

2nd May 2024

Dear Parliamentary Joint Committee on Human Rights,

RE: Inquiry into Compulsory Income Management

Thank you for the invitation to make a submission to your inquiry. We make this brief submission as non-Indigenous researchers drawing on over 20 years of combined research experience examining Compulsory Income Management in Australia. This submission reiterates the ongoing concerns we have long raised regarding Compulsory Income Management (CIM) in submissions from 2017 to the present. This submission specifically focuses on people subjected to CIM through the ‘Disengaged Youth’ and ‘Long Term Welfare Payment Recipient’ measures as these are the most egregious measures in terms of their human rights implications.

Over the years, we have provided numerous submissions to Federal Government Committees outlining serious incompatibilities between CIM and Human Rights.¹ We have consistently recommended that all forms of blanket compulsory income management cease in Australia.

Peer reviewed research continues to show that blanket Compulsory Income Management causes considerable harm and little benefit, all for an extraordinary expenditure of public funds. Despite commissioning numerous evaluations and reviews, no government has ever provided convincing evidence to show otherwise. We now have a situation where some people in the Northern Territory who were put on BasicsCard as part of the Northern Territory Intervention — which required the suspension of the *Racial Distinction Act 1975* specifically to breach Aboriginal residents of the NT’s human right to non-discrimination — may still find themselves still on CIM 17

¹ Altman, J & Markham, F (2019). *Submission no. 88 to the Senate Standing Committee on Community Affairs, Inquiry into the Social Security (Administration) Amendment (Income Management to Cashless Debit Card Transition) Bill 2019*, Parliament of Australia; Dreise, T, Hunt, J & Markham, F (2020). *Submission no. 105 to the Senate Standing Committee on Community Affairs, Inquiry into the Social Security (Administration) Amendment (Continuation of Cashless Welfare) Bill 2020*, Parliament of Australia; Markham, F (2022). *Submission no. 45 to the Senate Standing Committee on Community Affairs, Inquiry into the Social Security (Administration) Amendment (Repeal of Cashless Debit Card and Other Measures) Bill 2022*. Markham, F (2023). *Submission no. 19 to the Senate Community Affairs Legislation Committee, Inquiry into the Social Security (Administration) Amendment (Income Management Reform) Bill 2023 [Provisions]*. Klein, E. “The Cashless Debit Card”, Submission to the Senate Community Affairs Legislation Committee, Social Security (Administration) Amendment (Repeal of Cashless Debit Card and Other Measures) Bill 2022; Klein, E. “The Cashless Debit Card, Submission to the Senate Community Affairs Legislation Committee; Inquiry into the Social Security (Administration) Amendment (Continuation of Cashless Welfare) Bill 2020; Klein, E. “The Cashless Debit Card” Submission to the Federal Community Affairs Legislation Committee Inquiry into the Social Security (Administration) Transition (Income Management and Cashless Welfare) Bill 2019; Klein, E. “Why Still the Cashless Debit Card” Submission to the Federal Standing Committee on Community Affairs Inquiry into the Social Services Legislation Amendment (Cashless Debit Card Trial Expansion) Bill 2018; Klein, E., “Cashless Debit Card and Community Safety”, Submission, Inquiry on Personal Choice and Community Safety, Select Committee on Personal Choice and Community Safety 2018; Klein, E., “The Cashless Debit Card” Submission to the Federal Senate Inquiry into the Cashless Debit Card.

years later. In some cases, their whole adult life has been lived under government controlled CIM regimes. The regime has continued to be imbued with racial discrimination through the disproportionate targeting of First Nations people.

Specifically, several of the human rights that CIM impairs are outlined below.

The Right to Social Security

CIM impairs the enjoyment of the right to social security. This is because CIM has had well documented effects on the ability of social security recipients to spend their social security income. In the initial phases of the introduction of CIM, this was particularly egregious, as those subject to CIM were limited in the number of premises at which their income managed funds could be spent. Contemporary versions of CIM such as the SmartCard also restrict the ability of those subject to CIM to use their funds. For example, CIM funds cannot be used to purchase cheap second-hand goods (such as through 'Gumtree' or 'Facebook Marketplace') and cannot be used more generally in situations where cash is required.

The right to equality and non-discrimination

Compulsory income management programs in Australia have been explicitly developed and trialled in First Nations communities or communities with a high proportion of Indigenous residents. The implementation of the first wave of compulsory income management in Australia - Income Management as part of the Northern Territory Emergency Response - was made possible by the suspension of the *Racial Discrimination Act 1975*. This cohort continues to be disproportionately targeted for ongoing CIM programs (and many people have had to stay on CIM since the NTER).

Other forms of CIM have also been tested on the populations of predominantly Indigenous towns— for example the Cashless Debit Card. The Cashless Debit Card was designed by mining billionaire Andrew Forrest in his 'Forrest Review: Creating Parity', a 2014 report focused specifically on Indigenous employment and training. While the NTER and the Forrest Review have been extensively criticised for their problematic logics and rationales², our point here is that they are specifically Indigenous focused.

CIM in Australia has always been targeted at Indigenous people, and CIM continues to disproportionately target Indigenous people.

According to the latest official statistics³, there were 15924 people subject to CIM under the 'Disengaged Youth' and 'Long Term Welfare Payment Recipient' measures in the Northern Territory as of 1 March 2024. A further 9,777 are subject to the new regime of so-called 'enhanced Income Management' (eIM). A breakdown of those subject to eIM by measure is not available, but it seems reasonable to estimate that around 24,000 individuals in the Northern Territory are subject to

² Klein, E., "Academic Perspective on the Forrest Review: Creating Parity," Centre for Aboriginal Economic Policy Research, Topical Paper: 2/2014, 1-28 (2015) https://caep.cass.anu.edu.au/sites/default/files/docs/Topical_Issue-2_2014_CAEPR_Collaboration_Forrest_Review_0.pdf; Jon Altman and Melinda Hinkson (2007) 'Coercive Reconciliation: Normalise, Stabilise, Exit Aboriginal Australia', Arena Publications: Melbourne

³ Department of Social Services (2024). *Income Management Data Summary - March 2024*. <https://data.gov.au/data/dataset/fd464dd1-0031-4e4a-abdd-c08282192d86/resource/ceff6d55-e683-4193-80ac-f8695a59fadc/download/income-management-data-summary-data-as-at-1-march-2024.pdf>

income management simply because they have been unemployed for long periods of time. Around 80%, or around 19,200 of these individuals are likely to be Indigenous.⁴

Put differently, around 36% of working-age Indigenous people in the NT are subject to CIM simply because they have been unable to find work for an extended period.⁵ Nationally, less than 0.2% of working-age adults are subject to CIM. Clearly, Indigenous adults in the Northern Territory are unfairly targeted for CIM on the basis of their race and place of residence.

The Rights of the Child:

Researchers from the Australian Research Council Centre of Excellence for Children and Families over the Life Course in late 2017 provides statistical proof of negative impacts on children, in birth weight⁶ and school attendance⁷ caused by income management in the NT. The researchers suggest several explanations for the reduction of birth weight, including that income management increased stress on mothers, disrupted existing financial arrangements within the household, and created confusion as to how to access funds. Researchers suggested implementation issues as a possible explanation for the reduction in school attendance. Klein's research also sees similar stress put on households subjected to the Cashless Debit Card⁸.

Proportionality

Under Australian law, such impairments on human rights can be justified if they are necessary to lawfully meet a legitimate objective, and crucially, if the benefits of the restrictive policy outweigh the impact on human rights. We note that the Parliamentary Joint Committee on Human Rights (PJCHR) has previously questioned the extent to which the denial of human rights connected to compulsory income management programs are proportionate to achieving the stated objectives of the legislation.⁹ For example, in 2020, the PJCHR questioned the government's suggestion that the extension of Cashless Debit Card trials was a proportionate limitation on human rights. Significantly, the Committee noted that,

'... it is unclear whether the proposed cashless welfare scheme expansion is rationally connected with (that is, effective to achieve) those objectives, noting the mixed results outlined in the trial evaluations completed to date. Additionally, it does not appear that the proposed measures are proportionate to the objectives sought to be achieved. In particular, there appears to be extremely limited capacity for flexibility to treat different cases

⁴ The current statistical publication from DSS does not report the Indigenous status of those subject to Income Management (and only does so for those under 'enhanced Income Management').

⁵ Australian Bureau of Statistics (2023). *Estimates of Aboriginal and Torres Strait Islander Australians*.

<https://www.abs.gov.au/statistics/people/aboriginal-and-torres-strait-islander-peoples/estimates-aboriginal-and-torres-strait-islander-australians/30-june-2021>

⁶ <https://www.lifecoursecentre.org.au/research/journal-articles/working-paper-series/do-welfare-restrictions-improve-child-health-estimating-the-causal-impact-of-income-management-in-the-northern-territory/>

⁷ <https://www.lifecoursecentre.org.au/research/journal-articles/working-paper-series/the-effect-of-quarantining-welfare-on-school-attendance-in-indigenous-communities/>

⁸ Klein and Razi (2018) 'Contemporary Tools of Dispossession: The Cashless Debit Card Trial in the East Kimberley' *Journal of Australian Political Economy*, 82: 84-106,

http://docs.wixstatic.com/uqd/b629ee_01e1002bbfc748459d2a323d278d9300.pdf.

⁹ Parliamentary Joint Committee on Human Rights, *Report 11 of 2017* (17 October 2017), pp. 126-137, https://www.aph.gov.au/-/media/Committees/Senate/committee/humanrights_ctte/reports/2017/11_2017/Report11.pdf?la=en&hash=A6571BEB502D3940D5325D78BF097E44C694B015.

differently, as the scheme applies to all persons on particular welfare payments in trial locations, and not only those deemed to be at risk. A human rights compliant approach requires that any such measures must be effective, subject to monitoring and review and genuinely tailored to the needs and wishes of the local community. The current approach, with its apparent lack of genuine consultation, amendments to the evaluation process and lack of legislative requirement to respect community wishes before amending the amount of restrictable income, falls short of this standard. As such, it has not been clearly demonstrated that the extension of the cashless debit card trial is a justifiable limit on the rights to social security and privacy or, to the extent that the trial has a disproportionate impact on Indigenous Australians, that it is a reasonable and proportionate measure and therefore not discriminatory¹⁰.

Despite the forceful comments provided above, the Parliamentary Joint Committee on Human Rights strangely supported the continued expansion of the CDC. We request that this committee examining ongoing forms of Compulsory Income Management takes the issue of proportionality seriously given:

- there is no peer-reviewed evidence the government can produce that supports the wholesale continuation of blanket CIM, and,
- The considerable amount of time human rights has been denied to people on CIM in the Northern Territory as many have been on CIM since 2007.

Other concerns:

The government has been unable to provide credible research that shows the Cashless Debit Card meets its objectives. There is consistent peer reviewed research showing that income management makes life more difficult for subjected people¹¹. Overwhelming, peer-reviewed research shows that income management is harmful to people. For example:

- Researchers from an Australian Research Council funded project into compulsory income management found that it “is having a disabling, not an enabling, impact on many users’ lives.”¹²
- The Federal Government’s 2014 evaluation of its compulsory income management program in the Northern Territory showed that despite the \$AU410.5 million dollars spent, the results were poor. Specifically, Bray et al. (2014) concluded: “A wide range of measures related to consumption, financial capability, financial harassment, alcohol and related behaviours, child health, child neglect, developmental outcomes, and school attendance have been considered as part of this evaluation.... Despite the magnitude of the program the evaluation does not find any consistent evidence of income management having a significant systematic positive impact” (Bray et al. 2014: 316).
- Klein and Razi (2018) found many negative social impacts of the CDC in the East Kimberley.¹³

¹⁰ Parliamentary Joint Committee on Human Rights, *Report 1 of 2020* (5 February 2020), point, 2.93; https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Human_Rights/Scrutiny_reports/2020/Report_1_of_2020/c02

¹¹ See also Klein and Razi (2018) ‘Contemporary Tools of Dispossession: The Cashless Debit Card Trial in the East Kimberley’ *Journal of Australian Political Economy*, 82: 84-106.

¹² <https://theconversation.com/i-dont-want-anybody-to-see-me-using-it-cashless-welfare-cards-do-more-harm-than-good-132341>; <https://espace.library.uq.edu.au/view/UQ:6863639>

¹³ See: Knaus, K (2018) ‘Family violence rates rise in Kimberley towns with cashless welfare’, the Guardian, 12th January 2018,

For an admirable summary of the evidence, we would direct the Committee to the work of Dr JR Bray at the Australian National University, who has meticulously synthesised evidence on the effectiveness of CIM.¹⁴

Policy effectiveness matters for the assessment of proportionality. We maintain that given the ineffectiveness of CIM in meeting its policy objectives, it is difficult to sustain an argument that there is a rational connection between CIM and its objectives. Furthermore, CIM can hardly be argued to be the least intrusive means of reaching its objectives if it is ineffective in doing so. CIM might instead be replaced by any number of policies which would have fewer adverse impacts on human rights.

Recommendation

1. The government ends Compulsory Income Management in Australia.

Sincerely,

Dr Francis Markham

Fellow, Centre for Indigenous Policy Research,

POLIS: The Centre for Social Policy Research, Australian National University

Associate Professor Elise Klein (OAM)

Crawford School of Public Policy

Australian National University

<https://www.theguardian.com/australia-news/2018/jan/12/family-violence-rates-rise-in-kimberley-towns-with-cashless-welfare>

¹⁴ See Bray JR (2016). Seven years of evaluating income management: what have we learnt? Placing the findings of the New Income Management in the Northern Territory evaluation in context. *Australian Journal of Social Issues* 51(4):449–468; <https://www.acoss.org.au/wp-content/uploads/2020/10/Cashless-debit-cards-1.pdf>