenced by much more than objective evidence, or rational analysis. Values, interests, personalities, timing, circumstance and happenstance — in short, democracy — determine what actually happens.

But evidence and analysis can nevertheless play a **useful, even decisive, role in informing policy-makers’ judgements. Importantly, they can also condition the political environment in which those judgements need to be made.**¹ (Our bold)

The above quotes offer the basis for assessing the current government’s use of available data, submissions, evidence, consultations and other forms of lobbying on this issue. In this article we assess the income management policy processes and compare them with more mainstream examples of effective use of the available data sources and expertise. However, another factor should have received greater consideration, namely the official assumptions

¹ Banks, G, ‘Evidence-based policy making: What is it? How do we get it?’ Paper presented at the ANU Public Lecture Series, presented by ANZSOG, Canberra 4 February 2009. http://www.pc.gov.au/data/assets/pdf_file/0003/85836/20090204-evidence-based-policy.pdf at 29 August 2011.

underpinning policy-making for Indigenous people which too often undervalue cultural and social differences. Steve Larkin, then Principal of the Australian Institute of Aboriginal and Torres Strait Islander Studies, noted in an abstract for a 2006 paper on evidence-based health policy:

White middle-class persons and politically marginalised Aboriginal and Torres Strait Islander peoples do not think and interpret realities in the same way because of divergent structural positions, histories and cultures. Cultural rationality informs and shapes social, political and technical rationalities because the latter are grounded in and developed by the former.²

There is limited acknowledgment among commentators, whether for or against income management, of the importance of recognising the cultural limits of the data that were collected. In particular, the Government documents generally fail to address the cultural problems of interpreting local feedback and responses. The relatively few research-based submissions from Indigenous researchers and organisations were not taken seriously if they failed to agree with government policy raising the wider need to develop a sufficiently legitimate body of Indigenous-led research so that it would be hard to ignore. This extended body of work could also bridge the cultural divides and extend the meaning and interpretation of evidence. We note that some Aboriginal groups supported income management, but we question the official weight given to this viewpoint while many more groups and a wide range of other Indigenous research-based evidence were ignored.

Steve Larkin completed his article by saying:

I have emphasised the requirement that Aboriginal and Torres Strait Islanders' cultural and social rationalities define the policy-relevant research necessary to improve their health. I have examined the pathways by which dominant cultures subordinate others and stressed the importance of decolonisation of research and evidence-building. This new research is necessary to ensure that the evidence that guides policy making to improve Aboriginal and Torres Strait Islander health addresses the issues of racial economic exploitation, racial political oppression and racist ideology.³

There are always caveats about the interaction between politics, policies and what is seen as the limitations of data as 'proof'. However, in this case there is so little hard evidence that income management provides benefits to individuals or communities, or indeed achieves any of the government's ill-defined objectives. Four years of consistent non-admission of this dearth of evidence amounts to a serious failure of responsible policy-making by Federal Minister Jenny Macklin and her Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA).

² Larkin S, 'Evidence-based policy making in Aboriginal and Torres Strait Islander health', (2006) *Australian Aboriginal Studies* 2006/2, 17-26.

http://www.a.iatsis.gov.au/asj/docs/Larkin_AAS0206.pdf at 29 August 2011.

³ Ibid 24.

It is interesting to note that this current policy failure happened concurrently and soon after the Federal Government's Apology for the many prior examples of appallingly bad policy directed at Indigenous Australians. The current example suggests the Government has not learned from previous failures, and raises questions about the Government's capacity to fulfil its commitments to 'closing the gap' on Indigenous disadvantage.

What works

This issue of the Journal has compiled documents which offer a critique of the Rudd/Gillard Labor government's failure to use evidence in this area of policy-making. We examine some of the ample evidence of what works and what does not work in terms this government can understand, before looking in detail at the processes and decisions that fail the criteria for success.

Effective ways of making policies for Indigenous people were identified by the Productivity Commission in its report on Overcoming Indigenous Disadvantage (OID). Gary Banks enumerated some of these criteria in another speech in 2009:

In a small way, the OID Report has sought to redress this, by including mini case studies of 'things that work' (or appear to be working) in areas targeted by the framework, often at the level of particular communities or regions. The report identifies four factors that are common to many of the 'things that work'.

Such as:

9.1 Cooperative approaches between Indigenous people and government, often involving non-profit and private sectors as well. (The Cape York Welfare Trial is illustrative of the power of this.)

9.2 Community involvement in program design and decision-making — a 'bottom-up' contribution, rather than just relying on 'top-down' direction. (There are many instances of governments designing programs that have resulted in unintended perverse consequences through lack of community input.)

9.3 Ongoing government support — human, financial and physical. We have often seen, even between editions of the OID Report, promising programs that have initially been very successful lose momentum for want of sustained government support.

9.4 Good governance — as noted earlier this cannot be taken for granted, but must be nurtured and supported. It is needed in both Indigenous communities and organisations, and within government itself.⁴

In his earlier speech on evidence-based policy, Banks went further:

For evidence to discharge these various functions, however, it needs to be the right

⁴ Banks, G, 'Are we overcoming Indigenous disadvantage?' (Presented as the third lecture in Reconciliation Australia's 'Closing the Gap Conversations' Series, National Library, Canberra, 7 July 2009).

http://www.pc.gov.au/_data/assets/pdf_file/0013/90310/cs20090707.pdf at 29 August 2011.

evidence; it needs to occur at the right time and be seen by the right people. That may sound obvious, but it is actually very demanding. I want to talk briefly now about some essential ingredients in achieving it.

Nevertheless all good methodologies have a number of features in common:

- They test a theory or proposition as to why policy action will be effective — ultimately promoting community wellbeing — with the theory also revealing what impacts of the policy should be observed if it is to succeed;
- They have a serious treatment of the ‘counterfactual’; namely, what would happen in the absence of any action?
- They involve, wherever possible, quantification of impacts (including estimates of how effects vary for different policy ‘doses’ and for different groups);
- They look at both direct and indirect effects (often it’s the indirect effects that can be most important);
- They set out the uncertainties and control for other influences that may impact on observed outcomes;
- They are designed to avoid errors that could occur through self selection or other sources of bias;
- They provide for sensitivity tests: and importantly,
- They have the ability to be tested and, ideally, replicated by third parties.⁵

This list of criteria sums up neatly the realistic models that should have been followed in relation to income management, since the Productivity Commission (PC) is one of the Government’s major evidence-producing units. However, none of the government designs for data collections met these criteria.

Even more recent guidance comes from another significant government source, in this case the Australian Institute for Health and Welfare (AIHW) summary report on *Closing the Gap, 2011*.⁶ On 9 February 2011, Prime Minister Julia Gillard made a statement in Parliament on her Government’s approach to Indigenous policy which could be seen as endorsing these approaches:

Because I believe in tackling the big challenges in the national interest...I see Closing the Gap as a way of understanding the problems. It is evidence-based, accountable and transparent. It tells us what needs to be done first and fastest and builds a methodical approach. It allows us to build consensus in support of specific progress, instead of debating abstract ideas. To do what we can, with what we have, where we are.

Because I believe Australians judge Governments on delivery... I see Closing the Gap as a way of working on the solutions. It is a way of making specific, measurable progress. It is practical and cumulative. It gives us new information which means we

⁵ Banks, G, ‘Evidence-based policy making: What is it? How do we get it?’ (Paper presented at Australian National University Public Lecture Series, presented by ANZSOG, 4 February 2009).

http://www.pc.gov.au/_data/assets/pdf_file/0003/85836/20090204-evidence-based-policy.pdf at 29 August 2011.

⁶ Closing the Gap Clearinghouse, What works to overcome Indigenous disadvantage: key learnings and gaps in the evidence (2011).

can invest where investment will make the greatest difference. Information which means we can be sure that the Government is meeting its responsibilities.⁷

The AIHW operates the Closing the Gap Clearinghouse, which recently published a list of criteria for what works for and in Indigenous communities. These standards echo the view of the Productivity Commission report quoted earlier in this section:

Key learnings

The Clearinghouse processes identified overarching themes for successful programs in overcoming Indigenous disadvantage. Notably, these findings are highly congruent with views of significant Indigenous and non-Indigenous stakeholders, community development principles and ‘common sense’ approaches.

They are also consistent with the Service delivery principles for programs and services for Indigenous Australians (set out in Schedule D of the National Indigenous Reform Agreement, effective February 2011).

The Clearinghouse’s important contribution is the rigour and impartiality through which available data have been considered. The convergence between ‘real world experience’, government principles for action and the Clearinghouse’s technical assessment builds confidence that emerging themes provide a solid basis for overcoming Indigenous disadvantage.

What works

- **Community involvement and engagement.** For example, key success factors in Indigenous community-based alcohol and substance-abuse programs were strong leadership, strong community–member engagement, appropriate infrastructure and use of a paid workforce to ensure long-term sustainability.
- **Adequate resourcing and planned and comprehensive interventions.** For example, a systematic approach with appropriate funding arrests the escalating epidemic of end-stage kidney failure, reduces suffering for Indigenous people and saves resources. A strong sense of community ownership and control is a key element in overcoming Indigenous disadvantage.
- **Respect for language and culture.** For example, capacity building of Indigenous families and respect for culture and different learning style were considered to be important for engaging Indigenous families in school readiness programs.
- **Working together through partnerships, networks and shared leadership.** For example, an Aboriginal-driven program increased knowledge about nutrition, exercise, obesity and chronic diseases, including diabetes. The educational component, participation of local Indigenous people in the program and committed partnerships with the organisations involved were important to the program’s success.
- **Development of social capital.** For example the Communities for Children initiative, under the Australian Government’s former strategy (the Stronger Families and Communities Strategy 2004–2009) highlighted the importance of a collaborative approach to maternal and child health, child-friendly communities, early learning and care, supporting families and parents, and working together in

⁷ Julia Gillard, PM, (Speech delivered on launch of the Closing the Gap report, Parliament House, 9 February 2011).

partnership.

- **Recognising underlying social determinants.** For example, data from the Longitudinal Study of Australian Children demonstrated that financial disadvantage was one factor among other variables that may affect school readiness and progress for young children.
- **Commitment to doing projects with, not for, Indigenous people.** For example, the evaluation of the NSW Count Me In Too Indigenous numeracy program found that contextual learning was successful and critical, professional development for teachers was essential, effective relationships were vital and Aboriginal community buy-in was also essential for ongoing success.
- **Creative collaboration that builds bridges between public agencies and the community** and coordination between communities, non-government and government to prevent duplication of effort. For example, a collaborative project between health and education workers at a primary public school in South Australia (The Wadu Wellness project), in which a number of children were screened, has resulted in follow-up and support for children for hearing problems and dental treatment, and social and emotional support.
- **Understanding that issues are complex and contextual.** For example, frequent house moves, neighbourhood conflict, functionality of housing amenities and high rental costs were found to have an impact on children's schooling.

What doesn't work

- **'One size fits all' approaches.** For example, residential treatment for alcohol and other drugs dependency is generally not more effective than non-residential treatment. However, evidence indicates that residential treatment is more effective for clients with more severe deterioration, less social stability and high relapse risk. As these are characteristics of many Indigenous clients, residential treatment may be most appropriate.
- **Lack of collaboration and poor access to services.** For example, successful interventions require the integration of health services to provide continuity of care, community involvement and local leadership in health-care delivery and culturally appropriate mainstream services. These steps help to ensure the suitability and availability of services, which can thereby improve access by Indigenous Australians.
- **External authorities imposing change and reporting requirements.** For example, a review of evidence from seven rigorously evaluated programs that linked school attendance with welfare payments in the United States found that sanction-only programs have a negligible effect on attendance, but that case management was the most critical variable.
- **Interventions without local Indigenous community control and culturally appropriate adaptation.** For example, evidence indicated external imposition of 'local dry area bans' (where consumption of alcohol is prohibited within a set distance of licensed premises) was ineffective and only served to move the site of public drinking, often to areas where the risk of harm was greater.
- **Short-term, one-off funding, piecemeal interventions, provision of services in isolation and failure to develop Indigenous capacity to provide services.** For example, a one-off health assessment with community feedback and an increase in health service use was unlikely to produce long-term health benefits and improvements. An ongoing focus on community development and sustained population health intervention are needed.⁸

⁸ Closing the Gap Clearinghouse, What works to overcome Indigenous disadvantage: key learnings and gaps in the evidence (2011).

The evidence we cover shows the NTER generally, and the income management program in particular, falls dramatically short of meeting these standards. Nor did the government data collection exercises associated with income management meet these criteria. The Prime Minister appears to be unaware or deliberately ignorant of the mismatch between her government's rhetoric and the reality in this critical area of policy-making.

The material in this issue of the journal traces the enactment of laws, introducing and then extending income management, despite the absence of substantial evidence that it had, could or would work. Considerable opposition from a wide range of experts and others failed to influence the process, since they disagreed with the government's intentions. The fact that a broad group of informed and respected experts was unable to influence such an important wide-ranging policy process suggests that the process needs to be reformed.

The Minister and her Departmental officers have failed to meet the standards set by the government's own main sources of advice on data and policy making shown above. While we recognise that political process is always paramount in decision-making, the judgement needs to be made about whether these political decisions can be justified.

Prejudice against Indigenous people is a danger that must be considered in this context. As has been noted, income management was originally part of a package of policies applied to 73 communities and justified as an emergency move to save children from sexual abuse. This meant that little scrutiny was given to the package as a whole or any particular part. After all, it seemed as though it had little to do with 'us', the non-Indigenous majority.

There are many large gaps between available evidence and the corresponding decisions, and this set of legislative changes exemplified the need in a democracy for those aware of the risks and damage to point out the problems and be heard. Many groups giving evidence to the Senate Community Affairs Legislation Committee⁹ and participating in the consultations cast doubt on the income management program, but the Government officials had already made up their minds and took notice only of what supported their conclusions. Our review shows how counterevidence was manipulated, ignored and misused, suggesting that decision makers had already decided on their course of action before 'consultation processes' or evidence taking began.

There was, and is, some evidence that can be used to evaluate the effects of income management. The question is whether any of it was adequate to use to

http://www.aihw.gov.au/closingthegap/documents/annual_papers/what_works_to_overcome_disadvantage.pdf at 29 August 2011.

⁹ Inquiry into Social Security and Other Legislation Amendment (Welfare Reform and Reinstatement of Racial Discrimination Act) Bill 2009 and related bills (2010).

determine whether the extension and changes to the program were justified. The data set out in this Journal has been mostly sourced from the government's own data collections, evaluations and other evidence, including what was submitted or presented to the inquiry. Some additional information comes from independent research studies which were not given adequate weight or serious considerations – for example the Health Impact Assessment by the Australian Indigenous Doctors Association¹⁰ and the purchasing study by Menzies School of Health Research¹¹ which are discussed further in the Journal. Other data has emerged in the last few months which continue to cast doubt on the decisions taken.

Given this wealth of information that has not been considered appropriately, this issue of the Journal argues that the Government is failing to meet its own stated standards for use of evidence in policy-making and often ignores its own advisers' views of what is good policy and what works. In this case, there is an additional twist as the income management policy appears to have been used for wider political purposes such as major changes to income support policy.

¹⁰ Australian Indigenous Doctors' Association and Centre for Health Equity Training, Research and Evaluation, University of NSW *Health Impact Assessment of the Northern Territory Emergency Response* (2010).

<http://www.aida.org.au/viewpublications.aspx?id=3> at 29 August 2011.

¹¹ Julie K Brimblecombe, Joseph McDonnell, Adam Barnes, Joanne Garnggulkpuy Dhurrkay, David P Thomas and Ross S Bailie 'After the Intervention — Research Impact of income management on store sales in the Northern Territory,' MJA 2010; 192(10): 549-554. http://www.mja.com.au/public/issues/192_10_170510/bri10090_fm.html?source=cmaileiris

PART A: BRIEF BACKGROUND TO THE NORTHERN TERRITORY INTERVENTION

In the beginning: Little Children are Sacred report

The 2007 introduction of the Northern Territory Emergency Response (NTER) was the result of an odd amalgamation: an ‘exposé’ on the ABC’s *Lateline* program, prejudice against Aboriginal communities, an upcoming election and the need to look decisive. They had some bureaucrats with outdated proposals for paternalistic control of welfare recipients dating back to the 1990s, when policy changes in the UK and USA undermined the right to welfare entitlements that had been part of the post-war welfare state.

The Federal Government’s justification for ‘the Intervention’ was said to be the NT Government’s failure to respond to the 2007 report of its own Board of Inquiry into the protection of Aboriginal children from sexual abuse.¹² That Inquiry had made 45 community visits, held more than 260 meetings and received 65 written submissions. Its report was titled *Ampe Akelyernemane Meke Mekarle: Little Children are Sacred*.¹³

Little Children are Sacred contained 97 detailed recommendations, none of which – despite the government’s rhetoric – were actually implemented by the Intervention.¹⁴ According to the authors, the Inquiry’s findings were ‘encapsulated’ by the first two recommendations:

- (a) To consult and work collaboratively with the local communities; and
- (b) To place children’s interests at the forefront in all policy and decision-making.

Both these recommendations were ignored by the Liberal-National Federal Government in 2007, and by subsequent Labor governments.

Howard’s next step

The embattled Howard Government, with an election approaching, apparently

¹² Commonwealth, *Parliamentary Debates*, House of Representatives, 7 August 2007, p 10, Mal Brough, Minister for Families and Community Services and Indigenous Affairs, stated, “With clear evidence that the Northern Territory government was not able to protect these children adequately, the Howard government decided that it was now time to intervene and declare an emergency situation and use the territories power available under the Constitution to make laws for the Northern Territory.”

¹³ Northern Territory Board of Inquiry into the Protection of Aboriginal Children from Sexual Abuse, Rex Wild QC and Patricia Anderson, *Ampe Akelyernemane Meke Mekarle, “Little Children are Sacred”* (2007).

http://www.inquirynt.gov.au/pdf/bipacsa_final_report.pdf at 29 August 2011.

¹⁴ Commonwealth, *Parliamentary Debates*, Senate, 8 August 2007, p 42, Rachel Siewert quoted from the *Little Children are Sacred report*: ‘There’s not a single action that the Commonwealth has taken so far that ... corresponds with a single recommendation. There is no relationship between these emergency powers and what’s in our report.’

thought a no-nonsense, punitive course of action would go down well with voters. It rapidly introduced legislation creating a slather of centralised controls and initiatives in 73 designated communities, purportedly intended to protect young children against the sexual abuse identified in the report. However, most of the measures did not in fact, focus on child abuse prevention; most had no direct impact on children; and the Intervention was imposed on everyone, whether they looked after children or not.

It began with a series of errors – frightening communities with the arrival of military trucks, suggesting inappropriate sexual medical checks, and offending the UN by suspending the *Racial Discrimination Act 1975* (Cth). Nonetheless, the Intervention rolled out, albeit slowly, in many of the designated communities. Protests were ignored; indeed, in the public debates there were implications that objectors were possible apologists for sexual abusers.

The main elements of the NTER that this Journal will cover are:

- Extra police which were generally welcome; central new restrictions on alcohol and pornography which were not so welcome.
- Commonwealth takeover of community services and installation of officers known as Government Business Managers.
- Income Management – Quarantining of 50 per cent of welfare benefits to all recipients in the designated communities, so the funds could only be spent on certain goods (mainly food) at certain shops.

This last measure is the focus of this issue of the Journal.

The reforms were put through the Federal Parliament as an emergency package, without consultation, despite this being the first recommendation of the Report that triggered the process. The *Racial Discrimination Act (RDA)* was suspended to allow these measures to be applied only to Aboriginal communities. Suspension of the *RDA* is legally permissible for ‘special measures’, ie race-specific measures which clearly benefit members of that race; the Government hoped these reforms would qualify under that label.

Both the process and the content of the package met with immediate criticism for compromising human rights, democracy, freedom, self-determination and Indigenous rights. The reaction came from organisations and individuals both in NT and in other parts of Australia. Women for Wik, a group that had been active in earlier land rights activism, was revived specifically to respond to this change. New organisations were formed such as Concerned Australians, which included prominent non-Aboriginal Australians like Alastair Nicholson, former Chief Justice of the Family Court of Australia.

The Combined Aboriginal Organisations of the Northern Territory, established in late 2007 to coordinate local objections to the Intervention, circulated this list of key concerns via email:

WHAT'S THIS LEGISLATION GOT TO DO WITH SAVING THE CHILDREN?

Federal Government Intervention in the Northern Territory

1. **Lack of time to consider the legislation and no consultation means they are more likely to get things wrong and also breaches the first recommendation** of the Little Children are Sacred report which called for collaboration between the Australian and NT Governments and genuine consultation with Aboriginal people. Neither has been done. Indigenous people must have ownership of measures that affect them, or the measures will fail.
2. **The Emergency Response doesn't address child abuse nor is it mentioned in the legislation.** The recommendations of the Little Children are Sacred report, claimed to be the trigger for the 'Emergency Response', have been entirely ignored, and the government response has no evidence and ignores the advice of experts.
3. **Funding is for welfare control and more bureaucrats, not for programs that address children's needs.** \$88m is for the administrative cost of quarantining welfare payments for 20,000 people, ie removing control over 50% of their money. The \$2.3 billion shortfall for NT remote community housing and infrastructure needs will be further strained by accommodating government staff who are located at or need to visit communities, even if separately funded.
4. **All individuals who receive welfare payments will be subject to income management**, regardless of their ability to manage their affairs. The new arrangements will follow any individual if they leave the community. 50% of the welfare payments of all individuals in 'affected communities' will be income managed for the first 12 months.
5. **This is racially discriminatory legislation** and exempted from the Racial Discrimination Act, even though it purports to be a 'special measure'. Aboriginal people in the NT are being included in the measures on the basis of race, if they were living in the designated areas in July, regardless of their personal circumstances or actions.
6. **Forced acquisition of property rights and assets** by compulsory 5-year leases on all communities. "Just terms" compensation will only be paid "if warranted". The legislation also provides for the Commonwealth and NT Governments to have continuing ownership of the community buildings and infrastructure on Aboriginal land that have been constructed or upgraded with government funding – in other words, to gradually strip communities of their assets and resources they have built up over the years, often by local efforts.
7. **Alcohol measures are ineffective** as the great majority of NT Aboriginal communities are already 'dry' but the existing laws may not be properly policed and enforced. The new, harsh penalties for drinking, possessing, selling and transporting alcohol are very heavy – however there will be NO restrictions on selling takeaway alcohol, nor reductions in outlet numbers (such as roadhouses which are the main suppliers of alcohol illegally taken into communities).
8. **The removal of permits to access Aboriginal land will not prevent child abuse.** Aboriginal landowners and NT Police strongly support the continuation of the permit system. There is no evidence that the incidence of child abuse is greater where permits function or that permits inhibit the delivery of government services as has been claimed. Removal of permits will make it easier for potential

- child abusers and grog runners to access communities and will deny Aboriginal people their right to privacy and ability to protect sacred sites.
9. **Welfare legislation allows for “income management” of up to 100% of welfare payments.** Income management will be “used as a tool to assist state and territory governments to meet their responsibilities” in relation to school enrolment and school attendance. There is no provision for extra schools, desks, teachers and classrooms as neither the Federal nor NT Govts have provided adequate funding to enable all NT Aboriginal children to attend school!
 10. **Abolition of CDEP / transfer of CDEP participants to welfare provisions.** CDEP (Community Development Employment Projects), the primary source of employment and income for most Aboriginal people in remote communities, will be phased out to force individuals onto welfare so that their incomes become subject to income management. Many essential community services, community organisations, artists’ cooperatives, night patrols, community stores etc. are staffed by CDEP workers. Abolition of CDEP is likely to have a shattering impact on remote communities and town camps.
 11. **In conclusion this is an abuse of power and wasted opportunity as these resources could be used for engaging Aboriginal communities** and individuals in necessary planning and change, rather than assuming total control over their lives and treating them as irresponsible children. In failing to engage with the NT Government and Aboriginal communities, the Federal Intervention is missing an historic opportunity to use its record surpluses (\$17b this year!) to addressing the long neglected critical issues underlying child abuse and broader Indigenous disadvantage.¹⁵

Thus from the very beginning there was considerable concern about the Intervention, and many questions raised about whether this was the way to go. However, these concerns were largely ignored by the Government at the time, and by the incoming Labor Government a few months later.

Change of government and the Yu report

After the Howard Government lost power in November 2007, the incoming Rudd Labor Government, which had supported the legislation in Opposition, continued the Intervention with enthusiasm. Its open support was illustrated by the following commentary published in December 2007 in *The Australian*:

Labor eyes expanded NT scheme

New Indigenous Affairs Minister Jenny Macklin plans to negotiate with the states to replicate parts of the Northern Territory intervention around the nation, vowing to do whatever it takes to improve Aboriginal lives.

In an interview with *The Weekend Australian*, Ms Macklin said she was not interested in ideology, only outcomes, and that she has ordered her department to collect hard data on the progress of the intervention to provide information for a 12-month review.

Ms Macklin refused to attack the Howard government's approach to indigenous affairs, and indicated that radical policies might be applied across the country,

¹⁵ Email circulated by the ‘Combined Aboriginal Organisations of the Northern Territory’, 2007.

provided they had been shown to work.

"As the indigenous affairs minister, I'm actually the indigenous affairs minister for all indigenous people in Australia," she said. "It's very important that we support the indigenous people in the Northern Territory, but the same applies for the people who live in all the major cities - there's a lot of indigenous people everywhere."

Ms Macklin's comments are the strongest so far on the new federal Labor government's intentions on indigenous policy.¹⁶

At that stage income management, a major part of NTER, had not yet been applied to many communities: the program covered only 1 400 people in November 2007.¹⁷ Income management could easily have been stopped or delayed for evaluation; but the incoming Government had long-term ideas for wider welfare reform and proceeded with the roll-out. It did, however, agree to review the measures after the first full year of operation.

¹⁶ Patricia Karvelas and Simon Kearney, 'Labor eyes expanded NT scheme', *The Australian*, 1 December 2007.

¹⁷ Jenny Macklin, 'Northern Territory Emergency Response progress', Press Release 9 June 2010: 'The number of people being supported through income management has reached 17 000 under the Northern Territory Emergency Response (NTER). This compares with 1400 people on income management in November 2007.'
http://www.jennymacklin.fahcsia.gov.au/mediareleases/2010/pages/nter_progress_9jun10.aspx at 29 August 2011.

PART B: REVIEWING THE INTERVENTION – REPORTS AND CONSULTATIONS

The Yu review

On 6 June 2008, the Federal Government announced a review, headed by West Australian Aboriginal leader Peter Yu, to evaluate the first year of the NTER. This raised hope of potential changes amongst those who were concerned about some of the Intervention's impacts. Thus the Northern Territory Emergency Response Review Board (the Review Board) was established with instructions to:

- Examine evidence and assess the overall progress of the NTER in improving the safety and wellbeing of children and laying the basis for a sustainable and better future for residents of remote communities in the Northern Territory;
- Consider what is and isn't working and whether the current set of NTER measures will deliver the intended results, whether any unintended consequences have emerged, and whether other measures should be developed; and
- In relation to each NTER measure, make an assessment of its effects to date, and recommend any changes to improve each measure and monitor performance.¹⁸

From early July until late August 2008, the Review Board met with 31 Aboriginal communities and spoke with representatives of 56 other communities throughout the NT. Government officials and service delivery agencies were consulted, but the emphasis was on direct communication with Aboriginal people affected by the Intervention. The review also received over 200 public submissions. As an independent review, the Yu committee was more likely to hear the real views of Aboriginal people than were government agencies.

The following extract from the Yu report's summary of findings show that the people affected were far from happy about many aspects of the Intervention. There was acknowledgement of some benefits – mainly from elements other than income management – but also serious criticisms. We have marked in bold the remarks on income management:

In many communities there is a deep belief that the measures introduced by the Australian Government under the NTER were a collective imposition based on race.

There is a strong sense of injustice that Aboriginal people and their culture have been seen as exclusively responsible for problems within their communities that have arisen from decades of cumulative neglect by governments in failing to provide the most basic standards of health, housing, education and ancillary services enjoyed by the wider Australian community.

¹⁸ Department of Families, Housing, Community Services and Indigenous Affairs, NTER Review, (2009).

http://www.fahcsia.gov.au/sa/indigenous/progserv/ntresponse/nter_review/Pages/default.aspx at 29 August 2011.

Support for the positive potential of NTER measures has been dampened and delayed by the manner in which they were imposed. The Intervention diminished its own effectiveness through its failure to engage constructively with the Aboriginal people it was intended to help.

Despite these very significant drawbacks the Review Board has observed definite gains as a result of the Intervention. It has heard widespread, if qualified, community support for many NTER measures.

Aboriginal people welcome police stations in communities previously dependent on periodic patrols. They want to work cooperatively with police to build greater security and stability in their homes.

Similarly, there is support for measures designed to reduce alcohol-related violence, to increase the quality and availability of housing, to improve the health and wellbeing of communities, to advance early learning and education leading to productive and satisfying employment — these matters are uncontentious.

The benefits of income management are being increasingly experienced. Its compulsory, blanket imposition continues to be resisted, but the measure is capable of being reformed and improved.

People who do not wish to participate should be free to leave the scheme. It should be available on a voluntary basis and imposed only as a precise part of child protection measures or where specified by statute, subject to independent review. In both cases it should be supported by services to improve financial literacy.

Income management is in many respects representative of other NTER measures. If it is modified and improved, then the resistance to its original imposition might be negated.

The Board has examined the operation of all NTER measures and made recommendations to improve their effectiveness and fairness...¹⁹

In its recommendations, the Review Board reiterated its opposition to compulsory income management:

It is recommended that:

Income management

- The current blanket application of compulsory income management in the Northern Territory cease.
- Income management be available on a voluntary basis to community members who choose to have some of their income quarantined for specific purposes, as determined by them.
- Compulsory income management should only apply on the basis of child protection, school enrolment and attendance and other relevant behavioural triggers. These provisions should apply across the Northern Territory.

¹⁹ Peter Yu, Marcia Ella Duncan, Bill Gray, *Report of the NTER Review Board* (2008), 9-10. http://www.nterreview.gov.au/docs/report_nter_review/docs/Report_NTER_Review_October_08.pdf at 29 August 2011.

- All welfare recipients to have access to external merits review.
- Centrelink conduct field interviews with individuals to explain changes to income management to ensure that those who wish to remain on income management can do so with administrative ease.²⁰

The Yu review made it quite clear that whatever support existed for income management was not for the compulsory universal program, as originally implemented. It stated explicitly that the program should be voluntary except in specific circumstances triggering child protection action. This judgement was a clear independent recommendation for a major modification to the program.

This recommendation for voluntary income management was not accepted in the Government's response to the Yu report. Nor was it offered as an option to be considered in the NTER options paper presented to Aboriginal communities in 2009 for consultation.²¹

Indigenous Affairs Minister Jenny Macklin has repeatedly claimed that her department's policy decisions in relation to the NTER are evidence-based. This contradicts the Yu report, which noted that after one year there was no evidence of the Intervention having improved child safety (the primary factor claimed as the reason for the initiative):

Recent reforms to the Northern Territory child protection system are a response to a steady increase in child protection reports (a national trend): notifications increased by 93 per cent since 2001, and the number of children in care increased 120 per cent. While Northern Territory child protection reforms are still at an early stage of implementation the Board found no evidence of increased confidence in reporting child maltreatment in Aboriginal communities.

The Board heard a number of recent examples of attempts to report abuse or neglect to child protection authorities where there was no effective response. Police, local government officials and Aboriginal community members gave examples. More broadly, most communities reported little or no perceived change in the safety and wellbeing of Aboriginal children as a result of the NTER.

Throughout our consultations, communities called for evidence about the NTER's dealing with child sexual abuse. Many people also expressed anger at having conditions imposed on them for what was seen as an issue relevant to a small proportion of people. It was stated at some consultations that issues concerning the neglect of children was more widespread and should receive more attention...

In addition, many people were exasperated that child abuse and neglect were issues throughout Australia and that non-Aboriginal Australians were as likely to harm their children. Numerous media reports from around Australia were cited as examples of non-Aboriginal neglect and abuse of children, highlighting the claim that Northern

²⁰ Ibid 12

²¹ Australian Government 'Future Directions for the Northern Territory Emergency Response – Discussion paper' (2009).

http://www.fahcsia.gov.au/sa/indigenous/pubs/nter_reports/future_directions_discussion_paper/Documents/discussion_paper.pdf at 29 August 2011.

Territory Aboriginal people had been unfairly singled out.

It seems clear to the Board that these perceptions have eroded the Aboriginal community's confidence in the NTER's capacity to address child safety and wellbeing.²²

The report noted that there were no baseline data from which to measure any hypothetical improvement:

Lack of evidentiary material

While considerable quantitative and qualitative data is available in the key areas of health, housing, education, policing and employment in remote Territory communities, it was clear that little or no baseline data existed to specifically evaluate the impacts of the NTER... The lack of empirical data has proved to be a major problem for this Review and is an area that requires urgent attention.

Recommendation

A single integrated information system that enables regular measurement of outcomes of all government agency programs and services that target Aboriginal communities in the Northern Territory.²³

Therefore the Review categorically denied that the Intervention was evidence-based:

The Board has been asked to 'examine evidence and assess the overall progress of the NTER in improving the safety and wellbeing of children and laying the basis for a sustainable and better future for residents of remote communities in the NT'.

It is very evident that the processes which characterise the design and implementation of the NTER were not based on a consideration of current evidence about what works in Indigenous communities.²⁴

The Government response to the Yu report

The Review Board led by Peter Yu released its report on 13 October 2008; amid rumours that the report had been watered down. The Federal Government announced an interim response 10 days later. The final response was released jointly with the Northern Territory Government on 21 May 2009.

The joint response expressed general support for the Review Board's recommendations, especially those relating to the development of new plans or strategies. For example, the Federal and NT Governments agreed that there was

²² Peter Yu, Marcia Ella Duncan, Bill Gray, *Report of the NTER Review Board* (2008) Commonwealth of Australia, 34.
http://www.nterreview.gov.au/docs/report_nter_review/docs/Report_NTER_Review_October_08.pdf at 29 August 2011.

²³ Ibid 16.

²⁴ Ibid 47.

a need for alcohol management plans, local employment strategies, a youth development strategy and capacity-building for Aboriginal leadership. There was also a commitment to ‘resetting the relationships’ to counter ill will about the earlier process.

In terms of specific commitments, the Federal Government agreed to reinstate the *Racial Discrimination Act* and to pay just compensation to Aboriginal owners for having taken over their property without consent – ie to undo egregious violations that should never have been perpetrated in the first place.

In relation to income management, the key recommendations that income management be made into a primarily voluntary program was rejected. Instead, the Government declared its intention to maintain compulsory income management, but to consult with indigenous communities on how to improve the process and make it racially non-discriminatory.

‘Redesign’ consultations

On the same day as the joint response to the Yu report, the Federal Department of FaHCSIA released a discussion paper on ‘future directions’ for the NTER,²⁵ as the basis for consultations with Aboriginal communities.

A major motivation for conducting consultations was legal. By imposing regulation and suspending the rights specifically of Aboriginal people, the NTER was inviting a legal challenge under the *Racial Discrimination Act*. The Government’s defence against allegations of discrimination was to characterise the NTER (or elements of it) as ‘special measures’, race-specific provisions created for the benefit of Aboriginal people. However, in order to qualify as special measures, both Australian and international law require the consultation and **consent** of the people affected. In this case, if Aboriginal people in the Northern Territory were seen to oppose aspects of the NTER, a court might find that these did not constitute special measures, but racial discrimination. As we show later in this article, a number of Aboriginal organisations voiced the suspicion that the FaHCSIA consultation was primarily intended to head off litigation.

FaHCSIA’s discussion paper declared that the Government intended to continue some aspects of the Intervention, but was holding consultations to hear the views of people affected by the measures. The process was described as ‘redesign consultations’, and a few proposed changes were outlined. Most important, legally and symbolically, was the pledge to reinstate the *RDA*. To do this required some major changes related to Income management.

²⁵ Australian Government ‘Future Directions for the Northern Territory Emergency Response – Discussion paper’ (2009).

http://www.fahcsia.gov.au/sa/indigenous/pubs/nter_reports/future_directions_discussion_paper/Documents/discussion_paper.pdf at 29 August 2011.

Two policy options on income management were presented for discussion. One of the options should have been to make income management non-compulsory, as strongly recommended by the Review Board. Instead the options offered were:

- a) Maintain compulsory income management but with some changes: extend it to non-Aboriginal recipients with a complicated system by which individuals can try to get exempted and remove some categories; or
- b) Maintain the compulsory status quo on a non racial basis. During the subsequent consultation process, those objectors who said that income management should be non-compulsory; were not reported as such since this was not one of the options on offer. Comments about the discriminatory nature of the system were interpreted as approval for its extension to wider recipients.

The discussion paper read like a public relations brochure promoting the Intervention as beneficial, rather than a genuine attempt to ascertain the desires of people affected by it. It was later evident that the Government had already decided what the results of the discussion would be. The failure to take on suggested changes supports doubts about the entire ‘redesign’ consultation process – the outcome seemed to be already decided.

The consultations took place from June through August 2009 and came under considerable criticism, both for how the process was run and what options were offered. Like the Intervention itself, the consultation process was not negotiated with the people affected. Most of the meetings were not fully recorded, nor was all the content published. Unlike the earlier Yu review or the later Senate Inquiry, these consultations did not make public the submissions received. Summaries were produced which seemed limited to material substantially supporting FaHCSIA’s discussion paper. Not surprisingly, their report resulting from the consultations indicated overwhelming support for the Government’s actions. Yet we know that a large number of indigenous affairs and social justice organisations, including some of Australia’s most authoritative voices in these areas, were strongly in dissent. This suggested that Indigenous views or expert opinions were not taken seriously, unless they agreed with the Government.

The following section includes some quotes from correspondence and submissions that show some of the doubts expressed during and about the consultation process.

Laynhapuy Homelands Association

The Laynhapuy Homelands Association Inc. (LHAI) is an association of the

Yolngu living across 10 000 square km of northeast Arnhem Land. In this extract from its submission to the eventual Senate Inquiry, LHAI questioned the value of its meeting with FaHCSIA bureaucrats. The group made clear that its participation must not be used to justify or argue for continuation of NTER. We have marked in bold the comments related to income management and BasicsCard, the card on which 50 per cent of a welfare recipient's benefit is loaded:

LHAI members however met with Australian Government representatives during the Tier 1 & 2 consultations on Future Directions for the Northern Territory Emergency Response at a 'mala leaders' meeting held at Gurrumurru Homeland on 28 July 2009.

The collective view put by the 'mala leaders' (ie. homeland clan leaders) was that: "The Racial Discrimination Act should be fully reinstated. The problems our people face can be addressed through programs and funding targeted on a needs basis alone, under the Closing the Gap policy. We should not be subjected to 'special measures' that separate us out or impose things on us without agreement. Our participation in this consultation about Future Directions for the NTER, must not be used by the Australian Government to argue for the continuation of the NTER, intervention, or justify what has been done to date."

The position of senior Yolngu representing our homelands is clear from the above. For homeland residents the NTER has delivered little, if anything, other than an increased recognition that there has historically been a lack of investment by the Australian and Territory governments in health, education and training services. Fundamental assumptions behind the NTER which gave rise to the original NTER legislation, and which are now being construed as 'special measures', continue to be unfounded, inappropriate and unhelpful in the Laynhapuy homeland context.

Income Management as currently implemented continues to stigmatise people, and impose real hardship on families who have no easy access (logistically or financially) to transport, to banks, to stores or to Centrelink. These problems will not be resolved by the proposed changes to the Income Management regime.

In general, the BasicsCard approach will continue to be cumbersome for clients, administratively very expensive, and punitive rather than incentive based. It is simply not a smart approach, even if it will no longer be discriminatory and provides for individual 'exemptions'.

Reforms to CDEP, to force people onto welfare benefits so they can be subject to Income Management, and the new Job Services Australia arrangements are inappropriate and ineffectual in terms of the stated employment objectives and are socially damaging as it causes confusion and undermines structures of authority, accountability and incentive that are already in place under CDEP and working with a greater level of success.²⁶

Note that this change in the payment system meant that Community Development Employment Projects (CDEP) payments were no longer seen as

²⁶ Letter from Ric Morton on behalf of Laynhapuy Homelands Association to Senate Community Affairs Legislation Committee, 15 February 2010. http://www.aph.gov.au/senate/committee/clac_ctte/soc_sec_welfare_reform_racial_discrim_09/submissions/sub80.pdf at 29 August 2011.

wages but benefits to ensure that income could be quarantined.

Central Land Council

Another very significant Aboriginal organisation, the Central Land Council (CLC), also expressed apprehension about the motives behind the consultations:

Recent media reports regarding the FaHCSIA minute, detailing legal advice it had received from AGS, suggests that the Commonwealth may not be conducting the consultations in good faith but rather as a risk management strategy. The minute suggests that through the consultations, the Commonwealth is hoping to gain a legal advantage should the constitutionality of the compulsory acquisition of the 5 Year Leases make it to the courts. The issue of course is whether, once the Racial Discrimination Act 1975 is reinstated in relation to the Northern Territory National Emergency Response Act 2007 (NTNER Act), the compulsory acquisition of 5 Year Leases is more likely to be characterised by the High Court as a special measure if there has been extensive consultation with Aboriginal people living in the Northern Territory.

Presuming that the FaHCSIA minute is authentic (and one must presume that it is, given that the Department has not stated otherwise), the Commonwealth's sincerity in relation to the consultations is questionable. We are writing to ensure that our appearance at the Darwin consultation is not misconstrued or improperly relied on by the Commonwealth.

The CLC will participate in the Darwin consultation subject to the following disclaimers and conditions...²⁷

The CLC did participate, but described to the later Senate Inquiry its concerns about the FaHCSIA consultation process:

One of the major problems with the redesign consultation was confusion about its purpose. This was not made clear in the Future Directions Discussion Paper or through the process itself. Was it intended to provide an opportunity for people to provide feedback on the NTER? If so, it was too overtly geared towards obtaining support for the measures. Further, substantial feedback on the perspectives of the NTER measures is already available following more independent processes. Was it intended to gather information about the effectiveness of the NTER? If so, it relied on very poor research methodology. Was it intended to consult in relation to, or obtain consent for, proposed new measures? If so, as described above, the process simply did not provide respondents with an opportunity to agree or disagree with specific proposals.

Without clear and appropriate goals and an effective design, a consultation process may be not only ineffective but also counter-productive. Any consultation process in relation to the NTER must have regard to the second major recommendation of the

²⁷ Central Land Council, 'Submission to the Senate Community Affairs Committee Inquiry into *Social Security and Other Legislation Amendment Welfare Reform and Reinstatement of Racial Discrimination Act) Bill 2009* and related bills' (2010) 8-9.
http://www.aph.gov.au/senate/committee/clac_ctte/soc_sec_welfare_reform_racial_discrim_09/submissions/sub61.pdf at 29 August 2011

NTER Review Board: that in addressing the needs of remote communities the NT and Australian Governments must 'reset their relationship with Aboriginal people based on genuine consultation, engagement and partnership' (2008: 12). This is required both to repair damage caused by certain earlier NTER processes and to ensure that new measures are effective in the long term.

This resetting of the relationship cannot simply be achieved by any consultation process. Nor is it sufficient to implement a process whose overarching objectives are to present the Government's own views on the NTER and collect 'feedback from stakeholders on the benefits of the various NTER measures, and how they could be made to work better'. Where a consultation process does not provide Aboriginal people with improved control over their own circumstances and an opportunity to participate in solutions then it instead further marginalises people, perpetuating the situation where Aboriginal people in the Northern Territory are at times both over-consulted and systemically ignored.

Against this general concern, the CLC notes the following flaws in the consultation process and the documents on which the process relied:

- Lack of independence: the government who undertook all of the consultations, was both arguing that all NTER measures had been effective and purporting to obtain feedback on those measures;
- Misleading / one-sided presentations: for example, in relation to the five-year leases the Future Direction Discussion Paper and PowerPoint presentation used in the consultation carefully avoid any reference to the compulsorily acquisition of leases against the wishes of landowners, and instead rely on the misleading assertion that the leases were required for the delivery of services, repair of buildings and upgrade of infrastructure;
- Lack of information: in the CLC's experience, there is still a significant level of confusion about the NTER measures. The material used in the consultation process is more concerned with promoting the NTER than explaining exactly how the measures work and how they relate to other possible options, and did not address the need of communities for improved information;
- Lack of notice: community members have reported being unaware of the timing of consultation meetings;
- Lack of interpreters... during the consultation process; and
- Lack of transparency: the information was collected, collated, interpreted and disseminated by the Government without any opportunity for its conclusions to be reviewed.

In light of these significant deficiencies, the CLC argues that the process was flawed. The CLC also finds it difficult to see what the consultation process has achieved, and urges that it not be considered a model for future consultation.²⁸

The CLC produced a discussion paper in August 2009, in response to FaHCSIA's 'Future Directions' paper expressing the following viewpoints and recommendations:

- A far greater proportion of NTER program funds should be devoted to programs that actually support women, children and families, including through the employment of a greater number of Child Protection Workers based in remote communities, and providing intensive case management support for families that

²⁸ Ibid.

- are struggling to care for their children;
- The NTER was declared in haste, and lacks a policy framework outlining the overall aim, objectives and targets for the measures, making it impossible to evaluate its effectiveness;
- That lack of engagement with Aboriginal people and their organisations over the announcement and implementation of the NTER has resulted in deep disappointment, disillusionment and anger for Aboriginal people in central Australia;
- The lack of recognition for Aboriginal people – their culture, their communities, their expertise, their organisations and their property rights – and their exclusion from the policy formulation and implementation process is completely contrary to best practice community development approaches and threatens the success of all of the NTER measures, despite record levels of government investment; and
- The Australian and NT Governments should work with Aboriginal people and their organisations towards a long term, evidence-based development plan for Aboriginal people in the NT utilising a community development approach, drawing on available evidence and rigorous program evaluation, and specifying the level of government investment required.²⁹

This summary expressed the view of many experts about the consultations and the Intervention itself:

The CLC agrees that levels of family violence, substance misuse and child neglect are tragically high and that the living conditions for many residents in remote communities are appalling. It is relatively easy to identify the problems; it is not easy, however, to build lasting solutions. The CLC contends that any process which continues to systematically marginalise Aboriginal people from creating and driving solutions to these complex issues is ultimately doomed to fail.³⁰

In relation to income management, the CLC decried the limited options (simply compulsory or compulsory with rare exceptions) offered by FaHCSIA for discussion:

Consistent with our 2008 submission [to the Yu Review], the CLC considers that blanket income management is discriminatory and does not promote responsible behaviour. The CLC supports a change in the current arrangements from a blanket approach to an approach which targets individual behaviours. Income management is one of the most significant of the NTER measures and it is vital that a comprehensive and evidence-based approach is adopted for welfare reform. The CLC community survey (July 2008) found that around half of those surveyed in the CLC region were in favour of income management. The move to a voluntary income management model must ensure that individuals would still be supported to manage their income. [This means] all remote community residents should have access to financial literacy programs and family budgeting support.

With respect to welfare reform the CLC recommends that:

- On-going monitoring and evaluation of any welfare reform measures should be a priority and should be made publicly accessible;
- Monitoring and evaluation should include an assessment of costs of

²⁹ Central Land Council Response, Future Directions for the NTER Discussion Paper (2009).

³⁰ Ibid.

- implementation against the benefits associated with the changes;
- A specialist taskforce be created, including local Aboriginal representation and specialist expertise, to oversee the evaluation of any welfare reform programs and develop a comprehensive welfare reform policy framework;
- Individuals should have the option to voluntarily opt for their income to be managed, whether they live in a prescribed area or not;
- Financial literacy support programs and access to banking services be expanded.

The CLC does not support either [FaHCSIA's] Option 1 or Option 2. The CLC supports the recommendation of the NTER Review board that income management that be voluntary, or should only apply on the basis of child protection, school enrolment or school attendance triggers (our bold)

The CLC recognised levels of income management support but still opposed the continued universal compulsion because it was seen as wrong, despite some local support.³¹

Aboriginal Medical Services Alliance of the Northern Territory (AMSANT)

AMSANT is the peak body for Aboriginal community-controlled health services in the NT and its concerns about the earlier FaHCSIA consultations were explained during the later Senate hearings:

Question:

AMSANT said ICC and GBM (Indigenous Coordination Centres and Government Business Managers) involvement in the Future Directions Tier 1 and Tier 2 community consultations were problematic and not conducive to achieving unbiased outcomes. Senator Boyce asked, "Have you had any further information about things that happened that demonstrate this?"

Answer:

The statement in AMSANT's written submission was based on a number of sources:

- i. Reporting back to an AMSANT general meeting from our member service organisations that attended community consultation meetings;
- ii. Reports provided to AMSANT staff from our member services on deficiencies of the management of consultations and information provided by ICC managers during Tier 2 consultation meetings;
- iii. Reports provided to AMSANT by member services on problems with individual GBMs in terms of their relationships with communities and lack of consultation or insensitive consultation styles with community members; and
- iv. Literature on cross-cultural communication and consultation processes.

These sources of information suggested that the lack of independence of ICC and GBM government staff in relation to the issues they were speaking to, and in situations where they were in control of Tier 1 and Tier 2 consultations, was problematic and places in question the outcomes of the consultations, including the accuracy of responses.

³¹ Ibid.

For example, there is an extensive literature on the phenomenon of 'gratuitous concurrence' in influencing the responses of Aboriginal people in interactional contexts with non-Indigenous people, particularly with those in positions of authority. It is inconceivable that, for example, consultations conducted by GBMs on a one-on-one or small group basis, would not be affected by such interactional difficulties to some extent.

In addition, the fact that there was no amelioration of these effects on Tier 1 and 2 consultations by ensuring the presence of independent legal and other advice, further compromises the outcomes of the consultations.

AMSANT maintains that the failure to address well-established principles of effective cross-cultural communication and consultation represents a significant flaw in the design of the consultations. This is, of course, in addition to the many other technical flaws in the consultation process identified in AMSANT's written submission and those of many other organisations.³²

Will They Be Heard?

One criticism of the process was that little information was released publicly. The Government claimed its decisions were based on what was said during the FaHCSIA consultations of June–August 2009, but we have no access to the content of most of the consultations which it claims supported its views. The following article from the *New Matilda* highlighted this problem and also reviewed *Will They be Heard?*³³ a report on the consultation process based on the few published meeting proceedings by a group called 'Concerned Australians', including Alastair Nicholson and members of the Jumbunna Indigenous House of Learning Research Unit at the University of Technology, Sydney.

The Government Wants a Word with You

What does it mean when the Government says it is "consulting" a particular community as it designs policy? Not much, apparently, if that community happens to be Indigenous.

As the Government goes about a particularly interesting series of consultations about the Northern Territory Intervention with the communities affected by it, more people are questioning whether their results will have any validity.

Earlier this year, Chris Graham, the editor of the National Indigenous Times wrote a "punter's guide to cutting through the spin of an Aboriginal community consultation". Graham translated the consultation's stated purpose — that "we need to talk with community people about these changes" — as: "the Government needs to 'talk to

³² Aboriginal Medical Services Alliance of the Northern Territory (AMSANT) 'Answers to questions on notice to the Aboriginal Medical Services' (2010) Provided to the Senate Community Affairs Legislation Committee.

http://www.aph.gov.au/senate/committee/clac_ctte/soc_sec_welfare_reform_racial_discrim_09/submissions/QoN7AMSANT.pdf at 29 August 2011.

³³ Alastair Nicholson, Larissa Behrendt, Alison Vivian, Nicole Watson and Michele Harris, *Will they be heard? – a response to the NTER Consultations (June to August 2009)* 9.

you' because legal advice tells it that if it doesn't, it might lose a legal challenge that may be brought against it."

Now, beyond scepticism over the good-faith motives of the Government holding the talks at all, serious doubts are being raised over whether it will actually pay attention to the feedback it gathers. More disturbingly, the way it has gone about the process strongly suggests that the process has been carefully designed to produce only the kind of feedback it wants.

Tomorrow, at Melbourne Law School, speakers including former prime minister Malcolm Fraser and retired Melbourne bishop Hilton Deakin will launch a report entitled *Will they be heard? A response to the NTER consultations June—August 2009*.

The report is based on independent records of recent consultations held at the Northern Territory communities of Utopia, Bagot and Ampilatwatja. It was prepared by the Hon. Alastair Nicholson, Larissa Behrendt, Alison Vivian, Nicole Watson and Michele Harris of the Jumbunna Indigenous House of Learning, with the transcribing of the consultations initiated and coordinated by a group called "Concerned Australians".

You hear a great deal about "consultation" in Indigenous affairs. Paradoxically, consultation itself is a rare creature, far more spoken of than seen. Few people know what it actually looks like. *Will they be heard?* allows us a rare glimpse into the Northern Territory Emergency Response (NTER) consultations, about which little information has been officially released.

Exactly what classifies as a valid consultation varies according to the context. It is reasonably clear, though, that a consultation must be more than simply telling an affected community of your decisions. It has been found that consultation as prescribed by the Native Title Act 1993 "is to be a reality, not a charade", and that to consult is not "merely to tell or present" but involves "the statement of a proposal not yet finally decided upon, listening to what others have to say, considering their responses and then deciding what will be done".

Government consultation with Indigenous people has its own particular character owing to an obvious power imbalance exacerbated by cultural, and often linguistic, differences. After the launch of the Intervention in 2007, the anthropologist Toni Bauman charged that such consultation "has mostly been one-way communication in 'meetings' in which talking heads drone on, poorly explaining complex information and concluding by asking: 'Everyone agree?'"

An examination of the motives behind these recent NTER consultations raises suspicions that this is still the case. The consultations are a response by the Government to the probability that the Intervention legislation clashes with the Racial Discrimination Act. It's these legal problems that are the driving concern, rather than a moral or ideological commitment to involving remote community residents in decisions affecting them.

As noted recently, what is at stake here for the Government is how to bring back the Racial Discrimination Act (RDA) as they have promised, without opening the way for a legal challenge to the Intervention legislation — legislation which they largely want to keep. The legal avenue for this that the Government seems keen to exploit is the one which permits exceptions to the RDA if the affected communities have been consulted and support the exception. If they can argue that the "consulted"

communities support Intervention initiatives such as compulsory income management, alcohol restrictions and bans on pornography, then the Government could have a bob each way — reinstatement of the RDA to demonstrate its commitment to racial equality, but retention of some of the controversial measures that curtail the rights of those in "proscribed communities".

The *Will they be heard?* report gives rise to real concern over the adequacy of Government engagement with some of the nation's most disadvantaged citizens. In his introduction, Alastair Nicholson characterised consultations in Utopia, Bagot and Ampilatwatja as follows: "the Government is not offering any choice. It is simply telling the people what it proposes to do. The consultation is nothing more than going through the motions in order to achieve a predetermined end."

The absence of interpreters during the process, the limited notice given to the communities that they are happening and the inadequacy of explanations given are all deeply problematic, but the strongest and most damaging impression is that the Government has simply set out to obtain the answers it wanted.

The report also shows that community residents are confused about the whole point of the consultations; one participant in Bagot asked: "But the thing I really want to know is, when you go back ... and you send your report, what is it going to do really?"

Such confusion is understandable given the vagueness of statements made by officers of the department of Families, Housing, Community Services & Indigenous Affairs (FaHCSIA), who are quoted giving different reasons for why they were there. One explanation focused on the need to "get people's input about what changes the Government may make in October when they are trying to make those amendments to that law". Another described the consultations as a way to "listen to what your problems [are] and see if we could find some solutions ... we want to talk about this Intervention and what people are thinking about it", while a third line of reasoning was the need to "get some comments about the different measures and what people think about them ... there will be some changes to some measures, and there mightn't be changes to others, but [the Government] certainly want to find out from people, so when they put that legislation in what are some of the changes."

These disingenuous explanations given by FaHCSIA representatives — playing on variations of the theme that "we're from Canberra and we're here to yarn with you" — were exactly the kind of FaHCSIA-speak that Chris Graham roundly criticised in his translation of the department's spin. As he also wrote, "This new government has been in power for two years — you might ask yourself why it is only talking to you now?"

The *Will they be heard?* report supports Graham's scepticism, suggesting that the parameters of discussions with the three relevant communities were limited from the very outset.

The consultation at Bagot, for instance, began with a statement that "the Government has said that it wants to keep the Intervention as it sees that the measures that were brought in ... have some positive benefits." Such language does not indicate discussion of a proposal that has yet to be approved.

The simplistic descriptions of "special measures" and the limited discussion of the concept of informed consent are also striking: note the comments of one facilitator, who said that "the Government wants to make sure that the Racial Discrimination Act does work with the Emergency Response ... But the Government also says that you

can still pass laws just for Aboriginal people, if that law is going to help Aboriginal people have the same rights as everybody else."

Based on the report it would seem that justifying Intervention initiatives as "special measures" will be difficult — to put it mildly. One facilitator's explanation of the proposal to introduce a system of exemptions to the income management scheme was met with vehement responses of "No! Can't do that stuff. Stop it altogether. Stop it ... altogether" while another described the system as "cruel to all us Aboriginal people". Participants also expressed the view that the Intervention was a step backward for their communities, comparing it to "where we were before", the era of "Native Affairs where the government was overruling people".

Michele Harris of the Concerned Australians group involved in producing the report notes the advice of the Attorney-General's Department that "the Government will be giving careful consideration to these views (from the consultations) in formulating its final policy position, which will be reflected in the legislation to be put before Parliament."

After *Will they be heard?* the next question is whether the residents of Utopia, Bagot and Ampilatwatja will be heeded or if, in Bauman's words, consultation will remain something that is done "to" Indigenous people rather than with them.³⁴

Australian Council of Social Services (ACOSS)

ACOSS is the peak body of Australia's mainstream (predominantly non-Aboriginal) welfare agencies. In its 2010 submission to the Senate, ACOSS was scathing in its criticism of FaHCSIA's consultation process. We have marked in bold the comments related to income management.

Problems with the policy development process

The NTER introduced radical policy and service delivery changes to affected Aboriginal communities without consultation or informed consent. Many Aboriginal people and other members of the community were distressed and angered by this approach which sidelined community members and overlooked existing mechanisms in place in communities to address complex social issues. Many Aboriginal people spoke of their distress and anger about this process in the most recent Government NTER consultations.

On its election, the Government committed to 'resetting' its relationship with Aboriginal and Torres Strait Islander Australians. The National Apology was to signal a new era of mutual respect, mutual resolve and mutual responsibility'.

Consultations on the future of the NTER were conducted with Aboriginal people in the NT between June and August 2009. However, rather than an open consultation process with scope for Aboriginal people to advance reform proposals developed by communities, the Government consulted on a narrow range of questions and options. **On income management, the Government consultation asked Aboriginal people to choose between two alternative income management models: one involving no change to the existing model and the other allowing individuals to opt-out on**

³⁴ Sarah Burnside, 'The Government Wants a Word with You' (2009) New Matilda website <http://newmatilda.com/> at 29 August 2011.

proof of responsible budgeting and /or parenting. Aboriginal communities were not offered the option to rollback income management entirely or make it voluntary. It is clear that opinion on the ground about income management is still divided. (Our bold)

The Government bills include a number of NTER amendments which the Government considers to be 'special measures' under the *Racial Discrimination Act*. However, serious questions have also been raised about whether the recent NTER consultation process was sufficient to indicate consent by Aboriginal people to special measures for the purposes of the Act. Concerns have been raised about the lack of independence from Government, the lack of Aboriginal input into the design and implementation of the consultations, an absence of interpreters at some consultations, the limited policy options given to communities and the sense that Government decisions had already been made before the consultations.

It has also been suggested that Government reporting on the consultations has been selective and the Government has resisted calls to release the full transcript of the consultations.

The latest consultations follow a series of reports and reviews on the NTER. The most significant of these was the independent NTER Review Board's report, which was released in October 2008 after extensive consultations, with submissions from 222 organisations and individuals. While the Government adopted what it described as the three 'overarching' recommendations of the NTER Review Board report, it ignored many of the specific recommendations which formed the basis of the broader proposals. Most significantly, the Government ignored the Review Board's recommendations on income management which were that the current blanket application of compulsory income management cease, to be replaced with a voluntary scheme and limited compulsory income management applied on the basis of child protection, school enrolment and attendance and other relevant behavioural triggers.

Significantly, the Review Board noted that:

Experiences of racial discrimination and humiliation as a result of the NTER were told with such passion and such regularity that the Board felt compelled to advise the Minister for Indigenous Affairs during the course of the Review that such widespread Aboriginal hostility to the Australian Government's actions should be regarded as a matter for serious concern.

Compulsory income management has been a key cause of discrimination and humiliation. As the Review Board noted, it is seen as 'synonymous' with the NTER and the 'most widely recognised measure'. Specifically, the Review Board noted that some Aboriginal people living or shopping in major regional centres 'have suffered frustration, embarrassment, humiliation and overt racism because of the difficulties associated with acquiring and using store cards'. While the reinstatement of the RDA will go some way to addressing this shame as the measure will no longer be targeted by race, it will generate broader embarrassment and indignity among affected income support recipients who will be identifiable by their method of payment. Further, although the NTER Review Report identified some benefits of income management, they found that the most common view expressed was that people should be able to take advantage of the scheme by choice, with some support for compulsory income

management in response to specific behavioural triggers.³⁵

Department of Families, Housing, Community Services and Indigenous Affairs' (FaHCSIA's) evaluator

Even FaHCSIA's own paid evaluator was somewhat critical of the consultation. The consultants Cultural and Indigenous Research Centre Australia (CIRCA), 'was asked to assess whether the NTER Redesign consultations were undertaken in accordance with the engagement and communication strategy.'³⁶

CIRCA's main conclusion was: 'Overall though, it can be concluded that the consultations were undertaken in accordance with the engagement and communication strategy.'³⁷ However, whilst agreeing that the process had gone as planned, the consultant did not venture an opinion on whether the planning process allowed for good feedback on problems and changes, or whether it was designed to limit debate and justify what government intended to do anyhow. During the few sessions that were recorded, many voices expressed doubt that they would be heard over the officials telling them what was being done and would probably continue to be done. The CIRCA report shows how the process of the meetings was clearly determined by Government officers starting by stating the benefits and their case for change:

The purpose of these consultations is to:

- Explain the Government's current position on the NTER, and in particular its position on the specific measures covered in the Future Directions discussion paper;
- Provide participants with an opportunity to explore and discuss each of the specific measures in detail; and
- Enable participants to provide feedback on the Government's position, on what's working well and on any changes people are seeking.³⁸

According to CIRCA:

Overall, the Tier 2 meetings were effective in explaining the Government's current position on the NTER, and in particular its position on the specific measures covered in the Future Directions discussion paper (objective one highlighted above). As well,

³⁵ Australian Council of Social Services, 'Submission to Senate Community Affairs legislation Committee: Inquiry into *Social Security and Other Legislation Amendment (Welfare reform and Reinstatement of racial Discrimination Act) Bill 2009* and related bills (2010).

³⁶ Department of Families, Housing, Community Services and Indigenous Affairs, *Report On the NTER Redesign Engagement Strategy and Implementation*, Cultural & Indigenous Research Centre Australia, (2009).

http://www.fahcsia.gov.au/sa/indigenous/pubs/nter_reports/Pages/report_nter_redesign_strat_implement.aspx at 29 August 2011.

³⁷ Ibid 5.

³⁸ Ibid.

the Tier 2 meetings that CIRCA observed allowed participants to provide feedback on the Government's position as well as on what is working.³⁹

The next tier followed the same process. The report makes it clear that respondents were just answering the Government's proposals, not making any of their own. If it was intended as a genuine attempt to explore ideas, this process was deeply flawed. It should have been obvious to the researchers that having powerful government officials start each meeting by explaining what a good job they had done (and intended to keep doing) was an unlikely strategy to encourage free-flowing discussion. Opening with what could be seen as official viewpoints was likely to constrain the comments of local participants and discourage open responses or spontaneous views.

CIRCA did point out some problems:

It should be noted that the level of detail discussed varied, depending on the individual style of the facilitators, and also in response to community feedback. For example, in some Tier 2 community meetings the two proposed options for income management were not discussed, as participants spoke very passionately about not wanting income management to stay, and given this response, it was not relevant to then ask people to discuss the two options proposed in the discussion paper. (Our bold).⁴⁰

And later:

The summary of the income management section identifies the level of opposition to the two income management options included in the discussion paper. However, the summary identifies the voluntary model with triggers for those not managing their money as the preferred model. We believe this oversimplifies the level of discussion and responses to some extent, as many said income management should be stopped, and the trigger model was acceptable as an alternative solution, rather than the preferred solution. (Our bold).⁴¹

Department of Families, Housing, Community Services and Indigenous Affairs' (FaHCSIA's) conclusions from the consultations

In the FaHCSIA report on the consultations, Indigenous Affairs Minister Jenny Macklin declared her satisfaction with the process despite the criticisms. On the topic of income management, the report said:

Income management

Across the range of consultations, participants identified that income management had delivered discernible benefits, particularly to children, women, older people and parents and families. The benefits included more money being spent on food, clothing and school-related expenses; assisting with saving for large purchases such as fridges

³⁹ Ibid.

⁴⁰ Ibid.

⁴¹ Ibid.

and washing machines; less money being spent on alcohol, gambling, cigarettes and drugs; reduced levels of ‘humbugging’ (or harassment for money); and improved capacity for household budgeting.

Views on whether income management should continue were not expressed at every consultation meeting. Where this issue was discussed, the majority of comments said that income management should continue and a minority said it should cease.

There was a divergence of views about future options for income management, with discussion ranging beyond the two options outlined in the Discussion Paper. In comparing the two options presented, there was a slight overall preference in the Tier 1 and 2 meetings for the option whereby people could apply for an exemption from income management based on an assessment of their circumstances (the exemption option). There were also many calls for income management to be applied only on a voluntary basis.

Many of those who favoured the exemption option expressed the view that people who had proven their capacity to manage their money and who were responsible in caring for dependants, or had no dependants, should not be income managed.

On the other hand, there were some participants who suggested that retaining the current model is necessary for income management to be workable and to protect vulnerable people from humbugging.

In Tier 2 meetings, people frequently said that income management should apply to all welfare recipients across Australia.

The majority of participants in Tier 3 and 4 workshops saw income management as being beneficial to those who may need it due to behavioural issues, or who wish to use it as a tool to manage their money. Participants in these workshops expressed a strong and consistent view in support of voluntary and trigger-based models for income management, in preference to either of the Government’s proposed options. Suggested triggers included child neglect or abuse, failure to send children to school, convictions for alcohol or drug related offences, vulnerability to humbugging, or an express request to participate in income management.

Participants also expressed a strong preference that communities themselves should actively be involved in making decisions about income management.⁴²

This report at least acknowledged the existence of dissent among consultation participants, but did not respond to or engage with many of the concerns expressed. Confirming some of the critics’ suspicions, the consultations were deemed by the Minister to have endorsed her department’s policies and plans. Yet, on the basis of the limited material that has been made public, there is little evidence of the positive results claimed as justification for continuing or expanding compulsory income management.

The extract above contained a pointer to the next development in income

⁴² Department of Families, Housing, Community Services and Indigenous Affairs, *Report on the Northern Territory Emergency Response Redesign Consultations* (2009) http://www.fahcsia.gov.au/sa/indigenous/pubs/nter_reports/Documents/redesign_consultations/default.htm at 29 August.

management:

In Tier 2 meetings, people frequently said that income management should apply to all welfare recipients across Australia.

The claim that Indigenous people recommended extension of income management to the general population of welfare recipients is a serious misrepresentation of what was actually being said. In the publicised content, many participants remarked on the racist nature of the Intervention which applied exclusively to Aboriginal people in the Northern Territory. For example, one participant in the taped consultation in Bagot asked:

How come it's only in the Territory? How come it wasn't over all?...Well that is wrong. It should have been done nationally. All over Australia, not only in the Territory.⁴³

This comment was clearly a complaint about discrimination, not to be read as a recommendation for universal expansion.

Nevertheless, the Minister and FaHCSIA used their interpretation of the consultations as justification for rolling out income management across Australia. Legislation was immediately tabled creating a new compulsory income management system that could be imposed nationally in any designated area. Age and disability pensioners (the more respectable welfare recipients) were to be excluded, but working-age recipients in other classes would be subject to income management, with the proviso that individuals could apply for exemptions.

The Senate Community Affairs Legislation Committee

The Bill went through the House of Representatives on 26 November 2009, supported by both major parties. However, it was then sent to an inquiry of the Community Affairs Legislation Committee, on the urging of the Greens and supported by the Liberal-National Party Coalition. The Greens were concerned that the Government's bill was too harsh on welfare recipients, whereas the Coalition feared it was too soft. On the Committee were three ALP Senators, two from the Coalition and one Green. In total 95 submissions were received and seven hearings held.⁴⁴

The Government maintained that the new policies (like the policies in the Intervention generally) were evidence-based. This claim had been countered in most of the submissions put to the Committee; nonetheless, in the end, the

⁴³ Alastair Nicholson, Larissa Behrendt, Alison Vivian, Nicole Watson and Michele Harris, *Will they be heard? – a response to the NTER Consultations (June to August 2009)*.

⁴⁴ Community Affairs Legislation Committee Submissions at: http://www.aph.gov.au/senate/committee/clac_ctte/soc_sec_welfare_reform_racial_discrim_09/submissions/sublist.htm at 29 August 2011.

Committee recommended that the Government's legislation pass with no changes.

The following section includes sections of some of the significant submissions to the Senate Committee including the only Indigenous submission fully supporting income management.

Aboriginal voices in favour of income management

The Ngaanyatjarra Pitjantjatjara Yankunytjatjara, Women's Council (NPYWC)

The NPYWC submission was a late entry to the Committee process; however, the views of this group were heavily promoted in advance by the Minister and other members of the ALP. It is the only statement from an Aboriginal group fully supporting income management. These extracts from the NPYWC submission were quoted extensively and obviously sit very comfortably with the government rationale:

1.1 Ngaanyatjarra Pitjantjatjara Yankunytjatjara (NPY) Women's Council supports the continuation and expansion of income management (IM) because of the beneficial effect it has had to date. The elected Directors believe that, along with other NTER measures such as an increased policing and child health checks, IM has increased the funds available to welfare recipients for the necessities of life, and served to reduce the amount of money available for grog, illicit drugs and gambling, and thus the level of demand sharing by those who spend their funds largely on substance abuse.

1.2 It has not solved all the problems of excessive substance abuse and violence in communities; however IM has had a settling effect and also increased the focus on issues such as the need for people to send their children to school regularly and spend their social security has had a settling effect in communities.

1.3 NPY Women's Council has no objection to IM being applied to other Australian welfare recipients, and would particularly like to see compulsory IM extended across the Central Australian region, including to its WA and SA member communities. The organisation supports increased alcohol restrictions in regional centres such as Alice Springs as well as in restrictions prohibiting the supply and consumption of alcohol in communities.⁴⁵

NPYWC did not believe age pensioners should be exempted from income

⁴⁵ Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women's Council, Submission to the Senate Standing Committee on Community Affairs Inquiry into *Social Security and Other Legislation Amendment (Welfare Reform and Reinstatement of Racial Discrimination Act) Bill 2009* and related bills, February 2010 and the Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (2009 Measures) Bill 2009 along with the Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (Restoration of Racial Discrimination Act) Bill 2009 [introduced by Senator Siewert], (2010).

http://www.aph.gov.au/senate/committee/clac_ctte/soc_sec_welfare_reform_racial_discrim_09/submissions/sub93.pdf

management:

1.4 NPY is greatly concerned that the proposed changes will leave the most vulnerable, the recipients of aged and disability benefits, once more vulnerable to demand sharing (humbugging) The relief that these people have enjoyed since the introduction of IM may well dissipate, with them once again becoming targets, this time by those who will still be subjected to the IM regime. NPY is of course concerned that Aboriginal people generally should be protected from discrimination. Its long experience in service delivery and advocacy in the remote Central region over thirty years, however, has taught it that the substantive and often ignored rights of the most vulnerable: women, children, the frail aged and those with disabilities, should not be ignored at the expense of a narrow or merely formalistic rights approach, or rights rhetoric that ignores [or] provides no concrete solutions to the many and serious problems of Aboriginal people in that region.

1.5 Those who frame their arguments against the intervention and in particular, IM, in vague slogans about 'human rights' seem to be strangely silent about the various UN declarations and instruments designed to protect the vulnerable, and the continued abuse and erosion of the rights and well-being of many Aboriginal people in the region over many years, through: child neglect, foetal alcohol syndrome, alcoholism, preventable chronic illness, loss of income through excessive demand sharing, violence against and oppression of the vulnerable, and very short of ideas on how to counter what has truly become a national disgrace. From where does this apparently entrenched, right to accept monetary social support with no accompanying responsibility emanate?⁴⁶

The organisation supported income management in language mirroring the arguments put by Macklin and other ministers:

3.2 Income Management: as with violence in its region, NPY Women's Council has applied a critical analysis to the income management aspect of the emergency response. A quarter of NPY's elected Directors reside in its NT member communities and the rest live in remote communities in Western Australia and South Australia. WA and SA Directors have also been involved in extensive discussion on the impact of the Intervention, including Income Management, since it began.

3.3 Many Australians have come to see their right to social security payments as a right to use the benefit however they wish. These benefits, whether a disability pension, student allowance, unemployment benefit or aged pension are funded through taxes and provided by government as a safety net to meet essential needs such as food, rent and other necessities.

3.4 It is arguably both culturally inappropriate in the extreme as well as poor public policy, to simply hand over what Aboriginal people commonly refer to here as 'sit down money' then let people destroy their health, family life, culture and communities through spending these funds on alcohol, drugs and gambling. Should government continue simply to observe the violence, child neglect, foetal alcohol syndrome, acquired brain injury, as well as early death due to various chronic conditions such as heart disease, liver failure, diabetes and pancreatitis? Because of the distorted view of benefits, and their own preferences and addictions, a significant proportion of community members, in particular men,

⁴⁶ Ibid.

have for decades been ‘blowing’ their benefits on non-essential items such as alcohol, illicit drugs and gambling. These people then use the traditional practice of ‘demand sharing’ in a contemporary setting, to ‘humbug’ (harass), browbeat and physically assault members of their family to obtain money, food, blankets or other assistance. The bad behaviour is not curbed because those who are approached almost always feel unable to resist, and under great obligation or pressure, even fear, although they may well complain privately about people who continually ‘bludge’ off them.⁴⁷

We do not question NPYWC’s sincerity, and we acknowledge that income management would attract wide support in communities if it provided benefits to them. However, this was one of only two Aboriginal groups to express support for the current income management scheme, while other Aboriginal organisations and many leading advocates in the sector were strongly opposed. We are concerned about the validity of making broad and national policy changes based on minority views in a few communities in Central Australia.

Aboriginal organisations’ submissions opposed to or concerned about compulsory income management

Australian Indigenous Doctors’ Association (AIDA)

The Australian Indigenous Doctor’s Association produced a Health Impact Assessment of the Intervention, seeking to provide “a structured, evidence-informed method for examining the potential positive, negative and often unanticipated consequences of the NTER on the health and wellbeing of children and people living in the prescribed communities.” Though AIDA reported some positive findings, these were outweighed by the negative aspects of the Intervention. The following extracts from their report relate specifically to income management:

One of the most contested aspects of the NTER was the introduction of compulsory income management of Aboriginal people on government benefits living in the prescribed communities. In order to introduce the compulsory income management scheme the government needed to suspend the Racial Discrimination Act. Poverty is common in the communities that were prescribed under the NTER legislation. The Little Children are Sacred report had found that children were often going to school hungry and tired after being kept awake all night by adults’ drinking and violence.

Under the NTER 50% of welfare payments to parents of children in the prescribed communities were quarantined for use on food and clothing. Parents of children who did not go to school were also liable for further limitations to their benefits. Universal, compulsory income management for families receiving welfare payments, new standards for licensing of community stores and revised measures affecting community employment were seen as giving greater control to government in the ways in which money could be spent. The objective of compulsory income management was to ensure that money was available to be spent on feeding, clothing and providing basic living conditions for children. It was also seen as limiting the

⁴⁷ Ibid.

amount of money available for alcohol use and thereby reducing exposure to violence and community disruption.

The logic pathway between income management, community store licensing and community employment appears to be based on the assumption that children in communities are vulnerable and their families and communities and governments have failed to provide them with the material and psychological security that they need in order to thrive and be safe.

Positive Impacts

Some women reported that income management had significantly improved their lives. There was less pressure from family, relatives and visitors to the community for money, especially money for alcohol. They were better able to save money and this may have translated into better food for some of the time:

‘The good thing about the vouchers were that if people didn’t spend their money in one hit it could be added on to their next payment, and sometimes people let it build up so that then when they have the chance to come to Darwin they could get better food in town and even though it cost them to travel it was a bit cheaper than the communities you know.’ (Aboriginal Health Worker)

‘Some families that had been in real trouble have been able to buy some stuff that they hadn’t been able to do previously.’ (Aboriginal Health Worker)

There were many comments in the community interviews on the improvements in food supply that had followed the licensing and auditing of community stores.

Negative Impacts

Not all those interviewed agreed that they had been better able to budget their money. Several women spoke of the hunger their families experienced close to pay day.

‘It’s been very stressful ‘cause with the, like there’s money especially on the, you know the financial side with Centrelink holding back our money, half of it and a lot of my family has had to rely on getting into town and when half of their money or some part of it, some, some of it goes into the community store and out in the community stores the prices are pretty, you know they’re higher than prices here in town. So that money would often go to just a few items of food or you know anything that they want to get for the house and then they’d have to rely on getting into town and especially if you haven’t got a car that would be a really stressful, terrible, worrying time because sometimes they would go without food...’ (Aboriginal Community Member)

Many said that that there was actually more pressure over money and as time went by they were being expected to share what little money they had. There were substantial practical problems in using the cards and the costs of these were borne by the recipient rather than Centrelink. These included the cost of transport and phone calls.

‘I think it’s an infringement on people’s civil liberties that government has to manage and be involved in all those minute aspects of people’s day-to-day living. My mother’s book for child endowment was not in her house but hers and those of all the other Aboriginal mothers around the country, were held by the Superintendent of Native Welfare and she had to explain why she needed the money and how she was going to use it, etcetera, before he would let her have

that month's coupon.' (Aboriginal Community Leader)

Rather than enabling Aboriginal families to better manage their money the process of compulsory quarantining was seen as reinforcing beliefs that Aboriginal people were not able to manage their lives. This loss of autonomy about where to shop and what to buy was seen as degrading and shameful. Importantly it did not focus on whether people received enough money to be able to budget appropriately or provide skills in budget management.

'... stigma of shame attached to going to Centrelink and getting the card and lining up at Woolworths so lack of control in negotiation and consultation when it comes to food supply.' (NGO Program Manager, non-Aboriginal)

'I've seen countrymen in Alice Springs and Katherine getting their vouchers out of their wallets and seeing the shopkeeper looking at them very disgruntled and like "oh, not another one" and then shame job when, sometimes, they don't have enough money on their voucher to pay for all the their tucker.' (Aboriginal Doctor)

We could find no evidence that the blanket quarantining of income was an effective strategy in improving child health. In fact there was local evidence that was not effective in achieving its stated aims.

'The experience in Halls Creek, where this was done on a voluntary basis – trying to quarantine Centrelink payments – was that kids did not attend school. It was evaluated by DEWR. It was found to be spectacularly unsuccessful. It did not improve school attendance. It was inordinately expensive for them to do. It begs the question as to how you can do this to 40 000 people across the whole of the Northern Territory in some 600 communities' {Combined Aboriginal Organisations of the Northern Territory, to the Senate Standing Committee on Legal and Constitutional Affairs}

While there is little disagreement that the problems that existed in the communities were dire and did require urgent intervention the NTER has not addressed many of the underlying causes of the problems. In the context of income there has been little emphasis on reducing the dependence of these communities on government payments and increasing alternate sources of income or work. This could include a stronger focus on the establishment of small businesses, use of micro-credit or establishment of credit unions to assist with savings and loans.⁴⁸

AIDA pointed out why compulsory income management is particularly objectionable to many Aboriginal people:

The blanket application of the management to all residents in the prescribed communities and continued compulsory income management after people have left the communities have had serious impacts on the sense of cultural integrity within these communities. Most importantly the use of this measure is seen by those affected as humiliating, discriminatory and racist. For many people it forces them to re-live past experiences in mission times and reinforces feelings of helplessness and

⁴⁸ Australian Indigenous Doctors' Association and Centre for Health Equity Training, Research and Evaluation, University of NSW *Health Impact Assessment of the Northern Territory Emergency Response* (2010) <http://www.aida.org.au/viewpublications.aspx?id=3> at 29 August 2011.

powerlessness. It has undermined their pride and identity in being an Aboriginal person. No evidence has been found that compulsory income management has been an effective strategy in improving child health or reducing child sexual abuse.

Summary

The positive and negative health impacts of compulsory income support are likely to cancel each other out. High levels of support for increased income to purchase food and other necessities for children, in particular, are likely to translate to improved health outcomes – both direct (as in improved health associated with improved nutrition) and indirect (as in, improved concentration, participation and learning ability and capacity, and improved educational outcomes). However, the compulsory quarantining of income of Aboriginal welfare recipients will have significant negative effects on the mental health and social functioning of individuals and communities – including children. These are serious health consequences in their own right and will have serious, harmful impacts on the physical health of young people and adults across the life span.⁴⁹

Aboriginal Medical Services Alliance of the Northern Territory (AMSANT)

Another medical organisation, AMSANT, made an extensive submission to the Senate Committee. This extract shows AMSANT's strong opposition to the compulsory blanket system of income management:

20. AMSANT supports the intention of the government to ensure that any provision in terms of income management will apply to all Australians rather than just Aboriginal people on prescribed communities in the NT.

21. However, AMSANT continues to oppose any form of compulsory income management for the reasons that follow.

22. There is no compelling evidence that compulsory blanket income management is an effective tool for helping to improve the living conditions for children and families in Indigenous communities, or to support disengaged youth and vulnerable individuals in the broader community. In fact, the jury is still out on questions of its efficacy. The claims that quarantining welfare income under the NTER has significantly improved health and reduced alcohol consumption cannot be sustained on the evidence presented. Indeed, the report most strongly relied on by the Government – the Australian Institute of Health and Welfare's evaluation of income management – is full of doubts and qualifications, stating that the research studies used were "towards the bottom of an evidence hierarchy"; and that "the overall evidence about the effectiveness of income management in isolation from other NTER measures was difficult to assess." A key research study relied on included only a small number (76) of non-randomly selected clients from four locations.

23. Available evidence also questions the application of income management as a compulsory blanket, first resort measure. For example, the Cape York Welfare Reform trial shows that income management is applied to a minority of welfare recipients as a last resort compliance tool. Only 80 out of 424 case-managed clients were on income management as at September 2009.

24. Despite this, the new scheme of income management will be applied on a blanket

⁴⁹ Ibid.

basis to two classes of welfare recipients: people aged 15-24 in receipt of welfare payments for thirteen weeks or more (so-called “disengaged youth”); and people aged between 25 and pension age who have received welfare payments for more than 12 months (“long term welfare recipients”). The Minister’s explanatory material states that “these groups have been chosen based on their need for support due to their high risk of social isolation and disengagement, poor financial literacy, and participation in risky behaviours.” Yet it is clear that the majority of 15-24 year-old and 25 to pension age welfare recipients will not fit these descriptions and therefore will be unnecessarily subject to income management and its attendant restrictions on their lives. For those that may fit these descriptions there is no evidence that first resort compulsory income management is an effective means of providing such support.

25. AMSANT also notes inconsistencies in the Government’s justification for the need for income management. For example, the Minister has frequently advanced prevention of ‘humberging’ of the elderly as a benefit of income management, yet the new scheme exempts pensioners. Indeed, the stated reasons for the need for income management under the new scheme have changed significantly, without any evidence to support the changed objectives.⁵⁰

AMSANT pointed out that a national income management scheme, in principal not racially discriminatory, would nonetheless affect Aboriginal people more than other Australians:

26. AMSANT believes that the new scheme of compulsory income management will have a disproportionate impact on Aboriginal Territorians, as the target categories that will be subject to income management are more heavily represented by Aboriginal people. Given that many people report that income management results in significant negative impacts on their daily lives this amounts to indirect discriminatory treatment.

27. Negative impacts reported by people on income management include the shame and stigmatisation of the racially targeted nature of the measure, significant difficulties and inconvenience in using the BasicsCard, increased travel costs in accessing approved stores and lack of choice and flexibility in purchases and when travelling. It punishes the majority who are effectively managing their money and fails to promote personal responsibility or improve money management skills for those that don’t.

28. The uncertain benefits of compulsory income management cannot justify the enormous opportunity cost of the measure. It has cost almost \$100 million per year to date to income manage 15,000 people, and it is forecast to cost in excess of \$650 million in the NT for the seven years between 2007-08 to 2013-14. A serious question arises regarding the opportunity cost of the measure. For example, this amount of money could provide desperately-needed community services and intensive case management for those in real need. It could almost double the amount available for new and upgraded housing. Current budgeted expenditure will provide new housing in only 16 out of the 73 prescribed communities and over 600 non-prescribed communities in the NT. Given that housing is a critical determinant of health and

⁵⁰ Aboriginal Medical Services Alliance of the Northern Territory, Submission to the Community Affairs Legislation Committee Inquiry into the *Social Security and Other Legislation Amendment (Welfare Reform and Reinstatement of the Racial Discrimination Act) Bill 2009* and other related Bills (2010).
http://www.aph.gov.au/senate/committee/clac_ctte/soc_sec_welfare_reform_racial_discrim_09/submissions/sub59.pdf

wellbeing, the inability of current funding levels to significantly or even marginally reduce overcrowding in most Aboriginal communities will deliver a social cost of poorer health outcomes and ongoing risk of neglect and abuse.

29. It is acknowledged that there has been support expressed in some communities for compulsory income management. However, it is also clear that there is very significant opposition to the measure. It should also be observed that prescribed communities were never afforded input into the design of this measure, or provided with alternative policy options for achieving the stated objectives of the measure.⁵¹

AMSANT made a useful suggestion: communities that want income management (for example the NPYWC group) could vote to adopt it under a voluntary system:

30. AMSANT is of the view that blanket compulsory income management should only be applied at a community level where there is demonstrated support from the community for the measure. This is consistent with the approach supported by AMSANT in relation to the restriction of alcohol in communities.

31. AMSANT has previously supported a well-evaluated trial of the use of income management for welfare recipients who are not caring appropriately for their children or who are abusing alcohol as a means of introducing a disincentive for such behaviours. Such a trial has not yet occurred but should occur prior to any decision to introduce income management on a larger scale.

32. AMSANT also supports the provision of voluntary income management to individuals who request it.

33. AMSANT believes that the most effective means of addressing the dysfunction within communities that resulted in the application of compulsory income management in the first place, is an approach focused on intensive case management targeted on the basis of appropriate triggers⁶ that are supported by the affected communities, and designed to deliver supports and services according to the individual's need.

34. AMSANT notes that the proposed exemption process is administratively cumbersome and discretionary in nature and, in our view, will present significant difficulties for those on income management who would wish to be exempt. Many who should qualify for exemption will remain stuck on income management for a considerable period. AMSANT believes that the process should be reversed and that all currently on income management should be automatically removed. If income management is to continue, it should only be applied on a voluntary basis or according to the conditions outlined in paragraph 32 and 34 above.⁵²

Welfare organisations

Once income management was proposed for welfare recipients generally, beyond the Aboriginal communities, many mainstream welfare groups stepped up their opposition. This rather belated involvement raises questions about possible inbuilt prejudices that allowed this type of program to be introduced,

⁵¹ Ibid.

⁵² Ibid.

relatively unquestioned initially.

Australian Council of Social Service (ACOSS)

As the major not-for-profit peak organisation, ACOSS has a longstanding reputation as a careful and considered commentator and advocate. We have therefore selected its critique of the proposed national income management scheme as an example of what was said by many others.

The Government's proposed scheme significantly differs from that recommended by the Review Board as it is an opt-out rather than a targeted model, applying to all income support recipients in designated categories subject to proof of eligibility for exemption. The Review Board model is limited to a more narrow range of behavioural triggers and does not nominate length of payment as a trigger factor, which is the basis of the categories under the proposed scheme.

The proposed compulsory income management scheme also differs significantly from the model suggested by the Australian Human Rights Commission. The Commission identified key features of an RDA-compliant model in its Draft Guidelines for ensuring income management measures are compliant with the Racial Discrimination Act including that the model should not apply automatic quarantining but instead be based on a voluntary/opt-in model or last-resort suspension model; it should provide for a defined period of income management, proportionate to the context and subject to review and it should include additional support programs including safe houses for men and women and alcohol and substance abuse programs. Any income management scheme must be compatible with human rights, including the rights to non-discrimination and the right to social security.

ACOSS is concerned that measures which, if well targeted, could suit a few will instead be imposed on many, without broader consultation. In extending income management nationally, there has been no broad national consultation outside the NT with community and consumer organisations who represent and provide services to those who will be affected on a daily basis, or with payment recipients themselves. There has also been inadequate consideration of alternative approaches that maintain dignity and enable people to take control of their finances.

In addition, the proposed reforms to the social security system have been announced without regard to the broader national review of payments, with the findings and recommendations of the Henry Review of Taxes and Transfers not yet public. The affected payment categories were beyond the scope of the Pension Review Report published in February 2009.⁵³

The ACOSS submission has been quoted to show how it and other agencies looked specifically at the evidence on which the government had made its decisions:

⁵³ Australian Council of Social Services, 'Submission to the Senate Community Affairs Committee Inquiry into *Social Security and Other Legislation Amendment Welfare Reform and Reinstatement of Racial Discrimination Act* Bill 2009 and related bills' (2010)

The Evidence

ACOSS is concerned that a national roll-out of compulsory income management is proposed despite the weak and conflicting evidence base from the NTER and other income management trials and despite contradictory recommendations arising from the independent review of the NTER established by the Government.

The Government has relied on evidence from a variety of reports, reviews and consultations to support its claims that compulsory income management under the NTER has been effective in increasing the amount of money spent on food and other basics, reducing ‘humbugging’ and reducing the purchase and consumption of alcohol, tobacco and gambling products. These include:

- Reports from the most recent NTER redesign consultations;
- The AIHW’s Evaluation of income management in the Northern Territory;⁵⁴
- A survey of community stores; and
- The Central Land Council survey 2008.

Close examination of the above sources suggests that the available evidence provides a weak evidence base for the extension, is very mixed and often contradictory. In addition, there are a number of other reports and reviews which raise clear concerns about compulsory income management and question the positive benefits claimed by the Government, including the:

- NTER Review Board’s report (and the 222 submissions to the Board)
- Closing the Gap in the Northern Territory, January 2009- June 2009, Whole of Government Monitoring Report;
- Senate Select Committee on Regional and Remote Indigenous Communities’ three reports, and submissions to the Committee;
- House Standing Committee on Aboriginal and Torres Strait Islander Affairs Report on Community Stores; and
- The response to the NTER consultations, Will they be heard? by Nicholson, Behrendt et al.

Problems with research methods

In addition to the problems identified with the most recent NTER consultation process above, there are clear limitations on the value of the other sources which the Government relies upon in making its case for the extension of compulsory income management. One of the primary limitations on the value of these reports is the lack of baseline data to enable comparison and measurement of the effectiveness of NTER measures. As the NTER Review Board [the Yu review] stated in its 2008 report:

‘Apart from some initial scoping data, there was little evidence of baseline data being gathered in any formal or organised format which would permit an assessment of the impact and progress of the NTER upon communities. The lack of empirical data has proved to be a major problem for this Review and is an area that requires urgent consideration.’

⁵⁴ Note: The government quotes this particular report as supporting its case for extending IM, which makes these caveat comments more significant. The AIHW report overall was very clear that they were not satisfied with many aspects of the data that FaHCSIA had provided, nor the way the report was used. (Personal communication via Eva Cox and unnamed officer.) The report is no longer on the FaHCSIA website.

The Review Board recommended that the Government establish an authoritative database which integrates available information and enables regular measurement of outcomes of all government agencies and programs that target Aboriginal communities in the NT. The ABS has also emphasised the need to improve the quality of available data.

The AIHW report was cited by the Government as evidence that children were eating more and were healthier due to income management. This was based on interviews with parents, in which more than half of those interviewed reported that their children were eating more and were healthier. A majority of clients interviewed also reported that there was less gambling (63%), less drinking/alcohol abuse (60.9%) and less 'humbugging' (52.1%). Three-quarters of clients interviewed reported spending more on food, with half buying more fruit and vegetables. Over two-thirds of store operators reported an increase in sales of fresh fruit and vegetables.

However, the authors of the report were careful to identify the limitations of the evidence available. The authors stated that: 'The research methods used in the income management evaluation point-in-time descriptive surveys and qualitative research) would all sit towards the bottom of the evidence hierarchy'.

They identified a number of deficiencies with the available evidence, including that:

- There was no comparison group or baseline data by which to measure what would have happened in the absence of income management;
- The overall effectiveness of income management in isolation from other measures was difficult to assess. The NTER comprises a range of measures in addition to income management, the effects of which were not controlled for in the research;
- There was a limited amount of quantitative data on which to base the quantitative findings;
- Due to the absence of a comparison group, the evaluation was dependent on the perceptions of a range of stakeholders, which would have been strengthened if supplemented with empirical indicators;
- The client interview evidence was limited by the small sample size and method of selection, with clients not randomly selected;
- It was difficult to identify whose views within the stakeholder focus groups were being reported and whether these reflected the views of the majority.

Data collected by Centrelink on purchasing patterns have also been shown to be of limited value. The Department of Human Services gave evidence to the Senate Select Committee on Remote and Regional Indigenous Communities inquiry that 64% of income managed funds were being spent on food. This was then clarified as being money spent at stores that primarily sell food.

The Committee's Second Report notes that although there was anecdotal evidence to support an increase in money being spent in shops that sell food, there was no itemised data available from the use of the Basics Card (the card with which income managed recipients can buy a restricted range of goods from food and retail outlets using quarantined funds) to identify what income managed funds have actually been spent on.

This led the Committee to conclude that it is not the case that the majority of income managed funds are spent on food. In its Third Report it called on the Government to be more transparent in its reporting of this data, and clarify that the information is worked out from what Centrelink customers say they will spend their money on, not on actual items purchased. The survey of store owners conducted by FaHCSIA is also

of limited evidentiary weight.

The survey was conducted by departmental staff rather than independent researchers. The perceptions and observations of store owners were relied on, in lieu of quantitative data, to inform conclusions not only about purchasing patterns but about broader social and behavioural change among income managed customers. In addition to observations about customer shopping habits (with a reported increase in the amount of healthy food purchased), evidence from store owners is relied upon about familial relationships, humbugging, mistrust and confusion about income management.

The Senate Select Committee noted in its Third Report that it was concerned that the perspectives of community members were not considered in the survey report. It should also be noted that the community stores survey does not capture owners or operators of larger retailers in town centres which are also participating in income management and are the primary retail outlet for Aboriginal residents of town camps. Further, some of the results reported by store owners, for example, increased purchasing of fresh fruit and vegetables, could be attributable to the licensing requirements rather than to compulsory income management. Again, the effects of various NTER measures are difficult to isolate

The Central Land Council survey has also been relied upon by the Government to support its claims about the positive effects of income management, as is reflected in a number of Government documents. However, the results of the CLC survey are very mixed. Quantitative data showed that community members were still divided on the merits of compulsory income management, with 45% wanting it scrapped or changed significantly and 50% in favour of retaining current arrangements. Drawing on qualitative data, the CLC report identified some advantages associated with income management, as well as some disadvantages. Advantages included increased expenditure on food and children, reduction in drinking, young men contributing and a reduction in gambling.

Disadvantages identified included inadequate discretionary cash, the discriminatory nature of blanket reforms, the impact on the individual's capacity to manage financially, problems accessing money, impact on population mobility, lack of choice, restricted use of money and lack of understanding. However, although the report identifies 'key themes', it does not indicate what proportion of people raised particular themes.

The available evidence is mixed and contradictory. In addition to the problems identified above with the research methods, there are some clear contradictions within the available evidence. These raise questions about the accuracy and weight to be accorded to the evidence in informing policy development. For example, while over half of clients surveyed reported spending less on cigarettes, a majority (73.3%) of surveyed store owners reported that cigarette sales had remained unchanged. Similarly, while clients surveyed reported less drinking and alcohol abuse, the NTER Whole of Government Monitoring Report noted that there was a significant increase in the number of alcohol-related incidents reported to police across NT communities (up 34% between 06-07 and 07-08, and increasing by 29% in 08-09). The report also noted that substance-related incidents had increased by 77% since the introduction of the NTER. One of the findings drawn from the focus groups was that there had been a reduction in humbugging, domestic violence, addictive behaviours and gambling.⁵⁵

⁵⁵ Note: This finding along with other personal comments to politicians raises questions about 'gratuitous consent' and the Hawthorne effect, ie agreeing something worked because it

However, these findings do not seem consistent with the trends in alcohol related incidents discussed above, nor with substantial increases in domestic violence reporting (up 42% from 2007-08 to 2008-09). It is unclear to what extent an increased police presence and alcohol-bans in communities have affected these results, but, without further information, it seems difficult to support the conclusion that income management has resulted in a reduction of alcohol use or violence in communities.

The evidence on community views of compulsory income management is also mixed, as is clear from the CLC report, referred to above. The Government's report on its Emergency Response Redesign Consultations reported a number of 'key themes' from the community consultations, including that: 'children, the elderly and women were now feeling safer, better fed and clothed, they were getting a better night's sleep, and there was less humbugging for money for alcohol, drugs and gambling. This was attributed to the combined effects of various NTER measures, in particular income management...'

It found that women commented most frequently on the positive benefits of income management, but that men also commented frequently on these benefits, though many said that the NTER had 'shamed many caring and responsible men'. It also noted that community leaders and stakeholder organisation representatives highlighted the embarrassment caused by the introduction of income management, particularly the Basics Card.

The report indicates that views on whether income management should continue were not expressed at every meeting but, where the issue was discussed, 'the majority of comments said that income management should continue'. However, as the report notes, this cannot be taken to indicate majority support for the continuation of the current compulsory income management model. Indeed, the report notes that there was a divergence of views about future options, 'with discussion ranging beyond the two options outlined in the Discussion Paper.'

It notes that, compared to the option of continuing the current model, there was a slight overall preference among some groups for an exemption model and that 'there were also many calls for income management to be applied only on a voluntary basis'. It is not clear what proportion of respondents in these groups expressed this view, or supported other models not canvassed by the Government consultation paper. In other groups, the report states, there was a 'strong and consistent view in support of voluntary and trigger-based models ... in preference to either of the Government's proposed options.' Importantly, the report also found that participants expressed a strong preference that 'communities themselves should actively be involved in making decisions about income management.' All of this evidence suggests that the consultation feedback cannot be taken to show majority support for the model proposed: compulsory income management applied by Government (without community input or control) across broad categories of income support recipients.

No evidence to support the targeting of income management to the specified categories of recipients.

The targeting of compulsory income management to long-term income support recipients is based on, and perpetuates, a clichéd and discriminatory view of this group. It creates a perception that long-term recipients are unable or unwilling to manage their very limited finances. It is also likely to indirectly discriminate against

happened.

Indigenous Australians, who will be disproportionately affected by the scheme due to the high levels of poverty in Indigenous communities and the higher rate of long-term unemployment among the Indigenous population

The choice of payments and payment duration under the proposed scheme is arbitrary. The Welfare Reform Bill Explanatory Memorandum states that the groups to be affected by new income management measures ‘have been chosen based on their need for support due to their high risk of social isolation and disengagement, poor financial literacy, and participation in risky behaviours.’ No evidence is presented to support this statement, nor any analysis of the complex causes of social isolation, disengagement, poor financial literacy or risky behaviours. Deep social exclusion may be associated with receipt of these payments but that tells us nothing about cause and effect... Different approaches are needed for these individuals and communities. However those with more complex problems cannot be identified by payment status or geographic area alone.⁵⁶

The above extract has been reproduced here because it thoroughly covers the evidence that was available to both government and NGO participants in the senate process. ACOSS, as the main advocacy body, and a Government funded one, has many pressures on it to maintain the highest standards of probity and rigour in its comments. Therefore its summary of the lack of evidence for the changes needs to be taken seriously. It clearly states that the material available does not present a case for such a major shift to wider welfare policy, let offer evidence of its benefits in the NT settlements. Other groups included similar summaries of evidence but with less detail in most cases. The range of awareness of the evidence limits was substantial amongst many who made submissions.

Anglicare Australia

Anglicare is a major national service delivery agency whose submission also assessed the benefits of otherwise of income management and the proposed changes. We included its comments, as a relatively conservative church based welfare agency that is widely involved in the delivery of welfare services. Its experiences with the groups affected now and to be affected gives the views further legitimacy.

Its summary of the evidence overlapped considerably with the ACOSS submission, so we have extracted sections that cover different ground. Anglicare had similar doubts about the various data sets on offer and are critical of the use of AIHW and other studies, as is shown above.

Evidence for the Policy

One of Anglicare Australia’s strategic goals is to promote policy and programs based on research and experience. It shares with the Government an avowed commitment to evidence based policy. It welcomes the emphasis placed on the evaluation and assessment of this initiative and would urge that a sunset clause on the wide ranging

⁵⁶ Ibid.

nature of these provisions be inserted, and ensure that any extension of the scheme would be informed by that evaluation.

Later...

... There doesn't appear to be evidence from the Intervention that income management, in and of itself, is a solution to problems of dysfunction and welfare dependency. Other income management trials have also been advanced as evidence in support of this initiative. However, neither the Cape York nor WA initiatives have taken the broad brush - stand alone approach to income management that this legislation allows. They chose a mix of individual and voluntary income quarantining arrangements linked to a series of wrap around services and interventions.⁵⁷

Their submission also covers other examples of income management programs, which are now being used to justify new expansions, as indicated in the 2011 Budget. The WA program is the one being quoted as the basis for the new extension. At this stage, the evaluation of the program was not public but emerged later in 2010 and has also been criticised by WACOSS as not showing clear gains. We include some detail here to show the different structures of the various programs.

WA Income Management trials

The WA trials involved voluntary income management in identified areas and mandatory income management of identified individuals. The large income management scheme being tested in WA, while locational, is voluntary. In terms of the smaller mandatory scheme, the statement of the scope of the WA Income Management for Child Neglect project begins:

In partnership, the Commonwealth and West Australian Governments will implement income management as a child protection measure, to address the neglect of children where it can be established that income mismanagement has contributed to the neglect issues. Income management will be one of a number of interventions used under a case management model which aims to protect children by providing a holistic response to families where neglect is present.

While again there are contested views on the impact and effectiveness of this project, it is clearly structured very differently, and much more tightly, than the proposed amendment to the Social Security Act. In this context mandatory income management is used as one available tool in a holistic response. The Federal Bill, by comparison, would establish a mandatory income management regime irrespective of context, behaviour, other services or interventions.⁵⁸

The Cape York Welfare Reform Trial

The Cape York Welfare Reform Trial is a much more intense project than anything

⁵⁷ Anglicare Australia, Submission to the Community Affairs Legislation Committee Inquiry into the *Social Security and Other Legislation Amendment (Welfare Reform and Reinstatement of the Racial Discrimination Act) Bill 2009* and other related Bills (2010) http://www.aph.gov.au/senate/committee/clac_ctte/soc_sec_welfare_reform_racial_discrim_09/submissions/sub33.pdf

⁵⁸ Ibid.

required or suggested in the new income management Legislation. It incorporates complex set of strategies, which, in the words of the Trial's Evaluation Framework document, "aim to lead four communities in Cape York to adopt more pro-social norms and behaviours and in particular to lessen the dependence of individuals on welfare." It is built on partnerships including relevant governments and Aboriginal organisations such as the Family Relationships Commission and the community councils, and has come out of an extensive development process combining historical experience and a theory of change articulated in the Cape York Institute's From Hand Out to Hand Up.

The terms of reference in the framework concludes by emphasising the multidimensional nature of the initiative.

The complex nature of the four streams of Trial activities, the broader policy and implementation context in which these activities are taking place, the history of the communities and the interrelated nature of the issues they are trying to address together generate an especially challenging program to assess. The Trial takes a holistic approach to a multidimensional set of policy problems.⁵⁹

Academic and other research opinions

The Senate Committee received submissions from a number of academics. Professor Jon Altman of the Australian National Universities Centre for Aboriginal Economic Policy Research reflected the general opinion in recommending that:

- a) Income management should not be extended unless first supported by proper evidence-based evaluation;
- b) Income management should be a voluntary program; and
- c) Income management should not continue to divert attention and resources away from the larger policy issues affecting Aboriginal communities:

Recommendations

In making three recommendations to the Senate Standing Committee I am acutely aware that the welfare reforms proposed in the Bills under consideration are likely to have bipartisan political support, they are the product of the late Howard Government's NTER legislation policy framework that has been adopted relatively unchanged by the current Rudd Government. I am also aware that considerable bureaucratic effort and taxpayer dollars have been invested in a machinery to manage the incomes of welfare recipients: there is likely to be considerable resistance to change the emerging policy framework and implementation architecture. These factors though do not make the new policies right and there is no certainty that they will deliver positive social outcomes. Under these circumstances I feel compelled to make the following three recommendations to the Senate Standing Committee:

- All the available evidence collected by the NTER Review, government agencies and by AIHW on a consultancy basis for FaHCSIA, as well as international studies, provide either no or limited support for the proposed measures. Prior to

⁵⁹ Ibid.

making such far-reaching welfare reforms, it is incumbent on the Australian Government to properly gather and analyse the evidence to assess the impacts of income management that should now be available two years on. Such an exercise will take time and effort.

- While such evidence is being gathered and analysed in an impartial manner by an independent and reputable research body (national, or international if none that is suitably independent can be found in Australia) that does not pre-empt outcomes, social security income management should be made voluntary for all. To not do so, to apply measures without discretion, is tantamount to pre-emptively judge social security recipients, the most vulnerable and powerless in our society as guilty rather than being accorded the presumption and dignity of innocence until proven guilty. To continue with the status quo of blanket measures as is happening in the NT continues to flaunt the RDA and principles of horizontal equity. It is recommended that the Minister use her discretion to immediately un-prescribe communities and allow for opt-in income management measures to proceed using the existing array of institutional arrangements.
- At present, too much policy attention and implementation is focusing on welfare recipients who can be technically governed by the Australian Government via the Centrelink payments system. The Australian Government should focus on implementing more challenging structural social policy measures like the provision of public services in housing, health and education to Aboriginal communities that the Australian state is currently struggling to deliver for a complex set of institutional and structural reasons.⁶⁰

Altman pointed out that those who claim success for the Intervention are ignoring FaHCSIA's own reported data:

This second report covers 83 pages and is detailed and not all measures are given multi-year comparative coverage. But for those that are, some of the findings are extremely disappointing. For example:

On health... reported child malnutrition is up despite the 85 licenced stores, the 15,000 Basics Cards and the \$200 million income managed. On education, total enrolments and school attendance rates are marginally down despite the school breakfast and lunch programs and more and more police are working as truancy officers.

On promoting law and order, alcohol, drug and substance abuse incidents are all up (p.32–33); domestic violence related incidents are up (p.33); and breaches of domestic violence orders are up (p.33) despite a far greater police presence. The most disturbing data are contained in Table 4.4.1 on p.35 which reports personal harm incidents reported to police: all categories are up except for sexual assault reports that are slightly down.⁶¹

Another academic input came from the Menzies School of Health Research in

⁶⁰ Professor Jon Altman, 'Submission to Senate Community Affairs legislation Committee: Inquiry into Social Security and Other Legislation Amendment (Welfare Reform and Reinstatement of Racial Discrimination Act) Bill 2009 and related bills (2010).

⁶¹ Department of Families, Housing, Community Services and Indigenous Affairs *Closing the Gap in the Northern Territory January 2009 to June 2009, Whole of Government Monitoring Report Part Two* (2009).

Darwin, whose survey results on food purchasing were initially presented in the form of a letter to the Senate Committee. This is the only study that had clear longitudinal data and baseline figures. Comparing the periods before and after the introduction of income management, the research showed little or no change associated with income management:

The impact of income management was examined in relation to dietary quality of purchased food and drinks and tobacco sales in ten remote NT communities. Data was collected 18 months prior to income management and up to 18 months post introduction.

The study has currently been submitted for publication and is under a process of being peer reviewed; many details cannot be shared at this point but will be widely available once the article is published.

Against a background of increases in total store sales and in all the commodities before income management at a rate consistent with inflation, income management appeared to have no effect on total store sales, food and drink sales, tobacco sales and fruit and vegetable sales, independent of a government stimulus payment.

This study highlights significant confounding factors such as government bonus payments and store licensing that need to be considered in an assessment of income management on store sales.

Across ten stores in the Northern Territory, income management had no effect on fruit and vegetable sales or turnover (volume sold).

A reduction in the level of soft drink sales and volume sold occurred in the first six months of income management. Restrictions on purchases in these 10 stores due to a budgeting tool meant that soft drinks and confectionery could not be commonly purchased with income managed funds.

Following the first six months of income management, both soft drink sales and confectionery sales continued at a rate higher than that shown prior to income management.

Income management independent of the government stimulus payment appears to have had no beneficial effect on tobacco and cigarette sales or dietary quality. Increase in sales of all store commodities occurred during the period of the government stimulus payment.

Yours faithfully,
Julie Brimblecombe & Adam Barnes⁶²

The Government did not take the letter seriously, characteristically ignoring evidence potentially countering its claim that income management was having a positive effect.

Six weeks later the full study was published as a refereed journal article in the *Medical Journal of Australia*⁶³, receiving wide media coverage. The Minister's

⁶² Letter from Julie Brimblecombe and Adam Barnes to Senate Committee 15 August 2010.

⁶³ Julie K Brimblecombe, Joseph McDonnell, Adam Barnes, Joanne Garnggulkpuy Dhurrkay,

reaction to the publication of the full article is covered below in the section on data that emerged after the Senate committee reported below.

The Senate Report

The overwhelming majority of the evidence presented during and after the Senate Committee hearings did not support the continuation or extension of income management. Most submissions contended that the evidence base did not exist to support such a dramatic change to the welfare system, and called for a genuine robust evaluation to be conducted. Some submissions pointed to negative effects of income management, and only two claimed positive effects. Nevertheless, the majority of the Senate Committee recommended that the proposed legislation pass without any changes. This irrational outcome raises questions about whether the Government may have pressured the Committee to ignore evidence that did not favour income management as has been suggested by some observers.⁶⁴

The following comments, sidestepping many of the concerns put forward, were included in the Senate Community Affairs Committee Report:

2.79 The committee considers that the FaHCSIA consultation process was generally successful and looks forward to further improvements in government consultation processes over time. The committee is encouraged by government investment in interpretative capacity, as interpretation is a key element of successful government consultation and for progress in Indigenous affairs generally.

3.28 The main issue raised in relation to the government's proposal was the robustness of the evidence used to justify the expansion of income management across Australia. Most of the government's evidence provided to the committee relates to the experience of income management in the Northern Territory. The committee notes that trials are also underway in Western Australia and Queensland using different models to the Northern Territory.

3.29 The committee found that community opinion on income management in the Northern Territory is polarised. Reports commonly cited by the government have shown majority support for and positive outcomes in terms of health and welfare as a result of income management. Likewise, these reports have also documented problems with the measure, mostly relating to the operation of the BasicsCard and perceptions that it is a racially discriminatory measure.⁶⁵

David P Thomas and Ross S Bailie 'After the Intervention — Research Impact of income management on store sales in the Northern Territory,' (2010) 192(10), 549-554. http://www.mja.com.au/public/issues/192_10_170510/bri10090_fm.html?source=cmaileris at 29 August 2011.

⁶⁴ Note: Eva Cox's personal communications.

⁶⁵ Senate Community Affairs Legislation Committee, 'Social Security and Other Legislation Amendment (Welfare Reform and Reinstatement of Racial Discrimination Act) Bill 2009 [Provisions]; Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (2009 Measures) Bill 2009 [Provisions]; Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment' (Restoration of Racial Discrimination Act) Bill 2009' Report (2010).

The following sections of the report show an overdependence on government and bureaucratic reassurance and interpretations, on anecdotal evidence and the few submissions that supported income management:

3.31 FaHCSIA noted that the results of the studies varied, but consistently indicated positive outcomes as a result of income management and related measures, such as increased sales of fresh fruit and vegetables, reduced levels of gambling, alcohol consumption and harassment for cash and a greater contribution by men towards family groceries.

3.32 Examples include a finding of the NTER taskforce, in its final report to the government in June 2008, that women in many communities supported income management as it ensured money was available for food and other necessities for children, reduced harassment and helped to develop household budgeting skills.

3.33 The survey of Government Business Managers (GBMs) also reported that harassment for money had decreased in 39 per cent of communities. The survey indicated a reduction in the amount of gambling in communities and amounts wagered in individual games.

3.34 According to the Stores Post-Licensing Review Report, over two thirds of store operators identified an increase in the amount of healthy food purchased, including fresh fruit and vegetables, dairy products and meat.

3.35 A submission to the NTER Review Board by the Central Land Council indicated an increased household expenditure on food and children, an increase in men's contribution to family shopping expenses, reductions in gambling and drinking and improved quality of stock in community stores.

3.36 According to the Community Feedback Survey undertaken by CIRCA, respondents reported several positive outcomes, including increased purchases of food and other essential items; increased savings; reduction of alcohol consumption and gambling; increased ease of paying bills; and reduction in family tension.

3.37 FaHCSIA noted that these findings were similar to the views expressed by many people in the NTER redesign consultations about the benefits they saw from the NTER measures.⁶⁶

None of the 'studies' mentioned involved objective measures such as data from store receipts or expenditure records. All were based simply on the opinions of people questioned. We are not saying these opinions were wrong; rather that they are not a proper measure of the actual impact of income management, either on its own or in conjunction with the other measures that may affect shopping behaviour.

The one Aboriginal organisation that supports compulsory income management was extensively quoted by the Committee:

http://www.aph.gov.au/senate/committee/clac_ctte/soc_sec_welfare_reform_racial_discrim_09/report/report.pdf at 29 August 2011.

⁶⁶ Ibid.

3.38 The committee also heard that income management had beneficial effect. For instance, the Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women's Council (NPY Women's Council) supported the income management measure on the grounds that it helped to protect women and children. Ms Vicki Gillick noted that in her opinion, income management had resulted in more money being spent on essential items. The NPY Women's Council noted the beneficial effect of income management in their submission, stating: The elected Directors believe that, along with other NTER measures such as an increased policing and child health checks, IM has increased the funds available to welfare recipient for the necessities of life, and served to reduce the amount of money available for grog, illicit drugs and gambling, and thus the level of demand sharing by those who spend their funds largely on substance abuse.⁶⁷

The report does acknowledge the prevailing view (outside the Government) that insufficient evidence has been provided to justify extending income management. However, that view is dismissed:

Criticisms of the evidence base

3.45 Many submitters and witnesses were critical of the evidence base used to support the extension of income management across the Northern Territory and Australia. Some of these criticisms were summarised by Professor Jon Altman, who stated: Unfortunately and sadly, no empirical evidence with any integrity has emerged to unequivocally support income management measures. That collected by the Australian Institute of Health and Welfare has been highly qualified and equivocal. That collected by the Australian government or its agents has been in-house, unreviewed and, frankly, a little amateurish. At best, it has been deeply conflicted by moral hazard. Agents of the state are asked by state employees or their paid consultants whether state measures are effective. Worryingly, the evidence might change over time. For example, there is forthcoming research from the Menzies School of Health Research, currently under peer review, that outcomes from income management might, at best, be ineffective and, and at worst, perverse.

3.46 Several witnesses, including Anglicare Australia, the Australian Council of Social Services (ACOSS) and the St Vincent de Paul Society noted the small sample size used in studies such as the AIHW evaluation report and were of the opinion that the evidence base was not strong enough to support the expansion of income management.

3.47 Anglicare Australia noted that income management was just one of a suite of measures introduced through the NTER. As a result, it was difficult to attribute results to income management alone: We were looking at the evidence and saying that, because the intervention had different objectives to this particular bill and because there were other issues that happened at the same time as income management, it is really very difficult to actually look back and say, 'Income management has achieved X, Y and Z.' There were also the changes to community stores at the time. There were changes to policing and changes to houses.

3.48 Additionally, Anglicare made the point that the Northern Territory prescribed communities were not necessarily analogous environments to disadvantaged communities in urban areas: We also feel that the issues that the Northern Territory intervention was trying to offset do not necessarily happen in an average suburb

⁶⁷ Ibid.

around Australia. It was looking at communities that were quite discrete, that understand themselves as communities and where there are hugely strong kinship obligations. I do not believe we see those in Cannington or the suburbs of Sydney and Melbourne. We do not have that same understanding of a set of people as a community. So, whether or not the blanket approach worked in the Northern Territory—and we have a view about that—we do not feel there has been enough evidence or looking at the stuff that did go on to take it in this form to every other single community in Australia.

3.49 The committee is mindful of criticisms regarding the government's evidence base, but notes that the existence of a comprehensive evidence base is problematic in almost all areas of social policy development. The complexity of social policy rarely allows for controlled experiments or definitive findings. (Our bold).

3.50 The committee notes with interest the government's intention to evaluate the income management measure prior to expanding coverage of the scheme to other areas of Australia: The operation of the new scheme of income management in the Northern Territory will be carefully evaluated. The first evaluation progress report is expected in 2011/12. The other income management trials currently underway in Western Australia and Queensland will also continue to be evaluated. Future roll out elsewhere in Australia will be informed by the evidence gained from this evaluation activity.

3.51 The committee considers that it is essential for this evaluation to be conducted to a high standard. The committee considers this to be a prime opportunity to establish a rigorous evaluation of social policy in order to strengthen the evidence base over time.

3.52 There was broad support for a robust evaluation process from witnesses such as Anglicare Australia: At the start of an activity like this, if we are going to go down this track, let's set up some evaluation, some ability to draw evidence from this; because the evidence we have seen out of the Northern Territory intervention is weak.⁶⁸

Thus, the Committee recognised above that there is a dearth of clear evidence and recommended that income management in the NT should be rigorously evaluated 'prior to expanding coverage'; yet it approved the legislation for that allowed for immediate expansion and national coverage without any further caveats.

Recommendation 4

4.19 The committee recommends that the Senate pass the government's bills.⁶⁹

Not all the Committee agreed. The Coalition members said the bills were too lenient because they let age and disability pensioners off the hook when it came to compulsory income management. The Greens disagreed with the recommendation because the counter evidence had been so persuasive and they were concerned about many aspects of the new schemes:

⁶⁸ Ibid.

⁶⁹ Ibid.

Dissenting report by Senator Rachel Siewert, Australian Greens (extract)

The whole approach being pursued by the Rudd Government to the need to reform the problems of the Northern Territory Emergency Response (NTER) as reflected in the Government's bills is fundamentally flawed. The government is attempting to simultaneously pursue contradictory and incompatible policy objectives. It made a firm commitment in opposition to restore the application of the Racial Discrimination Act to the NTER legislation and went to the election advocating the progressive social policy of social inclusion. However, since coming to government it has become enamoured with a punitive model of conditional welfare targeting disadvantaged Indigenous communities (despite the enormous cost and a lack of evidence for its efficacy) which is incompatible with social inclusion and basic human rights. While these kinds of deep philosophical and moral contradictions can be glossed over in the short term with creative public messaging, the victory of spin over substance is always short-lived.

The proposed extension of non-discriminate mandatory income management to classes of income support recipients across the country represents a major shift in social security policy. In my view and in the view of the vast majority of 85 social service providers who gave evidence to the committee, this represents a fundamental shift in values which goes to the very heart of the concept of social security as an entitlement designed to reduce poverty by delivering an adequate income and assistance to find work. In doing so it violates the principle of inalienability of the social security safety net which has been the cornerstone of modern welfare law.

The starkest outcome of this inquiry by the Community Affairs Legislative Committee was the lack of any substantive evidence to support the government's assertions of the efficacy of its approach after two and a half years of the intervention, and the overwhelming concern expressed by experts and community organisations with the approach being taken. This lack of hard evidence is a serious indictment of the government of a Prime Minister who continues to express his commitment to 'evidence-based policy'. In relation to the efficacy of income management, the analysis provided by AIHW of data collected by FaHCSIA highlighted serious deficiencies in the evidence, including: the lack of any comparison group or baseline data, the over-reliance on anecdotal evidence, perceptions and opinions; the absence of hard empirical evidence to back up any of these claims; the relatively small number of clients interviewed and the lack of random selection of interviewees; the limited amount of quantitative data collected for evaluation purposes, and the difficulty in isolating the effects of income management to other effects from increased investment in affected communities. They characterised all of the data collected as falling towards the bottom of an evidence hierarchy and were highly critical of its reliability and validity. It is very clear that this evidence does not provide a basis for continuing or extending income management, and the failure to collect meaningful empirical data undermines any claim that these were 'trial' measures

The report seeks to make the case for government policies and commitments for which there is neither compelling evidence nor a convincing argument. On a large number of points the report has not even made a convincing attempt to argue the case for the government's policy position, but has simply relied on departmental assertions that well argued criticisms and opposing evidence are not true, and that the department believes or the Minister has stated something to the contrary. The most striking example of this relates to the debate concerning whether the proposed income management measures are discriminatory – where in the face of detailed and compelling argument from constitutional and human rights law experts the report falls back on assertion that the government intends these measures to be non-

discriminatory and so **I believe it is misleading to refer to this analysis as 'the AIHW report', particularly given evidence to the committee in Senate Estimates in February that the AIHW Ethics Committee had previously refused to participate in the study. (Our bold.)**

After the Senate Report recommending the passage of the legislation was tabled in March, some further reports and data sets eg the Menzies study mentioned above, were made public that could and should have been considered before the legislation was passed in June. Which had been signalled in the letter quoted above was seriously attacked by the Government as outlined below. This reaction raises serious issues about the official treatment of evidence by the Department and FaHCSIA.⁷⁰

The Full Menzies Research Study Report

This peer-reviewed article was published in the *Medical Journal of Australia* (MJA) in April 2010. It followed a letter sent to the Senate Committee hearing which had outlined the early results of the study of purchasing patterns before and during income management in the Arnhem Land Progress Aboriginal Corporation (ALPA) stores in the NT. As the letter had earlier suggested, the findings were that IM was not working, therefore contradicting the government position. That letter was not even mentioned by the Committee in its majority report, nor taken into account by the Government. Below is the abstract of the MJA article:

After the Intervention

Research Impact of income management on store sales in the Northern Territory

Objective: To examine the impact of a government income management program on store sales.

Design and setting: An interrupted time series analysis of sales data in 10 stores in 10 remote Northern Territory communities during 1 October 2006 to 30 September 2009, which included an 18-month period before income management; a 4–6-month period after the introduction of income management; a 3-month period that coincided with a government stimulus payment; and the remaining income-management period.

Main outcome measures: Trends in (i) total store sales; (ii) total food and beverage sales; (iii) fruit and vegetables sales; (iv) soft drink sales; and v) tobacco sales.

Results: Modest monthly increases indicative of inflation were found for all outcome measures before the introduction of income management, except for soft drink sales, which remained constant. No change from the increasing rate of monthly sales before income management was seen in the first 4–6 months of income management or for the income-management period thereafter for total store sales, food and beverage sales, fruit and vegetable sales and tobacco sales. The rate of soft drink sales declined significantly with the introduction of income management and then increased significantly thereafter. The 3-month government stimulus payment period (during

⁷⁰ Rachel Siewert, Australian Greens, 'Dissenting Report' http://www.aph.gov.au/senate/committee/clac_ctte/soc_sec_welfare_reform_racial_discrim_09/report/d02.htm at 30 August 2011.

the period of income management) was associated with a significant increase in the rate of sales for all outcome measures.

Conclusion: Income management independent of the government stimulus payment appears to have had no beneficial effect on tobacco and cigarette sales, soft drink or fruit and vegetable sales.⁷¹

The article's publication was quite widely reported in the media. In response, the Minister's office showed an example of their attitude toward any serious data that disagreed with the Government's assumptions. A media release by Ministers Macklin and Snowdon sought to trivialise and undermine the results of the research by focussing on one of the minor findings, related to soft drinks:

Reducing high sugar drink consumption in remote communities

The Australian Government is requesting an urgent report from key departments on policy options to help reduce the consumption of high sugar drinks in remote communities. A new study from the Menzies School of Health Research has highlighted the need to lower the consumption of high sugar drinks in remote Indigenous Northern Territory communities.

The research has shown that there has been an increase in the consumption of high sugar drinks in the stores examined in the study from October 2006 to September 2009. The research also cites reports that soft drinks are contributing up to 27 per cent of the total sugar available through remote community stores. Foods and drinks with high sugar content can contribute significantly to chronic diseases such as diabetes and renal disease.

The Government welcomes the Menzies survey of ten Arnhem Land Progress Association (ALPA) stores. The detailed analysis and findings from the Menzies survey are not inconsistent with the findings in the Government's 2009 Post Licensing Monitoring Report, and do not support a conclusion across all communities that the Northern Territory Emergency Response has had limited impact.

Very few other stores outside Arnhem Land had a similarly strong emphasis on improving nutritional outcomes prior to the introduction of income management. ALPA stores have long been among the best managed stores in the Northern Territory. The stores have had a strong nutrition policy in place since 1984 and employ an in-house nutritionist. Local people are employed to promote healthy eating and the additional freight costs are not included in the price of fruit and vegetables so these items are often cheaper than in other community stores.

It is not surprising that purchasing habits are healthier in these ALPA stores both prior and subsequent to the introduction of income management. Income management is an important reform to fight passive welfare and ensure more money goes to food, clothes and rent and less money goes to buying alcohol and to gambling.

A Post Licensing Monitoring Report last year covering 66 stores found that 68 per cent of store operators reported an increase in the amount of healthy food purchased following the Northern Territory Emergency Response measures. Under income

⁷¹ Julie K Brimblecombe, Joseph McDonnell, Adam Barnes, Joanne Garnggulkpuy Dhurrkay, David P Thomas and Ross S Bailie 'After the Intervention — Research Impact of income management on store sales in the Northern Territory,' MJA 2010; 192(10): 549-554. http://www.mja.com.au/public/issues/192_10_170510/bri10090_fm.html?source=cmaileris

management, 50 per cent of income support and family payments is set aside to ensure funds are available for items essential to the wellbeing of families and children. Income managed funds cannot be spent on alcohol, cigarettes or gambling.⁷²

The press release fails to mention that the government research cited was based on the opinions of individuals rather than on objective data.

The Menzies researchers, annoyed by the release, published an explanation of their study on the *Crikey* website. It is a strong condemnation of government policy-making and unusually frank from a government-funded research centre. The article was promoted on *Crikey*'s health blog, *Croakey*, as follows:

Does Macklin's office have no shame? More on the income management study...

This email landed at *Croakey* today. "Macklin's office really has no shame!"

My correspondent was commenting on the response from Indigenous Affairs Minister Jenny Macklin to a study published today in the Medical Journal of Australia showing that the federal government's income management policy is not making an impact on tobacco and healthy food sales in remote community shops in the NT.

Clearly anticipating adverse coverage from the study, the Government yesterday issued this release, stating: "The Australian Government is requesting an urgent report from key departments on policy options to help reduce the consumption of high sugar drinks in remote communities. A new study from the Menzies School of Health Research has highlighted the need to lower the consumption of high sugar drinks in remote Indigenous Northern Territory communities."

I'm not a great fan of the exclamation mark – much over-used – but in this case the email comment deserved a whole row of them. As in, Macklin's office really has no shame!!!!!!!!!!!!!!⁷³

Julie Brimblecombe and David Thomas wrote:

We are the co-authors of a study published today in the Medical Journal of Australia, which shows that the federal government's income management policy is not making an impact on tobacco and health food sales in remote community shops in the NT. Smoking and poor diet are responsible for much of the health gap between indigenous and other Australians.

We are concerned that indigenous affairs minister Jenny Macklin has responded to our study by highlighting the results of the government's evaluation. She has told journalists that the government intends to press ahead with plans to roll out income

⁷² Jenny Macklin MP, Minister for Families, Housing, Community Services and Indigenous Affairs and Warren Snowdon MP Minister for Indigenous Health, 'Reducing high sugar drink consumption in remote communities' Press Release, 16 May 2010. http://www.jennymacklin.fahcsia.gov.au/mediareleases/2010/Pages/reducing_sugar_consumption_16may10.aspx at 30 August 2011.

⁷³ Melissa Sweet, Does Macklin's office have no shame? More on the income management study... (2011) *Crikey* <http://blogs.crikey.com.au/croakey/2010/05/17/does-macklins-office-have-any-shame-more-on-the-income-mgt-study/> at 30 August 2011.

management more broadly, and has appeared to dismiss our findings.

The evaluation cited by the minister was based on interviews with 76 income management clients in four communities, telephone interviews with 66 store operators as well as interviews with business managers and other stakeholders across several locations.

This is poor use of qualitative research to answer a question that essentially requires quantitative data: are people buying more healthy food as a result of income management?

Our study provides that quantitative data. It used sales data to measure how much was being spent each month across 10 stores in the Northern Territory, 18 months before and 18 months after income management was introduced. In contrast, the government's evaluation report of income management and spending relied entirely on people's perceptions in a large number of interviews.

We confirm store managers' claims that there was no change in people's spending on tobacco. However, in contrast to the government report, we found that spending on food and drinks and fruit and vegetables did not change with income management. Soft drinks sales increased.

The one time during income management that spending went up for all store commodities was when people actually had more money: at the time of the government stimulus payment. Telling people of low income how they can use 50% of their income may make no difference to their spending, but giving a lump of cash does.

The government's evaluation report claims that "the main benefit identified [of income management] was the increase in the amount of money spent on food for community members, especially children". This is now questioned by our evidence.

Even its minor claims of improved food choices, more fresh and more healthy food being purchased, are linked to the new licensing of stores in these communities -- not income management.

Continued income management in remote NT Aboriginal communities and its extension to all welfare recipients does not seem to fit with the government's credo of evidence-based policy.

Whilst the government's defence of income management with only very shaky evidence has been controversial, gaining little support from public health experts, it has received applause for its work on prevention, and smoking in particular. It has allocated \$100 million to indigenous tobacco control, using the limited local indigenous research but extensive international evidence from other contexts. Its recent decisions to increase the tax on cigarettes and to restrict tobacco companies' advertising using cigarette packets are also likely to reduce indigenous smoking.

But attempts to tackle indigenous people's poor diet have not been as coherent and are off to a shaky start. There is no funding for either the COAG food security initiative or the National Aboriginal and Torres Strait Islander Nutrition Strategy and Action Plan. The government is yet to respond to the 33 recommendations of the Senate inquiry into remote community stores. But store licensing, which is setting minimal standards in remote stores in the NT, and the funding of 100 new indigenous healthy lifestyle workers are welcome and positive steps.

Less welcome is the reluctance to consider food subsidies. Yes, they are expensive and difficult to monitor, but there is increasing international evidence that modifying price and monetary benefits, such as food stamps, help to improve the diet of economically disadvantaged groups.

As Amanda Lee and colleagues have stated, we need rigorous testing of economic solutions to increase access to healthy food in remote communities. Skirting the real issue of affordability and poverty, while defending and extending income management policies, may delay improvements in indigenous people's poor diet and the government's pledge to "close the gap".⁷⁴

Professor Jon Altman also commented on the article:

I have carefully read the Brimblecombe et al. piece ... and find it the most comprehensive and scholarly quantitative research available to date on the food and tobacco expenditure impacts of income quarantining before and after the Intervention. As [the authors] point out... it is quite inappropriate to compare this research undertaken by academic experts at arms-length from government [with] research undertaken by federal bureaucrats or their paid consultants; and to compare rigorous quantitative research that addresses a specific question of sales before and after income quarantining with qualitative research that asks general questions about expenditures on broad categories of goods in government-licensed stores post Intervention only.

The Australian government is clearly embarrassed by these research findings for three reasons. First, \$82.8 million have just been committed in the 2010/11 Budget to create a new scheme for income management, an investment in a process to regulate the behaviour of welfare recipients in the NT. All up \$410.5 million will be committed in six years to what might prove an entirely unproductive expenditure. Second, legislation is about to be tabled in the federal parliament predicated on an assumption that income management is good for Indigenous (and other) subjects in the NT, something this research seriously questions. Third, the Rudd government has remained firmly wedded to this intervention measure since its election in November 2007; saying sorry for others 'historical' errors is clearly politically easier than saying sorry for your own 'path dependent' acquiescence and possible mistakes.⁷⁵

If the Australian Government were truly committed to an evidence-based approach to indigenous policy, the Menzies study should have had some effect on decision-making related to income management. There was plenty of time to consider it, between the April publication of the Menzies study (or indeed the March preliminary release) and the eventual passage of the legislation extending income management across the Northern Territory in August. However, there was no move to reconsider or delay the legislation.

⁷⁴ Julie Brimblecombe and David Thomas, *Macklin's twists truth on income management*, (2010) Crikey
<http://www.crikey.com.au/2010/05/17/income-management-isnt-working-and-macklins-twisting-the-truth/> at 30 August 2011.

⁷⁵ Professor Jon Altman, (2010) Crikey .
<http://www.crikey.com.au/2010/05/17/income-management-isnt-working-and-macklins-twisting-the-truth/> at 30 August 2011.

The new program of income management

In June 2010, the Prime Minister changed, but the new PM, Julia Gillard, continued the same policy on income management. FaHCSIA initiated a series of consultations in the NT and Canberra on the implementation strategies and documents it had prepared for the new scheme. These involved the criteria for exemptions that had not existed in the previous model, and the categorisation of different groups, as some payments (mainly age and disability related payments and pensions), would be exempt. The target group was now clearly working age people, including parents on the parenting payments.

On 22 June 2010 Minister Macklin released the following statement:

The Australian Government's legislation to deliver major welfare reforms passed the Senate last night. The reforms aim to increase parental responsibility, fight passive welfare and protect vulnerable people especially children. The legislation introduces a new non-discriminatory income management scheme to protect children and families and help disengaged youth, and restores the operation of the *Racial Discrimination Act 1975* in the Northern Territory.

The welfare reforms represent a significant step forward in the Government's continuing welfare reform agenda. The reforms will expand the benefits of income management to an increased number of vulnerable Australians – Indigenous and non-Indigenous. The reforms link income management to promoting responsible behaviours like participating in work and training and ensuring children attend school. Income management is a key tool for protecting vulnerable people, especially children.

It ensures that more welfare is spent in the interests of children on life essentials, including food, clothes and housing costs, and less welfare goes to problem behaviours like gambling and alcohol abuse. The Social Security and Other Legislation Amendment (Welfare Reform and Reinstatement of the Racial Discrimination Act) Bill 2009 is set to commence from 1 July 2010.

It will be rolled out first across the Northern Territory to an estimated 20,000 people in urban, regional and remote areas, as a first step in a national roll out of income management in disadvantaged regions.⁷⁶

This triumphant media release clearly showed that the government was satisfied with income management and had no concerns about its continuation. The program was deemed such a success that it was now being applied, with some minor changes, to the majority of welfare recipients in the NT and was promoted as likely to be spread nationally. It was passed in June 2010.

The new income management system had been prepared for roll out from August 2010. As it was not directed to just Aboriginal communities, the new

⁷⁶ Jenny Macklin MP and Warren Snowdon MP, 'Major welfare reforms to support vulnerable Australians' 22 June 2010.

http://www.jennymacklin.fahcsia.gov.au/mediareleases/2010/Pages/welfare_reforms_22jun10.aspx at 30 August 2011.

program defined the groups now covered by the type of payments they received and the length of time on that benefit. The basic assumption was that recipients of such payments would be benefited by being required to comply with income quarantining, unless they could prove they did not need such controls. The new program documentation assumed that the groups now to be covered are basically bad money managers and lead disordered lives. The one big change touted in the new scheme is their ability to apply for an exemption, if the recipient can prove they are not bad parents, were engaged in paid work and/or training and were good money managers. The conditions for doing so suggest that the criteria for getting an exemption would not be easy to prove and would also confuse anyone not comfortable with bureaucratic processes or documentations, as is shown in the following dense and difficult extracts from the documentation that relates to parents on payments. The previously included groups, ie pensioners, were now no longer obliged to stay on income management, but were strongly encouraged to do so. Those now ineligible for automatic inclusion could be added if Centrelink felt they were ‘vulnerable’ people, ie showing specified signs of potential disorder.

FaHCSIA income management implementation policy outline (draft)

Objective of the instrument

Parents of school age children or younger, who might otherwise be subject to income management under the Disengaged Youth or Long-term Welfare Payment Recipient measures, may seek an exemption from income management by demonstrating that each of their dependent children are engaged in appropriate activities and that the parent has had no indications of financial vulnerability over the preceding twelve month period.

This exemption applies to parents in the following categories:

- Income support payment recipients aged under 25 years, in receipt of relevant payment for at least 13 weeks of the last 26 weeks (Disengaged Youth).
- Income support payment recipients aged over 25 years, in receipt of relevant payment for more than 52 weeks of the last 104 weeks (Long-term Welfare Payment Recipients).

This policy advice is part one of a two part process for determining exemptions from compulsory income management for parents of a child, or children, of compulsory school age or under compulsory school age.

Part one of the exemption process requires a person with children of compulsory school age (that is, as stipulated by applicable state or territory law) or younger, to demonstrate that there have been no indications of financial vulnerability during the twelve-month period ending immediately before the test time. This is stipulated in the legislation.

Part two of the exemption process requires a person with children of compulsory school age or younger to demonstrate that they are undertaking responsible parenting, by meeting attendance or participation requirements relating to the education and health care of the child and/or other activities.

To be assessed as eligible for an exemption, a person will need to meet the requirements under both part one and part two of the exemption process. However, it may be appropriate for the financial vulnerability component to be assessed first to minimise potentially unnecessary collection of evidence by persons seeking an exemption. Centrelink Customer Service Advisors should discuss the whole exemption process with customers in the first instance and be willing to accept documentation relating to the responsible care of children component prior to the financial vulnerability discussion.

This policy advice relates to the financial vulnerability component. It specifies the decision-making principles that the Centrelink Customer Service Adviser must consider to determine whether there were indications of financial vulnerability for the person in the previous 12 months.

The responsible care of children component is covered in a separate policy advice (refer to policy advice 3).

Outcomes sought from the instrument

This category of exemption is intended to ensure that the new income management measures are targeted to support the most vulnerable and disengaged people, and to encourage parents receiving income support payments to undertake responsible care of children.

The principles outlined below are intended to build an overall picture of a person's financial circumstances. That picture should allow Centrelink Customer Service Advisers to assess whether a person is able to satisfactorily apply resources towards their priority needs, and those of their family and whether they will be safe from financial exploitation if exempted from income management. Centrelink Customer Service Advisers must have regard to the following principles in determining whether a person is financially vulnerable.

Requirements for exemption

The requirements for determining that there were no indications of financial vulnerability in relation to a person during the previous 12 months are:

- A person has been applying appropriate resources to meet priority needs;
- A person had stable payment patterns and budgeting practices and is meeting priority needs from their income support and family assistance payments; and
- A person had control over their money and was not subject to financial exploitation;

Definitions

For the purposes of this assessment:

- Financial exploitation. Where a person is subject to undue pressure, harassment, violence, abuse, deception or exploitation for resources by another person and/or people, including other family members and community members.
- Priority needs: for the purposes of income management, priority needs are those defined in section 123TH of the *Social Security (Administration) Act 1999* (Cth).

Indicators used to assess financial vulnerability

The Centrelink Customer Service Adviser would need to be satisfied that the person had, over the last twelve months, shown no signs of financial vulnerability, with regard to the considerations set out below.

These considerations are intended to create an overall impression of a person's financial circumstances, no set weight should be attributed to each and only those that are relevant should be considered. The considerations should not be treated as a checklist. The discussion points do not necessarily indicate that a person is financially vulnerable, the questions are designed to identify whether a person faces significant financial challenges and whether they have been able to manage their money to effectively deal with those challenges.⁷⁷

The above draft document shows how difficult it is for anyone to apply for an exemption, prove capacity or be deemed "not vulnerable". There were consultations on the implementation of the new policies, around the time of the Bill being passed. These again were extremely limited in scope; the only formal consultations were in Sydney, Canberra and Darwin. Even though the new scheme is potentially national and no longer racially discriminatory, there was no serious attempt to engage with disability groups, sole parents or others targeted under the wider powers. The almost secretive expansion of the program to a new range of recipients meant most people failed to notice this major policy change. As usual, the opposition that was expressed in the consultations we knew about was largely ignored, including some of our own efforts.

The following extract from a submission from Jumbunna raised some of the issues above. However, its practical suggestions had no apparent influence on the final policy documents.

Introduction

Although Jumbunna has serious issues with the blanket extension of income management (IM) because of lack of evidence of its benefits, the following comments are offered to point out what problems we envisage and how these could be mitigated via recommendations on FAHCSIA's exposure draft policy outlines. Jumbunna also believe that this policy, while claiming to satisfy the Racial Discrimination Act by applying to all welfare recipients, will continue to impact most heavily on Indigenous people as the majority of welfare recipients in the Northern Territory (NT) where the policy will be initially rolled out in additional areas of Indigenous concentration. We point out that this is being done without clear evidence that IM addresses Indigenous peoples' problems or meets Government set objectives of improved social norms and greater self reliance.

The policy has been developed, we are told, to be used in the NT alone. In the Sydney consultation 18 June, we were assured that the current proposals would not be used in further rollouts. Yet the major evaluation planned for the NT will be used to decide

⁷⁷ This was an early draft circulated by FaHCSIA for the discussions and the consultations and is no longer available online.

whether to extend the program beyond the NT. It is therefore difficult to make recommendations without assuming that most of the NT processes are likely to be generalised on the basis of their possible benefits, and, we hope, reconsidered where there are evident problems. (see section .. for more details on this)

The criticisms below and recommendations are therefore offered on the basis that this NT rollout is a major experimental pilot of a massive change in national welfare policies. While there are many Indigenous welfare recipients who live in rural and remote areas with unique conditions, there are many more in urban areas, some of whom will be captured by IM for the first time. There will also be substantial numbers of new non-Indigenous benefit recipients. These will include refugees, other non-Anglo immigrants, people with lesser disabilities unable to find employment, those with mental health issues, and many non-Indigenous sole parents. The official focus on problems in Indigenous communities obscures both what aspects of IM have not worked and the problems of its extended design as part of wider reforms.

We believe that the policy is fundamentally flawed because it places a heavy onus on recipients to prove standards of behaviour that may be culturally and socially inappropriate and often unattainable within the resources provided, both financial and service based. The criteria for exemptions ignore the fact that many of those affected are households, mostly Indigenous in the roll out area, already experiencing greater financial hardship than most. Many are on or below poverty line incomes, including sole parents, families where no adult is employed or those facing other disadvantages. The processes may create further difficulties of compliance for exemptions that place those affected and their children at greater risk by imposing unnecessarily prescriptive additional bureaucratic demands and burdens.

The overarching assumption of this policy is that most welfare recipients in this designated area lead disordered lives and are unable to manage their finances or provide adequately for their children. The government has made the decision that all welfare recipients will be compulsorily included in IM but can apply for exemptions if they can prove competence. This is the reverse process to Policy Outline 1 for the Vulnerable Welfare Payment Recipient Measure where the onus is on a Centrelink social worker to prove vulnerability, not the income recipient to prove compliance.

The limits of this exemption option were demonstrated in the Sydney consultation when we were told that forward estimates had been calculated on assumptions that only 10 per cent of those covered would be exempted. It was not clear whether this was because few would apply for exemptions or that those who did would fail to comply. We ask that this be immediately clarified. If this low level of assumed exemption suggests that either few will choose to go through the hoops or most would fail to prove competence, either the process is too onerous or the bar is set too high.

We recognise that the government's policies assume high levels of dysfunction and see IM as facilitative and supporting better outcomes. The basis for these assumptions is unclear because the material submitted to related inquiries, including recipients and providers of welfare services suggests that IM is not seen as facilitative but punitive and therefore shaming.

The groups of women in Central Australia who are said to favour compulsory IM see it as offering support, but their views are situation specific and should not be generalised. We support the extension and simplification of the processes of voluntary IM for both individuals and communities that want it. This could be done in a way that provides protection for the women who want it without imposition on the wider community. Given the overwhelming negative reactions to the program and process

so far, it is important that compulsory IM is clearly restricted to those who need it or want it.

This approach would be consistent with official statements on exemptions that say the process is to there to ensure IM is only for those needing it. Therefore, the criteria for exemption and inclusion need to be carefully structured to ensure that people who do not need it do not stay on it. At present, the documentation suggests the official view is to take no risks and ensure that people are managing extra well and tick all the boxes before exemptions are granted.

Generally, the primary aim should be to set goals to reduce the proportions of those in receipt of IM not to increase recipients. A standard review process should be established to ensure that those neither needing nor wanting IM should be able to terminate the process easily using the following:

- Initially, all recipients should be asked whether they want to apply for an exemption during their interview
- A quarterly letter should be sent reminding recipients they can apply for exemption at any time and set out the criteria for doing so
- An initial target for exemptions of 25 per cent should be set for the first 12 months as it is unlikely that more than 75 per cent of compulsory recipients will be captured with this target increased annually.⁷⁸

There was a singular lack of response by FaHCSIA to the many issues raised above. There are wider questions about how well most of us manage money and whether the assumptions behind the vulnerability were far too broad and culturally limited. In particular, the expectation and definition of good financial management by people on incomes below the poverty line is inherently problematic, particularly when the standard is being able to pay essential bills when the income is inadequate.

⁷⁸ Terry Priest and Eva Cox, A Response to the Social Security and other Legislation Amendment (Welfare Reform and Reinstatement of Racial Discrimination Act) Bill 2009, Why the proposed bill should be delayed? (2010).
<http://www.jumbunna.uts.edu.au/researchareas/submissions.html> at 30 August 2011.

PART C: EXPANDING THE PROGRAM

The Government has its legislation in place and Australia has seen a major shift in welfare policies for all. Income management is now de-racialised and in force in the whole of the NT in its new form. The WA scheme has just been funded for a further 12 months to June 2012, Cape York continues and in the May 2011 budget the Federal Government announced the further five income management sites to start in June 2012 which include Shepparton, Bankstown and Logan.⁷⁹

There is no doubt that the Howard Government used the original ‘emergency’ status of the program and its targeting of 73 Aboriginal communities as a shield for moving towards policies it had long sought to impose. This was evident from then-Minister Tony Abbott’s current enthusiastic support for the extension, and from the fact that the two Coalition members on the Committee only dissented from the ALP members by stating that there were too many exemptions for aged and disability pensioners. The use of Aboriginal communities as both guinea pigs and stalking horses meant that the rest of Australia, including the welfare sector, were less likely to make a fuss than if other groups had been targeted.

The Northern Territory rollout

The NT has become the first non-racially based area to be targeted. A statement by the NT Council of Social Services in April 2011 summarised some recent data on income management:

Income Management in the NT - 28.3.11 Pre ACOSS Conference

As at: 17 June 2010 there were approximately 15,500 people were subject to the compulsorily income managed across 73 prescribed communities, many outstations and numerous town camps.

A new, non-discriminatory model of income management was introduced on 1 July 2010. Initial rollout of new IM Regime began: Barkly Region (9.8.10); Alice Springs (30.8.10); Top End (4.10.10)

As of 31/12/10 there were 16,350 people on Income Management in the NT (sometimes referred to [‘participating in’ income management]) Centrelink refer to people being eligible for IM. Customers don’t see themselves as eligible for IM, but see that they are put on IM.

As of 8 March 2011 at a FaHCSIA stakeholders forum (Alice Springs, NT) the following statistics were made available. Approximately 14,000 people have been transitioned onto the new IM model, 7877 people who were previously subject to Income Management have exited. Of the 7877 who exited compulsory IM under the NTER, 4653 or 59% of people had chosen to continue on IM under the voluntary

⁷⁹ Kate Ellis MP, ‘New approaches to address disadvantage in targeted communities’(Press Release, 10 May 2010).

measure. 122 new people have commenced on VIM, who were not previously on IM = total 4775.

1754 people had been granted an exemption from the new model of IM on the following grounds:

- Category 1 - 842 people were granted an exemption under the 'parenting' category;
- Category 2 - 29 people were granted an exemption under the 'paid employment' category;
- Category 3 - 869 people were granted an exemption under the 'paid employment' Category 1; and
- Category 4 - 8 people were granted an exemption on the grounds they had commenced an F/T apprenticeship.⁸⁰

A media report of a Senate Estimates Committee hearing said that just under 25 per cent of the exemptions granted were to Aboriginal people.⁸¹ However, there are no figures on how many people have sought an exemption but been refused.

The above data raise questions on whether the 69 per cent who have 'chosen' to stay on the payments have really chosen to stay, and why only 25 per cent of exemptions were Aboriginal applicants when an estimated 94 per cent of income management recipients are Aboriginal.

An article by Paddy Gibson, a researcher at Jumbunna, published on *Crikey*, describes an example of process that casts further serious doubts as to whether the recipients who stayed on income management were given real choices.

Business as usual under Labor's 'new' income management

The new system of income management designed by the federal Labor government has been progressively rolling out across the Northern Territory since the start of August. The new system is allegedly "non-discriminatory", applying to all welfare recipients across the NT and potentially Australia. It is also supposed to soften the grip of income management on "prescribed" NT Aboriginal communities. On paper, people on aged and disability pensions are now exempt.

Implementation of these reforms, however, has just meant one more round of racist, humiliating interaction with government bureaucracy for communities suffering under the intervention. Centrelink is doing all it can to keep Aboriginal people on the system.

Last Friday, September 17, I went into Centrelink with some elderly women from Ilparpa town camp on the southern fringe of Alice Springs. These women have long complained about the BasicsCard making it harder for them to access their pension and deeply resent their lives being taken over by the NT intervention.

⁸⁰ Northern Territory Council of Social Services, *Income Management in the NT*, (Presented at an ACOSS Conference 28 March 2011).

⁸¹ 'People moving off income management in NT' *Sydney Morning Herald*.
<http://news.smh.com.au/breaking-news-national/people-moving-off-income-management-in-nt-20110224-1b6w5.html> 24 February 2011.

Centrelink has been telling Aboriginal organisations in Alice Springs that 70% of Aboriginal pensioners in Tennant Creek and the Barkly region have "volunteered" to stay on the new income management system. After our experiences on Friday, I'm genuinely amazed that 30% managed to escape.

Over the next four years, \$350 million is being spent on income management in the NT alone. A reasonable slice of this must be being spent on marketing. Alice Springs Centrelink is full of advertisements promising good health, pride and happiness for those on the BasicsCard.

May, who is 76, asked me to come and sit in at her interview with the Centrelink officer. Fluent in several Aboriginal languages, she speaks only broken English. The man behind the counter was friendly.

"How can I help you today, May?" "BasicsCard." "You want to check your balance on your BasicsCard?" "No, the BasicsCard is no good. I want to stop." "Oh, your BasicsCard isn't working. No worries I'll get you a new one."

There are so many problems with BasicsCards not working that Centrelink hands replacements out like lollies. He came back with a shiny new card, gave May a form to sign (which she did) and got her to punch her preferred pin number into the computer.

"OK, that's it today then?" I said, "excuse me, but isn't there a new system operating? Perhaps you could get an interpreter to explain to May what her rights are if she wants to come off the BasicsCard?" "Look I'm just not doing that any more. Only two of the 30 or so people I asked actually came off, because if they stay on they get a bonus." He was referring to a \$250 "incentive" payment that pensioners will get every six months if they decide to sign up for "voluntary income management". The Ilparpa women had heard this payment was being offered to other people and dismissed it as a "bribe". But it's a lot of money for any struggling family.

There was no Warlpiri interpreter available, so May talked straight for herself. "I want cash. BasicsCard is rubbish. I am a non-drinker and I don't gamble, I'm a Christian woman." This began a 15 minute tug of war, with the Centrelink officer pulling out several stops to try and convince May to stay on the card. He turned around his computer to show May the list of "essential items" she could spend her BasicsCard on.

"I get paid wages, but I have to buy clothes and food too. See, it's no different. It's like we're all on income management really." "I want cash," she kept insisting.

"I've worked with communities for 25 years," he was talking to me now. "People come under a lot of pressure to hand their money over to their family." May said: "I can look after my money. I don't give it out. I need cash."

He tried one last angle, "well if you come off the system, we won't be able to pay your rent anymore." Before income management, many Aboriginal people had their rent deducted directly from Centrelink under a voluntary system called Centrepay. Apparently, this is no longer an option.

Asking questions, we found out that you can arrange direct deduction by talking with NT Housing. But Centrelink will not assist to make these arrangements unless you stay on the BasicsCard. Worn down by the argument, the Centrelink staffer did not actually know how to take May off the system. It took three staff crowded around his

computer for another 15 minutes before everything was sorted. One was a supervisor, who asked the Centrelink officer if he was sure May wasn't "vulnerable".

Pensioners assessed by front-line Centrelink staff as being "vulnerable to financial exploitation" can be kept on the new system against their will. Racist assumptions about Aboriginal people being unable to look after their money continue to underpin income management. Two other Iparpa pensioners were not as lucky as May with their negotiations and are still on the card.⁸²

The article goes on to describe other people's similar experiences, suggesting that the 'choice' to remain on income management may not be the sign of satisfaction that Centrelink and FaHCSIA like to claim.

Evidence emerging post legislation from other income management programs

Further evidence, after the passing of the legislation, has also cast doubt on the effectiveness of income management schemes. Since income management was extended there have been new evaluations and reports on the other two 'pilot' schemes, in Western Australia and Cape York (Queensland). Each report has been greeted by the Minister as additional evidence of the effectiveness of income management programs. However, closer examination of the reports reveals that they do not contain evidence to substantiate the Minister's claims.

In October 2010 Minister Macklin issued a press release which began:

An independent evaluation has shown the Australian Government's trial of child protection and voluntary income management in Perth and the Kimberley is having a positive impact on the wellbeing of children and families in Western Australia. Since November 2008, the Australian Government, in cooperation with the Western Australian Government, has been trialling compulsory income management in cases of child neglect. Under the trial, the Department of Child Protection can refer people to Centrelink for income management to help ensure that children are being properly cared for.

In addition, people living in the trial areas are able to volunteer for income management to assist them to improve their budgeting and money management skills. The evaluation shows income management is helping to improve the lives of families in Western Australia by ensuring welfare is spent where it is intended - on the essentials of life and in the best interests of children. Sixty-one per cent of child protection income management participants and 67 per cent of voluntary income management participants surveyed thought that income management had made their children's lives better. While on income management participants reported spending more money on fresh food and clothing.⁸³

The evaluation in question was conducted by the consulting firm Orima

⁸² Paddy Gibson, *Business as usual under Labor's 'new' income management* (2010) Crikey.

⁸³ Jenny Macklin, MP 'Income management is improving lives in Western Australia', Press Release 8 October 2010.

http://www.jennymacklin.fahcsia.gov.au/mediareleases/2010/Pages/Income_management_WA_08_oct_2010.aspx at 30 August 2011.

Research,⁸⁴ and our examination of their report showed some serious methodological flaws. The least reliable data in such an evaluation is the responses of the participants, who are under some pressure to retain their benefits. The responses are to pre-coded questions which, given that the participants know the purpose of the survey, may encourage responses geared to interviewer expectations. Respondents were also paid \$50 which may also affect their desire to please the survey sponsor.

Additionally, the number of interviewees was limited (only 149 interviews across three samples and two sites), so standard errors are high (12 per cent +). There were no independent outcome data, because all the statistics offered based on opinions of participants or service deliverers. Nor were any data included from store records, medical examinations, case files or bank accounts.

The so-called focus group stage was apparently highly structured and numbers were too limited to be useful as more than a vague indicator. The results are therefore to be treated as interesting but not reliable enough to serve as proof that the income management program is improving children's lives. Differences in responses from the 'control group' may be sometimes statistically significant but are sufficiently slight to be no more than interesting. As the control group also reports some improvements in money management, questions arise as to what effect may have been due to other interventions such as financial counselling, budgeting and other support which was provided alongside income management.

Interviews with staff involved in delivering the income management program show their firm conviction that the program is working, but this is not reliable because they have a vested interest in claiming that their clients are benefiting. This is where material should have been collected from case records – for example, recorded actual changes in behaviour, financial records and store spending data would be necessary to validate such potentially self-interested claims.

Despite all these methodological biases in favour of FaHCSIA, the results show relatively small improvements and some negatives as well. The best the consultants could seriously claim from this research was that, when asked, most of the compulsory and voluntary participants felt they had gained something from the program; and some (but not all) ex-income management participants, claimed they had retained some extra skills.

Similar doubts are articulated in the independent critique by the Western Australia Council of Social Service (WACOSS) of the methods of data

⁸⁴ Orima Research, *Evaluation of the Child Protection Scheme of Income Management and Voluntary Income Management Measures in Western Australia*, (2010). http://www.fahcsia.gov.au/sa/families/pubs/cpsim_vim_wa/Documents/evaluation_of_IM_trials_WA.pdf at 30 August 2011.

collection on the Western Australia program. This program is important to the process of evaluating what works, because the recently announced extensions of income management to five extra sites in Victoria, NSW, Queensland and South Australia was said to be based on the success of the WA model. However, the analysis by WACOSS raises serious doubts about whether the program is having a beneficial effect on participants. These essentially support our comments above in most areas:

Extracts

This paper discusses each research objective of the evaluation and ORIMA Research's findings in relation to the objectives. It should therefore be read in conjunction with the evaluation report. A number of overarching comments and issues are also raised such as the need for additional analysis of the trials using longitudinal, quantitative data as well as qualitative and anecdotal information (the lack of these data have severely limited the ability to evaluate the long term effects on clients and the community services sector); and that the overarching focus of income management should be to assist in breaking cycles of intergenerational poverty and poor financial management and literacy, by being delivered alongside a range of family and individual support services.

The Western Australian Council of Social Service (the Council) has consistently questioned the legitimacy of compulsory income management for a number of reasons, including:

- The curtailment of a client's civil and economic rights;
- The short-term effectiveness of the measure as an intervention particularly when used as an isolated and individualised strategy without other community supports and programs;
- The questionable long term benefits compared to possible negative outcomes and unintended consequences;
- The monetary cost/benefit of implementing and managing such programs;
- The potential negative financial, emotional and social impact on the client, their children and extended family and their broader community;
- The increased demands on community service providers due to income management creating other needs and a lack of resourcing to address those needs;
- The direct racial discrimination of previous targeting of Indigenous communities in the Northern Territory regardless of whether individuals within those communities would be considered in need of income management; and
- The possible indirect race discrimination through the now broader application of the policy beyond Indigenous communities still having a disproportionate negative impact on Indigenous communities

The Council does not, however, oppose the implementation of a voluntary income management program, providing entry into the program is not coercive. Such a program should also be delivered in conjunction with complementary support service programs, not as a standalone initiative.

The Council does acknowledge that the researchers were limited by the short length of time that income management has been trialled thus far, and therefore, the longitudinal nature of well-being indicators and outcomes were most likely beyond

the scope of the commissioned evaluation.⁸⁵

The WACOSS paper also criticised the possible sampling error and other technical aspects of the results which made reliable measures of outcomes difficult and went on to say:

Unintended consequences are a key concern for the Council in regards to income management programs. There is a risk that income management intervention could produce a net worsening of a client's situation. While it has been acknowledged that the program in Western Australia does have some important benefits, these are also associated with strong case management and support services for the families involved. However, the focus on support services may potentially create more demand on associated community services, raising the question of the capacity and resourcing of these services to meet the additional demand.

The Federal Government has implied the report validates the expansion of the Northern Territory income management intervention. The Western Australian Council and the Northern Territory Council of Social Service have previously noted that the narrowly targeted, case-management style program operating in Western Australia bears little resemblance to the blanket roll-out of income management currently underway in the Northern Territory. Anecdotal evidence in the report supports what the Council has argued for some time - limited and carefully targeted voluntary income management applied in conjunction with a range of related support measures works in the short term for some families but not for everyone.

Further research into the short and long term effects and differences between a voluntary and compulsory income management scheme would be helpful for the development of public policy. In particular, research could explore the role that stigma for income management clients plays in take up and compliance; the role of support services and improved, sustainable financial capability when a program is either voluntary or compulsory. Indeed the report's first recommendation is to develop a communications & campaign that positively promotes the benefits of voluntary income management as an active choice. It would also be useful to seek clarity on how the voluntary program compares with the Centrepay scheme and if there are possible improvements to be made in the operation or promotion of either.⁸⁶

Yet the trials continue, and this model of income management is being planned to begin in five extra areas next year. The rationale for the continuation and extension assumes that the benefits are not in question, as is shown in this newspaper article:

Welfare quarantine trial to continue

THE Gillard government will spend an extra \$17.9 million to continue a trial program that quarantines 70 per cent of parents' welfare payments to be spent on necessities such as food, housing, utilities, clothing and medical care in Western Australia.

The government believes the program, which links child protection to welfare

⁸⁵ Western Australia Council of Social Services, *Analysis of the ORIMA Research Evaluation of the Child Protection Scheme of Income Management and Voluntary Income Management Measures in Western Australia* (2011).

⁸⁶ *Ibid.*

quarantining in the Kimberley and the Cannington region of metropolitan Perth, has been a success, and will today announce renewed funding.

This would allow the trial program, which began in 2009, to continue in co-operation with the West Australian government until June 30 next year, Indigenous Affairs Minister Jenny Macklin said yesterday.

"Income management helps families ensure their welfare payments are spent in the best interests of children," she said.

"It ensures that money is available for life essentials, and provides a tool to stabilise people's circumstances and ease immediate financial stress."

Under the trial, which could be extended nationally, the West Australian Department for Child Protection has the power to recommend to Centrelink that income support and family payments be quarantined to ensure welfare is spent in the interests of children. Seventy per cent of parents' welfare payments are set aside to be spent on necessities.

More than 200 people in Western Australia are on child protection income management, with more than 700 people participating voluntarily.

An independent evaluation of the income management scheme in the NT and WA as well as on Cape York will be carried out before the federal government extends the program across the rest of the country.

Income management is part of the Gillard government's commitment to reforming the welfare payments system and supporting people to take responsibility for themselves and their families.⁸⁷

Cape York program

There is no evaluation of the Cape York program but some statistics have been published by FaHCSIA in various reports.⁸⁸ This is a very different program where income management is used as a last resort. The costs of the program are not included in the report, so there is no way to assess cost-benefit. However, this program offers more personal involvement of staff than the NT compulsory universal version. The latter is assumed to cost about \$80 per week per person to administer, so Cape York would presumably cost more, since it is selective and includes financial support staff and child protection liaison for some clients.

The most recent report states it records what is happening in the communities in relation to factors relevant to the Family Relationships Commission

⁸⁷ Patricia Karvelas 'Welfare quarantine trial to continue' *The Australian*, 20 April 2011. <http://www.theaustralian.com.au/national-affairs/welfare-quarantine-trial-to-continue/story-fn59niix-1226041813305> at 30 August 2011.

⁸⁸ See:

<http://www.fahcsia.gov.au/sa/families/progserv/welfarereform/Pages/CapeYorkWelfareReform.aspx> at 30 August 2011.

jurisdiction and other indicators of social function. The findings are limited both by the nature of the data available and by the timing of the Implementation Review early in the reform process. There was little or no discussion on the income management program, except that it had been applied in a few cases of persistent non-school attendance.⁸⁹

The NT Inquiry into the child protection system

Another report to government, similar to the one that triggered the first NTER process, was produced by a Board of Inquiry appointed by the Northern Territory Government to review the child protection system from 2007 to 2010. Although this was not an evaluation of the NTER's effect on child protection, it could have been seen as such, since it covered the child protection situation in the first nearly three years of the Intervention. As it turns out, the Inquiry's report is significant in what it does NOT say about NTER. Despite NTER's original intention having been to address child abuse (particularly sexual abuse), the report makes no mention of NTER or its sub programs. As the report sets out alarming data on the increasing problems of child abuse and neglect in the Territory, the only logical conclusion is that NTER was seen as irrelevant to the protection of children in the last three years. Income management is not mentioned as a currently useful program, nor is it advocated as part of future solution. This omission suggests that income management is not seen as a valuable tool of child protection. Instead, the report emphasises participative work with communities and strengthening programs, as shown in this excerpt:

The Board visited a number of Aboriginal communities around the Territory and heard directly from community members.

The Board drew on the recommendations of other recent Inquiries and Coronial hearings; looked at interstate and overseas child protection models; conducted its own research; and sought additional information as required to inform the Inquiry.

The Board of Inquiry has completed its work and the Report was handed to the Chief Minister on 18 October 2010.

A driving concern for the Inquiry is the significance and sensitivity of matters to do with Aboriginal communities in the Northern Territory. In particular, the Inquiry is mindful of the often very negative public attention focused disproportionately on Aboriginal communities and families in recent times and the critical nature of the contemporary vulnerabilities of Aboriginal children and young people. Simultaneously, the Inquiry is aware of the strength, energy and effort that it could capitalise on in relation to Aboriginal cultural practice principles that have been articulated in national and international publications in recent years.

These are incorporated in the procedural work of the Inquiry and formed the foundations for thinking through the requirements for developing a system that cares

⁸⁹ See: http://www.fahcsia.gov.au/sa/indigenous/pubs/evaluation/Pages/review_of_frc.aspx at 30 August 2011.

for and protects children, including the mechanisms for implementation. The Inquiry lists the following important universal premises – most of them with a strong research and value base:

- Every child deserves the opportunity to reach her/his potential, to be safe and to lead a fulfilling life;
- Family and community are pivotal for the care, nurturing, development and protection of children;
- A safe and permanent home for children with family and in community provides the best place for children’s growth and development;
- Most parents (men and women) and families care deeply about their children however they cannot do the work of child rearing alone and need community assistance to grow children well;
- Family efforts to care for and nurture their children are profoundly affected by the social and economic environment and health of the place in which they live;
- Some, possibly many, families and communities do not have the wherewithal or the capacity to provide the care that children need: none can do it on their own; and
- Some children cannot remain in the care of their families and if so, the state, on behalf of the people, has a moral duty to provide the best possible alternative care environment for them – one that enables them to stay connected with family and culture.⁹⁰

This summary indicates an implicit critique of the top-down processes of NTER. We assume there was no evidence given of its benefits and the Board tactfully left out any negative comments. Certainly the FaHCSIA program would not meet the criteria listed above. The omission seemed to stir a response from Macklin’s office, with a whiff of annoyance detectable in the Minister’s announcement that compulsory income management would be extended to cover anyone notified under child protection legislation in the NT.

In a media release on 18 October 2010 Macklin stated:

As part of the current roll out of the new income management scheme in the NT, the Australian Government has introduced child protection income management to improve parental responsibility. Income management ensures that welfare is spent, first and foremost, in the interests of children on food, clothing and housing. NT child protection workers now have the authority to instruct Centrelink to income manage 70 per cent of parents' income support and family payments to ensure welfare is spent in the interests of children.

The Australian Government wants this measure to be used by NT child protection workers in cases of child neglect. To support and encourage this measure, the Australian Government will provide an additional \$25 million over four years for new family support services in remote communities. This funding is dependent on the NT Government's increased use of child protection income management.⁹¹

⁹⁰ M. Bamblett, H. Bath and R. Roseby, Northern Territory Government *Growing them Strong, Together: Promoting the safety and wellbeing of the Northern Territory’s children*, Report of the Board of Inquiry into the Child Protection System in the Northern Territory (2010) http://www.childprotectioninquiry.nt.gov.au/report_of_the_board_of_inquiry at 30 August 2011.

⁹¹ Jenny Macklin MP, ‘Bath inquiry into the Northern Territory child protection system’

Could this last sentence be seen as a threat to an obviously unappreciative NT government? The NT report certainly implicitly condemns the Intervention's way of doing things by its failure to even suggest the Commonwealth programs were or could be useful.

The proposed income management evaluation

The latest development in the evaluation of income management has been the announcement that the extended NT program, known as the New Income Management (NIM), is to be evaluated. The evaluation framework document, prepared by the Social Policy Research Centre at the University of NSW, sets out the FaHCSIA parameters for the study, which must:

- Be completed by December 2014
- **Provide information on the implementation of the NIM in the Northern Territory by the end of 2011 in order to inform decisions about an expansion of the model beyond the Northern Territory; (our bold)**
- Result in data being collected that can be used to evaluate short, medium and, where possible, longer-term impacts/outcomes of new income management; and
- Include a set of ethics guidelines and an ethical clearance strategy relevant to this evaluation project.⁹²

The proposal is for an evaluation over a long period, for three and a half years between 2011-2014. However, decisions on expanding income management to other jurisdictions will be made on the basis of information gathered by the end of 2011. As the contract for evaluation was awarded in mid-2011, this allows only about six months to gather the evidence that will prove whether or not the program is effective.

The terms of reference suggested that the Government has already decided to extend the geographic scope of income management, beginning in early 2012, as was later shown in the 2011 Budget. This would be consistent with the Prime Minister's stated intention of clamping down on welfare payments and pressuring people into paid – however poorly – work, marking a paradigm shift from welfare rights to conditional welfare.

Such a decision would also be in keeping with the government's longstanding practice of moving forward with income management, regardless of the evidence – all the while proclaiming its policies to be evidence-based.

(Press Release 18 October 2010).

http://www.jennymacklin.fahcsia.gov.au/mediareleases/2010/Pages/bath_inquiry_NT_child_protection_system_18oct10.aspx at 30 August 2011.

⁹² Department of Families, Housing, Community Services and Indigenous Affairs, Social Policy Research Centre and Australian Institute of Family Studies, *Evaluation Framework for New Income Management*, (2010).

Unfortunately for the disadvantaged population in the rest of Australia, this expansive evaluation is unlikely to avert any further disadvantage that may eventually be caused by nationally implemented income management, because evidence from the three and a half years evaluation is unlikely to affect or inform this government's actions. The extension appears inevitable despite the serious questions raised about whether income management was effective as part of the Intervention, and whether the administrative cost of income management (around \$100M per annum) could be better spent on other services for this group.

The framework document identifies some of the difficulties involved in evaluating a program like this at such a relatively late stage, which raises questions on the value of the process:

- The difficulties of defining common 'problems' in such diverse groups, particularly as many issues do not relate clearly to their financial management;
- This means it is very difficult to set outputs and outcomes to measure because the common problems may not exist (see below);
- The problems many would manifest in the compulsory category of benefit groups may not relate to personal difficulties in managing financially, but reflect the inadequacy of benefits that may not meet basic costs in urban settings;
- There are indications that criteria for exemptions set income management possibly high standards which will discourage people from applying;
- As most of these groups are also involved in other programs, often as part of the above categorisations, can research tell what changes are causal?
- As some have been on already for three years plus and some only a few weeks, how and when can relative changes be measured?
- What culturally appropriate measures are there to assess possible negative effects of shame and anger at being targeted in this way?⁹³

The document also illustrates the difficulty of finding evidence from any other examples of income management type programs which might be helpful for Australia to consider. A literature review produces scant results, offering little evidence that conditional welfare works as a national policy in developed countries. Of the 13 examples quoted, many are relatively small programs, often temporary and established in very different circumstances. The only national programs cited in developed countries are the US food stamps and Temporary Assistance to Needy Families programs; there is also a short-term private program in New York and another in Canada. The other nine programs cited are all in developing countries: Malawi, India, Bangladesh, Brazil, Columbia, Mexico Honduras, Guatemala and Nicaragua, dealing with very different problems and cultures, let alone economic systems.

These are odd countries for Australia to use as examples. The designs and problems faced (for example high birth rates and malnutrition) are not necessarily related to Australia. Thus, apart from some questionable benefits

⁹³ Ibid.

from the US programs, no developed, comparable welfare states have adopted such massive changes to their welfare systems.

Even the government acknowledges income management data in its latest progress report published in December 2010 but fails to record where data shows the situation is worse.

Monitoring

Much of the data in this Monitoring Report focuses on output measures such as increased police presence. The report also goes beyond this to look at the incidence of reported crime. However, these data are limited because crime may be under-reported and because factors such as increasing the number of police can result in an increase in reported crime. At present, this makes it difficult to determine if the actual incidence of crime remains unchanged or may have fallen.

While policy interventions designed to improve the operation of communities can have a significant immediate effect, this is the exception rather than the rule. It will take a concerted effort over many years to achieve significant lasting change. While it is difficult to report on outcomes in this early stage, some outcome data, such as number of jobs created under the Jobs Package in communities, are included in this report.⁹⁴

This suggests the government is at least aware that it lacks data to prove things are working. The report's few data items suggest that school attendance and literacy have not improved, income management has proved, and unemployment is higher. The NT report makes it clear that children at risk rates are not improving. However, the bravado in government speeches and media releases denies this possibility.

The next stage

The current NTER legislation lapses in June 2012, so the Federal government must decide what its next steps should be. The discussion paper *Stronger Futures in the Northern Territory* released in June 2011, shows that the government has still not learned that 'resetting the relationship' requires genuine joint decision-making, not just limited consultations. The Minister's foreword states:

The views of people living in the Northern Territory will be at the centre of shaping what we do next to tackle the unacceptable level of disadvantage still experienced by too many Aboriginal people in the Northern Territory.

Through our efforts and investments over the past four years, we have made some progress. When I speak with people in remote communities and in towns like Alice

⁹⁴ Department of Families, Housing, Community Services and Indigenous Affairs, *Closing the Gap in the Northern Territory Monitoring Report – July to December 2010* (2010) http://www.fahcsia.gov.au/sa/indigenous/pubs/nter_reports/closing_gap_NT_jul_dec_2010/Pages/default.aspx at 30 August 2011.

Springs, particularly women, they tell me that they and their families feel safer, their children are better fed and clothed and less money is being spent on alcohol and gambling.

But there is still much to be done and we know that governments cannot create stronger futures without community support and individual determination.

I have heard from many people that the way the Northern Territory Emergency Response was introduced by the previous government, without consultation, has caused ongoing anger, fear and distrust among Indigenous people and communities.

I believe that we must work in partnership with Aboriginal people, leaders and communities as we develop directions and policies for our future work in the Northern Territory.

Now is the time for us to examine what has been achieved in the past four years, looking at what has worked well and where income improvements can be made. The government will be talking with Aboriginal people in the Northern Territory over the coming months. I encourage everyone to get involved in these discussions so that we can build stronger futures together.⁹⁵

This new round of ‘talking’ started immediately after the paper was published, with the process again in the hands of government officials. The document raised only certain issues for discussion, omitting income management and other topics that had provoked opposition. The limited nature of this process raised considerable concerns including about timing and lack of interpreters. These were expressed clearly by Malcolm Fraser:

Former Liberal Prime Minister Malcolm Fraser has questioned the "unseemly haste" with which the Gillard government is moving to remodel its intervention into Northern Territory indigenous communities. Mr Fraser has also criticised the government for having failed to account for the consequences of the intervention, triggered in 2007 after the "Little Children are Sacred" report...

Yesterday, Mr Fraser, who visited the territory in February and attacked the intervention as "paternalistic and demeaning", said a 28-page booklet released last week to guide consultations included no detail of the results of the existing intervention.

For example, Mr Fraser said, there were no measures of whether school attendance had increased or details of reductions in child abuse. "How can the government embark on consultations for the years ahead when it is not even prepared to lay out the facts of what has happened over the last four years?" Mr Fraser said. "To talk sensibly about the future, we need a full and proper audit of what has happened over the last four years of a paternal and Canberra-centric process."⁹⁶

⁹⁵ Australian Government *Stronger Futures in the Northern Territory Discussion Paper* (2011) <http://www.indigenous.gov.au/index.php/no-category/stronger-futures-in-the-northern-territory-discussion-paper/>

⁹⁶ Mathew Franklin, ‘Malcolm Fraser slams lack of intervention audit’, *The Australian*, <http://www.theaustralian.com.au/national-affairs/malcolm-fraser-slams-lack-of-intervention-audit/story-fn59niix-1226083067554> 28 June 2011.

There are many other objections, but an Aboriginal voice should have the last word:

Aboriginal elder Djiniyini Gondarra has also written to Ms Macklin, urging the government to remove the words “intervention” and “emergency response” from any future initiative. “The Aboriginal people in the 73 prescribed communities of the NT do not welcome any further consultation with the government until it acknowledges the failures of the current intervention,” Dr Gondarra said. He said it was vital for the government first to establish a “diplomatic and respectful dialogue” with traditional law-makers in the remote communities.⁹⁷

⁹⁷ Milanda Rout ‘Gooda leads call for more time on next step of intervention’, *The Australian*.

<http://www.theaustralian.com.au/national-affairs/gooda-leads-calls-for-more-time-on-next-step-of-intervention/story-fn59niix-1226083770793> 39 June 2011.

CONCLUSION

The *Little Children are Sacred* report, released in April 2007 with its allegations of sexual abuse in Indigenous communities, was used by the Howard government to justify the Intervention. Yet, despite massive expenditure, mainly on administration and delivery costs, official statistics suggest the situation is worse four years later for the children concerned and for many others affected by the programs.

This article has traced the various processes of collecting ‘evidence’ for the current government’s policy of income management. A wealth of material has been gathered through these processes, including *Little Children are Sacred*, submissions to the Yu review and the report of that review, a large number of comprehensive submissions to the Senate Committee, as well as a range of independent reports – yet all of this appears to have had little influence on government policymaking. The fact that this lengthy and expensive process, involving so much time and effort by so many organisations, has had so little influence calls into question claims managements by the current government to even understand the basis for evidence-based policy-making.

Despite government claims managements of ‘evidence’ for the benefits of the new program, its own evaluation proposal makes it clear the evidence is not there. This was also the view of the Senate Inquiry: even the government’s Majority Report suggested that the lack of evidence needed to be addressed before income management was further extended to other areas and groups.

The following list of sins is from an early critique of the scheme by Aboriginal groups opposing it, and there is no serious evidence to refute their claims managements:

Proposals by government to quarantine 50% of the income of indigenous people living in remote communities in the NT is seriously flawed. It is:

- Punitive;
- Highly intrusive and paternalistic;
- Administratively very expensive and cumbersome;
- Discriminatory
- It removes responsibility from people to look after themselves or their children/old people - the state will do this through breakfast programs, food stamps, or whatever;
- It does not foster behaviour change or more appropriate prioritisation of expenditure;
- It does nothing to stop ‘immediate consumption’ on non-essentials (tobacco, alcohol, drugs, gambling, soft drinks, take-away foods, etc.) with the remaining 50% paid in cash;
- It does nothing to stop ‘humbug’ or intimidation to access the remaining 50% paid in cash; and
- It penalises individuals/families who are acting responsibly.

Significantly it has required the abolition of the CDEP program so it can be

implemented – penalising those who make the effort to work and earn ‘top up’, not to mention the impact on community services.⁹⁸

The broad lack of support for income management is clear in the summary of the submissions to the Senate Committee (Attachment 2) and no substantial additional data has since emerged to support the government policy directions since. In fact, the child protection report commissioned by the NT government cast serious doubts on the NTER as a child protection effort.⁹⁹

The United Nations Human Rights Commissioner, Navi Pillay also commented:

I welcome the advances the government has made in addressing some of the disadvantages faced by Aboriginal and Torres Strait Islander peoples. In particular, I welcome the National Apology and Australia’s formal recognition of the UN Declaration on the Rights of Indigenous Peoples, along with the significant investment being made to improve Aboriginal and Torres Strait Islander health and education. However, I believe these efforts are being undermined by policies that fail to recognise the right to self-determination for indigenous people, which is a key element of the UN Declaration.

In my discussions with Aboriginal people, I could sense the deep hurt and pain that they have suffered because of government policies that are imposed on them. I also saw Aboriginal people making great efforts to improve their communities, but noted that their efforts are often stifled by inappropriate and inflexible policies that fail to empower the most effective, local solutions.

I would urge a fundamental rethink of the measures being taken under the Northern Territory Emergency Response. There should be a major effort to ensure not just consultation with the communities concerned in any future measures, but also their consent and active participation. Such a course of action would be in line with the UN Declaration.¹⁰⁰

A question of evidence

Mainstream conversations on remedying Indigenous disadvantage seem to often end with exasperated statements along the lines of ‘nothing seems to work!’ The belief too often is that initiatives and expenditure fail because of inherent problems with Aboriginal cultures. Most people do not consider that

⁹⁸ Laynhapuy Homelands Association Inc., ‘Submission to Senate Standing Committee on Legal and Constitutional Affairs Inquiry into the Appropriation (Northern Territory National Emergency Response) Bill (No.2) 2007-2008’

http://www.aph.gov.au/Senate/committee/legcon_ctte/completed_inquiries/2004-07/nt_emergency/submissions/sub38.pdf

⁹⁹ Orima Research, *Evaluation of the Child Protection Scheme of Income Management and Voluntary Income Management Measures in Western Australia*, (2010).

http://www.fahcsia.gov.au/sa/families/pubs/cpsim_vim_wa/Documents/evaluation_of_IM_trials_WA.pdf at 30 August 2011.

¹⁰⁰ Navi Pillay, Press Conference by United Nations High Commissioner for Human Rights, Canberra, 25 May 2011.

<http://www.un.org.au/News.aspx?category=1&element=47&PKID=399>

the problems may relate to government failures to make use of available evidence about what does work. Political attitudes too often fail to take into account the cultural and social factors increasingly recognised as significant – including structural inequalities, the effects of past experiences, and social determinants of health, as recognised in the recent WHO report on the Social Determinants of Health.¹⁰¹ These debates are not new, and we have criteria for success developed by local pillars of policy gravitas such as the Chair of the Productivity Commission¹⁰² and the Australian Institute for Health and Welfare.¹⁰³

Popular stereotypes are fuelled by the ample media coverage of failure stories and the limited coverage of successes. This affects governments' ability to develop and income implement effective policies and programs, especially since politicians often subscribe to popular stereotypes and need to cater to the media. Rather than seeking evidence-based solutions, too often governments fail to show leadership in contentious public areas, allowing themselves to be limited by general lack of public understanding of the issues. The current debate on the effects or otherwise of income management clearly illustrates how difficult it is to convince governments to use evidence for making welfare policies work for Indigenous Australians.

Aboriginal communities have endured a long history of policy failures, and ambivalence (to say the least) about these recent initiatives. Aboriginal eligibility for income support is relatively recent; and it is easy to target communities where the cash-based economy is less entrenched than elsewhere in Australia. After all, it was not so long ago that Aboriginal workers were paid wholly or partly in rations. However, removing the right to spend one's income by quarantining half has the effect of infantilising recipients. This was a very substantial policy change, especially since the decision was based on location rather than on any evidence of bad spending by the individuals covered. Therefore, seeking out evidence to prove the value or otherwise of such dramatic policies should have been a priority for government.

Defining what should be counted as evidence in this case involves clarifying many factors that have limited government expertise in Indigenous policy making. These include residues of colonisation as well as local lore and other cultural factors that have been devalued and undermined – core collectivist

¹⁰¹ World Health Organisation, 'Social Determinants of Health', http://www.who.int/social_determinants/en/

¹⁰² Banks, G., *Evidence-based policy making: What is it? How do we get it?* (Paper presented at Australian National University Public Lecture Series, Canberra, 4 February 2009). http://www.pc.gov.au/_data/assets/pdf_file/0003/85836/20090204-evidence-based-policy.pdf (ANU Public Lecture Series, presented by ANZSOG, 4 February 2009)

¹⁰³ Australian Institute of Health and Welfare, *What Works to Overcome Indigenous Disadvantage - Closing the Gap series* (2011). http://www.aihw.gov.au/closingthegap/documents/annual_papers/what_works_to_overcome_disadvantage.pdf

connections and responsibilities, versus Western individualism which denies social and communal mores that are legitimately different from dominant viewpoints.

The consistent failure of governments in Indigenous policymaking raises questions about whether the dominant definition of ‘evidence’ can limit perceptions of what is happening and produce selective perceptions of what could support good policies. Since so little of the evaluation and data collection has been done by Indigenous groups and other independent (not government-funded) organisations, it would seem particularly important to look for counter-evidence, not just ‘proof’ that the government’s program works. As a long-time academic researcher, I looked carefully for any clear, reliable and valid evidence that income management is working, to counter my perception that the current policies and their delivery may be wrong. This rigour is not evident in government processes: the policy decisions being made do not reflect the limits of the evidence available, and yet the program is expanding.

The government's new discussion paper, *Stronger Futures in the Northern Territory*, is claimed to be the basis for a new ‘conversation’ over the coming months. According to the blurb, ‘The paper looks at where the previous response worked, where it could be improved and what the future priorities are...’¹⁰⁴ However, history suggests that the government cherry-picks the occasional vaguely positive figure – such as staffing levels or the numbers of meals delivered – but fails to report negative findings in its own data.

Part of the problem is the widespread assumption that Indigenous progress necessarily means moving toward mainstream lifestyles and values. The term Closing the Gap, despite good intentions, can exacerbate problems by reinforcing the notion that ‘gaps’ always represent deficits in Indigenous societies and assuming that change needs to come entirely from Indigenous individuals and communities. If failure to adjust to mainstream lifestyles is seen as the problem, the policy solutions of dominant groups are very likely to undermine the strengths and benefits of established cultures and laws and erode communalities and cultural responsibility in less powerful communities.

Pat Anderson and Rex Wild QC, who wrote the *Little Children Are Sacred* report that triggered the Intervention four years ago, do not support the government’s view that much is being achieved; they have called for the current programs to be scrapped. Yet the system of control over incomes is now legislated for all!

¹⁰⁴ Jenny Macklin MP and Julia Gillard PM, ‘Delivering a better future for Indigenous people in the northern Territory’, (Press Release 22 June 2011).
http://www.jennymacklin.fahcsia.gov.au/mediareleases/2011/pages/delivery_better_future_in_dig_22062011.aspx

POSTSCRIPT

The following report was published as this Journal issue was being finalised. The research on *Women's Experience of Income Management in the Northern Territory* was prepared by Equality Rights Alliance, one of six National Women's Alliances funded by the Federal Office for Women. As part of its brief to report on women's views on policy it collected views of women on income management in Alice Springs and Darwin this year. A series of focus groups and interviews engaged a total of 183 women with direct experience of income management, who completed surveys and/or participated in some discussion groups and interviews. This total number exceeds the samples of other surveys covered in this document.

To quote from the summary:

The survey and group discussions offer a range of views from the women affected by the BasicsCard Income Management nexus. There are some key concerns that were widely expressed by the women who took the time to give us their views. One area of concern was the apparent lack of understanding of most participants as to the purpose of the program or why they were on it. Most women said it had had little or no effect on what they bought, and many said the card added to the difficulties and costs of paying for goods and services.

Some found benefits, such as saving and budgeting, and less humbugging, but they were very much the minority. Women raised concerns about not asking for Centrelink help to exit abusive relationships because they don't want to be referred for Income Management. Most women say they do not want to tell Centrelink if they have problems.

As stated above, this is not an evaluation of the program itself, but a measure of how a relatively large number of women report their experiences. The discomfort many report about being seen to use the card is also a matter of concern. The loss of a sense of respect and dignity is damaging to women, and can impact on their capacity to care for others. Nearly three quarters of women said they do not feel safer. While some women report seeing less fighting since the introduction of Income Management, others report seeing more petty crime to obtain cash. More research is needed to clarify the effect of Income Management on crime and violence levels in the community, but it is clear that Income Management has not changed the perception of safety for the women who participated in this research. The perception of the majority of women was that Centrelink and others in their community do not respect them, and consider them to be not competent with money or as parents.¹⁰⁵

This study further indicates problems with the program. It reinforces concerns about possible negative income impacts of income management that are not being given due weight in its continuation and expansion.

¹⁰⁵ Equality Rights Alliance, *Women's Experience of Income Management in the Northern Territory* (2011) www.equalityrightsalliance.org.au

ATTACHMENT 1

A timeline of significant events leading up to and during the intervention

2006

15 May – ABC’s *Lateline* reports on the sexual abuse of Aboriginal children in Northern Territory (NT) communities.

22 June – The NT Government announces they will establish an inquiry into child sexual abuse in NT Aboriginal communities.

8 August – NT Chief Minister appoints Rex Wild QC and Patricia Anderson to the NT Board of Inquiry into the Protection of Aboriginal Children from Sexual Abuse.

2007

30 April – *Little Children are Sacred*, report of the NT Board of Inquiry is presented to the NT Parliament.

15 June – *Little Children are Sacred* report is publicly released and concluded that sexual abuse of children in Aboriginal communities had reached crisis levels, demanding that it *...be designated as an issue of urgent national significance by both the Australian and Northern Territory governments.*

21 June – Prime Minister Howard announces the Northern Territory Emergency Response (NTER).

17 August – Senate approve the package of legislation: the *Northern Territory National Emergency response Act 2007*; the *Social Security and Indigenous Affairs and Other Legislation Amendment (Northern Territory National Emergency Response and Other Measures) Act 2007*; and the *Families, Community Services and Indigenous Affairs and Other legislation Amendment Act 2007*.

24 November – Change of government with Kevin Rudd becoming Prime Minister.

2008

31 March – Tom Calma, Aboriginal and Torres Strait Islander Social Justice Commissioner, releases his Ten Point Action Plan proposal as a way forward for the Australian Government's NTER.

21 June – One year since the NTER began. Jenny Macklin, Minister for Families, Housing, Community Services and Indigenous Affairs (FaHCSIA),

announces a new \$17.6 million trial over three years. Parents who fail to enrol their children or get them to school regularly will have their income support payments suspended until they fulfil their obligations.

24 July – Rudd government announces BasicsCard to manage the income of all Aboriginal Centrelink recipients in the NT.

8 September – Centrelink begins distributing BasicsCard in the NT.

13 October – NTER Review Board provides review of the first 12 months of the NTER to the Australian Government.

23 October – Australian Government's release interim management response to NTER Review Board's report.

24 November – Income management trials begin in WA estimated to apply to up to 1 000 individuals 2008-09 across the trial locations. The trial gives state child protection authorities the power to recommend to Centrelink that income support and family payments be quarantined and used for the benefit of children.

2009

3 April – Australia supports *UN Declaration on the Rights of Indigenous Peoples*. The Declaration states that, among other rights, all Aboriginal people have the right to self-determination.

21 May – Australian and NT governments release a joint response to the NTER Review Board supporting the majority of the recommendations.

21 May – *Discussion paper on Future Directions for the NTER*.

The government release a discussion paper for consulting with Indigenous NT communities on designing a compulsory income management policy which does not require the suspension of the *Racial Discrimination Act 1975 (RDA)*.

25 May – Australian Government announces proposal to compulsorily acquire Alice Springs town camps.

June–August – Consultations and workshops run by FaHCSIA with Aboriginal people in the NT about future directions of the NTER.

21 June – Two years since the NTER began. Protests against the NTER held around Australia.

26 June – Centrelink records show that 15 182 customers have their payments income managed.

3 July – Australian Productivity Commission report reiterates two key points:

- The need for reliable statistics measuring the effects of government measures, and
- The importance of community ownership of projects and close consultation between community and government.

15 July – People from the Ampilatwatja community walk off their land in protest against the NTER ensuring they are no longer subject to the NTER legislation. In August they seek refugee status from the UN as people displaced from their country.

27 August – UN Rapporteur's statement on the NTER released.

1 November – The government misses the self-imposed deadline to reinstate the RDA in Northern Territory Aboriginal communities.

25 November – Australian government announces that it will reinstate the RDA by 2010.

26 November – The Senate, on the recommendation of the Selection of Bills Committee, referred the provision of Bills to the Community Affairs Legislation Committee for inquiry and report by 9 March 2010.

2010

February/March – Senate Community Affairs legislation Committee holds public hearings after receiving 95 submissions.

24 February – The final report of the UN's special Rapporteur on Indigenous rights, Professor James Anaya, finds the Intervention limits the rights and freedoms of Indigenous people in breach of Australia's international obligations.

10 March – Senate Community Affairs Legislation Committee release their report recommending the Senate pass the government's bills, recommending that:

...the evaluation of the proposed income management measure in the Northern Territory be well-resourced, include community consultation in the design of the evaluation, feature the collection of baseline data prior to implementation, include robust quantitative data analysis and be undertaken by an independent research organisation.

21 June – *The Social Security and Other Legislation Amendment (Welfare Reform and Reinstatement of the Racial Discrimination Act) Bill 2009* is passed by the Senate. This repeals all NTER laws that suspend the operation of the RDA from 31 December. The administration of income management is

estimated to cost taxpayers \$350 - \$400 million dollars over the next four years, or about \$4,000 per person a year.

August – The new scheme is now legally available for all eligible working age recipients of certain income support payments in the NT. Their payments are now category based: time on payments established eligibility for the unemployed, sole parents, some recent immigrants and non-student youth. They could apply for exemptions if they met certain other criteria. Existing recipients who were no longer covered by compulsory schemes were offered incentives to stay on as voluntary income management recipients. It has been rolled out slowly over the past year plus.

2011

May - Budget Statement announces five new income management schemes in NSW.

ATTACHMENT 2

List of submissions and their views for and against income management¹⁰⁶

Submissions received	Position on the proposed extension of IM
Oliver, Mr Andrew Individual who believes current IM model is intrusive.	Oppose
Nicholls, Ms Anthea (Individual) Individual who has worked in affected communities and believes IM is racially based.	Oppose
Northern Territory Council of Social Service (NTCOSS) Supports ACOSS position. Concern about the notable lack of hard data to support Government claims.	Oppose
Yearly Meeting Indigenous Concerns Committee (YMICC) of The Religious Society of Friends (Quakers) in Australia Believes the Government should enact the recommendations of the Ampe Akelyernemane Meke Mekarle 'Little Children are Sacred' Report.	Oppose
Las Casas Dominican Centre	Oppose
National Council of Churches in Australia (NATSIEC) State that their own conversations show that affected people feel 'humiliated and embarrassed by IM'.	Oppose
Settlement Council of Australia National peak body for the settlement of refugees. Believe the proposed extension would discriminate against refugees and CALD migrants.	Oppose
Law Institute of Victoria Question whether redesign is compliant with s19(1A) of the Racial Discrimination Act.	Oppose
Community Child Care Extension works against Government's social inclusion agenda.	Oppose
The Religious Society of Friends (Quakers), Regional Victoria	Oppose
Billings, Dr Peter and Cassimatis, Dr Anthony Concerned with lack of satisfactory data. Includes references to proposed laws and consistency with International Convention.	Oppose
Nura Gili Indigenous Programs, University of New South Wales Submission notes that 'compulsory income management and similar schemes are not just problematic when they overtly or covertly discriminate against particular groups of people. They are poor policy in and of themselves, and have little evidence to support their benefit'.	Oppose
Western Australian Council of Social Service (WACOSS) Support ACOSS submission.	Oppose
Pensioners and Superannuants Association Claim evidence is 'flimsy'	Oppose
ANGLICARE Sydney Believes mandatory IM is discriminatory and costly with a voluntary model preferred.	Oppose
St Vincent de Paul Society National Council of Australia Believe it is a turning back of the clock ie 'susso payments' which strip recipients of dignity.	Oppose

¹⁰⁶ Terry Priest and Eva Cox, *A Response to the Social Security and other Legislation Amendment (Welfare Reform and Reinstatement of Racial Discrimination Act) Bill 2009, Why the proposed bill should be delayed?* (2010).

<http://www.jumbunna.uts.edu.au/researchareas/submissions.html> at 30 August 2011.

Australian Council of Social Service (ACOSS) Believe the policy has been proposed despite weak and conflicting evidence and recommend having non discriminatory policies to help people manage if the needed.	Oppose
Human Rights Law Resource Centre Policies raise serious concerns about human rights obligations.	Oppose
Amnesty International Australia Conflicts with international human rights standards.	Oppose
Carers Australia May disadvantage many carers already in vulnerable positions. If goes ahead requires safeguards to protect affected people.	Oppose
Office of the Privacy Commissioner Focuses on the protection of an individual's personal information in relation to relevant legislation.	Not stated
Public Interest Law Clearing House (PILCH) Inconsistency between the Bill and the right to Social Security.	Oppose
Australian Indigenous Communications Association (AICA) Draws on the Constitution and related Acts.	Oppose
Reconciliation Australia Recommends that 'income management measures are assessed on a case-by case basis and/or through locally tailored processes that have the support of the community'.	Not stated
Annetts, Mr Joe Individual who believes it will 'undermine future efforts to empower and develop Aboriginal communities'.	Oppose
Merckenschlager, Mr Max Individual against a 'blanket rule' of income management.	Oppose
Egan, Sr Patricia Compilation of opposing statements	Oppose
Aboriginal Catholic Social Services (ACSS) Letter signed by the coordination team.	Oppose
Family Relationship Services Australia (FRSA) IM is a contradiction to the Governments social inclusion agenda.	Oppose
Federation of Community Legal Centres (Vic) Inc (FCLC) The Federation recommends that if the income management provisions of the Bill are retained they must be amended to ensure that the scheme is entirely voluntary.	Oppose
National Association of Prevention of Child Abuse and Neglect (NAPCAN) Support IM but with modifications though oppose the extension to all welfare recipients.	Oppose
Small, Ms Pauline Individual concerned with IM in particular the power given to a Minister under proposed Bill.	Oppose
ANGLICARE Australia Income management as one of a number of tools and voluntary is possible	Oppose
Women's International League for Peace and Freedom (WILPF) International NGO that is concerned that the NT Intervention contravenes 26 of the 45 articles of the United Nations Declaration on the Rights of Indigenous Peoples.	Oppose
Intervention Rollback Action Group (IRAG) A grass roots group made up of Aboriginal and non-Aboriginal volunteers.	Oppose
Paterson, Ms Jane Individual	Oppose
Healy, Dr Joan Individual	Oppose
Chester, Ms Leonie Nampijinpa Individual who lives with and recommends more consultation with the Yappa people.	Oppose

Heysen, Ms Kerry Individual reflecting on personal circumstances.	Oppose
Ryan, Ms Genevieve Individual	Oppose
Edge, Ms Jennifer Individual	Oppose
Lynn, Ms Joan Individual	Oppose
Radman, Ms Patricia Individual	Oppose
Leahy, Dr Micheal Individual	Oppose
van Ruth, Sr Katrina Individual	Oppose
Rich, Ms Bianca Individual who has spent time in Mapuru.	Oppose
White, Ms Pilawuk Individual from Ngangiwummerri Nation.	Oppose
Madigan, Sr Michele Individual	Oppose
McMahon, Mr John Individual	Oppose
Altman, Professor Jon Individual	Oppose
Michele Harris spokesperson for group of concerned Australians National Association of Community Legal Centres (NACLC) 'Contravenes the Australian Government's international obligation to uphold and protect the rights of social security and non – discrimination'	Oppose Oppose
Australian Youth Affairs Coalition (AYAC) Endorses ACOSS's submission.	Oppose
National Council of Single Mothers and their Children Inc Note that 'development of a national policy should not occur, and certainly not be implemented, without consultation with the Australians who would experience the impact'.	Oppose
Tangentyere Council, Central Australian Youth Link-Up Service (CAYLUS) Concern about pension no longer being income managed as many of their clients are damaged by inhalant use and cannot manage their money.	Partial Support
Victorian Council for Civil Liberties Recommend that the scheme should be voluntary.	Oppose
Jumbunna Indigenous House of Learning, University of Technology, Sydney Concerns with consultation and legal issues.	Oppose
ANU National Centre for Indigenous Studies	Oppose
Aboriginal Medical Services Alliance Northern Territory (AMSANT) 'Blanket compulsory income management should only be applied at a community level where there is demonstrated support from the community for the measure'.	Oppose
Australians for Native Title and Reconciliation (ANTaR) 'If income management may have a legitimate role then it would be as one of a suite of options directed at helping individuals and families to address dysfunctional behaviours. Such a model would be based on intensive case management linked to appropriate evidence-based 'triggers' applied via a process that is both transparent and open to administrative appeal'	Oppose
Central Land Council (CLC) One of the recommendations is that any 'future income management regime explicitly provides for community controlled welfare schemes'.	Oppose
The Fred Hollows Foundation Support AMSANT	Oppose

Catholic Social Services Australia	Oppose
Undermines social inclusion and weakens the safety net.	
Good Shepherd Youth and Family Service	Oppose
'Good Shepherd Youth and Family Service does not support admission to income management based on a persons place of residence, source of income, category of social security payment or duration of social security payment'	
Australian Council of Trade Unions (ACTU) Indigenous Committee	Oppose
Concerned about reported negative effects but positive about Pensioners and Veterans not being managed under new scheme.	
Brotherhood of St Laurence	Oppose
Vital matter is to get the approach to 'welfare conditionality' right.	
Soul Parents' Union	Oppose
Chief concern is lack of evidence and its impact on already vulnerable parents..	
North Australian Aboriginal Justice Agency (NAAJA)	Oppose
Support a voluntary model and provide lengthy recommendations.	
Law Society Northern Territory	Oppose
Support NAAJA submission.	
Women's Electoral Lobby Australia	Oppose
Chief concern is lack of evidence.	
Distaff Associates	Oppose
Chief concern is lack of evidence.	
The Salvation Army Australia Southern Territory	Oppose
Experience with affected people in Alice Springs is that they have struggled to understand the rationale and processes.	
Regulatory Institutions Network (RegNet)	Oppose
IM discriminatory and does not represent a special measure.	
Central Australian Aboriginal Legal Aid Service (CAALAS)	Oppose
Recommend that the Government only apply compulsory income management on the basis of child protection, school enrolment and attendance and other relevant behavioural triggers in line with the NTER Review Board recommendation.	
Northern Territory Legal Aid Commission	Unable to open doc.
Australian Human Rights Commission (AHRC)	Oppose
Concerned that proposed changes do not fully address existing breaches to Human Rights.	
National Welfare Rights Network	Oppose
Specialists in Social Security Law who have been critical of legislation since it was passed in 2007.	
Judge, Ms Celia	Oppose
Individual	
Australian Financial Counselling and Credit Reform Association	Oppose
Do not support mandatory IM.	
Laynhapuy Homelands Association	Oppose
Very hard to see any benefits from the NTER on the ground.	
Northern Land Council	Not stated
Submission deals with 5 yr lease laws.	
Northern Territory Government	Support
Support Government's position on IM.	
Law Council of Australia	Oppose
Proposed changes have the potential for indirect discrimination against Aboriginal people in the application of the measure to highly disadvantaged groups.	
Australian Domestic and Family Violence Clearinghouse	Oppose
Concern about the impact the proposal will have on women experiencing domestic and family violence.	
Women's Refuge Movement Working Party	Oppose
Concern about the impact the proposal will have on women experiencing domestic and family violence.	

Oxfam Australia Recommends that the Government look at the Centrepay scheme and its potential to replace the compulsory scheme.	Oppose
Stop the Intervention Collective Sydney (STICS) Submissions notes that 'provides a framework for the government to pretend that racial discrimination is not racial discrimination'.	Oppose
Sydney Centre for International Law, Faculty of Law New regime will still be discriminatory	Not stated
Reconciliation for Western Sydney Accept quarantining on a voluntary basis.	Not stated
Deirdre Finter Experienced first hand and notes IM has contributed to a general feeling of helplessness and depression.	Not stated
Uniting Care Australia Dollars should be focused on programs for families.	Oppose
National Foundation for Australian Women Believe more consideration should be given to voluntary and involuntary schemes but does not rule out.	Not stated
Ngaanyatjarra Pitjantjatjara Yankunytjatjara, Women's Council (Aboriginal Corporation) Believe IM has had a settling effect.	Support
Bennelong & Surrounds Residents for Reconciliation Do not support compulsory IM not its extension.	Oppose
Sabine Kacha Individual does not support compulsory IM not its extension.	Oppose

GUIDELINES FOR CONTRIBUTORS

The editor/s encourages contributions in the form of articles, reports, commentaries, viewpoints, book reviews and poetry for both the *Journal of Indigenous Policy* and *Ngiya: Talk the Law*. All enquiries regarding contributions should be directed to:

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Submission Process

1. Contributions can be sent to: jumbunna.journals@uts.edu.au and should include postal and phone details
2. All articles are assessed for suitability for publication by the editor/s. **Articles for *Ngiya: Talk the Law*** are evaluated by two academic referees with expertise in the relevant field. Feedback on suitability for publication and any suggested revisions will be provided to authors for consideration. Note that we generally do not accept contributions that have been published in other publications.

When preparing contributions please note the following:

1. Contributors should additionally submit an abstract of approximately 150 words as well as brief biographical details of the author(s)
2. **Articles** should be between 4 000 and 10 000 words in length. **Book Reviews** should be no more than 3 000 words. Under certain circumstances the editors will accept longer articles
3. The accuracy of quotes, titles, names, dates, footnotes and citations are the responsibility of the author.

Style Guide

1. Contributions are to be submitted in Word for Windows 6.0 or 7.0
2. **Citations** – refer to the Australian Guide to Legal Citation (Third Edition) by *Melbourne University Law Review* and the *Melbourne Journal of International Law* 2010
<http://mulr.law.unincome managementelb.edu.au/go/aglc>
3. **Font** – please provide articles in Times New (W1); headings should be in 15 point; text should be in 13 point; footnotes and quotes should be in

11 point. If different levels of headings are used, they should be consistently formatted: main heading - 15 point bold, upper case; first sub-heading – 13 point bold, title case; second sub-heading – 13 point italics, title case.

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