



NATIONAL
FOUNDATION
FOR AUSTRALIAN
WOMEN

SUBMISSION

Senate Community Affairs Committee Inquiry into Social Security and Other Legislation Amendment (Welfare Reform and Reinstatement of Racial Discrimination Act) Bill 2009 and the Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (2009 Measures) Bill 2009 along with the Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (Restoration of Racial Discrimination Act) Bill 2009

The thrust of these Bills will provide the Commonwealth with the power to introduce involuntary financial management for a number of people in receipt of Commonwealth income support payments.

In effect, it extends the involuntary income management system from selected communities and individuals in the Northern Territory into the entire Australian population. The initial extension in Western Australia for families identified as at potential risk of child abuse by the State Department for Community Welfare is noted.

To some degree, this policy change can be argued as an initiative to reduce the incidence of child abuse, and as well to introduce income management for other individuals considered to be potentially incompetent to manage their financial affairs.

This submission will address two specific matters- the necessity to involve the Commonwealth in new, involuntary income management systems for individuals deemed to be incompetent, and the significant changes proposed to Commonwealth policy since the middle of the twentieth century.

We consider it is not a point at issue whether provisions ought to exist to have Government agencies able to manage either voluntarily or involuntarily the financial affairs of individuals, whether their income is sourced from Government benefits, or private sources.

There are significant numbers of persons with reduced capacity for whom income management is considered essential for their own good - an individual may have an acquired brain injury and be vulnerable to exploitation; another may, as a consequence of substance misuse or abuse, have diminished ability to provide for necessities from their limited income.

State and Territory Governments all have such provisions of long standing through legislation establishing entities such as Public Trustee Offices, and through Civil and Administrative Tribunals.

It is common for a Public Trustee or a family member to make application to a Tribunal for Guardianship or for financial management for an individual deemed to be incompetent.

The individual has the opportunity to oppose the application, and to seek at any time a decision to change the Tribunal decision.

An individual may, under State and Territory law, apply for financial management on personal volition.

The Public Trustee will commonly develop a budget with the individual, ensuring fixed outgoings such as rent and utilities are covered, make provisions for savings either to manage existing debt repayments or to put some money towards future needs, and leave the individual with a small amount of cash for immediate personal needs.

This can be re-negotiated if necessary.

Similarly, the Commonwealth through the Social Security Act has provided for individuals to seek financial management of their pension on personal volition. An individual may ask Centrelink to make direct payments for certain fixed outgoings, such as rent or utilities before depositing a pension or benefit into the individual's bank account.

The Commonwealth now proposes a system of entirely involuntary income management. Allied with this is the provision to individuals of a debit card which will entitle them to purchase specified items from identified retail stores.

To some degree this is paralleled by the practice of many private not for profit welfare agencies which may provide an individual in distress with a chit of some kind which can only be used for clothing or daily necessities of food or medicines. However, the practice of private welfare agencies, and the practice of State and Territory Public Trustees and Civil and Administrative Tribunals is selective in its application, rather than a universal provision applying as is the Commonwealth proposal to all persons who have been in receipt of a particular benefit for a given period of time. Moreover, there is an independent legal appeal process open to clients of Public Trustees.

We find it difficult to understand why the Commonwealth proposal should be adopted rather than some extension of the State and Territory systems based on assessment of the particular individual case.

There is a general view that to the extent feasible individuals with difficulties should be assisted to manage their own affairs, rather than having self-management removed involuntarily.

On the second count, we note from the history of development of income security programs in Australia that there has been a progression towards respecting individual entitlements subject to generally applied eligibility criteria. The behaviour or moral



NATIONAL
FOUNDATION
FOR AUSTRALIAN
WOMEN

worth or personal characteristics of the individual have progressively become irrelevant to the question of financial need and universal entitlement within certain specified groups.

The 1960s saw the introduction for the first time of the rights of Australian Aboriginal peoples to receive Commonwealth income support benefits. The character test for the Commonwealth Age Pension was removed in 1976.

We are concerned by the prospective return to the assumption of potential moral turpitude or incompetence of entire groups of individuals which seems to underpin these Bills.

We consider more consideration should have been given to alternative systems for voluntary and involuntary processes for assuming financial management of individuals based on individual assessment of cases covering competence to manage affairs.

Marie Coleman
Chair, Social Policy Committee
NFAW

Attachment A

Terms of Reference and reasons for the referral of the Bills- see http://www.aph.gov.au/senate/committee/clac_ctte/soc_sec_welfare_reform_racial_discrim_09/tor.pdf

Attachment B

Briefing on the legislation for the extension of income quarantining to welfare recipients across Australia.

There is legislation in front of the Senate that, if passed, will massively change the nature of the Australian income security system. It requires wide debate and scrutiny as the bills will impose new levels of control on vulnerable people throughout Australia.

The package of bills includes: Social Security and Other Legislation Amendment (Welfare Reform and Reinstatement of Racial Discrimination Act) Bill 2009, Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (2009 Measures) Bill 2009, Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (Restoration of Racial Discrimination Act) Bill 2009. These bills cover a range of issues but the focus of this document is the power to extend the main provisions of the NT emergency income management regimes to all Australian recipients of certain payments. As this will no longer discriminate racially it is coupled with reinstatement of the Racial Discrimination Act.

The Greens and Opposition have referred the Bills to the Senate Community Affairs Committee for very different reasons: The Greens because they believe the RDA reinstatement should not be conditional on accepting the IM extension, and their belief that IM should be voluntary, the Opposition because they feel the changes water down what they introduced as part of their NT emergency measures.

There is considerable concern in those sectors of the community who are aware of the problems about both the effects of the existing scheme and the extension. They question the evidence of the claimed benefits so far and raise the need for more valid evidence to be used in assessing of the implications of the change. Those potentially affected are the most vulnerable long term unemployed, sole parents and young people whose rights are too often under threat and require further interest and action.

Almost all the submissions received recommended against the changes and for the unconditional reinstatement of the Racial Discrimination Act.

The following is a summary of the most common recommendations in submissions to the Senate Committee on the legislation.



1. The imposition of compulsory category defined income management is a massive shift in the nature of our social security system and needs wide discussion before any changes are made.
2. The legislation on extending IM generally must be withdrawn, as the evidence of the costs and consequences have not been appropriately considered.
3. The government's commitment to reinstate the RDA has to be immediately and separately undertaken.
4. The current income management system in the prescribed NT areas should be replaced by a voluntary system, with communities having the capacity to request they retain it, if they feel it will benefit them.

Reasons given for the above:

5. The changes are problematic as there is no compelling evidence that compulsory universal income management does improve the lives of most of those included, and there are indications that it could be destructive.
6. The costs per capita in the NT for administration are estimated at \$80 plus per week per recipient, and stand in contrast to the need for funds for wrap around services that would benefit recipients more.
7. Financial counselling and other services are likely to be more effective than income control.
8. There has been no formal government consultation with organisations that represent some of the specific groups who will be negatively affected: disability groups, women's groups and those representing refugees and immigrant communities and many people on be on Newstart, sole parent payments and youth allowance.
9. The legislation allows the government to extend the system Australia wide, not just the NT, without the need to return to parliament.
10. Except for the reinstatement of the Racial Discrimination Act, the legislation to change the system has been clearly supported by only one (the NT Government) of the 81 plus or so diverse submissions received so far (16.2.20) by the Senate Inquiry. Almost all the rest clearly opposed the changes, a few were equivocal or unclear.

Who will be affected and when?

The legislation is open ended as confirmed by evidence given by FAHCSIA at the first Senate Community Affairs committee hearing (4.2.10). While the Government's stated intention is to extend Income Management to the rest of the NT on July 1 for 12 months, the legislation allows a roll out to anywhere in Australia with no further need for Parliamentary approval. (*Italics indicate quote from Hansard.*)

There are basically five categories where people would be subject to income management that are set out in the legislation. It is basically people under 25 on the main activity tested payments—youth allowance, Newstart and parenting payments.

Those under 25 would need to be on payment for 13 out of 26 weeks and those over 25 on the same payment types for 52 out of the previous 104 weeks. It is a slightly earlier intervention for youth than for those over 25.

Under the current income management scheme, which goes for another 12 months, for the first six months of that period there will be an RDA suspension still in place, but for the last six months there will not be. On 31 December 2010 the RDA will be reinstated for all measures, but the transition for income management has a six-month period beyond that.

Numbers currently being covered in identified areas are about 14,000; estimate for NT may be 20,000. No figures are available for the rest of Australia.

The Senate Inquiry into Social Security and Other Legislation Amendment (Welfare Reform and Reinstatement of Racial Discrimination Act) Bill 2009 and the Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (2009 Measures) Bill 2009 along with the Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (Restoration of Racial Discrimination Act) Bill 2009 received 81 submissions and has held and planned only NT and ACT hearings. The organisations and individuals are listed in an appendix to show the breadth of the groups that fail to support the bills on the one hand and the gaps that indicate a lack of awareness of some groups to be affected.

There are two women's groups, two sole parent groups, one refugee group, lots of legal groups, some Indigenous groups including some NT people, about seven major welfare agencies. Given the breadth of future possible effects this shows that few people outside those involved in NT issues are aware of the changes that could deeply affect them. This is not an adequate representative consultation on such a major change. There was little publicity about the Inquiry, just an announcement that was picked up by a few groups and networks.

The evidence to support such as major change?

There is no clear evidence that there have been consistent and measurable benefits from the income management program. A close examination of the reported consultation process below suggests it cannot be trusted to adequately reflect the views of those communities affected by the Intervention. An examination of the data available, at best, suggests that while there have been some benefits, the causes for these are by no means clear. Income management's negative consequences have been ignored or overlooked. A proper evaluation would have been designed to look at possible harm as well as benefits, and this did not.

In December, Indigenous Affairs Minister Jenny Macklin's statement on the legislation said a report from the Australian Institute of Health & Welfare (AIHW) added "to existing evidence that demonstrates that income management is meeting the government's objectives of ensuring payments intended to benefit children are being used for that purpose".



NATIONAL
FOUNDATION
FOR AUSTRALIAN
WOMEN

There is little or no support from nearly all (80/81) submissions made so far for the conclusions drawn by the Government. Apart from the NT government, that claims to be a partner with the Federal government, no one clearly supports the extension of the income management system per se. Many groups express both concern at the data used and the effects on many recipients.

The AIHW report casts serious doubts on validity and reliability of the data used and its interpretation by the Government despite its being quoted to make the case by the Government. It was based on supplied government data, that AIHW originally refused to collect because of potential ethical issues.

At a Senate Estimates hearing last week, (AAP report) Director Penny Allbon said:

"In our report we made strong comments about the limitations of the evidence," Dr Allbon told a Senate estimates hearing on Wednesday. "Indeed, the report states the research would "sit towards the bottom of an evidence hierarchy".

"There was a limited amount of quantitative data on which to base the evaluation findings ... (and) client interviews included only a relatively small number of clients (76), from four locations, who were not randomly selected".

As 16,000 people are income managed from 73 communities this data was obviously inadequate. The other data claimed to support the government's case comes mainly from the FAHCSIA consultation process. While this was an attempt to consult, the processes of using known public servants to run the sessions obviously limited the free flow of discussion. Examination of some tier 2 sessions' transcripts showed that the bureaucrats and local Indigenous staff explained to the locals the benefits they had gained so far and intentions of the government to extend these, before asking for feedback. This mode of 'consultation' is very unlikely to create a free flow of information and ideas as the process gives the control over subject matter and its interpretation to government representatives. For example, the FAHCSIA reports claimed there was support for extending the system generally. But in the published reports the nearest comments were 'if you are doing it to us, do it to everyone' which is hardly Indigenous endorsement for rolling out the program universally, rather than anger at race discrimination.

Even the supposedly independent report from consultants CIRCA, who had done other work in the area for FAHCSIA, outlined many difficulties met in the processes. It confirmed that the consultation process did what FAHCSIA wanted it to do, ie followed the set process, but failed to report if the locals were happy with the process.

The Government report of findings conflicts with their own NTER Review chaired by Peter Yu. This was independent and recommended that IM be made voluntary, because it was not seen as fair. This conflict between the evidence raises serious questions about the validity of the government's interpretation of the results and the policy derived from it.

Some comments on extending the scope of IM:

Sole parent union

However blanket imposition of income management to welfare recipients regardless of individual's capacity increases discrimination, rather than lessens it. Providing exemptions from income management for those who can prove they are responsible, is not only insulting and discriminatory, but it reverses the entire basis of our legal and justice system. This legislation starts from an assumption that welfare recipients are unfit and improper people purely because of their lack of paid employment.

The Prime Minister has acknowledged that he would find it difficult to manage on an aged pension. That sole parents not only manage on this income for themselves, but also to raise their children should be taken as a testament of their capacity, rather than an indication of their need to be controlled. This legislation is a return to the 1930s style treatment of welfare recipients, and the "susso". It is regressive, insulting, unnecessary, and there is no evidence that it works.

Jon Altman CAEPR ANU

There is no evidence, either from Australia or overseas, that punishing and demeaning the poor and the vulnerable, and in the case of the NT Intervention the ethnically different, through draconian measures like income management makes a difference. Indeed, first-hand experience I have had in NT prescribed communities suggests that if anything such measures have resulted in community disempowerment and demoralisation..... The policy intent to normalise Aboriginal people could have some perverse outcomes and this is of great concern. For example, in the USA, sociologist Loic Wacquant in Punishing the Poor (Duke University Press, 2009) has made a persuasive case that the escalating rate of imprisonment of the poor and the black in the USA has been linked to welfare reform influenced by neoliberalism principles that began during the Clinton era.

4. Gaps in the evidence base – now and future?

The transcript of the first ACT hearing of evidence showed that FAHCSIA staff spent considerable time seeking evidence to support the changes, but were left with no more than had been included in the lukewarm AIHW report, which also complained that there was no prior data to compare with. Despite statements that the extension of IM to the NT generally by June 30, would be evaluated, the following exchange casts serious doubts on how well this would be done.

Senator Siewert -Can you provide some of the evidence that you have just been talking about that relates, for example, to single parents and that vulnerability?



NATIONAL
FOUNDATION
FOR AUSTRALIAN
WOMEN

Senator FURNER—Just on that point, can we get some indication from you what might be the criteria or what might be the evidence in respect to rolling it out outside the NT and will you be doing comparisons based on other trials for that to be the benchmark for expansion?

Mr Sandison—.....The government have said that they will take into account information and evaluation results for further consideration in relation to doing anything outside of the Northern Territory. (Discussion on lack of data from Cape York or WA trials.)

Senator SIEWERT—So where is the evaluation? Do you have an evaluation framework already?... I am asking a serious question here. You know I have been very critical of the lack of evaluation framework for the current trials, and we still do not have an evaluation of the process in WA. It has been, quite frankly, haphazard. You do not have any baseline data and you have very little quantitative data.....So where is the evaluation framework? This is a massive social experiment. Where is the evaluation framework? Will the framework be peer reviewed? Will the evaluation be peer reviewed?

Mr Sandison—We would be preparing a framework before the end of June this year. This suggests further inevitable evidence deficits.

If this situation concerns you, please express that concern:

- To your local member
- In any group or political party
- To the media
- To Cabinet members.
- To people of influence and power

Appendix

Submissions received by the Senate Committee as at 16 February 2010 in posting order:

Oliver, Mr Andrew; Nicholls, Ms Anthea; Northern Territory Council of Social Service (NTCOSS) YMICC of The Religious Society of Friends (Quakers) in Australia; Las Casas Dominican Centre; National Council of Churches in Australia (NATSIEC); Settlement Council of Australia; Law Institute of Victoria; Community Child Care; The Religious Society of Friends (Quakers), Regional Victoria; Billings, Dr Peter and Cassimatis, Dr Anthony; Nura Gili Indigenous Programs, University of New South Wales; Western Australian Council of Social Service (WACOSS); Pensioners and Superannuants Association; ANGLICARE Sydney; St Vincent de Paul Society National Council of Australia; Australian Council of Social Service (ACOSS); Human Rights Law Resource Centre; Amnesty International Australia; Carers Australia; Office of the Privacy Commissioner; Public Interest Law Clearing House (PILCH); Australian Indigenous Communications Association (AICA);

PO Box 5009
NOWRA DC NSW 2541
ABN 32 008 659 630

Tel: (02) 4422 2208
Fax: (02) 4422 3878
Email: nfaw@nfaw.org
Web: www.nfaw.org

Reconciliation Australia; Annetts, Mr Jo; Merckenschlager, Mr Max; Egan, Sr Patricia; Aboriginal Catholic Social Services (ACSS); Family Relationship Services Australia (FRSA); Federation of Community Legal Centres (Vic) Inc (FCLC); National Association of Prevention of Child Abuse and Neglect (NAPCAN); Small, Ms Pauline; Anglicare, Australia; Women's International League for Peace and Freedom (WILPF); Paterson, Ms Jane; Intervention Rollback Action Group (IRAG); Healy, Dr Joan, Chester; Ms Leonie Nampijinpa; Heysen, Ms Kerry; Ryan, Ms Genevieve; Edge, Ms Jennifer; Lynn, Ms Joan; Radman, Ms; Patricia, Leahy; Dr Micheal, van Ruth; Sr Katrina, Rich; Ms Bianca, White; Ms Pilawuk, Madigan; Sr Michele, McMahon Mr John; Altman, Professor Jon; Michele Harris spokesperson for group of concerned Australians; National Association of Community Legal Centres (NACLCC); Australian Youth Affairs Coalition (AYAC); National Council of Single Mothers and their Children Inc, Tangentyere Council; Central Australian Youth Link-Up Service (CAYLUS); Victorian Council for Civil Liberties; Jumbunna Indigenous House of Learning, University of Technology, Sydney; ANU National Centre for Indigenous Studies; ANU College of Law; Aboriginal Medical Services Alliance Northern Territory (AMSANT); Australians for Native Title and Reconciliation (ANTaR); Central Land Council (CLC); The Fred Hollows Foundation; Catholic Social Services Australia; Good Shepherd Youth and Family Service; Australian Council of Trade Unions (ACTU); Indigenous Committee, Brotherhood of St Laurence; Sole Parents' Union; North Australian Aboriginal Justice Agency (NAAJA); Law Society Northern Territory; Women's Electoral Lobby; Distaff Associates Australia; The Salvation Army Australia Southern Territory; Regulatory Institutions Network (RegNet); Central Australian Aboriginal Legal Aid Service (CAALAS); Northern Territory Legal Aid Commission; Australian Human Rights Commission (AHRC); National Welfare Rights Network; Judge, Ms Celia; Australian Financial Counselling and Credit Reform Association (AFCCRA); Laynhapuy Homelands Association; Northern Land Council; Department of the Chief Minister (Northern Territory);

http://www.aph.gov.au/Senate/Committee/clac_ctte/soc_sec_welfare_reform_racial_discrim_09/submissions/sublist.htm for links to all the above submissions

For the Towards a More Civil Society Roundtable:
<http://www.morecivilsocietyroundtable.com.au/>