

Dr Shelley Bielefeld

Answer to questions on notice asked by Senator Lidia Thorpe via written question

- 1. I note your submission that compulsory income management has been ineffective in achieving its aims. You state the government assumption underpinning these programs is that First Nations people who receive social security payments either misuse or are at risk of misusing their social security benefits. You provide a compelling critique of that assumption in your scholarly research. 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?**

In the hearing I was asked some questions about the Cape York model and mentioned some scholarly research about this that I would be happy to send on to the Committee - and this together with my commentary on it will also address question 1 posed by Senator Thorpe about 'the Family Responsibilities Commission model, which fundamentally still facilitates non-voluntary income management, despite all calls from experts and the community'.

There are three relevant publications by Fiona Campbell on the Cape York Welfare Reform model with income management:

1. Fiona Campbell 'The Cape York Welfare Reform — Continuing Acts of Paternalism' (2015) (15(1) *QUT Law Review* 114-136.

Interestingly, this article by Campbell points out that:

'If there is a real need for a person's social security or other property to be managed legitimately, then an application can be made for an administrator to be appointed under the *Guardianship and Administration Act 2000* (Qld). Under this process, the Public Trustee is appointed to administer payment; however, this can only occur if the criteria relating to diminished capacity under the legislation applies. This legislation does not distinguish between people based on race or other characteristics associated with race, but is based on need.

Even though income management under the CYWR is triggered when certain obligations are deemed not to be met, rather than through a blanket approach, colonial concepts of the way in which Aboriginal people should behave and need to be managed remain embedded in the FRC Act. The paternalistic protectionist process is punitive, racial and continues to be based on a policy of assimilation, rather than understandings of difference.

The income management component of the CYWR indicates ... a lack of reflection by Governments on the effects of previous paternalistic legislation on Aboriginal and Torres Strait Islander peoples and that similar legislation will not achieve a different outcome.'

I think these points are an apt critique of the Cape York income management model.

2. Fiona Campbell, 'Deficit discourse – the 'regime of truth' preceding the Cape York Welfare Reform' (2019) 28 (3) *Griffith Law Review* 303-325.

In this article Campbell raises the problems with deficit discourse thinking applied to First Nations people, including those who end up being income managed under the Cape York model, and inadequate consultation with communities about the Cape York Income Management model:

'While it was recorded that each CYWR community, through their Council, agreed to the CYWR trial, some CYWR community members were of the view that the FRC was imposed on them. This perception appears to have arisen due to the inadequate consultation process. Despite initially agreeing to the CYWR, Hope Vale Council and its residents were continuously recorded as being dissatisfied with the presence of the FRC. In September 2013, eight Cape York Mayors, with the Mayor from Aurukun, being the only Mayor from a CYWR community, raised concerns regarding the Commonwealth government funding Cape York organisations set up by Noel Pearson, such as the CYI. The Mayors concerns were that they and their communities were not consulted on new policies. Excluding from consultation those impacted by deficit based schemes is inherent to deficit based thinking.'

Such an approach to consultation also runs counter to the principle of 'free, prior, and informed consent' contained in Article 19 of the *United Nations Declaration on the Rights of Indigenous Peoples*.

3. Campbell, Fiona (2016) *Special measures and racial discrimination: a study of the Cape York Welfare Reform*. PhD thesis, James Cook University.
<https://researchonline.jcu.edu.au/49993/> (an electronic copy can be obtained by this link)

I was an examiner for Dr Campbell's PhD where she outlined at length many of the problems with the Cape York Welfare Reform model, including income management.

I understood from these publications and some communication with Dr Campbell that there were many reasons to be concerned about the Cape York model of income management. I would not like to see this model replicated elsewhere given the problems that can arise when people on such programs are denigrated through negative stereotypes in ways that can be fundamentally disempowering and discriminatory. The risk that governments engage in by treating people as if their human right to social security is dependent upon passing a behaviour test imposed by others with more socioeconomic power in particular locations is that the people who need economic support can end up dropping out of the social security system altogether. When people who need social security drop out of the system because the conditions imposed are too onerous that generates other problems: health problems, housing security problems and food security problems.

- 2. In your written submission you discussed the practical operation of Income Management including in remote communities. In oral submissions DSS indicated they have been conducting surveys “focused on what services and what kind of transition services would be required” [following the government’s election commitment about abolishing the Compulsory Income Management Scheme]. In your research and findings did you ever hear of community members wanting community services to be tied to their welfare payments? Can you foresee any practical difficulties of having community services tied to a system like that?**

As for question 2 posed by Senator Thorpe:

'In oral submissions DSS indicated they have been conducting surveys “focused on what services and what kind of transition services would be required” [following the government’s election commitment about abolishing the Compulsory Income Management Scheme]. In your research and findings did you ever hear of community members wanting community services to be tied to their welfare payments? Can you foresee any practical difficulties of having community services tied to a system like that?'

In my research I did not hear of community members wanting community services to be tied to their welfare payments. People were very keen to receive community services - provided that such services were culturally appropriate and genuinely responsive to their expressed needs. A competent and human rights respecting government should be able to come up with ways to provide community services to people without creating yet more administrative burdens for people on social security to carry. Accessing social security payments that are attached to mandatory 'services' that are neither sought nor consented to by social security recipients generates distress and hardship, as seen in my publications attached about administrative burdens associated with the Cashless Debit Card. These burdens weighed heavily upon the vast majority of First Nations interviewees who contributed their views in my ARC DECRA research.