

30 March 2021

Voice Secretariat
National Indigenous Australians Agency

By email only: Co-designVoice@niaa.gov.au

Economic Justice Australia (EJA) submission in response to the Indigenous Voice Discussion Paper

1. Economic Justice Australia (EJA) is the peak organisation for community legal centres providing specialist advice regarding social security issues and rights. Our members across Australia have provided free and independent information, advice, education and representation in the area of social security for over 30 years.
2. EJA draws on its members' casework experience to identify systemic policy issues and provide expert advice to government on reforms needed to make the social security system more effective and accessible. Our law and policy reform work:
 - Strengthens the effectiveness and integrity of our social security system;
 - Educates the community; and
 - Improves people's lives by reducing poverty and inequality.
3. EJA welcomes the opportunity to make this submission in response to questions posed in the Indigenous Voice Discussion Paper. We have responded to the questions of most relevance to ensuring that Aboriginal and Torres Strait Islander communities, community bodies and community-controlled organisations have meaningful input into social security legislation and policy development.
4. We use the example of compulsory income management and the recent passage of amendments to the legislation providing for the Cashless Debit Card program as just one example of the kind of issue where the proposed National Voice is needed.

Q. How do you think the proposed National Voice could support you, your organisation or your community to have your voice heard on issues of national importance?

Compulsory income management – limited opportunities to influence key legislation

5. On 26 December 2017, the United Nations Committee on the Elimination of Racial Discrimination published its *Concluding Observations on the eighteenth to twentieth periodic reports of Australia*. The Committee expressed concern that:
 - '... Indigenous peoples, including those living in remote areas, face discrimination in access to social security benefits, notably through the mandatory income-management scheme and the community development programme.'¹
6. The Committee recommended that the Australian Government;

¹ United Nations Committee on the Elimination of Racial Discrimination. Concluding Observations on the eighteenth to twentieth periodic reports of Australia [23] https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/AUS/CERD_C_AUS_CO_18-20_29700_E.pdf

'... reconsider the mandatory income-management scheme, which in effect disproportionately affects indigenous peoples, maintain only an opt-in income-management scheme and remove discriminatory conditions in access to social security benefits by claimants living in remote areas, the vast majority of whom are indigenous.'²

7. This recommendation has not been implemented. Instead, the Government proceeded with plans to extend the trial CDP program into new regions, and gave no due consideration to calls for the program to be solely voluntary.
8. In 2019 the Government introduced legislation to move the CDC program from trial to permanent status, and extend the CDC program into new areas. These amendments stalled in the Senate, and new legislation was introduced in 2020. After toing and froing between the Houses, a Senate Inquiry and considerable debate regarding the evaluation of the trials, the Bill was amended and passed in December.
9. Most new CDC program participants under the extended rollout will be Aboriginal and Torres Strait Islander people residing in the Northern Territory and Cape York. As noted by Aboriginal Peak Organisations Northern Territory during debate of the legislation:

'Support for the bill would directly contradict the recent National Agreement on Closing the Gap that was supported by all levels of government including the Commonwealth. It is not in keeping with the spirit of the agreement and its emphasis on Aboriginal and Torres Strait Islander self-determination.'³

10. In extending the CDC program inadequate regard was given to the fact that Aboriginal and Torres Strait Islander communities across regional and remote Australia are culturally diverse, with representative community-controlled organisations partnering with a range of agencies to enhance community wellbeing. Given the weight of empirical evidence indicating fundamental issues regarding the CDC program to date, including the overwhelmingly negative experiences reported by participants and communities, EJA believes that the further rolling out of the program without extensive community consultation with organisations representing all affected Aboriginal and Torres Strait Communities was unconscionable.
11. Importantly, the amendments failed to include reference to one of the objects of the trial – i.e., to determine whether the CDC is more effective when community bodies are involved. This lack of regard to evaluating what has purportedly been a 'trial', and communicate trial findings to communities, will only serve to deepen existing issues associated with inadequate consultation with affected communities.⁴
12. The 'top-down' imposition of the program contradicts its stated objectives of supporting participants with budgeting strategies and encouraging socially responsible behaviour.⁵ The degree to which people feel that they have autonomy and control over their actions and circumstances is a key determinant of responsible financial management and socially

² Concluding Observations on the eighteenth to twentieth periodic reports of Australia [24]

https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/AUS/CERD_C_AUS_CO_18-20_29700_E.pdf

³ <http://www.amsant.org.au/apont/apo-nt-call-on-mps-to-oppose-the-cashless-debit-card-expansion-bill/>

⁴ Goulbourn Valley Community Legal Centre Pilot (GVCLCP)(2012) Shepparton Income Management Survey Report. GVCLCP: Bendigo; Mendes, P., Waugh, J., and Flynn, C. (2014) 'Income Management in Australia: A Critical Examination of the Evidence'. International Journal of Social Welfare 23(4): 362-372.

⁵ s124PC Social Security Administration Act, as proposed

responsible behaviour.⁶ Participants in the CDC trials have reported feeling ‘powerless’ and having ‘control ... taken away’ by the lack of consultation and the restrictions of the card.⁷ The CDC program’s lack of basis in community consultation and self-determination takes away the autonomy of participants in a way that undermines the program’s key objectives.

13. Although CDC program participants may apply to exit the CDC program, the exit criteria are complex and opaque. The onerous exit application process is a significant barrier for people whose first language is not English and people with low level English literacy, and for vulnerable women and young people in urgent need of access to cash due to domestic violence and/or homelessness.
14. It is clear to us that had there been an Indigenous Voice in place, the process for consideration of any extended rollout of the CDC program would have been very different – and processes would have ensured proper scrutiny of proposals that both the CDC program, and the separate the Income Management scheme, be purely voluntary.

Do you think the scope of the proposed National Voice would empower Aboriginal and Torres Strait Islander people at a national level?

15. There is currently no conduit for Aboriginal and Torres Strait Islander individuals or community organisations to influence national policy development. As noted in the Discussion Paper, “the National Voice could be proactive in providing advice, it would not have to wait for a request or invitation”. In the CDC program example, this would mean that communities would have been empowered to provide ongoing input, proactively, via the National Voice structure – rather than being restricted to ad hoc local consultations at one end of the spectrum, and high-level submissions to Senate Committees at the other.
16. In addition to high level policy programming issues such as income support quarantining, Aboriginal and Torres Strait Islander people are disproportionately impacted by a range of ongoing systemic issues which have existed for decades but have not been addressed. These issues, which have been documented in countless research reports and submissions to inquiries and consultations over the years, include:
 - Disproportionately high rates of mutual obligation non-payment penalties for Aboriginal and Torres Strait Islander people in regional and remote communities
 - Disproportionately low rates of Disability Support Pension and Carer Payment claims and grants, especially in remote communities, despite disproportionately high rates of disability and chronic health issues
 - High rates of disengagement with the social security system in remote communities, including among vulnerable young people with disability (including young people with cognitive impairment) and older people with multiple chronic health issues
 - High rates of social security and family assistance debt among Aboriginal and Torres Strait Islander people – particularly among women, and including among women experiencing domestic violence
 - Disproportionately low rates of appeal to the Administrative Appeals Tribunal, despite high rates of adverse decisions.

⁶ Prawitza, A. and Cohartb, J. (2016) ‘Financial Management Competency, Financial Resources, Locus of Control and Financial Wellness’. *Journal of Financial Counselling and Planning* 27(2): 142-157

⁷ Hidden Costs: An Independent Study into Income Management in Australia. Op cit. p 89

17. EJA, our community legal centre members, and First Nations community peak organisations have highlighted these issues in consultations and in response to inquiries over many years; however, while there are efforts to address some of the systemic access barriers via policy guidelines, resource development and targeted outreach, these deep-seated issues persist.
18. The voices of the communities beset by these fundamental social security issues, along with a plethora of interconnected health, housing and access to justice issues need a platform at the national level – so that Government and Parliament may hear directly from communities regarding the manifold impacts of particular social security measures. The National Voice would certainly empower First Nations people to raise social security economic justice issues at the national level.

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