Australian Human Rights Commission

Social Services Legislation Amendment (Remote Engagement Program) Bill 2021

Senate Finance and Public Administration Legislation Committee

20 September 2021

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1 Introduction

1. The Australian Human Rights Commission (the Commission)[1] welcomes the opportunity to make this submission to the Senate Finance and Public Administration Legislation Committee (the Committee) for its inquiry into the Social Services Legislation Amendment (Remote Engagement Program) Bill 2021 (the Bill).

2. The Bill aims to provide a framework for piloting new approaches to delivering employment services in remote communities, ahead of the Government's intended replacement of the Community Development Program (CDP) in 2023.

3. These new approaches include the introduction of a new supplementary payment for voluntary participants in the remote engagement pilot program, which is to be co-designed and trialled in collaboration with remote communities. This payment will be made in addition to, and will not affect the payment of, existing income support payments, such as Jobseeker.

4. The CDP is the employment service that applies in remote areas of Australia, whilst jobactive is the mainstream employment service that applies in other areas.

5. While the CDP involves over 33,000 participants, this submission will focus on Aboriginal and Torres Strait Islander peoples, who comprise an estimated 84 per cent of CDP participants.[2]

6. The Commission has previously raised concerns that the CDP may be inconsistent with Australia's obligations under the International Covenant on Economic, Social and Cultural Rights (ICESCR), the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), and the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).

7. These concerns relate principally to the right to social security, and the right to equality and non-discrimination. The Commission has also raised concerns that the CDP may breach the *Racial Discrimination Act 1975* (Cth) (RDA). The basis for these concerns was the more onerous mutual obligation requirements on participants in the CDP, compared with jobactive, in order to qualify for the payment of unemployment benefits.

Those increased requirements applied to unemployed people in remote areas, the vast majority of whom are Indigenous.

8. Some of these concerns have been addressed through the changes to the CDP's mutual obligation requirements that occurred earlier this year. These changes made various activities voluntary, including Work for the Dole.

9. This Bill takes steps towards addressing other concerns the Commission has raised about the CDP. The Commission commends the Government for its introduction of the Bill, particularly its commitment to working in partnership with Aboriginal and Torres Strait Islander communities to develop and pilot a new employment services program that seeks to improve outcomes for remote job seekers and these communities.

10. Although limited details about the pilot programs have been provided, the Commission considers that this collaboration should involve representatives chosen by Aboriginal and Torres Islander communities and Aboriginal-controlled organisations. It should also involve a sufficient number of different communities across Australia.

11. The Commission supports many elements of the Bill, including the collaboration with Aboriginal and Torres Strait Islander communities, the voluntary nature of participation in the remote engagement program, and the program's intended flexibility in order to be responsive to the needs of job seekers and remote communities.

12. The Commission, however, considers that job seekers should be compensated with wages for the hours participating in the program set at the national minimum wage together with other employee entitlements, such superannuation and leave.

13. Moreover, the Commission has concerns that limits of 18 hours per week and 104 weeks for the participation in the program may not be appropriate for all communities and limit the program's intended flexibility.

14. The Commission is also concerned that the participants may not receive any supplementary payment if they do not complete the required minimum of 15 hours per week under the program, even if they have valid reasons for not doing so.

15. Finally, as the Commission has previously said, a central challenge for the CDP reform process is to ensure that the system not only enables an individual to be 'ready for work', but also creates suitable economies and job opportunities in remote locations.[3] To achieve this, the Government needs to implement structural reforms to target systemic inequality, discrimination and full-time employment opportunities, together with programs that involve Aboriginal and Torres Strait Islander peoples such as those introduced by the Bill. The Government should ensure that steps are also being taken to address the lack of economic and job opportunities in remote areas.

16. The Commission considers that the Bill is a step forward and looks forward to the development of a new program that replaces the CDP arising from the Government's collaboration with Aboriginal and Torres Strait Islander remote pilot communities.

2 Recommendations

17. The Commission recommends that:

Recommendation 1

The Commission recommends that the Government ensure that representatives chosen by Aboriginal and Torres Islander communities and from Aboriginal-controlled organisations are involved in the design, implementation, and ongoing operation of the remote engagement program.

Recommendation 2

The Commission recommends that the Government establish a sufficient number of pilot programs in a range of different locations across Australia.

Recommendation 3

The Commission recommends that the remote engagement program does not include a limit of 18 hours per week or a limit of 104 weeks for participation in the program.

Recommendation 4

The Commission recommends that job seekers should be compensated with wages for the hours participating in the program set at the national minimum wage together with other employee entitlements, such superannuation and leave.

Recommendation 5

The Commission recommends that, where a participant does not complete at least 15 hours in a week, participants should receive a pro-rata supplementary payment if they have a valid reason for not completing the minimum number of hours.

Recommendation 6

The Commission recommends that any replacement to the CDP include measures for long-term job creation and economic development of remote communities.

Recommendation 7

Subject to the above recommendations, the Commission recommends that the Bill be passed.

3 Human rights concerns about the CDP

18. The Commission has ongoing concerns with the CDP. The Commission welcomes the Government's reforms and plans to replace the CDP with a new remote engagement program from 2023.

19. The Commission first raised concerns about the CDP at the time it was introduced. In the Social Justice and Native Title Report 2015, then Aboriginal and Torres Strait Islander Social Justice Commissioner Mr Mick Gooda expressed concern that the CDP may breach the RDA.[4] Any scheme that imposes more stringent obligations and compliance requirements on remote job seekers will have a disproportionate impact on Aboriginal and Torres Strait Islander people, as 84 per cent of people participating in the CDP are Indigenous.[5] This may give rise to indirect discrimination under section 9 of the RDA and breach the right to equality before the law under section 10 of the RDA.

20. As the RDA is based on Australia's international commitments under ICERD, this may also give rise to breaches of Australia's obligations to eliminate racial discrimination and to guarantee equality before the law under this convention.[6]

21. More stringent obligations on remote jobseekers imposed by the CDP also risked breaching the participants' right to social security. ICESCR provides a right to social security, which is to be enjoyed without discrimination of any kind.[7] Social security payments must be provided in a way which respects the right to non-discrimination and the principle of human dignity.[8] Similarly, ICERD provides that the right to social security is to be enjoyed without distinction as to race, colour or national or ethnic origin.[9]

22. The Commission previously recommended that the Government apply a human rights-based approach to the development and implementation of a new CDP model, with a particular focus on the UNDRIP.[10] The UNDRIP articulates how the human rights in ICERD and ICESCR apply to Indigenous peoples, particularly the four principles of:

    - self-determination
    - free, prior and informed consent
    - respect for and protection of culture
    - non-discrimination and equality.

23. The Commission raised its concerns and outlined recommendations for changes to the CDP, particularly in the following:

    - In February 2018, the Commission made a submission in response to the Department of Prime Minister and Cabinet's (PM&C) Discussion Paper: Remote Employment and Participation.[11]
    - In September 2018, in response to the Social Security Legislation Amendment (Community Development Program) Bill 2018, the Commission made a submission to the Senate Community Affairs Legislation Committee.[12]

24. Given its concerns regarding the CDP, the Commission has also intervened in court proceedings in which it is alleged that the CDP is contrary to the RDA. The proceedings were commenced in 2019 in the

Federal Court of Australia by Mr Basil Dawson, Mr Kamis Dawson and Ms Kresna Cameron as a representative action on behalf of a group of Aboriginal people in the Shire of Ngaanyatjarraku, located in the Central Reserves Area of Western Australia. The applicants claim that the imposition of more onerous requirements under the CDP, compared with jobactive, was contrary to the RDA.

25. The Commission was granted leave to intervene in these proceedings pursuant to its intervention function under s 20(e) of the RDA to assist the Court in relation to the racial discrimination issues in the case. The Commission notes that the parties to these proceedings are currently engaged in private mediation on a confidential basis.

26. Earlier this year, the Government changed the mutual obligation requirements for CDP participants to make a number of activities voluntary, effective from 12 May 2021. These changes mean that many of the more onerous requirements under the CDP are no longer mandatory.

27. The Commission welcomes these changes to the CDP. These changes address some of the Commission's human rights concerns regarding the CDP. However, further reforms are still needed.

28. The Commission has previously submitted that reform of the CDP should involve a move away from the current top-down, short-term and inflexible approach towards a place based, flexible, Aboriginal community-controlled program that fosters long-term economic, social and cultural development.[13] As similarly noted by the Senate Finance and Public Administration References Committee:

> A new program needs to be developed which moves away from a centralised, top-down administration in which communities are told what to do and move towards a model where local communities are empowered to make decisions that are best for them.[14]

29. The Commission is encouraged to see elements of this approach adopted in the Bill.

4 The Bill

30. The Bill will amend the *Social Security Act 1991* (Cth) (Social Security Act) and the *Social Security (Administration) Act 1999* (Cth) to:

- Establish a new payment under the remote engagement program, (new payment), which will be set at a rate between $100 and $190 per fortnight, for a maximum continuous period of 104 weeks.
- Establish high-level qualifying criteria for the remote engagement program payment.
- Establish that participation in the remote engagement placement is voluntary and a person can volunteer to leave the placement if they choose.
- Enable the Minister to make legislative instruments that specify additional qualification criteria, determine circumstances in which the remote engagement program payment is not payable, and fix the rate of the remote engagement program payment.
- Repeal or omit sections of the Social Security Act applying to past Australian Government programs that have now closed.[15]

31. The new payment will be made to eligible job seekers in remote engagement program pilot communities. The pilots will be co-designed in partnership with these communities. These communities will trial the new payment alongside other approaches to training, skills development and non-vocational support.[16]

32. Pursuant to the proposed s 661A in the Bill, a person in the pilot program will qualify for the new payment if:

    a) the person is receiving a qualifying remote income support payment; and

    b) the person is receiving employment services from a remote engagement program provider; and

    c) the Secretary is satisfied that the person has agreed to participate, and is participating, in a remote engagement placement for at least 15 hours per week under the remote engagement program; and

    d) the person satisfies other any qualification requirements as determined by the Determined.

33. The new payment will be supplementary to, and will not affect the payment of, the qualifying remote income support payment that the

person is receiving. The Bill provides that qualifying income support payments includes Jobseeker, Youth Allowance, Disability support pension, parenting payment, and any other income support payment determined by the Minister, for which the person qualifies in the circumstances set out in the proposed s 661B.

34. In particular, the Commission supports the following aspects of the Bill:

    - collaboration and co-design with Indigenous communities
    - voluntary participation in the remote engagement program
    - flexibility in the way in which the program meets the needs of communities

35. However, the Commission is concerned about the compensation structure proposed in the Bill. The Commission recommends that job seekers be compensated with wages for the hours participating in the program set at the national minimum wage together with other employee entitlements, such superannuation and leave.

36. Finally, the Commission considers that the Government should also ensure that the causes of unemployment are also being addressed, including the lack of economic opportunities in remote communities.

4.1 Collaboration and co-design with Indigenous communities

37. The Commission acknowledges that the Bill supports collaboration with remote communities and that the pilots will be co-designed in partnership with a number of remotes communities.[17]

38. The Commission also acknowledges the speech delivered by the Minister for Indigenous Australians, the Hon Ken Wyatt MP, at the Bill's second reading, in which the Minister stated that:

> Achieving sustainable change in remote communities can only be done by working together, including by listening to Indigenous experience and expertise to develop a new approach. Working in partnership to pilot innovative approaches, learn and review, and develop the new program will be key to our future shared success.[18]

39. Many Aboriginal and Torres Strait Islander people have viewed the CDP as an overly top-down and punitive Government scheme, which has

reduced community control by not placing enough value on the strength of Indigenous expertise. The comments from the Minister recognise the importance of listening to Indigenous experience and expertise.

40. The Commission supports measures that allow for increased Indigenous self-determination and participation in decision-making. These are key tenets of UNDRIP, which the Government endorsed in 2009 and which articulates how human the rights principles in ICERD and ICESCR apply to Indigenous peoples.

41. In accordance with UNDRIP, the Government should consult and cooperate in good faith with Aboriginal and Torres Strait Islander peoples in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.[19] The Commission, therefore, commends the Government's commitment to co-design pilot reforms in partnership with remote communities.

42. The Bill contains limited information regarding what this collaboration and co-design process specifically involves. The Commission understands that the Government will publish further information about the pilots in due course.

43. Nonetheless, any such process must respect the right of Aboriginal and Torres Strait Islander peoples to participate in decision making in matters that would affect their rights, through representatives chosen by themselves in accordance with their own procedures. Aboriginal-controlled organisations should also be involved in this process.

44. The Government should also involve Aboriginal and Torres Strait Islander women in the collaboration process. There may be specific barriers to participation in the remote engagement program faced by women, particularly in communities where they bear disproportionate responsibility for carer duties and there is a lack of access to child, disability or aged care services. As part of the ongoing reform process, the Government may need to consider how these barriers to participation can be overcome.

45. Furthermore, the Commission considers that collaboration with Aboriginal and Torres Islander representatives and organisations should occur not only in respect of the design but also the implementation and ongoing operation of any new remote engagement program.

Recommendation 1

The Commission recommends that the Government ensure that representatives chosen by Aboriginal and Torres Islander communities and from Aboriginal-controlled organisations are involved in the design, implementation, and ongoing operation of the remote engagement program.

46. The Bill does not indicate how many pilot programs there will be or where they will be located. The Commission agrees with the comments in the Explanatory Memorandum to the Bill, which state that it is important that there is capacity to trial different approaches in different sites, provided they comply with basic human rights requirements.[20]

47. In the speech delivered by the Minister for Indigenous Australians at the Bill's second reading, the Minister said:

> The opportunities and circumstances in remote Australia are unique and different from urban areas, and this will continue to be the case.[21]

48. The Commission agrees with the Minister, while recognising that this should not be a reason for imposing more onerous conditions on remote communities in order to qualify for welfare payments than the conditions that apply to people living in urban areas. This was one of the problems with the CDP which resulted in it being challenged under the RDA. The Commission notes that the opportunities and circumstances for each remote community are also often unique. As such, there may be difficulties in drawing broader conclusions from the pilot program unless a sufficient number of remote communities are chosen from a range of different locations in Australia.

Recommendation 2

The Commission recommends that the Government establish a sufficient number of pilot programs in a range of different locations across Australia.

4.2 Voluntary participation

49. The Commission supports the voluntary nature of participation in the remote engagement placement program. The Bill provides that eligible jobseekers can choose to voluntarily participate in a role in government

services or community organisations for between 15 and 18 hours per week. They can also volunteer to leave the placement if they choose.[22] A participant's choice does not affect their entitlement to remote income support payments.

50. As outlined above, many of the Commission's human rights concerns about the CDP arose from its onerous and disproportionate mutual obligation requirements (when compared to jobactive), as these requirements disproportionately affected Aboriginal and Torres Strait Islander peoples.

51. By allowing eligible jobseekers to choose whether to voluntarily participate in a role in government services or community organisations for between 15 and 18 hours per week, the Bill provides opportunities for Aboriginal and Torres Islanders to develop their skills and engage in economic opportunities, without a negative impact on their right to social security.

52. Voluntary participation allows Aboriginal and Torres Strait Islander peoples to exercise choice, participation, and control in a manner consistent with the right to self-determination and the principle of free, prior and informed consent, as set out in the UNDRIP.

4.3 Flexibility of the program

53. As noted above, the Commission considers that reform of the CDP is an opportunity to move away from the current top-down, short-term and inflexible approach, towards a more flexible program.[23]

54. The Commission, therefore, supports the Bill's aim to develop an appropriately flexible remote engagement program. This flexibility is, in part, said to be achieved by setting out the more detailed aspects in legislative instruments and policy guidance. This will allow adjustments to be made as lessons are learnt and communities' ideas change over the course of the pilots.[24]

55. According to the Explanatory Memorandum:

> The Government will take the time to work together and listen to communities in the pilot sites about what they think could work in their community in relation to the amount of payment to be provided, the hours of engagement to be undertaken in return and what eligible job

> seekers are required to do to continue to receive the payment. This will also better allow for adjustments during the pilots as lessons are learned.[25]

56. While there are limited details on how this consultation process will work in pilot sites, the Commission supports the creation of a program with flexibility on the basis that the Government listens to the experiences of Aboriginal and Torres Islander participants, communities and their representatives and adapts the program accordingly. This reflects the UNDRIP principles, which require consultation and cooperation with Aboriginal and Torres Strait Islander peoples when the Government is implementing legislative or administrative changes that may affect them.[26]

57. Flexibility is also important to the extent it will allow remote communities to adapt the program to the unique circumstances, opportunities and challenges that community faces.

4.4 Limits of the program

58. The Commission notes that the remote employment program appears to have limits regarding the hours worked each week and the total length of the program.

59. The Explanatory Memorandum states that job seekers can participate in a role for between 15 and 18 hours per week building important skills and experience.[27] However, the maximum of 18 hours does not appear in the Bill. As such, it is unclear exactly how this maximum limit applies.

60. The Commission acknowledges that the Government intends to work together with, and listen to, communities in pilot sites regarding, among other things, the hours of engagement to be undertaken.[28] The Commission further acknowledges that a maximum of 18 hours per week may be appropriate in the pilot program due to its initial capacity.

61. However, the Commission considers that a maximum of 18 hours is not appropriate in the final rollout of the program. As there may be limited opportunities in remote communities for a person to build skills and experience or otherwise gain paid employment, a maximum of 18 hours per week may be insufficient. Such a limit also removes some of the program's flexibility and adaptability.

62. Furthermore, the proposed s 661D(1) of the Bill provides that a job seeker can participate in the program for a maximum continuous period of 104 weeks. The Commission recognises that it is appropriate to have a time limit for the pilot phase of the program and notes that s 661D(2) separately provides a deadline of 1 July 2024 for payments under the pilot phase of the program, which is intended to end in 2023.

63. However, the Commission is concerned that the 104 week time limit may remain part of the remote engagement program after the pilot phase and in the final rollout. The Commission notes that the Explanatory Memorandum states that the 104 week limit has been applied because the remote engagement placement is not intended to be a long-term arrangement and has been developed to improve jobseeker skills and job readiness as well as to assist the transition to paid work.[i]

64. Although the Commission acknowledges the intention behind this limit, the Commission is concerned that participants who do not find employment within 104 weeks will lose their access to the opportunities provided by the program. As mentioned above, given the limited economic opportunities that may be available in remote communities, whilst a limit of 104 weeks may be appropriate for the pilot phase, it may be insufficient for the program following that. Again, this limit removes some of the program's flexibility and adaptability.

Recommendation 3

The Commission recommends that the remote engagement program does not include a limit of 18 hours per week or a limit of 104 weeks for participation in the program.

4.5 Compensation

65. The Commission acknowledges that the Bill introduces a new supplementary payment and the aim is for an eligible job seeker's income support plus the new payment to be approximately equivalent to the minimum wage for the hours participating in work like activities.[29]

66. The Commission supports participation in the remote engagement program being compensated through a supplementary payment. The Commission considers that the option to earn additional income through

paid employment can be a powerful incentive to increase workforce participation.

67. The Commission broadly agrees that compensation should be equivalent to the minimum wage for the hours participating in work like activities. However, it is unclear to the Commission how this has been calculated by the Government. If 30 hours of work in a fortnight may result in a supplementary payment of $100, even factoring in income support payments, it is unclear how this is equivalent to the national minimum wage of $20.33 per hour for these hours.

68. The Commission has previously raised concerns that the CDP gives preference to paid CDP workers over paid employees. CDP participants, as a cheap form of labour, are an attractive alternative to hiring employees being paid, at least, the minimum wage together with other employment benefits, such as superannuation.[30] This is one of the reasons why the Commission has supported wage-based compensation models. If the cost of engaging remote engagement participants is significantly cheaper than employing them, these issues may continue.

Recommendation 4

The Commission recommends that job seekers be compensated with wages for the hours worked set at the national minimum wage together with other employee entitlements, such superannuation and leave.[31]

69. Proposed subsection 661A(1) in the Bill provides that a person will qualify for a remote engagement program if the Secretary is satisfied that the person has agreed to participate, and is participating, in an remote engagement placement for at least 15 hours per week under the remote engagement program.

70. The Bill does not appear to provide any exceptions to this minimum. The Commission is concerned that, where a participant, for a valid reason, completes some but not all 15 hours in a week, they will not receive any supplementary payment.

Recommendation 5

The Commission recommends that, where a participant does not complete at least 15 hours in a week, participants should receive a pro-

rata supplementary payment if they have a valid reason for not completing the minimum number of hours.

71. The Commission previously raised concerns about the 'No Show No Pay' (NSNP) penalty regime that previously existed in relation to the CPD.[32] This regime meant that CDP participants could incur one or more NSNP failures for various reasons, such as a failure to participate in a compulsory activity required by a Job Plan, failure to comply with a compliance activity, or failure to attend a job interview. An NSNSP failure resulted in the job seeker losing the equivalent of a working day's payment.

72. CDP participants reported feeling penalised for factors outside of their control, including family violence, carer responsibilities and cultural business, and that not enough weight is placed on these factors to satisfy non-attendance exemptions.[33] If the Government accepts the above recommendation, the Government should ensure that these issues are given sufficient weight when considering if a participant has valid reason for not attending all 15 hours.

73. Where a participant does complete all required hours, the Commission expects that they would be compensated accordingly. However, it is unclear from the Bill how mutual obligations requirements under Jobseeker will interact with the requirements under the remote engagement program.

74. The proposed s 661A in the Bill indicates that a person qualifies for the remote engagement program payment if they are receiving a qualifying remote income support payment. However, if a participant's Jobseeker payment is suspended, it is unclear whether that means they will also not receive the remote engagement program payment.

75. The Commission acknowledges that this is a pilot process, and the Government is also considering reforms to the mutual obligation requirements in parallel. However, the Commission is concerned that a participant's failure to complete their mutual obligation requirements may, therefore, affect their entitlement to both Jobseeker payments and the remote engagement program payment, even where they had completed the required hours of work.

76. As indicated in Recommendation 3, the Commission considers that job seekers should be compensated for the hours they participant in the program.

4.6 Job creation and economic opportunities in remote areas

77. According to the Explanatory Memorandum, the new payment will be trialled alongside other approaches to training, skills development and non-vocational support.[34]

78. While the Bill does not provide any further information about these other approaches, the Commission notes that in August 2021 the National Indigenous Australians Agency published its New Remote Engagement Program Discussion Paper (Discussion Paper). The Discussion Paper indicates that it is seeking views on how to design a new remote engagement program that it is fit-for-purpose and outcomes-focused. It seeks submissions on related issues such as:

    - Placements for job-ready participants
    - Support for job-ready participants to get a job
    - Vocational training for participants
    - Non-vocational services for participants
    - Mutual Obligation Requirements[35]

79. Submissions to the Discussion Paper are due by 30 November 2021. The Commission looks forward to the Government providing further information about these other approaches following the conclusion of the submissions process.

80. Nonetheless, the Commission is concerned that neither the Bill nor the Discussion Paper appear to take steps to address the underlying problem of a lack of economic and job opportunities in remote locations.

81. The Commission notes that the Discussion Paper acknowledges that there are fewer jobs available in remote areas, with less than two per cent of actively trading businesses located there.[36] Furthermore, the Discussion Paper indicates that:

> The overall design and management of the new program will continue to support progression into jobs where they are available, but will include alternative pathways for those who are ready to work but cannot find a job in their community, and for those facing ongoing participation barriers.

82. The Commission considers that any replacement to the CDP should not only enable an individual to be 'ready for work', but should also seek to create suitable economics and job opportunities in remote locations. The lack of employment opportunities in remote communities is the single largest cause of joblessness in most areas covered by the CDP.

83. The CDP has been not working for its participants, their families and their communities for a number of reasons, including insufficient economic development opportunities and a focus on short-term outcomes rather than long-term economic, social and cultural development.[37]

84. The Commission acknowledges that in the speech delivered by the Minister at the Bill's second reading, he said:

> The measures in this bill recognise the lack of employment opportunities that people, including Indigenous Australian, face in some of the most remote parts of Australia.

85. While the Bill might recognise the lack of employment faced by Indigenous Australians in remote areas, the Commission considers that more needs to be done to address economic opportunities and job creation in such communities.

Recommendation 6

The Commission recommends that any replacement to the CDP include measures for long-term job creation and economic development of remote communities.

5 Conclusion

86. Overall, the Commission welcomes the Bill and commends the Government for its intended collaboration with Aboriginal and Torres Strait Islander communities, the voluntary nature of the remote engagement program and its intended flexibility to meet their needs.

87. However, the Commission has concerns about the compensation structure, the time-limits on participation in the program, and the need for measures for long-term job creation and economic development.

88. Subject to its more specific recommendations identified in this submission, the Commission recommends that the Bill be passed.

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[1] The Commission is Australia's national human rights institution with 'A' status accreditation, and is established by the *Australian Human Rights Commission Act 1986* (Cth) (AHRC Act). The Commission has responsibilities under the AHRC Act to examine the enjoyment and exercise of human rights by Aboriginal and Torres Strait Islander peoples. The Commission also has responsibilities to report on the effect of the Native Title Act on the exercise and enjoyment of human rights of Aboriginal people and Torres Strait Islanders. See s 209 of the *Native Title Act 1993* (Cth).

[2] Lisa Fowkes, Centre for Aboriginal Economic Policy Research, Australian National University, 'Background Note on CDP', (April 2017), 1.

[3] Australian Human Rights Commission, Submission to the Discussion Paper: Remote Employment and Participation, 8 February 2018, [9].

[4] Mick Gooda, Social Justice and Native Title Report 2015, Australian Human Rights Commission, (2015) 61.

[5] Lisa Fowkes, Centre for Aboriginal Economic Policy Research, Australian National University, 'Background Note on CDP', (April 2017) 1.

[6] UN General Assembly, International Convention on the Elimination of All Forms of Racial Discrimination, 21 December 1965, United Nations, Treaty Series, vol 660, 195, arts 2 and 5.

[7] International Covenant on Economic, Social and Cultural Rights (ICESCR), opened for signature 16 December 1966, 993 UNTS 3 (entered into force 3 January 1976) arts 2 & 3.

[8] Committee on Economic, Social and Cultural Rights, General Comment No 19: The Right to Social Security, 39th sess, UN Doc E/C.12/GC/19 (4 February 2008) para [22].

[9] UN General Assembly, International Convention on the Elimination of All Forms of Racial Discrimination, 21 December 1965, United Nations, Treaty Series, vol 660, 195, art 5.

[10] Australian Human Rights Commission, Submission to the Discussion Paper: Remote Employment and Participation, 8 February 2018, [12].

[11] Australian Human Rights Commission, Submission to the Discussion Paper: Remote Employment and Participation, 8 February 2018: https://humanrights.gov.au/our-work/legal/submission/remote-employment-and-participation-indigenous-peoples-2018

[12] Australian Human Rights Commission, Submission to the Senate Community Affairs Legislation Committee on the Social Security Legislation Amendment (Community Development Program) Bill 2018, 26 September 2018: https://www.aph.gov.au/DocumentStore.ashx?id=8e2c5527-e2f9-4015-bf9f-75c85b87752e&subId=660476

[13] Australian Human Rights Commission, Submission to the Discussion Paper: Remote Employment and Participation, 8 February 2018, [6].

[14] Senate Finance and Public Administration References Committee, Inquiry in to the appropriateness and effectiveness of the objectives, design, implementation and evaluation of the Community Development Program (CDP), (December 2017), 105.

[15] Parliament of the Commonwealth of Australia, Social Security Legislation Amendment (Remote Engagement Program) Bill 2021, Explanatory Memorandum, (2021) 4.
[16] Parliament of the Commonwealth of Australia, Social Security Legislation Amendment (Remote Engagement Program) Bill 2021, Explanatory Memorandum, (2021) [4].
[17] Parliament of the Commonwealth of Australia, Social Security Legislation Amendment (Remote Engagement Program) Bill 2021, Explanatory Memorandum, (2021) [4].
[18] Commonwealth, Parliamentary Debates, House of Representatives, 1 September 2021, 15 (Ken Wyatt, Minister for Indigenous Affairs).
[19] United Nations Declaration on the Rights of Indigenous Peoples, GA Resolution 61/295, UN Doc A/61/L.67 (2007), art 19.
[20] Parliament of the Commonwealth of Australia, Social Security Legislation Amendment (Remote Engagement Program) Bill 2021, Explanatory Memorandum, (2021) [6].
[21] Commonwealth, Parliamentary Debates, House of Representatives, 1 September 2021, 15 (Ken Wyatt, Minister for Indigenous Affairs).
[22] Parliament of the Commonwealth of Australia, Social Security Legislation Amendment (Remote Engagement Program) Bill 2021, Explanatory Memorandum, (2021) [10].
[23] Australian Human Rights Commission, Submission to the Discussion Paper: Remote Employment and Participation, 8 February 2018, [6].
[24] Parliament of the Commonwealth of Australia, Social Security Legislation Amendment (Remote Engagement Program) Bill 2021, Explanatory Memorandum, (2021) [2].
[25] Parliament of the Commonwealth of Australia, Social Security Legislation Amendment (Remote Engagement Program) Bill 2021, Explanatory Memorandum, (2021) [7].
[26] United Nations Declaration on the Rights of Indigenous Peoples, GA Resolution 61/295, UN Doc A/61/L.67 (2007), art 19
[27] Parliament of the Commonwealth of Australia, Social Security Legislation Amendment (Remote Engagement Program) Bill 2021, Explanatory Memorandum, (2021) [9].
[28] Parliament of the Commonwealth of Australia, Social Security Legislation Amendment (Remote Engagement Program) Bill 2021, Explanatory Memorandum, (2021) [9].
[i] Parliament of the Commonwealth of Australia, Social Security Legislation Amendment (Remote Engagement Program) Bill 2021, Explanatory Memorandum, (2021) [42].
[29] Parliament of the Commonwealth of Australia, Social Security Legislation Amendment (Remote Engagement Program) Bill 2021, Explanatory Memorandum, (2021) [9].
[30] Australian Human Rights Commission, Submission to the Discussion Paper: Remote Employment and Participation, 8 February 2018, [12].
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