



Human Rights and the Stronger Futures in the Northern Territory

***Submission to the Parliamentary Joint Committee on Human Rights
Review of the Stronger Futures in the Northern Territory Act 2012 and related legislation***

***by the
National Welfare Rights Network***

October 2014

"It scared the living daylights out of everybody..."

The arrival of the army trucks into remote Indigenous communities re-traumatised those who experienced the 'stolen generation' who were fearful that their young would again be taken by the state.

"...they bolted, everybody left this community...all the soldiers....we were being attacked."

Bob Randall, Aboriginal Elder, Mutitjulu, Utopia.

"I am on the BasicsCard like thousands of my people. I am capable of acting [Redfern Now] ...but because I'm black and from the NT, the government says I'm incapable of managing a Centrelink payment".

Patricia Morton-Thomas, Aboriginal actor, New Matilda, *My family is calling for justice*, 6 December 2012.

"The intervention was launched on a very cynical big lie, a vicious one that smeared all Aboriginal people in the Northern Territory. The legislation that delivered the Intervention, this federal takeover, didn't actually mention children, but the propaganda machine from the beginning was relentless."

Jeff McMullen, journalist and broadcaster, Utopia.

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Review of Stronger Futures in the Northern Territory Act 2012 and related legislation

1. About the NWRN

The National Welfare Rights Network (NWRN) welcomes the opportunity to provide comments to the Joint Parliamentary Committee on Human Rights (JPCHR) *Review of Stronger Futures in the Northern Territory Act 2012 and related legislation*.

The National Welfare Rights Network (NWRN) is the peak community organisation in the area of social security law, policy and administration. We represent community legal centres and organisations whose role is to provide people with information, advice and representation about Australia's social security system.

NWRN member organisations operate in all states and territories of Australia. They are organisations which have community legal services dedicated to social security issues. Their services are free and they are independent of Centrelink and government departments.

The NWRN also has as Associate Members the Central Australian Aboriginal Legal Aid Service (CAALAS) and the North Australian Aboriginal Justice Agency (NAAJA).

2. Introduction

The NWRN is opposed to the punitive aspects of the emergency intervention in the Northern Territory since 2007 and has made numerous submissions on the income management and its impacts. Our initial submission on the *Northern Territory Emergency Response* is attached, along with the NWRN submission on the *School Enrolment and Attendance through Welfare Reform Measure (SEAM) Bill* and the *2012 Stronger Futures in the Northern Territory Bill and related measures*.

The June 2013 report of the Parliamentary Joint Committee on Human Rights raised significant human rights concerns with the legislation and recommended a 12 month review. This submission addresses two key areas of concern covered in the 2013 report: Income Management and the *School Enrolment and Attendance through Welfare Reform Measure (SEAM)*. We look at a number of recent evaluations into income management, and also explore issues of exemptions and use of the appeals system, as areas that highlight limitations to human rights among those subject to income management.

Our initial comments concern how the 2012 *Stronger Futures* measures were introduced, and the inadequate levels of consultations undertaken with affected communities.

3. *Ineffective and inadequate consultation on the laws*

In terms of human rights considerations, we are of the view that there was an absence of genuine consultation with communities affected by the 2012 *Stronger Futures* legislation.

Article 19 of the UN Declaration on the Rights of Indigenous Peoples provides that:

“States shall consult and cooperate in good faith with the Indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.”

We contend that it does not appear that the free, prior and informed consent of Aboriginal peoples was secured prior to the adoption of the *Stronger Futures in the Northern Territory Act 2012*.

The Government’s own consultation paper notes criticism of the consultation process, with people not properly informed about the topics of discussion. A lack of interpreters undermined effective engagement and the capacity to obtain consent. The consultations were also criticised over the lack of transcripts of participants’ views.¹

The design and conduct of consultations that led to the passage of these Bills were inadequate. Disputed income management measures and bans on customary law in bail and sentencing were excluded from group discussions. The Government’s claim at the time to widespread support for its controversial measures is highly questionable.

The limitations placed upon Indigenous people in the Northern Territory who are subjected to these laws – that began with the *Northern Territory National Emergency Response Act 2007* and are continued under the *2011 Stronger Futures Legislation* – impinge significantly upon human rights as they pertain to Indigenous Australians, in particular, with respect to the right to self-determination.

Instead of waiting for the Senate Committee’s report, informed by consultations in affected Aboriginal communities, the legislation was fast-tracked through the lower house with limited debate. A human rights compatibility assessment was not thoroughly scrutinised by the public prior to the passage of the legislation.

With the support of both major parties, the *Stronger Futures laws* are set to remain intact with their coercive and punitive approaches until the year 2022.

This is directly at odds with a commitment to moving from intervention to building safe and sustainable communities, a goal that was supported by local communities.

NWRN expressed concern that the *Stronger Futures* measures will further harm disadvantaged, remote communities. The laws also introduced penalties for possession of alcohol on Aboriginal Land, including up to six months imprisonment for a single can of beer and 18 months for a six-pack.

International expert, Dr James Anaya, the UN Special Rapporteur on the Rights of Indigenous Peoples, condemned Australia for discriminating against Aboriginal peoples and imposing stigmatising measures under the Northern Territory Emergency Response, without obtaining community consent to these controversial measures.

¹ Department of Families, Housing, Community Services and Indigenous Affairs, *Northern Territory Emergency Response: Evaluation Report*, p. 5. Also see NWRN Submission to Stronger Futures Bill, p. 7.

4. Income management – a potted history

Income management has its origins in 2007 under the Howard Government, as part of what was called the Northern Territory Emergency Response (The Intervention). The Government responded to the report into child welfare, *Little Children Are Sacred* report on sexual abuse of children in some remote areas of the NT with a far-reaching “Intervention”. Initially imposed on 73 Indigenous communities in the Northern Territory, income management schemes were also established as part of the Cape York Welfare Reform Trial as a response to addressing school attendance and child protection issues. Provisions were also introduced to enable people to have their social security payments income managed voluntarily.

The rollout commenced on 17 September 2007 and controversially, the initial income management legislation included provisions which limited the application of the *Racial Discrimination Act 1975 (Cth)*.

With a change of Government it morphed into what became known as ‘new income management’ when on 25 November 2009 the Rudd Government announced that it would replace the Howard Government’s income management model with a broader, national scheme targeted at ‘individuals at risk’ and ‘vulnerable regions’.²

5. Income management across Australia

Seven years after the Howard Government’s “intervention”, the irrefutable facts are that the overwhelming majority of those subject to income management in the Northern Territory are Indigenous. In May 2014 there were nearly 25,000 people on income management. Recent data from the Department of Social Services reveals that there are 20,003 people being income managed in the Northern Territory.³ A further 4,937 people resided in 13 other locations. In all of these locations – Western Australia (Perth and Kimberly – 1,693), Ng Lands and Laverton Shire, WA (239), Cape York, Qld (212), APY Lands, SA (247) and the majority of participants were Indigenous.

Our analysis, summarised below, of income management data from the Northern Territory highlights ongoing problems with the policy.

- Six years into the intervention, and four years after the *Racial Discrimination Act* was restored, nine out of every ten people subject to the welfare quarantine are Indigenous income support recipients, yet they account for just 30% of the Northern Territory population.
- The number of people on ‘voluntary’ income management’ continues to decline. Voluntary participation fell from 4,560 in April 2011 to 3,720 in May 2013, a decline of 19%. Just 18.5% are voluntary participants.⁴

² Macklin, J. and Snowden, W. *Major welfare reforms to protect children and strengthen families*, Media Release, 25 November 2009.

³ Senate Community Affairs Committee, 2014-15 Budget Estimates, Social Security Portfolio, 5 June 2014.

⁴ Ibid.

- Indigenous recipients outnumber non-Indigenous recipients in every measure of Income Management: 'Disengaged Youth' number '4,363 (89% indigenous, 11% nonindigenous; 'Long Term Welfare Payment recipient' number '11,104 (87% indigenous, 11% non-indigenous'.⁵
- Almost all of those on Voluntary Income Management or subject to the Vulnerable Welfare Recipient Category, Supporting People at Risk Measure or Child Protection income management are Indigenous income support recipients.
- Women are more likely than men to be placed on income management in the Territory, with women accounting for 61% of those whose income are being quarantined.

Seven years after the Australian army entered remote Indigenous NT communities, and despite the restoration of the *Racial Discrimination Act*, nine out of every 10 people on income management in the Territory are Aboriginal people.

There are two key areas of income management policy – exemptions and appeals – which are indicative of diminished rights for Indigenous income support recipients who are subjected to the *Stronger Futures* regime. Indigenous people are much less likely to successfully apply for, and be granted, exemptions. This raises legitimate questions about indirect discrimination against Indigenous Australians even through a so-called 'non-discriminatory' version of income management.

In a scathing report in 2012, the Commonwealth Ombudsman highlighted serious deficiencies with the Department of Human Services' administration of exemptions policy, as has the Northern Australian Aboriginal Justice Agency (NAAJA).⁶ The evaluation of income management highlighted significant problems with the exemptions arrangements. The evidence at this stage is that the majority of Indigenous people subject to income management will remain income managed for an extended period of time with the rate of exit from income management for most subgroups being quite low. However, around half of the non-Indigenous people subject to income management exit within a year.

NWRN members who provide assistance and support in the Northern Territory have over many years been highlighting deficiencies with the exemptions processes for income management. The Department of Human Services has introduced a number of measures which have had a slight increase in the take up of exemptions.

NWRN's 2012 submission on the *Stronger Futures Legislation and other measures* explores in some detail the deficiencies in the consultation process that accompanied the Stronger Futures Bills and income management in particular. We highlighted how the *Stronger Futures* consultation process actively discouraged discussion on income management. We urge the Committee to re-visit the findings of the evaluation of the consultations by CIRCA.⁷

In the period since the June 2013 Parliamentary Joint Committee on Human Rights (PJCHR) initially raised its concerns over the human rights implications of the measures in the Bill, there has been no

⁵ Ibid.

⁶ Commonwealth Ombudsman, *Review of Centrelink Income Management Decisions in the Northern Territory, Financial Vulnerability Exemptions and Vulnerable Welfare Payment Decisions*, Report No. 4, June 2012 and Northern Australian Aboriginal Justice Agency, *Key Income Support Issues for Aboriginal, Australians in the Northern Territory: A briefing paper prepared with input from North Australian Aboriginal Justice Agency*, March 2012.

⁷ National Welfare Rights Network, *Submission to the Senate Community Affairs Committee Inquiry into the Stronger Futures in the Northern Territory Bill 2011*, February 2012, pp. 7-9.

effort to undertake any engagement with the local community on income management in the Northern Territory.

Article 1 of the *International Convention on the Elimination of All Forms of Racial Discrimination* refers to measures as racially discriminatory if they have 'the purpose or effect' of restricting the enjoyment of human rights.⁸

In its 2013 examination of the *Stronger Futures and related legislation*, the Joint Parliamentary Human Rights Committee concluded that:

[T]he government has not yet clearly demonstrated that:

- *the income management regime to the extent it may be viewed as having a differential impact based on race, is a reasonable and proportionate measure and therefore not discriminatory; or*
- *the income management regime is a justifiable limitation on the rights to social security and the right to privacy and family.*⁹

It is NWRN's contention that the government still has not clearly demonstrated that income management meets these criteria. Extensive government evaluations of income management to date indicate limited evidence of positive benefit, with some reports suggesting the policy has been harmful to certain individuals.

Income management, in its various forms, has been the subject of a number of evaluations in recent years.¹⁰

Summing up the evidence base, Cox recently noted that researchers:

*...have not been able to find evidence of positive benefits from the data they collected. They noted that some positive responses that came from some recipients were not supported by any external data on improved community safety, child nutrition or school attendances, although these were the policy's core aims. They also reported negative responses, particularly from those on the compulsory version that may outweigh the positives.*¹¹

6. Recent Income Management evaluation reports

In October 2013, the Government released two evaluation reports on income management which, according to the Minister for Social Services Kevin Andrews, indicate that Income Management is "having a positive impact on the lives of disadvantaged Australians."¹² However, the details of how income management is working on the ground tell a very different story.

⁸ International Convention on the Elimination of All Forms of Racial Discrimination (ICERD).

⁹ Parliamentary Joint Committee on Human Rights (PJCHR), *Examination of legislation in accordance with the Human Rights (Parliamentary Scrutiny) Act 2011 and the Stronger Futures in the Northern Territory Act 2012 and related legislation*.

¹⁰ Cox, E. Journal of Indigenous Policy, Issue 12, *Evidence-Free Policy Making? The Case of Income Management*, September 2011.

¹¹ Cox, E. *Income management: More free evidence-based policy-making?*, The Conversation, 3 October 2013.

¹² Andrews, K. Minister for Social Services, *Income management making a positive impact*, Media Release, 4 October 2014.

In a nutshell, the two recent evaluations of income management by Deloitte Access Economics and Katz and Bates find that income management can be beneficial for those that volunteer for the program, however it can have a negative impact when mandated.¹³ Below, we look at the main findings of the two reports.

Place-based Income Management: The first study looks at “place-based” income management which has operated in five “disadvantaged” locations across Australia since July 2012: Logan QLD, Rockhampton (QLD), Shepparton (VIC), Bankstown (NSW) and Playford (SA).

Over \$117 million has been allocated for income management over a four year period.

In these trial sites, income management applies to three groups of people who are:

- referred by State or Territory child protection authorities;
- assessed by a Centrelink social worker as being vulnerable to financial crisis, which could include people referred by state housing authorities because they are at risk of homelessness due to rental arrears; and
- volunteers for income management.

On 1 July 2013 the ‘place-based’ model of income management was further expanded, despite the absence of any recommendations or advice to do so in the first official evaluation of New Income Management in the Northern Territory.¹⁴

Under the ‘Vulnerable Welfare Payment Recipient’ measure, young people are automatically income managed just because they happen to be on certain payments, not because there is any evidence that they are unable to manage their affairs or are being abused or are otherwise “at risk”.

- people aged under 16 years granted Special Benefit;
- people aged 16 years and over granted the Unreasonable to Live at Home payment; and
- people under the age of 25 who receive a Crisis Payment due to prison release.

The group most affected by the 1 July 2013 extension of income management was young people on Youth Allowance receiving the Unreasonable to Live At Home (UTLAH) rate.

At May 2014, 1,878 “vulnerable” young people have been placed on income management. Prior to the “trigger” based income management was introduced in July 2013, ninety per cent of those on “place-based” income management were voluntary participants. This changes in July 2013, and now around three quarters of those subject to income management in these five locations are mandatory participants.

Like previous government studies, the evaluation failed to demonstrate that compulsory income management has a positive impact on financial and personal wellbeing.

¹³ Deloitte Access Economics, *Place Based Income Management – Process and short term outcomes evaluation*, Prepared for the Department of Social Services, August 2014 and Katz, I. and Bates, S. *Voluntary Income Management in the APY Lands*, Social Policy Research Centre, Prepared for the Department of Social Services, September 2014.

¹⁴ Bray, et al, *Evaluating New Income Management in the Northern Territory: First Evaluation Report*, July 2012.

The evaluation found that while volunteers for the scheme reported improvements in their ability to manage their money, those forced on the scheme — the vast majority of clients — reported no such improvement.

There was no decrease in alcohol or tobacco sales for income managed clients, and no improvement in reported levels of health. Indicators of child wellbeing, including school attendance, were not affected by income management, despite supporters of this policy frequently justifying the scheme on child-welfare grounds.

The majority of those on income management in the place-based areas (Logan, Bankstown, Shepparton, Rockhampton, Blacktown) were young people (on the “trigger-based” Income Management - Youth Allowance because they were assessed as being Unreasonable to Live at Home). Many of these 1,878 young people had been managing their money before income management and the report found that their situation deteriorated by being pushed onto the scheme.

The report, disturbingly, failed to even mention the cost of the program: estimated at \$4,400 per person for all of the people under “place-based” Income Management.

Another key finding with the recent study was that over four-in-five people subject to Income Management reported at least one instance where they attempted to buy goods at a shop and they were unable to complete the purchase due to lack of funds. Eighty-five per cent of people with a BasicsCard “experienced an event” which meant that they were unable to make an intended purchase, and may have felt deeply shamed.¹⁵ The report notes that this “appears to be a relatively high incident rate of rejection” and that “consequently, the opportunities for a BasicCard customer to feel embarrassed or stigmatised may have been high”.

Voluntary Income Management in APY Lands: One report looks at in the APY Lands in South Australia, where Income Management was introduced a year ago after the community asked for it to be introduced. Like many of the previous evaluations, the findings “relies almost exclusively on perceptions of community members and other stakeholders” and no quantitative data was available.

There were 302 people were on the scheme in the APY Lands at November 2013, of which 88.4% were voluntary participants. Approximately 20% of the population in the APY Lands at the time of the study were subject to income management.

Key findings:

- Community members and those using Income Management were positive about the scheme;
- That communities requested the scheme, and have been consulted about its introduction appears to have had a significant influence on community and participants views about Income Management;
- There were increased reports of financial harassment because of the reduced amount of cash in the community;
- People bought goods with income managed funds and exchanged them for cash;
- Community members now indicate that they are being “humbugged” for both cash and for food;

¹⁵ Deloitte Access Economics, *Op Cit*, p. 120.

- Many outlets did not accept the card, and people travelling to Adelaide experience practical problems when travelling out of APY Lands for family or community “business”;
- Despite being on income management, 70% of people ran out of money in the previous four weeks – suggesting that it is the lack of money, not the inability to manage money, that is the real problem;
- The BasicsCard made it more difficult for some people to manage money when for instance, when they pooled resources and shared funds;
- People used Income Management in a variety of ways to manage their money, and some people believe Centrepay was a more effective way of managing their money, while others used a local Key Card at the bank or pooling their funds; and
- As there were a large number of programs operating locally, it was not possible to disaggregate the Income Management effects from other programs.

NWRN Members in South Australia recently undertook community outreach in the APY Lands. They have noticed anecdotally that some of the older members of the community have been running out of money as they do not have a clear understanding of where the income managed portion of their payments is going – some people were having some money going to the community store each fortnight, but then also going in and paying for their goods, so there is a build-up of credit and they are going without supplies as they do not realise they have credit.

It is also a problem as the surrounding communities do not always accept everything on the basics cards and the shopping is limited in the APY lands.

According to the researchers who oversaw the introduction of income management in the APY Lands, “income management has been implemented smoothly”.¹⁶ The evaluation notes that “there have been some practical challenges in the introduction of income management, but these have been relatively minor and overall the introduction was smooth and relatively problem free”.¹⁷

This view is at odds with reports from NWRN members on a recent trip to the APY Lands. As noted, they discovered that the BasicsCard had been so poorly explained to people that there were many in the community who had thousands of dollars on their card without even realising it. Community members had been surviving on the small amount of cash they were receiving not knowing they had this money.

The evaluators found that, despite information campaigns on radio, and posters and leaflets, “it is clear that some people still only had a partial understanding of income management and how it works.”¹⁸

NWRN considers that if reports on the low levels of awareness of income managed account funds are accurate, this is hardly the “smooth and problem free” implementation to brag about in the report.

The findings that income management may be of benefit for those who volunteer to take part is an important consideration for the JPCHR. NWRN notes that recently there have been community consultations in the APY Lands and in Ceduna about income management, and that the local communities subsequently welcomed voluntary income management.

¹⁶ Katz, I. Op Cit, p. 1.

¹⁷ Katz, I. Op Cit, p. 17

¹⁸ Ibid, p. 17

7. Does Income Management Work?

A 2012 report by the Parliamentary Library sought to answer the question *'Is income management working?'*¹⁹ It notes "substantial difficulties associated with evaluating the effectiveness of income management", with very few studies having been able to directly measure the impacts of income management separately from the mix of other policy interventions. Existing evaluations, says the researchers, should be "treated with caution" due to a range of methodological problems, including:

- the lack of comparison group or baseline data;
- the limited amount of quantitative data;
- the strong reliance on qualitative measures;
- questions over the independence of some evaluations; and
- problems with other design aspects of various reviews.²⁰

The best that the Parliamentary Library can say is that any evidence of positive changes is "uneven and fragile" and that "there is no clear evidence that income management is responsible for a worsening of the situation in areas in which it operates".²¹

There is a compelling and convincing case that compulsory income management should be disbanded, not expanded.

The current Minister for Social Services Kevin Andrews is considering the future of income management in Australia. We urge this Committee to carefully consider the survey data and official data from the first official evaluation of income management in the Northern Territory which concluded:

*...these findings point towards the conclusion that income management may assist a proportion of those on income support to cope with particular issues they face. At the same time the program has been applied to many who do not believe that they need income management and for whom there is no evidence that they have a need for, or benefit from income management. Income management has led to widespread feelings of unfairness and disempowerment.*²²

Other evidence of the disproportionate outcomes for Indigenous income support recipients can be found in an examination of the use and outcomes of income managed review and appeals in the Northern Territory (NT).

Bray reports that people whose income is managed in the NT are 'often geographically remote or isolated and among the least empowered to pursue review rights or complaints mechanisms.'²³

¹⁹ Buckmaster, L. Ey, C. and Klapdor, M. *Income management: an overview, Background Note*, Parliamentary Library, June 2012, p. 40.

²⁰ Ibid, p. 40.

²¹ Ibid, p. 42.

²² Bray, R. et al. *Evaluating New Income Management in the Northern Territory: First Evaluation Report*, July 2012, p. xxiv.

²³ Bray, *Ibid*, p. 245.

The data on the use of the appeals system released obtained through Senate Estimates hearings highlights the under-utilisation of the Centrelink appeals system among Indigenous social security recipients.

NWRN has examined all income management appeals data for 18 months, to December 2011.²⁴ Over the period there were 236 appeals lodged. Just 81 Aboriginal people have lodged appeals on income management in the Northern Territory over an 18 month period, accounting for only one third of all appeals. Non-Indigenous income support recipients are less than 10% of those subject to income management in the Northern Territory; however, they accounted for two thirds of all appeals for the period that the data was available.

Just 12 of the 207 cases that were decided led to a positive result for the claimant, and were “set aside”. The decision was varied in another three cases.

Only one Indigenous person in the NT took their income management problem to the Administrative Appeals Tribunal (AAT), but it was subsequently withdrawn. All three appeals from non-Indigenous income managed recipients to the AAT were affirmed.

NWRN contends that poor outcomes in relation to these two key areas: the availability of exemptions and access to review rights is indicative of a broader denial of rights.

8. Opportunity cost and spending on income management

The cost of administering income management is also of deep concern. An assessment by the Parliamentary Library reveals that by 2014-15 \$1 billion dollars will have been spent on income management across Australia.²⁵ The National Welfare Rights Network (NWRN) is not alone in asking, in a tough fiscal environment, whether income management policies can be justified, especially as there is no evidence that the compulsory policies are of benefit to the communities and individuals who are affected by them.

While the costs of administering income management may reduce if the policy expanded to more locations and delivered on a different platform, they are still an excessive administrative burden on both individuals and the public purse.

The Australian National Audit Office reports administrative costs of between \$2,400 and \$2,800 per person per annum in urban areas, to \$3,900-\$4,900 in rural areas and between \$6,600 and \$7,900 per person per year in remote areas.

Around \$100 million per year is currently spent on income management. The cost of the program per person is in excess of 62% of the rate of the single rate of Newstart Allowance.²⁶ Other alternatives that are considered to be just as effective, which do not carry the stigma associated with

²⁴ Senate Community Affairs Committee, Answers to Estimates Questions on Notice Families, Housing, Community Services and Indigenous Affairs Portfolio, 2011-12, *Additional Estimates Hearings*, Question No: 97.

²⁵ Buckmaster, L. et al, *Income Management: an overview*, Parliamentary Library Background Note, 21 June 2012, p. 43.

²⁶ Karvelas, P. *Coalition bid to expand welfare quarantining*, 1 October 2013.

the BasicsCard, include the free bill-paying Centrepay system. Another option that can assist with budgeting is the weekly payments of Centrelink benefits, an option that is currently used by around 20,000 vulnerable social security recipients.

The Forrest Review suggests the banks could provide an alternative platform to the Basics Card. The Review suggests a card which quarantines 100% of a person's social security payment. Such a system could bring its own unique set of problems including having no access to cash, minimum purchase requirements for EFTPOS access and bank fees. Furthermore, Age Pension recipients, who would be exempt, are likely to be the target of "humbugging" if they are among the small number of people in the community with access to cash.²⁷

Other problems with the BasicsCard persist, such as limited choice when shopping and difficulties for people who travel outside of their immediate community to locations where the BasicsCard is not accepted. The APY evaluation also found that the reduction of cash in the community meant "humbugging" continued, but that people were "humbugging" for food, in addition to cash.

Academics point out that compulsory income management can infringe on human rights in unexpected ways. Bielefeld argues that the effect of compulsory income management on the infringement of the right to culture should be considered. She notes that restricting access to cash through the BasicsCard interferes with customary kinship and sharing arrangements, and can impact on Indigenous cultural values regarding reciprocity, which are very significant in certain Indigenous communities. She also notes the important distinction between "reciprocal sharing of resources which is mutually beneficial" and "humbugging".²⁸

9. The School Enrolment and Attendance through Welfare Reform Measure

The *School Enrolment and Attendance through Welfare Reform Measure (SEAM)*, introduced in 2008, imposes conditions upon income support recipients and can result in the suspension of all income support for families.

Under the *Stronger Futures* legislation, SEAM was expanded considerably, from six trial sites in both the Northern Territory and Queensland to a further 16 trial sites in the Northern Territory.

The 2013 PJCHR noted in its June 2013 report that "the process of evaluation of SEAM is continuing, thus far the evidence has been mixed. In the Committee's view it has not yet been clearly demonstrated that SEAM has had a significant impact on reducing school attendance". Further, the Committee notes that it "is not able to conclude that the government has shown that the interference with rights that SEAM represents is justified".²⁹

There are a broad range of complex factors that lead to low school attendance. Of course, families have a responsibility for school attendance, but often, hidden underlying issues such as inadequate

²⁷ National Welfare Rights Network, *Submission to Forrest Report: Creating Parity*, September 2014.

²⁸ Bielefeld, S. *Submission to the Parliamentary Joint Committee on Human Rights on the Stronger Futures In the Northern Territory Act 2012 and related legislation*, October 2014, p. 5.

²⁹ Parliamentary Joint Human Rights Committee, *Examination of legislation in accordance with the Human Rights (Parliamentary Scrutiny) Act 2011, Stronger Futures in the Northern Territory Act 2012 and related legislation, Eleventh Report of 2013*, p. 74.

housing and health care, mental health issues, family violence, overcrowding, generational unemployment, lead to low school attendance.

Recent research by the Menzies Centre for Child Development and Education at Menzies School of Health Research has found a “strong correlation between overcrowding in housing and school attendance”.³⁰ They found compelling evidence that suggests that measures that address overcrowding are likely to be remarkably successful in improving school attendance.

Efforts to improve school attendance are critical. The NWRN supports the need for students to be fully engaged in school life. However, the NWRN opposes the extension of conditional welfare in such a punitive and counter-productive measure like the *School Enrolment and Attendance through Welfare Reform Measure (SEAM)*. The SEAM program is expensive and has not been subject to rigorous formal evaluation.³¹

The Government’s own findings in the *2011 NTER Evaluation Report* found no improvements from the SEAM program.³²

More recent analysis from 2012 found that overall, attendance rates increased by 5% over 2009-10, but the attendance falls over time and attendance lapsed.³³

More recent approaches are not showing any better results, with early evidence suggesting that the most recent attempt – “truancy troops” – is not having any sustained positive impact upon rates of school attendance.

NWRN does not consider that the withdrawal of income support will assist in overcoming complex and longstanding problems with school attendance or truancy.

Each state and territory has legislation that deals with truancy and in severe cases a parent/caregiver can be prosecuted for persistent non-attendance of students of compulsory school age. Where there is neglect/ abuse then surely this is a matter for relevant state or territory welfare department rather than Centrelink.

There have been numerous programs across Australia which have increased attendance of Aboriginal students at school. All of these programs stress the need to have well-supported teachers who build constructive relationships with students and their parents.

A good example is the website *What Works: The Work Program* hosted by the Department of Education. The site lists many examples of programs that have increased school attendance by having teaching staff who have been able to build constructive relations with students and parents.³⁴

³⁰ <http://theconversation.com/how-crowded-homes-can-lead-to-empty-schools-in-the-bush-30971>

³¹ SEAM is costing over \$200,000 per school year to administer. SEAM is a very expensive program, costing over \$28.2 million, with little to show for the funds expended. NWRN remains concerned about the “opportunity costs” and opportunities lost by such levels of expenditure on a punitive program that offers little real benefit in return.

³² See: Behrendt, Larrisa, McCausland, Ruth and Jumbunna Indigenous House of Learning, University of Technology Sydney, *Welfare payments and school attendance: An analysis of experimental policy in Indigenous education*, August 2008, pp. 1-36; Cox, Eva, *Evidence-Free Policy Making? The Case of Income Management*, in *The Journal of Indigenous Policy*, Issue 12, September 2011, pp.1-93; Harris, Michele and Rosa McKenna and *Cuts to Welfare Payments for School Non-Attendance: Requested or Imposed?*, October 2011, pp.1-26.

³³ Department of Education, Employment and Workplace Relations, *Improving School Enrolment and Attendance through Welfare Reform Measure (SEAM) Evaluation for 2010, January 2012*.

³⁴ See: <http://www.whatworks.edu.au/dbAction.do?cmd=displaySitePage1&subcmd=select&id=499>

NWRN agrees with the 2013 findings of the Committee, which reported that the SEAM program raised ongoing human rights concerns that “involves a limitation on the right to social security, the right to family, the right to adequate standard of living and the rights of the child”.³⁵

Nothing in the intervening period indicates that the nature of the SEAM program has changed – the SEAM still acts as a brake on human rights for those affected by it.

10. Conclusion

NWRN’s view on mandatory income management

The NWRN’s position is that Compulsory Income Management is fundamentally flawed. As a compulsory measure, it is counter-productive with respect to building decision-making capacity and is unnecessary given the guardianship laws available in states and territories. Income management applied on a voluntary basis can be a useful money management tool, albeit a very expensive one.

There is limited evidence of significant improvements in the social and economic health of those targeted by the regime.

Main problems with income management:

- Is incredibly expensive to deliver and administer;
- It will not achieve its intended outcome;
- It involves disempowering and demeaning effects that will likely cause long term damage to those subjected to it;
- It undermines an individual’s capacity to learn to manage their finances;
- It can be embarrassing for users and leaves people in situations of public humiliation;
- It remains indirectly racially discriminatory and creates situations of inequality and unfairness in its practical application; and
- It diverts funds away from legitimate purposes such as addressing inadequate levels of income support, or programs and services which, with community consultation, could be used to better help overcome chronic health conditions, accessibility to housing, and underfunded education provision.

The National Welfare Rights Network supports voluntary income management where it is a genuine choice of individuals and local communities, and we consider that the case for either continuing or expanding income management is particularly weak. Rather than being extended, this expensive and bankrupt policy should be abandoned and replaced with a genuinely voluntary system. This would free millions of dollars for essential community services that improves financial and personal capacity rather than undermining those who need extra support.

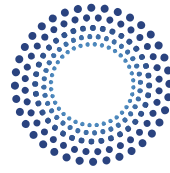
³⁵ Parliamentary Joint Committee on Human Rights, *Examination of legislation in accordance with the Human Rights (Parliamentary Scrutiny) Act 2011, Stronger Futures in the Northern Territory Act 2012 and related legislation, Eleventh Report of 2013*, p. 74.

This submission offers a brief assessment of the human rights impacts and costs of the *Stronger Futures legislation and related measures*.

Perhaps the last word of hope should be from Aboriginal and Torres Strait Social Justice Commissioner, Mick Gooda, who hopes that “we will eventually learn from the Northern Territory intervention that top-down measures will never be sustainable. What happened in the Northern Territory, we all felt, whether we live in the NT or in Melbourne, added to the mistrust that we have in Government”.³⁶

The Joint Human Rights Parliamentary Committee has an opportunity to make strong recommendation on these laws that could assist in re-setting relationships with Aboriginal and Torres Strait Islander people and improving indigenous and social security policy more generally.

³⁶ Koori Mail, *Gooda sees ‘rare opportunity’*, Issue No. 494, p. 8.



***Attachment 1: Income Management - Major submissions by the
National Welfare Rights Network, 2008-2014***

National Welfare Rights Network Submission to the *Northern Territory Emergency Response (NTER) Review Board on the NTER*, 9 September 2008.

<https://www.welfarerights.org.au/submission-northern-territory-emergency-response-nter-review-board-nter>

National Welfare Rights Network *Submission to Senate Community Affairs Committee Inquiry into the Social Security and Veterans' Entitlement Legislation Amendment, (Schooling Requirements) Bill 2008*, 23rd October 2008.

<https://www.welfarerights.org.au/submission-senate-community-affairs-committee-social-security-and-veterans-entitlements-legislation>

National Welfare Rights Network Supplementary Submission to Senate Community Affairs Committee Inquiry into the *Social Security and Veterans' Entitlement Legislation Amendment, (Schooling Requirements) Bill 2008*, October 2008.

<https://www.welfarerights.org.au/national-welfare-rights-network-nwrn-supplementary-submission-senate-community-affairs-committee>

Submission to the Senate Community Affairs Committee inquiry into the *Security Legislation Amendment Bill 2011, Stronger Futures in the Northern Territory Bill 2011, and Stronger Futures in the Northern Territory (Consequential and Transitional Provisions) Bill 2011*, March 2012.

<https://www.welfarerights.org.au/stronger-futures-northern-territory-consequential-and-transitional-provisions-bill-2011>

Income Management: State of Play, 2014

<https://www.welfarerights.org.au/state-play-income-management-2014>