



19<sup>th</sup> October 2022

Joint Standing Committee on Aboriginal and Torres Strait Islander Affairs  
PO Box 6021  
Parliament House  
Canberra ACT 2600

**RE: Inquiry into the UN Declaration on the Rights of Indigenous People**

The Accountable Income Management Network (AIMN) welcomes the opportunity to make a contribution to the Joint Standing Committee on Aboriginal and Torres Strait Islander Affairs' inquiry into the UN Declaration on the Rights of Indigenous People (UNDRIP) in Australia.

The AIMN is a nation-wide group of community members, grassroots advocates, representatives of national, state and local non-government organisations and community bodies, academics, social researchers and public policy experts. Our members have a strong commitment to social justice and human rights and are concerned about the provision of equitable and appropriate social security support to economically marginalised Australians. The AIMN is particularly concerned about the imposition of compulsory income management (CIM) in all its forms as a fundamentally harmful and ineffective approach.

In this submission, we wish to draw the Committee's attention to long-standing issues regarding the incompatibility of CIM, which has consistently disproportionately targeted First Nations people, with key principles of the UNDRIP. We outline our key concerns in brief below, but ask that this submission be read alongside the AIMN's submission to the Senate's Legal and Constitutional Affairs References Committee's previous inquiry into the application of UNDRIP in the 46<sup>th</sup> Parliament (Attachment A) and to a recent media statement noting ongoing issues with compulsory income management in the wake of the repeal of the Cashless Debit Card (CDC) (Attachment B) for a more detailed consideration. We also endorse the concerns and recommendations outlined in Economic Justice Australia's submissions to the present inquiry and to the UNDRIP inquiry under the 46<sup>th</sup> Parliament.

The AIMN notes that:

- Discrimination against First Nations people via the social security system has a long history in Australia and continues to persist in the form of CIM and other punitive welfare conditionality arrangements. CIM has originally and disproportionately targeted First Nations people since its commencement as part of the 2007 Northern Territory Intervention. The recent repeal of the CDC continues to leave thousands of First Nations people, primarily in the Northern Territory, subject to this failed, harmful policy measure.
- The Australian Human Rights Commission's *Wiyi Yani U Thangani* report stated that laws enabling CIM "place unjustified limitations on participants' rights to a private life and social security, and that these laws may also be in breach of the Race Discrimination Act given that Aboriginal and



Torres Strait Islander peoples are generally over-represented in the areas where the cashless cards have been in operation.”<sup>1</sup>

- CIM is inconsistent with key principles of the UNDRIP including:
  - Article 18, the right of Indigenous Peoples to participate in decision-making in matters which would affect their rights.
  - Article 19, regarding the requirement for good faith consultation and cooperation with Indigenous Peoples and the principles of free, prior and informed consent.
  - Article 21, regarding the right to improvement of economic and social conditions, which includes in the area of social security, and which articulates with the right to social security under the International Convention on Economic, Social and Cultural Rights. It must be noted that Article 21 (2) identifies that states may take special measures where appropriate to ensure the continued improvement of Indigenous Peoples’ economic and social conditions. This must not be interpreted in practice to override other articles of the UNDRIP through state appeals to “best interests.”
  - Article 23, regarding the right of Indigenous Peoples to determine and develop priorities and strategies to exercise their right to development, which is relevant to the development of social security policy which undermines community initiatives to support participation, financial management, and economic development including via cultural activities.
- Aboriginal Peak Organisations Northern Territory have also identified that: “compulsory income management contradicts the Australian and NT governments’ commitments through the National Agreement on Closing the Gap which undertakes that: “Aboriginal and Torres Strait Islander peoples must play an integral part in the making of the decisions that affect their lives – this is critical to closing the gap.” Specifically, continued income management, in its current form, breaches the Australian Government’s existing commitment to Priority Reform 3: to systemically and structurally transform mainstream government organisations to improve accountability, and to respond to the needs of Aboriginal and Torres Strait Islander people.”<sup>2</sup>
- In its submission to the UNDRIP inquiry under the 46<sup>th</sup> Parliament, the North Australian Aboriginal Justice Agency listed income management, and in particular CIM, as an example of specific laws, policies and practices operating in the Northern Territory that are contrary to the principles of UNDRIP.<sup>3</sup>

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<sup>1</sup> Australian Human Rights Commission, *Wiyi Yani U Thangani (Women’s Voices): Securing Our Rights, Securing Our Future Report* (Sydney: AHRC, 2020), 546, <https://humanrights.gov.au/our-work/aboriginal-and-torres-strait-islander-social-justice/publications/wiyi-yanis-u-thangani>.

<sup>2</sup> Aboriginal Peak Organisations Northern Territory, *APO NT submission on Social Security (Administration) Amendment (Repeal of Cashless Debit Card and Other Measures) Bill 2022* (Darwin: APO NT, 2022), 2.

<sup>3</sup> North Australian Aboriginal Justice Agency, *Freedom, Security and Peace? The United Nations Declaration on the Rights of Indigenous Peoples in the Northern Territory* (Darwin: NAAJA, 2022), 28.



## Recommendations:

1. The UNDRIP must be enacted in Commonwealth law as a matter of urgency. We endorse the Australian Human Rights Commission's 2021 recommendation that the Australian government "develop a national program to implement UNDRIP and schedule it to the definition of human rights in the *Human Rights (Parliamentary Scrutiny) Act 2011* (Cth)."<sup>4</sup> This will require the Parliamentary Joint Committee on Human Rights to assess the compatibility of legislation with the UNDRIP along with the set of core human rights treaties to which Australia is a party.<sup>5</sup>
2. Compulsory income management in Australia must immediately be brought to an end. Should income management continue as a policy measure, participation must be voluntary and opt-in only.
3. We endorse Dr Shelley Bielefeld's recommendation, made in her submission to the UNDRIP inquiry under the 46<sup>th</sup> Parliament, "that all Federal, State and Territory laws, policies, programs be assessed for compliance with UNDRIP with non-compliance remedied as swiftly as possible to prevent further suffering for Australia's First Peoples and to promote respect for their needs and aspirations which is long overdue."
4. The federal government has made a commitment to implementing the Uluru Statement from the Heart, including to enshrine an Aboriginal and Torres Strait Islander Voice to Parliament. The Voice must be enabled to review and advise on current and future social security policy measures that uniquely, disproportionately or otherwise affect or stand to affect First Nations people.
5. The federal government must commit comprehensive and sustained funding to Aboriginal community-controlled organisations for the provision of dedicated social security legal assistance. Specific funding should also be provided to community legal centres serving regional, rural, remote and very remote communities, to enable provision of specialist, culturally safe and well-being focused legal advice and assistance on social security issues.<sup>6</sup> This will enable First Nations people to interpret and challenge any potential or actual restriction of their right to social security.
6. In genuine partnership with Aboriginal and Torres Strait Islander communities, community-controlled organisations and peak bodies, and underpinned by the UNDRIP, the federal government must develop a robust framework to guide Indigenous Affairs policy making that centres comprehensive definitions of consent and consultation.<sup>7</sup> Consent in particular must be understood not just as the ability to agree but to *disagree* with government proposals, and to have this disagreement result in tangible changes to policy development.

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<sup>4</sup> Australian Human Rights Commission, *Implementing UNDRIP* (Sydney: AHRC, 2021), [https://humanrights.gov.au/sites/default/files/2020-10/implementing\\_undrip\\_-\\_australias\\_third\\_upr\\_2021.pdf](https://humanrights.gov.au/sites/default/files/2020-10/implementing_undrip_-_australias_third_upr_2021.pdf).

<sup>5</sup> Australian Human Rights Commission, "Parliamentary Joint Committee on Human Rights," AHRC, <https://humanrights.gov.au/our-work/rights-and-freedoms/parliamentary-joint-committee-human-rights>.

<sup>6</sup> We refer the committee again to *Economic Justice Australia's* submission to the UNDRIP inquiry under the 46<sup>th</sup> Parliament for further detail on this matter.

<sup>7</sup> Informed by current documents including the [Indigenous Evaluation Strategy](#).