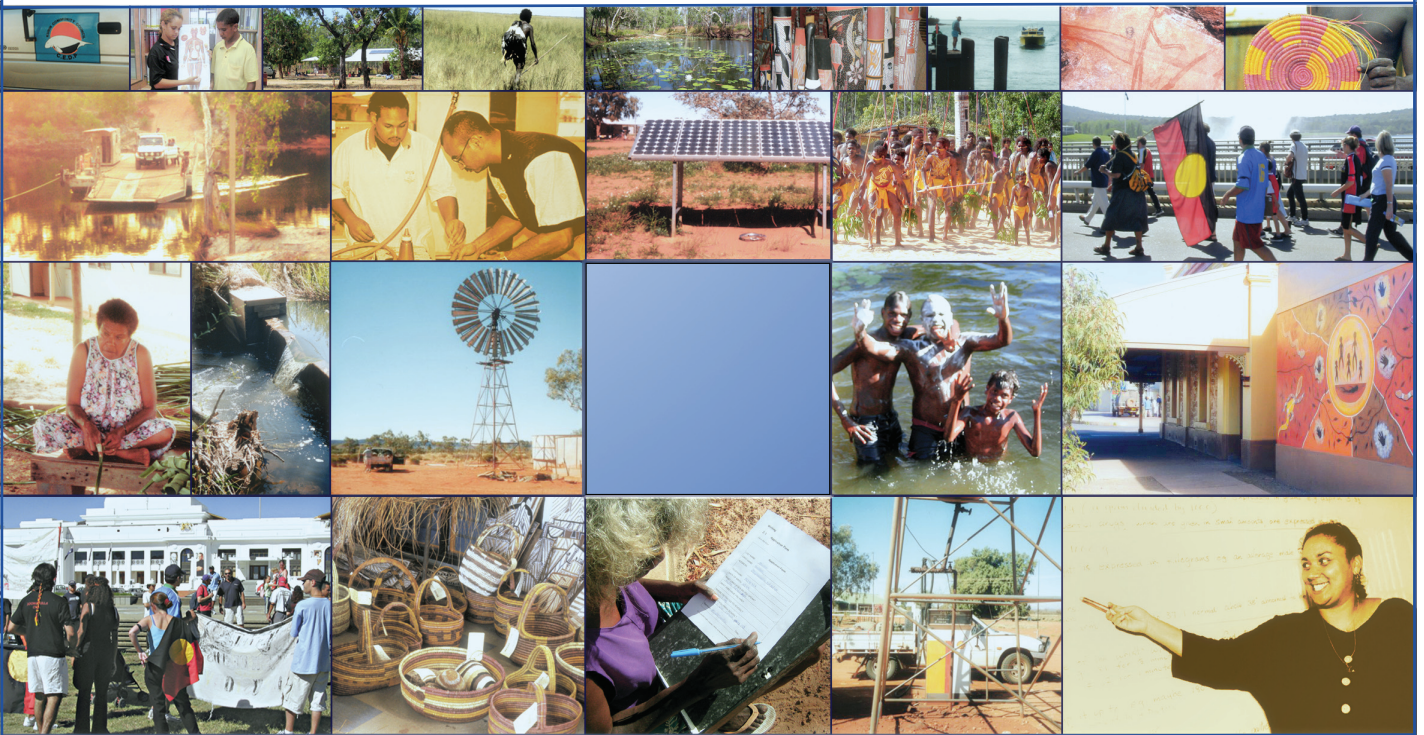


Indigenous Welfare Reform in the Northern Territory and Cape York: A Comparative Analysis

J.C. Altman and M. Johns

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August 2008

INDIGENOUS WELFARE REFORM IN THE NORTHERN TERRITORY AND CAPE YORK: A COMPARATIVE ANALYSIS

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ABBREVIATIONS AND ACRONYMS

ACOSS	Australian Council of Social Service
APY	Anangu Pitjantjatjara Yankunytjatjara
CDEP	Community Development Employment Projects (program)
CLC	Central Land Council
CYI	Cape York Institute
DEEWR	Department of Employment, Education and Workplace Relations
FaCSIA	Department of Families, Community Services and Indigenous Affairs
FaHCSIA	Department of Families, Housing, Community Services and Indigenous Affairs
FRC	Family Responsibilities Commission
FRC Act 2008	<i>Family Responsibilities Commission Act 2008</i>
RAE	Remote area exemptions
WPR Act 2007	<i>Social Security and Other Legislation (Welfare Payment Reform) Act 2007</i>
NTNER Act 2007	<i>Northern Territory National Emergency Response Act 2007</i>
NTER Act 2007	<i>Families, Community Services and Indigenous Affairs and Other Legislation Amendment (Northern Territory Emergency Response and Other Measures) Act 2007</i>
USA	United States of America

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EXECUTIVE SUMMARY

Immediately following the June 2007 release of Pat Anderson and Rex Wild's *Little Children Are Sacred* report into child abuse and neglect in Northern Territory Indigenous communities, the Howard Government declared a 'national emergency' in Indigenous communities in the Northern Territory. This announcement subsequently brought about the most radical legislative and policy shifts seen in the past 30 years in Indigenous affairs. Among the many changes was the introduction of an income management regime for residents living in Northern Territory communities that were deemed 'prescribed'—or controlled—by the Federal Government. While the Rudd Government achieved power at the November 2007 election, bringing about some fundamental changes to the initial Northern Territory Emergency Response laws, the most enduring part of the legislation is the progression of welfare reform for Indigenous communities in the Northern Territory.

This paper examines those welfare changes and the potential outcomes of legislation targeted at one section of Australian society, in one jurisdiction. The paper also examines the Queensland Government's recently passed Cape York trial legislation, which, for a four year trial period, similarly targets perceived social dysfunction in four Cape York communities. Principally, both the Cape York welfare reform trial and the Northern Territory intervention assume a link between social dysfunction, child neglect and substance misuse on the one hand and 'passive' welfare on the other. Both reforms aim to make welfare conditional upon responsible behaviour which includes ensuring that children are enrolled for, and attending school. The welfare reforms also target substance misuse by limiting income available for expenditure on alcohol. Further, both reforms aim to restructure labour market activity in remote communities by changing the rules for the Community Development Employment Projects (CDEP) scheme, Work for the Dole and other labour market programs.

The changes in both jurisdictions mean that a portion of welfare income can be sequestered for the purchase of basic household necessities. However, the Northern Territory's income management regime is a non-negotiable blanket measure, applicable to all welfare recipients residing in prescribed areas of the Northern Territory regardless of whether a person has responsibility for a child. Welfare reform in Cape York does not automatically include income management for all residents, and is only applicable to those who do not comply with directives given by the recently legislated and locally based Family Responsibilities Commission. The Cape York trial will rely on a combination of case management and support services, with income management considered a last resort—it does not focus solely on reforming individual behaviour through financial sanctions.

This paper focuses principally on welfare reform and income management in these two jurisdictions, but does not examine all of the recent legislative changes in either the Northern Territory or Cape York. The focus also extends to CDEP as it relates to the broader welfare reform agenda. The paper examines and compares the two jurisdictions, making some concluding observations which point to potential unintended

consequences for those residents falling within the two welfare reform jurisdictions, and for the Federal and Queensland Governments.

From a public policy perspective, this paper makes three observations about the potential consequences of the legislative changes to Northern Territory and Cape York Indigenous communities. First, the welfare policy reform in the Northern Territory is unprecedented in recent history. The reform challenges well-established principles of universalism and the inalienability of welfare payments, and reintroduces the intervention of a third party in the withholding of welfare payments from only one section of Australian society in one jurisdiction. This race-based approach in contemporary Australian society is extremely troubling.

Secondly, welfare reforms in both the Northern Territory and Cape York are based on the assumption that linking welfare payment to 'proper' behaviour will produce good social and economic outcomes. Further, the current policies assume that welfare payments and improper behaviour are linked, implying that those earning income from 'real' jobs are engaging in proper behaviour and are 'good' parents. Despite recent Federal Government emphasis on producing evidence-based policy, the current policy risks relying on supposition, not evidence. The question is whether using such a blunt, universalistic and non-discretionary instrument to address complex and highly variable social problems will produce the outcomes hoped for by the Federal Government.

Lastly, this paper notes the considerable funding input to both the Northern Territory intervention and the Cape York trial. This investment is based on unproven assumptions about relationships between household expenditure patterns and child well-being, payment of welfare and school attendance, and between differential use of earned and unearned income. If such investments prove unproductive—or worse, fail—who will be held accountable?

INTRODUCTION

This paper provides a comparative analysis of some complex welfare reforms introduced in Indigenous communities throughout the Northern Territory from 2007 and in four Cape York communities in 2008. The process continues as this paper is being completed, with the Minister for Indigenous Affairs announcing, on 27 February 2008, an extension of the reform process into the Kimberley region of Western Australia. The latest set of reforms will not be examined here, as we focus primarily on the Northern Territory Emergency Response and the proposed welfare reform trial in four Cape York communities.

To understand this welfare reform process it is important to provide a brief historical and political contextualisation. The Cape York reform process has been underway for almost a decade, championed by Noel Pearson in his early writings such as *Our Right to Take Responsibility* (Pearson 2000). Welfare reform has been a major focus of the Cape York Institute of Policy and Leadership (CYI) since its establishment in July 2004, with Noel Pearson as Director. The CYI advocates for social and economic policy reform in Indigenous communities in Cape York, but also aims to influence issues in the Federal arena. The CYI conducts a leadership program, mentoring current and potential leaders within Indigenous communities in the Cape York Peninsula in partnership with Griffith University. The Institute's overarching focus on welfare reform culminated in the publication of *From Hand Out to Hand Up* in June 2007, a report that advocated a radical reform of welfare, on a trial basis, in four communities.¹ The launch of this report was somewhat overshadowed by then Prime Minister Howard's announcement on 21 June 2007 of a 'national emergency' relating to child abuse and neglect in Northern Territory Indigenous communities. In the announcement the Prime Minister and then Minister for Indigenous Affairs, the Hon. Mal Brough, vowed to address the issue of child abuse and neglect by assuming responsibility for selected communities in order to 'deal with the problem'.²

This announcement was presented as a response to the *Ampe Akelyernemane Meke Mekarle* or *Little Children Are Sacred* report (released in June 2007) from a Northern Territory Board of Inquiry into child sexual abuse in Northern Territory Indigenous communities, which generated widespread consternation (Anderson & Wild 2007). The report included 97 recommendations, of which only one was ultimately implemented by the Howard Government.

From the perspective of the Howard government, dealing with the problem of child abuse and neglect in the Northern Territory involved intervening in the management of Northern Territory Indigenous communities, and included a number of unprecedented measures including:³

- introducing alcohol restrictions into remote communities
- introducing welfare reforms that involved the universal quarantining of welfare income
- linking welfare payments to school enrolment and attendance, and to child welfare generally
- acquiring townships through five-year leases

- making changes to the *Aboriginal Land Rights Act 1976*
- increasing policing presence in communities
- reforming housing and tenancy arrangements
- banning x-rated pornography
- appointing Government Business Managers in prescribed communities
- removing the permit system.

These changes were brought in under the *Social Security and Other Legislation (Welfare Payment Reform) Act 2007* (WPR Act 2007), the *Northern Territory National Emergency Response Act 2007* (NTNER Act 2007), and the *Families, Community Services and Indigenous Affairs and Other Legislation Amendment (Northern Territory Emergency Response and Other Measures) Act 2007* (NTER Act 2007).

The CYI makes an argument similar to that of the Howard government in its case for welfare reform in remote communities (CYI 2007), linking child abuse and neglect to citizenship rights that gave Indigenous people equal entitlements to 'passive' welfare and alcohol.⁴ It also identifies the Community Development Employment Projects (CDEP) program as a contributing factor to social dysfunction in Cape York communities. Part of the solution proposed is to set up a trial in four designated remote communities that directly addresses perceived social and behavioural problems in those communities. Principally, there are three areas targeted by the CYI: making welfare conditional upon a recipient's behaviour; enabling communities to build capacity with more government investment; and changing incentives to encourage people to participate in the 'real' economy. This welfare reform agenda is broader and more coherent than that being implemented in the Northern Territory. The Northern Territory's welfare changes, by contrast, were developed hastily. The Howard Government allowed only one day for examination and debate of the legislation before it was passed. The rapid introduction of welfare reform laws resulted in legislation that was both extremely complex and, in places, quite incoherent.

Clearly only some of the measures proposed for the Northern Territory have focused on welfare reform; equally clearly the Howard Government welfare reform measures have drawn upon elements of the recommendations in *From Hand Out to Hand Up*. Part of the aim of this paper is to examine similarities and differences between proposals for the Northern Territory, enshrined in legislation by the then Federal Government in August 2007, and proposals for Cape York which involved a joint Federal and Queensland government statutory framework.

Although there have been some changes to the measures in the Northern Territory since the change in Federal Government on 24 November 2007, welfare reform and the quarantining of income are elements that appear to be enduring. While the proposed reinstatement of the permits system (Macklin 2008) will have very little connection to welfare reform, the commitment to retain CDEP could have significant and currently unresolved impacts.⁵ This is primarily because it is far from clear if CDEP should be categorised as a

labour market program (which is how the Howard Government increasingly defined it, especially from 2004) or as a welfare payment. It is for this reason that some discussion of CDEP is included here.

This paper is structured as follows: a brief explanation of the legislative entanglements between the Northern Territory and Cape York welfare reforms is followed by an outline of welfare reform proposals for the Northern Territory and for Cape York, and discussion of some of the implications of these proposals. A brief comparison is then made between the two, before exploring a number of policy implications.

It should be noted that although there is much talk of 'evidence-based' policy-making in Indigenous affairs (see Macklin 2008), in the aftermath of the election of the Rudd Federal Government in 2007 there is very little evidence (from Australia or from overseas) visible in debates about welfare reform, including in the voluminous *From Hand Out to Hand Up*. Similarly, much of the discussion here is conceptual and theoretical, rather than empirical. As we will highlight, evidence about radical reform can only be generated *ex post facto*, something that makes reform—in particular the current reforms—risky. This is not to argue against reform *per se*, because clearly policies and their implementation can always be improved. Rather, we argue that any reform risks unintended consequences that may, at worst, exacerbate the problems being addressed.

This paper has been developed over the six months to June 2008. During this period there has been a rapid change in welfare reform policy discourse. The Rudd Government is looking to manage the reform process, but there is still a rapid and at times *ad hoc* approach to perceived 'new' problems as they emerge on a regional basis—for example in the Fitzroy Valley in the Kimberley, and in the Anangu Pitjantjatjara Yankunytjatjara (APY) Lands in South Australia. This paper focuses on two jurisdictions only; at the time of publication of this paper, the Federal Government is making preparations and budget commitments for at least two more.

THE NORTHERN TERRITORY

The Northern Territory welfare reforms, called 'income management', cover all welfare payments for all recipients of benefits in prescribed or declared areas for an initial period of 12 months (WPR Act, s.123TD). Income management involves the non-discretionary quarantining of 50 per cent of a designated welfare benefit to be held in managed accounts and to be spent only on basic items deemed to be beneficial to the well-being of the recipient and their dependants. Although welfare reform in the Northern Territory has been linked to more than child well-being, the former Howard Government focused sharply on this issue when delivering the Welfare Payment Reform Bill to Parliament in August 2007.⁶ Despite the Howard and Rudd Governments' focus on child abuse and well-being, income management applies to all recipients of welfare payments living in prescribed areas, even if the person is not responsible for a child. Income management is a non-discretionary, blanket measure in prescribed areas of the Northern Territory.

Further or secondary quarantining of income (meaning up to 100 per cent of designated benefits) will also apply to parents of school-aged children when the relevant child's school enrolment or attendance

is established by authorities as unsatisfactory. Child neglect is another reason for 100 per cent income management (WPR Act, s.123UB, 123UC, 123UD, 123UE). However, these secondary aspects of the legislation have not yet been implemented.

The part of the legislation containing provisions to quarantine up to 100 per cent of payments includes entitlements such as Carer's Allowance, Maternity Immunisation Allowance, Mobility Allowance, Abstudy, Baby Bonus, Family Tax Benefit (through the Family Assistance Administration Act) and CDEP Transitional Payment (which will be paid until 1 July 2008 for those people who were employed in CDEP schemes on or before 23 July 2007). These payments will be quarantined, irrespective of whether the entitlement is to be paid in lump sums or instalments (WPR Act 2007, s.123).

According to the legislation, withholding or quarantining income is intended to:

... promote socially responsible behaviour, particularly in relation to the care and education of children; to set aside the whole or a part of certain welfare payments; to ensure that the amount set aside is directed to meeting the priority needs of: (i) the recipient of the welfare payment; (ii) the recipient's partner; (iii) the recipient's children; and (iv) any other dependents (WPR Act 2007, s.123TB).

Income management affects all residents of the Northern Territory living in prescribed areas at the date specified in the legislation who were receiving Centrelink benefits, regardless of whether the resident is a parent or carer of minors, and regardless of whether the person is responsible or otherwise. This issue, according to The Australian Greens, completely undermines the statutory rationale that (this and other related) legislation is intended for the protection of children—'a person does *not* have to have responsibility for a child to be subject to income management in the Northern Territory. All they have to do is simply spend a night in a designated area' (Senate Standing Committee on Legal and Constitutional Affairs 2007: 74).⁷

The Howard Government had intended that up to 100 per cent—or an amount determined by the Minister—of income support and family assistance payments for parents would be quarantined by 2009 for all parents receiving welfare payments (Indigenous and non-Indigenous) who had school-aged children not enrolled at or attending school. By 2010, all parents receiving benefits and who had children of high school age would have been subject to this regime if their child was not enrolled at or attending school. Once the initial 12-month 'emergency' or stabilisation period for income management in the Northern Territory was over, residents of prescribed communities would have become subject to the new Federal welfare reform proposal, meaning that persons subject to income management might have up to 100 per cent of income withheld for non-compliance (Brough 2007: 4). However, at this stage, and with the Rudd Government intending to reassess aspects of the WPR Act 2007, the NTNER Act 2007, and the NTER Act 2007 in the second half of 2008, it is unclear if the above sections of the WPR Act 2007 will be implemented.⁸ It is also unclear if the Rudd Government intends to examine the relationship between the *Racial Discrimination Act 1975* and the three Acts, on the grounds that the emergency laws are discriminatory.⁹

LINKING SCHOOL ATTENDANCE WITH WELFARE RECEIPT: TEACHING BEHAVIOURAL CHANGE?

The 2008–09 Federal Budget indicated that the Rudd Government's intentions regarding the longer term, nation-wide roll out of welfare reform included a proposal for a trial linking school attendance and enrolment to welfare payments in eight communities. Six trial communities will be located in the Northern Territory and two in 'metropolitan communities in other jurisdictions'.¹⁰ The exact locations for the trials have not yet been announced. Parents with school-aged children in these trial communities will be required to tell Centrelink where their children are enrolled at school, and also to ensure that their children attend school once they are enrolled. Parents who fail to comply with enrolling or ensuring school attendance might have their welfare payments suspended until their children are enrolled. Minister Jenny Macklin stated that suspending payments would be a 'last resort', triggered only after other interventions by Centrelink or the school had failed. According to the Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) media release, if payment suspension has occurred, then full back-pay will be provided once the parent(s) have met the terms of the new compliance regime.¹¹

It is unclear how compliance can be assessed if a community lacks the infrastructure or teachers to adequately accommodate all of the school-aged children. Such problems could also have a disruptive impact upon students who are already attending school and achieving good educational outcomes. According to the Central Land Council (CLC), although \$34.2 million was allocated for schools and vocational education in the Northern Territory in 2007–08, there is no evidence that this money has been expended (CLC 2007a). A lack of expenditure of allocated funds for schools in the Northern Territory could adversely impact upon remote community residents who have complied with legislative requirements to ensure their children attend school, particularly if there is no room at schools for expected extra enrolments, or if remote community schools do not have funding to supply extra teachers, housing for teachers or extra school facilities to cope with increased demand.

The Howard Government expected teachers to be involved in providing information to Centrelink staff about school attendance. The Australian Education Union reported at least one teacher being asked to provide information about students, including their age and family group—which the union claimed fostered 'perceptions that teachers are responsible for the quarantining of welfare payments'.¹² One implication of this is the potentially adverse effects it would have on relations between schools, teachers and community members. Successful educational outcomes rely in part on the relationship a teacher has with their students and the students' parents or carers. The possibility of teachers becoming responsible for passing enrolment and attendance data to a punitive state agent is problematic. Involving schools in such monitoring might result in worse educational outcomes for children and increased rates of teacher attrition. Moreover, teaching large numbers of extra students in an environment with inadequate infrastructure will more likely result in teacher resignations.¹³

According to the CLC's community feedback briefing paper, *From The Grassroots*, there is some support in remote communities for welfare to be linked with school enrolment and attendance. A major concern of residents affected by the changes is how the legislation will work in practical terms. For example, the CLC reported that '[In] Amplatiwatja a number of ladies ... thought that it was appropriate that people who repeatedly didn't send their children to school should have their welfare payments penalised. However, the ladies remained concerned about how this would work in practice' (CLC 2007b: 11). What emerged was significant community concern over a lack of dialogue around the changes to welfare arrangements: '(w)hile many people are supportive of a dialogue around welfare reform, this dialogue has not taken place' (CLC 2007b: 11).

The Howard Government stated in 2007 that the quarantine regime would follow a person or family if they '[moved] out of the prescribed community, to ensure they cannot easily avoid the income management regime', even if they moved to another State or Territory (WPR Act 2007 s.123UB; Brough 2007: 5). This suggests that the intervention in the Northern Territory could reach beyond its borders. Although welfare payments are a Federal responsibility, linking payments to criteria such as school attendance permits a level of uncertainty about how much the Federal intervention will impact on the States. There has been anxiety expressed in remote communities about how these mobility aspects of the legislation would actually work on the ground. The CLC reports concerns from Northern Territory communities that, for example, '[p]eople might be punished if they move around but still want to keep kids in school or if they take kids out for cultural reasons'¹⁴ and that '[t]hese changes will stop us being able to travel wherever we like because our payment will be stuck at home.'¹⁵

Questions still remain about whether schools would be required to report attendance of Indigenous parents who have moved from the Northern Territory to another State. In addition, it is not known how the legislation would be enacted in areas bordering other States where there are frequent interstate movement for educational or residential purposes, such as the tri-state region that makes up the Ngaanyatjarra Pitjantjatjara Yankunytjatjara Lands. The WPR Act 2007 states that the Minister may, by Legislative Instrument, declare a prescribed primary school area for the purposes of income management in a particular State, Territory or area in relation to school enrolment or attendance (s.123TG: 25). In the House of Representatives Explanatory Memorandum a certain level of 'close consultation with States and Territories regarding enrolment and school attendance' is expected.¹⁶ In August 2007 the Federal Department of Families, Community Services and Indigenous Affairs (FaCSIA) informed the Senate Legal and Constitutional Affairs Committee that the States and Territories would be asked to monitor and provide information about school attendance (Senate Standing Committee on Legal and Constitutional Affairs 2007: 26).

The WPR Act 2007 also sets out potential sanctions against parents or carers of children after 2009. Under the Act these sanctions would be triggered if parents receiving welfare failed to comply with enrolment or attendance requirements. In their submission to the Senate, the Australian Council of Social Service (ACOSS) addressed this issue by asking if the Howard Government had reached agreement with the States and Territories over information exchange about rates of child enrolment and school attendance. Specifically,

it wanted to know what 'the reporting relationships between State Government departments ... and the Australian Government and what privacy provisions, if any, will apply?' (ACOSS 2007: 13).

QUARANTINING INCOME FOR THE PREVENTION OF CHILD ABUSE

ACOSS argued in its submission that income management is unlikely to prevent or address problems of child abuse and neglect, stating that cases of child abuse are 'complex and multi-dimensional ... single interventions will be ineffective and interventions such as quarantining welfare payments ... do not address causal factors' (ACOSS 2007: 5). It is unclear how quarantining income will benefit children in prescribed communities and, as The Australian Greens have noted, it may lead to a number of welfare recipients 'dropping out' of the welfare system altogether and putting even more financial and emotional strain on families that are already under enormous pressure and hardship (Senate Standing Committee on Legal and Constitutional Affairs 2007: 75–6). Further, as ACOSS noted, quarantining may also lead to further abuse within families as the pressure of changes to income and CDEP becomes apparent (ACOSS 2007: 5).

In a submission to the Senate Inquiry, Jon Altman referred to recent research by David Ribar about welfare quarantining schemes in the United States of America (USA). Altman noted that these schemes had displayed 'high costs and limited benefits', which could also occur in the Australian scheme. Altman also noted that the quarantine measures would only cover '30,000 to 40,000 Indigenous people in 73 dispersed communities ... in the USA, such measures are applied to 26.7 million people' (Altman 2007a: 85). In an address to the Australian National University, Ribar stated that evidence from the USA suggests that Indigenous Australians subject to income management would 'increase expenditure on authorised goods ... but not by tremendous amounts' (Ribar 2007).

ACOSS also addressed this issue by stating that income management schemes in the USA resulted in food stamps and vouchers being traded for alcohol or cash, the effect being the creation of a black market rather than a sudden improvement in parental responsibility. A report emerged in the Australian media late in 2007 suggesting that this was already occurring in parts of the Northern Territory (S. Kearney, 'Outback welfare cards sold for cash', *The Australian*, 30 November 2007). In its submission to the Senate, ACOSS went on to say that 'where parental responsibility has broken down to the extent that income management is considered, State welfare authorities are likely to be close to placing the child away from the family in any event' (ACOSS 2007: 5).

ACOSS also asked why withholding income from people would somehow enable those people to learn how to manage family budgets, as if quarantining were a financial literacy 'magic bullet'. ACOSS argued that the Howard Government's stance undermined programs already in place, such as the Centrepay system, which focuses on improving financial literacy so that parents can better manage income (ACOSS 2007). Centrelink appears to be addressing some of these issues by linking financial literacy programs to welfare quarantining.

Undermining the inalienability of social security payments was a key concern raised by ACOSS (2007: 5). *The Bills Digest* report from the Parliamentary Library explains the inalienability of welfare payments under various acts (specifically, the *Social Security (Administration) Act 1999*, *Family Assistance (Administration) Act 1999* and the *Veterans' Entitlements Act 1986*), stating that 'inalienability basically means that where a person is qualified to a payment and entitled to an amount of payment, the payment is their legal right and cannot be not provided, or provided to someone else' (Yeend & Dow 2007: 5). Where the new WPR Act 2007 quarantines income by 50 per cent and up to 100 per cent, the Bills Digest paper has called it 'unprecedented': 'Never before have provisions in these Acts provided for welfare income support and supplement payments to be withheld in part or in total ... these [income management] provisions are very new territory for legislators and administrators' (Yeend & Dow 2007: 17–8).

ACOSS and the CLC have also asked why a right of appeal through the Social Security Appeals Tribunal, or the Administrative Appeals Tribunal was being denied to residents of prescribed communities (ACOSS 2007; CLC 2007a, 2007c). Such a denial is again both unprecedented and specific to Indigenous communities in the Northern Territory. This contravenes—and circumvents—the *Racial Discrimination Act 1975* by singling out Indigenous Australians as a particular group requiring race-based legislation.

DISMANTLING CDEP

In addition to income management, the original Howard Government changes under the Northern Territory intervention committed to dismantling CDEP. According to the Howard Government, the abolition of CDEP would allow government to move recipients to a 'single system of quarantining' that would 'stem the flow of cash [to] alcohol ... and ensure that money [is used] for children's welfare' (DEWR 2007: 1). Once the Rudd Government was elected in November 2007, it began the process of reversing this policy.¹⁷

Under the WPR Act 2007, CDEP would be dismantled in prescribed communities and replaced with other work-for-welfare programs. In seeking to replace CDEP with other programs, the Howard Government asserted that CDEP was no different to other work-for-welfare programs, had negligible positive long term impact on remote communities, and could not be viewed as 'real jobs' in the mainstream labour market. However, Altman provides Australian Bureau of Statistics data about CDEP that contradict such statements:

Firstly, the average weekly income of CDEP employees in remote and very remote Australia is about \$100 per week (or 60 per cent) higher than the income of the unemployed. Secondly, while CDEP funding only provides for fifteen hours of work per week, between 85 and 90 per cent of participants worked longer hours because of opportunities provided by their organisations. About one in five employees worked 35 hours or more a week in remote regions. Thirdly, while working in CDEP programs, Aboriginal people are able to undertake a range of customary activities, like participating in ceremonies or in fishing and hunting, to a greater extent than if employed or unemployed. There is clear evidence that the flexibility of the CDEP scheme has accorded with Indigenous aspirations in many situations (Altman 2007b: 2).

Under the Howard Government's mainstreaming agenda for Indigenous Northern Territorians, it was assumed that Indigenous residents would move to other places for work; that is, people would be supported to accept work in locations away from their homes or communities, with normal job search rules applying to recipients of unemployment benefits. Thus community members who refused a job position in a location outside their community might be 'breached' by Centrelink if they did not comply with directives to accept a job placement. Breaching involves the complete suspension of welfare payments for a period of up to eight weeks. Former Federal Minister for Workforce Participation, the Hon. Sharman Stone, observed, 'People who lived on outstations ... should consider moving into towns ... outstation residents should not expect that they could continue to live in the 'country' [sic] and receive benefits ... Aborigines could not expect jobs to come to them' (S. Kearney, 'Tribal leave for workers on the dole', *The Australian*, 8 September 2007).

The abolition of CDEP was accompanied by the offer of training for jobs in remote communities that the government considered to be vacant positions. The aim was to train community members and then fill those vacant positions as 'real' jobs—although it is difficult to see how a person could be trained in a short time period to become a remote area nurse, teacher or mechanic when these jobs sometimes require years of education and training, and also entry level literacy and numeracy, which is an underlying problem for many remote-based Aborigines. The Howard Government also promised funding for an increase in language, literacy and numeracy programs to support the move from CDEP to full-time employment (and the associated 'job readiness' that this requires).

Along with these changes was the removal of the remote area exemption (RAE) from activity test requirements for people on unemployment benefits—a process that was already in a number of remote communities prior to the Northern Territory Intervention. The aim was to move remote communities to the same system as 'mainstream' communities around Australia. In their Senate submission, ACOSS stated that there was potential for breaches to welfare payments to occur for welfare recipients who did not meet job search requirements: 'Standard penalties for non-compliance with activity requirements will apply, including the maximum penalty of eight weeks without any income support' (ACOSS 2007: 11).

Despite rhetoric about CDEP being an impediment to 'real jobs' and a 'destination for too many', the reality is that the Howard Government intended to dismantle CDEP only in the Northern Territory. As Altman has noted, many viable and thriving Indigenous-managed CDEP organisations in the Northern Territory would have disappeared once changes to welfare were fully implemented:

The closure of CDEP will create havoc: increasing unemployment, reducing income, and resulting in the likely demise of crucial service organisations like Bawinanga Aboriginal Corporation ... There are other, less transparent agendas at work here too, including the goals of depoliticising robust CDEP organisations—perhaps to give government-appointed community administrators greater powers over Indigenous subjects? As most CDEP organisations are also outstation resource agencies, the demise of these organisations will inevitably place enormous strain on the viability of 560 communities in the Northern Territory with populations of less than 100, almost all located on Aboriginal land (Altman 2007b: 3–4).

By dismantling CDEP, the Howard Government intended to create full-time job positions that could be filled as 'real' jobs by 'many'—but not all—previous CDEP participants (DEWR 2007: 2–3). Although government advice on this subject stated that current CDEP activities would continue until further notice or until other arrangements were in place, it also stated that CDEP participants would be able to apply for income support such as Newstart Allowance or Work for the Dole (DEWR 2007: 2–3). Those receiving Newstart Allowance would be expected to be looking for work, undertaking job training or engaging in a Work for the Dole program. It should also be noted that this advice is still available on the website of the Federal Department of Employment, Education and Workplace Relations (DEEWR), despite the November 2007 election and the Rudd Government's change of direction with CDEP in the Northern Territory.¹⁸

REINSTATING CDEP

The changes proposed by the Rudd Government in relation to CDEP simply require reversing the Howard Government's decision to axe CDEP in the Northern Territory. In the 30 prescribed communities where the scheme is already dismantled, the Rudd Government has committed to re-introducing it from 1 July 2008 for an initial period of 12 months; it is also committed to reviewing the overall efficacy of the scheme. This means that CDEP participants will be paid slightly more than those on Job Search Allowance payments, of around \$240 per week, with the usual CDEP 'no work, no pay' rules also applying. This initiative also means that current CDEP providers (those schemes not yet dismantled) will continue to receive funding, at least until 1 July 2009.¹⁹

CDEP participants in the Northern Territory will not be subjected to income management, compared to Cape York, where CDEP participants are subject to income quarantining if directed by the FRC. Those people participating in reinstated CDEP schemes in Northern Territory prescribed communities will also not be subjected to income management. Senator Rachel Siewert from The Greens stated in April 2008 that the reinstatement of CDEP in prescribed communities would cause a 'rush of willing participants [keen] to escape from the prescriptive welfare quarantining measures and take control of their own money'.²⁰

CAPE YORK

THE CAPE YORK INSTITUTE AND THE CAPE YORK TRIAL

In its proposal to transform welfare dependence and social dysfunction in remote Indigenous communities, the CYI argues that: 'Programs that rely primarily on financial sanctions (or the threat thereof) have a negligible effect on [school] attendance. On the other hand, CYI argues that those programs that combine sanctions with case management, supportive services, and positive financial incentives ... show more positive results' (CYI 2007: 66). The CYI has based this argument on a welfare reform pilot undertaken in several communities (before full Federal funding for a similar program was committed in June 2007). CYI stated that

the welfare reform trials authenticated their claims that incentive-based programs can change behaviour. The Cape York welfare reform trial was given legality through the WPR Act 2007 in August 2007 (s.123TC, 123UF, 123XM, 123XN, 123XO, 123XP, 123ZD, 123ZEA, 123ZK).

The Family Responsibilities Commission Bill 2008 was tabled by Queensland Premier Anna Bligh in the Queensland Parliament on 26 February 2008 and passed on 13 March 2008 (FRC Act 2008). The Act provided for the creation of the FRC in the four Cape York trial communities.²¹ According to the Premier, the trial will run until January 2012 and will then be evaluated by an independent body that will be chosen through a tender process.²²

CYI claims to have consulted widely in each of the four communities before the trials. This claim is endorsed by Premier Bligh in her Second Reading Speech to the Queensland Parliament: 'The communities of Aurukun and Hope Vale, through their resolutions of their local councils, and Mossman Gorge and Coen, through resolutions of community boards, have signed up for this four-year trial ... community ownership of the welfare reform trial is critical to its success' (Bligh 2008: 332). It is unclear, however, if the aspirations of the CYI correspond with those of the four Cape York communities targeted for the trials. There was some evidence of community discontent earlier in 2007, when ABC television's *Four Corners* ('The Cape experiment', M. Carney, 16 July 2007) examined the Cape York welfare reform trials that preceded the release of *From Hand Out to Hand Up*, as former employee of Cape York Partnerships, Phillip Martin explained:

Philip Martin: The problem is that the communities have moved at very different processes [sic] and have had very different and mixed results ... Some people have suggested they might work, [others] have suggested they won't work ...

[Reporter] Matthew Carney: Martin also believes that the report on the trial period was rushed and says the real world of politics dictated the timing of the release.

Philip Martin: The mantra around Cape York Institute became: let's get this done in time for the election. Lets make sure that this is in front of people that can make the yes decision before, god forbid, someone's in power that won't make the yes decision.

Martin also suggests that the process of 'community engagement' undertaken by Cape York Partnerships for CYI (for the purposes of gathering data and, ultimately, consensus in the four communities to undertake the welfare reform trial) involved 'hasty community engagement and premature conclusions'.²³ Moreover, Martin states that the 'community engagement' phase, designed to inform the planning of the trials and the FRC, had occurred *after* the initial welfare trials and the FRC proposal had been drafted, indicating that 'community engagement' was directed toward authenticating the already completed welfare trial design template, rather than being a truly informative process (Martin 2008).

Although the welfare reforms proposed are a 'trial', it is important to note that they will impact upon people's lives, just as welfare reform intervention is impacting on the lives members of prescribed communities in the Northern Territory.

THE FAMILY RESPONSIBILITIES COMMISSION ACT 2008

The main aims of the Cape York trial are to address welfare dependency and the breakdown of social norms, which are regarded by the CYI as causal factors in the dysfunction of communities in the Cape. The FRC Act 2008 passed by the Queensland Parliament is supported by the enabling legislation (WPR Act 2007) passed in the Federal Parliament in 2007. The Queensland legislation focuses on the establishment of the FRC, which is granted the authority to ensure that families living in the four trial communities comply with its directives.

There are four triggers which will bring a person before the FRC. These are:

- If a parent or person responsible for a school-aged child allows the child to have more than three unexplained absences from school in one school term, or if the child is not enrolled at a school without a lawful excuse
- If the parent or person responsible for a child is the subject of a child safety notification or report
- If a magistrate convicts a person of a relatively minor offence, or
- If a person breaches the public or State-owned housing agreement for the residence they have tenanted (Bligh 2008: 332).

The FRC Act 2008 allows for State government agencies (such as Department of Housing, Department of Education), Centrelink, or the Magistrates Court to contact the FRC should they be aware of breaches (s.40–45).

The FRC is a statutory body to be chaired by a commissioner, deputy commissioners and respected community members as local commissioners, in order to administer a commission that is local and Indigenous-based (s.30). Before the commissioner and deputy commissioners are chosen, the appointments must be approved by the FRC Board. The FRC Board operates in an advisory capacity. However, it has been noted that the Queensland Government expects that the Board will also oversee the smooth functioning of the FRC. The Board will consist of three people, who are supposed to reflect the 'tripartite' relationship between the State, the Commonwealth and the communities concerned via CYI (FRC Bill 2008, Explanatory Notes: 33). The requirements for the appointment of the commissioner and deputy commissioners must include: that the candidate has been a lawyer for at least five years; that the Minister for Aboriginal and Torres Strait Partnerships considers that the candidate has a solid understanding of Aboriginal and Torres Strait Islander culture and history; that the person has experience in mediation; and other relevant knowledge or experience (s.17). The local commissioners must be Aboriginal or Torres Strait Islander and must be a member of a relevant community justice group or a respected elder in the community. The Minister must also be satisfied that the candidate is suitable to perform the duties of a local commissioner (s.18).

The FRC will assume a sub-judicial presence in communities in which it may formulate appraisals about a particular person or family if that person or family are not complying with the legislation regarding school enrolment or attendance, child abuse, criminal conviction or house tenancy breaches.

The jurisdiction of the FRC will apply to anyone who has lived in one of the four trial communities for three months or who receives a welfare payment in those communities. There are approximately 1,800 people receiving a welfare benefit or on CDEP in the four communities, and they will all potentially be subject to the decisions of the FRC.²⁴ It is important to note that although anyone in the four communities could be subject to the FRC if obligations are breached, the legislation as a whole does not target the entire community. Rather, it targets those individuals who breach their obligations, although in another sense the whole community is still subjected to the legislation and the scrutiny of the FRC. An individual can only escape the involvement of the FRC if they comply with the arrangements set out in the Federal and State legislation.

The Federal legislation enabling the FRC suspended the operation of the *Racial Discrimination Act 1975* from the WPR Act 2007. Section 4 of the WPR Act 2007 suspends (and simultaneously makes subject to 'special measures') the *Racial Discrimination Act 1975* from any laws made by Queensland in relation to the establishment or operation of the FRC. It excludes the FRC itself from the *Racial Discrimination Act 1975* for any acts done by the Commission under the WPR Act 2007.²⁵

The FRC is partly comprised of local community members, implying a measure of community 'ownership' or control, with the FRC Act 2008 stating that:

The Minister must ask the community justice group for the area ... or as many relevant community groups for the area as the Minister considers appropriate, to nominate persons the group or groups consider suitable for appointment as local commissioners for the area ... the Minister must ... ensure the local commissioners for the area represent the clan or family groups in the area, only select persons nominated by a community justice group [and] have regard to the need to have both male and female local commissioners for conferences (s.14).

The trial in the four communities does not only consist of punitive measures—there will be a mixture of incentives and support such as drug rehabilitation, counselling and parenting guidance to enable community members to take up their responsibilities. As Premier Bligh explained: 'The trial has a stronger emphasis on partnership, capacity building, local authority and service enhancement' (Bligh 2008: 332). This is reflected in the FRC Act 2008, as well as in the funding promised to support these processes (s.4, 5).

The Howard Government accepted the recommendations of *From Hand Out to Hand Up* in July 2007 and agreed to fund the welfare reform trial and to work with the CYI for the duration of the trial.²⁶ Funding of \$48.8 million was committed for the trial, to commence in 2008, with an additional \$5 million committed toward the employment of case managers to support people who were referred to the FRC.²⁷ This \$5 million also contributes towards a fund that enables the FRC to purchase services such as family violence counselling for community members (Brough 2007: 7). The Queensland Government has matched the Federal funding so that the total funding committed is approximately \$96 million over the designated four year period.²⁸

ENFORCING RESPONSIBLE BEHAVIOUR THROUGH WELFARE REFORM?

From Hand Out to Hand Up clearly states that parents who *are* meeting their parenting obligations will not be subject to income quarantining, and those parents who are meeting their obligations but are unable to enforce school attendance for their children will be directed to support services instead of income quarantining. The report argues that quarantining income is unlikely to be of any benefit to those parents who are largely fulfilling their parenting obligations (CYI 2007: 49). Although not so explicit, Premier Bligh also reinforced the view that people who come before the FRC may first be given a warning or directed to appropriate support services before being subjected to income quarantining for a period of up to 12 months,²⁹ as emphasised in the FRC Act 2008 (s.68, 69, 71, 72, 73).

The stated objective of the FRC Act 2008 is to encourage socially responsible behaviour and to ensure the best interests and well-being of children are being served. To this end, the FRC Act 2008 focuses on directives that support the person to achieve these goals, with s.68 specifying that the outcomes of commission conferences involve a 'family responsibilities agreement' that is a binding agreement between the community member and the FRC. The family responsibilities agreement may be about—but not limited to—either the person agreeing to case management and attending a community support service, or the commission giving Centrelink a notice to commence income management (s.68). If the person is directed into income management, the period of income management must not be less than three months or more than one year, with the amount of income to be managed at the discretion of the FRC (s. 68). Further, if the FRC decides that the person will have a further period of income management imposed on them after the expiry of the first period of income management, this further period must not exceed one year (s.88). The FRC is also bound to ensure that the agreement is fully understood by the person entering the agreement.

The FRC will have a mandate to work with people to make decisions about substance abuse and addiction where those problems are impacting upon their children's well-being, violence, child welfare and neglect and poor money management. In contrast to the Northern Territory intervention (where there are no comparable community-based commissions), the Commission has the authority to direct change through support services rather than through a singular focus on income quarantining from Centrelink. As outlined in *From Hand Out to Hand Up*, the FRC will effectively provide individual case management where the need arises (CYI 2007: 49). The recruitment of case managers will be supported with Federal Government funding (Brough 2007: 6). Thus, income management in the four Cape York communities will be a discretionary measure. In the Northern Territory, quarantining of income is also time limited to an initial period of 12 months, but is not contingent on a person's unwillingness to take responsibility. Overall the FRC will have similar powers to the Northern Territory to quarantine an individual's income if deemed necessary, however the Cape York welfare reform trials will purportedly have the consent and support of the community. As we have noted above, there has been no transparency as to how this consent was obtained and how many in the four communities supported or objected to the trials (Martin 2008).³⁰

In support of the Cape York welfare reform trial, the Howard Government announced funding of \$12 million to 'fund programs to improve literacy (the MULTILIT program), assist parents contributing to their children's education, and introduce changes to Abstudy allowing eligible students to study at boarding school'.³¹ There is no specific detail about how this funding will improve schools in the four communities or whether this funding will dovetail with State school funding.

Unlike the conditions of the Northern Territory intervention, the FRC allows for the possibility of limited appeal against a decision or agreement made by the Commission, but section 110 of the FRC Act 2008 states that 'a person who is given, or is entitled to be given, an appeal notice for a decision may appeal against the decision to a Magistrates Court, but only on a question of law' (s.110). Should an appeal matter go to court, the court has the same power as the FRC to make a decision about the appeal matter, meaning that the court may rescind, set aside or change the FRC's decision (s.113, 114). This means that a person may only appeal on a legality, not on a question of fact. Options to use normal appeal channels like the Administrative Appeals Tribunal or the Social Security Appeals Tribunal are not possible according to the FRC legislation.

THE CAPE YORK WELFARE TRIAL AND CDEP

CDEP will continue to operate in the four Cape York communities, where there are currently approximately 800 CDEP positions. Although there is no mention of CDEP being de-funded in Cape York, it is unclear in *From Hand Out To Hand Up* how these current positions will be transitioned into real jobs. However CYI proposes a number of reforms in order to change CDEP into a more 'transitional' entity that will facilitate the take-up of 'real' jobs in the communities. CDEP is seen by CYI as another welfare benefit with the 'look and feel of a real job but with few of the associated disciplines and benefits such as workplace-based training and overall alignment of skill development to labour market demands' (CYI 2007: 11). CYI argues that CDEP has not adequately trained people for placement into jobs, and sees this failure reflected in the persistently high unemployment rates throughout remote communities. They view CDEP as a 'permanent destination', a term that the Hon. Mal Brough also employed in criticising CDEP in the Northern Territory (CYI 2007: 78). This criticism concerning training could be addressed by restricting access to CDEP for people under 21 years of age. By removing access to CDEP for these people the CYI aims to encourage school-leavers to engage in further study or traineeships.

The FRC Act 2008 sets out some limitations to income management in relation to CDEP. The original legislation stated that, where income management is agreed upon by the FRC, it will not apply to CDEP if the person is only receiving CDEP and not any other welfare benefit (s.8, & 68(3), 69(3)). This important facet of the FRC legislation was subsequently changed by the new Federal Minister for Indigenous Affairs, who recently announced that all persons participating in CDEP schemes will come under the jurisdiction of the FRC—so CDEP participants will be subjected to the same four triggers for income management. If a person does not comply with directives given by the FRC, they could be removed from their CDEP position and placed onto

an income support payment for 12 months.³² It is not clear whether they will be able to move back to CDEP after complying with FRC directives for a prescribed period.

The proposed changes to CDEP are regarded by CYI and government as a way of moving participants off welfare and into the 'real' economy. CDEP will be another welfare benefit in the style of Work for the Dole, with changes tailored to the perceived needs of the Cape York welfare reform trial communities (CYI 2007: 87). Converting current CDEP programs into mutual obligation work-like activity would include stipulations that only non-municipal activities can be undertaken, to avoid cost shifting. CYI proposes that current CDEP jobs covering council-related services would be scrapped to make way for council-funded fully paid jobs; CDEP will only cover non-municipal, non-council activity, including training and supervision (CYI 2007: 79–80). The CYI aims to narrow the objectives of CDEP, focusing on 'work readiness', and linkages with the Job Network. Further, CYI wants CDEP to operate at arms length from council and governments, taking up a role similar to that of other Job Network Members (CYI 2007: 76–80).

These changes could be construed as similar to the Howard, and possibly Rudd, Governments' CDEP changes in the Northern Territory, with a focus on transitioning current CDEP jobs into 'real' jobs, however defined. It is not clear in *From Hand Out to Hand Up* what 'real' jobs will mean in the welfare reform trial communities, or how many jobs there will be. The Howard Government provided enough funding to create 40 'real' jobs out of the 800 existing CDEP positions in Cape York.³³ Although the Rudd Government has committed an extra \$50 million for remote Indigenous communities, the share allocated to Queensland is specifically to provide services for drug and alcohol rehabilitation across remote communities and is not specific to the Cape York trials.³⁴ The \$48 million committed by the Howard Government remains, with Premier Bligh committing an equivalent amount to increase funding in the areas of health, education, policing, justice and child safety.³⁵ It is unclear at this stage what specific funding commitments there are to facilitate the transformation of CDEP, whether CYI's proposals for CDEP will be taken up more comprehensively by the Rudd Government, or how much funding will come from the Federal purse.

Despite the relatively benign policy language, the desired changes to CDEP as it currently operates in Cape York will render it fundamentally transformed in both structure and intent. For instance, although there is no obvious aim to cut the funding of CDEP providers, the CYI proposes to cease block funding and make funding performance-based. It is not clear who will assess performance in the absence of a local CDEP organisation.

Other changes recommended by CYI include a 'no work, no pay' element designed to enforce mutual obligation for participants;³⁶ and making CDEP unavailable for people under 21. These people would be directed to Youth Allowance or Abstudy, replacing hourly rates of pay and differentiated work hours with a flat wage for a set number of working days and removing employment benefits such as leave provisions and superannuation. Under these provisions CDEP will mirror other unemployment benefits and be experienced

less as a job and more as a transition into 'real' employment. Top-up agreements with employers will change, as will the income test for eligibility for CDEP—which will be recast to include a tapered reduction of payment rates (similar to other Centrelink benefits). It is unclear how these changes would operate given that CDEP participants often work for their own community organisations, and CDEP has operated in these organisations with similar employment conditions as non-CDEP types of employment (CYI 2007: 88).

Overall, the proposed changes would make CDEP operate in a similar way to Work for the Dole schemes, while retaining some features of the old CDEP scheme. CDEP will still be regarded somewhat differently to other Centrelink benefits in that while mutual obligation will exist, recipients will not lose all of their benefits for failure to comply. For instance, if a recipient fails to attend work for one day, they will lose one day's pay under the 'no work, no pay' rules (as is the case for many current CDEP schemes). For the Cape York welfare reform trial communities, CDEP will be retained but the rules relating to CDEP will change (CYI 2007).

RAEs will be lifted for three of the four trial communities (Mossman Gorge is not subject to RAE), which means that normal job search requirements and access to employment services will exist, as with the Northern Territory intervention. However, complying with job search requirements for Cape York communities will also come under the auspices of the FRC, with Centrelink in a notification role. Determining whether mutual obligation has been breached and, if so, what penalty should apply, will be the responsibility of the FRC, not Centrelink.

THE NORTHERN TERRITORY AND CAPE YORK COMPARED: DIFFERENCES AND SIMILARITIES

A fundamental difference between the two welfare reform packages is that income quarantining in the Cape York communities will be a discretionary measure directed at individuals' behaviour, and not a blanket arrangement. For those residents, income quarantining will be based on individual circumstance and will be time limited, so that if a resident complies with directives given by the FRC the quarantine may be lifted. As Premier Bligh has stated, 'A person is subject to the commission's jurisdiction only if one of the four 'trigger' events [take] place' (Bligh 2008: 333). In contrast, residents of Northern Territory prescribed communities are subject to blanket quarantining regardless of an individual's behaviour. The Northern Territory measures are a non-discretionary 'one-size-fits-all' approach.

The Cape York welfare reform trials propose a less punitive approach than the Northern Territory intervention. CYI's objectives appear, at least according to their literature, more focused on community sustainability and economic viability for remote communities into the future, while the Northern Territory intervention focuses on mainstreaming and compliance. Premier Bligh has emphasised that the intention of the FRC Act 2008 is not to focus on income sanctions: 'Managing an individual's welfare payments will be a last resort. It is in

reserve for the hard cases. For people who just need help, the services will be there to give them that help' (Bligh 2008: 333).

The FRC is responsible for determining breaches of obligations in the Cape York communities. Being a body comprising some community members, the FRC will (in theory) know all members of the four communities involved. According to Premier Bligh, the function of the FRC is to work with the community: it is a community-based commission and therefore should be 'able to apply local knowledge of the individual's situation to any decision' and, following from this, the FRC should ensure that 'community members both understand and support the commission's actions and decision' (Bligh 2008: 333). In marked contrast, in the Northern Territory the Government Business Managers placed into prescribed communities are public servants from Federal agencies with little or no prior knowledge of the community.

The FRC legislation is more systematic in setting out how the FRC will work on the ground and how communities will interact with it. It details the FRC's relationship to the proposed welfare changes, and its role as the instrument to effect change in communities. In contrast the WPR Act 2007 is not as clear. It is broad legislation which does not specify how it will work in practice, and this is reflected in the extensive use of 'Legislative Instrument' in the legislation. Where a particular section of the WPR Act 2007 cannot provide enough detail about how the legislation will be enacted, the Act only refers to the future use of Legislative Instrument. The lack of detail within the WPR Act 2007 relating to important aspects of the legislation such as details about eligibility, payment matters and declared areas, means that the Act cannot fully explain how income management, and all that relates to this, will operate on the ground. The Parliamentary Library (Social Policy Section) has suggested that the unprecedented nature of the bills, and the fact that they were developed extremely quickly, might explain the extensive use of Legislative Instrument in the WPR Act 2007 (Yeend & Dow 2007: 7).

The lack of important detail in the intervention legislation is also evident in the initial discontent expressed in some Northern Territory prescribed communities, although it remains to be seen how Cape York communities will respond to the welfare reform implementation. This will become clearer when proposed independent evaluations on the impact of the trials have been conducted in 2012. The Cape York welfare reform trial differs fundamentally from the Northern Territory intervention in that it is defined as a 'trial', devised methodically and taking a 'consultative' approach over several years. Premier Bligh has committed to an independent evaluation that will report on the effectiveness of the trial at the individual, family and community levels (Bligh 2008: 332). However, it is noted that the evaluation will be by tender, suggesting that it will be subject to close bureaucratic accountability that may in itself jeopardise its independence. At this stage there is no transparent framework available for the forthcoming evaluation of the Northern Territory intervention, although the Prime Minister has committed to undertaking a review of the Northern Territory Emergency Response by mid to late 2008.³⁷

In his second reading speech to the House of Representatives in August 2007, the Hon. Mal Brough stated that:

The [WPR] bill ... provides for the implementation of our recently announced Cape York welfare reform trial, which is based on a comprehensive plan developed in partnership with Mr Noel Pearson's Cape York Institute. As with the national measures, income management will be applied in both cases to ensure better social and parenting behaviours ... [The FRC] will work with families and communities to deal with issues such as drug and alcohol dependency, violence, child neglect and truancy, gambling and poor money management (Brough 2007: 2, 6–7).

He went on to say that:

The trials will provide a vehicle to assess the effectiveness of such an approach, which may offer lessons for the future and inform our approach to tackling Indigenous welfare dependency ... the Australian Government will work together with the Cape York Institute and the selected communities throughout the duration of the trials (Brough 2007: 7).

These statements highlight one of the major differences between Cape York and Northern Territory welfare reform measures. In the Cape York welfare reform trial, the Federal Government has committed to working with the Queensland Government and CYI on the issue of welfare reform, and accepts most of the CYI proposals. It has even adopted some of the CYI's recommendations directly into legislation, despite the CYI's welfare reform agenda differing in some key areas to the Federal Government's broader agenda of welfare reform. In contrast, the Northern Territory Emergency Response legislation adopted only one of the recommendations from the *Little Children Are Sacred Report* (Anderson & Wild 2007). It produced an intervention devoid of consultation and heavy on a broad-brush, top-down and punitive approach targeting all residents within prescribed communities.

Based on these differences, the Cape York welfare reform trial can claim a broader consultative approach in comparison to the Northern Territory measures—which are, in John Howard's words, 'radical, comprehensive and highly interventionist ... This is not laissez-faire liberalism or light-touch government by any means. It represents a sweeping assumption of power and a necessary assumption of responsibility' (Howard 2007). Queensland Premier Anna Bligh distinguished between the Cape York welfare reform trial and the Northern Territory intervention by emphasising a partnership approach for the former that was absent from the latter:

The Cape York Institute and government officials have been working with each [trial] community for some time in designing the key features of the trial, particularly the commission itself. Community participation in the trial will be formalised through each community's local Indigenous partnership agreement (Bligh 2008: 332).

The Cape York trial approaches welfare reform with a series of incentives and sanctions, such as addiction rehabilitation and support services, parent support and education and job programs. There is some evidence from the Northern Territory that there are already successful and viable programs addressing issues such as

child safety or family violence. For example, in an ABC television report, Felicity Douglas from the Maningrida Child Safety Service explains:

I find [it] appalling when you have a national emergency around child sexual abuse and yet we have clearly got a pretty amazing service being developed in this community that is specifically targeting that issue and we currently don't have any piece of that [\$1.3 billion] funding ('Tracking the intervention', M. Carney, *Four Corners*, 5 July 2007).

It is not clear whether established programs such as the Maningrida Child Safety Service will be incorporated into the Rudd Government's commitment to address child safety and family violence. To date the focus has been on economic development, education and early childhood education: 'We will focus strongly on improving literacy and numeracy outcomes for Indigenous children and close those unaccountable gaps between the achievement and opportunities of our Indigenous children and non-Indigenous children',³⁸ with commitments to this in the 2008–09 Budget Papers.³⁹ The *Indigenous Education Amendment Act 2008* effectively commits more funding to recruit teachers for the Northern Territory (s.14A1). It is unclear how much ongoing funding Cape York programs will receive from the Rudd Government to address social issues such as family violence, despite the Hon. Mal Brough's earlier announcement of an extra \$5 million from the Howard Government to 'provide a fund from which [case managers from the FRC] will be able to purchase specialist services' for residents in the four communities.⁴⁰

The similarities between the two welfare reform packages are founded on a shared belief of the former and current Federal Governments, the Queensland Government and CYI that quarantining income will help to prevent child neglect and abuse. A similar conviction—not necessarily based on any evidence—is that 'passive welfare' (erroneously defined to include CDEP in our opinion) and access to alcohol are two primary factors contributing to the severe social problems experienced by many remote communities. In the absence of an evidence base these views have to be defined as, at best, theoretical and, at worst, ideological.

In legal terms, both reforms suspend the operation of the *Racial Discrimination Act 1975*. The Howard Government appeared relatively confident about overriding the *Racial Discrimination Act 1975*, although the Queensland Government acknowledged some concerns about this:

There could be legal ramifications in terms of the Commonwealth Racial Discrimination Act. However ... provisions were included [in the WPR Act 2007] in anticipation of the establishment of Queensland's FRC, and these include exemption from the operation of the Racial Discrimination Act (Bligh 2008: 333).

Despite this, there is strong legal opinion that the suspension of the operation of the *Racial Discrimination Act 1975* from the WPR Act 2007 does not mean that the provisions of the WPR Act 2007 and the NTNER Act 2007 are not discriminatory (Human Rights and Equal Opportunity Commission 2007; Law Council of Australia 2007). Premier Bligh has noted that the people subject to the operation of the FRC would not only be Indigenous community members—they could be any person residing in the trial communities who receives a welfare benefit (Bligh 2008: 333). The same is true for the Northern Territory. Importantly, had the WPR Act and the NTNER Act been above scrutiny, the Howard Government would not have invoked the

'special measures' clause of the *Racial Discrimination Act 1975*, or simultaneously suspended the operation of the Act in relation to the WPR Act and the NTNER Act. Premier Bligh has relied upon the suspension of the Racial Discrimination Act in both pieces of Federal NTER legislation to support Queensland's FRC Act, implicitly acknowledging that although the FRC Act overrides the *Racial Discrimination Act 1975*, the Federal legislation will potentially protect the FRC Act from legal wrangling about racial discrimination.'

In practical terms, in both situations information exchanges will take place regarding enrolment and school attendance. In the case of Cape York, the FRC will have the power to obtain information from schools, corrective services agencies, child protection agencies and so on. In the Northern Territory it appears that Centrelink (a Federal agency) will have the power to obtain school records in the event that the Territory does not comply with requests for information sharing.

If income is quarantined for a Cape York resident, it will be time-limited to a maximum of one year. If the FRC decides that income management should continue, this can apply to an individual for a maximum of one more year. Income management in the Northern Territory is also limited to one year, although these arrangements can be extended beyond the initial 12 month period by a simple Ministerial extension (s.123TE). However, the Northern Territory will be affected by the proposed Federal reforms to welfare in 2009, raising the possibility of extended quarantining for residents in the Northern Territory. At present, the roll-out of income management across the Northern Territory covers some 20,000 welfare beneficiaries. While it is unclear how a longer-term income management arrangement in the Northern Territory will be administered, there is no indication that people there will have access to case managers and systemic support and treatment options as proposed in the Cape York welfare reform trial.

In relation to CDEP, unlike the Northern Territory the abolition of CDEP was never part of the Cape York trial despite its frequent depiction as passive welfare. However, the funding is mooted to change from block funding to community organisations to performance-based funding, and the structure of CDEP will be substantially reformed to bring it in line with other job network providers. As of 1 July 2008, people working in CDEP placements in the four Cape York trial communities will come under the jurisdiction of the FRC, so their CDEP payments may also be subject to income management.

Under the Rudd Government changes to the intervention, CDEP will remain in the Northern Territory but there are indications that it will be changed (Australian Government 2008). To date no changes to CDEP have been publicly proposed, although there is frequent reference to CDEP being reviewed by 1 July 2009. In Cape York there are proposals to change CDEP pay scales so that income replacement ratios fall into line with those for welfare payments. Such proposals assume that poverty traps are a major barrier to exiting CDEP to mainstream labour markets and that sufficient employment opportunity exists for the 800 CDEP participants in the four trial communities. This issue has not been raised in the Northern Territory, possibly because of the limited number of mainstream jobs at remote communities.

SOME EARLY OBSERVATIONS: INDIGENOUS WELFARE REFORM AND PUBLIC POLICY

This paper has sought to outline and contrast welfare reforms that have been introduced in the Northern Territory in 2007 in the aftermath of the 'National Emergency' intervention (given a statutory basis in September 2007), and reforms in Cape York to be implemented from 1 July 2008 (introduced in legislation in March 2008). This exercise has focused on the two proposed frameworks and their theoretical basis rather than on empirical research, which would only be possible in the Northern Territory. We make some concluding observations about these measures from a public policy perspective.

2007 marks a significant crossroads in Australian welfare administration. While historically Indigenous people have been excluded from the Australian social security system, this is the first time in the modern policy era when they are being treated differentially. This development is worrying on a number of counts. Firstly, it challenges well-established principles of universalism and the inalienability of welfare payments, by replacing inalienability with third party control over expenditures. It introduces jurisdictional differentiation in the application of welfare reform so that, at present, Indigenous welfare recipients in the Northern Territory are treated differently from those everywhere else in Australia; while from 1 July 2008, those in Cape York trial communities will be treated differently from Indigenous people everywhere else, including in the Northern Territory. This differentiation based on a combination of location and ethnicity is unprecedented in the post 1972 policy era (with a possible exception being 2007 CDEP reforms that began to differentiate between urban and remote localities).

The absence of coherent policy logic to these welfare reform measures is of concern. Initially, income quarantining in the Northern Territory was introduced as a 'national emergency' measure to ensure that a portion of 50 per cent of welfare income was expended on children rather than on alcohol and gambling. This logic assumes that there is a link between what is spent and who is fed, but does not explain why quarantining should be extended to both single and aged welfare recipients who may have no dependent minors (aside from administrative ease of non-discretion). Nor does it explain why such quarantining measures are not extended to earned income—as if earned income, by definition, will be automatically directed toward the correct target (children, household necessities).

Lying behind these measures is a number of implicit assumptions that have no empirical basis. The first is that earned income is expended more responsibly (in terms of child welfare) than unearned welfare income. The second is that quarantining welfare income for expenditure in licensed stores (besides being anti-competitive) will ensure that these welfare moneys are not expended legally or illegally on alcohol or drugs. In relation to alcohol, such expenditure control measures do not indicate much confidence in other 'emergency response' measures to ensure prescribed communities are dry.

While the state has been able to unilaterally intervene in the Northern Territory to introduce legal measures to universally quarantine welfare, earned income is clearly more sacrosanct. This raised considerable hurdles and has required some serious thinking about the categorisation of payments made to participants in CDEP. Initially, and erroneously, it was assumed that as CDEP was an Indigenous specific program, and could be treated like welfare. However, this is clearly not the case, because not only is CDEP paid as wages by community-controlled organisations (and this has been especially the case since the 1997 review of CDEP by Ian Spicer (Spicer 1997)), but also in a practical sense the government-provided versus organisation or individually generated 'top-up' components of CDEP wages are undifferentiated. The Howard Government response to this hurdle was to abolish the scheme in the Northern Territory alone, while maintaining it elsewhere in remote Australia, including on Cape York. This solution did two things. Firstly, it sought to eliminate the distinction between welfare and CDEP in a manner that is similar to the obfuscation between 'passive welfare' and active workfare evident in the writings of Pearson (Pearson 2000). Secondly, it opened up a Pandora's Box of debate about the relationship between CDEP and public and private sector mainstream employment in remote Indigenous communities. This is a complex issue that will not be addressed here, but it demonstrates how hasty and ill-considered policy-making (irrespective of the goals) can generate a series of unintended repercussions.

Income quarantining was proposed as a two tiered 'national emergency' measure in the Northern Territory. The first stage froze 50 per cent of welfare income for all recipients to be spent only at licensed stores on a prescribed range of goods. The second stage quarantined a further 50 per cent of welfare income and came into effect if parents did not enrol or send their children to school, or were subject to a child protection order. It is our understanding that this second set of discretionary measures have not been implemented to date, possibly because the appropriate mechanisms for monitoring school attendance and linking this to responsible parents or guardians has not been devised. This notion of using welfare quarantining as a sanction to discipline parents to ensure school attendance is the principal similarity between the Northern Territory and Cape York trial. Importantly, in both cases this instrument can be applied with discretion, but in the Cape York context the FRC is now the statutory means to implement this measure, while in the Northern Territory the practical community-based architecture to monitor parental behaviour has yet to be constructed.⁴¹ In both situations there is a view that disciplining expenditure will somehow ensure that parents or carers will discipline children to attend school.

There are two major differences between the Northern Territory and Cape York in a public policy sense. The first is that welfare reform has been imposed in the Northern Territory but in Cape York has been the result of a tripartite negotiation between the Commonwealth, the Queensland State government and CYI as self-nominated sponsors of the trial. It is of some concern that neither the Commonwealth nor the State government has undertaken direct consultations with trial communities in Cape York, instead empowering CYI to undertake this para-governmental task in a far from transparent manner. The second is that the Cape York experiment is a 'trial'. This in turn suggests that an evaluation process will provide long-term assessment

of evidence as to whether the trial has been beneficial and cross-sectional assessment that trial communities demonstrate better social outcomes than non-trial Cape York communities. In the Northern Territory there have been some anecdotal media and ministerial attempts to rationalise income quarantining with reference to ex post facto beneficial outcomes, but it is unclear at time of writing if either before-and-after or cross-sectional comparative evaluation frameworks have been put in place.⁴²

In both situations right of appeal procedures are unconscionably complex or non-existent. Again this is of limited relevance in the Northern Territory because welfare reform is a blanket measure although some exemptions have been granted after political lobbying. Interestingly, the 2008–09 Budget has provided \$0.2 million to support the Commonwealth Ombudsman to 'continue' complaints handling procedures in relation to Northern Territory Emergency Response activities, presumably including income quarantining. This amount might be intended to be used when the non-discretionary 12 months quarantining period expires (on a community-by-community basis to inversely correlate with the rollout of quarantining) and income quarantining becomes discretionary. In Cape York, as already noted, appeal is possible but not on questions of fact. It should be noted that the expectation from the Queensland Government is that income quarantining will be a measure of last resort.

Finally, from a public policy perspective, we make three points. First, we note overarching proposed changes in welfare administration in Australia will look to link welfare payment to 'proper' behaviour. This broad approach is being trialled in a non-discretionary and racially discriminatory manner on one section of Australian society in one jurisdiction (the Northern Territory). Some serious questions need to be asked about such a race-based approach to policy reform in twenty-first century Australia.

Second, we note that considerable funding is being allocated in the 2008–09 Budget by the incoming Rudd government to the Cape York trial (nearly \$50 million over four years) and to income management in the Northern Territory (nearly \$70 million for 2008–09 alone). Both expenditures are for Indigenous-specific programs and are significant. We note that these are risky investments and ask who will be held accountable if they prove unproductive?

Finally, these reforms are based on a number of behavioural assumptions about links between expenditure and child well-being, expenditure and school attendance (not performance), and between earned and unearned income, that are at best theoretical and at worst ideological. At a time when there is Commonwealth government emphasis on evidence based rather than ideological policy-making we must ask if it is appropriate to gather the evidence ex post facto, and whether such an approach runs the risk of either wasting scarce resources (if outcomes are poor) or of bearing the opprobrium of construed reform justification (if outcomes are positive). We suspect that outcomes will be highly variable. This suggests to us that universal and non-discretionary unilateral measures will always be a high-risk mechanism for making policy to address complex and diverse social problems.

NOTES

1. The CYI May 2007 publication *From Hand Out To Hand Up: Design Recommendations* is the version used in this paper, although a version building on the recommendations made in the first report has recently been made public. This second report was published in November 2007.
2. PM John Howard, joint press conference with the Hon. Mal Brough, 21 June 2007, <<http://pandora.nla.gov.au/pan/10052/20070823-1732/www.pm.gov.au/media/Interview/2007/Interview24380.html>>.
3. The Hon. Mal Brough, media release, 21 June 2007, <http://www.facsia.gov.au/internet/Minister3.nsf/content/emergency_21june07.htm>.
4. One subtitle in Chapter One of *From Hand Out to Hand Up* is 'The collapse of social norms corresponds with the passive welfare era' (CYI 2007).
5. Australian Labor Party, media statement with the Hon. Jenny Macklin, Warren Snowdon, Peter Garrett, p.2, 5 October 2007, <<http://www.alp.org.au/media/1007/msenhiaNA050.php>>.
6. This was the reason given by the former Federal Minister for Indigenous Affairs, the Hon. Mal Brough, when the three national emergency-related bills were presented in 2007. In particular, in the WPR Act 2007, child protection and well-being was the reason given for quarantining welfare benefits, in order that welfare benefits would be spent accordingly (see Brough 2007).
7. A small number of non-Indigenous residents living in prescribed Northern Territory communities have become subject to the income management regime. Despite the WPR Act 2007 stating that *all* residents of a prescribed area who are in receipt of a designated Centrelink benefit are liable to have their income quarantined, the former Howard Government's explicitly stated intention when announcing the Northern Territory intervention was to target Indigenous child abuse, and dysfunction within Indigenous communities. Given the very small number of non-Indigenous people affected by income management, there has been some debate about the relevance of arguing that the WPR Act 2007 is a race-based piece of legislation that contravenes the *Racial Discrimination Act 1975*. The authors of this paper argue that the WPR Act clearly does contravene the RDA. The Howard Government was so concerned about the implications of the legislation being introduced that it invoked the 'special measures' clause of the RDA, and also completely suspended the operation of the RDA. Had the legislation been above racial discrimination scrutiny, the Howard Government would not have done this. Secondly, the communities targeted as 'prescribed' were known as 'Indigenous' communities, with very few non-Indigenous residents living there *and* receiving Centrelink benefits. Thirdly, despite the careful wording of the WPR Act itself, Mal Brough's Explanatory Memorandum, attached to the Act, clearly states that the Act is designed to address dysfunction in Indigenous communities. The authors argue that those non-Indigenous residents who have found their income quarantined are an unintended consequence of a new statutory regime targeting Indigenous people in the Northern Territory. See <http://parlinfoweb.aph.gov.au/piweb/view_document.aspx?ID=2651&TABLE=OLDEMS>, p. 4–5.
8. The Hon. Peter Garrett, Jenny Macklin, Warren Snowdon, media release, 'Federal Labor to Create up to 300 Rangers as Part of Indigenous Economic Development Strategy', 5 October 2007.

9. See the recent submissions by the Law Council of Australia (2008) and the Sydney Centre for International Law (2008) to the Senate Standing Committee on Community Affairs, in relation to the operation of the *Racial Discrimination Act 1975* in emergency response legislation and recent amendment proposals.
10. The Hon. Jenny Macklin, media release, 'Working Together to Improve School Enrolment and Attendance', FaHCSIA Budget Press Releases 2008–09, Parliament House, Canberra, 13 May 2008, <<http://www.fahcsia.gov.au/internet/facsinternet.nsf/aboutfacs/budget/budget2008-budget2008.htm>>.
11. The Hon. Jenny Macklin, media release, 'Improving School Enrolment and Attendance Through Welfare Reform', FaHCSIA Budget Press Releases 2008–09, Parliament House, Canberra, 13 May 2008, <http://www.fahcsia.gov.au/internet/facsinternet.nsf/aboutfacs/budget/budget2008-08_fs-25.htm>.
12. Australian Education Union media release, 23 October 2007, and AEU publication 'Education Is The Key', p. 13, 9 September 2007, <<http://www.aeufederal.org.au/Key/index2.html>>.
13. Australian Education Union media release, 23 October 2007.
14. Feedback from Amplatiwatja community meeting 16 October 2007 (CLC 2007b: 11–12).
15. Feedback from CLC regions, 6 and 13 November (CLC 2007b: 11–12).
16. House of Representatives, *Welfare Payment Reform Bill 2007 Explanatory Memorandum*, circulated by the authority of the (former) Minister for Families, Community Services and Indigenous Affairs The Hon. Mal Brough, p. 18, 7 August 2007, <http://parlinfoweb.aph.gov.au/piweb/view_document.aspx?ID=2651&TABLE=OLDEMS>.
17. The Hon. Jenny Macklin and the Hon. Brendan O'Connor, joint media release, 'Government timetable for Indigenous employment reforms announced', 30 April 2008, <http://www.facsia.gov.au/Internet/jennymacklin.nsf/content/gov_timetable_30apr08.htm>.
18. The DEEWR website [for changes to CDEP] was accessed as recently as 14 May 2008.
19. The Hon. Jenny Macklin and the Hon. Brendan O'Connor, joint media release, 'Government timetable for Indigenous employment reforms announced', 30 April 2008, <http://www.facsia.gov.au/Internet/jennymacklin.nsf/content/gov_timetable_30apr08.htm>.
20. The Hon. Rachel Siewert, The Australian Greens media release, 'Greens Predict CDEP 'Bonanza'', 30 April 2008, <http://greens.org.au/media/releases/release.php?release_id=967>.
21. The Hon. Anna Bligh, media release, 26 February 2008, <<http://statements.cabinet.qld.gov.au/MMS/StatementDisplaySingle.aspx?id=56680>> and <http://www.legislation.qld.gov.au/Acts_Passed/Acts_Passed_NUM_2008.htm>.
22. The Hon. Anna Bligh, media release, 26 February 2008.
23. Cape York Partnerships started in 1999 as a community development organisation which operates as a partnership between the Queensland Government and regional Indigenous organisations. CYP's aims are to address 'passive' welfare by encouraging communities to focus on improving educational, health and substance misuse outcomes, and to take up welfare reform initiatives including participation in family income management schemes and the work placement scheme. See <<http://www.capeyorkpartnerships.com/index.htm>>.

24. The Hon. Anna Bligh, media release, 'Ground-breaking legislation: Family Responsibilities Commission to be introduced into Queensland Parliament today', 26 February 2008, <<http://statements.cabinet.qld.gov.au/MMS/StatementDisplaySingle.aspx?id=56680>>.
25. The *WPR Act 2007* refers to the FRC as the 'Queensland Commission', but shall be referred to as the FRC in this paper.
26. The Hon. Mal Brough, media release, 18 July 2007, <http://www.facsia.gov.au/internet/minister3.nsf/content/cape_york_welfare_18jul07.htm>.
27. The Hon. Mal Brough, media release, 18 July 2007.
28. The Hon. Jenny Macklin, media release, 'Cape York Welfare Reform Trial', 22 April 2008, <http://www.facsia.gov.au/internet/jennymacklin.nsf/content/cape_york_welfare_22apr08.htm>.
29. The Hon. Anna Bligh, media release, 26 February, 2008, <<http://statements.cabinet.qld.gov.au/MMS/StatementDisplaySingle.aspx?id=56680>>.
30. Philip Martin has suggested that the process for gaining community consent to trial participation was methodologically flawed and rushed (Martin 2008).
31. The Hon. Mal Brough, media release, 18 July 2007, <http://www.facsia.gov.au/internet/minister3.nsf/content/cape_york_welfare_18jul07.htm>.
32. The Hon. Jenny Macklin, media release, 22 April 2008, <http://www.fahcsia.gov.au/Internet/jennymacklin.nsf/content/cape_york_welfare_22apr08.htm>.
33. The Hon. Mal Brough media release, 18 July 2007.
34. The Hon. Jenny Macklin and the Hon. Anna Bligh, media release, 24 December 2007, <http://www.jennymacklin.fahcsia.gov.au/internet/jennymacklin.nsf/content/cape_york_reform_21dec07.htm>.
35. The Hon. Jenny Macklin and the Hon. Anna Bligh, media release, 24 December 2007.
36. It should be emphasised that most successful CDEP organisations already strictly implement such a rule in accord with CDEP guidelines (see Morphy & Sanders 2001).
37. In Budget Paper No. 2, Budget Measures 2008–09 almost all new expense measures are for the Northern Territory Emergency Response. However funding commitments are only for 12 months and each carried the caveat 'Ongoing funding requirements for the Northern Territory Emergency response will be reviewed prior to the 2009–10 Budget and will be based on the evaluation'. This includes \$69.2 million for income management.
38. The Hon. Julia Gillard, Deputy Prime Minister, Second Reading Speech, Indigenous Education (Targeted Assistance) Amendment (2008 Measures No. 1) Bill 2008, <<http://www.aph.gov.au/hansard/reps/dailys/dr140208.pdf>>.
39. The Hon. Jenny Macklin, 'Closing The Gap Ministerial Statement', 13 May 2008, <http://www.facsia.gov.au/budget/ministerial_statement/>.
40. The Hon. Mal Brough, media release, 18 July, 2007.

41. The Hon. Jenny Macklin announced on June 20 2008, a new trial in six Northern Territory communities that will link school attendance with welfare payments. This trial will begin at the start of the 2009 school year and has been allocated \$17.6 million in funding over three years. Parents who fail to enrol their children or ensure school attendance, may have their income support payments suspended. This measure will be a last resort if, after repeated attempts to provide support to the parent, that parent has not complied. Full back-pay will be given if parents comply with directives within 13 weeks. See http://www.jennymacklin.fahcsia.gov.au/internet/jennymacklin.nsf/content/boost_school_attendance_20june08.htm.
42. The official Federal review of the Northern Territory intervention was announced by the Hon. Jenny Macklin on 6 June 2008. A review board, chaired by Peter Yu, will be supported by a panel of 11 independent experts in the field of Indigenous affairs. The review will (in short): examine evidence and assess the progress of the NTER; consider what is and is not working within the framework of the NTER; and, in relation to each measure, make an assessment of its effects to date, with a recommendation of any required changes to improve each measure and monitor performance. The review board is expected to provide a full report of their findings by 30 September 2008. For further information about the review, see http://www.jennymacklin.fahcsia.gov.au/internet/jennymacklin.nsf/content/nt_emergency_reponse_06jun08.htm.

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