



Submission to Committee on Economic, Social and
Culture Rights on Australia's Follow Up Report

Closing the Gap, Social Security and Offshore Detention

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Human Rights Law Centre

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1. 16(b) and 32 (c): Discriminatory impact of social security system on Aboriginal and Torres Strait Islander peoples

1. We understand the Committee has received submissions on Concluding Observation 16(b) from a coalition of Aboriginal and Torres Strait Islander organisations, and on Concluding Observation 32(c) from the Australian Council of Social Service.
2. Our comments below focus on the particular impact of Australia's discriminatory social security measures on Aboriginal and Torres Strait Islander peoples.
3. Since the Committee's review in 2017, the Australian Government has persisted with punitive and discriminatory social security measures that target Aboriginal and Torres Strait Islander peoples and are likely to undermine Closing the Gap targets.

1.1 Community Development Program

4. The remote Community Development Program (CDP) is a government program that has required people in remote communities to work up to three times as more hours each year in a more rigid work-for-the-dole program, as compared to people in urban areas, in order to access the same basic social security payment. Aboriginal and Torres Strait Islander people make up some 83% of people under CDP in remote communities, but account for only 10 per cent of people covered by the equivalent but less onerous urban program called 'Jobactive'. A harsh system of financial sanctions has seen nearly one in ten CDP participants, many of whom live in significant poverty, [lose 20 per cent](#) of their social security payments.
5. Since the CESCR Committee review, the CERD Committee has also [expressed concern](#) about CDP in November 2017. And in February 2019, a damning government-commissioned [evaluation report](#) was released. One of the most [alarming findings](#) of the evaluation was that hunger, sleep deprivation, survival crime, family violence and mental illness had increased under CDP. Reforms to the program are due to commence on 1 March 2019, nearly 4 years since CDP hit remote communities, however even with these reforms, people in remote communities will continue to have significantly more onerous activity obligations (see summary [here](#), but note that only 1000 of the 6000 job subsidies is proceeding).
6. The program needs to be abolished and replaced by Aboriginal-led models, like the [Fair Work and Strong Communities](#) model proposed in September 2017.

1.2 The ParentsNext program

7. The ParentsNext program is a government program that has required parents, 81 per cent of whom are single mothers, with children aged 6 months to 5 years to participate in “activities” in order to receive the social security payment called ‘the parenting payment’. If a parent does not report compliance with their required “activities”, they are exposed to a system of financial sanctions called the [Targeted Compliance Framework](#). [Concerns](#) have previously been raised about the harshness of this framework and its incompatibility with the right to social security by Australia’s Parliamentary Joint Committee on Human Rights.
8. An intensive stream of the program imposes more onerous obligations on parents and targets locations with high numbers of Aboriginal and Torres Strait Islander parents on the parenting payment. In six months, more than one quarter of Aboriginal and Torres Strait Islander parents had their payments suspended.
9. The Government has conceded that ParentsNext indirectly and directly discriminates against women and Aboriginal and Torres Strait Islander people. It is not a reasonable or proportionate restriction on the rights of affected parents for a range of reasons, including because [welfare conditionality](#) has been shown to be ineffective in helping parents find work. The program calls into question Australia’s compliance with the [International Covenant on Economic, Social and Cultural Rights](#), which protects the right to social security, and the [International Covenant on Civil and Political Rights](#), which provides that, if a state adopts social security legislation, it must do so in a non-discriminatory manner.
10. This is happening at a time when the United Nations’ Special Rapporteur on extreme poverty and human rights has expressed unease about the effect of cuts to the payments available to single parents, which increase the financial hardships borne by single parent households.

1.3 Compulsory income management and the cashless debit card

11. Compulsory income management and the cashless debit card are forms of compulsory income quarantining previously examined by the Committee, which continue to be used, and rolled out region by region by the Australian Government. In 2018, the [Australian National Audit Office](#) described as ‘inadequate’ the Government’s approach to monitoring and evaluating the expensive cashless debit card trials in the first two trial sites (communities in remote South Australia and Western Australia where a majority of those captured by the trial are Aboriginal and Torres Strait Islander people). Since then, two further trial sites have been added – one in Western Australia, and another in Queensland. Currently, a Bill before Parliament would expand the end date for the cashless debit card trials in all sites – from 30 June 2019 to 30 June 2020. This is despite a lack of evidence about the program’s effectiveness in meeting its objectives, and the concerns raised by the Parliamentary Joint

Committee on Human Rights about the trials not being a reasonable and proportionate restriction on human rights (see report 11 of 2017, 17 October 2017).

Recommendation:

The Australian Government should end the practice of targeting Aboriginal and Torres Strait Islander people with compulsory social security measures, and instead work with Aboriginal and Torres Strait Islander organisations and communities to develop effective Aboriginal-led programs that are delinked from the receipt of social security and consistent with the right to self-determination.

2. 18 (b): Offshore detention

12. We understand that the Committee has received a detailed in person briefing from Abdul Aziz Muhamat.
13. The Australian Government's response to recommendations regarding offshore detention is extremely disappointing (although not unexpected) in that it makes no attempt to address any of the concerns or recommendations raised by CESCR in its concluding observations.
14. As you would be aware the Australian Government's regional processing arrangements have been widely criticised for flagrantly violating human rights by multiple UN treaty bodies and Special Rapporteurs, for example Human Rights Committee, Concluding observations on the sixth periodic report of Australia, CCPR/C/AUS/CO/6; Committee on the Elimination of Racial Discrimination, Concluding observations on the eighteenth to twentieth period reports of Australia, CERD/C/AUS/CO/18-20; Committee on Economic, Social and Cultural Rights, Concluding observations on the fifth periodic report of Australia, E/C.12/AUS/CO/5; Committee on the Elimination of Discrimination Against Women, Concluding observations on the eighth periodic report of Australia, CEDAW/C/AUS/CO/8; Report of the Special Rapporteur on the human rights of migrants on his mission to Australia and the regional processing centres in Nauru (A/ HRC/35/25/Add.3).
15. The Human Rights Law Centre continues to call for an end to this egregious abuse of human rights and can provide the Committee with further information if required.
16. Recent public statements from the Human Rights Law Centre can be found in our [2018 CROC NGO Shadow Report](#) (pp 11-12) and [2018 CEDAW NGO Shadow Report](#) (pp 4-6).