

## Questions on Notice: Senator Lidia Thorpe

Dr Francis Markham, ANU

### **1. What is your view of the Family Responsibilities Commission model, which fundamentally still facilitates non-voluntary income management, despite all calls from experts and the community?**

I have not conducted research on the Family Responsibilities Commission model, and so in my answers I am relying on evaluation evidence, including the 2018 *Strategic Review of Cape York Income Management* which was commissioned by the Department of Social Services and conducted by Professor Scott and colleagues.

The Family Responsibilities Commission model, which includes Cape York Income Management (CYIM), differs from Compulsory Income Management in the NT (CIM) in several key ways that are of relevance to its impacts on human rights. First, it targets individuals who are deemed by the FRC to have breached certain guidelines, such as not sending children to school or adhering to tenancy agreements, whereas CIM applies more widely to working-age unemployed people in the NT. Second, the FRC model involves local community members in decision-making about placing individuals on CYIM, whereas CIM is mostly applied automatically on the basis of Services Australia data. Third, CYIM is just one of many ‘interventions’ and supports provided by the FRC to those people who are placed on the card. Fourth, the portion of income that is quarantined under CYIM usually ranges from 60-90%, whereas under CIM the portion is fixed at 50%.

As with CIM, the CYIM still impairs the human rights of individuals, and so the usual test under Australia’s human rights framework is about whether or not this impact is proportional. Specifically, whether or not it is necessary to achieve a legitimate objective, whether it adopts a means that is rationally connected to that objective, and whether those means must be no more restrictive than required to achieve the purpose of the limitation. This test hinges — in part — on CYIM’s efficacy. If the program is ineffective in meeting its objectives, then its impingement on human rights cannot be justified.

The *Strategic Review of Cape York Income Management* is — to my knowledge — the most recent evaluation of CYIM. It found only weak and mixed evidence of any efficacy (p. 88):

*The quantitative data on substance abuse are mixed and provide only minimal support for the contention that the CYWR, FRC and/or CYIM have also resulted in positive community-wide changes to alcohol and drug-related offending... [T]he available quantitative data showed no significant impacts of the intervention on DVO breach offences in three of the communities. The impact of the FRC’s other functions, including conferencing and referral to other services, also appear to play critical roles in this regard....The aggregate quantitative analyses show no significant change in the trend in school attendance rates in recent years (since 2013), relative to any changes seen in the overall comparison areas. This suggests that the statistically significant improvement in school attendance seen in Aurukun immediately after the intervention, as reported in the 2012 CYWR evaluation (SPRC and FaHCSIA, 2012), has not been sustained over the full period of CYWR and CYIM... The aggregate quantitative analyses show that there was a significant relative decrease in child-safety notifications in Coen since 2010. Aurukun, Hope*

*Vale and Mossman Gorge showed no significant change in notifications relative to the comparison areas... Quantitative analysis of individual FRC client histories indicate that while CYIM does not prevent future breaching, it does reduce breach notifications, and extend the time between subsequent breaches. This positive impact of CYIM on breach notifications is over and above the impact of other service referrals that the client may receive.*

That evaluation also highlighted the unfairness the CYWR, FRC, and CYIM to welfare recipients in comparison to non-welfare recipients who may also “breach social norms” but are not punished for doing so. It is of course not the case that only welfare recipients breach social norms.

**2. Could you please comment on the compatibility of human rights and income management schemes, including the FRC model compliance with the UNDRIP and principles of free, prior and informed consent, and self-determination?**

Articles 18 and 19 of UNDRIP specify that

- “Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.”
- “States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.”

The Australian government has never met this human rights standard with respect to Income Management in the NT. This programs were imposed on communities whose consent was never sought, let alone granted. In my view, the current round of local community consultations being conducted by DSS would be entirely unnecessary in my view if the standards set out in UNDRIP were followed. The representatives chosen by Aboriginal people in the NT to make decisions on these matters come together as the Aboriginal Peak Organisations Northern Territory (APO NT). APO NT’s submission to this inquiry is very clear, with their first recommendation stating:

*APO NT calls for the abolition of all forms of compulsory quarantining of welfare payments and the repeal of Part 3B of the Social Security (Administration) Act 1999 (Cth).*

In my view, this clear view from Aboriginal representatives in the NT should be adopted by the Commonwealth.

On the FRC and CYIM, the position is less straightforward. It is unclear to me on the basis of evaluation evidence if communities have in fact consented to these programs, given that in some places their chosen representatives have expressed opposition to the FRC (as per Scott et al. 2018). This is a serious matter which warrants investigation.

**3. Would you support a policy move that scrapped all forms of Income Management and instead invested in programs that create real jobs, with proper award wages and conditions, adequate training and skills, and rebuilding local community decision-making?**

Yes. CIM is ineffective and costs thousands of dollars per participant per year to administer. This money would be better directed towards programs that address the root causes of poverty, rather than being squandered on an ineffective punitive program that breaches participants' human rights.