

National Regional, Rural, Remote and Very Remote Community Legal Network

Parliamentary Joint Committee on Human Rights

/ Legislative Scrutiny Unit

Department of the Senate

19 July 2024

By email: Human.rights@aph.gov.au

Dear Colleagues

Response to two questions on Notice from Senator Thorpe

Thank you for passing on the two questions on notice to the 4Rs Network from Senator Thorpe. The responses are below.

QONS from Senator Thorpe:

- 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? (For example, the Commissioner holds the power to quarantine someone's income without their consent, and deny requests to be taken off even the voluntary program if the commissioner believes it is not in the “best interests” to do so)**

4Rs Network Response:

The 4Rs Network submission dated 22 May 2024 (submission number 24 published by the Committee) outlined that a generalised approach to compulsory income management ('CIM') which applies to people regardless of their individual circumstances – is not human rights compliant.

Any measures which limit the rights of individuals, should be reasonable and proportionate. Criteria should be stipulated, criteria should relate to individuals (not membership of a group, such as living in a specified geographic area) and processes should be fair, transparent and reviewable.

Regarding the Family Responsibilities Commission ('FRC') – as outlined in the response to this same question by Economic Justice Australia dated 18 July 2024, and Dr Francis Markham dated 18 July 2024, and Associate Professor Elise Klein - there are substantial differences between the FRC and the CIM operating on in the NT and other locations.

Firstly, the existence of the FRC has no bearing on whether CIM should continue in the NT or elsewhere as the resources and many other features of the FRC model are not replicable.

Secondly, the FRC model is operating in a fraught context about how CIM has proceeded in the NT and other locations. In any event the threshold for any scenario

involving non-consensual income withholding must be legally and procedurally rigorous.

The seriousness of assuming a degree of management – such as the seriousness with which this is treated under Adult Guardianship, Mental Health and Child Protection legislation – has not been grasped in the case of social security policy and CIM. The problems which arise in the three areas just mentioned – in cases where it turns out that the interests of the person ‘protected’ were in fact not served – must add a further layer of salutary concern and caution about the same possibilities relating to CIM.

This analogy serves to highlight that FRC model must be considered against a very high bar.

We also draw attention to responses to this question by NAAJA dated 18 July 2024, Economic Justice Australia dated 18 July 2024 and Dr Shelley Bielefeld received 19 July 2024, the thrust of which are supported.

The 4Rs submission also outlined that it is problematic that the Social Security Act, and the Social Security (Administration) Act do not contain objects (or any provisions) which make human rights obligations visible on the face of the legislation. It was submitted that this should be addressed by adding objects which include reciting human rights obligations (similar to the approach of the NDIS Act) with visible inclusion of the human rights of First Nations people and visible inclusion of the human rights of people in regional, rural, remote and very remote areas. These additions would increase the visibility of the rights of First Nations people (non-discrimination on the basis of race), and rights not to be discriminated on the basis of 4Rs location (place). In combination this would also increase the visibility of non-discrimination on the basis of race/place and place/race.

The 4Rs submission also outlined that lack of access to social security legal help is pervasive in the NT and most areas in which CIM operates. This has been a characteristic of CIM since inception. The 4Rs submission urged for this to be addressed, especially for First Nations people in 4Rs areas.

QONS from Senator Thorpe:

- 2. 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?**

4Rs Network Response:

The response by Economic Justice Australia dated 18 July 2024 to this question is endorsed.

4Rs Network contacts provided.