

NURA GILI INDIGENOUS PROGRAMS

Submission to the Australian Senate Community Affairs Legislation Committee Regarding

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; and Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (Restoration of Racial Discrimination Act) Bill 2009

Executive Summary

The proposed amendments under the Welfare Reform and Reinstatement of Racial Discrimination Act Bill 2009; the Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (2009 Measures) Bill 2009; and the Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (Restoration of Racial Discrimination Act) Bill 2009, are ostensibly intended to apply compulsory income management universally in order to restore the Racial Discrimination Act 1975 in the Northern Territory, as well as to 'strengthen' the NTER.

This submission will respond in two parts to the Terms of Reference set out under the Inquiry, that being to:

- Assess the effectiveness of the proposed legislative changes in terms of improving the social and economic standards of 'all the disadvantaged individuals and communities affected by the measures', in the NT and elsewhere as determined by the Minister, including protecting women and children, reducing alcohol-related harm, improving nutrition and food security, promoting community engagement and strengthening personal and cultural sense of value;
- Assess the costs of administering the legislation, including additional costs incurred 'by those subject to the measures' and organisations involved in implementing the legislation, such as businesses; and
- Reinstatement of the Racial Discrimination Act 1975 and deliver on our international commitments under the UN Convention on the Elimination of All Forms of Racial Discrimination in the operation of relevant legislation, particularly the Northern Territory National Emergency Response Act 2007

1. Racial Discrimination

- a.) Applying compulsory income management universally will invariably affect Indigenous Australians to a greater extent than other groups due to the extremely high levels of socio-economic disadvantage that Indigenous communities experience. Restoring the RDA will merely mean that the racial discrimination inherent in compulsory income management is covert and not overt, as it is currently under the NTER.
- b.) As it is questionable whether the claims of ‘special measures’ made by the Australian Government do in fact comply with ‘Special Measures’ as deemed by the CERD and recognised under Australian case law (i.e. that it is of some benefit to the targeted group, and that it facilitates the ‘exercise of human rights’, for example), actions proposed under the new Acts may still essentially be racially discriminatory.
- c.) The intention of the legislation to apply compulsory income management in particular areas (*declared income management areas*, as determined by the Minister) indicates their intention to target it to specific groups. Targeting areas that largely comprise Indigenous populations is racially discriminatory.

2. ‘Universal’ Income Management

Compulsory income management and similar schemes are not just problematic when they overtly or covertly discriminate against particular groups of people. They are poor policy in and of themselves, and have little evidence to support their benefit. Submissions to the NTER Review argued that compulsory income management through the NTER:

- a.) Lacks evidence, particularly that it enhances community and therefore child welfare
- b.) Undermines people’s ability to budget and be responsible, including undermining already-existing community responses to financial management
- c.) Was not supported by financial management assistance
- d.) Results in a lack of choice (thereby violating the right to self-determination)
- e.) Was poorly implemented (i.e. countless problems with the use of store cards; technical problems; a lack of infrastructure to support IM; inappropriate management of people’s money; not adequately communicated to people affected)
- f.) Was not adequately evaluated
- g.) Breaches a number of human rights, including the right to non-discrimination
- h.) Has had tangible negative effects, such as poverty, poor nutrition and displacement/homelessness, making women more vulnerable to abuse, increased strains on community-based organisations including stores, and diminished self-esteem, sometimes resulting in an increase in AOD consumption, family violence and breakdowns in family relationships
- i.) Does not need to be compulsorily enforced, but rather, can be applied voluntarily (as it has been previously) and/or on an assessed, case-by-case basis, supported through financial management training and other assistance. This would still support those people who find income management beneficial.

1. Racial Discrimination

a.) Applying compulsory income management universally

According to the proposed changes under the *Social Security and Other Legislation Amendment (Welfare Reform and Reinstatement of Racial Discrimination Act) Bill 2009* (Cth), compulsory income management will be applied, at the Minister's discretion, according to an 'objective criteria' that is not based on race or ethnicity. Despite the Australian Government's acknowledgement that Indigenous Australians are disproportionately disadvantaged socio-economically, the proposed change to apply compulsory income management universally does not recognise that Indigenous Australians will invariably be affected to a greater extent than other Australians. This Bill does not take into account, for example, that the income of Indigenous Australians is on average much lower than that of non-Indigenous people; Indigenous people are still far more likely than non-Indigenous people to be subject to compulsory income management. Thus due to a number of factors, the attempt to observe an 'objective criteria' is not met in practice and the claim of universality does not actually apply. This has been given minimal consideration by the Government.

b.) Claims of 'Special Measures'

In restoring the *Racial Discrimination Act 1975* (Cth) (RDA), the proposed changes under the new legislation would render any actions performed under the NTNER and Other Measures Act as 'special measures'. It is questionable whether such actions do in fact comply with the 'Special Measures' principle as outlined in international and domestic law. Article 1.4 of the International Convention on the Elimination of All Forms of Racial Discrimination (CERD) states that:

Special measures taken for the sole purpose of securing adequate advancement of certain racial or ethnic groups or individuals requiring such protection as may be necessary in order to ensure such groups or individuals equal enjoyment or exercise of human rights and fundamental freedoms shall not be deemed racial discrimination, provided, however, that such measures do not, as a consequence, lead to the maintenance of separate rights for different racial groups and that they shall not be continued after the objectives for which they were taken have been achieved (United Nations General Assembly, 1965).

Australia signed the CERD in 1965 and acceded to it in 1975 when it passed the Racial Discrimination Act 1975. In endorsing the CERD the RDA also acknowledged the principle of 'Special Measures' under section 8.2, declaring that there are exceptions to the prohibition of racial discrimination which include:

- (a) any provision of a deed, will or other instrument ... that confers charitable benefits, or enables charitable benefits to be conferred, on persons of a particular race, colour or national or ethnic origin; or
- (b) any act done in order to comply with such a provision.
- (3) In this section, **charitable benefits** means benefits for purposes that are exclusively charitable according to the law in force in any State or Territory.

Under these provisions, racial discrimination can be made an exception if it is necessary in order to ensure that groups or individuals of a certain racial group 'equal enjoyment or exercise of human rights' (CERD) or if it accords some benefit to the group or individual (RDA). While

the Government argues that compulsory income management seeks to further the rights of women and children to be free from abuse and to benefit from social security, it does not explain how compulsory income management will achieve this or outline a framework to achieve this end, based on relevant evidence.

Numerous organisations and individuals continue to point out that such a scheme is not *necessary* for ensuring that vulnerable persons are able to exercise their rights, and in fact, have provided substantial evidence that in many cases the scheme has produced the opposite effect. Indeed, the Federal Government's independent review of the NTER revealed the serious ramifications for many persons subject to income management (Please see point 2 below for further discussion). The review also found that there is a range of alternative options available to address financial management skills and to uphold people's right to benefit from social security, which do not require the suspension of human rights or allow racial discrimination. Thus the claim that compulsory income management is *necessary*, as a 'special measure', is erroneous.

Further it has been highlighted that, as recognised under the Universal Declaration of Human Rights, rights are inalienable, interdependent and indivisible: particular rights cannot be honoured over others nor placed on a hierarchy of rights. Rather, human rights must be recognised simultaneously and denying particular rights in favour of others will undoubtedly affect one's ability to exercise their rights.

c.) Declared income management areas

Under the *Social Security and Other Legislation Amendment (Welfare Reform and Reinstatement of Racial Discrimination Act) Bill 2009 (Cth)*, the Minister will have the power to determine particular areas to be 'declared income management areas', based on the criteria that an area is considered to be occupied by persons who may be 'vulnerable', 'disengaged youth' or 'long-term welfare recipients' (FaHCSIA, 2009). According to the Explanatory Memorandum on the *Social Security and Other Legislation Amendment Bill 2009 (Cth)*, such an area 'could be larger or smaller than a whole State or Territory' (FaHCSIA, 2009, p19).

Such a stipulation is not dissimilar to 'prescribed areas' as termed by the NTER: that persons can be subject to compulsory income management based on a geographical consideration, and as designated by the Minister. Despite the Government's claim of universality, this is decidedly targeted. Should the Minister decide to designate 'declared income management areas' that are recognised Indigenous communities, this amounts to clear racial discrimination. Further, the Government must recognise the particular social and economic circumstances of rural and remote Indigenous communities: that due to their socio-economic status and level of remoteness, there is a greater likelihood of Indigenous peoples being considered as meeting the criteria of 'vulnerable', 'disengaged youth' and 'long-term welfare recipients'.

2. 'Universal' Income Management

It is Nura Gili's contention that compulsory income management is not just problematic when overtly or covertly discriminatory, but rather, that it constitutes poor policy responses in and of itself. The following observations about compulsory income management are based on an independent evaluation by Nura Gili of the written submissions to the NTER Review. Many submissions were offered by individuals and organisations located in 'prescribed areas' in the Northern Territory, reporting on the implementation and effects of income management in their area. A thematic analysis revealed that compulsory income management:

a.) Lacks evidence, particularly that it enhances community and therefore child welfare

Many submissions that referred to compulsory income management (IM) were highly critical of its link to child and family welfare, arguing that the Government did not determine any evidence that income management will support parents to 'change their parenting behaviour' or improve child welfare (Submission 37). Submissions felt that the NTER merely relies upon the assumption that IM will promote a better quality of life; one argued that IM is 'based largely on guesswork, which seems a shameful way to treat citizens of our nation' (Submission 167). Submissions highlighted the numerous factors that contribute to people's ability to purchase food for their families such as people's economic and employment opportunities, which IM does not address. Many gave evidence that the opposite is in fact occurring for a number of people: that IM is restricting the amount of food available to families, as evidenced by the increase in anaemia in the Katherine region since the implementation of IM (Submission 51). Many argued that IM is an inadequate, short-term response, and that a greater investment is needed for welfare reform; one stated that 'withholding income from people does not automatically teach people how to manage family budgets (Submission 37).

Submissions also questioned the evidence that IM will improve school enrolment and attendance. Several argued that IM has a negligible effect on school attendance, citing evidence based on domestic and overseas examples. Several also highlighted the potential negative effects of linking compulsory income management to enrolment and attendance rates, arguing that families without adequate education facilities and teachers will be further disadvantaged. A few submissions drew attention to a similar program introduced in Western Australia, whose Evaluation Report recommended that the pilot scheme not continue, as income management in this case did not have a positive influence on school attendance. The Human Rights and Equal Opportunities Commission argued that:

Strategies that limit family income through linking income management to school attendance and imposing eight week penalties for welfare breaches can further hinder the capacity of a family to act in the best interests of the child. Such strategies can restrict a family's access to resources to provide food, housing and access to education for the child (Submission 156).

b.) Undermines people's ability to budget and be responsible for their own income, including undermining already-existing community responses to financial management

Submissions argued that although one of the aims of IM is to promote responsible spending and financial management, compulsory income management enforces the opposite. Many pointed out that, both in principle and in practice, involuntarily having one's income managed by some form of intermediary actually undermines people's responsibility and development of financial management skills. Submissions argued that the lack of communication with persons

subject to IM further contributes to this disempowerment; a number of submissions related the experiences of people who were not aware of where their money was accruing or how it was being managed. Submissions further argued that IM undermines people's self-esteem and dignity and diminishes skills in managing one's finances; one stated that under the IM scheme, the 'ability to budget [is] more difficult' (Submission 144).

It was also reported from submissions that financial support services operating prior to the NTER, although successful, had been overlooked by the NTER, in favour of IM. Such services include financial literacy training and a voluntary form of income management offered through community, non-government and private organisations. They noted that this is not only disempowering to those who had already sought some form of income management voluntarily or other support, but it created confusion about the different schemes, such as which cards to use. Many argued that these actions seriously undermined those services that had been working towards the objectives of IM, - to improve financial literacy. One stated:

For decades now the Yuendumu Social Club Store has been doing "Income Management". Pensioners have BY CHOICE had their Centrelink cheques lodged at the store and been able to 'draw' on these. This has been done by people that knew the people concerned and for example a crippled or blind person would nominate a grand daughter to do his or her shopping for them. This arrangement has now been thrown into disarray by the imposition of Income Management run by people that don't seem to know nothing. Anecdotal evidence is that Income Management that has recently been introduced to Yuendumu (after delays resulting from local opposition) is causing much confusion and anger (Submission 143).

Importantly, several submissions to the NTER Review presented material that they had drawn from surveys and consultations conducted with people living in prescribed areas. These submissions revealed that while responses to compulsory income management were mixed, with people identifying both positives and negatives of the scheme, responses were overwhelmingly critical. For example, one submission reported that 90% of people that they surveyed 'expressed opposition to income management provisions' (Submission 151). Another found that 100% of people surveyed that lived on outstations 'reported problems with receiving only half their money in cash' (Submission 126). The Aboriginal Medical Services Alliance Northern Territory (AMSANT), while not citing statistical material, commented that 'the majority of feedback has been about negative impacts associated with income management, indicating that concerns are widespread and the problems systemic' (Submission 190). Surveys conducted by one organisation found numbers were 'almost evenly divided' between support and opposition to IM, though they found that most people who supported IM were 'wage-earners', not people on social security (Submission 186). One pointed out that although they received some positive feedback about this sub-measure, 'the benefits reported are about service availability and not about mandatory application' (Submission 97).

c.) Was not supported by financial management assistance

Submissions criticised the NTER's income management response for its lack of financial management support, which they argued should have accompanied such a welfare measure. Some referred to such services in place pre-NTER, noting that these also were not considered by the NTER. Many expressed extreme frustration that such significant amounts of money were spent on administering IM, which they argued would have been better allocated to communities for financial literacy training and banking. Others argued that the lack of financial management assistance will affect people when the IM scheme ceases, questioning how

people will then manage their finances. Given these concerns, it is encouraging that the changes proposed in the new Bills acknowledge the importance of this kind of service provision.

d.) Results in a lack of choice (thereby violating the right to self-determination)

Many submissions criticised the lack of choice enforced by the IM system through the use of store cards, arguing that because people in prescribed areas could only shop at certain stores and purchase certain items, their capacity to make choices about their lives that they would usually make was significantly limited. Although ostensibly the purpose of income management, submissions pointed out that such restraints violate people's right to self-determination. Further, they provided examples of the extent to which this lack of choice affects people's day-to-day decision-making. For example, some reported that people who would usually prefer to purchase second-hand items could no longer do so under the IM scheme; instead, items could only be purchased from larger stores such as Coles, Woolworth or K-mart where prices are much higher, therefore limiting what could be bought. They added that sometimes funds had accrued at such stores, where people had no desire or need to spend money, and income-managed funds had been used to buy things that 'they wouldn't ordinarily, such as an inordinate amount of clothes, toys, etc' (Submission 149).

Others pointed out that as the store cards could largely only be used for food, they 'cannot be used for other things deemed necessary by the family' (Submission 28). There were many examples of this, such as families who were not able to buy, lay-by or 'chuck in' (pool funds) for things such as white goods, vehicle repair, or travel expenses (Submission 128). Some reported that this also impinged on families' capacity to care for family members such as paying for inter-state education, sending money to family members living away from communities, or contributing to community-run aged care programs. Several noted that because of IM, there was not enough discretionary income to pay for Christmas presents or attend the Royal Easter Show; they commented that 'people want to save for holidays and Christmas like everyone else' (Submission 145). Some noted that the lack of choice also impacts on local business: submissions reported that they were unable to shop at the local bakery, a community-run business, which was struggling as a result.

e.) Was poorly implemented

Submissions made general comments about the implementation of IM, arguing that although its approach is 'simplistic', it is also highly complex, and fails to take into account the many factors that might influence its outcome. Submissions outlined a number of difficulties associated with its implementation that were not taken into account, or adequately explained to those subject to it. For example, one stated that the implementation of IM had been 'poorly managed ... with no apparent plan to communicate the changes to the community' (Submission 207); another argued that IM was introduced 'without ensuring the basic measures were in place to support it' (Submission 97). Examples of this are outlined in more detail below.

- Store cards

The majority of submissions that referred to this sub-measure noted considerable problems with the use of store cards. Many criticised the fact that people having their income managed have to fortnightly contact Centrelink (in person or by phone) to allocate their managed funds before they can do their shopping. For many this might require significant travel and associated expenses if the Centrelink is far from their home, including transport costs, petrol, or

accommodation if they have to stay overnight. Submissions explained that queuing at Centrelink can take a long time, one explaining that 'having to travel long distances or continually line up at Centrelink is stressful' (Submission 128). Others noted the additional impact on people who work, who then 'have to leave their job and wait in a line, to receive a card, at the expense of lost wages' (Submission 28). Some related examples of persons who have to wait in town for Centrelink to re-open, if they had missed an appointment. Further, submissions expressed frustration that even once the cards are obtained, they can only be used at stores that have been designated by Centrelink. Submissions reported that smaller, local stores were not designated to use store cards because of a lack of infrastructure and resources to support the system. If this is the case, people must also travel to the designated stores to do their shopping. If it is far away, it is unlikely that this can happen more than once a fortnight, which then affects how many grocery items can be transported back to communities and stored for a fortnight. One noted that:

In the Katherine Region, Income Management was introduced during the Christmas period. Residents of prescribed communities were walking up to 10 kms on foot to Centrelink and waiting at Centrelink for hours. In some cases Centrelink ran out of storecards and issued food vouchers which the main shopping centre would not accept (Submission 131).

Regardless of the practical difficulties associated with the use of store cards, submissions reported that the cards were not necessarily effective in promoting children's welfare and enforcing responsible spending. Some reported that '[T]he amount of food in the house has not changed ... there is a surplus of store cards for use on food, leaving the other non-managed half of the income to disappear rapidly' (Submission 28). Other problems associated with the lack of communication about the store cards added to their overall inefficiency (see below under 'Communication'). Others reported that people are sometimes trading store cards for cash or alcohol, or using them for gambling. Some noted a 'loophole' in the system that allows IM-purchased items to be exchanged for cash at the refund counter of the store (Submission 212). It was also claimed that store cards can be taken advantage of by others, disputing the claim that income management has decreased humbugging.

- Technical problems/lack of infrastructure

One of the key criticisms of the IM scheme was that the infrastructure and support necessary for implementing the system was not in place prior to its roll-out (and in some cases still is not in place). As a result, there were numerous reports of technical problems associated with IM and the store cards in particular, often having significant detrimental effects for those subject to the scheme. Many identified that the necessary infrastructure for store cards was not properly functioning, resulting in the lack of choice for people in prescribed areas (outlined above). For example, it was noted that 'well-functioning community stores' were deemed a pre-condition of IM, yet for many communities are still not in place. Further, it was reported that stores were struggling with the 'burden of income management', because of the demands on resources, the technology needed to implement it and the staffing needed to support the increased workload.

Submissions also identified issues around the role of Centrelink in implementing the IM scheme, such as the lack of training for Centrelink staff prior to the NTER; some noted that despite requests from communities prior to the NTER, there was a general lack of Centrelink services in communities 'for much of the past decade', resulting in a lack of services to support the roll-out of IM, including financial literacy and banking services (Submission 97). One reported that 'a Grandmother of 82' had accrued over \$1000 because she could not be registered for income management due to a lack of identification (Submission 97). Similarly, it

was noted that some Elders in remote areas were not receiving payments. Many reported the general difficulties associated with having to allocate money according to one's needs: it was reported that in order to vary his income management arrangements, one man spent all day on the phone to Centrelink 'trying to get the money to change the tyre on his car' (Submission 77).

- Inappropriate management of people's money

A number of submissions reported examples of inappropriate management of people's money, largely as a result of technical errors associated with the IM system and/or a lack of consultation and communication. For example, many submissions reported that people had had things paid for from their discretionary income that they did not authorise, such as rent (although their food was included in their accommodation costs), or had money taken from their account to pay for things they were not using. Some reported people having their income-managed funds paid to Power and Water and Telstra, although they had no accounts with these companies, or having funds deducted for power cards when they use solar panels (Submission 97; Submission 167). Others reported that although quarantined funds are directed into the School Nutrition Program, sometimes meals are not delivered to children. Several noted that at times Centrelink had informed people that their managed funds had been allocated to a particular store, though when the person tried to shop there they discovered their funds were not there. Another reported that Centrelink had cancelled certain payments without the client's authorisation, such as their rent or other debts.

Submissions also reported a number of incidents that reflect the inappropriate management of people's store cards by third parties; one pointed out that stores are accruing interest on the unspent amounts left on store cards, not 'the owner of the funds'. They also reported that people's cards had been left with store owners who 'check to see if the member's benefits have been paid into the accounts', noting that every time they do so the owner of the card incurs a fee for a balance check or declined transaction (Submission 71). Others commented that there is no indication or timeframe given as to when unspent funds left on the store cards will be directed back to owners.

Submissions stressed how problematic incidents such as these are, reflecting on the highly unethical management of people's money. Further, submissions noted that essentially, people are being excluded from the process of managing their own money: Centrelink and other entities are making decisions on behalf of people 'whose circumstances are not known to them', regardless of their level of experience or cultural awareness, let alone knowledge of the individual being assisted (Submission 97). Again, submissions expressed that this undermined people's independence and clearly often resulted in negative outcomes for those subject to IM.

- Communication

A lack of communication around income management was a frequent complaint made by submissions; most criticised FaHCSIA for failing to consult in the first place prior to implementing IM, and further, for not adequately communicating to affected what IM is and how it works. Submissions reported that many people subject to IM did not fully understand it or what they were required to do, such as in terms of reporting to Centrelink and using the store cards. For example, one expressed 'grave concern' that people using store cards did not know that money could be left on cards after their initial use, were not aware of what happened to the left-over amounts, what amount was 'managed', or that money on the store cards could be combined with cash (Submission 144). Some reported that because of the lack of awareness around IM, people were not aware that their money was accruing and were consequently going hungry. Others noted that statements from Centrelink of income-managed

amounts for loans 'do not stipulate where the funds are going ... [they] know that a portion is going to a local store but have no idea where the rest of the money is' (Submission 71). Some noted that many store cards 'with significant credit' had been seen discarded as people were not shown how to use them or how to determine the remaining balance (Submission 181). One specifically stated that both Indigenous and non-Indigenous people couldn't make sense of the 'pay slips' and questioned 'how an illiterate person could manage their money and learn budgeting on the information available to them' (Submission 83).

In general, submissions criticised the lack of communication in regards to why people are subject to IM, for how long and what the conditions are. Submissions also reported that some people had little to no knowledge at all about IM. They explained that a large part of this was the failure of FaHCSIA to communicate in the appropriate language; often where attempts had been made to provide information, English literacy had been assumed, translators were often not used and information was conveyed in jargon or not appropriately targeted to people. For example, some noted that information sheets provided by Centrelink had attempted to explain IM, but had not used appropriate language: it was questioned whether everyone would necessarily understand what 'managed' meant, or 'quarantined' (Submission 162).

This lack of communication is highly problematic for a number of reasons. Firstly, it was argued that there is 'no sense' in developing and implementing a policy and without ensuring that the people it targets understand why it is being implemented and how it might affect them (Submission 21). Some submissions pointed out that the lack of communication is likely to influence how effective this action is. For example, some noted that the failure to explain to people what was expected of them in terms of assessments, forms, and identification, resulted in people not receiving payments. It was also considered harmful to Indigenous people, who had not given their informed consent or been able to participate 'in an informed way', particularly given the lack of interpreters (Submission 97). Many considered the lack of communication to be a violation of the rights of those affected.

f.) Was not adequately evaluated

Submissions were highly critical of the lack of evaluation mechanisms to assess the effects of income management; such criticisms were often associated with criticisms about the lack of evidence to support it. Many were also critical of comments made by FaHCSIA after initial evaluations of IM, which suggested positive outcomes of income management, noting that this feedback was based only on phone interviews with staff from 20 stores, not quantitative data of purchased items, store reports or interviews with customers, for example (Submission 70; Submission 156). Submissions noted the lack of evidence around what was actually being purchased with IM funds. Again, submissions criticised claims made by FaHCSIA that 12 months into the NTER, cigarette sales had 'approximately halved', revealing that this information was based on responses from two out of 20 store operators (Submission 182). In addition, some referred claims that IM under the NTER is based on the 'Cape York model' of income management, asserting that the two schemes are different, and that the Cape York model has not yet been subject to thorough assessment (Submission 190). Of serious concern were reports that some people 'feared making complaints', believing that other services provided under the NTER or otherwise may be removed (Submission 144). One stated that 'I can imagine people will generally not speak up too much about it as it is their lifeline and they don't want to do anything that will jeopardise their payments, having already seen what governments are capable of doing' (Submission 149).

g.) Breaches a number of human rights, including the right to non-discrimination

Most submissions recognised that the current compulsory form of income management under the NTER is in breach of a number of rights under international law, namely, the right to non-discrimination, to freedom from arbitrary deprivation of one's property, and to social security. Submissions also identified other problems related to the removal of social security appeal rights; submissions pointed out that this is a major violation of a number of rights, such as the right to equality before the law and equal protection of the law (UDHR, Article 7); to self-determination (ICCPR and ICESCR, Article 1); to not be arbitrarily deprived of property (UDHR, Article 17); and the right to social security (UDHR, Article 22).

One of the most frequent criticisms was also the discriminatory nature of compulsory income management; most submissions that referred to it considered it to be a serious breach of people's basic right to non-discrimination, as well as breaching the right to welfare. Most highlighted the fact that persons outside of prescribed areas, including non-Indigenous people, may also have troubles managing their income or may put their children at risk of abuse or neglect, yet were not subject to IM, while people in prescribed areas who are financially responsible and care for their children are subject to it. Thus, submissions overwhelmingly considered the NTER application of IM to be racially discriminatory, expressing their opposition to this.

Many submissions expressed serious concerns of the number of rights violated by this measure, one describing the suspension of the RDA under the NTER legislation as 'utterly unacceptable under any circumstances' (Submission 120). Further, one noted comments by NT Anti-Discrimination Commissioner that income management is 'a racist act' and that the elimination of racism requires 'laws that respect all of society', further arguing for the abandonment of the NTER and its related legislation (Submission 128). Given the above comments, most submissions urged that such rights be acknowledged and upheld, requiring that compulsory IM be abolished, the RDA and the right to appeal be restored, and further, that any forms of income management be consistent with human rights obligations.

h.) Has had tangible negative effects, such as:

- Poverty and poor nutrition

A significant number of submissions related stories of people being severely financially disadvantaged by the IM scheme, some noting that welfare centres in Darwin had reported increased demands for emergency relief (Submission 41; Submission 97). The Traditional Credit Union reported a decrease in loans since the NTER, as people are apparently 'having trouble saving the 10% deposit' (Submission 71). Some reported that the lack of communication about IM often led to financial difficulties, explaining that 'Centrelink interviews were brief: people had little time to think about their income management arrangements but were expected to determine how much needed to be allocated to food and where they wanted to buy it' (Submission 162). Others identified that older persons are particularly at risk of this, particularly given the difficulties associated in order to obtain money, such filling out paperwork, or phoning Centrelink. The increase in store prices was also regarded as a contributing factor.

Many submissions identified that as a result of financial hardships experienced through the IM scheme, people were experiencing poor nutrition due to restricted access to food and as a further consequence, diminished health. Several related stories of families going hungry or starving; others reported 'food raids on kitchens by hungry visitors' (Submission 35). HREOC related in their submission that they had heard reports of children 'crying for food, and at times

being fed gruel made from powdered milk' (Submission 156). Sunrise Health Service, an Aboriginal Community-Controlled Health service, reported an increase in anaemia since the NTER, which they considered a result of poor nutrition due to the constraints of IM (Submission 51). It was noted that older people and persons with a disability are particularly at risk given the requirements involved in accessing and spending money; one reported that for an entire weekend '100 pensioners went the weekend without food or power' (Submission 97). More generally, submissions noted increased difficulties in paying bills, debts, rent etc, some claiming that people are 'at risk of losing their accommodation' or 'at risk of incurring further fees and penalties for defaulting on payments' (Submission 131).

- Gender discrimination

Interestingly, while some submissions reported that women were more financially independent and more able to support their families financially as a result of the IM scheme, others reported that women are at greater risk of financial abuse by their partners or families. For example, some claimed that it is mostly women's income that is managed, as men are still working through CDEP which is not income-managed; because women are less able or likely to be employed through CDEP because of their role as primary carers in raising children, women might be subject to IM while men may not. They noted that:

[There are] multiple situations where Indigenous women experiencing violence and abuse who wish to escape such situations are hindered from doing so due to lack of disposable income to relocate or remove themselves from the situation (Submission 161).

Submissions not only considered this to be sex discrimination, but also argued that this puts women at risk of financial abuse as well as reducing the options for women experiencing domestic violence and further disadvantages them. One explained that for women experiencing domestic violence, 'adding income management to this already complex and overwhelming situation a significant burden' (Submission 154).

- Forced movement and financial disadvantage

Many submissions cited forced movement as one of the main unintended consequences of this sub-measure, referring both to temporary movement in the case of having to do shopping or collect cards from Centrelink, to longer-term or permanent movement for those seeking to escape the NTER altogether. Submissions argued that even temporary movement has resulted in disadvantaging families in terms of having to travel significant distances to do their shopping, as well as having to spend their discretionary income on travel expenses. This may not always necessarily be expensive, but for those who live a considerable distance from a Centrelink office and a designated store it can be very dear: one noted that in Arnhem Land 'a shopping trip to the local chain supermarket could cost up to \$1400 because of a two to three hour taxi ride' (Submission 156). Another stated that 'in some places people are required to pay \$270 each way to get a taxi to their nearest supermarket and Centrelink office' (Submission 131). Similarly, one related how a woman living in a prescribed area must now travel 19 hours to do her shopping 'at the designated stores', which involves getting a lift to the ferry, a ferry ride, and then a bus to the store. When she reaches the store, they must activate her card. Her journey costs her \$29 each time; as such, she 'either doesn't go and eat[s] poorly' from the local store or 'is forced to spend this amount of time and money' (Submission 97). Several reported instances where people had travelled large distances to do the shopping, 'only to find that their money was not available or that they couldn't obtain store cards' (Submission 190).

Submissions highlighted that this is economically inefficient and importantly, that the more money families have to spend on this, the less is available for them to spend on their basic needs. Some commented that families with less access to larger centres are further disadvantaged, such as families affected by the wet season who only have access to barges, which are more expensive. Again, older people and persons with a disability are at even greater disadvantage in regards to this issue.

Moreover, submissions noted that forced travel makes families and children more vulnerable, counteracting the stated aims of income management and the NTER as a whole. Several reported that due to this forced movement, families may find themselves stranded in town due to a lack of discretionary funds to pay for the travel or having to wait for Centrelink or another service provider to re-open, for example. As one explained:

In the Katherine region, when people travel in to the township to obtain their money or vouchers it is easy to miss the Centrelink deadline. If they book a taxi, arrive late and miss Centrelink, they need to camp by the river for the weekend with no money or safety until Monday to obtain vouchers/money to get back home (Submission 145).

Further, several submissions reported patterns of movement from prescribed areas to other places in the NT and interstate, some relating 'reports of people fleeing to QLD or SA' (Submission 127); submissions from organisations based in South Australia attested to this. These patterns of movement, temporary or otherwise, lead to overcrowding, family conflicts and strains on resources, and expose children to a number of risks that they would not be subject to had they been able to stay in their community. Some submissions reported an increase in violent offending, which they claimed 'may be linked to an urban drift' (Submission 105). It also places increased strain on the services available in those places, such as health, child protection, welfare and housing. Further testaments to this were the reports of increased requests for emergency relief.

Conversely, it was noted that for some, their movement is inhibited, as they are not able to travel due to the IM scheme; those who may want to go elsewhere cannot, as their payment is tied to a particular place. Submissions pointed out that this is a violation of their freedom of movement.

- Discrimination/disempowerment and racism

Overall, submissions considered the IM scheme to be discriminatory, racist and punitive, and highly disempowering. They argued that not only is IM itself responsible for this, but that it also promotes other forms of discrimination and racism which further disempower people. Many submissions gave examples of the ways in which people's capacities and control over their lives are hugely undermined by income management, such as, inter alia, their ability to retain their usual budgeting practices, their freedom of movement and choice, and their ability to pay for things from their discretionary income. They also identified a relationship between these forms of disempowerment brought on by income management, and their further disenfranchisement; submissions considered that the IM system is effectively exacerbating already existing social divisions.

Further, many gave evidence that since the NTER, Aboriginal people are being discriminated against in public places and that racism and harassment is more noticeable. One specific example of this was related by several submissions, reporting that since IM a number of stores had unofficially designated special queues for people being quarantined; one reported that

people had been told to 'get into the 'black' line' (Submission 153). Submissions likened this to apartheid, and noted that this had created a lot of shame and humiliation for those Aboriginal people forced to line up separately. One submission explained how this kind of disempowerment continues to affect people, recounting that while visiting Alice Springs from interstate and shopping at the local supermarket, she had been overcharged for 3 of 5 items but was able to negotiate this with staff. She questioned how an Indigenous person having their income managed would have dealt with a similar situation, given the disparate power relations enforced by IM, as well as the shame of being quarantined and the possibility of language barriers (Submission 151).

- Self-esteem and identity

One of the key concerns raised in relation to income management was the effect on peoples' self-esteem and identities, due to the message that income management creates about those subject to it; many argued that the punitive nature of this sub-measure effectively blames people rather than working with them to overcome disadvantage. People used the following words to describe their feelings of having their income managed: shame, low self-esteem, anger, frustration, fear, resentment, disappointment, humiliation, confusion, disrespect, distress, anxiety, stress, insulted, demeaned and judged. One woman said of the store card system: 'Shame, Going to Coles we have little red cards; all the white people have money' (Submission 151). Another stated 'one woman, much to her embarrassment, held up the line at the checkout in the Woolies supermarket because she was told by the checkout operator she could not purchase a light bulb on the food voucher' (Submission 149). People explained that they felt judged and labelled as alcoholics, paedophiles, irresponsible parents and as second-class citizens. Of serious concern are reports that 'people are not using small amounts on cards because they are too ashamed' (Submission 97). Many indicated that the signs erected outside prescribed areas were a further example of the shame and stigma created by income management, and also hugely detrimental to people's self-esteem; one stated that this 'breaks down the pride that people have built up over the years' (Submission 131).

This is of course exacerbated by the increased racism and harassment experienced as a result of the NTER. Many commented that the IM scheme closely resembles previous unjust policies inflicted on Aboriginal peoples since colonisation, such as the provision as food rations instead of welfare payments. One noted that IM causes distress for Aboriginal people who are 'finding themselves again unjustly dominated by inappropriate regulations as in earlier days' (Submission 75). Further, a number identified a link between these feelings and other negative consequences, such as increased illness, AOD consumption and family conflict, among other things. As noted, submissions related that some families did not have enough discretionary income to pay for Christmas or birthday presents or to attend the Royal Darwin Show, as they would normally have done. The impact of this on people's self-esteem is profound, particularly for parents who want to provide for their children.

- Men's identities

Submissions particularly noted the effects of income management on men's self-esteem and identities, due to the claims of child sexual abuse that originally prompted the NTER. Many reported that men felt overwhelmed by perceptions that they were dysfunctional parents and family members, and possibly paedophiles. Submissions reported the reluctance of many men to be seen in public with their children or young family members for fear of being judged; a submission noted that 'One man reported his Uncle no longer felt he could give his grandchildren a hug without being labelled a paedophile' (Submission 144). Others related that 'men don't like going shopping now' and don't take their children with them in public, as

they perceive that people are observing and judging them (Submission 97). One noted that communities are acutely aware of the demonisation of Aboriginal men, and feel that this is also 'likely to contribute to worsening self-esteem' (Submission 144).

- Family stress/conflict/violence

Several submissions reported an increase in family conflict as a result of the stress placed on families by income management. Further, they identified that as shared resources and purchases are made difficult by IM, this impacts on families' relationships and lifestyles. It also adds emotional strain, as individuals may not be able to buy things that they would previously have done, if purchased collectively. This includes pooled finances for travel expenses for shopping. As people's travel patterns are disrupted through IM, family members are less able to see each other, which makes it difficult to visit and care for one's family. In addition, some noted that family tensions are increased when some members have their money quarantined and others do not, as income management creates differences between families. Some commented that IM places pressure on people who work full-time to 'provide not only for their immediate families but also for extended family members' (Submission 145). Similarly, as some people are having difficulties with the IM system and often going hungry, there is increased pressure for people 'to supply food to many itinerant people and extended family members' (Submission 35). This is particularly relevant to people who are supporting family after leaving the NT to escape the NTER. Others expressed concern that these stresses have led to increased violence between family and community members.

- Increased AOD consumption

Some submissions related anecdotal evidence that for some, income management may have led to an increase in AOD consumption. This was identified as a potential result of people's decreased self-esteem and sense of control over their lives, in part provoked by income management as well as the alcohol restrictions under the 'Law and Order' and 'Welfare Reform and Employment' measures.

- Effects of income management for organisations (stores, Non-Government Organisations (NGOs), Community-Based Organisations (CBOs) etc)

It was reported by a number of submissions that income management has created significant implications not only at the individual and community levels, but also at the organisational level. This was particularly clear as many submissions came directly from organisations in the NT, such as community stores and other CBOs, Aboriginal organisations and various NGOs. They reported similar experiences of IM; that it created an overwhelming demand that organisations were not necessarily able or prepared to respond to. For example, the technology required to implement IM meant that stores had to have the capacity to be able to do this, or upgrade; not doing this meant that they would lose business from people whose quarantined funds were being sent to stores equipped to use store cards. One noted that their computer systems had to be upgraded, at the store's expense, in order to meet the requirements for IM. This also required an increase in staff to operate the additional till needed because of the long waiting time caused by the store cards. They added that these costs are 'borne by the store and ultimately the community' (Submission 83). In addition, the administrative side of income management required stores to increase tasks for staff or take on new staff, which increased the costs of operation. Some were not able to support this, one reporting that IM had increased their administrative workload by 75% (Submission 83). One small business, a local bakery, 'was being put out of business' as locals were not able to shop there (Submission 62). It was noted that the impact of IM on stores has provoked anger and resentment from some

communities, who often rely on stores for 'economic activity' as well as other crucial support, such as assistance with funerals (Submission 144).

For other organisations such as community legal centres, local councils and community-based services, IM has meant that they must spend significant time explain IM, negotiating arrangements for clients, and fulfilling other roles that they felt should be within the scope of Centrelink's tasks. Many organisations objected to the fact that while they have been expected to assist in this process, they have often received no additional support to do so. Some domestic violence support services reported additional strains placed on their organisation as a result of IM; one explained the stresses of supporting women through this process, stating that:

It is unacceptable for our organisation to divert funding from direct service provision to increase administrative support to manage changes in the Centrelink structure. Funding levels for non-government organisations must reflect these additional pressures and the broader context in which we operate (Submission 154).

Several commented that staff have resigned as a result of the stresses of the NTER, including IM. In addition, it was reported that stores that are having trouble with the licensing requirements are 'struggling' with this process, and as a result, some have had to increase their prices to compensate for the increased administrative load (Submission 79).

i.) Does not need to be compulsorily enforced, but rather, can be applied voluntarily (as it has been previously) and on an assessed, case-by-case basis, supported through financial management training and other assistance. This would still support those people who find income management beneficial

Income management as administered by the NTER has received mixed responses, both positive and negative. This was consistently highlighted by submissions, which expressed that while there have been beneficial as well as detrimental outcomes, the criticisms have overwhelmingly outweighed the positives identified. Further, as noted above, submissions expressed concerns that the positives identified with income management may be a result of people's satisfaction with an increase in service provision, not necessarily with income management itself. Regardless, there are persons who have expressed their support for the measure, and this must also be taken into account. It is clear however, that a 'blanket application' of **compulsory** income management is not only unnecessary, but hugely detrimental. It is therefore Nura Gili's contention that income management be made available on a voluntary basis, as well as being made compulsory in the event that it is deemed necessary by relevant authorities, on a case-by-case, assessed basis. One submission highlighted the statements of former NTER Taskforce Chairperson, Sue Gordon, that 'the "one size fits all" approach needs adjustment'; they further quoted her as saying "My own view is that those people who can manage their money shouldn't be (income managed)" (Sub 128).

In regards to case-by-case income management, submissions proposed that there be an assessment for this, which might include indicators such as school enrolment and attendance, family violence offences, and reports of abuse or neglect. It was also proposed that where it was deemed necessary to enforce income management, that this be accompanied with the provision of relevant services, such as financial management, AOD or health support. Submissions also emphasised that such decisions be reviewable under the Social Security Appeal Tribunal and the Administrative Appeals Tribunal. One submission specifically referred to the model used by the Cape York Welfare Reform trial, where a community structure 'drawn from local community Elders', is established to oversee welfare arrangements (Submission 76).

In the case of linking this form of income management to school enrolment and attendance, several advised that this be closely monitored to measure what progress is achieved in terms of increasing not only enrolment/attendance, but also educational outcomes. They also argued that this must be accompanied by a significant increase in funding and resources to improve the quality of education.

As noted, many submissions cited already existing programs administering voluntary forms of income management, which had been overlooked by the NTER, and recommended that schemes such as this be supported and encouraged in favour of compulsory income management. Some suggested that part of this response might involve supporting and financing programs already in operation, coupled with providing and/or increasing financial support services. It was argued that a voluntary form of income management would support autonomy and self-determination, and would also be more effective as a longer-term response. Importantly, it was argued that some people interviewed about income management reported that they 'were better off under the old [voluntary Centrepay] system which enabled greater discretion as to the allocation of funds for specific purposes' (Submission 186).