

18 October 2022

Committee Secretary
Joint Standing Committee on Aboriginal and Torres Strait Islander Affairs
PO Box 6021
Parliament House
Canberra ACT 2600
By email only: JSCATSIA@aph.gov.au

Economic Justice Australia acknowledges the Gadigal people of the Eora Nation, the Traditional Custodians of the land upon which Economic Justice Australia stands. We also acknowledge the Traditional Custodians of country throughout Australia and their connections to land, sea and community. We pay respect to their Elders past, present and emerging and extend that respect to all Aboriginal and Torres Strait Islander peoples.

Dear Committee Secretary,

Economic Justice Australia submission to the inquiry into the application of the United Nations Declaration on the Rights of Indigenous Peoples in Australia (UNDRIP)

1. Economic Justice Australia (EJA) is the peak organisation for community legal centres providing specialist advice regarding social security issues and rights. Our members across Australia have provided free and independent information, advice, education and representation in the area of social security for over 30 years.
2. EJA draws on its members' casework experience to identify systemic policy issues and provide expert advice to government on reforms needed to make the social security system more effective and accessible. Our law and policy reform work:
 - strengthens the effectiveness and integrity of our social security system;
 - educates the community; and
 - improves people's lives by reducing poverty and inequality.
3. EJA welcomes the opportunity to make this submission to the Committee.
4. This submission reiterates key points made in our submission to the Senate's Legal and Constitutional Affairs References Committee's inquiry into the application of the UNDRIP instigated under the 46th Parliament (attached). Our new submission makes particular reference to item iii of the revised Terms of Reference for the current inquiry, namely:
 - iii. how implementation of the Uluru Statement from the Heart can support the application of the UNDR.

5. We ask that this submission be read together with our earlier submission.
6. Further to the recommendations made below and in our previous submission, EJA also supports and adopts the recommendations made in the Australian Income Management Network¹(AIMN) submissions to this inquiry.

iii. How implementation of the Uluru Statement from the Heart can support the application of the UNDRIP

7. As noted in our previous submission, many of the changes made to social security legislation and policy since Australia's 2009 endorsement of the UNDRIP have not only failed to ensure that social security laws and policies do not continue to breach the rights of Australia's First Nations peoples, some key changes have also further eroded Aboriginal and Torres Strait Islanders' rights, particularly the right to self-determination.
8. The Voice to Parliament is envisaged as:
'... a body enshrined in the Constitution that would enable Aboriginal and Torres Strait Islander people to provide advice to the Parliament on policies and projects that impact their lives. ... A Voice to Parliament would give the Australian Government the opportunity to make policies with Aboriginal and Torres Strait Islander people, rather than for Aboriginal and Torres Strait Islander people.'²
9. EJA's previous submission noted three social security program areas which involve policies and processes which have significant and disproportionate impacts on the lives of Aboriginal and Torres Strait Islander people, namely:
 - Compulsory income management
 - The Community Development Program (CDP)
 - ParentsNext.

Compulsory Income Management

Although EJA was pleased that the Labor Government acted swiftly to introduce legislation³ to begin the dismantling of the CDC in the first session of Parliament, the

¹ The Accountable Income Management Network (AIMN) is a nation-wide group of community members; representatives of national, state and local non-government organisations and community bodies (including EJA); academics; social researchers and public policy experts. AIMN's submissions to this inquiry provide a comprehensive analysis of the extent to which Australia's failure to dismantle compulsory income management contravenes Australia's obligations as a signatory of the Declaration.

² See <https://fromtheheart.com.au/what-is-a-voice-to-parliament/>

³ Accessible at: https://www.aph.gov.au/Parliamentary_Business/Bills_LGislation/Bills_Search_Results/Result?bld=r6887

legislation is just a first step in dismantling compulsory income management under social security law.

As the situation now stands, although implementation of the *Social Security (Administration) Amendment (Repeal of Cashless Debit Card and Other Measures) Act 2022* has resulted in the winding back of the CDC program in some geographic areas, compulsory income management remains firmly in place in the Northern Territory (NT) and Cape York. The Government has made commitments to consulting with these communities regarding the future of compulsory income management in the NT and Cape York, but the consultation process and timeline is yet to be determined.

The UNDRIP makes it clear that rights to health, housing, education and other basic needs essential to well-being are understood as being inextricable from rights to self-determination, participation in decision-making, respect for and protection of culture, and equality and non-discrimination. There has been a lack of due regard to First Nations communities' perspective on the interconnectedness of these rights in the development of social security income management policies that are targeted to First Nations communities, or which will inevitably primarily impact people in these communities. Policy development processes in respect of social security compulsory income management is a key case in point.

An Indigenous Voice to Parliament would provide the structural framework to ensure proper consideration of the impacts of social security programmatic proposals, and the potential impacts on First Nations individuals and communities.

➤ **Recommendations:**

- A. *EJA endorses and adopts the Australian Income Management Network's (AIMN's) recommendations to this Inquiry that compulsory income management, whether under the Income Management program or the Cashless Welfare program, be immediately brought to an end; and that should income management continue as a policy measure, participation should be voluntary and opt-in only.*
- B. *EJA further proposes that pending the dismantling of social security compulsory income management, CDC and Income Management exemption and exit policies and procedures be urgently reformed to identify and address systemic barriers to access to exemptions and exits, particularly for Aboriginal and Torres Strait Islander people in remote and very remote communities.*

Community Development Program (CDP)

In EJA's previous submission we noted that the former Government had announced a new remote jobs program, the Remote Engagement Program (REP), to replace the CDP from 1 July 2024. There was as yet no enabling legislation to replace the CDP with the REP, only legislation to enable piloting of aspects of the proposed program.

EJA understands that the Labor Government does not intend to continue with the proposed REP, and that it instead plans a consultation process to develop a program to replace the CDP.

As argued in our previous submission, there were concerns that the previous Government's proposed REP had been developed without proper consultation with affected communities. Although the *Social Security Legislation Amendment (Remote Engagement Program) Act 2021*⁴ provided for co-design with communities in establishing trial parameters, it did not appear that Aboriginal and Torres Strait Islander communities and representative bodies had been formally consulted regarding the REP itself – i.e. the program's overall policy framework – prior to the introduction of the REP Bill and prior to communities being approached to express interest in participating in trias.⁵

An Indigenous Voice to Parliament would ensure a conduit for community-led organisations to provide input on development of a remote employment program to replace the CDP, including its policy and legislative framework.

➤ **Recommendations**

- A. EJA proposes that any alternative remote employment program to replace the CDP, should be consistent with Australia's obligations under the United Nations Declaration on the Rights of Indigenous People, the International Covenant on Economic, Social and Cultural Rights, and the International Convention on the Elimination of All Forms of Racial Discrimination.
- B. We propose that the process for developing any program replacing the CDP must meet Close the Gap commitments, ensuring co-design with communities and consultation with key representative organisations, such as the Coalition of Peaks and the Aboriginal Peak Organisations Northern Territory (APO NT).

ParentsNext

- 5. As noted in our previous submission, Indigenous groups provided extensive input to the 2018-2019 Senate Community Affairs Committee's ParentsNext inquiry⁶ and to the

⁴ Accessible at: https://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bld=r6768

⁵ Northern Territory Council of Social Service, submission to *Social Security Legislation Amendment (Remote Engagement Program) Bill 2021 [Provisions]*, 9 September 2021, p. 2.

⁶ Senate Standing Committees on Community Affairs inquiry, 'ParentsNext, including its trial and subsequent broader rollout', final report dated March 2019 accessible here: https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/ParentsNext/Report.

Parliamentary Joint Committee on Human Rights inquiry into the Social Security (Parenting payment participation requirements – class of persons) Instrument 2021⁷.

6. As was argued by various peaks at the Government's September 2022 Jobs and Skills Summit, making the ParentsNext program voluntary and providing support without the threat of payment suspension or cancellation would mean that the program could be directed at overcoming barriers to employment and providing targeted supports.
7. EJA noted in our previous submission that a policy framework involving threatened or actual withdrawal of income support from a sole parent for activity non-compliance has particular repercussions in respect of the UN Convention on the Rights of the Child (CROC) – especially in respect of First Nations children in remote and very remote communities, for whom there are many intersecting vulnerabilities.
8. The failure to take heed of community insights into the harms being caused by the punitive nature of ParentsNext to First Nations women and children is yet another example pointing to the need for a National Voice to Parliament.

Recommendation:

- A. *Pending any fundamental reforms to ParentsNext, or development of a replacement program, EJA recommends urgent reform of ParentsNext by amending the Social Security Act such that it becomes a genuine pre-employment program that:*
 - *is completely voluntary,*
 - *prioritises cultural safety, with specific reference to the needs of First Nations individuals and communities*
 - *does not affect the security of a parent's income support or other payments by imposing mutual obligation requirements and applying a punitive system of sanctions*
 - *addresses the structural barriers preventing parents from returning to the labour market*
 - *removes any financial incentives to providers which may motivate them to work against the interests of participants.*
9. EJA would welcome the opportunity to provide clarification, additional information or speak with the Committee during any public hearings.

⁷ Parliamentary Joint Committee on Human Rights, ParentsNext: examination of Social Security (Parenting payment participation requirements – class of persons) Instrument 2021 (Inquiry Report, 4 August 2021). Accessible at: https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Human_Rights/ParentsNext/Report.

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