



UNIVERSITY OF  
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***Welfare payments and school attendance:  
An analysis of experimental policy in  
Indigenous education***

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An Issues Paper for the Australian Education Union  
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## INTRODUCTION

Making the welfare payments of Indigenous people conditional on measures such as their children's school attendance is becoming an increasingly popular policy measure in Australia. The stated aims of such an approach include ensuring that money is spent on essentials such as food, clothing and housing, and increasing children's participation in school. The former Coalition Federal Government supported the introduction of such schemes - most publicly, as part of its intervention in the Northern Territory. The Rudd Labor Government has continued this policy approach, with Minister for Families, Housing, Community Services and Indigenous Affairs, Jenny Macklin, confirming support for three 'income management' models in Western Australia, Queensland and the Northern Territory. Though such schemes have been regularly characterised as trials, there has been little public information or discussion about their underpinning policy rationale.

This approach marks an unprecedented new phase in welfare policy in Australia. This Issues Paper will set out the increasing influence of the concept of mutual obligation in Australia and its particular application to Indigenous policy. It canvasses the current trials linking welfare payments to school attendance and outlines what evaluations have indicated about such schemes to date. It then provides an analysis of key concerns about the approach - namely its lack of basis in evidence, the fact that measures introduced under such schemes do not necessarily serve its overall aims, that there are particular human rights implications for such an approach. It also points to the reality that the resources and attention focused on such schemes combined with the ongoing issue of chronic under-resourcing in Indigenous policy generally is unlikely to 'close the gap' for Indigenous communities.

The level of secondary school completions gives some indication of why the issue of increasing school attendance for Aboriginal and Torres Strait Islander communities is such a priority.

49.9 per cent of non-Indigenous Australians had no non-school qualification compared with 71 per cent of Indigenous Australians. 33.4% of Indigenous people have education levels at Year 9 or below compared to 15.8% of non-Indigenous Australians. 26.9% of Indigenous people reach year 10 or 11 compared to 18.8% of other Australians.<sup>1</sup>

Grade progression rates in 2003 also provide a snapshot of the situation. The retention rate for Indigenous students fell from nearly 90% in year 10 to 67% in

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<sup>1</sup> Australian Bureau of Statistics, Population Characteristics: Aboriginal and Torres Strait Islander Australians 2001, p28.

year 11. By comparison, the rate for non-Indigenous students falls less dramatically from year 10 to year 11 from 99% to 87%.<sup>2</sup>

<b>Year Level</b>	<b>Indigenous Students (%)</b>	<b>Non Indigenous Students (%)</b>
8 to 9	95.1	100
9 to 10	89.2	99
10 to 11	71.0	90.9
11 to 12	66.3	86.3

Retention rates from years nine to 12 for Indigenous students has increased over the five year period between 1998 and 2002. The retention rate for Indigenous students is markedly lower than non-Indigenous students. As at 2002, the apparent retention rate for Indigenous year 12 students was 38 per cent compared to 76.3 per cent for their non-Indigenous counter-parts.<sup>3</sup>

	<b>2000</b>	<b>2001</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>
<b>Year 9</b>					
Indigenous	95.5	96.5	97.8	96.8	97.2
Non-Indigenous	99.8	99.9	99.8	99.9	99.9
<b>Year 10</b>					
Indigenous	83.0	85.7	86.4	87.2	85.8
Non-Indigenous	98.0	98.4	98.5	98.9	98.5
<b>Year 11</b>					
Indigenous	53.6	56.1	58.9	61.4	61.0
Non-Indigenous	86.2	87.6	88.7	89.5	88.9
<b>Year 12</b>					
Indigenous	36.4	35.7	38.0	39.1	39.5
Non-Indigenous	73.3	74.5	76.3	76.5	76.8

<sup>2</sup> Department of Education, Science and Training, National Report to Parliament on Indigenous Education and Training 2003, Commonwealth of Australia, Canberra, 2005, p28

<sup>3</sup> Australian Bureau of Statistics, Year Book Australia 2006, ABS series cat. no. 1301.0, Commonwealth of Australia, Canberra, 2006, p294, Table 10.9.

## **BACKGROUND**

### **Mutual obligation and Australian policy**

The notion of making welfare payments conditional on school attendance has emerged from a social policy environment where mutual obligation has become a primary philosophical approach. Underpinning mutual obligation is the idea that people receiving welfare payments from the government should 'give something back' to society. It implies a shift from a entitlements-based system of government financial support for those raising children or those unable (though not necessarily unwilling) to participate in the paid workforce, to a system where such payments are conditional on a kind of individualised contractual arrangement in which the recipient must fulfil certain behavioural or other obligations imposed by government.

Mutual obligation may well be the Howard Government's major legacy to Australian social policy.<sup>4</sup> Under Howard, conditions were placed on the welfare payments of some recipients - first young people receiving unemployment benefits under Work for the Dole programs, then people on parenting and disability pensions, and then all recipients in certain Indigenous communities under the Northern Territory intervention. When introducing the legislation to support the Northern Territory intervention in August 2007, then Minister Mal Brough stated that the government's aim was to 'extend the principal of mutual obligation beyond participation in the workforce to a range of behaviours that address, either directly or indirectly, the welfare and development of children'.<sup>5</sup> The proposed outcomes of such trials in Indigenous communities were to 'promote engagement in the real economy, reduce passive welfare and rebuild social norms'.<sup>6</sup>

The introduction of IMRs gives governments unprecedented new control over individuals' welfare payments. While the capacity to divert a part of an individual's welfare payments to pay debts, bills or child support payments has existed for some time, previously welfare payments were considered inalienable legal entitlements. Changes to social security and family assistance legislation<sup>7</sup> passed to support the intervention introduced the concept of 'income management regimes' (IMRs) allowing for the diversion of all or a part of an individual's welfare payment into a managed account so that it is only available for spending on items or services defined as 'priority' needs, including food, clothing, housing, household utilities, basic household items, health, childcare,

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<sup>4</sup> Valerie Braithwaite, Moira Gatens and Deborah Mitchell, 'If mutual obligation is the answer, what is the question?', *Australian Journal of Social Issues*, Volume 37 (3), August 2007, p. 225.

<sup>5</sup> Second reading speech, *Social Security and Other Legislation Amendment (Welfare Payment Reform) Bill 2007*, House of Representatives Hansard, 7 August 2007, p. 7.

<sup>6</sup> *ibid.*

<sup>7</sup> *Social Security Administration Act 1991; Social Security (Administration) Act 1999; A New Tax System (Family Assistance) Act 1999 A New Tax System (Family Assistance)(Administration) Act 1999; Income Tax Assessment Act 1936; and Veteran's Entitlements Act 1986.*

education and training. This is managed through the issuing of a card that stores the monetary value of the quarantined funds, which can then be used at designated stores.

These changes enable Centrelink to place *any* welfare recipient on income management based on certain triggers, which are: where an individual lives in a prescribed community in the Northern Territory, where an individual is subject to the jurisdiction of the Queensland Commission,<sup>8</sup> where a child protection officer makes a recommendation to Centrelink that an individual's child is at risk of neglect or abuse, and where a person or a person's partner has a child who does not meet school enrolment and attendance requirements. Under the changes to the legislation, unsatisfactory school attendance can now be identified by either Centrelink or state education authorities, and result in the principal carer having 50% of their income support and 100% of their family assistance payment quarantined for an initial period of 12 months. The principal carer will also have mandatory deductions from their welfare payments to cover the cost of their children's breakfast and lunch at school. IMRs were applied to people in prescribed communities in the Northern Territory irrespective of whether they had neglected or abused their children, or even if they had direct responsibility for children at all.

The significant and broad-reaching changes in the Northern Territory also included the abolition of the Community Development Employment Projects (CDEP) scheme. Since the 1970s, CDEP had provided funding to Indigenous community-controlled organisations for community development, income support and enterprise assistance in lieu of its participants directly receiving unemployment benefits. Those 7500 CDEP participants in the Northern Territory were to be moved either into 'real jobs' or onto welfare payments – and therefore also being subject to IMRs.

The Labor Government has continued support for many of the Indigenous policy measures of the previous Government, including making welfare payments conditional.<sup>9</sup> In an address to the National Press Club early in her term as Minister, Jenny Macklin stated that the government would be working with Indigenous Australians in a partnership of 'respect and mutual responsibility' with policy based on a 'thorough, forensic analysis of all the facts and all the evidence.'<sup>10</sup> Minister Macklin announced that Labor would be supporting three

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<sup>8</sup> The establishment of the Queensland Commission will be discussed in more detail below.

<sup>9</sup> Jenny Macklin, Minister for Families, Housing, Community Services and Indigenous Affairs, 'Building stronger Indigenous communities', *Media Release*, 10 December 2007, [http://www.jennymacklin.fahcsia.gov.au/internet/jennymacklin.nsf/content/indigenous\\_communities\\_10dec07.htm](http://www.jennymacklin.fahcsia.gov.au/internet/jennymacklin.nsf/content/indigenous_communities_10dec07.htm)

<sup>10</sup> Jenny Macklin, Minister for Families, Housing, Community Services and Indigenous Affairs, 'Closing the Gap: Building an Indigenous Future' Address to the National Press Club, 27 February 2008,

different income management models already planned for the Northern Territory, Cape York and the Kimberleys, 'to give us the evidence we need to find out what works.'<sup>11</sup> She has described such trials as designed to 'combat poor parenting and community behaviours'.<sup>12</sup> The IMR scheme has continued to be rolled out across the Northern Territory in line with the former Government's plans, however the capacity for governments to link welfare payments to school attendance has not been utilised until recently.

On the first anniversary of the Intervention, Minister Macklin announced a new trial over three years linking school attendance with welfare payments for all parents in six communities in the Northern Territory – Hermannsburg, Katherine, the Katherine town camps, Wallace Rockhole, Wadeye and the Tiwi Islands – to begin at the beginning of the 2009 school year.<sup>13</sup> She also indicated that sites for two other pilot sites in metropolitan locations outside the NT would be announced soon. Despite its trial status, the Minister stated that: 'Encouraging income support recipients to send their children to school through the new measures will go some way to help turn around poor school enrolment and attendance.'<sup>14</sup>

Such a policy approach has strong echoes of new paternalist thinkers such as influential US academic Lawrence Mead. In Mead's view, certain social and moral norms and values should be required of those receiving welfare payments: 'These measures assume the people concerned need assistance but they also need direction if they are to live constructively.'<sup>15</sup> Anna Yeatman, an Australian proponent of new paternalism, has described 'the obligation to make an active contribution to society' being set against 'passive welfare dependency'.<sup>16</sup>

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[http://www.jennymacklin.fahcsia.gov.au/internet/jennymacklin.nsf/content/closing\\_the\\_gap\\_27feb08.htm](http://www.jennymacklin.fahcsia.gov.au/internet/jennymacklin.nsf/content/closing_the_gap_27feb08.htm)

<sup>11</sup> Jenny Macklin, Minister for Families, Housing, Community Services and Indigenous Affairs, 'Out of the chaos', speech to the Melbourne Institute Economic and Social Outlook Conference □ Melbourne, 27 March 2008, [http://www.jennymacklin.fahcsia.gov.au/internet/jennymacklin.nsf/content/out\\_of\\_the\\_chaos\\_27mar08.htm](http://www.jennymacklin.fahcsia.gov.au/internet/jennymacklin.nsf/content/out_of_the_chaos_27mar08.htm)

<sup>12</sup> Jenny Macklin, Minister for Families, Housing, Community Services and Indigenous Affairs, 'Closing the Gap: Building an Indigenous Future' Address to the National Press Club, 27 February 2008, [http://www.jennymacklin.fahcsia.gov.au/internet/jennymacklin.nsf/content/closing\\_the\\_gap\\_27feb08.htm](http://www.jennymacklin.fahcsia.gov.au/internet/jennymacklin.nsf/content/closing_the_gap_27feb08.htm)

<sup>13</sup> Jenny Macklin, 'NT trials to boost school attendance', Joint Media Release with Marion Scrymgeour, Northern Territory Deputy Chief Minister and Minister for Indigenous Policy, 20 June 2008, [http://www.jennymacklin.fahcsia.gov.au/internet/jennymacklin.nsf/content/boost\\_school\\_attendance\\_20june08.htm](http://www.jennymacklin.fahcsia.gov.au/internet/jennymacklin.nsf/content/boost_school_attendance_20june08.htm)

<sup>14</sup> Stephanie Peatling, 'Truants' parents to lose welfare', Sydney Morning Herald, 21 June 2008, <http://www.smh.com.au/news/national/truants-parents-to-lose-welfare/2008/06/20/1213770924117.html>

<sup>15</sup> 'The rise of paternalism' in Lawrence Mead (ed) *The new paternalism: supervisory approaches to poverty*, Brookings Institution Press, Washington, DC, 1997, p. 2.

<sup>16</sup> Anna Yeatman, 'Mutual obligation: what kind of contract is this?', in Peter Saunders (ed) *Reforming the Australian Welfare State*, Australian Institute of Family Studies, Melbourne, 2000, 156.

Supporters of mutual obligation underpinning welfare policy argue that it is a condition of 'active citizenship' and that the unemployed should not be simply entitled to government assistance.<sup>17</sup>

Critics of mutual obligation describe it as 'selective paternalism' in the way that it treats some Australians as capable of taking responsibility for their own welfare, and others not. It is argued that implicit in the approach is the assumption that policy makers are more 'rational' and 'moral' than welfare recipients, who are by implication incapable of looking after their own interests or those of their families.<sup>18</sup> Judith Bessant has observed that it shows a lack of understanding about the real causes of disadvantage at best, and at worst, is indicative of a political strategy designed to divert attention away from the ineffectiveness of government policy and programs.<sup>19</sup> Catholic Social Services Australia has recently identified a number of major problems with mutual obligation-based welfare policy in this country – namely that it stigmatises rather than supports recipients of income support; it is punitive and focused on deterring claims rather than assisting recipients to meet their obligations; it frames welfare reliance as if it were a law and order issue with a focus on enforcement; and it in fact *removes* responsibility from individuals, families and communities.<sup>20</sup>

Noel Pearson of the Cape York Institute has been a strong proponent of the view that the introduction of welfare payments without a requirement to give anything back in return has led to an undermining of Aboriginal notions of reciprocity and in turn, powerlessness and dysfunction.<sup>21</sup> In 2005, during a visit to Cape York by then Treasurer Peter Costello, Pearson was quoted as saying: 'We need a much more effective way of re-allocating responsibility for that income away from deadbeats to people who are actually taking the responsibility.'<sup>22</sup> At a conference organised by the Cape York Institute in 2007 entitled Strong Foundations: Rebuilding social norms in Indigenous communities, Lawrence Mead spoke about the importance of 'self-command', stating that 'the solution to the

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<sup>17</sup> Jeremy Moss, 'The Ethics and Politics of Mutual Obligation', *Australian Journal of Social Issues*, November 2000, p. 1.

<sup>18</sup> Catholic Social Services Australia, 'The Obligation is Mutual: Discussion paper on mutual obligation', October 2007, p. 10. This discussion paper makes the point that recipients of the home owners grant, drought relief and Family Tax Benefit are assumed to be responsible, while those receiving payments such as Newstart Allowance or the single Parenting Payment are increasingly treated as though they are incompetent.

<sup>19</sup> Bessant, J., 'Civil conscription or reciprocal obligation: the ethics of 'work-for-the-dole'', *Australian Journal of Social Issues*, 35, p. 28.

<sup>20</sup> Catholic Social Services Australia, 'The Obligation is Mutual: Discussion paper on mutual obligation', October 2007, pp. 4-5.

<sup>21</sup> Noel Pearson, *Our right to take responsibility*, Noel Pearson and Associates, Cairns, 2000.

<sup>22</sup> Quoted in Michael Harvey, 'Welfare payouts facing the chop', Herald Sun, July 22 2005, <http://www.news.com.au/heraldsun/story/0,21985,16008230-662,00.html>

Aborigines is that they must first be bound before they can be free.<sup>23</sup>

Pearson's characterisation of 'passive welfare' has had significant influence on Australian Government rhetoric and policy, both under the leadership of John Howard and now Kevin Rudd. In the Cape York Institute's May 2007 report *From Hand Out to Hand Up*, one of the key recommendations was that obligations be attached to welfare payments through legislative amendments to relevant Commonwealth legislation, including that each adult who receives welfare payments with respect to a child should be required to ensure that the child maintains a 100 percent school attendance record, with exemptions for illness or mobility-related absence.<sup>24</sup> The report also recommended that if individuals were found to have breached their obligations then all or part of their welfare payments should be redirected to conditional income management.<sup>25</sup>

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<sup>23</sup> Lawrence Mead, conference paper to Strong Foundations: Rebuilding social norms in Indigenous communities, June 25 & 26 2007, Cairns, <http://www.cyi.org.au/conference/lawrencemead.aspx>

<sup>24</sup> Cape York Institute, *From Hand Out to Hand Up*, May 2007, p. 8  
[http://www.cyi.org.au/WEBSITE%20uploads/Welfare%20Reform%20Attachments/From%20Hand%20Out%20to%20Hand%20Up\\_Welfare%20Reform%20Report.pdf](http://www.cyi.org.au/WEBSITE%20uploads/Welfare%20Reform%20Attachments/From%20Hand%20Out%20to%20Hand%20Up_Welfare%20Reform%20Report.pdf)

<sup>25</sup> *ibid*, p. 9.

## Linking welfare payments to school attendance

The notion of making parents' welfare payments conditional on their children's school attendance is new to Australian social policy. However there are versions of this approach that have been implemented over recent decades in the United States. State governments (who have responsibility for welfare programs in the US) began experimenting with programs linking families' welfare payments to their children's satisfactory school attendance in the 1980s. There were significant welfare changes undertaken by the Clinton Administration in 1996 that aimed to move people from welfare to work, with a particular focus on parents with dependent children. States were given the power to introduce Individual Responsibility Agreements whereby welfare recipients must fulfil certain obligations to receive payments, such as their children regularly attending school.<sup>26</sup> By 1999, 40 states had exercised the discretion open to them under the Federal Personal Responsibility and Work Opportunity Reconciliation Act 1996 to require school attendance as a condition of welfare cash assistance.<sup>27</sup>

Despite the apparent popularity of this measure, there is a dearth of careful evaluation of the assumptions and effects of such a policy approach. In 2005 Campbell and Wright published the first significant study of evaluations conducted of seven programs in the 1980s and 1990s that linked families' welfare payments to their children's satisfactory school attendance.<sup>28</sup> Their study found that of the three programs that instituted sanctions without simultaneously expanding case management services, none was found to improve attendance or other intended outcomes.<sup>29</sup> Evaluations found that geographic location was a better predictor of attendance than welfare status, and that illness rather than truancy was the major cause of absence – a finding which undercut the idea that sanctions alone are likely to alter attendance patterns.<sup>30</sup> By contrast, the study found that the four programs that combined sanctions with case management, supportive services and positive financial incentives (such as bonuses for good attendance or graduation) reported limited but positive results.<sup>31</sup> Evaluations showed that it was the case management, not the sanction, that was the most critical variable.<sup>32</sup> However, even in these cases, the reported gains were usually observed in the percentage of program participants enrolled in school rather than in improved rates of attendance, graduation or long-term economic well-being.<sup>33</sup>

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<sup>26</sup> Jodie Levin-Epstein, 'The IRA: Individual Responsibility Agreements and TANF Family Life Obligations, Centre for Law and Social Policy, August 1998.

<sup>27</sup> David Campbell and Joan Wright, 'Rethinking Welfare School-Attendance Policies, *Social Service Review*, March 2005, Volume 79, No. 1, p. 2.

<sup>28</sup> David Campbell and Joan Wright, 'Rethinking Welfare School-Attendance Policies, *Social Service Review*, March 2005, Volume 79, No. 1.

<sup>29</sup> *Ibid*, p. 4.

<sup>30</sup> *Ibid*, p. 4.

<sup>31</sup> *Ibid*, p. 4.

<sup>32</sup> *Ibid*, p. 5.

<sup>33</sup> *Ibid*, p. 4.

Overall, the study found that the evidence suggests that programs linking welfare payments to school attendance are based on assumptions of questionable validity, including the fact that they implicitly define the problem as one of parental or student negligence.<sup>34</sup> Evaluations surveyed found that such programs spend disproportionate resources monitoring attendance rather than confronting the underlying problems associated with poverty.<sup>35</sup> A common feature of successful programs to improve school attendance and achievement was that of a creative collaboration, which intentionally builds bridges between public agencies and the community, often by engaging parents or community-based organisations.<sup>36</sup> The benefits of meaningfully involving parents are cited in the experience of many successful school-community partnerships.<sup>37</sup>

The relevance of such a study to Australia and to Indigenous communities in particular is debatable. However, it does appear that Australian policy is being influenced by new paternalist approaches adapted from the United States, so the evidence that does exist bears reflecting on. The Cape York Institute, for example, in *From Hand Out to Hand Up* refers to the US and other South American examples as precedents for its recommendations for conditional welfare payments in Indigenous communities in Australia.

Developing countries in South America have used measures such as Conditional Cash Transfers (CCTs) in which families receive cash benefits in return for children enrolling in school. These schemes, such as the Oportunidades in Mexico, are designed to reduce poverty, increase school enrolment and decrease the use of child labour in countries without a national welfare system. Such schemes are often reliant upon funding or loans provided by the World Bank or International Monetary Fund.<sup>38</sup> The effectiveness of such schemes is questionable, with a study of the effect of cash transfers on child learning in Mexico finding no substantial difference between those involved in CCT transfers and those not.<sup>39</sup>

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<sup>34</sup> Ibid, p. 20.

<sup>35</sup> Ibid, p. 21.

<sup>36</sup> Ibid, p. 2.

<sup>37</sup> Lousie Adler and Sid Gardner (eds), *The Politics of Linking Schools and Social Services*, Falmer Press, Washington DC, 1994; Richard J Murnane and Frank Levy, *Teaching the New Basic Skills: Principles for Educating Children to Thrive in a Changing Economy*, Free Press, New York, 1996; Gene I Maeroff, *Altered Destinies: Making Life Better for Schoolchildren in Need*, St Martin's, New York, 1998, quoted in David Campbell and Joan Wright, 'Rethinking Welfare School-Attendance Policies', *Social Service Review*, March 2005, Volume 79, No. 1, p. 22.

<sup>38</sup> Emmanuel Skoufias and Vincenzo Di Maro, 'Conditional Cash Transfers, Adult Work Incentives and Poverty', World Bank Policy Research Working Paper, August 2006.

<sup>39</sup> Sudhansu Handa and Benjamin Davis, 'The Experience of Conditional Cash Transfers in Latin America and the Caribbean', *Development Policy Review*, Volume 24(5), 2006, p. 528.

However, both the US and South American schemes make school attendance a condition for *eligibility* for a payment, rather than determining how a proportion of that payment will be spent once eligibility is determined. These shifts in Australian policy are unprecedented in their attempts to control how welfare recipients spend their money. There are no policies in the US or any other developed country that allow governments to withhold welfare entitlements in a separate account and dictate its specific use.

### **An Australian example**

In Australia, the only independent evaluation that is publicly available of a scheme linking welfare payments to school attendance in Indigenous communities in Australia is that of a voluntary trial in Halls Creek in 2006.<sup>40</sup> An earlier trial had involved Centrelink cancelling parents' payments if they did not attend an interview to discuss their children's truancy. Media reports stated that the scheme had boosted attendance from 54% to 80% or 90%, although this was never independently evaluated.<sup>41</sup> After complaints about the legality of the arrangement, a further voluntary trial was undertaken in which the participation of parents in job-oriented activities and their children in school was encouraged with intensive assistance. It is interesting to note that at the time the Halls Creek Trial was made voluntary, then Opposition Indigenous Affairs Minister Chris Evans stated that:

The new approach reflects Labor's view that positive incentives and a holistic, community-driven response will achieve better outcomes. ...

We want evidence-based approaches that deliver sustainable results.

This way Indigenous parents and families are supported and empowered to take control, instead of feeling singled out by harsh penalties.<sup>42</sup>

From February to July 2006 a further trial scheme – the Halls Creek *Engaging Families* trial - was introduced in which parents could *volunteer* to participate, without the threat of sanction. This trial had two aims:

- To increase participation in job-oriented activities among parents with children at Halls Creek school; and
- To encourage those parents to try to make their children attend school regularly.

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<sup>40</sup> Department of Employment and Workplace Relations, Halls Creek *Engaging Families* Trial, February–July 2006: Evaluation Report, September 2006, <http://mediacentre.dewr.gov.au/NR/rdonlyres/2B10D46E-592B-4531-B149-A5B91E69A13E/0/KA265HallsCreekEngagingFamiliesReport4October.pdf>

<sup>41</sup>  
<sup>42</sup> Chris Evans, Media Statement, 5 February 2006, <http://www.alp.org.au/media/0206/msfscfscialoos060.php>

The evaluation of the Halls Creek *Engaging Families* trial, conducted for the Department of Employment and Workplace Relations by Professor Robyn Penman, found that the school attendance of the children did not improve over the course of the trial. Three contributing factors were noted:

- *Lack of parental insistence that children get to school in the morning.* All parents that the evaluation team spoke to said they wanted their children to go to school, however many of them felt quite powerless and helpless in enforcing this, particularly those with children over 12 years.
- *Teacher quality.* According to the Halls Creek principal, differences within the school between class attendance rates were at least partly due to variations in teacher quality. One teacher showed a 20% greater attendance rate than some of the other teachers
- *Bullying and teasing.*<sup>43</sup>

It was found that the voluntary method used in the Halls Creek Engaging Families trial worked some of the time when very high levels of support were provided.<sup>44</sup> However the evaluators noted that it

became apparent that the parents of Indigenous children are not the only 'lever' or 'method of engagement' that can be used to get the children to attend school. The evidence pointed to the pivotal role that teachers and the school 'culture' itself plays in a community where children decide their own time use patterns from a very early age.<sup>45</sup>

The evaluation also found that poor or good attendance didn't necessarily run in families, and that in one family with five school age children, attendance levels ranged from 14 to 88%.<sup>46</sup> The evaluation report noted that

Other programs at other schools have also had a significant impact. The key to improvement is to create an education environment in which students want to remain. In other words, the students need to be engaged. The main means for doing this is with high quality teachers and a strong leadership culture within the school.<sup>47</sup>

The evaluation report also noted that the housing situation in Halls Creek is unlikely to provide an environment where families can be 'school ready'.<sup>48</sup>

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<sup>43</sup> Department of Employment and Workplace Relations, Halls Creek *Engaging Families* Trial, February–July 2006: Evaluation Report, September 2006, <http://mediacentre.dewr.gov.au/NR/rdonlyres/2B10D46E-592B-4531-B149-A5B91E69A13E/0/KA265HallsCreekEngagingFamiliesReport4October.pdf>, p. 29.

<sup>44</sup> Ibid, p. 32.

<sup>45</sup> Ibid, p. 3.

<sup>46</sup> Ibid, p. 28.

<sup>47</sup> Ibid, p. 12.

<sup>48</sup> Ibid, p. 34.

The conditionality of welfare payments and connection to school attendance has been announced as part of a range of measures to address child abuse and neglect in each of the three trials in the Northern Territory, Queensland and Western Australia.

### **Northern Territory**

On 21 June 2007, the Minister for Families, Community Services and Indigenous Affairs announced that in response to the 'national emergency confronting the welfare of Aboriginal children in the Northern Territory', the Australian Government would introduce 'immediate, broad ranging measures to stabilise and protect communities in the crisis area'.<sup>49</sup> Amongst the measures announced were that the Government would be 'enforcing school attendance by linking income support and family assistance payments to school attendance for all people living on Aboriginal land and providing meals for children at school at parents' cost'.<sup>50</sup>

Legislative changes designed to support the Federal Government's intervention in the Northern Territory were passed with unprecedented haste. On 6 August, the legislation underpinning the Commonwealth Government's intervention in the Northern Territory<sup>51</sup> was released to the Opposition and minor parties only 24 hours before it was due to be voted on in the House of Representatives. The legislation was passed with the support of the Opposition. On 9 August, the Senate referred the legislation to its Standing Committee on Legal and Constitutional Affairs for inquiry and report by 12 August. The Senate passed the legislation with support from the Opposition on 17 August. More than half of the initial allocation (\$320.8 million) for the Northern Territory Emergency Response (NTER) was for departmental expenditure and capital expenses to meet the costs of increased personnel, staff accommodation, infrastructure upgrades and improved IT capacity. \$52.2 million was allocated to income management measures, although it was estimated that it would cost \$88 million to administer the income management system in the 2007-08 year alone.<sup>52</sup> No funding commitments were made by the former Government beyond 2007-08.

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<sup>49</sup> <http://www.atsia.gov.au/Media/media07/210607.aspx>

<sup>50</sup> *ibid.*

<sup>51</sup> The Northern Territory National Emergency Response Bill 2007 (National Emergency Response Bill); the Social Security and Other Legislation Amendment (Welfare Payment Reform) Bill 2007 (Welfare Payment Reform Bill); the Families, Community Services and Indigenous Affairs and Other Legislation Amendment (Northern Territory National Emergency Response and Other Measures) Bill 2007 (National Emergency Response and Other Measures Bill); the Appropriation (Northern Territory National Emergency Response) Bill (No. 1) 2007-2008; and the Appropriation (Northern Territory National Emergency Response) Bill (No. 2) 2007-2008.

<sup>52</sup> Senate Standing Committee on Legal and Constitutional Affairs, *Social Security and Other Legislation Amendment (Welfare Payment Reform) Bill 2007 and four related bills concerning the Northern Territory National Emergency Response*, p. 78.

[http://www.aph.gov.au/Senate/Committee/legcon\\_ctte/completed\\_inquiries/2004-07/nt\\_emergency/report/report.pdf](http://www.aph.gov.au/Senate/Committee/legcon_ctte/completed_inquiries/2004-07/nt_emergency/report/report.pdf)

In the short timeframe that Indigenous communities, political leaders and other legal and policy experts had to consider the detail of the legislation, there was significant debate about the relevance of many of the proposed measures to the issue of protecting Indigenous children from sexual abuse, and about whether the measures breached Indigenous peoples' human rights. Potentially discriminatory aspects of the legislation were consistently justified by the former Government in terms of the situation in the Northern Territory being a crisis or emergency. Of particular concern to many Indigenous, human rights and welfare experts was that measures undertaken as part of the NTER were made exempt from the *Racial Discrimination Act 1975* and the Government's characterisation of elements of the legislation as 'special measures' in human rights terms.<sup>53</sup> The quarantining of half of the welfare payments of all people in prescribed areas in the Northern Territory – overwhelmingly Indigenous people - was characterised as a special measure by the legislation.

The Government's rationale for the application of its Income Management Regime to all members of a prescribed community and not just those with responsibility to care for children was described in terms of being able 'to ensure that the flow of government assistance into the community is able to be managed as a whole to encourage expenditure on those services and goods that will lead to better outcomes for the children in those communities'.<sup>54</sup> According to Centrelink, IMRs in the Northern Territory will be in place for a period of twelve months, subject to the Minister's discretion.<sup>55</sup> The current practice is that after deductions such as child support payments and government debt repayments, half the regular fortnightly welfare payments, and all of any advances and lump sum payments, will be quarantined. Income management applies to all people in prescribed communities receiving welfare payments, and obligations apply even if people move out of those areas.

## Submissions to the Senate Legal and Constitutional Committee inquiry on the

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<sup>53</sup> Combined Aboriginal Organisations of the Northern Territory, A proposed Emergency Response and Development Plan to protect Aboriginal children in the Northern Territory: A preliminary response to the Australian Government's proposals, 10 July 2007, <http://www.snaicc.asn.au/news/documents/CAOreport8july.pdf>, Human Rights and Equal Opportunity Commission, Submission to the Standing Committee on Legal and Constitutional Affairs, the Social Security and Other Legislation Amendment (Welfare Payment Reform) Bill 2007 and four related bills concerning the Northern Territory National Emergency Response, Submission 67, Australian Council of Social Services, Submission to the Standing Committee on Legal and Constitutional Affairs, the Social Security and Other Legislation Amendment (Welfare Payment Reform) Bill 2007 and four related bills concerning the Northern Territory National Emergency Response, Submission 97.

<sup>54</sup> David Hazlehurst, Group Manager, FACSIA, evidence to the Standing Committee on Legal and Constitutional Affairs, *Committee Hansard*, 10 August 2007, p. 18.

<sup>55</sup> Centrelink, *Income Management for the Northern Territory Response* Factsheet, [http://www.centrelink.gov.au/internet/internet.nsf/filestores/ah1549\\_0802/\\$file/ah1549\\_0802en.pdf](http://www.centrelink.gov.au/internet/internet.nsf/filestores/ah1549_0802/$file/ah1549_0802en.pdf)

Northern Territory National Emergency Response Legislation in August 2007 raised a number of concerns about the proposed approach to 'income management'. The Australian Council of Social Services (ACOSS) characterised the measures under the legislation as 'unfair and discriminatory' in their application to entire Indigenous communities, and stated that it would not change the way people behave at a fundamental level and could in fact contribute to existing problems.<sup>56</sup> ACOSS also noted that amounts withheld from payments are not kept in trust for the recipients and can be withheld for up to 12 months after the cessation of Income Management, and that the requirement for the majority of activity tested income support recipients to participate continuously in Work for the Dole is discriminatory and unreasonable, and unlikely to improve their employment prospects.<sup>57</sup> The Human Rights and Equal Opportunity Commission pointed out that quarantining measures designed to encourage school attendance may disproportionately impact on families in areas without adequate schools and teachers.<sup>58</sup> Others noted the lack of clarity around how the approach would deal with the non-nuclear nature of Indigenous families and their high mobility, and the serious questions that arise regarding Centrelink's capacity to deal with the proposed measures.<sup>59</sup>

In evidence to the Senate Inquiry, David Ross, Director of the Central Land Council, pointed out that the government had to be realistic about the effects of introducing a measure such as linking welfare payments to school attendance as a solution to endemic problems:

If tomorrow every Aboriginal kid in the Northern Territory turns up at school... there are not enough classrooms, there are not enough desks, there are not enough chairs and there is nowhere near the amount of teachers that are needed. It is not going to happen. You have all of these problems. So, to start quarantining people's money up front and removing the CDEP – you are going to put this log jam in place. This needs to be done properly.<sup>60</sup>

The Australian Education Union (AEU) noted that it was unclear who would be responsible for collecting the data, and raised concerns that the perception that

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<sup>56</sup> Submission to the Senate Standing Committee on Legal and Constitutional Affairs, Social Security and Other Legislation Amendment (Welfare Payment Reform) Bill 2007 and four related bills concerning the Northern Territory National Emergency Response, Submission 97.

<sup>57</sup> Ibid, p. 9.

<sup>58</sup> HREOC, Submission to Senate Standing Committee on Legal and Constitutional Affairs, *Submission 67*, pp 11-12.

<sup>59</sup> Bill Fogarty and Marisa Paterson, *Constructive Engagement: Impacts, Limitations and Possibilities during a National Emergency Intervention*, consultants to Bawinanga Aboriginal Corporation, August 2007

[http://www.aph.gov.au/Senate/committee/legcon\\_ctte/completed\\_inquiries/2004-07/nt\\_emergency/submissions/sub03.pdf](http://www.aph.gov.au/Senate/committee/legcon_ctte/completed_inquiries/2004-07/nt_emergency/submissions/sub03.pdf)

<sup>60</sup> David Ross, verbal submission to Senate Standing Committee on Legal and Constitutional Affairs, Hansard, 10 August 2007, p. 51.

teachers were involved in the quarantining of welfare would have serious effects on the relationship between the school and the community.<sup>61</sup>

The abolition of CDEP in the Northern Territory by the former government was also critiqued for its movement of thousands of Indigenous people onto welfare payments in order that they could be subject to income quarantining.<sup>62</sup> Having been set up in the 1970s to provide work for unemployed Indigenous people in community-managed activities that assist them to acquire skills which benefit the community, develop business enterprises and/or lead to unsubsidised employment, CDEP had been the target of accusations that it was another form of 'passive welfare'. However proponents of CDEP argued that the scheme has always been based on active work participation, and in many small communities remote from labour markets and commercial opportunities, CDEP participation is the only source of employment and income.<sup>63</sup> The AEU also noted that the abolition of CDEP would have a major effect on the education system, in terms of the loss of funding for many assistant Indigenous teachers, particularly in smaller schools in very remote areas.<sup>64</sup> The Rudd Government has reversed the decision to abolish CDEP in the Northern Territory. It has committed to restoring the scheme in the 25 prescribed communities and 5 town camp regions where it had been abolished from 1 July 2008, and released *Increasing Indigenous economic opportunity – A discussion paper on the future of the CDEP and Indigenous Employment Programs*.<sup>65</sup>

The legislation also removed the right of Indigenous people to appeal to the Administrative Appeals Tribunal and the Social Security Appeals Tribunal in relation to decisions made under the introduced measures. The former Government stated that the decision was made to remove access to external review mechanisms because it would take too long and would consequently undermine the timing of the emergency response. The Welfare Rights Network, amongst others, argued that the removal of appeal rights 'adversely discriminates' against people living in prescribed areas in the Northern Territory, and 'sets a very dangerous precedent to strip away this protection for an entire group of Australians based solely on where they live'.<sup>66</sup>

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<sup>61</sup> Australian Education Union, 'Education is the key: An education future for Indigenous communities in the Northern Territory, 9 September 2007, p. 13.

<sup>62</sup> Jon Altman, 'Neo-Paternalism and the Destruction of CDEP', Centre for Aboriginal Economic Policy Research Topical Issues No. 14/17.

<sup>63</sup> Ibid.

<sup>64</sup> Australian Education Union, 'Education is the key: An education future for Indigenous communities in the Northern Territory, 9 September 2007, p. 15.

<sup>65</sup> [http://www.indigenous.gov.au/economic\\_opp.htm](http://www.indigenous.gov.au/economic_opp.htm)

<sup>66</sup> Welfare Rights Network, Submission to Standing Committee on Legal and Constitutional Affairs, *Submission 44*, p. 2.

The June 2008 report of the Northern Territory Emergency Response Taskforce reported that at the 11<sup>th</sup> of June, income management was in place in 52 communities, associated outstations and seven camp regions, affecting 13,309 people, with implementation expected in all communities by late August 2008.<sup>67</sup> The Taskforce noted that women in many communities have indicated their support for income management, on the grounds that it ensures money is available for food and other necessities for children, reduces the opportunities for humbugging, and provides a basis for developing household budgeting skills.<sup>68</sup>

On the anniversary of the intervention, Minister Macklin released a report which stated that there had been 'early indications from store operators that shopping habits are changing, with community people buying more fresh fruit and vegetables, dairy goods, frozen vegetables and meat'.<sup>69</sup> This change was widely quoted by government representatives and reported in the media. The basis of this evidence was phone interviews with a sample of twenty community store managers between February and May 2008, with analysis based on the operators' subjective observations of the situation within their communities, and did not include any examination of financial records or direct field reports.<sup>70</sup>

Commentators reported complaints about bureaucratic bungling, and the unfair targeting of functioning families and the elderly.<sup>71</sup> It was also reported that school attendance remains patchy at best – 'some schools where quarantining has been introduced show a spike in attendance, while others have registered steep falls as families move to Alice Springs in search of work, medical services and to avoid the tougher alcohol bans'.<sup>72</sup>

A source in the Northern Territory informed online media outlet Crikey in June that the cost of income management alone is currently running at \$3000 per person per annum to manage average welfare payments of around \$10 000 per recipient. A progress report leaked to Crikey indicated that over 1700 people had been transitioned off CDEP before the Government reversed the decision, and only 667 of them were then employed in Australian and Northern Territory

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<sup>67</sup> Northern Territory Emergency Response Taskforce, *Final Report to Government*, June 2008, p. 8  
[http://www.facs.gov.au/nter/docs/reports/nter\\_taskforce\\_report.pdf](http://www.facs.gov.au/nter/docs/reports/nter_taskforce_report.pdf)

<sup>68</sup> Northern Territory Emergency Response Taskforce, *Final Report to Government*, June 2008, p. 21  
[http://www.facs.gov.au/nter/docs/reports/nter\\_taskforce\\_report.pdf](http://www.facs.gov.au/nter/docs/reports/nter_taskforce_report.pdf)

<sup>69</sup> Australian Government, *Northern Territory Emergency Response: One Year On*, 20 June 2008,  
[http://www.facs.gov.au/nter/docs/reports/nter\\_review.pdf](http://www.facs.gov.au/nter/docs/reports/nter_review.pdf)

<sup>70</sup> Northern Territory National Emergency Response, 'Stores Post Licensing Monitoring Report – Early Indications of Impact of Income Management in Community Stores – First 20 stores', p. 3  
[http://www.facsia.gov.au/nter/docs/reports/nter\\_stores\\_post\\_report.pdf](http://www.facsia.gov.au/nter/docs/reports/nter_stores_post_report.pdf)

<sup>71</sup> Russell Skelton, 'The intervention we had to have', *Sydney Morning Herald*, 21 June 2008,  
<http://www.smh.com.au/news/national/the-intervention-we-had-to-have/2008/06/20/1213770924226.html>

<sup>72</sup> *ibid.*

government jobs; the majority were on welfare payments.<sup>73</sup> The leaked documents also suggested that the annual wages of federal public servants working on the Intervention would be in excess of \$90 million.

As noted above, on the anniversary of the intervention Minister Macklin announced a new \$17.6 million trial over three years, whereby parents who fail to enrol their children or get them to school regularly would have their income support payments suspended until they fulfil their obligations. Full back-pay is to be provided if parents who lose their entitlements meet their responsibilities within a 13 week period. Under the trial, schools will be responsible for providing attendance figures to Centrelink. The Government's jurisdiction in the Northern Territory enables it to introduce such a scheme unilaterally, whereas trialling the approach in the elsewhere requires State Government involvement, as in those schemes set out below.

### **Queensland**

Noel Pearson has been a strong proponent of conditional welfare, and has had significant impact on policy in this area. In December 2005 his Cape York Institute approached the Australian Government with a proposal to develop a new approach to welfare in collaboration with four Cape York communities.<sup>74</sup> The Australian Government provided funding of \$3 million to the Institute in the 2006-07 Budget to support the initial research and design of the approach.<sup>75</sup>

In March 2006, well before the *Little Children are Sacred* report and the Government's response, it was reported that the Federal Government was considering a proposal by Cape York leader Noel Pearson to cut welfare payments to Indigenous parents in remote communities who do not send their children to school. Indigenous Affairs Minister Mal Brough was quoted as saying:

It's about saying, how can we ensure that the kids are well-fed, that the children have good health and that they can have the same sort of opportunities that every other Australian has the right to enjoy? They currently don't have that because sitting down and doing nothing has been an option that has been allowed to prevail.

'If you've grown up in a community where violence is the norm, where substance abuse is the norm and not going to school is the norm, how do you know any different? We need to change that. It's the welfare payment, when there is no obligation upon the

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<sup>73</sup> Sophie Black, 'NT intervention leak: a year on, it's a shambles', *Crikey*, 18 June 2008, <http://www.crikey.com.au/nt-intervention/20080618-NT-intervention-documents.html>

<sup>74</sup> FAHCSIA, Welfare Payment Reform: Cape York Trials, [http://www.facsia.gov.au/internet/facsinternet.nsf/family/welfare\\_cape\\_york.htm](http://www.facsia.gov.au/internet/facsinternet.nsf/family/welfare_cape_york.htm)

<sup>75</sup> FAHCSIA, Welfare Payment Reform: Cape York Trials, [http://www.facsia.gov.au/internet/facsinternet.nsf/family/welfare\\_cape\\_york.htm](http://www.facsia.gov.au/internet/facsinternet.nsf/family/welfare_cape_york.htm)

community or the individual, and then being misused that is actually destroying the lives of young Indigenous kids.<sup>76</sup>

On 18 September 2006 it was reported that the Federal Government was considering quarantining 100 per cent of the welfare payments of Aboriginal parents who do not send their children to school.

In May 2007, the Cape York Institute published *From Hand Out to Hand Up*, which made a series of recommendations designed to 'rebuild social norms in the Cape York Peninsula' using the 'potentially powerful mechanism' of 'linking welfare payments to community members acting in the best interests of children in the community'.<sup>77</sup> The Institute recommended that a State statutory authority consisting of a senior legal officer and local elders be empowered to enforce four obligations, attached to welfare payments through legislative amendments to relevant Commonwealth legislation:

- *Each adult who receives welfare payments with respect to a child should be required to ensure that the child maintains a 100 percent school attendance record.* The obligation is breached when the child records three unexplained absences per school year (including temporary absences). There are exemptions for illness or mobility-related absence.
- *All adults must not cause or allow children to be neglected or abused.* The obligation is breached by the parents or legal guardians of a child who are the subject of an investigation by the Department of Child Safety. Additionally, any other adult(s) named in an investigation or report can also be found to have breached their obligation.
- *All adults must not commit drug, alcohol, gambling or family violence offences.* The obligation is breached where an individual is convicted by a court of breaching a relevant community by-law or State law. The obligation can also be invoked where an individual is charged and a referral is made by a Magistrate as part of a bail condition.
- *All adults must abide by conditions related to their tenancy in public housing.* The obligation is breached when any signatory to an agreement: uses the premises for illegal purposes; causes or permits a nuisance; interferes with the peace, comfort or privacy of neighbours; damages the premises; or fails to pay rent.<sup>78</sup>

The Institute recommended that a new statutory authority – the Family Responsibilities Commission (FRC) – be established and empowered to make

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<sup>76</sup> 'Govt mulls linking welfare to schools attendance', ABC News online, 10 March 2006, <http://www.abc.net.au/news/stories/2006/03/10/1588755.htm>

<sup>77</sup> Cape York Institute, *From Hand Out to Hand Up*, May 2007, p. 8, [http://www.cyi.org.au/WEBSITE%20uploads/Welfare%20Reform%20Attachments/From%20Hand%20Out%20to%20Hand%20Up\\_Welfare%20Reform%20Report.pdf](http://www.cyi.org.au/WEBSITE%20uploads/Welfare%20Reform%20Attachments/From%20Hand%20Out%20to%20Hand%20Up_Welfare%20Reform%20Report.pdf)

<sup>78</sup> *ibid*, p. 9.

determinations as to whether a breach of the obligations has occurred and determine the appropriate sanctions for a breach. The options of the FRC if it determines that an individual has breached his or her obligations are to:

- Issue a warning to the individual.
- Direct individuals to attend support services on either a voluntary or compulsory basis.
- Determine that all or part of the welfare payments to which an individual is entitled should be redirected to conditional income management (which would result in the individual losing discretion over the expenditure of their welfare payments for a defined period).
- Determine that all or part of the welfare payments to which an individual is entitled should be redirected to another adult who is caring for the individual's children.<sup>79</sup>

As noted above, part of the Northern Territory response legislation included provision for a Queensland Commission to make welfare payments conditional. Individuals in Cape York will be put on IMRs through the Commission rather than under the other provisions in social security legislation.

In December 2007, the new Rudd Government together with the Queensland Government committed to support a four-year trial of the Institute's proposed approach in four communities in Cape York - Hope Vale, Coen, Mossman Gorge and Aurukun.<sup>80</sup> The aims of the trial were stated to be the promotion of engagement in the real economy, the reduction of passive welfare and the rebuilding of social norms, particularly as they affect the wellbeing of children. Federal Government initiatives announced to accompany the trial included the rolling out of a literacy program, changes to ABSTUDY to allow eligible students to study at boarding school, the creation of 40 public service jobs by converting some CDEP positions, funding for case managers to support people referred to the Commission and to purchase specialist services for families, as well as for income management services.<sup>81</sup>

On 22 April 2008, Minister Macklin announced that the Australian Government was also introducing measures extending the income management regime to CDEP participants in Cape York who 'aren't meeting their parental and community responsibilities'.<sup>82</sup> This marks a significant difference from the IMRs

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<sup>79</sup> Ibid, pp. 9-10.

<sup>80</sup> FAHCSIA, Welfare Payment Reform: Cape York Trials, [http://www.facsia.gov.au/internet/facsinternet.nsf/family/welfare\\_cape\\_york.htm](http://www.facsia.gov.au/internet/facsinternet.nsf/family/welfare_cape_york.htm)

<sup>81</sup> FAHCSIA, Welfare Payment Reform: Cape York Trials, [http://www.facsia.gov.au/internet/facsinternet.nsf/family/welfare\\_cape\\_york.htm](http://www.facsia.gov.au/internet/facsinternet.nsf/family/welfare_cape_york.htm)

<sup>82</sup> Jenny Macklin, 'Cape York Welfare Reform Trial', Media release, 22 April 2008, [http://www.jennymacklin.fahcsia.gov.au/internet/jennymacklin.nsf/content/cape\\_york\\_welfare\\_22a\\_pr08.htm](http://www.jennymacklin.fahcsia.gov.au/internet/jennymacklin.nsf/content/cape_york_welfare_22a_pr08.htm)

being implemented in the Northern Territory and Western Australia, in that they cannot be applied to those who are on CDEP.

The trial began on 1 July.<sup>83</sup> Minister Macklin was quoted as saying that it was the start of a long-term approach: 'It's going to go for four years. There is a lot of money being invested,' she said. 'It's all about the wellbeing of children. We want to make sure that we learn from this trial and anything that comes out of it, of course, we will be looking to expand elsewhere if it works.'<sup>84</sup>

### **Western Australia**

In her address to the National Press Club on 27 February 2008, Minister Jenny Macklin made reference to the findings of the Coroner's report into the deaths of 22 Kimberley men and women.<sup>85</sup> In response to those findings of high rates of child abuse and neglect and community dysfunction, she announced that the Federal Government would partner with the Western Australian Government so that child protection officers would be able to request Centrelink to require that welfare recipients could be subject to income management.<sup>86</sup> The changes to social security and family assistance legislation that accompanied the Northern Territory intervention enabled the application of the unsatisfactory school attendance or child protection provisions to welfare recipients in Western Australia.

This trial in the Kimberleys will be the first time these powers have been used beyond the application of IMRs to whole communities in the Northern Territory. It appears that the IMRs in the Kimberleys will be similar to those implemented in the Northern Territory, although the proportion of the payment to be diverted is yet to be publicly announced.

On 28 March 2008, Minister Macklin announced that for the first time, non-Indigenous people in Western Australia would also be subject to a scheme where child protection officers could recommend to Centrelink that welfare payments be managed on behalf of parents suspected of negligence or abuse.<sup>87</sup> The

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<sup>83</sup> Jenny Macklin, Cape York Welfare Reform Trial to begin, Media release, 1 July 2008, [http://www.jennymacklin.fahcsia.gov.au/internet/jennymacklin.nsf/content/cape\\_york\\_welfare\\_1jul\\_08.htm](http://www.jennymacklin.fahcsia.gov.au/internet/jennymacklin.nsf/content/cape_york_welfare_1jul_08.htm)

<sup>84</sup> 'Queensland puts conditions on Indigenous welfare', ABC Online, 1 July 2008, <http://www.abc.net.au/news/stories/2008/07/01/2291418.htm>

<sup>85</sup> [http://www.jennymacklin.fahcsia.gov.au/internet/jennymacklin.nsf/content/closing\\_the\\_gap\\_27feb\\_08.htm](http://www.jennymacklin.fahcsia.gov.au/internet/jennymacklin.nsf/content/closing_the_gap_27feb_08.htm)

<sup>86</sup> [http://www.jennymacklin.fahcsia.gov.au/internet/jennymacklin.nsf/content/closing\\_the\\_gap\\_27feb\\_08.htm](http://www.jennymacklin.fahcsia.gov.au/internet/jennymacklin.nsf/content/closing_the_gap_27feb_08.htm)

<sup>87</sup> Quoted in Stephanie Peatling, Joel Gibson and Tim Dick, 'Black scheme for whites', Sydney Morning Herald, 28 February 2008, <http://www.smh.com.au/news/national/black-scheme-for-whites-in-wa/2008/02/27/1203788443638.html>

Government has indicated that it plans to extend such measures nationally as part of its National Child Protection Framework.

### **New South Wales**

In March 2008, it was reported that the Federal Government would undertake a six month trial in Walgett, a predominantly Indigenous town in NSW, monitoring school attendance data to ensure education and family tax benefits were only being paid for children attending school.<sup>88</sup> Supported by the State Government, there was an indication that the trial would be extended throughout north-western NSW if considered successful.<sup>89</sup>

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<sup>88</sup> Reported by Joel Gibson, 'Town ties welfare pay to truancy', Sydney Morning Herald, 7 March 2008.

<sup>89</sup> Ibid.

## **ISSUES**

The problems of child abuse and neglect and poorer educational outcomes for Indigenous children are well-documented and should undeniably be a matter of great urgency and sincerity for Australian governments. Despite many Indigenous people and others working in the area raising these issues for many years, it has only been relatively recently that the issue has been a significant focus of national government policy. It is crucial then that any new measures introduced and significant resources assigned are designed to be effective and sustainable in the long term. Unfortunately the Federal Government's current approach raises some key concerns.

### **Lack of evidence base**

As set out above, legislative changes accompanying the Northern Territory intervention have given Australian governments significantly increased control over how welfare recipients can spend their payments. Making the welfare payments of Indigenous parents conditional on their children's satisfactory school attendance marks a new phase in the implementation of mutual obligation in Australian social policy. There is no precedent in Australia or internationally for an approach that allows governments to withhold certain people's welfare entitlements in a separate account and dictate its specific use. It follows that there is no research that supports this approach as an effective measure to make parents more responsible, or to improve children's lives in the long term. This appears to sit in stark contrast to Jenny Macklin's assertion that her Government's Indigenous policy-making would be based on a 'thorough, forensic analysis of all the facts and all the evidence'.

Measures such as making parents' welfare payments conditional on their children's school attendance have a seductive simplicity. The aims of making parents spend their money on food, clothing and other essential items for their families and increasing children's school attendance are laudable. Yet the new paternalism of mutual obligation subtly shifts responsibility for problems to Indigenous people themselves, and proposes that the solution is for governments to force people to behave more 'constructively'. Many people – Indigenous and non-Indigenous – have become weary of being told that the causes of disadvantage and dysfunction in Indigenous communities are complex and long-standing and require responses in the same vein. The coercion and paternalism of past policy eras has a revived appeal for some people who despair at the levels of violence and hopelessness in some Indigenous communities. And in the short term in the Northern Territory, there are some indications that making welfare payments conditional may lead to increased purchasing of healthy food and increased school attendance in some areas.

However, there has been scant public information or debate regarding the policy assumptions – and indeed psychological assumptions – behind such an

approach. The legislation introducing IMRs was passed with virtually no capacity for public consultation or scrutiny, despite its broad-ranging impact. The Government has regularly characterised these schemes as trials, and have indicated that in the case of the Northern Territory at least, there will be a comprehensive evaluation after 12 months. Yet there is little indication of how the effectiveness of these trials will be measured, beyond the numbers of people subject to IMRs and about the kind of food bought. There are significant bureaucratic and practical hurdles associated with accurately recording rates of school attendance and money spent on food and other essentials. Even if these are overcome, and there is viable data that suggests there has been an increase in school attendance and money spent appropriately, is this necessarily indicative of greater parental responsibility or child well-being? Will there be consideration of the long-term viability of such measures? At what stage will the strategy have been deemed to be successful (or not), and IMRs cease to be applied to various individuals and communities? What if there have been negative impacts of such measures? The Government's premature lauding of the approach as a success elides these more complex but crucial questions.

Whilst being critical of the former Federal Government's failure to apologise to the stolen generations and antagonism to Indigenous rights, the Rudd Government has otherwise adopted much of its predecessor's policy approach in Indigenous affairs. It has appeared to uncritically adopt the assumptions of mutual obligation, even though the approach does not appear to have been effective for addressing disadvantage and discrimination experienced by Indigenous communities in the past. For example, an evaluation report commissioned by the previous Federal Government indicated that in 80 Shared Responsibility Agreements (SRAs) it entered with Indigenous communities, it was governments rather than communities that were not meeting their commitments.<sup>90</sup> And while SRAs promised much in terms of heralding a new relationship between governments and Indigenous communities, they manifested as little more than one off contractual arrangements for Indigenous communities to access extra government funding – sometimes for what were arguably citizenship entitlements in exchange for disproportionate and unreasonable commitments to behavioural change.

The Government's support for the welfare/school attendance policy nexus seems to be inspired to a great degree by the views of Noel Pearson. Pearson's model of conditional welfare seems largely based on the ideology of new paternalism and his personal experience as a Cape York leader. Whatever the merits or genuineness of Pearson's beliefs, the rigour and viability of his pilot model being rolled out in a blanket approach across the country deserves scrutiny.

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<sup>90</sup> Morgan Disney & Associates, 'Implementation Review: *Don't let's lose another good idea*', Report for the Department of Families, Community Services and Indigenous Affairs, July 2007.

The international precedents cited by the Cape York Institute's *From Hand Out to Hand Up* are based on significantly different models that relate to eligibility to welfare payments rather than controlling its expenditure, or on attempting to modify behaviour through positive incentives rather than through negative reinforcement. In any case, the evidence regarding the efficacy of such measures is equivocal at best.

### ***Income Management***

Indigenous advocates and others with significant experience in Indigenous affairs have criticised the approach, both in terms of its focus and its resource priorities. Olga Havnen, Head of Indigenous Strategy Development at the Australian Red Cross and Co-ordinator of the Combined Aboriginal Organisations of the Northern Territory has stated that:

Regrettably there is little evidence those involved in driving the 'reform agenda' of the Emergency Intervention had any real commitment to delivering positive, sustainable change, much less any interest in an evidence-based approach to the solutions that would fundamentally make a difference to the lives of Aboriginal people.

If Government had been inclined to engage with community organisations we could have advised them of sensible alternatives – we could and would have pointed out to them that addressing social problems such as alcohol abuse, gambling, child neglect, can not and will not be solved by 'top down', punitive approaches, at extraordinary cost – what will the expenditure of \$88 million for administration and 300 new Centrelink jobs will actually achieve and who will be held accountable?

Instead, these valuable and necessary resources could have gone into expanding the Centrepay regime, financial literacy and budgeting programs, family and children's services, programs to really combat alcohol abuse and more importantly, programs to re-engage our young men – to provide them with a future not only for themselves, but foster pride and responsibility as sons, brothers, uncles, fathers... \$88 million would have gone such a long way indeed.<sup>91</sup>

In terms of assisting Indigenous people to manage their income effectively, there is evidence in a number of cases that alternative programs have been trialled in Aboriginal communities, often with substantial success.<sup>92</sup> For example, Tangentyere Council near Alice Springs has supported over 800 Aboriginal people to use voluntarily use a system known as Centrepay to pay bills and rent, in which a part of people's welfare payment comes in the form of food vouchers and allows participants to exercise choice and control over their money.<sup>93</sup>

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<sup>91</sup> Olga Havnen, 'The Northern Territory Emergency Intervention', Dame Roma Mitchell Memorial Address, 13 March 2008, [http://www.liv.asn.au/media/speeches/20080313\\_dameroma.html](http://www.liv.asn.au/media/speeches/20080313_dameroma.html)

<sup>92</sup> Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice Report 2007*, Human Rights and Equal Opportunity Commission, 2008.

<sup>93</sup> Combined Aboriginal Organisations of the Northern Territory, A proposed emergency response and development plan to protect Aboriginal children in the Northern Territory: A preliminary response to the Australian Government's proposals, 10 July 2007, p. 16.

A report prepared for the Bawinanga Aboriginal Corporation (BAC) regarding the changes to the income management scheme noted that the BAC has already been offering successful financial services such as savings schemes, bill payment arrangements, organizing finance and loans, and advice. However, they note that the fundamental difference between their services and those introduced by the Government is their voluntary nature.<sup>94</sup> They also note that Indigenous people face additional challenges in managing their income due to the complex nature of family structures and living arrangements, and that it is unclear how the Australian government's plan will deal with the high mobility and non-nuclear nature of Indigenous families.<sup>95</sup>

As noted earlier, the Government and some media commentators have focused on indications that there are already positive outcomes from the introduction of IMRs – namely an increase in spending on healthy food and other essentials, and that women are now less subject to 'humbugging' for their welfare payments. However, other commentators have suggested that such results are 'not due to the enforced income control, but because services – such as banking and Centrelink, that other Australians take for granted – asked for over many years, are being made available'.<sup>96</sup>

Fundamentally, the Aboriginal and Torres Strait Islander Social Justice Commissioner, Tom Calma, has noted that the irony of the income management system is that it fosters a passive system of policy development and service delivery while at the same time criticising Indigenous people for being passive recipients of government services. Implementation of a system that divests Aboriginal people of any power to make choices to govern their own financial affairs is severely out of step with principles of both self-determination, and self-responsibility.<sup>97</sup> Other commentators have noted that when you take responsibility away from people, remove choice and leave them with no control over their lives, you in fact 'feed the foundation of alcoholism and abuse'.<sup>98</sup>

Dr Jon Altman of the Centre for Aboriginal Economic Policy Research at

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<sup>94</sup> PIA Consultants, *Constructive Engagement: Impacts, Limitations and Possibilities during a National Emergency Intervention*, Report prepared for the Bawinanga Aboriginal Corporation, August 2007, p. 23,

[http://www.aph.gov.au/Senate/committee/legcon\\_ctte/completed\\_inquiries/2004-07/nt\\_emergency/submissions/sub03.pdf](http://www.aph.gov.au/Senate/committee/legcon_ctte/completed_inquiries/2004-07/nt_emergency/submissions/sub03.pdf)

<sup>95</sup> Ibid.

<sup>96</sup> Jane Vadeloo, 'With respect, Aborigines can find solutions', *The Age*, 30 June 2008, <http://www.theage.com.au/opinion/with-respect-aborigines-can-find-solutions-20080629-2ytm.html>

<sup>97</sup> Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice Report 2007*, Human Rights and Equal Opportunity Commission, 2008, p. 278.

<sup>98</sup> Jane Vadeloo, 'With respect, Aborigines can find solutions', *The Age*, 30 June 2008, <http://www.theage.com.au/opinion/with-respect-aborigines-can-find-solutions-20080629-2ytm.html>

ANU has predicted that instituting quarantining regimes will be expensive and ineffective according to international evidence.<sup>99</sup> He notes that a paternalistic state project of assimilation has been tried before, some 40 years ago, and failed, and is now being tried again under a different paradigm of neoliberalism and will fail again.<sup>100</sup>

### **School attendance**

The research shows that there is a range of reasons for low school attendance. Lack of parental engagement or support for education undoubtedly plays a significant role in truancy. However it is clearly not sufficient to focus primarily on attempting to force parents to modify their behaviour. The Western Australian Aboriginal Child Health Survey noted that contemporary media portrayals of school attendance, and particularly absenteeism, present stereotypes largely based on blame – when children do not attend, and particularly when they are truant, the blame for this is directed at the parent, at children and at the school. Neither existing data nor the Survey's own research supported the view that school attendance is merely a matter of someone's responsibility.<sup>101</sup> Rather, low school attendance may represent a disengagement that arises from frustration and a lowering of self-esteem as a result of poor performance, or a lack of identification with educational values and expectations, or perhaps a failure of the school ethos to respect and validate cultural and self identity and to supply experiences that are relevant to life's circumstances.<sup>102</sup> Like many areas of Indigenous policy, there is a lack of consistent methodology for data collection in relation to low school attendance.<sup>103</sup> In linking the payments to welfare recipients to their children's school attendance, the legislation leaves much room for discretion regarding how inadequate school attendance is measured, and how it will be monitored and reported.

The impact of a legacy of exclusion from services that other Australians take for granted cannot be underestimated in relation to socio-economic disadvantage. Existing evidence suggests that the reasons for poor school attendance by Aboriginal children include low socio-economic status, low parental achievement

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<sup>99</sup> Jon Altman, 'The Howard Government's Northern Territory Intervention: Are Neo-Paternalism and Indigenous Development Compatible?', Centre for Aboriginal Economic Policy Research, Topical Issue No. 16/2007, p. 10.

<sup>100</sup> Ibid, p. 16.

<sup>101</sup> SR Zubrick, SR Silburn, JA De Maio, C Shepherd, JA Griffin, RB Dalby, FG Mitrou, DM Lawrence, C Hayward, G Pearson, H Milroy, J Milroy, A Cox, *The Western Australian Aboriginal Child Health Survey: Improving the Educational Experiences of Aboriginal Children and Young People*, Curtin University of Technology and Telethon Institute for Child Health Research, 2006, p. 115.

<sup>102</sup> Ibid, 116.

<sup>103</sup> J Gray and Q Beresford, 'Aboriginal non-attendance at school: Revisiting the debate', *Australian Educational Researcher* 29, 2002, pp. 27-42.

domestic violence, child abuse and drug and alcohol abuse.<sup>104</sup> The Western Australian Aboriginal Child Health Survey found that factors associated with poor attendance at school included a lower level of education of carers, trouble getting enough sleep, emotional or behavioural issues, speaking Aboriginal English or an Aboriginal language at home, having a primary carer who had been arrested or charged with an offence, and having a parent separated from their natural family.<sup>105</sup>

There is strong evidence that poor health has a powerful impact on whether or not Indigenous children attend school and on their ability to learn and participate in school activities.<sup>106</sup> The National Aboriginal Community Controlled Health Organisation's (NACCHO) Ear Trial and School Attendance Project found that during the trial period, children with chronic suppurative otitis media (CSOM) or 'runny ears' attended school only 69% of the days available compared with 88% of other children in the same schools.<sup>107</sup> A study in the Northern Territory showed that Indigenous children who had low attendance rates were more likely than those with high attendance rates to have ear disease and associated hearing loss.<sup>108</sup> The evidence also suggests that poor nutrition is another significant health issue affecting many Indigenous school students, and that children with poor diets are often lethargic or disruptive in the classroom and are more likely to be absent from school.<sup>109</sup> One significant legacy of institutional racism for Indigenous people is that of intergenerational poverty, which is known to affect the participation in and successful experience of education.<sup>110</sup>

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<sup>104</sup> See for example CJ Bourke, K Rigby, J Burden, *Better practice in school attendance: improving the school attendance of Indigenous students*, Commonwealth Department of Education, Training and Youth Affairs, 2000; RG Schwab, *Why only one in three? The complex reasons for low Indigenous school retention*, Centre for Aboriginal Economic Policy Research Monograph No.16/1999; House of Representatives Standing Committee on Employment, Education and Training, *Truancy and Exclusion from school*, Commonwealth Government, 1996.

<sup>105</sup> SR Zubrick, SR Silburn, JA De Maio, C Shepherd, JA Griffin, RB Dalby, FG Mitrou, DM Lawrence, C Hayward, G Pearson, H Milroy, J Milroy, A Cox, *The Western Australian Aboriginal Child Health Survey: Improving the Educational Experiences of Aboriginal Children and Young People*, Curtin University of Technology and Telethon Institute for Child Health Research, 2006.

<sup>106</sup> MCEETYA (Ministerial Council on Education, Employment, Training and Youth Affairs) Taskforce on Indigenous Education 2001, *Discussion Paper: Solid Foundations: Health and Education Partnership for Indigenous Children aged 0 to 8 Years*, MCEETYA, Carlton.

<sup>107</sup> NACCHO 2003, *NACCHO Ear Trial and School Attendance Project*, NACCHO, Canberra.

<sup>108</sup> Collins, B 1999, *Learning Lessons: An Independent Review of Indigenous Education in the Northern Territory*, Northern Territory Department of Education, Darwin.

<sup>109</sup> Senate Employment, Workplace Relations, Small Business and Education Committee (SEWRSBEC) 2000, *Katu Kalpa — Report on the Inquiry into the effectiveness of education and training programs for Indigenous Australians*, the Parliament of the Commonwealth of Australia, viewed 17 February 2005,

[http://www.aph.gov.au/Senate/committee/eet\\_ctte/completed\\_inquiries/1999-02/indiged/report/contents.htm](http://www.aph.gov.au/Senate/committee/eet_ctte/completed_inquiries/1999-02/indiged/report/contents.htm)

<sup>110</sup> For example, see Boyd Hunter, 'Three nations, not one: indigenous and other Australian poverty', CAEPR Working Paper No. 1/1999,

<http://www.anu.edu.au/caepr/Publications/WP/CAEPRWP01.pdf>

There is evidence regarding effective strategies in increasing school attendance for Indigenous students. The general principles that underpinned the most successful strategies included home visits and community liaison, emphasis on personal contact with consistent follow up where absence occurred, personal planning and goal-setting.<sup>111</sup> There are significant existing resources on case studies of what has been shown to work in improving attendance and outcomes for Indigenous students.<sup>112</sup>

The Federal Government's own evaluation report on the Halls Creek trial noted that programs at other schools have had a significant positive impact on attendance, with the key to improvement being to create an education environment that students want to be part of. The main means for doing this was stated to be with high quality teachers and a strong leadership culture within the school.

These findings support the work of Chris Sarra in Queensland, whose research and experience highlights the crucial role of teachers and the school culture in assisting Indigenous children to reach their educational potential.<sup>113</sup> As school principal, Sarra worked closely with the community to build a strong relationship and a shared set of community values and expectations for children attending the school. In a recent speech to the National Press Club, Sarra set out five fundamental strategies that should underpin attempts to improve the educational outcomes of Indigenous students: acknowledging, embracing and developing a positive sense of Aboriginal identity in schools; acknowledging and embracing Aboriginal leadership in schools and school communities; 'high expectations' leadership to ensure 'high expectations' classrooms, with 'high expectations' teacher / student relationships; innovative and dynamic school models in complex social and cultural contexts; and innovative and dynamic school staffing models, especially for community schools.<sup>114</sup>

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<sup>111</sup> Strategic Results Project National Coordination and Evaluation Team, *What has worked (and will again)*, Australian Curriculum Studies Association and National Curriculum Services, 2000; D McRae, G Ainsworth, J Cumming, P Hughes, T Mackay, K Price, M Rowland, J Warhurst, D Woods, V Zbar, *What works? Explorations in improving outcomes for Indigenous Students*, Australian Curriculum Studies Association and National Curriculum Services, 2000, quoted in SR Zubrick, SR Silburn, JA De Maio, C Shepherd, JA Griffin, RB Dalby, FG Mitrou, DM Lawrence, C Hayward, G Pearson, H Milroy, J Milroy, A Cox, *The Western Australian Aboriginal Child Health Survey: Improving the Educational Experiences of Aboriginal Children and Young People*, Curtin University of Technology and Telethon Institute for Child Health Research, 2006, p. 142.

<sup>112</sup> See <http://www.whatworks.edu.au/>

<sup>113</sup> Chris Sarra, *Young, Black and Deadly: Strategies for improving outcomes for Indigenous students*, Australian College of Educators Quality Teaching Series, Paper No. 5, 2003,

<sup>114</sup> Chris Sarra, 'The Way Forward: Indigenous children of the education revolution', Address to the National Press Club, 26 May 2008,

[http://www.abc.net.au/news/opinion/speeches/files/20080526\\_SARRA.pdf](http://www.abc.net.au/news/opinion/speeches/files/20080526_SARRA.pdf)

It is not just attendance that should be the primary focus of government policy, but also the quality and content of the education. The Western Australian Aboriginal Child Health Survey showed that while there is a clear relationship between attendance at school and academic performance, the disparity in attendance rates between Aboriginal and non-Aboriginal children accounts for only a proportion of the gap in levels of academic performance.<sup>115</sup> Improving the attendance rates should of course be a priority, but it is only part of the story.

In fact, research indicates that students are more likely to attend school when they perceive school as a positive, caring place where they and their parents feel valued and welcome; they have a positive and supportive relationship with their teachers; they find schooling interesting and relevant – such as the curriculum being contextually and culturally relevant and aligned with Indigenous learning styles; they see the connection between school and post-school education and employment opportunities that align with their individual aspirations; teachers have experience teaching in a cross-cultural and bilingual situation; teachers place reasonable demands on students and do not cap student potential or motivation by setting a low performance expectation; and Indigenous parents and communities are involved with the school and the teaching process.<sup>116</sup> Rather than taking a punitive approach, evidence suggests that it is better to encourage and involve parents – many of whom may not have had a positive experience with school themselves.

It is also important to note that the figures suggest that there are potentially 7000 Aboriginal children in the Northern Territory who are missing out on schooling at least in part because of a lack of basic infrastructure.<sup>117</sup> The Combined Aboriginal Organisations of the NT report that 94% of Indigenous communities in NT have no preschool; 56% have no secondary school; and 27% have a local

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<sup>115</sup> SR Zubrick, SR Silburn, JA De Maio, C Shepherd, JA Griffin, RB Dalby, FG Mitrou, DM Lawrence, C Hayward, G Pearson, H Milroy, J Milroy, A Cox, *The Western Australian Aboriginal Child Health Survey: Improving the Educational Experiences of Aboriginal Children and Young People*, Curtin University of Technology and Telethon Institute for Child Health Research, 2006, p. 164.

<sup>116</sup> SR Zubrick, SR Silburn, JA De Maio, C Shepherd, JA Griffin, RB Dalby, FG Mitrou, DM Lawrence, C Hayward, G Pearson, H Milroy, J Milroy, A Cox, *The Western Australian Aboriginal Child Health Survey: Improving the Educational Experiences of Aboriginal Children and Young People*, Curtin University of Technology and Telethon Institute for Child Health Research, 2006, p. 124 and CJ Bourke, K Rigby, J Burden, *Better practice in school attendance: improving the school attendance of Indigenous students*, Commonwealth Department of Education, Training and Youth Affairs, 2000, pp. 16-17, summarised in *Our Children, Our Future: Achieving Improved Primary and Secondary Education Outcomes for Indigenous Students*, A report published in collaboration by the AMP Foundation, Effective Philanthropy and Social Ventures Australia, May 2008, [http://www.socialventures.com.au/files/pdf/Our%20Children,%20Our%20Future\\_final%20report.pdf](http://www.socialventures.com.au/files/pdf/Our%20Children,%20Our%20Future_final%20report.pdf)

<sup>117</sup> Australian Education Union, *Education is the key: An education future for Indigenous communities in the Northern Territory*, 2007, p. 4.

primary school that is more than 50kms away.<sup>118</sup> Lack of adequate resources remains a critical factor,<sup>119</sup> and is discussed in more detail below.

### **Measures not addressing aims**

A key indicator of whether a policy strategy is well-designed and therefore more likely to be effective, is whether its aims are connected to its measures in a realistic and sustainable way. The aim of income quarantining is regularly stated to be to promote socially responsible behaviour, particularly in relation to the care and education of children. However, the reality of the measures it proposes to achieve this is that they take responsibility away from Indigenous people for managing their own finances and decision-making in the interest of families and places it back in the hands of administrators such as government officials and store managers. And it does so in the absence of sufficient resources and strategies to provide information or support to people to enable them to overcome drug or alcohol addiction and to become better parents. In the case of the blanket application in the Northern Territory, the approach actually punishes people who may have been spending their welfare payments in the interests of children.

Making Indigenous people's welfare payments conditional on factors such as their children's school attendance is based on the questionable proposition that passive welfare has led to learned helplessness and dependence, whereas active welfare and mutual obligation will create self-reliant, self-governing communities and good citizens.<sup>120</sup> Presumably the experience of navigating complex bureaucratic systems is to be the main means of achieving this. The approach attempts to modify behaviour through negative reinforcement on a group scale, which is arguably bad psychology as well as bad policy.

As well as diverting focus from what is known about the contributing factors to poor school attendance – poor health, overcrowded housing, lack of employment prospects, etc – at a fundamental level this approach does not actually encourage responsibility in parents. It is based on the notion that welfare recipients should be blamed for their predicament and punitive measures taken to force them to behave in particular ways, rather than supported to manage their obligations and become more functional. In reality, it removes responsibility from individuals, families and communities. In the way it may constrain people's capacity to save and manage their own affairs, as well as exacerbating stress in

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<sup>118</sup> Response and Development Plan to protect Aboriginal children in the Northern Territory: A preliminary response to the Australian Government's proposals, 10 July 2007,

<http://www.snaicc.asn.au/news/documents/CAOreport8july.pdf>

<sup>119</sup> Australian Education Union, Education is the key: An education future for Indigenous communities in the Northern Territory, 2007, p. 6.

<sup>120</sup> Ruth McCausland and Marc Levy, 'Indigenous Policy and Mutual Obligation: Shared or Shifting Responsibility Agreements?', Australian Journal of Social Issues, Vol.41 No.3 Spring 2006, p. 281.

families and driving people away from services that could be assisting them for fear of sanctions, it may in fact not meet the fundamental test of public policy: first, do no harm.

## **Human rights concerns**

There are significant human rights concerns raised by making the welfare payments of Indigenous people conditional on factors such as their child's satisfactory school attendance. At the outset, targeting Indigenous people in particular – and in the case of the Northern Territory, suspending the application of the Racial Discrimination Act – in such a punitive way without seeking to adequately address the underlying issues of disadvantage raises important questions regarding systemic discrimination.

The quarantining of half of the welfare payments of all Indigenous people in prescribed areas in the Northern Territory was characterised as a 'special measure' under the intervention legislation. However, the Aboriginal and Torres Strait Islander Social Justice Commissioner, Tom Calma, has argued that to be characterised as such, such restrictive measures must be able to be argued to be beneficial to those they are impacting on, and to have been developed through consultation and have community consent, and that this has not been the case in regards to the NT intervention measures.<sup>121</sup> The blanket application of the Income Management Regime to all people in a prescribed area, regardless of how they spend their money or how well they care for their children – or indeed regardless of whether they care for children at all – raises significant questions of racial discrimination. Any Indigenous person who spends a night in a prescribed area can become subject to the Income Management Regime and have half of their welfare payments quarantined.

The legislation also removed the right of Indigenous people to appeal to the Administrative Appeals Tribunal and the Social Security Appeals Tribunal in relation to decisions made under the introduced measures. The former Government stated that the decision was made to remove access to external review mechanisms because it would take too long and would consequently undermine the timing of the emergency response. However, Commissioner Calma has found that legislative changes made to support the NT intervention denies people the right to seek a review by the Social Security Review Tribunal of decisions that relate to income management are discriminatory and breaches Australia's obligations under the International Convention on the Elimination of all forms of Racial Discrimination.<sup>122</sup>

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<sup>121</sup> Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice Report 2007*, Human Rights and Equal Opportunity Commission, 2008, p. 265.

<sup>122</sup> Ibid.

The income management measures also raise significant concerns with respect to the right to social security, as set out in Article 9 of the International Covenant on Economic, Social and Cultural Rights. Specifically, international law sets out that the right to social security is to be enjoyed without discrimination, including on the basis of race; that benefits should be provided in cash or kind – and that the form that benefits take should be guided by the principle of human dignity and the right to non-discrimination; that beneficiaries of social security schemes must be able to participate in the administration of the system and it must provide for a right of appeal, amongst other principles.<sup>123</sup>

The Aboriginal and Torres Strait Islander Social Justice Commissioner has noted that controlling how a person spends their money is a drastic interference into the way a person manages his or her life and family, and human rights require a proportionate response to a problem. In his view, this means that governments are obliged to consider less intrusive or voluntary option as a first response before moving to options as broad-reaching as compulsory income management.<sup>124</sup> The Commissioner has also noted that the income management scheme as set forth in the NT intervention legislation presupposes that children in the Northern Territory could access ordinary educational opportunities if they so wished, whereas research into the socio-economic conditions of many Aboriginal communities strongly indicates that this is not the case.<sup>125</sup>

In linking welfare payments to school attendance, there is much room for discretion regarding how inadequate school attendance is measured, and how it will be monitored and reported. This leaves significant scope for inconsistent and discriminatory decisions to be made, with little recourse for those Indigenous people adversely affected. Article 17 of the ICCPR sets out individuals' rights to privacy, which may also be raised by the sharing of information between government agencies and school authorities.

### **Chronic under-resourcing**

Beyond the debate regarding the merits of schemes linking welfare payments to school attendance as a means to make parents more responsible and improve opportunities for children, lies the ongoing issue of under-resourcing by governments in addressing Indigenous disadvantage. The simplistic, short-term and resource-intensive approach of making welfare payments conditional draws attention and funding away from longer term strategies that seek to address endemic problems such as poor health, housing and education that contribute to Indigenous disadvantage.

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<sup>123</sup> *ibid*, pp. 275-276.

<sup>124</sup> Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice Report 2007*, Human Rights and Equal Opportunity Commission, 2008, p. 278.

<sup>125</sup> *Ibid*.

Professor Jon Altman has estimated that more than \$4 billion over five years would be needed to address Indigenous disadvantage in the Northern Territory alone.<sup>126</sup> In relation to education, he notes that if an extra 2000 students currently not enrolled in schools in the Northern Territory did start attending, an extra recurrent allocation of \$79 million per annum would be needed as well as a one-off allocation of \$295 million for extra school infrastructure and teacher housing - coming to an extra \$690 million over five years for remote communities only.<sup>127</sup> Evidence suggests that ongoing, long-term funding for Indigenous programs is an important means of addressing entrenched disadvantage. The 2008-2009 budget contained a number of one-off grants, for example, \$400 000 for early childhood programs.

Despite the Government's stated commitment to 'close the gap' between Indigenous and non-Indigenous Australians, their funding commitment and policy priorities suggest otherwise. The 2008-09 Budget provides additional funding of \$718.7 million for Indigenous issues over five years, some of which had already been announced in the 2007-08 February Additional Estimates. Despite the fact that only 11 percent of the Indigenous population live in the Northern Territory, the majority of the funding allocated in the budget (\$426.6 million over five years) is provided for activities in the Northern Territory, including \$320.9 million in 2008-09 for activities that are part of the Northern Territory Emergency Response.<sup>128</sup> In total, new and re-directed funding for Indigenous measures following the 2007 election and the 2008-09 Budget is \$1.2 billion over five years. Just over half of this (\$637.4 million) is specifically for the NTER.<sup>129</sup>

Funding for income management in the 2008-09 Budget is \$63.7 million, for the introduction of an income management debit card, licensing arrangements for community stores to ensure they are providing adequate food supply and improved services, and financial education and training to help families manage their finances.<sup>130</sup> The bureaucratic involvement and associated costs of income management, not to mention monitoring and reporting of school attendance, makes it an incredibly resource intensive approach. Given the Government's focus on it at the expense of other approaches that evidence shows could be more effective, as well as its questionable policy rationale, this policy should be subject to serious challenge and debate.

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<sup>126</sup> Jon Altman, 'Stabilise, normalise and exit = \$4 billion', Centre for Aboriginal Economic Policy Research, Topical Issue No. 8/2007, p. 2

[http://www.anu.edu.au/caepr/Publications/topical/Altman\\_Costing.pdf](http://www.anu.edu.au/caepr/Publications/topical/Altman_Costing.pdf)

<sup>127</sup> *ibid.*

<sup>128</sup> Lesley Russell, *Commonwealth Indigenous Budget Bulletin*, macroeconomics.com.au, p. 9

<http://www.macroeconomics.com.au/pdfs/commonwealthindigenousbudgetbulletin-june2008.pdf>

<sup>129</sup> *ibid.*

<sup>130</sup> *ibid.*

## **Conclusions and Recommendations**

There can be no doubt that revelations of shocking abuse and neglect of Indigenous children – any children – must be responded to by governments with urgency and sincerity. Their safety and wellbeing is a matter we should all be concerned with and vigilant about. For this reason, it is crucial that measures undertaken now are based on evidence about what does work, that are genuinely likely to address the problems they aim to, that is part of a realistic and holistic response, and that do not compound existing problems. Quarantining welfare payments is an extraordinarily expensive and inevitably ineffective shortcut to increasing Indigenous children's participation in education. Most importantly, it is diverting attention from what is known about what actually does work in getting children to want to stay at school and giving them opportunities in life that their parents didn't have.

Research in Australia and in Indigenous communities in North America shows consistently that the best way to lessen the disparity between Indigenous and non-Indigenous people is to include Indigenous people in the development of policy and the design and delivery of programs into their communities. Apart from sounding like common sense, the research shows that this engagement assists with ensuring the appropriateness and effectiveness of those policies and programs and ensures community engagement with them therefore better ensuring their success. This is a reminder of the key role that Aboriginal and Torres Strait Islander people play as partners in finding solutions to problems like low school attendance.

Developing policy approaches that are going to substantially make a difference in the numbers of Aboriginal and Torres Strait Islander children attending school should be addressed by the following strategies:

- Advocating an evidenced based approach to the problem and using mechanisms that have been shown to work rather than resourcing strategies that were there is no evidence to show that they work or, indeed, there is evidence to show that they are failing. On the data to date, this would mean moving away from the policy of linking welfare reform to school attendance and instead supporting programs such as:
  - Breakfast and lunch programs in schools;
  - Programs that bring members of the Aboriginal and Torres Strait Islander community, particularly Elders, into the school and make them part of the school community;
  - The training of Aboriginal teachers and Aboriginal teachers aides;
  - The development of curriculum that is culturally appropriate and therefore engages Aboriginal and Torres Strait Islander children with what they are learning;

- Programs such as that developed by Aboriginal educationalist Chris Sarra of the Indigenous Education Leadership Institute that combine programs with building confidence and self-esteem (through cultural programs and sport) with programs focusing on attaining academic excellence.
- Ensuring the government fulfils its responsibility to adequately fund teachers and school infrastructure so that it meets the needs of Aboriginal people. Addressing disadvantage requires long term solutions, not just interventions. Rather than always reacting to a crisis, a long-term sustained approach requires addressing the underlying causes of disadvantage. This means resourcing:
  - adequate standards of essential services;
  - adequate provision of infrastructure; and investment in human capital so that communities are developing the capacity to deal with their own issues and problems and have the skill sets necessary to ensure their own well-being.
- Critical analysis of other directions in government education policy as it relates to Aboriginal and Torres Strait Islander people, including further research on:
  - simply removing Indigenous children into boarding schools or private schools; and
  - strategies to engage adults with education and training, especially literacy training.
- An approach that seeks to address the issues in Aboriginal and Torres Strait Islander education by not simply focusing on the Northern Territory and Cape York but instead understands that the sector as a whole is under-resourced and the allocation of funding for Indigenous education initiatives needs to increase, not simply be shuffled from one place of crisis to another.

An evidence-based approach also requires policy makers to move away from only concentrating on the communities that are in crisis to looking at where the successes are. In the face of government neglect and failed policy, many Indigenous communities continue to flourish, creating successful and viable institutions, effective programs and continuing to keep their cultural values strong and their children safe. We could learn much from what it is that successful organisations and communities do to ensure their effectiveness and viability in this climate and use that information as a basis for developing similar conditions in the communities that fail.