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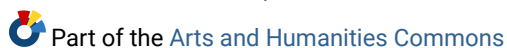
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The same but different: how people with a partial capacity to work are governed in recent policy changes to the Australian income support system and the National Disability Insurance Scheme

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The Same but Different:

How people with a partial capacity to work are governed in recent policy changes to the Australian income support system and the National Disability Insurance Scheme

Louise St Guillaume

This thesis is presented for the degree of Doctor of Philosophy at

The University of Notre Dame

School of Arts and Sciences

2014

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ABSTRACT

Since initial concerns were raised by disability studies scholars and the disability movement with the Australian government's *Welfare to Work* reforms there has been a dearth of scholarship on how the partial capacity to work category, created through the reforms, is governed (particularly through other policies). The 2006 *Welfare to Work* reforms implemented by the former Howard government (1997 – 2007) excluded those people with disability assessed as capable of working 15-29 hours per week from the disability specific income support payment, the *Disability Support Pension*. Instead, they were eligible for the unemployment benefit *Newstart Allowance* and, alongside the unemployed, had to meet certain state requirements to remain eligible for payment, such as applying for jobs and attending interviews. This research, in addressing this gap, examines how people with a partial capacity to work are governed with regard to recent changes to the income support system and the disability care and support system through the National Disability Insurance Scheme for people with disability. The research examines the possibility that people with a partial capacity to work in the Northern Territory could have their income support payments managed by the government through a policy intersection between the *Welfare to Work* reforms and Income Management. By applying both governmentality and critical disability studies as the methodological approach and undertaking a Foucauldian discourse analysis of key policy documents, the research found that people with a partial capacity to work are governed through sameness and difference, which negatively impacts on their equality and access. The research suggests that people with a partial capacity to work are governed in *Welfare to Work* and income management through an able-bodied norm. This is problematic as it ignores the social barriers that people with disability experience, such as inaccessible

communities; impairment barriers, such as pain and episodic illness; and the meaning subscribed to impairment. The research also found that people with a partial capacity to work are governed by authoritarian rationalities in the income support system as opposed to participants in the National Disability Insurance Scheme, who are regulated by social rationalities of government. These findings suggest that there is a need to move beyond governing people with a partial capacity to work through sameness and difference and emphasises the importance of examining policy intersections in constructing and regulating subjects.

DECLARATION OF AUTHORSHIP

This thesis is the candidate's own work and contains no material which has been accepted for the award of any degree or diploma in any other institution.

To the best of the candidate's knowledge, the thesis contains no material previously published or written by another person, except where due reference is made in the text of the thesis.

SIGNED: LOUISE ST GUILLAUME DATE: October 24, 2015

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ABBREVIATIONS

ABC	Australian Broadcasting Corporation
ABS	Australian Bureau of Statistics
ACOSS	Australian Council of Social Services
ACT	Australian Capital Territory
AES	Active Employment Strategy
APY	Anangu Pitjantjatjara Yankunytjatjara
CDS	Critical Disability Studies
CEO	Chief Executive Officer
CIM	Compulsory Income Management
CRAWS	Critical Race and Whiteness Studies
CTH	Commonwealth
DDA	Disability Discrimination Act
DEEWR	Department of Education, Employment, and Workplace Relations
DES	Disability Employment Services
DHS	Department of Human Services
DSP	Disability Support Pension
DSS	Department of Social Services
EFTPOS	Electronic Funds Transfer at Point of Sale
FRC	Family Responsibilities Commission
JSA	Job Services Australia
LAC	Local Area Coordinators
LCAS	Little Children are Sacred

NDIA	National Disability Insurance Agency
NDIS	National Disability Insurance Scheme
NSA	Newstart Allowance
NT	Northern Territory
NTER	Northern Territory Emergency Response
NWRN	National Welfare Rights Network
OECD	Organisation for Economic Cooperation and Development
PCW	Partial Capacity to Work
POS	Program of Support
PP	Parenting Payment
PWDA	People with Disabilities Australia
RDA	Racial Discrimination Act
SEAM	School Enrolment and Attendance Measure
SSOLA	Social Security and Other Legislation Amendment
UK	United Kingdom
UN	United Nations
UPIAS	Union of the Physically Impaired Against Segregation
WA	Western Australia
WPR	Welfare Payment Reform
YA	Youth Allowance

INTRODUCTION

The disability movement and disability studies scholars suggest that people with disability were excluded from employment with the advent of industrialisation where they were seen as inefficient, unproductive and incapable of keeping up with the demands of the modern labour force (Barnes & Mercer, 2005; Galvin, 2004; Humpage, 2007a). The exclusion of people with disability relegated them to the private sphere (Galvin, 2004) or institutions (C. Thomas, 2004). People with disability were also 'protected' in the income support system receiving a disability specific income support payment. The disability movement and disability studies scholars criticise the exclusion of people with disability from employment as well as their relegation to the private sphere, segregation in institutions and placement on a disability specific payment. This is because it has led to their marginalisation, oppression and isolation from society and denies their right to economically and socially participate (Barnes & Mercer, 2005; Galvin, 2004; Goggin & Newell, 2005; Oliver, 1989).

There has recently been an emphasis by the Organisation for Economic Cooperation and Development (OECD) and various Australian Federal governments on moving persons with disabilities who have a capacity for employment from disability specific payments in the income support system into formal paid work. This shift has also occurred in other global contexts, such as Canada and the United Kingdom (UK) and though there are local variations, this positions Australia as part of a global trend in the Anglo-Sphere to restructure the welfare state (Chouinard, 2010; Hyde, 2000; Roulstone, 2000). The emphasis on moving people with disability into employment is partly reflected in the OECD Report *Transforming Disability into*

Ability: Policies to Promote Work and Income Security for Disabled People (2003),

which discusses twin goals of disability policy. The Report states:

[o]ne [goal] is to ensure that disabled citizens are not excluded: that they are encouraged and empowered to participate as fully as possible in economic and social life, and in particular to engage in gainful employment, and they are not ousted from the labour market too easily or too early. The other goal is to ensure that those who are or who become disabled have income security: that they are not denied the means to live decently (OECD, 2003, p. 3).

Also reflecting this emphasis, successive Australian federal governments have made several legislative changes to the *Disability Support Pension (DSP)*, the disability specific income support payment in Australia, to encourage people with disability with what has been termed a partial capacity to work (PCW) into employment to their capacity. In 2000, the Howard Liberal National Coalition Federal government (1996 - 2007) formulated and commissioned the Reference Group on Welfare Reform chaired by the then Chief Executive Officer (CEO) of charity organisation Mission Australia, Patrick McClure AO, to conduct a welfare review (Yeend, 2000). The review recommended that the government review the capacity to work criterion for people with disability, indicating the need to move those capable into employment (Reference Group on Welfare Reform, 2000).

Legislatively there were numerous attempts to move some people with disability into employment by the Howard government between 2001 and 2003 (Daniels & Yeend, 2005), however, they finally succeeded with the *Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Act 2006 (Commonwealth) (Cth)*. This Act made changes to income support for people with disability, excluding from the *DSP* those assessed as capable of working, within the next two years, between 15 and 29 hours per week, independent of a program of

support (POS). Those excluded were to be encouraged into employment and would need to apply for another payment such as *Newstart Allowance (NSA)*, the primary unemployment benefit, in order to receive income support. Those people became categorised in the welfare state as people with a PCW and are regulated alongside the broader *NSA* population. This means that they are required to search for employment, attend interviews and could be penalised if they fail to fulfil their obligations with the state. This thesis examines how people with a PCW are constructed and governed with regard to recent changes to the income support system and in relation to the reforms made to disability care and support in Australia. By examining how people with a PCW are constructed and governed this research is influenced by the work of governmentality scholars and employs governmentality as one part of its methodology. “*Governmentality* seeks to distinguish the particular mentalities, arts and regimes of government and administration” (Dean, 1999, p. 2). It also considers the construction of subjects and categories as a means of organising and governing people (Bacchi, 2009).

The dearth of existing scholarship on the PCW category following the creation of the category in *Welfare to Work* led to questions about whether the category still existed beyond its initial construction in the *Welfare to Work* reforms. This dearth of literature however, could in part be attributed to the tendency to consider *NSA* recipients as one category without acknowledging differences within the *NSA* payment category (Commonwealth of Australia, Senate, October 24, 2012). Nonetheless, confirmation that the PCW category still continues to operate in income support policy came whilst working as a Summer Scholar at the Federal Parliamentary Library in Canberra, where it was found that in fact people with a

PCW were anticipated to make up 20 per cent of the *NSA* population by early 2014 (Department of Education, Employment & Workplace Relations (DEEWR), Department of Families Housing & Community Services & Indigenous Affairs, Department of Human Services (DHS) & Department of Industry Innovation Science Research & Tertiary Education, 2012), that is, approximately 135, 000 people.¹ The combination of an absence of literature on the PCW category following the *Welfare to Work* reforms and the high proportion of *NSA* recipients categorised with a PCW establishes part of the contribution of this research and its importance in examining how people with a PCW are constructed and governed.

This research can be placed alongside the original scholarship on the *Welfare to Work* reforms which have been described by the disability movement and disability scholars as “draconian provisions” (Hartman & Darab, 2006, p. 1). However, it also extends this scholarship and examines further changes to *DSP* eligibility which could have resulted in increases to the PCW category. For example, the *Family Assistance and Other Legislation Amendment Act 2011 (Cth)* introduced under the Labor Gillard Federal government (2010 - 2013) continued the legislative shift to encourage some people with disability into employment. This Act required people with disability applying for the *DSP* to prove that they had previously engaged with a POS such as a Disability Employment Service (DES), for 18 months within the previous 36 months, before applying (Department of Social Services (DSS), n.d.). Those who could not demonstrate previous engagement with a POS were excluded from the *DSP*, had to apply for an alternative income support payment such as *NSA*, and had to engage with a POS for 18 months. Those new *NSA*

¹ This is based on a *NSA* figure of 659, 829 people as at 27 September 2013 (See, Senate Community Affairs Committee, 2013).

recipients excluded from the *DSP* were likely to be categorised as *NSA* recipients with a PCW (Kim, Enquiries Officer, Feedback Coordination Team, DSS, personal correspondence via email, 3 February 2014).

Additionally, this research examines further provisions subscribed to *NSA* recipients in the Northern Territory (NT), specifically, income management. Income management is examined through this research because of the probability of capturing people with a PCW and automatically subscribing them to income management under the New Income Management reforms and its criterion. Income management is where a proportion of a recipient's income support payment is quarantined by the government in order to ensure that it is spent on priority goods and services. New Income Management superseded a version of income management included in the Howard government's Northern Territory Emergency Response (NTER) (2007) (also known as, the Northern Territory intervention) which was criticised for being racially discriminatory, quarantining the income support payments of Indigenous welfare recipients. In 2007, the Howard government declared an emergency in remote Indigenous communities in the NT in response to allegations of child sexual abuse and dysfunctional communities. In 2010, in response to critiques that income management in the NTER was racially discriminatory the Rudd Federal Labor government (2007-2010, 2013) extended income management to target Indigenous and non-Indigenous welfare recipients in the NT through reforming the criteria. This was called New Income Management and included the "disengaged youth" (Commonwealth of Australia, 2009, p. 3) and the "long-term welfare payment recipients" measure (Commonwealth of Australia, 2009, p. 3). The long-term payment recipients measure targets welfare recipients aged 25

years and over who have been receiving income support payments for 12 of the previous 24 months. The long-term payment recipients measure is the type of income management that is the focus of this research.

However, there is a lack of existing scholarship on the possible automatic income management of people with a PCW in the NT under New Income Management measures, in particular the long-term payment recipients measure. This is despite evidence suggesting that this is indeed probable. This asserts the significance of examining policy intersections and the connections between policies in governing. As Bacchi suggests “[p]olicies are usually located within a web of related or interconnected policies that need to be considered as part of ... analysis” (2009, p. 4). In recognition of this, the researcher will analyse a range of policy documents in order to understand how people with a PCW are constructed and governed in recent reforms to the income support system for people with disability as well as in relation to changes to the disability care and support system. This analysis includes the *Social Security and Other Legislation Amendment (SSOLA) (Welfare Reform and Reinstatement of the Racial Discrimination Act (RDA)) Act 2010 (Cth)*, which legislated New Income Management.

This trend to move more people with disability into employment through welfare reform is however, continuing. Recently, the 2014-15 Budget measures of the Federal Abbott Liberal National Coalition government (2013 – present) announced further changes to *DSP* eligibility. These changes included placing compulsory work-focused activities on *DSP* recipients aged 35 years and under who have a capacity to work at least 8 hours per week (Buckmaster, 2014a). Additionally,

from July 1, 2014 those aged 35 years and under, who have a work capacity of 8 hours or more per week and who were granted the *DSP* between 2008 and 2011 will have their capacity for work reassessed (DHS, 2014b). This could mean further shifts into the PCW category. These recent legislative proposals additionally highlight why an examination of the PCW category is of crucial importance based on the dearth of literature on the category's construction and government beyond *Welfare to Work* and potential increases to the PCW category.

Sameness and Difference

In Western thought and societies, people with disability have been cast as abnormal, 'different' and as deviating from the able-bodied norm in society. This is because the white, able-bodied, heterosexual male has occupied a position of power and privilege, cast as the norm, ideal and universal human. Those who differ from this norm or ideal, such as people with disability are represented as 'different' or 'other' and categorised. People with disability are thus produced into a homogenous social category which is "used for administration service delivery, for political containment and management of difference" (Meekosha & Pettman, 1991, p. 77). This difference is often manufactured on "the personal tragedy theory of disability" (Oliver, 1996, p. 31) and biological discourses, which construct people with disability as defective and subhuman. Oliver (1996) has termed this theory the individual model of disability which encompasses the medical model of disability, what Oliver (1996) refers to as medicalisation. The individual model of disability and

the medical model of disability understand disability as a ‘problem’ to be fixed within the individual. In this model the medical profession are represented as assessing, diagnosing, managing, controlling, treating and curing disabled bodies (Humpage, 2007a).

As a result of defining and categorising people with disability as ‘other’, based on their ‘difference’ from the able-bodied norm, people with disability are unsure whether to emphasise their differences or similarities to the norm (Wendell, 1996). This is because the norm occupies the point of reference (Bacchi, 1990), determining sameness or difference and equal treatment. This constructs a sameness/ difference dilemma. Both sides of the dilemma have positive and negative effects on people with disability who are socially constructed as ‘other’. With regard to sameness, Wendell suggests that positively, sameness reduces the scope of ‘otherness’, “enabling the non-disabled to identify with [... persons with disabilities], recognize their humanity and their rights, paving the way to increasing their assimilation into all aspects of social life” (1996, p. 74). Problematically though sameness negates the ‘differences’ and diversity of people with disability in requiring that the ‘other’ be the same as the able-bodied norm (Hosking, 2008). Alternatively, difference, is argued to provide scope for recognising the ‘differences’ of people with disability as well as their disadvantaged position and provide ‘special’, ‘different’ or redistributive treatment based on providing equal access (Morris, 2001). However, ‘special’, ‘different’ or redistributive treatment is problematised as objectifying and reinforcing the ‘differences’ of people with disability from the able-bodied norm. Both sameness and difference then treat people with disability as problematic, failing to transform disability as a relationship of power and privilege.

Although both sameness and difference are fraught with problems which are also emphasised by countless other scholars, they nevertheless, become a useful lens through which to analyse and understand the PCW category and how people with a PCW are constructed and governed. For example, it is used to suggest that people with a PCW, previously, governed through difference on the *DSP* are, as a result of the *Welfare to Work* reforms, being governed through sameness. This means that similar to the unemployed, that is, the broader *NSA* population, they have to search for and maintain employment, uphold the obligations of their contract and will be penalised if they fail to do so. It is argued through this research however, that sameness fails to deliver equality and access to people with a PCW as it upholds the able-body as the normative standard through which people with a PCW are regulated on *NSA*. This means that existing systems of privilege and disadvantage are ignored; the needs of people with a PCW are neglected because they differ from the able-bodied norm and the structural barriers that people with a PCW experience to employment, for example, as a result of their previous exclusion, continue unaddressed.

This research and the evidence it presents then supports other scholars who suggest the need to move beyond governing through sameness and difference (See for example, Bacchi, 1990; J. C. Williams, 1991). For example, Williams (1991) suggests:

both sameness and difference are equally vulnerable to being used to reinforce the status quo, and for the same reason neither formulates a direct challenge to the structures that disadvantage outsiders ... To join our society on anything but equal terms, minorities[, ...] women [and persons with disabilities] must

demand neither mere entry [through sameness] nor special accommodation [through difference]. Instead, they must demand transformation (J. C. Williams, 1991, p. 305).

It is suggested through the research that there is a need to redirect and challenge the ableist underpinnings of income support payment categories upheld through sameness, in order to consider human diversity and the embodied experience of people with a PCW including, what they would need to economically and socially participate and contribute.

The social model

Shifting from locating the difference of people with disability in biology and the individual, the Union of the Physically Impaired Against Segregation (UPIAS) in the UK developed the social model as termed by UK academic and disability rights advocate, Michael Oliver (Shakespeare & Watson, 2002; C. Thomas, 2004). The social model draws a distinction between impairment and disability, suggesting that impairment is the bodily and material dimension and disability is the social barriers experienced to social and economic inclusion and participation. The social model proposes that people with disability are disabled by the social and structural barriers that they experience to participation in society imposed on their impairments. These include the structure of institutions, the organisation of society, social relations and discrimination (C. Thomas, 2004). In this model, it is society which oppresses people with impairments and with which the problem is located (Shakespeare & Watson, 2002) shifting attention away from the individual (Shakespeare, 2006). However, although the social model is an important tool for thinking about the social construction of people with disability as ‘different’ (Goggin & Newell, 2005), it has

been criticised for focusing on disability and leaving out impairment and establishing a dichotomy between impairment and disability (Morris, 1993; Shakespeare & Watson, 2002; Sherry, 2002). This has been raised as problematic for three reasons. Firstly, the social model by marginalising impairment ignores “the personal experience of pain and limitation which is often a part of impairment” (Shakespeare & Watson, 2002, p. 9). Secondly, impairment and disability are difficult to separate in the lived experience of the individual (Shakespeare, 2006). Thirdly, this ignores the social construction of impairment and the body.

Scholars who suggest that the body is socially constructed move away from the work of others who suggest that the body is biological, arguing that social and historical contexts give bodies and their capacities meaning beyond biology. Bodies thus take on meaning, or meaning is imposed on bodies in space and through their interaction with other bodies (Gatens, 1996; Lorber & Martin, 2005), such as those constructed as ‘normal’ (Coleman-Fountain & McLaughlin, 2013). This impacts on the subjective experience of the body (Coleman-Fountain & McLaughlin, 2013). The social construction of the body is embedded in power which scholars argue needs to be challenged through examining, highlighting and interrogating specifically how bodies become marked (Gatens, 1996). Theorists who discuss the social construction of the body do not deny that differences between the bodies of the able-bodied and people with disability exist. However, “they claim that many, if not most, of the uses of these differences are ideological” (Lorber & Martin, 2005, p. 242) and are used in a way to benefit some over others.

The theory of the body as socially constructed also challenges the impairment/ disability binary established in the social model. This is because its examination requires an investigation of the historical and the biological together (Foucault, 1978). As Foucault suggests:

deployments of power are directly connected to the body – to bodies, functions, physiological processes, sensations, and pleasures; far from the body having to be effaced, what is needed is to make it visible through an analysis in which the biological and the historical are not consecutive to one another ... but are bound together in an increasingly complex fashion (Foucault, 1978, pp. 151-152).

This also challenges the biological fixity assigned to disabled bodies and impairments which remain undisrupted by the social model in constructing an impairment/ disability binary (Young, 2002).

This research as well as contributing to the debate on sameness and difference also contributes to discussions on the impairment/ disability binary and existing research by critical disability studies (CDS) scholars on the importance of recognising the body as socially constructed. CDS is the second methodological approach of this research alongside governmentality, providing a framework to interpret the findings of the research, supplying a language through which to explain the concerns identified and a way to move forward. This is because it suggests that by governing people with a PCW through sameness the combination of social barriers, impairment barriers, such as pain, and the way bodies and impairments are socially constructed are ignored for people with a PCW through upholding the able-bodied norm. This can impede the delivery of equality and access to people with a PCW in the income support system. It consequently suggests that an embodied

approach which considers experience with social barriers, impairment barriers and impairments as socially inscribed with meaning should be employed to destabilise the able-bodied norm and move beyond governing through sameness and difference, much like CDS scholars.

Furthermore, CDS scholars have also raised concerns with the social model because it excludes other social divisions such as, gender, race and sexuality which may also impact on a person's lived experience; instead, primarily focusing on disability (Vernon, 1998). The social model though has been defended from such criticisms. For example, Oliver (2009) suggests that although the social model did not initially include other social divisions this does not mean that there is no scope for their inclusion, stating that those who criticise the social model for failing to include other social divisions should instead focus on working to include them.

However, CDS scholars' criticisms of the social model relate to others made with regard to other social movements. For example, women with disabilities suggest that the women's movement privileges the experience of able-bodied women, and the disability movement reflects the experiences of men with disabilities, neglecting the intersection of gender and disability in the lived experiences of women with disabilities (Morris, 1993). Much the same criticisms have been made of discrimination law which focuses on the experience of discrimination as one dimensional, for example as disability discrimination or sex discrimination rather than disability and sex discrimination. This led to the development of intersectionality in the late 1980s (Cho, Crenshaw, & McCall, 2013). Intersectionality is a "heuristic term to focus attention on the vexed dynamics of

difference and the solidarities of sameness in the context of antidiscrimination and social movement politics” (Cho et al., 2013, p. 787) and was coined by Kimberlé Crenshaw, a Professor of Law in the United States. It draws attention to the one dimensionality of social categories suggesting that they undermine claims for social justice. Instead intersectionality focuses on “the relationships among multiple dimensions and modalities of social relations and subject formations” (McCall, 2005, p. 1771).

This research draws on the work of intersectionality taking inspiration from it. It undertakes part of what McCall (2005) labels an intracategorical analysis, when she discusses the different types of intersectional analysis, examining “differences within the social category of disability and impairment” (Meekosha, 2006, p. 172). Specifically, the thesis also examines how people with a PCW are constructed and governed in the income support system, in comparison to participants in the National Disability Insurance Scheme (NDIS), persons with severe and profound disabilities. The NDIS is a new approach to disability care and support in Australia, providing individualised funding packages for the care and support needs of those who are eligible, enabling them to exercise choice, control and autonomy. Though the thesis focuses on a single-axis, specifically disability, it highlights, like intersectionality, the complexity of social categories in relation to how impairment and disability divisions within the social category of disability become constructed and governed.

By adopting this aspect of intersectionality the research further emphasises the importance of not drawing a distinction between impairment and disability and provides evidence of impairment and the body as socially constructed. This is

because the research investigates the value and meaning given to impairment in constructing people with a PCW and governing them differently to NDIS participants. This again provides evidence of the need for an embodied ontological approach in the welfare state because it moves beyond categorisation, instead assessing and embracing individual embodied experiences.

What becomes clear from the research then is that by establishing a PCW category in the format designed by the government people with a PCW continue to be disadvantaged. This is through being constructed and governed through an able-bodied norm in sameness, potentially being subjected to income management and being constructed and governed differently to NDIS participants, persons with severe and profound disabilities. However, what too becomes clear is the scope for this researcher to become trapped in one's own sameness and difference dilemma, by raising problems with both sameness and difference. Hence, in response to this, there is a continued emphasis on the need to assume an embodied ontological approach which would move beyond debates and binaries on sameness and difference.

Thesis Structure

The thesis will begin by outlining the policy context. Firstly, in order to provide context, it will discuss how changes in the Australian income support system can be attributed to the influence of the increasing ageing population, globalisation, international ideologies and neoliberalism. Secondly, it will define the key terms of the welfare state including, welfare dependency, mutual obligation and active citizen.

Thirdly, it will contextualise the emergence of each policy to be examined in this research, describe how each policy operates and how it is possible for them to intersect in governing people with a PCW.

Following this, the literature review will examine how existing scholarship has analysed the policies, summarising the conclusions that can be drawn from this analysis. This chapter identifies a gap in research on people with a PCW since *Welfare to Work*, that is, how other policies govern people with a PCW. The literature review is comprised of three sections. The first section examines how governmentality scholars analyse the welfare state. This section will draw attention to the mechanisms, modes or technologies of governing. The second section, ‘Disability Studies Scholars and the Welfare State’ will begin by discussing the way that disability scholars have framed changes in the income support system and specifically consider the *Welfare to Work* reforms. This section will also examine existing literature on the *NDIS Act 2013 (Cth)*. The final section of the literature review will explore how critical race and whiteness studies (CRAWS) scholars analyse income management. As suggested, income management was included as part of the Howard government’s NTER therefore, as the initial income management policy targeted Indigenous Australians a great deal of existing research on income management is by CRAWS scholars. This research needs to be included because there is a dearth of literature on the income management of people with disability, in particular, people with a PCW and the effects of this on them. This begins to demonstrate the limitations of existing studies on people with a PCW which are focused on the category’s initial inception in *Welfare to Work* and do not highlight

the category's intersection with other policies. While the effects on people with a PCW may be different, highlighting the literature on income management by CRAWs scholars draws attention to possible implications for people with a PCW.

Chapter Three describes the methodological approaches and method of the research. It will begin by explaining the methodologies of this research, governmentality and CDS, and discussing their relevance for this study. Then it will explore the method, a Foucauldian discourse analysis of policy documents, justify the use of policy documents and detail the relevant aspects of each policy analysed. It will conclude with an examination of the limitations of the study.

Chapter Four discusses how people with a PCW are constructed and governed through sameness in the Howard government's *Welfare to Work* reforms. As a result of being constructed and governed through sameness it is suggested that people with a PCW are thus regulated through an able-bodied norm which they have to aspire to. Continuing a discussion of governing through sameness, Chapter Five provides evidence suggesting that people with a PCW are also constructed and regulated through sameness in the long-term welfare recipients income management measures. Being constructed and governed through sameness is argued to result in a lack of equality and access for people with a PCW.

Chapter Six suggests that people with a PCW are also governed through a hybrid rationality predominantly comprised of neoliberalism and authoritarianism. This is compared and contrasted to the hybrid rationality governing NDIS participants, persons with severe and profound disabilities and is argued to also result in a lack of equality and access for people with a PCW.

The conclusion outlines and reiterates the central findings and arguments of the thesis. The findings suggest that people with a PCW are governed through sameness and a hybrid governmental rationality of neoliberalism and authoritarianism in the income support system which fails to produce equality and access for them. The conclusion then emphasises the need to move beyond constructing and governing through sameness and difference to instead embrace an embodied ontological approach. It also asserts that while this research has shed light on how people with a PCW are constructed and governed with regard to the income support system and in relation to disability care and support in Australia there is a need for further research into the category and the subjects that it constructs and governs.

CHAPTER ONE: POLICY CONTEXT

Introduction

This chapter provides the policy context. It explores the emergence of the Australian welfare state; changes in the Australian welfare state which are suggested to be influenced by the increasing ageing population, globalisation and neoliberalism; the core concepts associated with the welfare state including, welfare dependency, mutual obligation and active citizenship; and the emergence of the policies analysed. In particular, it contextualises the emphasis on moving those persons with disabilities capable of employment into formal paid work and the consequent establishment of the PCW category under the Howard government. It also discusses the emergence of income management and details the type of income management that is the focus of this research, that is, the long-term payment recipients measure under New Income Management. In addition, it explores the development of the NDIS. The chapter concludes with a brief discussion on the future and the PCW category particularly, with regard to the 2014-15 Budget changes highlighted in the Introduction. What becomes clear in this chapter is the connections between the policies analysed in this research and thus implicitly the importance of examining policy intersections in constructing and regulating subjects.

Australia's welfare state

The Australian welfare state predominantly emerged during the Second World War (Fenna, 2004). While pensions for the elderly and people with disability existed prior to World War II, established in 1908 through the *Invalid and Old-Age Pension Act*, the welfare state in a broader capacity emerged during World War II (Fenna, 2004). Australia's welfare state was slow to develop protections in

comparison to other countries. This was because of the ‘White Australia’ policy (1901) which protected Australian workers from competition from “cheap non-white labour” (Mendes, 2008, p. 17). It was also because of Justice Higgins’ *Harvester Judgment* (1907) in the industrial courts which secured a daily wage standard for a man supporting his wife and children (Mendes, 2008). Prior to the welfare state’s broader development during World War II, welfare was distributed via charities who discouraged reliance on handouts and assessed who was deserving or undeserving of support (Bessant, Watts, Dalton, & Smyth, 2006). In addition, particularly during the Depression, the state provided those who were destitute with food coupons and sustenance. Often, in return, individuals had to contribute through relief work.

When the broader welfare state was legislated in the 1940s relief became framed as a right and entitlement (Harris, 2001) recognising and supporting events or risks experienced within the life course such as old age and disability and those experienced as part of a capitalist economy, such as unemployment (Shaver, 2002). This was because “[i]n the postwar period, welfare states came to represent ideals of social citizenship in which all members of a society were to be assured a minimum standard of well-being and their recognition as of equal worth and dignity” (Shaver, 2002, p. 332). Thus welfare was understood as a social right of citizenship which sought to provide some economic protection and enable citizens to participate in their societies (Marshall, 1950). Economic and social policy in Australia at this time was underpinned by Keynesianism based on the philosophies of British economist John Maynard Keynes (Bessant et al., 2006) and a policy of full employment which understood unemployment as temporary (Marston & McDonald, 2007). The policy of full employment was supported through encouraging and stimulating consumer

demand for goods and services (Fenna, 2004; Harris, 2001) and establishing government protections to support and safeguard Australia's workforce. For example, the government supported and provided employment through the creation of capital works and infrastructure projects (Marston & McDonald, 2007). According to Harris, "[s]ocial welfare became an integral part of economic planning as it provided the preconditions for the security to plan, work, spend and invest" (2001, p. 13). However, it also operated in a secondary position to employment, and though a right of citizenship was seen as a safety net only in times of need (Mendes, 2008).

Australia's welfare state, however, like many others internationally, has undergone change since its emergence during the Second World War. This was because concern emerged in the 1970s about the deterioration of Keynesianism and full employment policies as well as assumptions about the short term nature of unemployment previously held under Keynesianism and full employment (Fenna, 2004; Marston & McDonald, 2007). In addition, the increasing ageing population, globalisation and neoliberalism contributed to changes in the Australian welfare state during this time (Fenna, 2004). Policy-makers and many politicians were of the opinion that the market rather than state intervention was the way forward (Bessant et al., 2006). As a result, "[e]limination of programs, reductions in benefit rates and duration, tightening of eligibility, greater reliance on private sector service delivery, and new forms of conditionality have all been used to reduce and redirect welfare effort" (Fenna, 2004, p. 319).

Australia's ageing population has affected the structure of Australia's welfare state. In particular, increases to Australia's ageing population as a result of the ageing of Australia's 'baby boomers' generation has resulted in suggestions that the government needs to intervene to curb the increasing costs of the Age Pension as well as health and aged care facilities. In response, there has been an emphasis on encouraging more working age persons accessing the income support system into employment to supplement the additional costs to the welfare state through paying taxes, to fill the void and to remove them as a cost to the government. While compulsory superannuation is now part of the Australian policy landscape introduced by the Hawke Labor government (1983-1991) (Fenna, 2004) many 'baby boomers' have a working history which was not part of the compulsory superannuation years (Australian Associated Press, 2014). As a result it becomes important to increase the working population in order to compensate for the possible increased demand to the welfare state.

Globalisation has also influenced changes to the Australian welfare state. Globalisation has facilitated an increase in international competition. In order to remain globally competitive government's need businesses to invest in creating capital and employment. However, high taxes and social spending are a deterrent for business investment in a global market filled with choice (Myles & Quadagno, 2002). Though Myles and Quadagno (2002) argue that global competitiveness increases the need for social protection, the need to be economically competitive sees the welfare state as economically costly. In relation to this, Esping-Andersen however, suggests that "[i]t would, indeed be a sad irony if the West engaged in welfare state dismantling in its drive to remain competitive if, at the same time, the

main competition were to raise its labour costs” in order to “build more comprehensive social protection systems” (1996, p. 27). In spite of this, in order to be globally competitive the Australian government has adopted and restructured the welfare state through neoliberal principles (Mendes, 2008).² Additionally, various Australian governments and policy changes have also been influenced by global organisations such as the OECD (Mendes, 2008) and reflect global trends in Anglo-sphere nations, such as the UK and Canada which have also restructured their welfare states (Chouinard. 2010; Wilton, 2004).

Neoliberalism has additionally effected changes in the welfare state. Key tenets of neoliberalism include an emphasis on deregulation, privatisation, the free market, a preference for non-state interference and “limited social expenditure” (Mendes, 2008, p. 53). Neoliberals emphasise deregulation, in particular of the labour market, arguing that protections such as minimum wages impact on the job prospects of those who are less skilled who may find it difficult to obtain employment (Mendes, 2008). By removing minimum wages and awards it increases their chances of employment. A neoliberal perspective also suggests that state interference to redistribute economic resources in the name of social justice impedes initiative and produces laziness and dependency. In response there should be an emphasis on the income support recipient giving back for payment receivership and active engagement with the income support system. State interference also affects the

² Esping-Andersen (1996) suggests employing neoliberal principles to respond to the need for welfare state reform as a result of for example, the ageing population is only one option. He discusses for example, the “Scandinavian route” (Esping-Andersen, 1996, p. 10) where employment is supplemented “with a comprehensive network of public services” (Esping-Andersen, 1996, p. 27). For women for instance, this means that they are supported to have children through provisions for maternity and paid parental leave schemes and supported to return to work through public day care provisions thus addressing the increasing ageing population through two means. He does concede however, with this model that “the fiscal strains of contemporary welfare states generally prohibit such an expansion” (Esping-Andersen, 1996, p. 27).

freedom of the market and individuals, hence in order “to reduce government interference with free market outcomes ... access to social security payments [should be restricted]” (Mendes, 2008, p. 33) and targeted rather than universal. The market is valued in neoliberalism as providing choices and its principles should be emulated in all spheres (Dean, 1999). A neoliberal perspective additionally emphasises that instead of relying on the government for welfare individuals should take responsibility for their own welfare (Mendes, 2008). Neoliberal principles have further affected the Australian welfare state evidenced through the privatisation of employment services and the adoption of workfare policies. “[W]orkfare’ [is] a social policy measure that seeks to re-regulate the intersection of welfare and labour market policy” (Soldatic & Pini, 2009, p. 78), it disciplines welfare recipients and seeks to reform their behaviour to ensure it is consistent with social norms associated with paid employment.

The shift in the welfare state saw a policy change from the creation of employment opportunities by the government to “supply-side active labour market policies” (Marston & McDonald, 2007, p. 235). Through this, responsibility for unemployment became framed as the individual’s responsibility. Moreover, unemployment became represented as a ‘choice’ based on the assumption that the individual failed to take advantage of the opportunities offered to them in the market. Unemployment is thus individualised as a behavioural and moral problem (Mendes, 2008).

Alongside the individualisation of unemployment welfare recipients became framed as welfare dependent. This is because it is assumed that the unobligated receivership of income support from the government provides a disincentive for welfare recipients to move off welfare and into work, undermining their work ethic and self-reliance and creating a sense of entitlement (Mendes, 2008). For example, according to Mendes

American neoconservative political scientist Charles Murray ... argues that the welfare state, by providing automatic support for the disadvantaged, has undermined individual responsibility and made it profitable for the poor to become dependent on welfare (2008, p. 55).

This unobligated receivership is also suggested to result in problematic anti-social behaviour that is inconsistent with social norms such as, self-reliance and a work ethic. This 'dependency culture' - a concept developed to define the reliance of recipients on government benefits - has led to entrenched generational dependency for some families and individuals on income support (Mendes, 2008).

This shift in the welfare state has also led to "new understandings of citizenship" (Soldatic & Chapman, 2010, p. 141). These new understandings shifted welfare from a right and entitlement of citizenship to a right based on a responsibility and obligation to the government and broader society for some groups of welfare recipients who are assumed to be welfare dependent (Soldatic & Chapman, 2010). Citizenship has thus shifted to be based on the premise of activeness rather than passivity. This emphasis underpins one of the key concepts of the welfare state, mutual obligation. Mutual obligation suggests that with welfare receivership comes an obligation to participate and contribute to society, often through paid employment.

Failing to tie an obligation to receiving income support is represented as supporting and facilitating welfare dependency and passivity (Billings, 2010b; Maddison, 2008; McCausland & Levy, 2006). This is because there are no conditions or mechanisms of accountability placed on people's spending which can result in dysfunctional behaviour. Mutual obligation then becomes a way of teaching welfare recipients appropriate conduct, self-reliance and responsibility which is consistent with broader social norms (Buckmaster, Ey, & Klapdor, 2012; Humpage, 2007a) and undermines previous notions of welfare as an entitlement or right.

These changes also sought to produce active as opposed to passive citizens. The emphasis on an active society first emerged in a review of the social security system (1986-89) and was posed as a solution to the problem of unemployment which was acknowledged by the OECD to be enduring, unlike during full employment. The OECD suggested that welfare policies be reformed accordingly to promote an active society model which, in the face of extensive unemployment, "would preserve job readiness, promote job-ready skills, and sustain a pro-work ethic" (Bessant et al., 2006, p. 106). The purpose of this was to make welfare recipients active and produce competent citizens who would be able to participate effectively in employment (Rose, 1996). Active citizens were to be self-reliant, abiding and learn to regulate their own conduct. They were to actively search for employment and attain and further strengthen their skills to make themselves a marketable investment, that is, able to take up any employment opportunities. In this sense, the welfare recipient is the entrepreneur of their own skills and abilities.

Additionally, an active society approach to welfare:

not only acts upon the financial plight of the unemployed, and upon their job prospects but also upon [their] ... attitudes, affects, conduct and dispositions that present a barrier to ... [them] returning to the labour market, and [that] alienate them from social networks and obligations (Dean, 1995, p. 572).

Policy emergence

The key concepts of welfare dependency, mutual obligation and active citizen highlighted above first emerged in Australia in the welfare policies of the Hawke-Keating Labor government (1983-1996) where “neo-liberalism [also] had its genesis” (Soldatic & Pini, 2009, p. 77). However, critiques of unemployed individual’s did emerge earlier. For example, during the Whitlam Labor government (1972-1975) (Mendes, 2008) as well as the Liberal National Coalition government (1975-1983) where “Prime Minister Malcolm Fraser, used the term ‘dole bludger’ to refer to the growing numbers of people joining the unemployment queue in Australia” (Marston & McDonald, 2007, p. 235). Despite this, the Hawke-Keating government and the subsequent Howard government were “strongly influenced [to a degree unlike previous Federal governments] by the joint ideological constructs of neoliberalism and globalisation” (Mendes, 2008, p. 16).

The Hawke-Keating government pursued those who took advantage of the welfare system, targeted welfare payments to those most in need through assets tests, means tests and compliance regimes and “introduce[d] compulsory training schemes for the long-term unemployed” (Mendes, 2008, p. 33). During the Hawke government (1983 – 1991) the unemployment benefit system was replaced by the “Active Employment Strategy [AES] – or, as it later became known, Newstart ...

The AES was in part an attempt to ensure that jobless people remained in active pursuit of employment or in some form of training” (Bessant et al., 2006, p. 110). This active society model, accepted from the OECD “largely informed social policy reforms ... as extensive changes were made to disability social security legislation, employment programs and community supports” (Soldatic & Pini, 2009, p. 79). For example, in 1991, the Disability Reform Package replaced the Invalid Pension with the *DSP* (Yeend, 2002) and “introduced a more ‘active’ system of income support, with more rehabilitation, training, and labour market programs to assist people with disabilities into employment” (Goggin & Newell, 2005, p. 65). In this there was a focus on recognising the capacity of some people with disability to undertake employment (Goggin & Newell, 2005). Applicants had to pass a medical impairment test and be incapable of working 30 hours per week in order to be eligible for the *DSP* (Soldatic & Grover, 2013).

Later in the Labor government’s reign under Keating (1991-1996), an “active society model” (Soldatic & Pini, 2009, p. 79) was furthered through *Working Nation*, an initiative which placed obligations on unemployed welfare recipients (Mendes, 2008). *Working Nation* used “the language of entitlement and government as well as responsibility” (Harris, 2001, p. 20) and introduced tougher assets and means testing for welfare payments. It also introduced the Job Compact, a scheme which provided short-term job placements for those unemployed for 18 months or more with the expectation that they accept any offer, and a new activity test, embedding a ‘reciprocal obligation’ philosophy (Bessant et al., 2006). This tied “citizenship rights and social rights with labour market participation” (Soldatic & Pini, 2009, p. 79) and sought to breakdown welfare dependence. Additionally, in line with neoliberalism

the Hawke-Keating government began the process of privatisation (Harris, 2001), in part privatising the case management of welfare recipients. However, during the Hawke-Keating government, disability was largely excluded from reciprocal obligations attached to other groups of welfare recipients (Soldatic & Pini, 2009). The foundations laid during the Hawke-Keating government and the focus on an active society and reciprocal obligations to combat welfare dependency were continued and extended during the Howard government as well as privatisation. Soldatic and Pini (2009) suggest that neoliberalism achieved orthodoxy status under the Howard government.

In 1997, the Howard government introduced the *Work for the Dole* workfare program. *Work for the Dole* encapsulated mutual obligation, individualised unemployment and assumed that those unemployed were welfare dependent (Henman, 2004). *Work for the Dole* sought to encourage the unemployed to develop a work initiative through regular involvement in employment. In 1998 the Howard government also privatised the Commonwealth Employment Service establishing the Job Network (Mendes, 2008). Through the Job Network, commercial and not-for-profit organisations compete for government contracts to provide employment services to welfare recipients. The privatisation of employment services was suggested to “be more effective ... due to greater competition, increased flexibility to respond to individual circumstances, and emphasis on job placement outcomes, rather than inputs” (Mendes, 2008, p. 145).

In 1999, Senator Jocelyn Newman, Minister for Family and Community Services at the time, outlined the Howard Government's intentions to reform the welfare system and establish two groups of persons with disabilities. These two groups featured "those who could not work at all and required ongoing access to government-funded disability pensions, and those who could participate in a rapidly expanding part-time labour market" (Soldatic & Pini, 2012, p. 188). This is not dissimilar to changes made to the welfare state in other Anglo-Sphere countries, such as Canada due to restructuring under neoliberalism. For instance, Chouinard and Crooks describe how groups previously considered as part of the 'deserving poor' in the province of Ontario experience restrictions with regard to accessing welfare payments because they were assessed as "not 'disabled enough'" (2005, p. 23).

Also, in 1999, the Howard government formed and then commissioned the Reference Group on Welfare Reform to investigate the welfare system and provide alternatives to the current system (Daniels & Yeend, 2005). The Reference Group on Welfare Reform was chaired by Patrick McClure AO. The intentions of the Review were to broaden the application of mutual obligation to other welfare payments and to mitigate the trap of welfare dependency in order to encourage greater self-reliance (Bessant et al., 2006). The Green Paper of the Reference Group *Participation Support for a More Equitable Society* recommended that the income support system be underpinned by a participation for support model seeking to produce social and economic outcomes in return for benefit receivership (Buckmaster, 2014b). It also recommended that "the capacity for work criterion (the 30-hour threshold) for people with disabilities [be reviewed] ensuring that any such criterion is in line with

contemporary patterns of labour market participation” (Reference Group on Welfare Reform, 2000, p. 44). This recommendation in part led to some of the most significant changes to disability and welfare policy.

In 2006 the Howard government implemented the *Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Act 2006* to legislatively address changes announced in the 2005-06 Federal Budget (Commonwealth of Australia, 2005; Daniels & Yeend, 2005). The *Welfare to Work Act* tightened the eligibility criteria for the *DSP* excluding those with a PCW. The reforms sought to reduce increasing claims for the *DSP* (Daniels & Yeend, 2005) which was taken as an indication of a culture of welfare dependency (Galvin, 2004; Goggin & Newell, 2005; Humpage, 2007a). Additionally, the changes were justified as a solution to establishing a higher working age population in order to address concerns about the decreasing working age population caused by the retirement of the ‘baby boomer’ generation (Mendes, 2008).

The successful passing of *Welfare to Work* and changes to the *DSP* eligibility criteria is attributed to the Coalition’s control of both chambers of Parliament, that is, the House of Representatives and the Senate, at this time (Humpage, 2007a, 2007b; McDonald & Chenoweth, 2006; Sarah Parker & Cass, 2005; Soldatic & Chapman, 2010; Soldatic & Pini, 2009). The Coalition had previously attempted three times to pass similar reforms (Daniels & Yeend, 2005). Legislation in Australia is generally required to be passed by both chambers of Parliament in order to progress into Law.

The Howard government, through *Welfare to Work*, decreased “work criterion hours” (Soldatic & Chapman, 2010, p. 142) for people with disability, cutting “the disability work test ... in half” (Soldatic & Chapman, 2010, p. 149) from 30 hours per week to 15. Those persons with disabilities assessed through the Job Capacity Assessment as capable of working 15 hours per week were excluded from the *DSP* and had to apply for an alternative income support payment, such as *NSA* (Humpage, 2007a). This exclusion established the PCW category which does co-exist in other payment types apart from *NSA* such as Youth Allowance (YA) and Parenting Payment (PP) single and partnered (Senate Standing Committee on Education Employment and Workplace Relations, 2010). However, this research specifically focuses on the PCW category in the *NSA* payment, as since the category’s inception a higher proportion of people with a PCW are on *NSA* rather than another payment type, according to Senate Estimates hearings (See for example, Senate Standing Committee on Education Employment and Workplace Relations, 2010, 2012).

However, people with a PCW “have reduced participation requirements” (Commonwealth of Australia, 2005, p. 9) unlike the broader *NSA* population and are able to access concessions and allowances, such as pensioner concessions, a telephone allowance and a pharmaceutical allowance (Daniels & Yeend, 2005). Through retaining access to such concessions it is claimed that the government is continuing to provide a similar level of support to people with a PCW (Commonwealth of Australia, 2005, p. 129). They are also required to look for part-time rather than full-time employment.

Welfare to Work established a contract between people with a PCW and the government, a mutual obligation which required them to search for work, attend interviews and apply for positions as well as document this process for payment eligibility. It also legislated breaching sanctions to penalise *NSA* recipients, including people with a PCW, who fail to comply with their agreements seeking to produce an active citizen. If a recipient breached their contract once or twice within a 12 month period then they were suspended from receiving payment, unless compliance ensued (Marston & McDonald, 2007). However, upon a third breach in a 12 month period payment is suspended for eight weeks with no option to re-engage (Marston & McDonald, 2007). An eight week suspension of payment is also applied automatically if a recipient behaves ‘inappropriately’ in a workplace and loses a job or fails to take up employment opportunities (Commonwealth of Australia, 2005; Daniels & Yeend, 2005).

The establishment of a PCW category is consistent with policies of other OECD member countries, such as Canada also treating people with a PCW like the unemployed and jobseekers (Chouinard & Crooks, 2005; OECD, 2007). This has seen “a re-orientation of disability policy from passive compensation to active integration” (OECD, 2007, p. 4). The OECD report *New Ways of Addressing Partial Work Capacity*, suggests that ideally, people with a PCW should not be excluded from employment nor leave the labour market after acquiring an impairment when they have a partial work capacity (OECD, 2007). This would ensure their social inclusion, “raise the living standards of the individuals in question and maintain effective labour supply in the face of an ageing population” (OECD, 2007, p. 4). However, this is not the case and often people with a PCW receive disability benefits

because of inadequate policies to support them in employment (OECD, 2007). The OECD (2007) states that because countries are increasingly concerned about creating a dependency on benefits by placing persons with some work capacity on disability benefit, there is an emphasis on policy change to ensure that people with a PCW do not access disability income support.

In 2007, the Howard government was not re-elected and the Rudd Labor government assumed power. The Rudd Labor government did not make any changes to the disability criterion retaining the distinction between *DSP* recipients and people with a PCW. However, it did “increase... focus on training and increased funding for disability employment supports” (Soldatic & Pini, 2012, p. 191).

The Labor leadership was challenged and won by Julia Gillard who became Prime Minister in 2010. The Gillard Labor government further extended the Howard government’s *Welfare to Work* measures by tightening the eligibility criteria for the *DSP* (Soldatic & Pini, 2012) through the *Family Assistance and Other Legislation Amendment Act 2011*. As outlined in the Introduction the changes meant that in order to assess whether an applicant had a ‘continuing inability to work’ they had to demonstrate that they had previously actively engaged with a POS, like DES. Active engagement with a POS was assessed as complying with the program requirements as well as being engaged with the program for 18 months within the three years immediately prior to claiming *DSP* (DSS, n.d). If a person could not prove that they had previously engaged with a POS then they were excluded from the *DSP*, had to apply for an alternative income support payment, such as *NSA* and engage with a POS for 18 months. The National Welfare Rights Network (NWRN) (2011) describe

this change as requiring people to test their work capacity before becoming eligible for the *DSP*. “[T]he majority of people who would have their *DSP* claim rejected and referred to undertake a program of support, would be eligible to receive NSA with PCW status while they undertake the program” (Kim, Enquiries Officer, Feedback Coordination Team, DSS, personal communication via email, 3 February 2014).

However, those with a ‘severe disability’ were automatically eligible for the *DSP*. ‘Severe disability’ is measured through being assessed as unable “to undertake any work or training within the next two years” and “reach[ing a minimum of] twenty points in one impairment table alone” (Daniels, Garden, Buckmaster, & Yeend, 2011, p. 13). Impairment tables assess the severity or impact of impairment in relation to work and assign a rating (DSS, 2014a) and are used as part of the broader Job Capacity Assessment which assesses whether an applicant is capable of working 15 hours per week (Daniels, Buckmaster, & M. Thomas, 2011).

The Gillard government also removed the impairment tables from the *Social Security Act 1991 (Cth)* and revised them, placing them in a Legislative Instrument. This enabled the government to regularly update the tables, as previously to make changes to the Act a bill was required to be passed by both chambers of Parliament (Daniels, Buckmaster, et al., 2011). The revised impairment tables were operational from January 1, 2012 (DSS, 2013c). “Given ... the ... commitment to increasing the workforce participation of people with disabilities, ... changes to the Impairment Tables could no longer be put off” (Daniels, Buckmaster, et al., 2011, p. 6).

The reforms made to *DSP* eligibility by the Howard government established the PCW category in several welfare payments, though this research will focus upon the PCW category in the unemployment benefit *NSA*. The following section will outline the emergence of income management and identify the type of income management that this research is concentrating on. What becomes significant in the next section is how the income management of *NSA* recipients could lead to the income management of people with a PCW at the policy intersection of *Welfare to Work* and income management. This emphasises the need to examine policy intersections with regard to constructing and regulating subjects.

Income management

Income management controls and quarantines part of the income support payments of selected welfare recipients in specific areas (Billings, 2011; Yeend & Dow, 2007). Most income support payments can be income managed depending on the type of income management applied to the individual. Income management seeks to ensure that welfare payments are adequately spent on ‘priority goods’ (Billings, 2009) such as, food and healthcare and is considered by the government as “a tool to reduce alcohol related violence, to protect children, to guard against humbugging³ and to promote personal responsibility” (Gartrell, 2008, p. 4). It also encourages responsible behaviour consistent with social norms. Income management was the first time that conditions were placed on how welfare recipients could spend their income support payments (Buckmaster et al., 2012). Income managed welfare payments are put into an Income Management account (Yeend & Dow, 2007). From there limited funds are available to the welfare recipient often via a *BasicsCard*. The

³ “‘Humbugging’ has various definitions but generally refers to the practice of (sometimes violently) demanding money from relatives” (Buckmaster et al., 2012, p. 4).

BasicsCard is a pin protected Electronic Funds Transfer at Point of Sale (EFTPOS) card that income managed funds are stored on (DHS, 2014a). A *BasicsCard* can be used at “approved stores and businesses” (Billings, 2011, p. 168) with recipients restricted on the items they can buy; for example, they cannot buy alcohol and tobacco. The amount quarantined or managed is dependent on the type of income management applied to the individual and the type of welfare payment they receive (Yeend & Dow, 2007). For instance, some have 50 per cent of their disposable income quarantined, whilst others have 70 per cent. Generally, 100 per cent of lump sum payments are managed. Income management becomes an extension of mutual obligation linking the receivership of income support to behavioural changes.

There are various types of income management; however, this research focuses on one form of income management, that is, the long-term payment recipients measure of New Income Management. Nevertheless, this section will discuss the emergence of income management and describe the various types in order to provide the policy context and distinguish the site of study.

Income management emerged as a policy to predominantly regulate Indigenous welfare recipients, particularly in the NT, and in fact, despite the expansion of some types of income management to target Indigenous and non-Indigenous welfare recipients in some of the forms of income management it is a policy which still mainly regulates Indigenous people (Bray et al., 2012; Buckmaster et al., 2012). However, this expansion, particularly in relation to the NTER, becomes the point at which this research examines income management’s intersection with the PCW category through the long-term payment recipients measure.

Income management and the NTER

Income management or welfare quarantining was first introduced during the NTER, through the *SSOLA (Welfare Payment Reform (WPR)) Act 2007 (Cth)* in remote Indigenous communities in the NT. The *SSOLA (WPR) Act 2007* was part of a package of five Bills implemented through the NTER legislation by the Howard government in response to the *Ampe Akelyernemane Meke Mekarle “Little Children are Sacred” (LCAS) Report* (A. Brown & Brown, 2007; Buckmaster, Gardiner-Garden, M. Thomas, & Spooner, 2010; Maddison, 2008).⁴ The *LCAS Report* was produced by the NT Board of Inquiry into the Protection of Aboriginal Children from Sexual Abuse which was commissioned by the NT government to investigate reports of widespread child sexual abuse in Indigenous communities and the barriers to redressing such abuse (Wild & Anderson, 2007). The NTER legislated, in 73 predominantly Indigenous prescribed areas in the NT, widespread alcohol restrictions, welfare reform measures, enforced school attendance, ensured compulsory health checks for Indigenous children, increased police presence in the communities, acquired townships for a five-year period, removed the permit system and condition of customary law when sentencing and encouraged a ground clean up and repair of the communities to make them safer and healthier (Bacchi, 2009; Hinkson, 2007; Kelada, 2008; Maddison, 2008; Tedmanson & Wadiwel, 2010; Thill, 2009). While Indigenous people with a PCW could have been income managed through the *SSOLA (WPR) Act 2007*, the Act was superseded in 2010 and is not a focus of this research.

⁴ Although it has been contested that the NTER served an alternative agenda of the Howard government (A. Brown & Brown, 2007; Hinkson, 2007; Langton, 2007; Maddison, 2008).

Through the NTER the Federal government indiscriminately subscribed Indigenous people in these prescribed areas in the NT receiving welfare payments for at least two years to income management (Billings, 2011; Langton, 2007). The *SSOLA (WPR) Act 2007* also suspended the *RDA 1975 (Cth)* as well as State and Territory anti-discrimination legislation because those subscribed to income management were treated differently based on their race (Buckmaster et al., 2012).

The indiscriminate and racially targeted application of income management to Indigenous welfare recipients in prescribed areas in the NT was extensively problematised. In 2008, there was a review into the NTER commissioned by the Rudd Labor government, which suggested that income management only apply to those referred to it by a child protection officer or for poor school attendance and non-enrolment rather than automatically to all Indigenous welfare recipients in prescribed areas (Maddison, 2008). This recommendation was ignored by the then Indigenous Affairs Minister, Jenny Macklin, with income management and the suspension of the *RDA 1975* continuing for a further 12 months from October 2008 (Billings, 2010b). The United Nations (UN) Economic, Social and Cultural Rights Committee also raised problems with income management, suggesting that Australia review income management because it negatively disadvantaged, discriminated against and impacted upon Indigenous people (Billings, 2010b). This similarly did not occur.

In November 2009, the Rudd government announced its intention to reinstate the *RDA 1975* and broaden income management to theoretically target both Indigenous and non-Indigenous welfare recipients, initially in the NT. Practically,

however, the New Income Management measures still predominantly impacted on Indigenous welfare recipients in the NT through the target categories (Bray et al., 2012; Buckmaster et al., 2012). “According to the Government, this was to be the ‘first step in a national roll out of income management in disadvantaged regions’” (Buckmaster et al., 2012, p. 5). The *SSOLA (WPR) Act 2007* was superseded by the *SSOLA (Welfare Reform and Reinstatement of the RDA) Act 2010*, which reinstated the *RDA 1975*. The Act extends income management to those who receive income support in specific ‘vulnerable’ and ‘disadvantaged’ locations deemed ‘at risk’ (Billings, 2011; Buckmaster et al., 2012) theoretically irrespective of their race. The extension of income management is “needs-based” (Billings, 2011, p. 169) with “the new system ... designed to target and support especially vulnerable welfare recipients “due to their high risk of social isolation and disengagement, poor financial literacy and participation in risk behaviours”” (Billings, 2011, p. 180). “Indicators of vulnerability are: financial hardship; financial exploitation; failure to undertake reasonable self-care; and homelessness or risk of homelessness” (Billings, 2011, p. 181). Unlike, the original NTER income management, this type of income management does not target payments deemed less at risk such as the *DSP*, unless recommended by a child protection officer or Centrelink social worker (Buckmaster et al., 2012). Centrelink forms part of the DHS and is responsible for the distribution of social security payments and supports (Australian Government, n.d.).

This extension to target both Indigenous and non-Indigenous welfare recipients in the NT to make the policy consistent with the *RDA 1975* included the Parenting/ Participation Measure. This Measure automatically targets those classified as “disengaged youth” (Commonwealth of Australia, 2009, p. 3) and long-term

welfare recipients who receive *YA*, *NSA*, *Special Benefit* or *PP*, single or partnered, and is automatically triggered by the length of duration on payment. “Disengaged youth” (Commonwealth of Australia, 2009, p. 3) refers to those aged between 15 and 24 years who have been receiving income support for three of the last six months (Buckmaster et al., 2012). Long-term welfare recipients are those aged 25 years and above who have been receiving income support “for more than one of the last two years” (Buckmaster et al., 2012, p. 11). The long-term welfare recipients part of the Parenting/ Participation Measure is the type of income management examined in this research with an emphasis on *NSA* recipients with a PCW.

In spite of the automatic nature of the “long-term welfare payment recipients” (Commonwealth of Australia, 2009, p. 3) measure there is scope for these recipients to apply for an exemption from the Parenting/ Participation Income Management Measure. In order to apply for an exemption they must demonstrate ““responsible parenting or participation in employment or study”” (Buckmaster et al., 2012, p. 25), that they can meet the priority needs of themselves and their family, that they “are not vulnerable to financial exploitation” (Buckmaster et al., 2012, p. 25) and that they are behaving in a socially responsible manner (Buckmaster et al., 2012). Concerns with this exemption criteria for people with a PCW will be discussed later on in the thesis.

Other Types of Income Management

However, there are many forms of income management which will be highlighted below. The reason for drawing attention to the other forms of income management is to emphasise the uniqueness of the automatic income management of

welfare recipients in the Parenting/ Participation Measure, in particular the long-term payment recipients measure which could include *NSA* recipients with a PCW. This automatic subscription to income management is significant because people with a PCW are not referred or recommended to be income managed by a Centrelink social worker, a child protection officer or the Family Responsibilities Commission (FRC), like in the other types of income management, but under the long-term welfare recipients measure are automatically subscribed once receiving welfare for 12 of the last 24 months. Additionally, it does not “target specific classes of individuals whom it is considered would benefit from income management” (Buckmaster et al., 2012, p. 33) like in an opt in or voluntary approach nor does it operate on a “last-resort suspension approach” (Buckmaster et al., 2012, p. 32). This is problematic because as Altman and Hinkson (2010) suggest with regard to NTER income management, there is the possibility of capturing those who already spend their income support payments responsibly and thus do not require their income to be managed.

Further, particularly with regard to people with a PCW the criteria to designate long-term payment recipients is likely to automatically capture people with a PCW disregarding the fact that long-term unemployment rates are higher for Indigenous people and people with disability (Fowkes, 2011) and the role of discrimination in effecting the employment outcomes and opportunities of Indigenous people and people with disability.

Income management was also trialled in four remote Indigenous communities in Cape York, Queensland. This was called the Cape York Welfare Reform Trial and involved a partnership between the Federal government, the Queensland State

government and the Cape York Institute for Policy and Leadership, chaired by Indigenous leader Noel Pearson (Buckmaster et al., 2012). Unlike in prescribed areas in the NT, people in Cape York were not automatically subscribed to income management. Instead, the Cape York trials established a FRC which oversaw the cases of those who engaged in dysfunctional behaviours (Billings, 2009). The FRC was commissioned to make agreements with community members who violated one of five triggers. Income management could be included in an agreement between the individual and the FRC although it was “a measure of last resort” (Billings, 2010b, p. 174).

The *SSOLA (WPR) Act 2007* also legislated the school enrolment and attendance income management measure. This form of income management linked welfare payments to school attendance and intended to “stem the flow of cash into [prescribed Indigenous] communities [in the NT]” (Maddison, 2008, p. 43). However, under the Howard government this type of income management was not introduced anywhere in Australia (Buckmaster et al., 2012). However, in 2008, the Rudd government introduced the School Enrolment and Attendance Measure (SEAM). Through SEAM income support payments could be suspended as a final option in cases of non-enrolment and poor school attendance after attempts of discussion and planning with a NT Attendance and Truancy Officer (Buckmaster et al., 2012; Department of the Prime Minister and Cabinet, 2014). This applies in several communities in the NT (Buckmaster et al., 2012; DHS, 2013b).

People can also be referred for income management by a child protection officer, under Child Protection Income Management (Commonwealth of Australia, 2007) which predominantly operates in parts of the NT and Western Australia (WA) (Buckmaster et al., 2012) or by a Centrelink Social Worker, under the Vulnerable Welfare Payment Recipients Income Management. These types of referrals form the main components of Place Based Income Management operating in five disadvantaged locations across Australia (DHS, 2014c), Income Management in Anangu Pitjantjatjara Yankunytjatjara (APY) Lands, South Australia, and Income Management in the Ngaanyatjarraku Shire, Laverton Shire and Kiwirrkurra Community, WA (DHS, 2014c; DSS, 2013a). Additionally, through the Supporting People at Risk Measure, authorities in the NT can direct people with alcohol related problems to income management (Buckmaster et al., 2012). Finally, welfare recipients in certain locations can choose to be voluntarily income managed (Buckmaster et al., 2012).

In spite of the various forms of income management, this research focuses on the long-term payment recipients measure in the NT implemented through the *SSOLA (Welfare Reform and Reinstatement of the RDA) Act 2010*. This is because of its capacity to capture people with a PCW through automatic income management. Whereas, the other forms of income management are based on referrals, used as a last resort or an opt in process, income management under the long-term welfare recipients measure is triggered by receiving income support payments for at least 12 of the last 24 months. As suggested, this income management criterion is likely to

capture people with a PCW based on the high rates of long-term unemployment among people with disability and the discrimination they experience in accessing employment opportunities. This will be explored in more detail in Chapter Five.

The NDIS

The NDIS provides a person-centred, self-directed approach to reasonable and necessary care and support for people with severe and profound disabilities in Australia. It uses an individualised funding model (Buckmaster & Tomaras, 2013) and is a significant shift in the provision and funding of disability services in Australia (NDIS, 2012b). It is underpinned by the principles of choice and control for participants who are able to, for example, choose the provider of their care and support needs. The need for the NDIS is well documented, based on problems with the previous disability care and support system, including its fragmentation and complexity (Buckmaster & Tomaras, 2013).

Previously, the disability care and support system in Australia provided different levels of care and support depending on how impairment was acquired and in what State or Territory the person lived (NDIS, 2012b). The previous system also struggled to address the needs of many persons with disabilities, their families and carers (NDIS, 2012b). In addition, the increasing ageing population provides further evidence of the need for a NDIS. An ageing population could, for example, place increased demand on an already under resourced and underfunded system and could contribute to a decrease in the number of unpaid carers, including family members

available to support and care for persons with disabilities (NDIS, 2012b). This is problematic because the previous disability support system was propped up by the extensive unpaid and informal work of family members as carers.

The NDIS emerged as a 'Big Idea' of the Rudd Labor government's 2020 Summit in 2008 (Bonyhady, 2009; Soldatic & Pini, 2012). The 2020 Summit was an Australian government forum which gathered "1,000 of the "best and brightest brains"" (M. Davis, 2008, p. 1) from outside the government to discuss Australia's long-term future in an array of policy areas. The NDIS' acceptance as a 'Big Idea' of the Summit followed a proposal submitted to the Summit outlining the need for a care and support scheme for persons with disabilities by Bruce Bonyhady and Helen Sykes (See, Bonyhady & Sykes, 2008).

In 2009, the Rudd government committed to investigating a care and support scheme for persons with disabilities "in response to the campaign for national disability insurance" (Buckmaster & Tomaras, 2013, p. 6) by disability and carer organisations, in conjunction with developing a National Disability Strategy (Australian Government, 2009c). The government requested specifically that the Productivity Commission investigate the feasibility of a long-term care and support scheme for people with disability (Buckmaster & Tomaras, 2013). Additionally, in 2009, the report by the National People with Disabilities and Carer Council, *Shut Out*, was released. This report was to inform the development of a National Disability Strategy (National People with Disabilities and Carer Council, 2009).

In July 2011, the Productivity Commission recommended a NDIS problematising the adequacy of the previous care and support scheme (NDIS, 2012a). The Productivity Commission report outlined a three-tiered care and support scheme. The first tier was intended for all Australians providing protection and insurance “in the event that they or a family member, acquire a significant disability” (Productivity Commission, 2011, p. 10). This tier also sought to reduce the impact of disability on people with disability through “promoting opportunities for people with disability”, “creating awareness ... of the issues that affect people with disability and the advantages of inclusion” (Productivity Commission, 2011, p. 12). Additionally, it intended for the data and research acquired by the National Disability Insurance Agency (NDIA), the body in charge of administering, delivering and managing the NDIS, (Buckmaster & Tomaras, 2013) to be used “to engage with other agencies to improve public health and safety” (Productivity Commission, 2011, p. 12). The second tier is for all persons with disabilities and will provide “information and referral services (as distinct from [the] funded support [provided in Tier three])” (Productivity Commission, 2011, p. 12). It will also have a community capacity building component where local area coordinators (LAC) (NDIS case managers) will connect persons with disabilities to existing community organisations and provide small grants to these organisations assisting them to involve persons with disabilities. This “strengthen[s] the voluntary links between the community and people with disabilities ... stimulat[ing] social capital” (Productivity Commission, 2011, p. 13). The third tier provides funded support “for people with significant care and support needs” (Productivity Commission, 2011, p. 13) who meet the age, disability or early intervention and residency requirements (Productivity Commission, 2011).

The ‘Every Australian Counts’ campaign emerged to push the government to implement the recommendations of the Productivity Commission report and consequently the NDIS. The ‘Every Australian Counts’ campaign included persons with a lived experience of disability, carers, families, service providers and advocates (Della Bosca, 2011). Its plan was to “build a movement”, “spread the word” (Della Bosca, 2011, p. n.p.) about the need and importance of a NDIS and encourage campaigners to speak to their local MPs, to tell their stories and get their local MPs’ support for the NDIS.

A month after the Productivity Commission report, the Gillard Labor government committed to the NDIS and announced funding for it in the 2012-13 Federal Budget (Buckmaster & Tomaras, 2013). In November 2012, the NDIS legislation was introduced into Parliament, passing in March 2013. The NDIS is comprised of three tiers following the recommendations of the Productivity Commission (Buckmaster & Tomaras, 2013). The NDIS operates through “complex bilateral agreements between the relevant States and Territories and the Commonwealth” (Bigby, 2014, p. 313).

The NDIS is not means tested. However, in order to be eligible for Tier 3 people have to meet age, disability or early intervention and residency requirements (Buckmaster & Tomaras, 2013). Specifically, the age requirements exclude persons aged 65 and over from becoming participants in the Scheme unless supported through the Scheme prior to turning 65 (Buckmaster & Tomaras, 2013). “A person *meets the disability requirements* if: (a) the person has a disability that is attributable to one or more intellectual, cognitive, neurological, sensory or physical impairments

or to one or more impairments attributable to a psychiatric condition” (*NDIS Act 2013*, p. 28). The impairment has to be permanent and impact on one’s psychosocial functioning or functional capacity to communicate, socially interact, learn, be mobile, self-care and self-manage (*NDIS Act 2013*). It also has to impede on an individual’s economic and social participation and require lifetime care and support under the NDIS (*NDIS Act 2013*). The early intervention requirements require that the person has a disability defined as above that is likely to be permanent or “is a child who has a developmental delay” (*NDIS Act 2013*, p. 29). Additionally, the CEO of the NDIA must be satisfied that the early intervention supports provided are likely to decrease the supports required in the future and be beneficial to the recipient (*NDIS Act 2013*). In relation to residency requirements, persons accessing the NDIS must be “an Australian citizen, permanent visa holder or holder of a protected special category visa” (Buckmaster & Tomaras, 2013, p. 30).

The NDIS will commence in full across Australia from 2018 (Buckmaster & Tomaras, 2013) though Tier 3 is currently operating in and being rolled out to trial sites (previously ‘launch sites’). These trial sites are testing different aspects of Tier 3 and the best ways to transition persons from the existing disability care and support system to the NDIS. For example, the South Australian trial site targets children aged 0-14 years and considers mainly early intervention supports. The Tasmanian trial targets young persons aged 15-24 years, focusing on the school to work or higher education transition. New South Wales is trialling the Scheme in the Hunter local government area and from July 1, 2014 the Australian Capital Territory (ACT) began trialling the whole Scheme (Buckmaster & Tomaras, 2013). However, there has been less of a focus on Tier 1 and Tier 2.

The future and the PCW category: 2014-15 Budget Changes and McClure

Although excluded from analysis in this research, it is important to outline the 2014-15 Abbott government Federal Budget changes because they could have an impact on the PCW category. The changes from July 1, 2014 will reassess *DSP* recipients under 35 years of age who were declared eligible for the *DSP* between January 1, 2008 and December 31, 2011 and who are capable of working eight hours or more (Buckmaster, 2014a; DHS, 2014b). These people will be assessed through the revised impairment tables introduced by the Gillard government on January 1, 2012. Those then assessed as no longer eligible for the *DSP* will have to apply for another payment, such as *NSA* in order to receive income support (Buckmaster, 2014a).

Also from July 1, 2014 *DSP* recipients under the age of 35 and capable of working at least eight hours per week will have compulsory work-focused activities tied to payment receivership. Those who do not complete their activities could have their payment suspended or cancelled (DHS, 2014b).

Additionally, there is currently a review being conducted into the income support system. The review was commissioned in late 2013 by the then Minister for Social Services, the Honourable Kevin Andrews. The investigation, conducted by Mr Patrick McClure AO, who previously reviewed Australia's income support system in 1999, has recently handed its interim report to the Federal government (Karvelas,

2014a). According to Karvelas, “[t]he McClure review will call for the sweeping overhaul of the Disability Support Pension, suggesting it be linked to the NDIS with a tougher “capacity” test to see how many hours people are capable of working” (2014b, p. 1).

Conclusion

Australia’s welfare state emerged following the Second World War, although pension provisions had been in place for people with disability from 1908. The post-war welfare state supported Keynesian policies and notions of full employment and receiving income support was seen as a right of social citizenship, although unemployment was seen as temporary. Upon the realisation that unemployment was not temporary the emphasis of welfare shifted.

Reforms to the Australian welfare state have been influenced by the increasing ageing population, globalisation and neoliberalism as well as international ideologies such as, those by the OECD. This shift largely occurred during the leadership of the Hawke-Keating Labor government and the Howard Liberal National Coalition government. However, it was suggested that the Howard government made the most significant policy reforms to disability and welfare.

In 2000 the Howard government commissioned the Reference Group on Welfare Reform to examine possible changes to the welfare state. The Group recommended that the work capacity test for people with disability reflect the contemporary workforce norms (Reference Group on Welfare Reform, 2000). Legislatively, the Howard government attempted to make changes to the work test

criterion for people with disability several times before succeeding with the *Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Act 2006*. The *Welfare to Work Act* changed the work capacity test meaning that those persons with disabilities assessed as capable of working 15 hours or more per week were excluded from the *DSP*. As a result they had to apply for an alternative income support payment, such as the unemployment benefit, *NSA*. This subscribed them to job search requirements and meant that they could be regulated through breaching penalties should they fail to meet their obligations with the state.

Following the Howard government, the Rudd government made no changes to the *DSP* eligibility criteria for people with disability, however, the successive Gillard government did. The Gillard government's changes by requiring people with disability applying for the *DSP* to have previously engaged with a POS could have forced more persons with disabilities onto *NSA* with a PCW.

Income management emerged as part of the Howard government's emergency response in the NT to allegations of child sexual abuse in remote Indigenous communities. NTER income management applied to Indigenous Australians however, was superseded by New Income Management measures in response to the racially discriminatory application of NTER income management. The "long-term welfare payment recipients" measure (Commonwealth of Australia, 2009, p. 3), part of the Parenting/ Participation measure of New Income Management, is the type of income management analysed in this research. Long-term payment recipients income management theoretically applies to Indigenous and non-Indigenous welfare recipients who have been in receipt of income support

payments including *NSA* for 12 of the last 24 months. Based on the criteria determining long-term payment recipients it was suggested that it was likely to capture people with a PCW. This was because of the automatic way in which the measures are applied, disregarding the fact that a higher proportion of the long-term unemployed are people with disability who lack the same opportunities for employment.

Despite not explicitly focusing on the need to acknowledge, recognise and analyse the intersection of policy, this chapter lays the foundations of the research through establishing the policy context and provides evidence of the potential for these policies to intersect in governing subjects on *NSA*, including people with a PCW. Rather than intersectional the policies are seen as distinct documents. This ignores their potential for intersection in constructing and governing subjects which is worth drawing attention to. It also ignores the common employment of discourses of welfare dependency, mutual obligation and active citizenship in governing. The following chapter examines existing scholarship by governmentality scholars on the welfare state, disability studies scholars on the welfare state and CRAWs scholars on income management. This chapter enhances the emphasis of a gap in existing scholarship which does not highlight the intersection of the Howard government's *Welfare to Work* changes and income management in regulating subjects of the income support system, in particular, people with a PCW.

CHAPTER TWO: LITERATURE REVIEW

Introduction

The previous chapter outlined the policy context. It described the influence of neoliberalism in the reformation of the welfare state. This chapter will highlight the impact of political rationalities on the welfare state and the way that they operate to govern citizens through the exploration of existing literature by governmentality scholars and the welfare state, disability studies scholars and the welfare state and CRAWs scholars and the welfare state.

Evident will be instances of neoliberal, neo-paternalistic and neo-conservative rationalities. Though neoliberalism and neo-conservatism are arguably distinct political rationalities (W. Brown, 2006), they operate together alongside neo-paternalism to regulate welfare recipients in Australia. As mentioned in Chapter One, a neoliberal rationality emphasises deregulation, privatisation, the free market, a preference for minimal state intervention and a reduction in state expenditure (Mendes, 2008). A neo-paternalistic or paternalistic rationality justifies intervention to regulate problematic populations or citizens. Neo-paternalism is underpinned by the importance of mutual obligations in the welfare state in order to encourage or coerce welfare recipients into employment (Mendes, 2008). A neo-conservative rationality whilst supporting the market as the means to distribute goods and services, does not support the free market. It supports notions of equality of opportunity, rather than equality of outcome and understands the welfare state as having an important function in society. However, from a neo-conservative

perspective the welfare state can produce dependency and should not inhibit initiative and responsibility thus supporting policies which seek to discourage welfare dependency.

In addition, the conclusion of the previous chapter implied that exploring the policy context drew attention to the potential for policy intersection in governing people with a PCW. It also highlighted the importance of analysing this intersection for how people with a PCW are constructed and governed in the recent reforms to the income support system for people with disability and in relation to changes to disability care and support in Australia. This chapter continues the emphasis on acknowledging and analysing policy intersections through identifying a gap in existing scholarship. Specifically, there is a dearth of literature on the income management of people with disability generally and people with a PCW more particularly hence requiring this section to examine how CRAWs scholars discuss how Indigenous Australians are constructed and governed in income management. It is a contention of this chapter then that existing scholarship does not acknowledge or examine the intersection of policy's governing people with a PCW rather primarily focuses on the initial inception of the category in *Welfare to Work*.

Governmentality scholars and the welfare state

Governmentality theorists are influenced by the work of French philosopher Michel Foucault and examine the mechanisms and modes of rule employed to govern citizens and direct conduct (Dean, 1995, 1999). Governmentality theorists suggest that policy constructs policy 'problems' simultaneously creating policy subjects and how they are to be regulated or ruled and through what mechanisms

(Bacchi, 2009; Dean, 1999). However, governmentality scholars are not simply concerned with how the government regulates its subjects but with all the mechanisms and techniques which are employed to direct conduct (Dean, 1995). Governmentality scholars who analyse welfare policy largely discuss the unemployed. The unemployed were the first group of welfare recipients to be affected by the shift in understandings of welfare and the individualisation of the 'problem' of unemployment which began during the Fraser government in the 1970s. As mentioned in Chapter One, this began as a result of the realisation that unemployment was not a short-term condition anticipated under policies of full employment and Keynesianism. The Fraser government invoked the term 'dole bludger' thus reframing the problem (Marston & McDonald, 2007) of welfare receivership through a discourse which focused on the individual as the 'problem' and as their own barrier to employment. The unemployed were assumed in this regard to be welfare dependent and devoid of any work ethic (Henman, 2004). Additionally, the receivership of income support was presumed to be a disincentive to participating in the market (Dean, 1995). These assumptions and reforms were continued and extended under the Hawke-Keating government and the Howard government as evidenced in Chapter One. This shift in understanding saw "... an income support system with limited obligations on the unemployed ... [be] replaced by a system deeply entwined with the market centred philosophy of neoliberalism and the paternalism of social conservatism" (Lantz & Dee, 2012, p. 2). This justified the close scrutiny of welfare recipients and policies underpinned by reciprocal or mutual obligations in order to produce self-reliance and compliance with certain social values (Dee, 2013).

Discourses of welfare dependency thus “construct ... particular subjectivities” (Hartman, 2005, p. 63) about the underemployed and unemployed, such as the ‘dole bludger’. The underemployed and unemployed are represented as in need of discipline and coercion because they are assumed to be lazy, passive and problematic as a result of their unemployment. This produces unemployment as an individualised ‘problem’ suggesting that there is something wrong with the unemployed which causes their unemployment. Unemployment is also represented as a ‘choice’. Dean suggests the use of the concept welfare dependency “condenses and in a sense confuses moral and psychological characteristics with the simple administrative condition of requiring poor relief” (2002, p. 46). Although its continued use has justified the regulation of the unemployed through increased surveillance and monitoring practices which are institutionalised in the structure and organisation of the income support system and employment services. This increased regulation of the unemployed reflects the operation of social conservatism in this context where the unemployed are monitored and disciplined for their lack of compliance with mainstream social values around self-reliance and employment. Lantz and Dee (2012) suggest that this surveillance, control and regulation is at odds with the freedom and choice underpinning neoliberalism, however freedom is suspended for the unemployed because of assumptions made about their character based on their unemployment.

The unemployed however, through the reforms of the Hawke-Keating government and the Howard government, also became constructed as ‘job-seekers’. For example, Dean (1995) suggests that welfare payments in the context of the Keating government were not given to the unemployed but to the ‘job-seeker’ who

must complete their reciprocal obligations with the state. In this way, the unemployed shift from being classified through the passive term ‘unemployed’ to the active identity of the ‘job-seeker’. Therefore, “[i]nstead of granting a *claimant* her/his rightful *benefit*, the state provides an *allowance* and services on the condition that the *client* engages in job-search activities” (Dean, 1995, p. 574). This seeks to invoke behavioural change which is produced through the expectations of the state. The operation of paternal regulation through conditional welfare receipt in this context suggests that the unemployed are unable to act in their own best interests, hence justifying government surveillance and discipline (Lantz & Dee, 2012).

Henman (2004) suggests that subject positions, such as the ‘dole bludger’ and the ‘job-seeker’, can be produced through targeting which is increasingly used to govern and manage populations, particularly the unemployed, through welfare reforms. Targeting occurs through segmenting certain populations or individuals from others, similar to racial profiling. Targeting and classifying individuals into categories is assumed as normal. However, Henman (2004) argues that common sense, normalised assumptions about targeting and categorising need to be destabilised, challenged and recognised as a means to organise and manage populations. Additionally, “while discrimination [and targeting] in terms of gender, race, age, etc. has been increasingly outlawed and outmoded, these new forms of discrimination [and targeting] emerge on the basis of new rationalities that recast equality and difference” around employment status (Henman, 2004, p. 186).

Targeting and profiling is exemplified for example through the technologies used to monitor, survey and track any activity agreement breaches of the unemployed in the welfare reforms and assists in constructing “risk profiles” (Henman, 2004, p. 180). Lyon describes how “surveillance today sorts people into categories assigning worth or risk, in ways that have real effects on their life-chances” (2002, p. 1). Surveillance is not simply watching and monitoring but a deliberate process which can control and direct the conduct of those surveyed (Henman, 2004). Surveillance in this way becomes a mechanism of governing (Henman, 2004) and is often justified through the observation of risk.

Governmentality scholars also draw attention to the extensive use of risk discourses in the welfare state where different levels of risk are assigned to particular constructed categories. Risk discourses and determining risk populations divide subjects into, “those who are capable of managing risk and those whose riskiness requires management under what might be called a ‘tutelary’ relationship, a division that might be expressed as one between the ‘civilised’ and the ‘marginalized’” (Dean, 1995, p. 580). In the determination of job-readiness for example, there is a division between those who are considered ‘job-ready’ and those who have been unemployed for a considerable amount of time (Dean, 1995). For those who are ‘job-ready’ and who may require income support as an intermediary between unemployment and work and some assistance locating a job it “can be provided by relying on their liberty and by only limited resort to ... [disciplinary] means” (Dean, 2002, p. 46). Alternatively, those who are deemed at high ‘risk’ of welfare dependency require increased levels of surveillance through breaching penalties, workfare programs, coercive measures, and authoritarianism. Essentially, “despotic

practices for those populations who do not have, or do not yet possess, the capacities and attributes of responsibility and freedom” (Dean, 1999, p. 209). This assumption of welfare dependency provides the justification for an active rather than passive system of welfare (Dean, 1995).

Henman (2004) similarly highlights how risk figures into what level of employment service one receives through the Job Network. A recipient is considered ‘at risk’ if they have been unemployed for a ‘long period of time’, that is, a period of 12 months or more. Claimants are assessed and then sorted into one of three levels of employment assistance. For example

job-matching services are provided to those deemed at low risk of long-term unemployment. Job search training services are more supported assistance for those deemed to have reduced employment prospects. Intensive assistance is allocated to those considered to have severe barriers to employment (Henman, 2004, p. 180).

However, it is not only through the lens of risk and the income support system that the unemployed become surveyed as broader society is also encouraged by the government to survey the unemployed. This is a tenet of neoliberal government where responsibility is then placed on broader society to support the government in managing the unemployed subject (Edwards, 2003). Similarly, “observations by others is a key strategy in the policy panoptic of mutual obligations, where government and its agents enlist the assistance of others, including the general public, who are invited to gaze upon welfare recipients” (Edwards, 2003, p. 104). The gaze then becomes another way of surveying the unemployed and is applied to those in need of discipline (Hartman, 2005). The gaze is coupled with the

normalising gaze which is a means of exercising power. Individuals ‘gazed’ as abnormal are subject to regulation and discipline for their abnormality or deviance from normality.

Governmentality scholars also discuss the mechanisms used to discipline the unemployed for such deviance from normality; for example, breaching penalties are applied when a welfare recipient fails to fulfil their obligations with the state. Breaching penalties were meant to signal that welfare was the “offer [of] ‘a hand up but not a hand-out’” (Marston & McDonald, 2007, p. 239). Failing to comply with the expectations and obligations in Activity Agreements, a contract between the unemployed and the employment service provider, was labelled a ‘participant failure’ where participants would lose their payment for up to eight weeks.

[S]ocial security recipients who commit a ‘participant failure’ are automatically suspended from payment for a period of non-compliance – a process that is called a ‘participant solution’. Payment is resumed once the person complies with the agreement; however a strike is registered against their record (Marston & McDonald, 2007, p. 240).

Such techniques or mechanisms of rule seek to encourage or coerce compliance with the norm which operates as a mechanism of disciplinary power to shape conduct in specific ways. Recipients are further penalised for consistent non-compliance which includes an eight week non-payment period for those who commit three participation failures within a 12 month period. This led Marston and McDonald (2007) to suggest that contemporary social security law with its disciplinary focus seeks to nudge claimants into compliance. Breaching penalties work to reform the deviant

unemployed individual, disciplining and coercing them into internalizing the measures of discipline so that they govern themselves and their conduct (Henman, 2004).

Thus governmentality scholars argue that the structure of the reforms and mutual obligation also focuses on the formation or reformation of the self, seeking to manage, construct and regulate the behaviour of those claiming income support. These “practices of self-formation, [involve] practices concerned to shape the attributes, capacities, orientations and moral conduct of individuals and to define their rights, obligations and statuses” (Dean, 1995, p. 567). Welfare recipients are expected to be compliant with self-moulding and self-regulating strategies (Dean, 1995). The measures seek to construct the aspirations and desires of the unemployed by implicitly shaping what they should want in society (Dean, 1995), motivating them into employment. Welfare recipients, through activities and their expectations, are also encouraged to analyse and survey themselves and their own conduct, reforming it, if necessary. For example, in *Welfare to Work* this can be seen through the requirement that unemployed individuals record their attempts to obtain employment or follow up a job advertisement. This could also be achieved through encouraging recipients to report their income to Centrelink on a specific day, by a specific time. The regular reporting of income to Centrelink relates to Foucault’s discussion in *Discipline and Punish* on “the control of activity” (1977, p. 149). This is because it regulates, manages and controls the conduct of the individual in accordance with the expectations of Centrelink. Rose and Miller similarly suggest that “making people write things down, and the nature of the things people are made to write down, is itself a kind of government of them, urging them to think about and

note certain aspects of their activities according to certain norms” (1992, p. 200). Therefore welfare recipients receive a conditional allowance based on self-reformation (Dean, 1995). The welfare state seeks to produce then, an active individual who is capable of managing their own conduct and of marketing their skills and qualifications to potential employers (Dean, 1995).

Marston (2004) suggests that the severity or need for disciplinary measures is rarely questioned. This is because of the focus on welfare dependency by the government and the media. Marston and McDonald (2007) argue that the acceptance of the *Welfare to Work* reforms by the public demonstrates the success of the Howard government’s propaganda about welfare dependency, prior to the policy’s implementation and the need to tie an obligation to the receivership of income support. The perpetuation of discourses of welfare dependency by the government and dividing practices encourages broader society to individualise welfare dependency as the fault of the individual welfare recipient. Dividing practices are employed in this context to distinguish the ‘good citizen’ who is responsible and thus whose life is free from intervention, supervision and observation from the ‘deviant one’ who is unemployed. Dividing practices was “a term used by Foucault to describe practices that set some (marginalised) groups against other (mainstream) groups and/ or that set up divisions or tensions within political subjects” (Bacchi, 2009, p. 275).

The unemployed are subjectified as ‘dole bludgers’ who are lazy, welfare dependent and choose to be unemployed thus individualising the ‘problem’ of unemployment. They are also represented as deviant in comparison to the employed

citizen. Representations such as these have justified increased levels of surveillance and management of the unemployed whose behaviour is reshaped through discipline. However, policy also constructs the unemployed as ‘job-seekers’ who have an obligation to the state to search for employment. The extension of these themes occurred through *Welfare to Work* to people with disability, in particular extending the individualisation of unemployment as a supply-side problem. However, in ways this continued the control of people with disability and the erosion of their autonomy.

Disability studies scholars and the welfare state

Disability studies scholars and the disability movement argue through the social model that disability is constructed by society. The social model of disability emerged from the ideas of the “UPIAS (1976) ... an organization whose membership was exclusive to disabled people” (Oliver, 2009, p. 42). The UPIAS campaigned and advocated for the inclusion of people with disability in society as opposed to their segregation and for people with disability to have independence and choice (UPIAS, 1976). The term ‘social model’ though was devised by Michael Oliver, UK academic and disability rights advocate (Barnes & Mercer, 2004; Oliver, 2009; Roulstone, C. Thomas, & Watson, 2012).

As suggested in the Introduction, the social model of disability makes a distinction between impairment and disability. Disability is suggested to reside in the domain of power and “social organisation rather than personal limitation” (Oliver, 1996, p. 1). Thus people with disability are disabled by a relational function which

occurs through the structures, practices and interactions of society and its institutions (Carlson, 2010; Goggin & Newell, 2005; Oliver, 1996). Through the social model the projected naturalness of disability and its status as taken for granted is challenged (Goggin & Newell, 2005).

Although the social model has been criticised for various reasons (See for example, Shakespeare & Watson, 2002), some of which will be discussed in the following chapters, the social model is significant for people with disability, disability scholars and the disability movement. This is because it empowers people with disability and challenges the social landscape to eliminate the experience of disability (that is, disability as understood in social model terms), providing scope for inclusion and participation in broader society. Additionally, it can challenge the experiences of discrimination and disadvantage felt by people with disability, thus delivering social change.

In contrast to the social model the other model affiliated with disability is the medical model, part of the individual model of disability according to Oliver (1996). In the medical model disability is considered as a deficit and a ‘problem’ with the individual who is regulated, controlled and managed by the medical profession (Goggin & Newell, 2005). In this model the medical profession is understood to categorise people with disability as ‘disabled’ as evidenced through medical ‘proof’. Disability scholars and the disability movement problematise the medical model because the knowledge of the medical profession is privileged over the knowledge of the individual with disability, undermining the agency and autonomy of people with disability (Goggin & Newell, 2005).

Disability studies scholars argue that disability was socially constructed through the institution of work during industrialisation (Galvin, 2004). Historically, people with disability were excluded from participating in the workforce because employment and one's ability to contribute to the workforce was premised on the norm of ableism, thus governing people with disability through an able-bodied norm (Galvin, 2004). People with disability were represented as unproductive and inefficient and thus incapable of fulfilling the demands of the modern labour force which sought to maximise profits (Barnes & Mercer, 2005; Galvin, 2004; Humpage, 2007a). As a result people with disability were excluded from employment and relegated to the private sphere (Galvin, 2004).

In contrast, prior to industrialisation, the separation between the public institution of work and the private institution of family was less pronounced and “[d]isabled people did not constitute a socially recognized group” (Paterson & Hughes, 2000, p. 37). Through industrialisation the previous contribution that persons with disabilities may have made was disregarded (Humpage, 2007a). This period “broadly corresponds to the feudal period ... [Where] economic activity consisted primarily of agrarian or cottage based industries, a ‘mode of production’ ... which does not preclude people with perceived impairment from participation” (Barnes, 1997, p. 6).

Thus, with assistance from the medical profession, which measured and determined one's capacities and abilities, disability was constructed historically through the domain of work (Barnes & Mercer, 2005; Humpage, 2007a). This established a dividing practice between those who could participate in wage labour,

the able-bodied and those who could not, the 'disabled'. Work thus became a site of subjectification for disability (Humpage, 2007a), with the structure of employment then largely linked to the exclusion of people with disability (Barnes & Mercer, 2005).

As a result of their exclusion from paid employment many persons with disabilities were institutionalised (C. Thomas, 2004). Institutions controlled, marginalised and oppressed people with disability although they were represented as 'helping' people with disability (Goggin & Newell, 2005). Goggin and Newell (2005) suggest that institutions were premised on the notion of people with disability as biologically inferior. People with disability through institutions were governed through the medical profession who assessed, managed and treated their 'condition'. Institutions reproduced disability through disabling the autonomy of people with disability through their subscription to the authority of 'professionals' (Goggin & Newell, 2005).

The exclusion of people with disability from employment has led disability studies scholars to argue that people with disability are forced into a state of dependency on the welfare state (Barton, 1989; Oliver, 1989; Roulstone, 2000). This impeded their independence, participation and inclusion (Galvin, 2004). People with disability were thus placed into dependent relations (Brisenden, 1986) leading to suggestions that their dependency is socially constructed. Goggin and Newell (2005) question why people with disability need or require income support in the first place suggesting that the ableist norms perpetuated by society, particularly with regard to

employment, led to the exclusion of people with disability producing their economic and social disadvantage. As they explain:

[i]f we ask why people with disabilities should be in a situation where they may need ‘special income support’, we can start to unpack the complex power relations and ideologies of disability ... As a starting point, it might be contended that it is only because of our narrow norms of work, productivity and what it is to be a contributing member of society that we create people within whose minds and bodies we locate inability to contribute (Goggin & Newell, 2005, p. 21).

Disability has thus been constructed and reshaped by definitions of work historically and the contemporary context is no exception, particularly with regard to the *Welfare to Work* reforms (Humpage, 2007a). *Welfare to Work* reformed how people with disability were understood and constructed in the welfare state. Disability scholars suggest that the reconstruction of disability established a hierarchy of disability based on one’s perceived work value and profitability as well as how much one could contribute to the workforce (Soldatic, 2013). This contribution, assessed through how many hours one is capable of working, determined one’s disability status (Soldatic, 2009, 2013). Those assessed as unable to work 15 hours per week were categorised as *DSP* recipients in contrast to those assessed as capable of working between 15 and 29 hours per week who then had to apply for another welfare payment in order to access income support, such as *NSA*. Unsuccessful applicants for the *DSP* shifted from being classified through the welfare state as persons with disabilities to being considered as unemployed ‘jobseekers’. Therefore, work, capacity and impairment became defined and

classified through time which “maintain[s] social order” (Soldatic, 2009, p. 234). The *Welfare to Work* reforms of the Howard government thus established

two new classes of disabled people – a fully dependent class, worthy of what Goodin, *et al.* (1999, p. 43) refer to as liberal sympathy and charity, and a class ‘somewhere in between’, receiving some state support, coupled with the discipline of the market (Soldatic & Chapman, 2010, p. 147).

This meant that for some people with disability they lost the protection of the social category of disability through the *Welfare to Work* reforms including various forms of social rights and entitlements and were pushed into the open labour market which continues to be structured around an able-bodied norm (Soldatic, 2013). In Ontario, Canada, Chouinard and Crooks (2005) describe a similar situation for women with disability who have been impacted by welfare state restructuring and who are governed by ableist norms in the welfare state and employment. This indicates trends in Anglo-sphere restructuring of the welfare state.

In an Australian context, then, as a result of the continuation of the able-bodied norm in structuring employment, people with disability still require some of the protections which are affiliated with a disability specific income support payment. These are however removed through *Welfare to Work*. As will be seen later, this also fails to recognise, acknowledge or challenge the higher costs of participation for people with disability or breakdown social barriers, such as inaccessible public transport, inaccessible buildings, the failure to provide information in accessible formats and discrimination, making it then problematic that some people with disability lose the protection of the social category of disability through the *Welfare to Work* reforms.

The *Welfare to Work* reforms challenged the deserving and undeserving poor notion where historically people with disability were seen, with the assistance of the medical profession, as unquestionably deserving of income support or pensions because of their disability status (Humpage, 2007a; Soldatic, 2009; Soldatic & Chapman, 2010). This challenge to notions of deserving and undeserving also reframed welfare from a social right or entitlement for people with disability to one based on who was perceived to be the most deserving. .

This shift from seeing welfare as an unconditional entitlement to a payment based on obligations is also discussed in a UK context by Hyde (2000) and a Canadian context by Wilton (2004). This shift in notions of deservingness that goes alongside this is also examined in a UK context. For example, Roulstone (2000) describes the impact of the New Deal for people with disability. He suggests that through the New Deal the clear cut notion between deserving and undeserving welfare recipients is blurred. This is as a result of welfare reforms placing obligations on some people with disability. Different policy mechanisms employed during this time including the New Deal sought to determine the ‘legitimacy’ of disability ‘claims’ and those who are capable of employment. He describes the “redrawing of the disability category” (Roulstone, 2000, p. 435). Reflecting trends in Anglo-Sphere welfare state restructuring this reclassifying of disability also occurred in Ontario, Canada in relation to the Ontario Disability Support Program (Wilton, 2004).

Soldatic (2009) argues that some people with disability became constructed through a new lens of disgust as a result of the *Welfare to Work* reforms which were coupled with notions of deserving and undeserving. “Disgust was used to identify,

separate out and exclude a particular class of disabled citizens within the polity to redefine them as undeserving” (Soldatic, 2009, p. 179) and thus illegitimate recipients of welfare (Soldatic & Pini, 2009). It disrupted and challenged previous assumptions that people with disability legitimately deserved state support. Soldatic and Pini (2009) suggest that the most common mechanism employed to represent welfare recipients through a lens of disgust during the Howard government was the media and while often the media represented welfare recipients as a homogenous category, at times distinctions between different types of income support recipients were made. Media representations and parliamentary debates represented people with disability as lazy, deviant and immoral, similar to representations of the unemployed discussed above, and the voices of people with disability were excluded from challenging these representations (Soldatic, 2009). In particular, after the release of the 2005-06 Federal Budget, people with disability became represented as having previously shirked their responsibilities with the state (Soldatic & Pini, 2009), and were now represented as “workshy scroungers, defrauding the welfare system” (Soldatic, 2013, p. 409). “Disgust had finally stuck, and the normative realm of deservingness had been categorically reclassified and reconstituted to depict a new class of disabled citizens as inherently undeserving of state welfare” (Soldatic & Pini, 2009, p. 88) as opposed to the ‘truly’ disabled who were seen as deserving (Soldatic, 2009; Soldatic & Grover, 2013).

Those cast as undeserving, were subscribed to a similar mode of paternalistic regulation, control, surveillance and discipline as the unemployed, from which they were previously excluded. Such regulation sought to produce a self-productive subject whose behaviour would be consistent with social norms and values around

employment and a work ethic (Lantz & Marston, 2012). At the core of this, similar to the regulation of the unemployed, “is a focus on bureaucratic, measurable, rational-technocratic procedures and interventions to ensure compliance and to move welfare recipients into job-search training and employment” (Dee, 2013, p. 272).

Welfare to Work: the medical model or the social model of disability?

Prior to *Welfare to Work* Sherry (2002) suggested that welfare reforms announced in the 2001-02 Federal Budget by the Howard government in relation to disability showed a commitment to the medical model rather than the social model. This is because they failed to acknowledge the broader barriers experienced to participation by people with disability. In a UK context Roulstone (2000) examines whether the New Deal for Disabled People reflects the medical model or the social model. The New Deal was a workfare policy introduced by the Blair government (1997-2007). One of its measures was to withdraw payment for people with disability who refused a work placement, work trial or training opportunity (Hyde, 2000). Roulstone (2000) suggests that the delivery of the scheme does not reflect the ideals of the social model despite at times being discussed through the language. Similarly, Humpage (2007a) has compared the *Welfare to Work* reforms with the medical model of disability. This is despite changes to the *DSP* appearing to use the same language of the disability movement and the social model with terms like inclusion, empowerment and participation. This is because the focus on economic policy in a neoliberal discourse reduces social inclusion, empowerment and participation to participation in the labour market (Humpage, 2007a; Soldatic & Pini, 2012). For example, Humpage (2007a) argues that mutual obligation while

linguistically appearing to link to the social model rather perpetuates the medical model. This is because:

language [used in mutual obligation of self-reliance, participation and being active] appears to overlap with that used to articulate the social model, which places emphasis on participation in the community and attempts to shift away from reliance on the medical profession (Humpage, 2007a, p. 215).

Galvin, who discusses the government's devising of welfare reforms to impact people with disability prior to *Welfare to Work*, similarly, argues that while government policy appears to align with the objectives of the disability movement for social participation and independence, there is no consistency between "welfare reform policy and the disability rights movement" (2004, p. 343). Therefore, in spite of appearing so, the welfare reforms do not support or are not informed by the social model. Instead, the language of the disability movement is appropriated to a regime which does the opposite of the objectives of the social model (Galvin, 2004). This is because the Australian government has reformulated the language of the social model "into neoliberal forms, stepped in individualism and economic rationalism" (Galvin, 2004, p. 346). Roulstone (2000) in a UK context suggests that the New Deal appeared to provide for the social inclusion of people with disability, who were previously excluded. However, the structure of the policy perpetuated the social and economic dependency and exclusion of people with disability (Hyde, 2000; Roulstone, 2000). Roulstone (2000) argues that in some ways the rhetoric of getting people with disability out of poverty and off income support has to appear humane and progressive. However, implies that rarely is this so.

Galvin (2004) argues that part of the reason for the seamless application of the liberating language of the social model by the Australian government with what Hartman and Darab (2006) have described as draconian, coercive welfare reforms comes at the fault of the disability movement. This is because the social model prioritises the values of capitalism such as work and independence (Galvin, 2004). Instead, a theory which liberates people with disability necessitates the rejection of “work as crucially definitional of social membership” (Abberley, 1999, p. 13).

Humpage (2007a) identifies three links between *Welfare to Work*'s mutual obligation and the medical model. Firstly, the Howard government's reforms, like the medical model, produce the individual person with disability as the ‘problem’ and locate the intervention within the individual, similar to discussions of the unemployed earlier. This is not unlike arguments made by Roulstone in a UK context who suggests that the movement away from government intervention and provision of social welfare through welfare state restructuring has shifted to “enabling dependent groups to identify routes out of their predicament” (2000, p. 427). This produces a more individualised focus for dependency and the site of intervention. Essentially Roulstone (2000) suggests in relation to the New Deal that the main object of the change is the dependent individual. With regard to *Welfare to Work*, disability scholars argue that, in particular, mutual obligation's focus on the individual implies two things. Firstly, it represents people with disability as having a poor work ethic and lacking the desire to work who thus must be coerced into active participation and employment through mutual obligation and workfare. Secondly, it

assumes that they lack sufficient skills to undertake or participate effectively in employment (Humpage, 2007a, 2007b) as evidenced through an increase in training programs and places in employment support services.

By focusing on the individual, *Welfare to Work* and mutual obligation do not acknowledge government responsibility to provide an accessible and inclusive social landscape for people with disability, failing to consider the social barriers which impede people with disability from accessing and participating in employment (Humpage, 2007a; Soldatic & Chapman, 2010). This point is also made in a UK context by Roulstone (2000) during his discussion of the New Deal for people with disability. He suggests that the state has not addressed the exclusionary market. In addition, employers have only been given some encouragement to employ people with disability. This ignores the overwhelming evidence of the barriers experienced by people with disability which impact on their capacity to exercise agency in this context. Social barriers to employment include employer attitudes, education experience, inaccessible public transport, insufficient transport infrastructure, inaccessible buildings, discrimination and the cost of participating in the labour market for people with disability (Galvin, 2004; Humpage, 2007a). Soldatic and Chapman, for example, argue that workfare discourses, adopted by *Welfare to Work* fail to consider discrimination as a barrier to employment which “further entrenches ... [persons with disabilities] structural position of poverty” (2010, p. 142). This makes it inconsistent with the social model. Disability scholars such as Humpage thus argue that mutual obligation is a “fundamentally flawed concept” (2007a, p. 221) because there is no mutuality in the obligation. This is because the obligation is only held by people with disability to the government and the government does not

address or acknowledge through *Welfare to Work* the social barriers to employment in return or create any employment opportunities for people with disability (Galvin, 2004). Goggin and Newell (2005) also question the capacity of Australia's employment sector to provide work to people with disability, particularly, in a context where, as Galvin (2004) suggests, there are more job applications than jobs available. Roulstone (2000) argues that by ignoring this broader context social exclusion or the lack of employment is blamed on personal deficit. In addition, responsibility is attributed to the individual, rather than the state (Hyde, 2000; Wilton, 2004).

Secondly, in the medical model and the Howard government's welfare reforms medical professionals are sources of authority on disability who manage, control and determine access to resources for people with disability, constructing and governing them. Disability scholars argue that mutual obligation and the changes made to *DSP* eligibility through *Welfare to Work* further subscribe people with disability to examination by the medical profession. This is because the medical profession has to assess and certify their capabilities and disabilities hence controlling their access to income support. For example, through the Job Capacity Assessment there is a medicalised focus on the ability of the individual to participate in employment based on assessing what the individual is capable of with their impairment. This is rather than on society's adequate provision of employment opportunities for people with disability (Galvin, 2004; Humpage, 2007b). This focus on capacity, however, positively recognises the capacity of people with a PCW for employment, unlike previous assessments which focused on the incapacities of people with disability (Humpage, 2007b). Despite this, the recognition of capacity

for employment is not met with structural change which will address the social barriers to employment participation experienced by people with disability thus failing to enable such capacity through the individualisation of unemployment. Additionally, medical certification works as a mechanism to structure, inform and regulate disability categorisation (Goggin & Newell, 2005) with “administrators ... ultimately ... [having] the power to determine who is or is not disabled” (Soldatic, 2009, p. 230). The power assigned to the knowledge of the medical profession in assessing one’s capacity and administrators’ powers in determining access to payment type privileges others’ knowledge over the knowledge of people with disability, similar to the medical model.

Thirdly, the medical profession as dominant in the medical model and the Howard government’s welfare reforms subscribe people with disability to surveillance and control (Humpage, 2007a). Humpage (2007a) argues that the medical model overlaps with and is reinforced by mutual obligation. This is because “work-testing and work obligation requirements associated with mutual obligation invoke a new era of surveillance and compliance for welfare recipients [with disability]” (Humpage, 2007a, p. 225) following on from such mechanisms applied in institutions and by the medical profession.

Humpage (2007a) also highlights how the mechanisms employed to regulate people with disability could in ways be detrimental to their health and do not encourage compliance in ways appropriate for people with disability. She specifically problematises the breaching penalties implemented through the *Welfare*

to *Work Act* which could be applied to NSA recipients with disability. This is because the penalties were designed for people without disabilities. This, and the implications of this, particularly for people with a PCW, will be discussed in Chapter Four.

However, like breaching penalties, which regulate people with disability without the consideration of disability, time also becomes a mechanism employed in the Howard government's reforms which surveys and manages people with disability but in ways is not examined for its ableist underpinnings. Soldatic (2013) highlights how as a result of neoliberal workfare restructures to the welfare state people with disability are governed through temporalities particularly with regard to 'the Appointment'. People with disability are expected to attend appointments as part of their mutual obligations with the state in order to remain eligible for income support. "[T]he neoliberal workfare Appointment frames and reframes individual biographies and the experience of everyday life, determining access to a range of social supports and services" (Soldatic, 2013, p. 407). The Appointment is a time set by the clock and the calendar, often through a mutual agreement between attendees. However, Soldatic (2013) questions what happens when the time is not set in mutual agreement and when some bodies are unable to synchronize with the Appointment time. This assumes that "the people involved are in a position to control and synchronize the competing set of temporalities managed in everyday life to make the Appointment" (Soldatic, 2013, p. 411). The Appointment then acquires a commanding form which controls numerous spheres including the body. It also performs a disciplining and surveying role in the sense that those who do not attend the Appointment are disciplined and the conduct of persons with disabilities is managed, surveyed and regulated in the Appointment. The Appointment has thus become an important

mechanism in governing people with disability in the welfare state and “while appearing as a neutral, rational, calculable action, is in fact a social relation of power” (Soldatic, 2013, p. 415). However, Soldatic (2013) argues that there is no consideration of the difficulties that people with disability experience in keeping the Appointment, including, coordinating the supports and services of home workers. Soldatic (2013) also suggests that the state lacks understanding of the competing temporalities for people with disability, in particular, women with disabilities who often have to coordinate their body temporalities, with childcare responsibilities and maintaining the Appointment.

Humpage (2007) problematises the surveillance and control subscribed to people with disability in the welfare state questioning its impact on achieving government objectives of activeness. Additionally, the power assigned to the medical profession and administrators determining access to payment does not facilitate agency and activeness, rather, overrides the autonomy of people with disability.

Deinstitutionalisation, reinstitutionalisation and the NDIS

The autonomy of persons with disabilities was also overridden in institutions. For instance, while in institutions, people with disability, particularly persons with intellectual disabilities and mental illness, could have their finances controlled and managed. Bidmeade suggests that “[u]ntil 1979 in South Australia, for example, a person’s finances could be placed under the Public Trustee at the stroke of a pen of the Superintendent of public hospitals (for persons with mental illness), or institutions (for people with intellectual disabilities)” (1997, p. 236).

Advocacy for the rights of persons with disabilities emerged in the 1960s and sought to return freedom to people with disability. From this, there was an emphasis on deinstitutionalisation and integration which sought to close down large institutions and integrate people with disability back into the community (Bigby, 2014).

However, despite deinstitutionalisation which began in the 1970s, Goggin and Newell suggest that “deinstitutionalisation has been accompanied by its own institutional values and practices, ... constitut[...ing] a problematic reinstitutionalisation” (2005, p. 129) of people with disability. People with disability for example, are still excluded from broader society because adequate community supports were not put in place upon deinstitutionalisation. In addition, the social and structural barriers which could have been experienced by persons with disabilities were not deconstructed impeding their inclusion and participation in broader society (Goggin & Newell, 2005). Therefore, while deinstitutionalisation occurred, the community was not adequately altered to include persons with disabilities, continuing their exclusion from society and expecting them to change or adapt in order to be included (Bidmeade, 1997).

Therefore, Goggin and Newell (2005) suggest that deinstitutionalisation did not result in the end of oppression for people with disability, but rather began a new phase of oppression. This is in part because people with disability and their lives became controlled through professionals who determined, for example, the type of accommodation the person would reside in and the activities that would structure their lives. For instance, people with severe intellectual disability “in work and

community access programs” (Shaddock et al., 1993, p. 48) have limited scope to exercise choice. This is despite the fact that our quality of life is largely dependent on our ability to make choices and decisions about our own lives (Shaddock et al., 1993). This overrides the agency and autonomy of people with disability.

Similarly, for ageing people with intellectual disability, Bigby and Knox (2009) found that large decisions were often made for them over which they had little control. Interview participants expressed and also Bigby and Knox (2009) documented how people with disability were frustrated by their lack of control in day programs. Day programs aim to “provide opportunities for people with disability to participate in their community and enjoy a range of purposeful, recreational and leisure activities” (Family & Community Services Ageing Disability & Home Care, 2013, p. n.p.). Particularly, they had little control over whether they were able to move to another day program, their forced movement to another day program and the activities in which they had to participate in in their day programs. For example, “they always say you have to do what everybody else does ... well say when everyone else is dancing they say “you’ve got to dance” ... And you do it ... I just keep on my own way ... always doing things the way other people want me to do” (Bigby & Knox, 2009, p. 223).

Also, Goggin and Newell (2005) note that despite people with disability having the most superior knowledge about the services they require, their voices and experience are rarely considered in determining what services should be available. Often decisions are based on service availability and capacity for delivery rather than centred on the individual. For example, services often focus on conforming with

existing staff rosters and resources instead of considering the individual desires of recipients and how staff and resources can be employed to meet such desires (Laragy, 2004).

Additionally, services rather than focusing on the individual instead, concentrated on fulfilling or upholding procedures. For example, duty of care, risk minimisation and safety procedures though congruent with Occupational Health and Safety regulations undermined individualised activities or the “focus on the little things that enhance life satisfaction” (Wilson, Parmenter, Stancliffe, & Shuttleworth, 2011, p. 284). Shaddock, et. al. (1993) discuss how for staff in group homes, despite recognising the importance of choice for people with disability often enabling such choice or allowing a choice to be acted upon conflicts with their duty of care because sometimes the choices are at odds with procedures. Bleasdale (2001) suggests that control by people with disability and enabling their individual choice is often considered in disability policy through a risk lens. People with disability are seen as vulnerable and in need of protection. Service providers feel they have a responsibility to ‘look after’ people with disability and to ensure they do not come to any harm or risk.

Bigby and Knox (2009) suggest that many ageing persons with intellectual disabilities had desires, plans and goals for their future. However, often they were not encouraged or given strategies to make such desires or goals a reality. The failure of the two worlds important to the lives of ageing people with intellectual disabilities, the service world and their families and friends, to interact, meant that their future plans were not discussed, addressed or actuated. This undermined their

autonomy. Instead, both worlds focused on current situations, decisions and lifestyles rather than the future. As a consequence, although ageing people with intellectual disability led busy lives they were often directionless (Bigby & Knox, 2009). Bigby and Knox thus question “why do services not support the implementation of people’s own ideas about the future? What stops services from listening and taking notice of what older people are saying? What stops both services and families letting go of some of the control over people’s lives?” (Bigby & Knox, 2009, p. 278). Professionals “have to learn to share decision-making power” (Laragy, 2004, p. 528).

Further, people with disability continue to have their finances managed, which has been suggested to erode their autonomy (Epstein, 2011). Epstein (2011), who specifically discusses the context of financial management orders and guardianship in New South Wales suggests how financial management orders are placed on those people with disability who are assumed to be incapable of managing their finances. She describes how this could create increased stress and/ or anxiety “associated with dealing with a statutory body whenever one wishes to spend money ... particularly for those who suffer from mental illnesses and cognitive impairments” (Epstein, 2011, p. 838). Epstein (2011) particularly problematises the structure of financial management orders in New South Wales which are not reviewed unless requested by the person having their finances managed. Even then, she suggests that this possibility for exemption is concerning, given that the individual has to prove that they are no longer incapable of managing their finances.

By placing a financial management order on an individual it ignores the preference for supported decision-making in situations “where such arrangements are necessary” (Epstein, 2011, p. 845).

Supported decision-making encompasses mechanisms which allow an assisted person to maintain a higher level of control of their decision-making ... [and rather than an independent manager stepping in to take over total control of a person’s finances, supported decision making allows the protected person to maintain continuing involvement in their finances (Epstein, 2011, p. 845).

Thus the continued control of the finances of some people with disability, as seen in the example that Epstein (2011) discusses erodes the autonomy of persons with disabilities.

In contrast to the control of people with disability, a rights discourse argues that people with disability have a right to self-determine and control their own lives and decisions rather than other people controlling their lives and decisions (Goggin & Newell, 2005). As a result there has been a focus on individualised funding by the disability movement and in policy for people with disability. “Individualised funding is synonymous with self-determination” (Bleasdale, 2001, p. 2) and is where consideration is made for the individual persons with disability (Bigby & Knox, 2009). “Individualised funding mechanisms ... aim to increase the control, choice, and flexibility of people with disability over the support they receive” (Bigby & Knox, 2009, p. 217). In this way individualised funding has the capacity to build self-esteem and have a positive influence on people with disability and their quality of life (Bleasdale, 2001). Laragy (2004) suggests that individualised funding also encourages innovation from services who have to compete for the dollars of people with disability.

Under the new NDIS, individualised disability funding packages are distributed to most Tier 3 participants in the Scheme. The individualised funding packages reflect a shift from block funding for disability care and support programs. It also shifts care and support for people with disability to an entitlement (Bigby, 2013, 2014; Fawcett & Plath, 2014). The NDIS is described as enabling participants to exercise choice and control regarding the supports they require for their care and support (T. M. Williams & Smith, 2014) and who will provide them. This is “identified as an important source of personal power” (Fawcett & Plath, 2014, p. 750).

The NDIS has also to a certain extent reframed and reconstructed disability, representing disability as acquirable by everyone (Bigby, 2013; Bonyhady, 2009). The NDIS is presented as a resource for broader society who could acquire disability and is often discussed alongside the social and economic benefits that could arise through enabling people with disability to socially and economically participate (Bigby, 2013). This reconstruction could move disability from the margins (Fawcett & Plath, 2014).

However, although individualised budgets are suggested to enable choice, control, self-determination and individualisation Fawcett and Plath in their discussion of the NDIS suggest that “[i]t would be wrong to assume ... that a direct individualised payment scheme necessarily equates with a person-centred approach” (2014, p. 753). For example, they discuss the difference between choice associated with a liberal/ market framework and choice within a human rights framework suggesting that a human rights framework has a bottom up perspective on choice.

The individual in this regard is understood as a subject with rights. Alternatively, a liberal/ market perspective has a top-down approach where the consumer is “seen as an atomistic agent with wants” (Fawcett & Plath, 2014, p. 754). In this approach Fawcett and Plath (2014) suggest that the market will only respond to the needs or wants of consumers if it is financially viable for them. However, some consumers will be better at negotiating for their needs and wants than others. Fawcett and Plath (2014) suggest that this is problematic for marginalised groups who could be disadvantaged by their structural position and have difficulties negotiating their needs and wants. Another problem with a liberal/ market approach with regard to choice is the nature of choice itself. Choice, though appearing otherwise is limited. In the NDIS

[t]he individualisation of service agreements and the privatisation of services do not necessarily provide avenues for consumer-driven approaches to service provision. Rather, the power of consumer choice is narrowed to ‘taking business elsewhere’ (Fawcett & Plath, 2014, p. 756).

This discussion on the problems with choice will be taken up in Chapter Six.

Additionally, Fawcett and Plath (2014) suggest that while there have been some positive outcomes from individualised funding packages in other schemes, these results often reflect schemes where it is a choice to have an individualised budget implying that this is not a choice in the NDIS. However, while the NDIS promotes individualised funding the Productivity Commission report, discussed in Chapter One, recommended retaining block funding for rural and remote areas particularly, Indigenous communities. This is because remote Indigenous communities face significant access barriers to disability services in part as a result

of such remoteness. Thus it was recommended to “block fund ... suitable providers where services would not otherwise exist or would be inadequate” (Buckmaster & Tomaras, 2013, p. 30). Buckmaster and Tomaras (2013) suggest that though the Bill does not create this mechanism, it also does not disallow or impede this component as part of an Indigenous specific NDIS strategy to attend to the care and support needs of Indigenous people with disability.

Further, similar to earlier discussions regarding the reflection of the medical or social model in disability income support policy, debate also occurs as to whether the NDIS embodies the medical model of disability or the social model. Leipoldt (2009a, 2009b) suggests that providing care and support through the NDIS as well as aids and equipment while needed does not change values nor address discriminatory attitudes. For example, he states:

you cannot *really* insure against disability, just some of the financial costs of it. The reason you cannot is that the experience is largely determined by social attitudes towards people who have impairments of some sort ... Those social attitudes ensure social exclusion, isolation, abuse, unemployment and poverty ... (Leipoldt, 2009b, p. n.p.).

Alternatively, Fawcett and Plath (2014) suggest that in some ways the NDIS is consistent with the values of the social model, enabling participants to be self-determining and exercise their autonomy and control with regard to the services that will provide for their care and support needs. Additionally, through Tier 1, the NDIS seeks to challenge discrimination, enhancing community awareness and the inclusion of people with disability. However, Fawcett and Plath problematise how eligibility for Tier 3, which is based on assessing functional capacity, appears to “retain ... a clinical/ individualised focus” (2014, p. 752). Fawcett and Plath question whether the

NDIS “will mark a shift in perspective in Australia or whether it will serve only to add a veneer of inclusivity to existing values and perspectives on disability that focus on medicalised, ‘impaired’ individuals, rather than disabling social barriers” (2014, p. 752). This will be clearer, they suggest, once the details of Tier 1 are operational. They contend though that if the focus on individualised budgets and personal responsibility is at the expense of social and structural change “then [there is] strong cause for concern” (Fawcett & Plath, 2014, p. 753). Also concerning is the NDIS’ appearance to align with a liberal/ market approach rather than a human rights perspective (Fawcett & Plath, 2014). The research will engage with this discussion about whether the NDIS reflects the medical model of disability or the social model of disability briefly in Chapter Six.

People with disability were upon industrialisation excluded from employment because they were assumed to be inefficient and unproductive. As a result, people with disability were relegated to the private sphere, excluded in institutions and/ or forced to be dependent on the income support system. Work was argued to become a site for subjectifying people with disability as seen historically through their exclusion and then with reference to the *Welfare to Work* reforms, which divided those capable of working 15 hours per week from those assessed as incapable. The *Welfare to Work* reforms continued the individualisation of unemployment discussed in the previous section on governmentality, failing to recognise the structural barriers that people with disability experience to employment. The erosion of the autonomy and agency of people with disability both historically and contemporarily was also discussed. This was raised as consistent with policies which governed people with disability historically. The social construction of disability as a product of power

relations and the undermining of the agency and autonomy of people with disability can be seen in discussions by CRAWs scholars on income management which also draws on the social construction of race and the historical and contemporary loss of autonomy experienced by Indigenous Australians.

CRAWs scholars and income management

CRAWs scholars argue that whiteness is universalised as the standard of normality and the manifestation of humanness; “whites are not of a certain race, they’re just the human race” (Dyer, 1997, p. 3). CRAWs scholars affirm that race, like disability discussed above, is a social construct, a “product ... of social thought, [power] and relations” (Delgado, Stefancic, & Liendo, 2012, p. 8). Race is not biological or based on valid scientific evidence rather, it is a social category constructed for the organisation of subjects. As Meekosha suggests, “physical appearance becomes racialized in a social relationship where, particular features of an individual trigger pre-existing frames of interpretation, linked to social hierarchy, privilege and exploitation” (2006, p. 163). As a consequence of equating whiteness with the human race, whiteness remains invisible, avoiding interrogation, unlike racialised bodies which are examined (Moreton-Robinson, 2004). CRAWs scholars draw attention to the relationship between whiteness and power, exposing and interrogating the dominance, hegemony and privilege upheld by the white race in society (Riggs, 2007). CRAWs scholars argue that the privilege assigned to whiteness is entrenched and often reproduced in social institutions which are grounded in historical assumptions of biological ‘superiority’ and a discourse that constructs Indigenous people as sub-human, underdeveloped and lacking rational capacity (Moreton-Robinson, 2004). Whiteness expresses its dominance and sustains

its superiority through acts of control, management, regulation, discipline and surveillance often employing violence and coercion through such acts (Tedmanson & Wadiwel, 2010).

Indigenous people and the welfare state

Indigenous Australians have predominantly been constructed and governed separately to non-Indigenous Australians since colonisation in 1788. Before federation of the Commonwealth of Australia, the colonies of Australia established a separate legal category for Indigenous Australians to ‘protect’ them and moved Indigenous Australians onto missions and reserves. Protectionism served to ‘smooth the pillow of the dying race’⁵ and continued to inform Indigenous policy following federation in 1901 (Altman & Sanders, 1994).

In the 1930s, assimilation emerged as the new rationale to govern Indigenous Australians, particularly those who were part-Indigenous. In the 1950s, however, assimilation operated to regulate all Indigenous people who were expected to

attain the same manner of living as other Australians and to live as members of a single Australian community enjoying the same rights and privileges, accepting the same responsibilities, observing the same customs and influenced by the same beliefs, hopes and loyalties as other Australians (Commonwealth of Australia, House of Representatives, April 20, 1961, pp. 1051-52).

⁵ This statement is attributed to Daisy Bates, “Edwardian anthropologist ... [who] thought the Aboriginal people were a dying race” (K. Marks, 2008, p. n.p.) and has also been linked to policies of protectionism. It encapsulates the assumed demise and extinction of Indigenous Australians and captures the sentiment that all non-Indigenous Australians could do until this time was ‘smooth the pillow of the dying race’ (Van Krieken, 1999).

Altman and Sanders (1994) suggest that the shift from protectionism to assimilation introduced the concept of 'welfare' into Indigenous policy. However, the welfare authorities referred to with regard to Indigenous Australians were distinct to the broader Australian welfare state from which Indigenous Australians were excluded.

The exclusion of Indigenous Australians from the welfare state incrementally broke down and from the 1940s some Indigenous Australians who were assessed on their character, intelligence and social development were permitted to receive some types of welfare payments. These individuals could not reside on missions or reserves. This qualification was removed in 1966 (Altman & Sanders, 1994). However, prior to and for a short while after this, social security legislation allowed for Indigenous welfare payments to be paid to a third party. This meant that when social security payments were granted to those who lived on reserves the Aboriginal welfare authorities were allowed to retain payment on behalf of Indigenous people having only to give them an allowance. Indigenous Australians received direct payment "once they had demonstrated their 'ability to handle money wisely' and to 'manage' their 'own affairs'" (Altman & Sanders, 1994, p. 210). From the 1960s, there was increased pressure to allow Indigenous Australians to directly access their welfare payments. However, despite their access to welfare payments the Department of Social Security felt that the unemployment benefit was unsuitable for remote Indigenous Australians (Altman & Sanders, 1994). In 1972, a framework of self-determination informed Indigenous policy and by the 1980s those in remote areas were considered eligible for unemployment benefits (Altman & Sanders, 1994).

Indigenous Australians have been extensively criticised for being welfare dependent historically and contemporarily. Altman and Sanders (1994) suggest that concerns of Indigenous welfare dependence explain their incremental inclusion onto welfare payments historically and can be assumed to justify some contemporary policies governing Indigenous Australians. Pearson (2000), though critical of Indigenous welfare dependence and passive welfare, argues that Indigenous welfare dependency is partly attributable to the exclusion of Indigenous Australians from the market economy. He explains, “[t]he great tragedy of Aboriginal history in the last decades was the Australian failure to remove the discrimination that our people suffered in the mainstream economy” (Pearson, 2000, p. 141) forcing them into welfare dependency. Pearson (2000) also discusses the impact of awarding Indigenous Australians with the right to equal pay, suggesting that as a result it was difficult for them to find employment, causing them to withdraw from the market economy. Like the systematic exclusion of people with disability from the labour market then, the exclusion of Indigenous Australians from the labour market has produced their dependency on the welfare state.

The NTER “allowed for new disciplining, prohibitive and corrective practices” (Howard-Wagner, 2010, p. 3) to be invoked on Indigenous people in prescribed communities in the NT. This was permitted because of the construction of the NTER as an ‘emergency’ by the Howard government to protect children and restore social norms to ‘dysfunctional’, ‘broken down’ and welfare dependent Aboriginal communities (Howard-Wagner, 2010; Maddison, 2008). The NTER has been deemed racist (Tedmanson & Wadiwel, 2010) and paternalist because of its explicit targeting and disciplining of Indigenous people “with restrictive

administrative regimes of surveillance, control and financial tutelage” (Tedmanson & Wadiwel, 2010, p. 8). However, these mechanisms of governance applied through the NTER are not new, reflecting historical policies and techniques used to regulate Indigenous people.

Income management became a measure implemented in the NTER to govern Indigenous welfare recipients in prescribed communities in the NT. Income management initially sought to remedy the occurrence of “substance abuse”, “educational lawlessness and child neglect” (Altman & Hinkson, 2010, p. 194) in remote Indigenous communities and to protect Indigenous women from violence and humbugging (Mendes, 2013). Income management quarantined part of recipients’ income support payments and 100 per cent of lump sum payments, ensuring that the payments were spent on priority needs and not on excluded goods or excluded services. “Income quarantining [became] ... a means to control Aboriginal consumption practices (although the focus was on expenditure patterns)” (Altman & Hinkson, 2010, p. 193) and people’s personal choices were regulated and controlled as alcohol, gambling and tobacco were not allowed. Tedmanson and Wadiwel suggest that “the message in these controls was clear: pleasures that are tolerable elsewhere were deemed intolerable within the racialized ‘zones of exception’ created by the intervention” (2010, p. 14). Indigenous Australians cannot be given the freedom to spend their income support payments at their discretion and hence require management and control by a third party (Altman, 2010). The control of Indigenous Australians and their welfare payments in this context resonates with arguments

made above about the regulation of the unemployed who are assumed to be incapable of acting in their own best interests. This then justifies paternalistic measures which survey, monitor and discipline Indigenous welfare recipients.

Income management in the NT extended welfare conditionality and mutual obligation for Indigenous welfare recipients beyond participation in employment (Billings, 2009, 2010a, 2010b). Mutual obligation in income management sought to produce behavioural change, individual responsibility and appropriate spending (Billings, 2010b, 2011) as well as target passive welfare (Anthony, 2009). Income management assumes “a link between social dysfunction, child neglect and substance misuse on the one hand and ‘passive’ welfare on the other” (Altman & Johns, 2008, p. v) and assumes that through state controlled welfare payments individuals will reform their conduct (Billings, 2010a). Income management directly affected the everyday lives of Indigenous people living in prescribed areas, seeking to produce ‘responsible’ citizens.

Income management also regulated Indigenous people to comply with the values of whiteness through discourses of normalisation in the NTER, reproducing the dominance of whiteness and destroying “Aboriginal practice and identity” (Altman & Hinkson, 2010, p. 197). The NTER was a three phased project designed to be implemented and maintained over a number of years. One of these phases was labelled the ‘normalisation’ phase. This phase was where services and infrastructure were normalised and the social norms of remote Indigenous communities were modified to become consistent with the broader, mainstream social norms of non-Indigenous Australia (Altman & Hinkson, 2010; Altman, 2010). Tedmanson and

Wadiwel (2010) describe normalisation mechanisms as coercive and argue that the NTER's focus on normalisation essentially meant the relinquishing of Indigenous culture. This was because the values of Indigenous culture were seen as incompatible with neoliberalism and other values of the dominant white culture. Dawson (2011/2012) suggests that normalisation is an evolution from the concept of assimilation, which although seeking the same goals, moves from a concept underpinned by a colonial objective to one underpinned by a liberal objective. Income management and the NTER in general, placed an emphasis on 'restoring social norms' which had broken down and 'normalising' remote Indigenous communities and individuals (Anthony, 2009; Billings, 2011) suggesting that Indigenous Australians have failed to conform and absorb the mainstream values of responsibility. Altman and Hinkson describe "the irresponsible native who is either so utterly different that he/ she cannot be improved or else he/ she can be transformed but must remain in a waiting room of deferral, until properly trained or acculturated" (2010, p. 202).

In relation to income management and Indigenous Australians, Indigenous Australians are seen as a 'risk' to themselves as well as to broader Australian society because they do not conform to the mainstream (Altman & Hinkson, 2010). Indigenous Australians and Indigenous culture generally was represented as the cause of social problems and dysfunction through the NTER measures and "Indigenous peoples were targeted as 'the problem'" (Tedmanson & Wadiwel, 2010, p. 18). Howard-Wagner for example states: "violence and abuse were thus discursively constructed as a feature of Aboriginal culture in government and media narratives about violence and sexual abuse in Indigenous communities" (2010, p. 16)

in the NTER. The gaze of the media and society thus reflected the problematic assumptions and discourses produced by the government about Indigenous Australians. These assumptions and discourses posit and reinforce Indigenous Australians and Indigenous culture as a 'risk' to broader Australian society. This risk Altman and Hinkson argue is "at the level of subjectivity and cultural commitment: quite simply, Aborigines do not behave like other Australians and are not necessarily motivated by the same aspirations" (2010, p. 188), hence the need for normalisation.

Income management and the NTER signalled a shift in the way remote Indigenous communities, people and individuals were governed, involving a change from "community to individuation" (Altman & Hinkson, 2010, p. 185). This focus on the individual in neoliberalism and a capitalist society is somewhat inconsistent with Indigenous culture; however the paternalist regulation of Indigenous Australians is consistent with historical policy which governed Indigenous Australians. Indigenous Australians have a different epistemology to white people informed by the Dreaming, and value and emphasise the community as a site to care for and also to seek welfare from. "The Dreaming is many things in one. Among them, a kind of narrative of things that once happened; a kind of charter of things that still happen; and a kind of *logos* or principle of order transcending everything significant for Aboriginal man" (Stanner, 1979, p. 24). Alternatively, in capitalism, the individual is responsible for their own welfare and neoliberalism proposes the market as an institution of provision for all individuals. Lawrence and Gibson thus highlight that "the Indigenous population is one section of society that within the rationality of neoliberalism cannot – at least without some techniques of 'improvement' – be governed through their capacities and freedoms" (2007, p. 662); therefore, being

governed through disciplinary and authoritarian measures such as income management which are seen as necessary. The intention of the NTER became to develop self-governing individuals who are capable of responsible conduct and action, much like the unemployed discussed earlier. The measures of the first 12 months of the NTER sought to produce a well “disciplined Aboriginal subject; one who would embrace the individualised aspirations of neo-liberalism” (Altman & Hinkson, 2010, p. 193). It also encouraged and directed Indigenous Australians into economically governing their own lives through participating in the market; an objective heavily consistent with neoliberalism. For income management’s part in this Dawson suggests that it “seek[s] ... to normalise individuals within perceived Indigenous communities to become stable and autonomous citizens of the free market” (2011/2012, p. 7) invoked through neo-paternalistic measures (Altman & Dee, 2012).

The emphasis placed on individual responsibility through income management is argued to ignore, however, the structurally disadvantaged position of Indigenous Australians (Dawson, 2011/2012; Mendes, 2013) produced through colonisation, dispossession and historical policies. This is similar to arguments made by disability scholars earlier where the ‘problem’ of unemployment is individualised to people with disability, without considering or addressing the social barriers, which impede their economic participation. Altman and Hinkson suggest then that rather than focus on Indigenous Australians to restore their own welfare through taking “responsibility for their actions” (2010, p. 190) there should be a focus on and recognition of problematic policy and colonisation. Thus there is a focus on

individualisation and controlling subjects rather than on looking at the broader context of disadvantage and discrimination which would provide a more adequate solution for communities who are despaired and depressed.

Practices in income management which seek to control and monitor how Indigenous welfare recipients spend their money are justified through their representation as a problematic population (Kelada, 2008), hence similar to the unemployed they cannot be governed through freedom. Through income management “[t]he Government projects a view that Indigenous people have failed as citizens and are underserving of equal social security entitlements” (Anthony, 2009, p. 34). Thus rather than quarantining payments through a discretionary or voluntary measure they must be automatically income managed (Altman, 2010). This is because it is assumed that Indigenous Australians are incapable of acting in their own best interests. This justifies their regulation through paternalism in income management in the NT (Anthony, 2009; Billings, 2010a, 2011; Dawson, 2011/2012) where the government intervenes in the personal decisions of an individual based on assumptions of incapacity (M. Thomas & Buckmaster, 2010). This is not dissimilar from the control of the incomes of people with disability authorised through guardianship tribunals and the assumptions made about the capacity of people with disability to control their own incomes or engage in supported decision-making processes. This returns Indigenous Australians to an era where they are once again governed through paternalism (Anthony, 2009; Billings, 2009, 2010b), leading once again to “an erosion of liberty, esteem and self-empowerment” (Kelada, 2008, p. 5)

and a violation of freedom. Therefore, regulation through paternalism denies the right of Indigenous people to self-determination and autonomy (Anthony, 2009; Billings, 2010b).

However, the NTER and income management represents all Indigenous people as ‘irresponsible’, ‘risky’ and ‘problematic’ ignoring, as scholars have argued, the Indigenous community initiatives put in place before the NTER to combat various problems which, at times, were developed in response to unanswered requests for help to the government by Indigenous communities. These community-led initiatives were subsequently overridden by the NTER (Behrendt, 2007; A. Brown & Brown, 2007; Thill, 2009), simultaneously overriding the self-determination and autonomy of Indigenous Australians. For example, despite implementing alcohol conditions, restrictions and bans in prescribed Indigenous communities through the NTER legislation, some Indigenous communities had previously negotiated their own solutions to concerns with alcohol and developed their own initiatives. For instance, Alexis Wright in her “factual account” (2009, p. 2) *Grog War* explores

how the Indigenous people of Tennant Creek [in the NT] worked together on a war against alcohol. This Indigenous-led act of self-determination and self-governance formed from Indigenous Law, responsibility and work as a community, in a ten-year long battle, eventually led to shifting the blame of public drunkenness from themselves, and to convincing the government, authorities and the town to look at the way grog was pushed and sold (Wright, 2009, p. 1).

This example of agency and self-determination runs counter to totalising representations of all Indigenous people as ‘irresponsible’, ‘risky’ and ‘problematic’ and as incapable of exercising self-determination or autonomy and has created

feelings of victimisation amongst those, regulated through the NTER measures, who do not drink, who fought for restrictions on alcohol and developed their own initiatives and who spend their money appropriately.

Income management removes the equal right of Indigenous Australians to social security (Anthony, 2009), challenges their universal right to welfare (Altman & Johns, 2008) and their citizenship rights (Anthony, 2009; Billings, 2011). Mendes (2013) suggests that income management represents a significant shift in the ideas underpinning Australia's welfare system, transferring welfare from a mechanism of poverty alleviation to one of control. He argues:

CIM [Compulsory Income Management] seems to take ... [the] shift to conditional welfare even further by imposing an unprecedented restriction of individual freedom in an attempt to promote behavioural change. Centrelink is arguably being given judicial powers similar to those granted to Guardianship authorities in cases where people assessed to have significant disabilities are unable to manage their personal or financial affairs (Mendes, 2013, p. 503).

Income management additionally violates the inalienability principle of Australian welfare payments (Altman & Johns, 2008) which has been described as unprecedented (Yeend & Dow, 2007). "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, p. 5).

The denial of Indigenous Australians to manage their own incomes has led to questions of the government's objectives in seeking to produce self-reliant, active and responsible citizens through income management. It has been queried as to how

income management teaches those subscribed to regulate their own spending conduct when it is controlled by the government (Altman & Johns, 2008). This is similar to Humpage's (2007a) problematisation of *Welfare to Work* and its capacity to produce active citizens, discussed earlier with regard to people with disability. Tom Calma, the previous Aboriginal and Torres Strait Islander Social Justice Commissioner draws attention to a contradiction in the policy which “fosters a passive system of policy development and service delivery while at the same time criticising Indigenous peoples for being passive recipients of government services!” (2007, p. 18).

Controlling Indigenous Australians through income management has led some scholars to argue that it will continue the dependencies of Indigenous Australians produced through historical policies which employed the same mechanisms of paternalism and control (Howard-Wagner, 2010). Maddison for example states that “paternalism underpinning the intervention is likely to produce negative unintended consequences precisely because it undermines Indigenous autonomy” (2008, p. 42). Maddison (2008) cautions that in order to produce self-reliant citizens Australian governments must understand how Indigenous dependence has been created by non-Indigenous control.

A considerable amount of existing literature makes connections between income management and the historical policies which regulated Indigenous Australians discussed above (Billings, 2009, 2010b, 2011), similarly subscribing Indigenous Australians to “control, management and surveillance” (Billings, 2009, p. 2; 2010b, p. 165). Billings (2010b) suggests that income management is comparable

to previous policies which regulated every aspect of Indigenous people's lives and racially segregated and regulated Indigenous Australians. Elements of protectionist policy can be seen in income management. For example, during protectionism, Indigenous earnings and property were controlled and managed in the NT specifically by the NT Director of Welfare (Billings, 2009). Therefore, once again "the state [becomes the] economic guardian of [Indigenous] social welfare recipients (and their dependants)" (Billings, 2011, p. 167). Additionally, Anthony (2009) argues that the top-down implementation of the NTER and income management in the NT without consulting with Indigenous communities is similar to the regulation of Indigenous people through paternalistic policies and bureaucracy during protectionism. Thus, as in protectionism, the justification for paternalism and the control of Indigenous income support payments is based on the assumption that Indigenous people are incapable of managing their own money (Anthony, 2009).

Similarly, scholars compare aspects of income management with assimilation (Dawson, 2011/2012), in particular, both policies emphasis on social norms. Howard-Wagner (2010) suggests that assimilation, like income management was a policy that implied that Indigenous culture and Indigenous Australians were inconsistent and incompatible with whiteness and thus forced the conforming of Indigenous Australians to white ways which were regarded as superior. For example, during assimilation, rations were provided to Indigenous Australians in order to structure their compliance with white codes and values. When they demonstrated that they were capable through changing their behaviour they were rewarded with cash instead of rations. This has been described by Lawrence and Gibson as a relationship based on mutual obligation where Indigenous Australians are "rewarded for fulfilling

and performing a particular role in their relationship with the government” (2007, p. 654). The organisation of relations between the government and Indigenous Australians in this way means that power and autonomy is retained by the government. This is because while the measures are defined and justified through claims of ‘best interests’, the state takes pleasure in being the author and enactor of ‘best interests’. It is the power and control that comes from such a role that is valued (Tedmanson & Wadiwel, 2010) and is perhaps continued through income management.

New Income Management

Billings suggests that the further extension of income management beyond the original NTER measures demonstrates the support for mutual obligation and “the extension of conditionality beyond the welfare-to-work context and the distinctly racialised realm of the NT” (2011, p. 190). Dee (2013) proposes that it indicates bipartisan support for income management and a focus by both major political parties, Labor and Liberal, on producing individual behavioural change by welfare recipients. This is because income management was introduced by the Howard Liberal National Coalition government and then continued and extended by the Rudd and Gillard Labor governments. The New Income Management measures, including the long-term payment recipients measure automatically subscribes those in the NT who fit the category’s criteria to income management. Dee (2013) mentions briefly the sorting and constructing of categories by the welfare state in delineating who will be subscribed to conditional welfare. By doing this he partly draws attention to the social construction of categories in the welfare state to organise and manage subjects, much like the social construction of disability and race.

Welfare recipients who are income managed are represented as problematic and only avoid subscription once they prove that they are responsible, not by managing their income appropriately but through participating in education, employment or training (Altman, 2010). Altman (2010) raises problems with this arguing that this judges recipients as guilty and incapable rather than presuming their innocence and capability. These measures “fundamentally alter a citizenship rights-based approach of welfare, replacing it with one that is skewed towards a far higher level of state governmentality of citizen subjects” (Altman, 2010, p. 1) through paternalism.

Like Indigenous welfare recipients who were income managed through the NTER Dee suggests in his discussion of the post NTER income management measures that welfare recipients are “constructed as faulty citizens and flawed welfare subjects” (2013, p. 272), governed through paternalism. Once again the ‘problem’ of receiving poor relief is individualised and the reforms seek to produce responsible citizens through mechanisms of surveillance and control. Dee (2013) specifically discusses the *BasicsCard* as one means of surveillance. “The BasicsCard can be considered as a paternalistic control/caring, monitoring and surveillance assemblage deployed to secure socially and morally ‘responsible’ behaviours” (Dee, 2013, p. 273). Dee (2013) suggests that the *BasicsCard* induces behavioural change through controlling and restricting how and where income support payments can be spent. However, similar to earlier discussions, Dee (2013) questions how self-reliance and individual control can be achieved with government control and regulation, particularly through the loss of individual agency and autonomy.

Conclusion

This chapter indicated the operation of multiple rationalities operating in this context impacting on the way in which people with a PCW were constructed and governed. It identified a gap in existing scholarship, particularly highlighting the lack of research on the possible income management of people with a PCW. Existing scholarship on the PCW category focuses on the creation of the PCW category, rather than its continued construction and regulation by other policies since inception in the Howard government's *Welfare to Work* reforms in 2006. This chapter examined existing scholarship by governmentality scholars on the welfare state, disability studies scholars on the welfare state and CRAWS scholars on income management. It was suggested that examining existing literature by CRAWS scholars on income management was required as a result of the lack of scholarship on the income management of people with a PCW, hence the need to understand how Indigenous welfare recipients are constructed and governed in income management.

'Governmentality Scholars and the Welfare State' focused on the unemployed, the first group to be affected by changes to the welfare state and shifting understandings of welfare. Unemployment for the unemployed was individualised. It was suggested that the unemployed are assumed to be welfare dependent and dole bludgers and unemployment was seen to be a choice. This justified their regulation through surveillance and monitoring which was institutionalised in the structure and organisation of the income support system and employment services. Particularly, their activities were monitored, surveyed and tracked and they were disciplined through breaching penalties. They were also

assumed to be risky and constructed through risk profiles with measures assigned depending on one's assumed level of risk. However, the unemployed were also subjectified through policy in their recasting as jobseekers.

The role of broader society in the management of the unemployed was also discussed in this section. Broader society is encouraged to survey the unemployed. There was reference also made to the normalising gaze which constructed the unemployed as abnormal and thus in need of regulation.

It was additionally highlighted through drawing on existing literature that the unemployed are expected to internalize the mechanisms of discipline in order to learn how to control and self-regulate their own conduct. Therefore, reforms to the welfare state encourage self-reformation through a conditional allowance based on producing an active individual.

The mechanisms of government employed to regulate the unemployed were extended to people with disability through *Welfare to Work* and the cause for the unemployment of some people with disability was individualised. Additionally like the unemployed, some people with disability were at times represented as lazy, deviant and immoral. *Welfare to Work* was suggested to continue the control of people with disability and erode their autonomy. 'Disability Studies Scholars and the Welfare State' also outlined the distinction between the social model of disability and the medical model. However, it was suggested that the *Welfare to Work* reforms and mutual obligation appeared to be underpinned by the medical model of disability, despite the changes appearing to employ the language of the social model.

This section described how disability studies scholars argue that disability was constructed through the institution of formal paid work, following industrialisation. People with disability were excluded from employment because they were seen as inefficient and unable to keep up with the demands of the modern labour force. As a result they were forced into a state of dependency and/ or institutionalised. Disability was thus suggested to be shaped by definitions of work both historically and contemporarily. For example, through *Welfare to Work* disability was determined by how many hours an individual could work. *Welfare to Work* was suggested to challenge deserving and undeserving poor notions and shift welfare from a social right for people with disability to a right for those with disability most deserving of disability support.

Welfare to Work was discussed as overriding the autonomy of people with disability which continues to be overridden through the control and management of their finances in guardianship cases and the lack of encouragement for supported decision making. Similarly, it was examined how despite deinstitutionalisation, people with disability are still excluded from society and their lives and decisions are controlled by professionals. This was evidenced through a discussion of accommodation and activities. Thus people with disability are denied choice, agency and autonomy and their voices and experience are often silenced.

The emergence of a rights discourse was suggested to challenge the restrictions placed on people with disability exercising their autonomy. A rights discourse emphasises a right to self-determination and control. This became expressed through an emphasis on individualised funding, which would facilitate

self-determination and encourage service innovation, and is embodied in the NDIS. The NDIS shifts the care and support of people with disability to an entitlement and enables people with disability to exercise choice and control.

Existing literature on the NDIS suggests that the NDIS represents disability as acquirable by everyone. The NDIS is often discussed alongside the social and economic benefits of enhanced participation by people with disability which are suggested to result from the NDIS. However, there are questions about whether individualised budgets and a person-centred approach will facilitate choice in what is described by Fawcett and Plath (2014) as a liberal/ market framework. This section also discussed whether the NDIS reflects the social model of disability or the medical model. There were suggestions that it does not address social and structural barriers to participation for people with disability through Tier 3, though consistent with the social model in enabling people with disability to exercise their autonomy. This discussion on the social model, medical model and NDIS is also briefly addressed in Chapter Six.

The loss of agency and autonomy experienced by people with disability based on power relations and the social construction of disability can also be seen in discussions by CRAWs scholars and income management with regard to Indigenous Australians. The section ‘CRAWs scholars and income management’ describes how race is socially constructed and provides an explanation of CRAWs. It also examined the history of Indigenous Australians and the welfare state, suggesting that Indigenous Australians have often been constructed and governed separately since colonisation. Indigenous Australians were originally excluded from the welfare state.

Indigenous Australians have been criticised for being welfare dependent both historically and contemporarily. However though their dependency is problematised, Pearson (2000) suggests that in part the dependence of Indigenous Australians results from their exclusion from the labour market, much like people with disability.

This section also provided a description of the NTER which has been depicted as racist, reflecting policies previously employed to regulate Indigenous Australians. It additionally discussed the purpose of income management and its implementation. Specifically, income management extended mutual obligation and welfare conditionality to Indigenous welfare recipients beyond participation in employment and sought compliance with the values of whiteness. Indigenous Australians and Indigenous culture through income management are represented as risky and Indigenous Australians are assumed to be incapable of acting in their own best interests. This justifies their regulation through paternalism, denying their right to autonomy and self-determination.

Income management, as extended through New Income Management, represents support for income management and mutual obligation beyond *Welfare to Work* and the racialized context of the NTER. It too individualises welfare receipt and seeks to produce responsible citizens.

Importantly, the literature review moving forward grounds the findings of this study but is also extended by the findings of this research. In particular, the discussion of governing mechanisms; the social construction of social categories; the medical model and the social model; and the autonomy and agency of people with disability and Indigenous Australians, are examined in Chapters Four, Five and Six.

The following chapter outlines and discusses this research's methodological approach, governmentality and CDS, and method, a Foucauldian discourse analysis. These are employed to conduct an analysis of policy documents, seeking to address the gaps in existing research. There is therefore a focus on how people with a PCW are constructed and governed in recent changes to the income support system for people with disability and the Australian disability care and support system.

CHAPTER THREE: METHODOLOGY AND METHODS

Introduction

The previous chapter identified a gap in existing research on the PCW category suggesting that existing scholarship does not examine the intersection of policies regulating this category and that resultantly there is a dearth of literature on the possible income management of people with a PCW as well as the NDIS and the PCW category. This chapter will discuss the methodologies and method of this research which aims to address this gap by exploring how people with a PCW are constructed and governed in recent changes to income support payments for people with disability and the provision of disability care and support services in Australia.

This chapter will begin by reviewing the research question and objectives. It will then discuss the methodologies of this research, governmentality and CDS providing an explanation of each. Both governmentality and CDS make an important contribution to this research. This is because governmentality provides an approach which enables the researcher to identify and draw attention to the construction of subjects and how they are governed. In addition, it provides a lens and language to apply, discuss and explain the mechanisms or techniques employed to construct and govern subjects, and their implications. It also encourages the researcher to question the naturalness of the PCW category and governing practices, which are taken for granted. Governmentality is a framework which enables the researcher to ask questions similar to the ones in this research. CDS also makes an important contribution to the research. This is because CDS provides a lens from which to interpret the research, as its core tenets resonate with the ideas and conclusions of this study. It also provides a framework from which to consider the way forward for

constructing and governing people with a PCW. After this it will explore the qualitative method of this research, a Foucauldian discourse analysis, followed by a discussion of the rationale for choosing policy documents as the site of analysis. It will draw on Bacchi's (2009) suggestion that policy documents are a historically and culturally contextual way of constructing and governing subjects and outline the policy documents chosen. Finally, the chapter will conclude by highlighting the limitations of this study and how the researcher has sought to address them.

Review of the research question and objectives

This research questions how people with a PCW are constructed and governed in relation to recent changes to income support payments for people with disability and the provision of disability care and support services in Australia. It intends to provide further information into how the category is constructed and governed, which is often limited in the existing literature to an examination of the category's inception in the Howard government's *Welfare to Work* reforms. It also seeks to address a limitation of existing research, examining how the category is constructed and governed through other policies such as income management and the NDIS. This is because existing scholarship does not examine the intersection of the PCW category with other policies such as, the *SSOLA (Welfare Reform and Reinstatement of the RDA) Act 2010*, which legislates income management, and the NDIS, and the implications and effects of this for the way that people with a PCW are constructed and governed.

Methodologies

Governmentality

This research adopts two methodological approaches, one of which is governmentality. Governmentality as a concept and a theory was developed by Michel Foucault (Dean, 1999, 2010) and is a theory about modern government and how governing is practiced. It examines how people are governed and through what means. Governmentality also seeks to understand how power is organised and orchestrated in society. Governmentality ultimately encourages one to question how power and rule is understood in modern society (Marston & McDonald, 2006b).

In governmentality, Foucault understands government as the “conduct of conduct” (Dean, 1999, p. 10; McNay, 1994, p. 127; Rose, 1999, p. 3; Smart, 2002, p. xv). This refers to the idea that individuals and populations are managed and regulated as subjects through certain techniques or mechanisms which influence and impact on their ability for action (Dean, 1999; Rose, 1999). This occurs through “structuring the field of conduct” (Smart, 2002, p. xv). Further, Foucault (1994 [1978]) refers to government as an ‘art’, essentially inferring the ‘how’ of governing. With regard to governmentality this can refer to the numerous and often invisible techniques and mechanisms employed to guide individuals and populations. A governmentality approach draws attention to these techniques and mechanisms employed to guide and regulate individuals and populations, suggesting that governing generally and the way it is exercised in society is not natural, inevitable or primordial, rather it is a socially constructed way of organising society to achieve specific objectives (Dean, 1995).

A governmentality approach specifically responds to liberalism as a modern form of government (Dean, 1999, 2010; Foucault, 1994 [1978]) and analyses liberalism as a way of governing (McNay, 1994). In liberalism, persons are not understood as “a flock to be herded or tended, [or] the inhabitants of a territorial possession” (Gordon, 1994, p. xxiv); instead as subjects of a population that should be governed through freedom and less governmental interference. Governmentality lends itself as a means to analyse the mechanisms of government in liberalism which may be external to state regulation but nonetheless, guide and direct conduct to achieve specific objectives. “Liberalism advocates an “economic government” – a government, in other words, that economizes on the use of resources and effort to achieve its ends, and, ... accepts that to govern well is to govern less” (Gordon, 1994, p. xxvii). This aspect of liberalism, that is, the notion that “to govern well is to govern less” (Gordon, 1994, p. xxvii) relates to the emphasis in governmentality on examining forms of indirect rule, that is, mechanisms external to state regulation (McNay, 1994).

It is suggested through a governmentality approach that one of the ways in which subjects and populations are governed in liberalism is through the dispersion of sites of government. This dispersion repositions the role of the state from a position of centrality in the relationship of power and rule to one where other institutions also direct and regulate conduct (Marston & McDonald, 2006b). Governmentality, then, does not focus on the state as the predominant institution of regulation. Rather, governmentality moves away from the notion that governing is only a function of the nation-state and examines other institutions or mechanisms in society which also function to direct and regulate conduct (Dean, 1999, 2010;

Foucault, 1994 [1978]; Marston & McDonald, 2006b; Rose, 1999; Rose, O'Malley, & Valverde, 2009). For example, “in institutions such as the family, school, hospital, prison, commercial enterprise and so forth, the conduct of individuals and groups is directed, in short, it is subject to government” (Smart, 2002, p. xv). Governing through other institutions alongside the state points to an implicit extension of power and rule in modern society (Marston & McDonald, 2006b) and enables the state to govern at a distance (Rose, 1999). To govern at a distance simply means regulating at length, which according to Dean (2002) is less intrusive or obvious.

Another technique through which people are governed in liberalism is through freedom. Freedom is understood as a right of modern individuals and populations which governing institutions and the state must respect (Foucault, 2007 [1977-1978]). Rose (1999) suggests that by governing through freedom in liberalism one is recognising the capacity in those governed to manage and regulate their own conduct. To ‘govern’ means to direct and manage conduct while at the same time acknowledging the agency and ability of subjects to act, therefore presupposing their freedom. Rose (1999) suggests that by having such an understanding, governing institutions can achieve desired ends by working through the freedom of subjects. Alternatively, “the absence of freedom to resist or act otherwise implies a state of absolute domination or physical constraint” (McNay, 1994, p. 127). Foucault (1982) suggests that to exercise power in this way, as in through domination or control, is not based in a power relationship but is rather a formation akin to slavery, hence the importance of governing through freedom. However, governing through freedom is based on establishing and forming a subject whose conduct is consistent with the expectations and norms of rule. It also means that, there are obvious constraints on

such freedom in order to manage and control deviance, delinquency and to maintain social order (Foucault, 2007 [1977-1978]). Therefore, those who are unable to conduct themselves in a manner consistent with social norms and expectations are no longer governed through freedom but disciplined, to encourage the development of the capacity for conducting oneself in a more congruent manner. McNay states “even when individuals think they are most free, they are in fact in the grip of an insidious power which operates not through direct forms of repression but through less visible strategies of ‘normalization’” (1994, p. 5).

Knowledge is also identified by governmentality scholars as a technique employed to govern individuals and populations. According to Foucault the employment of knowledge as a technique to govern is situated within or has a relationship to power. This knowledge comes through mechanisms used to survey and document the movements and desires of individuals and populations harnessing information such as birth rates, death rates, marriage rates, unemployment rates, statistics of home ownership and attendance numbers at various events. For people with disability, for example, the knowledge of the medical profession has been privileged over their knowledge, and employed as a mechanism to govern them. Medical professionals are seen as experts (Oliver, 1996). The medical profession objectifies people with disability, surveying, examining, assessing and treating their bodies. Foucault discusses “the production of effective instruments for the formation and accumulation of knowledge – methods of observation, techniques of registration, procedures for investigation and research, apparatuses of control” (Foucault, 1980, p. 102). He emphasises the importance of examining these mechanisms, used as means of obtaining knowledge. The knowledge produced through such instruments then

assists in establishing mechanisms to shape conduct in order to effectively achieve specific ends (Foucault, 1994 [1978]; McNay, 1994) at times “*working through our desires, aspirations, interests and beliefs*” [italics in original] (Dean, 1999, p. 11). Using knowledges of the governed means that governing takes place through something that is not external or separate to subjects (Rose et al., 2009) and yet subjects are treated as objects of government, much like people with disability and their regulation through the medical profession.

Further, governmentality highlights how subjects in liberalism are managed and regulated through macro and micro techniques of power. Macro and micro techniques refer to the format or structure of governing in modern society and the way that it is organised and signify government on two levels: at the collective or population level and at the individual level (Rose, 1999). Rose (1999) refers to macro techniques as those employed to govern the population as a collective, whereas, micro techniques are those which function to direct and regulate the individual. Acknowledging both modes of governing is important, as Smart states, “to conceive of the exercise of power in modern societies purely and simply in terms of totalizing procedures of the state is to neglect the significance of the techniques of individualization which are to be found in the same political structures” (2002, p. 128).

One of the micro techniques of modern government examined by governmentality scholars is what Foucault terms “techniques of the self” (1994 [n.d.], p. 87). This refers to the creation of certain relations to the self that are developed by subjects through or in response to mechanisms which seek to regulate,

manage and direct conduct (Marston & McDonald, 2006b; Rose et al., 2009). Governmentality then, focuses on how subjects self-regulate or self-govern (Dean, 1999, 2010), or develop the capacity to undertake the two functions listed formerly. This approach of government recognises the capability of subjects to regulate their own conduct (McNay, 1994). Through analysing this aspect of government a governmentality approach examines the mechanisms which work to produce an individual who forms or alters their own conduct in order to comply with social norms or expectations, in this way forming a particular relation to the self. Such relations are developed through self-examinations and “the guidance of the conscience” (Smart, 2002, p. xv) which Smart terms “truth obligations” (2002, p. xv). Through employing such practices on oneself one’s own conduct is under scrutiny by oneself which may lead to self-transformation. This focus on self-government objectifies human behaviour (Smart, 2002). Additionally, through such self-management or regulation the individual becomes aware of them self as a subject (Smart, 2002). Therefore, through self-management and self-government the individual turns their self into a subject (Foucault, 1982).

Foucault was, and governmentality is, heavily occupied with attempting to understand the production of the subject through governing and, while this occurs through technologies of the self, Foucault also discusses dividing practices as a mechanism of subject formation. Foucault suggests that “there are two meanings of the word “subject”: subject to someone else by control and dependence; and tied to his or her own identity by a conscience or self-knowledge” (1982, p. 781). The formation of the subject is a technique of modern governing however, it also becomes an effect of governing in that it produces and impacts tangibly on the way

subjects see themselves and are able to interact with social institutions. Foucault understands the notion of the 'subject' as a social construction which is a product of power and also social and historical contexts which work to structure society through governing (McNay, 1994). Foucault thus argues that this creation of subjectivity and the defining of identity is "a form of power ... [which] applies itself to immediate everyday life ... categorizes the individual, marks him by his own individuality, attaches to him his own identity, imposes a law of truth which he must recognize and which others have to recognize in him" (1982, p. 781).

Power is particularly employed in the creation of subjects through dividing practices. Dividing practices are when "the subject is either divided inside himself or divided from others" (Foucault, 1982, pp. 777-778) through objectification as an object of knowledge and research as well as power (Smart, 2002). Foucault throughout his work discusses the division of certain subjects from what can be termed the 'rational' or 'normal' subject. Such subjects include 'the mad', 'the delinquent' and 'the ill'. Dividing practices creates and uses bodies of knowledge established about specific subjects (Smart, 2002). Power and knowledge thus work on the body and transform the body into an object of knowledge and a subject whose identity is categorised. This categorisation of a subject's identity through knowledge informs discourses surrounding certain social categories. The formation of subject identity through dividing practices is something that operates external to the subject. However, the effects are felt by those subjugated into a subject identity that is considered 'problematic' or 'deviant'. By forming a dualistic relation between one type of subject, the "mainstream" (Bacchi, 2009, p. 275) and another, the "marginalised" (Bacchi, 2009, p. 275) not only is the 'other' objectified but it

appears undesirable and abnormal (McNay, 1994). This also creates tensions between different “political subjects” (Bacchi, 2009, p. 275). By highlighting the employment of dividing practices to govern it draws attention to how regulating the behaviours of the marginal contributes to the government of the broader population (Bacchi, 2009) and also draws attention to the construction of subjects.

In summary, governmentality draws attention to the techniques and mechanisms used by the state and other institutions to direct, manage and regulate conduct to achieve specific ends. It enables such practices to be exposed and their inevitability and naturalness challenged. Governmentality also enables the construction of subjects to be considered (Dean, 1995).

Usefulness of governmentality for analysing policy and its relevance to this study

However, there is no structured process to undertaking research using a governmentality methodological approach (Marston & McDonald, 2006b) and no one accepted way to utilise the work being produced by governmentality scholars (Dean, 1999). This contributes to the “flexible and open ended” (Rose et al., 2009, p. 26) nature of governmentality as a methodology.

Governmentality is employed effectively in policy research in order to expose and acknowledge the relationship between governing undertaken through the state and connectedly other non-state institutions (Marston & McDonald, 2006b). As a result of the capacity of governmentality to challenge the inevitability of particular forms of governmental regulation referred to earlier, an analysis using

governmentality as the methodological approach has been described as liberating for policy analysis (Marston & McDonald, 2006b). This is because it reframes the way that social policy analysis is undertaken because it extends an analysis of policy and governing beyond the state to examine and analyse other institutions or mechanisms which construct and govern subjects (Marston & McDonald, 2006b; Rose, 1999).

Additionally, through examining the micro and macro technologies of government “rich possibilities for social policy research and analysis” (Marston & McDonald, 2006b, p. 4) can be exposed. As well, it “helps avoid reductionist (or totalising) accounts of policy” (Marston & McDonald, 2006b, p. 7). Governmentality also enables one to go beyond the common sense and taken for granted world of policy and question and challenge the way that policy problems and solutions frame the ‘problem’ and solution in certain ways (Marston & McDonald, 2006a). Undertaking a governmentality analysis of policy encourages and enables researchers to problematise and question policy then contributing to some form of transparency and establishing a level of accountability (Marston & McDonald, 2006a). It then also enables the possibility of policy alternatives by “problematizing existing practices” (Marston & McDonald, 2006a, p. 229). Marston and McDonald (2006a) suggest that governmentality as an approach for analysing policy can contribute significantly to enriching policy analysis.

A governmentality approach is apt and of value to this project specifically because of its ability to extract and highlight the construction of subjects and techniques and modes used to govern and regulate conduct (Marston & McDonald, 2006b). It provides a methodology to question, disturb, challenge and draw attention

to the mechanisms and processes of governing. Governmentality then usefully supplies a lens to examine the way that people with a PCW are constructed and governed in *Welfare to Work* and at the intersection of other policies which could regulate the PCW category, such as income management. Governmentality also provides a language to discuss governing and a guide as to what to look for in seeking to analyse how people with a PCW are constructed and governed. It can also provide an explanation of the techniques or mechanisms employed and the possible effects or implications of governing.

Additionally, through governmentality, the researcher is able to question the naturalness of the PCW category and examine the impact of the category's construction on the actions of people categorised with a PCW. This is because employing a governmentality methodological approach enables one to extract and then challenge common sense or taken for granted modes of governing which are often implicit and invisible. Governmentality thus "increases our awareness of the role of construction and the constructed in governmental landscapes and institutions, and of the way in which habit leads us to accept these constructions as facts of nature or universal categories" (Gordon, 1994, p. xxiv). Destabilising the naturalness of the PCW category's construction further allows the researcher to examine how people with a PCW are constructed and governed to achieve specific ends, for instance, as a solution to the ageing population, as a means to destabilise the benefit dependency of people with disability and a way to shift them into employment.

Governmentality thus enables the researcher to deconstruct, analyse and ask questions of policy like those expressed in this research (Marston & McDonald, 2006b), provides a language to describe the way that people are governed and exposes the social construction of social categories which are assumed as natural. In this way then, it serves as an appropriate methodology to apply in order to develop answers to the research question and fulfil the research objectives.

CDS

The second methodological approach of this study is CDS. CDS is an important part of the methodological approach of this study because it provides a perspective from which to interpret the findings. In particular, CDS resonates with some of the ideas and conclusions of the research. It also provides a language to explain the concerns identified with the way that people with a PCW are constructed and governed with regard to recent changes to Australia's income support system for people with disability and in relation to Australia's new scheme to provide care and support to persons with disabilities. Additionally, the research supports suggestions by CDS scholars who emphasise a need to move beyond governing through binaries such as, abled/ disabled, same/ different and impairment/ disability to consider the embodied experience of all subjects.

CDS developed in response to criticisms of disability studies (Meekosha & Shuttleworth, 2009). Disability studies is underpinned by three key ideas. The first is that people with disability are a marginalised and discriminated against group. The second is that people with disability are a minority group and the third reflects the

social model suggesting that disability is a social problem and not a medical one (Roulstone et al., 2012). According to Roulstone, Thomas and Watson the first two ideas “have combined and been used to reinforce the latter” (2012, p. 3).

However, as highlighted in the Introduction, some disability studies scholars have critiqued the social model (Shakespeare, 2006; Shakespeare & Watson, 2002). One criticism is levelled at the distinction between impairment and disability made by the social model, in particular its tendency to ignore the implications of impairment in favour of removing social barriers. Shakespeare (2006) challenges the impairment/ disability binary, questioning the ease with which persons with disability are able to separate or distinguish the effects of impairment and disability in their everyday lives. For example, “[p]ain itself is generated through the interplay of physiological, psychological and socio-cultural factors and thus the individual experience can never be separated from the social context” (Shakespeare, 2006, p. 34). Similarly, Morris (1991) contends that while social barriers and negative attitudes do impact on people with disability it is problematic to ignore the personal experience of impairment and restrictions which may result from this. Additionally, sometimes impairments can be exacerbated by social barriers (Shakespeare & Watson, 2002). To then focus on social barriers rather than impairments ignores the combination of impairment and social barriers and the complexity of the experiences of persons with disabilities (Shakespeare, 2006).

Therefore, the social model is critiqued for failing to acknowledge the lived bodily experiences of impairment (Shakespeare & Watson, 2002), focusing instead on the social environment. Shakespeare and Watson (2002) suggest that people with

disability are not only 'disabled' as society marginalises and excludes them, but are also impaired. To ignore the pain and daily experience of impairment invalidates the experience of disability hiding it through only focusing on social barriers. Thus the social model ignores the embodied experience of impairment.

Oliver (2004, 2009) defends the social model from these claims. He argues, firstly, that the social model was not intended to focus on the "personal experience of impairment (Oliver, 1996) but the collective experience of disablement (Oliver, 1990)" (Oliver, 2004, p. 8) as there already was and is extensive emphasis on individual impairment through the medical model at the expense of social barriers (Oliver, 2009). Secondly, he suggests that the limitations placed on individuals as a result of impairment are inadequate to build a political movement on (Oliver, 2009).

The former argument however, constructs the experience of impairment as individual and biological rather than recognising that impairment is also socially constructed and culturally contextual and "[i]f disability is defined as social, while impairment is defined as biological, there is a risk of leaving impairment as an essentialist category. Impairment is not a pre-social or pre-cultural biological substrate" (Shakespeare, 2006, p. 35). The social model also suggests that because of the individualised and biological nature of impairment that it cannot be changed and obscures an ability to challenge socially constructed discourses of the body. Connell

terms this social production of meaning assigned to bodies as “[B]ody-reflexive practices ... [which] are not internal to the individual [rather] ... involve social relations and symbolism” (2005, p. 64). Meekosha (1998) suggests:

if biology is not destiny, then culture may be the determining context. If so, this means that all bodies are fundamentally culturally and socially determined and thus particular cultural forms determine the configuration of the body ... Seen in this way, the body has been forced to vacate its residence on the nature side of the nature-culture duality and take up residence within culture (Meekosha, 1998, p. 167).

The social model thus fails to acknowledge impairment as the embodied experience of disability, both individually experienced and socially produced.

Recently, CDS has emerged as a departure from and in response to some of the criticisms of the social model (Meekosha & Shuttleworth, 2009). It has also developed in reply to questions about the relevance of the social model in postmodernity and late capitalism (Goodley, 2013). CDS extends the work of the social model (Shildrick, 2012). Some CDS scholars acknowledge the social model as the foundation for disability studies and its achievements (Goodley, 2013). However, CDS takes the social model and its theoretical underpinnings “in innovative new directions that challenge not simply existing *doxa* about the nature of disability, but questions of embodiment, identity and agency as they affect all living beings” (Shildrick, 2012, p. 30). CDS seeks to develop a more complex understanding of the oppression of people with disability whilst using ideas about disability from the social model (Meekosha & Shuttleworth, 2009). CDS attempts to move away from

binarised thinking, for example; impairment/ disability, ability/ disability and the medical model versus the social model (Meekosha & Shuttleworth, 2009). Its objective is the emancipation of people with disability (Meekosha & Shuttleworth, 2009).

CDS encourages interdisciplinarity, that is, examining and working with other disciplines including other critical theories such as queer studies, CRAWs and feminism for what they can bring to analysis and to disability studies (Shildrick, 2012). Many CDS scholars interact with alternative theories alongside CDS to draw their conclusions, for example, “post conventionalist (Shildrick 2009); postmodernist (Corker and Shakespeare 2002) and post-structuralist (Tremain 2005)” (Goodley, 2013, p. 634).

One of the key tenets of CDS is that it captures the relationship between impairment and disability. Accordingly, “disability is best characterised as a complex interrelationship between impairment, individual response to impairment, and the social environment” (Hosking, 2008, p. 7). Therefore, rather than seeing impairment and disability as analytically distinct, CDS sees a relational dialogue between impairment and disability (Meekosha & Shuttleworth, 2009) as they each impact on one another (Goodley, 2013). It also sees impairment as also embodying repressive social relations rather than as solely biological (Meekosha & Shuttleworth, 2009). This is because “social attitudes, aesthetics, cultural discourses and discursive structures and representation [have a role] in determining and conditioning the social experience of living with an impairment” (Soldatic, 2009, p. 34). The body in CDS

thus also becomes a site of analysis because “[t]he body ... is neither a biological nor sociological category ... it is an interface, ... a field where multiple codes ... are inscribed” (Goodley, 2013, p. 636).

A CDS perspective additionally, emphasises the importance of questioning and disturbing the binary of ability and disability and the power relations it sustains. Through this it becomes particularly crucial to examine and deconstruct the normalised able-body which often avoids examination. This is because binaries through simplifying complex relationships “cannot capture the rich interweaving of bodily states” (Shildrick, 2012, p. 33). Therefore, Shildrick favours a “fluidity of all categories” (2012, p. 32) rather than a seemingly stark contrast between ability and disability operating in binary thinking.

By deconstructing binary thinking Shildrick (2012) encourages the examination of all embodied subjectivities, particularly the ‘norm’ which would particularly illuminate how the

parameters around all and any types of embodiment – and not just disabling conditions – are in any case uncertain. In the postconventional approach, all putative categories are slippery, unfixed, permeable, deeply intersectional, intrinsically hybrid and resistant to definition (Shildrick, 2012, p. 34).

“In place of modernist stereotypes that [then] construct an insidious devaluation of bodily difference, and of disabled people, postconventional theories of embodiment expose the uncertain and vulnerable nature of all forms of embodied selfhood” (Shildrick, 2012, p. 38) and challenges the distinctness between ability and disability employed in binary thinking. CDS thus engages with embodiment (Coleman-

Fountain & McLaughlin, 2013). This is an approach which could capture the diversity of impairments and disabling experiences. This is because by questioning and destabilising binaries the differences within social categories can be examined (Meekosha & Shuttleworth, 2009) and challenged.

Shildrick (2012) suggests that through deconstructing the ability/ disability binary the binary of sameness/ difference is also challenged because it seeks to highlight and deconstruct the power of the normative in defining sameness and difference. This is unlike the social model which seeks inclusion within the existing paradigm of equality for people with disability which casts them as either the same or different to the able-bodied norm. CDS instead challenges the equality paradigm “[b]y complicating the liberal humanist claim that, like other identifiable oppressed groups, disabled people should simply be afforded the same rights and benefits enjoyed by the mainstream members of their society” (Shildrick, 2012, p. 34). This limits the consideration of the “multiple irreducible differences” (Shildrick, 2012, p. 34) of people with disability, instead requiring that the concept of equality be challenged and destabilised in order to embrace diversity (Hosking, 2008).

Further, while the social model emphasises that the ‘problem’ is with society and the social barriers experienced by people with disability Shildrick (2012) raises concerns with the social model. She argues that removing social barriers does not impact on the ingrained subconscious attitudes and prejudices around disability (Shildrick, 2012). Thus any response must “go beyond simply extending the *formal* framework in which disabled people can maximise their status as good citizens of the

neo-liberal polity” (Shildrick, 2012, p. 35) and focus on critiquing ingrained fears and attitudes about bodies which are often problematised and represented as sub-human and incomplete.

CDS therefore seeks to disturb and deconstruct the binaries of impairment and disability, ability and disability and sameness and difference and their power, and challenge ableism and the social model. It “intends to unsettle entrenched ways of thinking on both sides of the putative divide between disabled and non-disabled, and to offer an analysis of how and why certain definitions are constructed and maintained” (Shildrick, 2012, p. 35).

Another reason for the emergence of CDS is the appropriation of the language of disability studies and the social model in government policy. Like in Chapter Two where it was suggested that Humpage (2007a) and Galvin (2004) problematise this, Meekosha and Shuttleworth (2009) also raise concerns with this and highlight that this co-option has resulted in measures which are inconsistent with the intentions of disability studies. “CDS represents a distancing from those who have coopted disability studies for simply normalising ends” (Meekosha & Shuttleworth, 2009, p. 51).

Meekosha and Shuttleworth (2009) also highlight the relevance of Foucault’s understanding of power and knowledge to CDS, and Soldatic (2009) draws attention to the applicability of governmentality. “What makes Foucault’s ideas so useful to CDS is that they perform a radical de-familiarisation of modern institutions and practices as caring and benevolent and reveal technologies and procedures that

classify, normalise, manage and control anomalous body subjects” (Meekosha & Shuttleworth, 2009, p. 57). While the social model critiqued social institutions for the economic and materialist exclusion of people with disability and the power of the medical profession, power is conceived more broadly by Foucault, including through governmentality. The difference is Foucault’s concern, with micro techniques of power which govern subjects who at times become complicit in their subjectification (Meekosha & Shuttleworth, 2009).

This research will apply CDS as its methodology alongside governmentality. This is because both in combination provide a useful approach for this research which explores how people with a PCW are constructed and governed in recent changes to income support policy for people with disability and the disability care and support system.

A qualitative approach: Foucauldian discourse analysis

This research adopts a qualitative method to analyse the policy documents. Specifically, the researcher adopts a Foucauldian discourse analysis. The application of a Foucauldian discourse analysis to the policy documents works alongside the methodological approach of this study, governmentality, which is also based on Foucault’s work (Dean, 1999, 2010). It also relates to CDS, the other methodology of this study, which as highlighted also employs the ideas of Foucault and governmentality. Unlike other approaches to discourse analysis a Foucauldian discourse analysis suggests that there is a connection between the text and the wider social realm inferring a link between power relations and social and historical contexts. A Foucauldian analysis is concerned with how texts are produced as a

product of such social and historical contexts (Jacobs, 2006). This requires the researcher to consider the construction of the text as well as the themes and meanings that may be contained (Jacobs, 2006). The Foucauldian approach sees texts as documents produced within particular social and historical contexts, with even shifts in society becoming reflected in the way that texts are constructed. A Foucauldian discourse analysis seeks to expose, challenge and destabilise discourses which are entrenched within society. Employing a Foucauldian discourse analysis is appropriate for the fulfilment of the research question and objectives because it allows the researcher to analyse the historically contingent PCW category to understand how people with a PCW are constructed and governed. It also encourages the researcher to consider the construction of the PCW category as part of a wider process beyond *Welfare to Work*. For example, as discussed in the Introduction and Chapter One, the establishment of the category could be considered part of a broader trend to encourage more people with disability into employment for various reasons.

Additionally, in a Foucauldian discourse analysis it is understood that “discourse plays a pivotal role in establishing ... regimes of truth [which] are the basis from which we assert our understandings of the social world” (Jacobs, 2006, p. 142). Employing a Foucauldian approach to a text can expose such “regimes of truth” (Jacobs, 2006, p. 142) which permeate society at any given time. Jacobs summarises Foucault’s “key argument [stating] ... discourses are contested ... the key task is to identify how discourses exemplify conflicts over meaning that are linked to power” (2006, p. 142). A Foucauldian discourse analysis allows the researcher “to make explicit the connections between text and wider social practice” (Jacobs, 2006, p. 143) including how the implications of a text carry forward into other policies and

become accepted as regimes of truth. Using a Foucauldian discourse analysis to examine how people with a PCW are governed allows the researcher to draw attention to contradictions in regimes of truth. Additionally, a Foucauldian discourse analysis allows the researcher to highlight and disrupt silences in policy documents. This enables the researcher to expose the ableist norm regulating people with a PCW in *Welfare to Work*, which is continued through income management in governing them through sameness and, highlight, the ways in which people with a PCW are governed in comparison to people with severe and profound disabilities in the NDIS.

Therefore by applying a Foucauldian discourse analysis, the method of this research, the researcher can draw on the social and historical context of the policy documents in order to expose and challenge the way texts are constructed. This enables the researcher to highlight the historically contingent PCW category and understand how people are constructed and governed as part of a wider process. A Foucauldian discourse analysis also provides a framework to reveal and challenge regimes of truth in the policy documents and any contradictions within such regimes, as well as disrupt the silences in the documents.

Policy

This research conducts a Foucauldian discourse analysis of policy documents. Bacchi's (2009) arguments about policy are paramount to why policy documents were selected as the site of analysis for this project. Bacchi (2009) is a scholar who develops and applies Foucault's approach to the analysis of policy documents. Bacchi (2009) suggests that policy is historically and culturally contextual and is a way of organising and governing society. To have a policy in place implies "that

there is a problem” (Bacchi, 2009, p. ix) that needs fixing. Bacchi’s (2009) belief that policy is a mechanism of governing links not only to governmentality but also enables the researcher to attempt to understand how people with a PCW are constructed and governed in recent changes to the income support system for people with disability as well as to the disability care and support system in Australia. This is because policy becomes understood as a mechanism or technique employed to construct, regulate, manage and govern subjects. The link between analysing policy documents and governing works effectively in this project to strengthen the outcomes of the research which respond to the research question and objectives, and which also link to understanding how people with a PCW are constructed and governed in specific policy documents.

The choice, by the researcher, to analyse policy documents is thus the most appropriate way to answer the research question. This confidence considers the research question and objectives as well as Rose’s suggestion that “attempts at governing may be formally rationalized in programmatic statements, policy documents, pamphlets and speeches” (1999, p. 4). This statement implies and indicates the capacity of policy documents to construct subjects and direct and regulate conduct, through various means.

The policy documents were selected through a purposive sampling technique. Purposive sampling was employed in order to provide answers to the research question and satisfy the research objectives (Bryman, 2008). The application of purposive sampling ensures that the policy documents selected relate specifically to the target area of the project.

Specifically, this project analyses the *Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Act 2006*, the *SSOLA (Welfare Reform and Reinstatement of the RDA) Act 2010*, the *Family Assistance and Other Legislation Amendment Act 2011* and the *NDIS Act 2013*.

Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Act 2006

The *Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Act 2006* gave effect to the 2005-06 *Welfare to Work* Budget measures of the Howard government (Daniels & Yeend, 2005).

Of most relevance however, were the changes made to the *DSP* qualification criteria which tightened the incapacity to work test. This meant *DSP* applicants who were assessed through a Job Capacity Assessment as capable of working between 15 and 29 hours per week independent of a POS within the next two years were no longer eligible for the *DSP*, instead having to apply for an alternative payment, like *NSA*.

The *Welfare to Work Act* also made changes to *NSA*. For example, it shifted penalties from rate reductions for breaches to payment loses, including the eight week non-payment period (Daniels & Yeend, 2005). It allowed for *NSA* recipients to re-engage with the system if they complied with their Activity Agreement requirements on the first and second time they breached their activity requirements in a 12 month period. It also legislated the eight week non-payment period for serious participation failures. The *Welfare to Work Act* also established RapidConnect which

requires a *NSA* applicant “to register with the Job Network [and attend an interview with a provider] prior to making a claim” (Commonwealth of Australia, 2005, p. i). The Act also removed the take ‘reasonable steps’ clause from persons meeting their Activity Agreement requirements meaning that *NSA* recipients must comply with all requirements unless they have a valid excuse. Additionally, it broadened the scope of work from full-time employment to work to the recipient’s capacity and made changes so that those engaging in part-time work would be entitled to receive a part rate allowance (Commonwealth of Australia, 2005).

SSOLA (Welfare Reform and Reinstatement of the RDA) Act 2010

The *SSOLA (Welfare Reform and Reinstatement of the RDA) Act 2010* sought to implement changes to the NTER legislation including the *SSOLA (WPR) Act 2007* and the income management measures. As the title implies, the Act reinstated the *RDA* as well as “State and territory anti-discrimination laws” (Buckmaster et al., 2010, p. 3). However, most relevantly, this Act expanded income management to assist all ‘disadvantaged’ Australians, initially beginning in the NT, back into employment. Many of the changes that were implemented through the *SSOLA (Welfare Reform and Reinstatement of the RDA) Act 2010* were made to ensure that the NTER legislation was congruent with the *RDA* (Buckmaster et al., 2010).

Family Assistance and Other Legislation Amendment Act 2011

The *Family Assistance and Other Legislation Amendment Act 2011* made changes to Family Tax Benefit A and B and the *DSP* eligibility criteria. It also extended income management in Cape York for twelve months and amended the *Aboriginal Land Rights (NT) Act 1976 (Cth)*.

Most relevantly, the *Family Assistance and Other Legislation Amendment Act 2011* reformed the criteria for those seeking to access the *DSP*, requiring those without a ‘severe impairment’ to “test their future work capacity” (Daniels, Garden, et al., 2011, p. 3) before being eligible for the *DSP*. This meant that applicants had to either have previously engaged with a POS for 18 months in the 36 months prior to the applicant’s *DSP* claim in order to be eligible or if not had to engage with a POS for 18 months (Commonwealth of Australia, 2011). This Act also redefined ‘severe impairment’.

NDIS Act 2013

The *NDIS Act 2013* established the NDIS which provides individualised care and support for people with severe and profound disabilities, including individualised funding. It also contains legislation for the establishment of the NDIA, charged with implementing and managing the NDIS and provisions for the other supports to be provided through the NDIS (Buckmaster & Tomaras, 2013).

Limitations of the study

It is important to acknowledge the limitations of the method of this study. Firstly, a possible critique of this study which is also a criticism of discourse analysis is the question of voice and the capacity of this type of research to enable the voices of those concerned or impacted on by the policy to be heard. In order to somewhat address this limitation, the researcher has, where possible, drawn on sources which convey the perspectives of people with disability, particularly in Chapters Four, Five and Six. In particular, the researcher has used media articles by various members of the disability community from *Ramp Up*, “the ABC’s [Australian Broadcasting

Corporation's] ... online destination for news, discussion, debate and humour for everyone in Australia's disability communities" (ABC, 2014, p. n.p.) as well as drawn on comments to these articles. It has also engaged with the work of various disability and welfare organisations including People with Disabilities Australia (PWDA), the Australian Council of Social Services (ACOSS) and the NWRN. Additionally, it has included, where relevant, opinions from the Submissions to the Australian Government Senate Community Affairs Committee Inquiry into the NDIS Bill 2012.

Secondly, discourse analysis as an interpretive method is criticised for its capacity to allow bias (Jacobs, 2006). Bryman (2008) suggests that the interpretations of texts offered by researchers are not necessarily concrete interpretations; rather, they are perspectives which can be affected by subjectivity. Similarly, Bacchi (2009) also acknowledges that researchers must be aware of the influence of their subjectivity which is bound up in their own experiences. Further, it has been suggested that other researchers or audiences may not arrive at the same conclusions as "qualitative findings rely too much on the researcher's often unsystematic views about what is significant and important" (Bryman, 2008, p. 391). The ability of the researcher to interpret texts through an unconscious bias must thus be acknowledged and recognised. However, discourse analysis is precisely a tool for unpacking taken for granted assumptions in policy documents, recognising that policy documents are not neutral, rather are socially constructed and may reflect taken for granted assumptions. Policy practitioners for example, are "immersed in the conceptual logics of our era" (Bacchi, 2009, p. 19) and as such may reflect this in

policy. For the researcher then self-reflexivity is employed to the researcher's own conclusions through discourse analysis which endeavours to limit the influence of unconscious bias by recognising the potential for subjectivity to penetrate the study.

Conclusion

This chapter has outlined the methodological approaches of this research, governmentality and CDS. Following this, it discussed the method of this research, a Foucauldian discourse analysis of policy documents, in particular the *Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Act 2006*, the *SSOLA (Welfare Reform and Reinstatement of the RDA) Act 2010*, the *Family Assistance and Other Legislation Amendment Act 2011* and the *NDIS Act 2013*. This research aims to employ these frameworks to analyse how people with a PCW are constructed and governed in recent changes to the income support system for people with disability and in the provision of disability care and support. The research also emphasises the importance of examining policy intersections in the construction and regulation of subjects, particularly considering the dearth of literature on the possible income management of people with a PCW and people with a PCW and the NDIS. The following chapter begins to discuss how people with a PCW are constructed and governed suggesting that they are constructed and governed through an able-bodied norm in *Welfare to Work*.

CHAPTER FOUR: SAMENESS, *WELFARE TO WORK* AND
PEOPLE WITH A PARTIAL CAPACITY TO WORK

Introduction

This chapter examines how people with a PCW are constructed and governed in the Howard government's *Welfare to Work* reforms. While there is an extensive amount of existing scholarship on concerns with the *Welfare to Work* reforms for people with disability, this research specifically problematises the underlying mechanisms of government which normalise and structurally disadvantage people with a PCW. The analysis within the chapter demonstrates how people with a PCW are governed through sameness in *Welfare to Work* which upholds the able-body as the normative standard by which people with a PCW are constructed and governed, systematically disadvantaging them.

In Western societies, the white, able-bodied heterosexual male has occupied a position of privilege, norm and ideal in contrast to persons who are non-white, persons with disabilities, lesbian, gay, trans and intersex persons and women, who have been constructed as 'different' or 'other' (Bacchi, 2009). Scholars have debated about whether the 'other' should identify that they are the 'same' as the white, able-bodied, heterosexual male or 'different' (Wendell, 1996) in order to seek equality and inclusion. However, Bacchi (1990) suggests that the norm occupies the point of reference, determining sameness or difference. Discussions about sameness and/ or difference can be seen in feminism (J. C. Williams, 1991), disability studies, CRAWs (J. C. Williams, 1991) and queer studies, often creating divisions within these fields (Bacchi, 1990). Many scholars have also sought to answer the question of sameness or difference, although many have developed approaches to move

beyond discussing sameness to or difference from (See, J. C. Williams, 1991). This is because discussions of difference continue to objectify and ‘other’ those already cast as ‘other’, and discussions of sameness ignore differences in favour of appealing to the sameness between subjects and uphold the norm in a position of privilege.

Emphasising the difference of people with disability is not uncommon and this was and continues to be seen more broadly in society through the segregation, isolation, separation and exclusion of people with disability, who are seen as different, abnormal and ‘other’ to the able-bodied norm (Barton, 1993; Galvin, 2004; Goggin & Newell, 2005; Soldatic & Pini, 2009) which became constructed through the problematisation of disability (Campbell, 2005; L. J. Davis, 1997; Galvin, 2006). Disability and ability thus operate in a binary (Campbell, 2005). This assumption that the ‘disabled’ body and mind are different and deviate from the norm has justified and enabled unfair, constraining, “restrictive ... [and] harmful” (Bacchi, 2009, p. 182) treatment of people with disability. Goggin and Newell describe the situation as an “apartheid” (2005, p. 18) suggesting that, “those who are ‘able-bodied’ (at least temporarily so) and those who are ‘disabled’ [are partitioned]. There are special places, practices and accommodations that make a line not to be crossed between ‘normal’ and ‘disabled’” (Goggin & Newell, 2005, p. 20).

People with disability are largely constructed as different through the medical profession. The medical profession assume a level “of biological or physiological inferiority [and difference] upon disabled persons” (Hahn, 1985, p. n.p.) through the calculation, measurement and analysis of ‘disabled’ bodies and minds. Alternatively, the disability movement and disability scholars suggest through the social model that

disability is “constituted in relations of power” (Goggin & Newell, 2005, p. 53) which objectify, socially construct and reproduce people with disability as ‘different’ and ‘other’.

This chapter discusses how people with a PCW are constructed and governed through sameness in the *Welfare to Work* reforms and the implications of this for people with a PCW. There are four sections in this chapter. The first section explains how as a result of the *Welfare to Work* reforms there has been a shift from constructing and governing people with a PCW as ‘different’ in the income support system to constructing and governing them through sameness. The next three sections, ‘The expectation of formal paid employment’, ‘Sameness and the mutual obligation contract’ and ‘Breaching penalties’, explore how people with a PCW are governed through sameness in *Welfare to Work* and critically analyses the impact of this on them.

A shift from difference to sameness

With regard to income support payments in the welfare state, there has recently been a shift away from governing through the social category of disability for people with disability assessed as partially able to work through the *Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Act 2006*. This is because those people with disability assessed as capable of working between 15 and 29 hours per week, independent of a POS within the next two years, are no longer eligible for the *DSP*. Instead, they have to apply for another type of income support payment, such as *NSA*, the primary unemployment benefit, if they want to continue receiving welfare payments. Social policy scholars suggest that

categorical payments are one of the defining features of the Australian welfare state. However, this categorical distinction between the unemployed and people with a PCW has been eroded through *Welfare to Work*.

Prior to this, people who would now be categorised as with a PCW were eligible for the *DSP*. The *DSP* acknowledges the difference of people with disability and accords them protection in the welfare state. The protection of people with disability in the welfare state has been in place “since 1908 ... [and] served to ensure that disabled Australians ... received at least some level of income support in recognition of their additional needs” (Galvin, 2004, p. 352). People with disability were thus seen as deserving welfare recipients, largely authenticated through the medical profession.

However, this constructed and emphasised their ‘difference’ from the able-bodied norm, reinforcing a hierarchy between ability and disability (Humpage, 2007a; Marston & McDonald, 2007; Soldatic, 2009). Additionally, the disability movement argued that the classification of people with disability as in need of ‘protection’ and thus deserving of welfare rendered them dependent and passive as suggested in Chapter Two, and supported their exclusion and segregation from social and economic participation. This is significant because “[f]rom the disability perspective, employment is about rights and participation in society” (Owen & Parker Harris, 2012, p. n.p.) which were/ are denied to people with disability. In response, the disability movement campaigned for the right of people with disability to work, highlighting their exclusion based on social barriers. For example, Soldatic and Chapman discuss how “[t]he right to work has been central to the Australian

disability movement's struggles for justice" (2010, p. 143) where they campaigned for the right to economically participate and be included. Advances were made through the establishment of the *Disability Services Act 1986 (Cth)* which created disability open employment services and enabled "the state [to] intervene ... in labour markets whilst redistributing resources to services that were largely governed in the interests of disabled people" (Soldatic & Chapman, 2010, p. 143).

The *DSP* superseded the *Invalid Pension* through the Disability Reform Package in 1991 (Yeend, 2000). However, both these payments determined eligibility based on incapacity for employment measured through impairment tables (Daniels, 1999). Both had no job search requirements⁶ (Daniels, 1999) unlike other payment types and recipients were not penalised for failing to comply with any requirements placed on them by the Department (Humpage, 2007a). Thus through their *DSP* eligibility prior to *Welfare to Work*, people with a PCW were governed through difference in the welfare state.

The *Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Act 2006* redefined capacity to work in the *DSP* incapacity to work test for people with disability in the welfare state from 30 hours per week to 15-29 hours per week, independent of a POS (Daniels & Yeend, 2005). This led to a "re-categorization of 'disability'" (Soldatic & Chapman, 2010, p. 142) in the income support system and meant that those assessed as capable of working between 15 and 29 hours per week were excluded from the *DSP*. This led to the establishment of the PCW category in various payment types, including *NSA*, for

⁶ The Abbott Coalition government have however, proposed compulsory participation requirements for *DSP* recipients under the age of 35 assessed as capable of working 8 hours or more per week from July 1, 2014 (DHS, 2014b).

those with disabilities still requiring income support and capable of 15-29 hours of employment per week. This significantly “reduced access to the DSP” (Daniels & Yeend, 2005, p. 4) for people with disability assessed as capable of working between 15-29 hours and thus categorised as with a PCW.

By removing the social category of disability for people with a PCW, a category which previously signified their difference from the ableist norm and ‘protected’ them in the welfare state, the ‘difference’ of people with a PCW is to a certain extent erased. As a result, they are now regulated through sameness and thus ableism alongside the unemployed on *NSA*. People with a PCW become framed, like the unemployed, as jobseekers no longer protected by the social category of disability. They also become represented as undeserving of state support, with their ‘different’ needs in an ableist society particularly unrecognised. Instead, they must now, like the unemployed, earn state support. People with a PCW thus have a compulsory obligation to search for formal paid employment, they must meet participation obligations and they can be disciplined through penalties for failing to meet their obligations and requirements with the state. This seeks to reform the conduct of people with a PCW so that it is consistent with the conduct of the able-bodied norm with a particular focus on formal paid employment.

Sameness, however, and the way it operates in *Welfare to Work*, is problematic for people with a PCW as it fails to produce equality for them because equality is tied to notions of sameness and difference. Equality in this understanding is underpinned by the principle that “‘likes should be treated alike’” (Bacchi, 2009, p. 181) where the norm is employed as a point of reference to construct who is alike

or who is unlike or 'different'. "Those who are 'equal' are held to be the 'same' in some way. They are the 'likes' in 'likes must be treated alike'" (Bacchi, 2009, p. 184), disadvantaging those who are considered inconsistent with the norm. For people with a PCW sameness fails to achieve equality for them because it upholds the able-body "as the neutral standard of the same" (W. Brown, 1995, p. 153), requiring people with a PCW to live up to the ideal. Governing through sameness also impedes their access to resources to address the structural and social barriers that they experience as well as any impairment needs. This is because through sameness a landscape of equal affairs is presumed denying and individualising the differences of people with a PCW from the able-bodied norm which regulates them through NSA receivership. This impacts on their access to resources because the responsibility for their needs as persons with disabilities who have impairments and who are disadvantaged by the ableist structure of society shift from being the responsibility of the state to the responsibility of the individual.

Governing through sameness is also problematic as it impacts on the access of people with a PCW to employment because the barriers they experience to employment as persons with disabilities, such as inaccessible communities and public transport, attitudinal barriers and discrimination fail to be acknowledged by the assumption of an equal landscape and therefore challenged.

Relative to discussions of equality equity is also a principle underpinning the welfare state (Herscovitch & Stanton, 2008) as the welfare state was designed as a mechanism to prop up those who are disadvantaged in society delivering an equitable outcome. However, it does not deliver equality or equity for people with a PCW as a

result of governing through sameness. This can be seen using Herscovitch and Stanton 's (2008) explanaton of equity in the welfare state. They suggest that equity “has two dimensions: the horizontal and the vertical. The horizontal is about the equal treatment of people in like circumstances” (Herscovitch & Stanton, 2008, p. 52). However, in relation to people with a PCW the assumption of “like circumstances” (Herscovitch & Stanton, 2008, p. 52) between the able-bodied and people with a PCW as a result of governing through sameness means that the circumstances of people with a PCW relevant to achieving equity are disregarded. This is because the circumstances of people with a PCW are not like the able-bodied as a result of the disadvantaged position of people with disability in a society which is constructed around the ‘norm’ of ableism and is structured to privilege able-bodies. By basing equity and equal treatment on “like circumstances” (Herscovitch & Stanton, 2008, p. 52) in sameness, an assumption of “such a level playing field is patently unfair to many people with disabilities” (Young, 2002, p. xii), as a result of existing discrimination, disadvantage and assumptions about their biological sub-human status which is ignored by sameness through assumptions of “like circumstances” (Herscovitch & Stanton, 2008, p. 52).

Further, with regard to the second dimension of equity in the welfare state discussed by Herscovitch and Stanton, “[t]he vertical is about more generous treatment of people with fewer resources of their own. It is ... the idea that social security benefits should be “adequate” (in other words, enough to meet the minimum needs of people who rely on them” (2008, p. 52). Herscovitch and Stanton argue that the welfare state in this regard however “does not score so well” (2008, p. 58). For people with a PCW the welfare state does not provide “generous treatment”

(Herscovitch & Stanton, 2008, p. 52) nor “meet the minimum needs of” (Herscovitch & Stanton, 2008, p. 52) people with a PCW as a result of governing through sameness. This is particularly because the payment rate of *NSA* has been extensively problematised as inadequate, failing to achieve equity for people with a PCW. In particular, disability scholars who compare the rate of *DSP* to the rate of *NSA* and concessions available to *DSP* recipients that are not available to *NSA* recipients with a PCW demonstrate the insufficient provision of income support to people with a PCW as a result of their exclusion from the *DSP* and positioning on *NSA* (See for example, Humpage, 2007a; Marston & McDonald, 2007; Sarah Parker & Cass, 2005).⁷ Recently, during a meeting of the Abbott Government’s Commission of Audit Select Committee, Peter Davidson, Senior Advisor at ACOSS, stated that “[w]henver people are diverted from a pension payment like *DSP* to the lower Newstart allowance – the gap is around \$150 a week” (Commonwealth of Australia, Senate Abbott Government’s Commission of Audit Select Committee, February 18, 2014, p. 54). The NWRN also highlights the impact of this for people with a PCW stating “[p]eople with disabilities including chronic illnesses and mental health problems often have their conditions exacerbated trying to live in poverty on the Newstart Allowance for extended periods of time” (2013, p. 5). Similarly, Humpage draws attention to how “Newstart’s harsher income tests and taper rates make it harder for people to meet their non-optional costs of disability” (2007a, p. 223) which are no longer met through the *DSP*, and are thus, through sameness, the individual’s responsibility. This indicates the ableist assumption underpinning *NSA*

⁷ It must be acknowledged however, that the rate of *DSP* payment has also been problematised by those who receive it (See for example, Nielsen, 2012). In a recent Facebook forum conducted by PWDA many people with disability suggested that the *DSP* enabled them to exist, but not to live.

as well as the incapacity to achieve equity for people with a PCW as a result of governing through sameness. It also highlights how access to resources is denied to people with a PCW in governing through sameness.

The expectation of formal paid employment

Through the shift of governing from difference to sameness, “ableist regulatory norms” (Campbell, 2008, p. 1) govern people with a PCW through their receivership of *NSA*. This can be seen with regard to the economic participation objectives and employment outcomes encouraged through the reforms, the notion of independence underpinning the changes as well as the mutual obligation contract. Additionally, the behavioural changes expected through *Welfare to Work* with regard to employment (Humpage, 2007a) expects behaviour underpinned by an ableist norm, excluding people with disability. It is worth noting, however, that the mutual obligation contract, behavioural expectations and *Welfare to Work* can also be problematised for the general *NSA* population suggesting that there is a lack of recognition of human difference in *NSA*. Nevertheless, the focus is on how *Welfare to Work* structurally disadvantages people with a PCW. As a result, this section will explore evidence of how the able-body is upheld as the normative standard governing people with a PCW in *Welfare to Work* and how this fails to deliver equality as well as access to resources and employment for them.

The *Welfare to Work* reforms encourage people with a PCW into formal paid employment. This has shifted the meaning of citizenship for people with a PCW from “membership in a social community to participation in it” (Humpage, 2007a, p. 221) through paid employment. However, as suggested in Chapter Two, formal paid

work is an institution which is organised and structured to privilege able-bodies and minds (Galvin, 2004; Goggin & Newell, 2005; Humpage, 2007a). Galvin, for example, argues that people with disability were relegated to the private sphere during industrialisation because they “could not perform in accordance with the demands of the modern labour force” (2006, p. 501) including “paid wage labour and profit maximization” (Barnes & Mercer, 2005, p. 530). As a result they were seen as unproductive, undisciplined, incapable and inefficient in comparison to the able-body (Barnes & Mercer, 2005; Humpage, 2007a). This resulted in the social exclusion of many people with disability (Barnes & Mercer, 2005). Despite *Welfare to Work* including an obligation to search for employment in the participation obligations placed on people with a PCW, this connection between formal paid work as a site of exclusion for persons with disabilities is problematically ignored through the *Welfare to Work* reforms in governing through sameness. Therefore, “... the welfare reforms [... do] nothing to change the fact that people with disabilities remain, just as they were at the time of industrialisation, at the forefront of groups who cannot provide the versatility and productivity demanded by the labour market” (Humpage, 2007a, p. 228).

The *Welfare to Work* reforms also ignore other kinds of participation and work such as care. Many women with disabilities for example, are care-givers and have caring responsibilities, “even though their structural position many render these invisible” (F. Williams, 2001, p. 480). They have to fight for their rights to be mothers (Dowse, Frohmader, & Meekosha, 2010; Pinto, 2008) and they are represented as the cared for (Meekosha, 1998). Pinto (2008) suggests that for some persons with disabilities the subject positions of the carer and the cared for often

reside in the same subject. It also fails to recognise the self-care that is undertaken by many persons with disabilities as well as persons with disabilities as employers through individualised budgets and funding packages, who may hire workers to meet their care and support needs.

Additionally silenced in governing through sameness is the role of the able-body in constructing the ideal worker-citizen of which people with a PCW have to aspire to. Stephen Parker and Fopp describe, “welfare recipients should become, or be obliged to become, like the ideal citizen: self-reliant, calling upon one’s own resources in preference to calling upon others” (2004, p. 265). Similarly, Meekosha and Dowse discuss how “the language of the citizen is imbued with hegemonic normalcy and as such excludes disability” (1997, p. 49). People with a PCW are thus measured against a standard, the worker-citizen, which was largely formulated based on the exclusion of people with disability from employment. By failing to recognise the exclusionary nature of formal paid work, which was constructed as an ableist institution the *Welfare to Work* reforms fail to deliver equality for people with a PCW as a result of governing through sameness.

The *Welfare to Work* reforms thus expect people with a PCW to seamlessly fit into an institution which previously rendered them incapable. The economic participation outcomes placed on them through their mutual obligation contract are required without structural reform to the institution of work and its connection to ability. As Oliver argues “government policies, are by and large, targeted at equipping impaired individuals for the unchanging world of work rather than changing the way work is carried out in order that more people might access it”

(2009, p. 47), thereby continuing to deny access to employment for people with a PCW. People with a PCW then are being expected to participate in an institution which privileges and sustains the dominance of able-bodies and minds. This normalising process is obscured in governing through sameness. This indicates that it is unlikely that governing through sameness will achieve equality or access for people with a PCW if the ableist norms informing the institution of formal paid work are not deconstructed or challenged.

Further, because governing through sameness regulates people with a PCW through ableist norms, the barriers to employment experienced by people with PCW are not considered (Parker Harris, Owen, & Gould, 2012). This is problematic given that employment is the objective of the mutual obligation contract. It assumes that everyone has an equal opportunity to work (N. Jones, Sheldon, Donaghey, Balanzategui, & Queensland Welfare Rights Centre, 2007). People with disability, however, experience structural barriers to employment, for example, inaccessible communities, transport and information, attitudinal barriers and discrimination, as well as extra costs with regard to participation for instance, uniform or clothing alterations (Galvin, 2004; Humpage, 2007a; Oliver, 1989; Soldatic & Chapman, 2010). Owen, for example, states “removing notions of difference ignores the wider structural barriers that prevent people with disabilities from entering or re-entering the labor market ... [and] does not account for the differing needs of people with disabilities” (2011, p. 218). Governing through sameness and the “deliberate ‘misrecognition’ of labour market discrimination” (Soldatic & Chapman, 2010, p. 142) fails to produce equality for people with a PCW. This is because the barriers

they experience with regard to employment fail to be, firstly, acknowledged, and secondly, challenged. This means that their socially and economically marginalised position in society is reproduced.

Although it could be argued that the increase in part-time and casual employment has begun to deconstruct and challenge the ableist notions informing the institution of work and that the post-industrial labour market is more appropriate for people with disability (Grover & Piggott, 2010) the barriers experienced by people with a PCW in accessing employment are not all ameliorated through part-time or casual employment. Humpage (2007a), while seeing part-time work as an opportunity for people with disability, acknowledges this through suggesting that people with a PCW may still experience social, structural and attitudinal barriers to employment, despite the presence of part-time and casual work. The presence of part-time and casual employment also does not mean that the ableist notions of efficiency and productivity which permeate employment are eradicated and because these are perpetuated people with a PCW may be forced to take a position with lower pay and poor conditions based on assumptions of inefficiency (Humpage, 2007a). Moreover, Barnes and Mercer (2005), argue that attitudinal assumptions based on such notions of productivity and efficiency can disrupt the success of part-time employment for people with a PCW, particularly in situations of competition from an able-bodied individual. This sustains “the expectation ... that workers who are sick and/ or who have impairments should conform to the work patterns of the well and able-bodied” (Grover & Piggott, 2010, p. 273) and could continue their marginalization. It also goes to show the links between ableism, employment, productivity and efficiency, and additionally highlights how governing through

sameness will not deliver equality for people with a PCW. This is because sameness silences and perpetuates “meritocratic notions that frame concerns with economic and social advancement, systematically disadvantag[...ing] people who are sick and/or who have impairments” (Grover & Piggott, 2010, p. 274). It also fails to deconstruct the barriers to employment experienced by people with disability.

In fact using the work of CDS scholars who discuss the social construction of the body and impairment it can be argued that understandings of effectiveness and productivity govern the body through an able-bodied norm and construct the impaired body as unproductive. CDS scholars argue that bodies and impairments are not biological; rather, they are given social and cultural meaning through interactions. As Meekosha explains:

an individual’s impairment may be paramount or temporary and will always be part of an embodied identity; it will change as the individual engages with others in communities of sameness and communities of difference. At the same time a person’s impairment will be influenced, read and constructed by various cultural, social, economic and political determinants as well as by their own experiences (Meekosha, 1998, p. 166).

Work then socially constructs bodies into either abled or impaired and assigns people with impairments to an inferior status. In this case this disempowers people with a PCW and does not enable the inclusion of people with a PCW into paid employment because their bodies are disabled by assumptions about their effectiveness and productivity.

Relative to discussions of efficiency and productivity Wendell, when explaining what she terms “the social construction of disability” (1996, p. 35), uses as an example “the pace of life” (1996, p. 37). She suggests that:

[w]hen the pace of life in a society increases, there is a tendency for more people to become disabled, ... because fewer people can meet expectations of ‘normal’ performance; the physical (and mental) limitations of those who cannot meet the new pace become conspicuous and disabling, even though the same limitations were inconspicuous and irrelevant to full participation in the slower-paced society (Wendell, 1996, p. 37).

Thus similar “to the pace of life” (Wendell, 1996, p. 37), notions of productivity and efficiency, which are constructed through an able-bodied norm, construct the impaired body as unproductive and inefficient. The role of the norm in constructing which bodies are assumed to be efficient and productive and thus inefficient and unproductive is continued in governing through sameness which governs people with a PCW through an able-bodied norm. This erases the scope to examine the norm underpinning how bodies and impairments are socially constructed and given social meaning, and how idealised views on how bodies should function are enforced through the structure of formal paid employment.

Legislatively, though the *Welfare to Work Act* does put some protections in place with regard to employment for people with a PCW. For example, they are able to access DES, unlike the general *NSA* population who engage with Job Services Australia (JSA). This indicates some remnants of governing people with a PCW through difference as well as the very limited protection of the PCW category within *NSA* which requires people with a PCW to seek work “to their capacity” (DSS, 2014b, p. n.p.), rather than full time employment, and provides them with access to

“the Pensioner Concession Card ... [a] Pharmaceutical Allowance[,] a higher rate of Mobility Allowance” (Humpage, 2007a, p. 220) and a Telephone Allowance (Cowling, 2005).

DES “provid[...es] specialist help for people with disability, illness or injury to find and keep a job” (DHS, 2013a, p. n.p.) and is the “primary employment service for Newstart Allowance recipients with a partial capacity to work” (DEEWR, et.al., 2012, p. 82). DES does achieve some employment outcomes for people with a PCW (See for example, DEEWR, et al., 2012, pp. 82-83). However, DES has been described as inadequate for finding long term, meaningful employment for people with disability (Taleporos, 2014) and is criticised for “undermin[... ing] and dismiss[ing ...] human potential” (Soldatic, 2009, p. 6). This is because while DES is represented as assisting people with disability to reach their potential and capacities through employment, then addressing economic and social exclusion and deprivation DES falls short (Soldatic, 2009). PWDA suggest that “DES focus on getting people with disability into jobs, not ensuring that those jobs are retained” (2013a, p. 2), instead proposing an individualised, person-centred approach to employment services for people with disability, which could provide funding to “a potential employer to make a workplace accessible or [for] buying suitable clothes for an interview” (2013a, p. 2). This can indicate that the problem spans more broadly than providing people with disability with a PCW with specialised employment services.

Another protection in place to combat the barriers experienced by people with disability to employment is the *Disability Discrimination Act (DDA) (1992) (Cth)*. The *DDA* seeks to protect people with disability from discrimination in employment

(Australian Human Rights Commission, n.d.). However, the *DDA*'s achievements are practically challenged through the continued existence of discrimination and attitudinal barriers to employment. For example, the *Shut Out Report* describes how:

[u]nfortunately too few people with disabilities are able to access meaningful employment. Negative attitudes and misconceptions about disability means few employers – whether government, non-government or corporate – appear willing to employ anyone with a disability ... [with] cases ... [of] clear discrimination, ... [against] qualified candidates reportedly sidelined solely because of their disability (National People with Disabilities and Carer Council, 2009, p. 5).

Additionally, the *DDA* is widely criticised with the Report also suggesting that systematic discrimination still exists because of the lack of redress, inconsistent “policies across jurisdictions” and inefficient “monitoring and enforcement of standards” (National People with Disabilities and Carer Council, 2009, p. 16). It also argued that, problematically, redress under the *DDA* is costly and lengthy (National People with Disabilities and Carer Council, 2009). In a review of the *DDA* by the Productivity Commission in 2004 it was found that the *DDA* was “relatively ineffective in reducing discrimination in employment” (Productivity Commission, 2004, p. 83). Additionally, Dowse, Frohmader and Meekosha (2010) criticise the amount of time that it has taken to put standards in place for accessibility to, for example, transport, education and public buildings, with many areas still lagging, impacting on persons with disabilities access to employment. Finally, aspects of the *DDA* have been criticised for being based in a formal equality framework, in particular the requirement of reasonable adjustment which is the specification that businesses and service systems must make adjustments in order to include people with disability (Bigby, 2014). These adjustments only have to be made “‘as far as possible’ and [so as] not ‘[to] cause unreasonable hardship’” (Bigby, 2014, p. 310).

Bigby, however, suggests that by basing reasonable adjustments in a formal equality paradigm it “relies on normative comparisons between people with and without disability ... [and] French (2013) argues that the aim is only to ensure a person with disability is treated the same as others would be in similar circumstances, which in effect disregards their disability” (2014, p. 310) (see also, Dowse et al., 2010, pp. 263-264; Goggin & Newell, 2005, pp. 38-39; M. Jones & Bassar Marks, 1998; Meekosha & Dowse, 1997, pp. 63-64, 66; Soldatic, 2009, p. 30). These criticisms indicate some of the problems with the *DDA* for redressing the discrimination, structural and attitudinal barriers to employment experienced by people with a PCW.

In response to the *Shut Out* Report, which undertook an extensive consultation process, the National Disability Strategy was formulated (DSS, 2013b). The National Disability Strategy is also a mechanism which could redress the barriers to employment for people with disability.

The Strategy is a ten year national policy framework that sets out six priority areas for action to improve the lives of people with disability, their families and carers. These are inclusive and accessible communities; rights protection, justice and legislation; economic security; personal and community support; learning and skills; and health and wellbeing (DSS, 2013b, p. n.p.).

However, there are concerns with the National Disability Strategy which could inhibit its capacity to impact on the barriers to employment experienced by people with disability. In particular, PWDA argue that the National Disability Strategy is:

under resourced and lacks leverage and specificity. It requires greater resourcing, a public reporting mechanism, and transparent accountability measures within State and Territory agreements to ensure strategy outcomes are achieved at both the State and Federal level (PWDA, 2013b, p. 1).

Addressing these broader barriers to employment however, would require a shift away from the neoliberal focus on the individual as the barrier to employment which constructs “those marginalised from the market economy [... as] ‘social problems’ external to the system” (Walter, 2007, p. 162) who require reformation. Instead focus needs to be on the effects of social categorisation which is obscured as a result of governing through sameness in this context, the structure of employment and the barriers to employment experienced by people with disability which remain unaddressed. “The failure to address these issues appears to stem from the perception that the barriers faced by [... people with disability] in finding work are simple, singular and located within the individual, rather than complex and multilayered” (Humpage, 2007a, p. 223) and this is reflected in the mechanisms of governance imposed on people with a PCW. The existence of barriers beyond the individual is perhaps no more clearly indicated than through the OECD rates for disability and employment participation where Australia ranked 21st out of 29 OECD countries (OECD, 2010). However, while similar figures were used in part to justify the *Welfare to Work* changes, highlighting the high incidence of disability unemployment (Lantz & Marston, 2012), this is a figure widely used by the Australian disability movement in a context to indicate broader problems with the employment system for people with disability (See for example, PWDA, 2013a; Taleporos, 2014). Additionally, the reforms did not substantially move people with a PCW off welfare and into work. “Fewer than one in five of those diverted to Newstart in 2006-07 obtained employment and left income support during that year. The rest, for the most part, remained on Newstart” (Commonwealth of Australia, Senate, June 16, 2011, p. 3148). There is also evidence that some people with a PCW eventually receive the *DSP*. For example, 11, 933 people assessed with a PCW as at

July 1, 2007 were on the *DSP* in June 2012 (DEEWR, et.al., 2012). Additionally, further reforms by the Gillard government to the *DSP* eligibility criteria have not produced increased employment outcomes for persons with disabilities. Labour force statistics by the Australian Bureau of Statistics (ABS) show that there has been no improvement in the rates of employment participation for persons with disabilities since 2009 (Siewert, 2013). Australian Greens Senator, Rachel Siewert, suggests that “[t]he new harsh approach forcing people to live on Newstart before applying for the Disability Support Pension hasn’t resulted in more people with disability finding work [... rather] more people are condemned to the poverty that comes with Newstart” (2013, p. n.p.).

Further evidence of problems with the system are indicated through JSA employment placements for people with a PCW and duration of people with a PCW on payment which are invisibilised in the “likes should be treated alike” (Bacchi, 2009, p. 181) principle, discussed earlier, underpinning the shift of people with a PCW onto *NSA* and governing them through sameness. For example:

while the evidence identifies at the aggregate level JSA is performing well, there are potential areas where there may exist scope for improvement. Only three per cent of the job placements achieved for Newstart Allowance job seekers since the start of JSA have been achieved for job seekers with a partial work capacity (DEEWR et al., 2012, p. 72).

[Additionally, t]here is a strong correlation between partial capacity to work and long-term duration on payment. Average duration on payment for people with a partial capacity to work at the end of June 2012 was 257.7 weeks on payment or slightly less than five years, compared to 179.8 weeks for the general Newstart Allowance population (DEEWR et al., 2012, p. 81).

The poor assistance provided by JSA and the extensive duration on payment for people with a PCW indicates how the barriers to employment for people with a PCW are broader than the individual and how the able-body is the standard through which people with a PCW are measured. Equality then fails to be achieved for people with a PCW as a consequence of people with a PCW not being ‘the same’ as the able-bodied norm regulating *NSA* recipients, despite being governed as such. It is clear then through the poor meaningful employment outcomes for people with a PCW through DES and JSA and the continued existence of barriers to employment for people with a PCW that

welfare reform intends to remove only the protective classification of “disability” in an attempt to make disabled people, as a welfare category, disappear, without doing much, if anything to remedy the actual conditions of exclusion this term represents (Galvin, 2004, p. 345).

This indicates large problems with the employment expectations placed on people with a PCW as a result of *Welfare to Work*.

In spite of broader barriers to employment evidenced above, the *Welfare to Work* reforms sought to encourage behavioural change in *NSA* recipients with a PCW in relation to employment and income support receivership, seeking to “... foster ‘independence, choice and self-reliance’” (Stephen Parker & Fopp, 2004, p. 24). This emphasis on behavioural change individualises the ‘problem’ of unemployment implying that it is the recipient who needs to change and not the broader labour market and society. These terms and objectives of the welfare reforms are largely defined through ableism, making it difficult for people with disability with a PCW to conform to the behavioural expectations because they are socially constructed on

able-bodies. For example, “independence is associated with paid labour” (Bacchi, 2009, p. 64) and ““self-reliance” [refers to] the capacity to do things without help” (Galvin, 2004, p. 346). This is unrealistic for some people with disability, particularly in a society which constructs and formulates their dependence on the welfare state, as discussed in Chapter Two, and renders their impairments and bodies as incapable. It also ignores the deception of able-bodied notions of independence (Wendell, 1996) and “the reality that we are all dependent on one another and on a variety of existing structures for access to resources and meaningful lives” (Galvin, 2004, p. 346). The disability movement has, however, attempted to redefine independence by challenging its ableist connection to the labour market and definitions which suggest that independence is doing things for yourself. In effect, it argues ““that independent people have control over their lives, not that they perform every task themselves”” (Shakespeare, 2006, p. 139). This is underpinned by principles of self-determination and autonomy. This demonstrates how the terms of the welfare state are premised on the able-body which is obscured in regulating people with a PCW through sameness. This then fails to deliver equality to people with a PCW.

Sameness and the Mutual Obligation Contract

Problems with governing through sameness for people with a PCW can also be seen in the mutual obligation contract. The mutual obligation contract places reporting requirements as well as obligations on *NSA* recipients and manages and regulates *NSA* recipients through penalties and directives. Humpage (2007a), in particular, problematises the reporting requirements of *NSA* receivership, which requires *NSA* recipients to report their employment earnings per fortnight. This

requirement and the rules surrounding the reporting, fail to consider people with disability indicating how governing through sameness and removing disability as a social category does not produce equality for people with a PCW. This is because “[f]or those with cognitive difficulties or poor memory [for example,]... it is easy to forget to call and report paid work on the correct day every fortnight, even when it is understood that this is what the system requires” (Humpage, 2007a, p. 225). Failing to regularly report is an “activity test breach”, specifically, “[c]ommon examples of activity test breaches are when a job seeker: refuses to declare, or fails to correctly declare earnings from employment” (Daniels & Yeend, 2005, p. 38). This indicates how the system and this aspect of the mutual obligation contract upholds the able-bodied ideal and regulates people with a PCW through such an ideal failing to acknowledge the impairment barriers experienced by people with “cognitive difficulties or poor memory” (Humpage, 2007a, p. 225), for example, from meeting their activity requirements. This highlights how governing through sameness systematically disadvantages people with a PCW. This is because it requires them to aspire to the able-body by controlling and managing their impairments in order to meet their contractual obligations and disciplines them for failing to meet such requirements.

Concerns have also been raised with regard to the mutual obligation contract for people with mental health impairments, with arguments that it could negatively affect them (Humpage, 2007a). This is because the regime of “surveillance and coercion” (Humpage, 2007a, p. 225) placed on people with a PCW, through the mutual obligation contract in the *Welfare to Work* reforms, puts an increased amount of stress on those regulated. For example, requiring people with mental health

impairments to search for employment contacts per fortnight as a person with a PCW, places increased pressure on someone whose impairment may be exacerbated by stress. By failing to consider this as a result of governing through sameness the reforms fail to deliver equality for people with a PCW and acknowledge the embodied experience of impairment on people with a PCW meeting their participation requirements, thus governing people with a PCW through an able-bodied norm.

Additionally, of concern to disability advocacy organisations is the inability of Centrelink's assessment to adequately assess people with disability. An inadequate assessment could position someone on *NSA* who may struggle with meeting their participation requirements as a result of various social and impairment barriers which are not recognised on *NSA* in governing through an able-bodied norm and could also result in a payment suspension. For example:

[b]y nature, mental illness is not easily detected, making it easy for those suffering undiagnosed mental health disorders to be wrongly classified as “work-ready”, and therefore not entitled to the DSP. An example is highlighted in the case of one young homeless male, where it was reported that in interviews he presented well and could “keep it together” for short periods, but who generally suffered “disorganised thinking, extreme mood swings and paranoid thoughts”. This client suffered a participation failure for failing to attend Centrelink-organised job interviews and harassing Centrelink staff. Centrelink's capacity to recognise mental illness is severely limited by the ability of the client to self-identify as having a mental illness (N. Jones et al., 2007, p. 13).

While it must be acknowledged that the income support system perpetuates a medical model in its ‘diagnosis’ of eligibility for the *DSP*, relying on self-identification is problematic, based on the stigma and discrimination attached to identifying with a mental illness in broader society (Mental Health Council of

Australia, 2014). Additionally, from a medical perspective, this assumes that the individual has knowingly been diagnosed with a mental illness. The importance of having the right mechanisms in place to assess persons with disabilities' eligibility for income support which considers both impairment and disability is crucial to ensuring adequate support for people with a PCW. Additionally, considering the voices of people with a PCW in such an assessment of capacity as experts in their impairment and capacities, as well as their embodied experience, would also be beneficial, as currently the knowledge of specified medical professionals certify and assess impairment and capabilities (Humpage, 2007a). Instead inadequate assessments place people with a PCW onto a payment which regulates them and their bodies through an able-bodied norm as a result of governing through sameness.

Breaching Penalties

NSA breaching penalties are also problematic in their regulation of people with a PCW. Breaching penalties are used in the mutual obligation contract to manage and regulate activity test failures and participation failures (*Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Act 2006*). A breaching penalty occurs when a NSA recipient violates or breaks their mutual obligation contract with the Secretary or the Department. Contract requirements generally include an obligation to search for employment, to apply for jobs, to attend interviews, to accept reasonable job offers, to report any income received regularly and to appropriately conduct oneself so as not to jeopardise an employed position (Daniels & Yeend, 2005). The first or second time a recipient does not uphold one of these requirements and breaches their contract they are allowed to continue receiving payment if they comply with their original contract requirement or with an

alternative requirement made by the Secretary or the Department. In the case that a NSA recipient does not comply a third time within a twelve month period (Daniels & Yeend, 2005) then their payment is suspended for a period of eight weeks (Marston & McDonald, 2007). However, those with a “reasonable excuse for the failure” (Daniels & Yeend, 2005, p. 40) may not be penalised. This could be of benefit to people with a PCW who, as suggested, may face social and impairment barriers to fulfilling their participation requirements. In spite of this:

the highly personal nature of most of the barriers experienced by vulnerable people [for example, mental illness and drug and alcohol dependency] is a factor in individuals being unlikely to disclose this information to Centrelink staff in order to avoid suspension by providing a “reasonable excuse” (N. Jones et al., 2007, p. 12).

Cowling (2005) problematises the format of breaching penalties suggesting that they disadvantage people with a PCW, in particular people with mental illness, providing evidence of the able-bodied norm informing such penalties. Firstly, she raises concerns with the form of first and second breaches for people with mental illness arguing that the conditions of complying with an original requirement or an alternative one in order to quickly reengage with the system may be less likely “for persons experiencing an episode of acute ill health” (Cowling, 2005, p. 9). This indicates an impairment barrier which may be experienced by a person with PCW who has a mental illness in meeting their participation requirements, which fails to be acknowledged. Secondly, she expresses concern with the *Newstart Participation*

Failures, in particular the loss of income support for eight weeks should the individual's actions cause unemployment, arguing that:

the eight week non-payment period is of particular concern to people with mental illness who may be forced to stay in a 'suitable job' until they experience an acute episode or relapse, rather than risk benefit suspension by withdrawing from work when symptoms first appear. Non-payment also [she argues] increases the likelihood that individuals will be unable to afford medications or other treatment essential to the management of their illness (Cowling, 2005, p. 9).

This indicates that these penalties are particularly problematic for people with a PCW because they were designed for the regulation of the able-bodied (Humpage, 2007a) and do not consider the impairments of people with a PCW and the disabling social barriers they experience. This presents the dangers of governing through sameness where an individual with a PCW, essentially someone who experiences impairment and disabling social and structural barriers can lose payment for up to eight weeks as a result of a breaching system which uses the able-body as the norm, exacerbating their existing disadvantage and denying them access to much needed income support. This reveals how governing through sameness fails to produce equality for people with a PCW because it invisibilises difference and simultaneously disadvantages those whose bodies are different to "the neutral standard of the same" (W. Brown, 1995, p. 153), the able-body. This suggests that rather than governing through sameness (or difference) the sameness/ difference binary should be deconstructed and an approach to income support and service delivery which encompasses an "embodied ontology" (Shakespeare & Watson, 2002, p. 2) should be considered. This "would argue ... that there is no qualitative difference between disabled people and non-disabled people because *we are all impaired*" (Shakespeare & Watson, 2002, p. 27) or, as Goggin and Newell (2005) contend, temporarily able-

bodied. This is significant because it would recognise that we all require support, albeit at different levels, at different points in our lives and would provide scope to consider the embodied experience of all who engage with the income support system.

Disability scholars, the disability movement and welfare rights organisations also raise concerns with the breaching criterion of the mutual obligation contract for people with disability (Humpage, 2007a) because it measures the conduct of people with a PCW through the expectations of the mutual obligation contract which sustains an able-bodied norm. Marston and McDonald (2005) describe breaching penalties as an expression of coercive authority which suggest through the individualised regulation of problematic recipients who breach their obligations that the problem is innately part of the *NSA* recipient's character and choices. This then ignores evidence indicating that disadvantaged groups are more heavily impacted by breaching penalties as a result of their structurally disadvantaged position, emphasising the lack of recognition of human diversity in recipients of *NSA*. For example, "Indigenous people are heavily over-represented amongst those penalised by loss of benefits for not fulfilling their 'mutual obligations'" (Walter, 2007, p. 163). However, "factors influencing these higher rates" (Marston & McDonald, 2007, p. 238) do not reflect a problem in the individual; rather, for Indigenous people the impact of "historical, structural and situational factors in relation to Indigenous disadvantage such as racism, dispossession, ... institutionalisation and child-removal policies" (Billings, 2010b, p. 167) which are overlooked as a result of governing through individualisation in sameness. Similarly, in governing through sameness, *Welfare to Work* displaces the effects of institutionalisation on people with disability, their exclusion from education and employment and their disadvantaged position

reproduced through structural and systemic barriers. Goggin and Newell (2005), for example, discuss the institutionalisation of people with disability and how people with disability were oppressed, excluded and assumed to be biologically inferior through institutionalisation. They describe circumstances of “rape, violence, urine-soaked days, physical and chemical restraint, physical, emotional and spiritual abuse” (Goggin & Newell, 2005, p. 122) occurring in institutions and they touch on the legacy of institutionalisation for those institutionalised. For example, Doug Pentland, a Victorian with an intellectual impairment (Goggin & Newell, 2005) who spent more than 20 years in different institutions after being institutionalised at five, received limited education as a child (Goggin & Newell, 2005; Gooch, 2005). Similarly, Crossley in an excerpt from a *Ramp Up* article describes how children in St Nicholas Hospital Melbourne, “lay on the floor, with no therapy or education, no personal possessions, no toys and no affection. None could talk. They saw things no child should see. Nobody seemed to care” (Crossley, McKay, & Biklen, 2012, p. n.p.). Upon deinstitutionalisation, people with disability were no longer shut inside institutions; they were, however, shut out of society. This was highlighted by the *Shut Out* Report which argues that while most institutions have now closed, people with disability remain excluded from social and economic participation (National People with Disabilities and Carer Council, 2009). Governing through sameness and ableism thus ignores how experiences of institutionalisation and exclusion from education and society impact on the ability of people with a PCW to meet their participation requirements.

In fact governing through sameness displaces the impact of social categorisation on socially categorised groups, like people with a PCW, rendering categorisation separate and private. This component of governing through sameness reduces equality “to race, ... ethnic [and disability] blind sameness” (Walter, 2007, p. 166), “wip[...ing] the slate clean” (Walter, 2007, p. 164) of historical and existing disadvantage experienced by people with a PCW as people with disability. This then through the individualisation of the ‘problem’ of unemployment holds them responsible for their disadvantaged position and renders the effect of categorisation as “not a concern of the state” (Walter, 2007, p. 166) despite having a role in constructing social categories and classifying and managing bodies. Speaking with regard to Indigenous Australians, Walter (2007) states:

where inequalities are present ... the individual behaviours, attitudes and values of the disadvantaged [are looked at] for explanation. This ideology sits at odds with the overwhelming and long-term evidence of Aboriginality as a catalyst for the denial of rights in ... Australia. As Glazer contends, if group membership is the key factor in reduced life chances, then attempts to allocate rights that are colour – or racial grouping blind cannot be adequate (Walter, 2007, p. 166).

Similarly, the individualisation of disability and impairment through sameness perpetuates and continues to deny access and rights to people with a PCW as people with disability because the effects of categorisation are rendered private. To ignore through sameness the social and cultural categorisation of the bodies and impairments of people with a PCW without acknowledging or destabilising the able-bodied norm informing such classifications continues the effects of categorisation without recognition.

By failing to consider difference, in governing through sameness, *Welfare to Work* ignores the possibility of increased payment breaches for people with a PCW as a result of obscuring existing structural disadvantage and impairments. This has been identified for other disadvantaged groups, including Indigenous Australians (See, Marston & McDonald, 2007; Sanders, 1999) and the unemployed (See, Henman, 2004) indicating more broadly the failure of the policy to consider human difference. For example, Marston and McDonald highlight how high breaching rates for Indigenous Australians do not consider:

lower levels of literacy and higher rates of mobility among the Indigenous population; lack of confidence in dealing with bureaucracies; a lower propensity to seek appeal or review of breaching; inadequate postal services to some rural and remote areas; and lack of appreciation of the difficulties for indigenous people seeking employment (2007, p. 238).

Similarly, Henman (2004), with regard to the unemployed, suggests:

that most non-compliance results from the complexity of government policies and procedures and from the lack of user-friendly information about one's obligations ... For example, gross (not net) income must be reported when it is earned (not received). Poor information about requirements is particularly galling given that the unemployed are, on average, less educated (Henman, 2004, p. 179).

People with disability with a PCW could similarly have high rates of breaching because the obligations placed on them through the mutual obligation contract uphold the able-body as the normative standard and fail to acknowledge the structural disadvantage of people with disability, the impairment barriers they may experience and the embodied experience of people with PCW which are obscured in governing through sameness. In fact "[r]esearch conducted by ACOSS and the

National Welfare Rights Centre suggests that among those most affected [by breaching penalties] are people with mental illness, people with acquired brain injuries, and people with drug and alcohol related problems” (Abello & Chalmers, 2002, p. 3). This could be because these factors make it difficult for them to find and maintain employment (Eardley, 2006). Although this research is prior to the *Welfare to Work* changes, it can indicate that the problem with the *Welfare to Work* reforms in governing through an ideal may not be limited to people with a PCW or indeed the *Welfare to Work* reforms; rather, with the unemployment benefit in general. This conclusion can be supported by Eardley (2006) in research conducted by himself and the Social Policy Research Centre into the impact of breaching penalties on income support recipients for the Department of Family and Community Services in 2002, which found that breaching penalties disproportionately affect those who are already financially disadvantaged. Additionally, Butterworth highlighted how mental illness was more predominant in the unemployed with

almost one in three income support recipients (more than 30 per cent) hav[... ing] a diagnosable mental disorder ... [which] is 66 per cent more than the prevalence of mental disorders among Australians adults not receiving income support (2003, p. viii).

According to Butterworth (2003), this impacts on the achievement of their social and economic goals.

However, with regard to the assumption of high breaching rates for people with a PCW more specifically, this can be supported by Jones, Sheldon, Dongahey and Balanzategui in conjunction with the Queensland Welfare Rights Centre (2007) in their report ‘Welfare to Work Reforms and the Breaching Cycle’. Jones, et.al. (2007)

identify homelessness, drug and alcohol dependence and mental health issues as barriers to complying with activity test requirements. They label these individuals as ‘vulnerable’ and suggest that these barriers often occur simultaneously (N. Jones et al., 2007). Although they do not make a direct link with the PCW category, their discussion of the *Welfare to Work* reforms and breaching leads to the assumption of some connection (although again it could also indicate that the reforms pose problems for some members of the general NSA population also). Further, the assumption that some people with a PCW could be homeless, which means that they have no fixed address for Centrelink to send their correspondence to, indicates another barrier with which people with a PCW may have to contend with. This is an important consideration given that there is evidence of a connection between disability and homelessness. Research “funded under the Australian Government’s National Homelessness Research Agenda 2009-13” (Australian Government, 2012b, p. n.p.) identified that people with disability are at greater risk of homelessness than the broader population (Beer et al., 2012), particularly persons with mental illness and intellectual impairments. This results from low incomes and poor engagement with the work force. Additionally, Beer et al., (2012) described how many homeless persons with disabilities have co-morbidities which impact on their risk of homelessness. The research also found that

persons with moderate impairments were more likely to be at risk [of homelessness] as their disability was sufficient to affect their interactions within broader society [though] ... no[t] to such an extent that they received a comprehensive package of assistance (Beer et al., 2012, p. 5),

suggesting that they often fell through the cracks resulting in homelessness. Failing to receive correspondence from Centrelink as a result of homelessness may mean

that appointments are not kept, resulting in a participation failure. This can again provide evidence of the ableist underpinnings of the *Welfare to Work* reforms, which structurally disadvantage people with a PCW and others thus failing to produce equality.

Additional evidence to support the argument that *Welfare to Work* governs through an ableist norm can be drawn from the example referred to earlier using Humpage, with regard to people with “cognitive difficulties or poor memory” (2007a, p. 225). People with ‘cognitive difficulties or poor memory’ jeopardise payment and risk being breached when they fail to report.

All of these examples and evidence go to the heart of what Bacchi (2009) argues in a discussion highlighting the problems with the “likes should be treated alike” (Bacchi, 2009, p. 181) principle with regard to race. In this context she argues that, although there is hope that people are not judged based on their race, because they are by ignoring this through an equal treatment approach this harm remains unacknowledged. Therefore, with regard to people with a PCW according to the “likes should be treated alike” (Bacchi, 2009, p. 181) principle underpinning equality, disability or impairment should not matter. However, because people with disability are structurally and systemically disadvantaged as a result of their disability and impairment ignoring this for those categorised as with a PCW continues to disadvantage them. In fact, anybody who deviates from the norm who defines the “likes should be treated alike” (Bacchi, 2009, p. 181) principle is disadvantaged. This indicates how *NSA* fails to consider human diversity and thus how those disadvantaged in *NSA* spans more broadly than people with a PCW.

Conclusion

This chapter has made clear that governing through sameness in the *Welfare to Work* reforms is problematic for people with a PCW, failing to deliver equality as a result of upholding the able-body as the “neutral standard of the same” (W. Brown, 1995, p. 153) to which people with a PCW are measured. Additionally, it was argued in this chapter that governing people with a PCW through sameness fails to deliver access to resources and employment for people with a PCW. This is because sameness ignores the ‘differences’ of people with a PCW, individualising the responsibility for ‘differences’ to people with a PCW. It also assumes an equal landscape which fails to then acknowledge and challenge the structural and impairment barriers to employment and compliance with the income support system experienced by people with a PCW.

This chapter, highlights how there has been a shift from governing people with a PCW through difference in the welfare state to instead governing them through sameness. Both difference and sameness are problematic for people with a PCW as the norm is the point of reference in both (Bacchi, 1990), defining and constructing sameness and difference. The norm’s role in this construction however, avoids interrogation, scrutiny and disruption, retaining its position of hegemony, universalisation and privilege. Specifically, difference is problematic because it objectifies and ‘others’ those who are constructed as ‘different’ to the norm and establishes a hierarchy between the norm and the ‘other’ (Lorber & Martin, 2005). For people with disability their assumed difference has often been used to justify their segregation, oppression, unfair and harmful treatment, particularly as the

medical profession has cast them as biologically ‘different’. Alternatively, the disability movement, through the social model, argues that people with disability are socially constructed as different.

The ‘difference’ of persons with disabilities led to their protection in the income support system through, for example, the *DSP*. On the *DSP*, no requirements or obligations were placed on recipients. This acknowledged the ‘different’ needs of people with disability (Galvin, 2004) and constructed them as deserving of state support. However, in contrast, the disability movement suggested that the ‘protection’ accorded to people with disability in the income support system also represented them as dependent, excluded them from social and economic participation and failed to acknowledge the social barriers experienced by people with disability to employment.

Disability was re-categorised (Soldatic & Chapman, 2010) in the welfare state through the *Welfare to Work Act 2006* and people assessed with a PCW became governed through sameness. Sameness ignores differences in favour of appealing to the sameness between subjects. People with a PCW, that is, those assessed as capable of working between 15 and 29 hours per week independent of a POS, lost the protection of the social category of disability; instead, they became regulated through ableism alongside the unemployed.

Evidence of governing through ableism in sameness with regard to *Welfare to Work* was provided through a discussion of the economic participation objectives, the employment outcomes encouraged, the notions of independence underpinning the

legislation, the mutual obligation contract including the breaching penalties and the behavioural changes expected. While sameness appears to provide scope for equality, the chapter argued that sameness does not provide equality or access for people with a PCW.

Particularly problematised was the connection between formal paid employment as a site of exclusion for people with disability and the denial of this in governing through sameness. It was also suggested that other forms of participation were ignored in the legislation as well as the role of the able-body in constructing the ideal worker-citizen. The fact that people with a PCW are expected, as part of their mutual obligation contract, to seek employment without structural change to the institution which previously excluded them was raised as concerning.

Additionally concerning was how in governing through an able-bodied norm sameness failed to acknowledge the barriers to employment experienced by people with a PCW, again despite requiring people with a PCW to seek employment. This created the assumption that everyone has an equal opportunity to work (N. Jones et al., 2007) which this chapter suggested is not the case. This chapter also demonstrated how part-time or casual work was not necessarily a solution to the ableist norm nor more appropriate for people with disability without structural reform and a recognition of social barriers. However, the chapter did draw attention to attempts to address the social and structural barriers to employment for people with disability, through for example, DES, the *DDA* and the National Disability Strategy; although, these were argued to be inefficient and ineffective.

The chapter also suggested though that any attempt at addressing broader barriers required a shift away from the individual and evidence indicating that the ‘problem’ is broader than the individual was provided through an OECD figure, JSA placement figures and figures which detailed the length of duration on payment for people with a PCW. However, it was conceded that despite the need to focus on the broader barriers, the reforms sought behavioural changes established on an able-bodied norm and ignored evidence, such as high breaching rates, indicating that the problem was broader than the individual.

It was argued that in governing through sameness the ‘differences’ of people with a PCW become individualised rendering the effects of social categorisation for people with disability, such as institutionalisation, discrimination and disadvantage separate and private. This also individualised responsibility for ‘difference’, impeding their access to resources and led to the perpetuation of their disadvantaged position. This is because through sameness there is a presumption of a state of equal affairs. As Bacchi suggests with regard to women and pregnancy, sameness leaves women “shouldering the responsibilities” (1990, p. 261) of their needs. Similarly in sameness people with a PCW are left “shouldering the responsibilities” (Bacchi, 1990, p. 261) of their impairment needs and needs in a disabling society which structurally disadvantages them.

As well as failing to acknowledge the social and structural barriers to employment experienced by people with a PCW it was argued that the mutual obligation contract requirements, specifically, the reporting requirements, did not consider in governing through sameness the impairment barriers experienced by

some people with a PCW. Also not considered was how surveillance and coercion in the mutual obligation contract could exacerbate the mental health impairments of some people with a PCW. Both these provide evidence for the argument that people with a PCW are governed through ableism and that the embodied experience of impairment is not acknowledged. Similarly, it was highlighted how the format of breaching penalties does not consider the difficulties of re-engagement for some persons with impairments nor the trouble with *Newstart Participation Failures* for people with mental illness.

In parts, the chapter drew attention to the social construction of the body and impairment arguing that concepts of effectiveness and productivity were underpinned by an ableist norm constructing impaired bodies as unproductive and inefficient. It was suggested that people with a PCW are expected to control their bodies and move into paid employment as consistent with the ableist preference for bodies under control (Wendell, 1996). The social construction of disabled bodies and impairments through an able-bodied norm was ignored in governing through sameness.

The chapter also suggested that as well as the measures being a problem for people with a PCW they were also problematic for other groups of income support recipients, including the unemployed and Indigenous Australians. This indicates that there is a lack of recognition of human difference and diversity in *NSA*.

The continuation of governing people with a PCW through sameness in New Income Management further demonstrates how sameness does not deliver equality or access to people with a PCW, reproducing the socially and economically

disadvantaged position of people with a PCW. This will be discussed in the next chapter where there is also further emphasis on the need to move beyond sameness and difference to an approach which adequately acknowledges human difference and embodiment.

CHAPTER FIVE: INCOME MANAGEMENT AND CONTINUED SAMENESS

Introduction

This chapter discusses how people with a PCW are constructed and governed in the New Income Management “long-term welfare payment recipients” measure (Commonwealth of Australia, 2009, p. 3). Drawing on the importance of examining the intersection of policies in constructing and regulating subjects, this chapter, suggests that as a result of re-categorising people with disability as *NSA* recipients in *Welfare to Work*, there is scope for people with a PCW to be income managed alongside the broader *NSA* population at the intersection of *Welfare to Work* and the *SSOLA (Welfare Reform and Reinstatement of the RDA) Act 2010*. It will also become evident that there is scope for people with a PCW to be income managed because the criterion determining a long-term recipient is likely to reflect the situations of people with a PCW. The analysis in this chapter highlights how sameness continues in income management by regulating people with a PCW through an able-bodied norm, furthering their structural disadvantage. Sameness in *Welfare to Work* means that people with a PCW can be income managed as *NSA* recipients and sameness also continues to regulate people with a PCW in income management.

However, in spite of a considerable amount of literature on the *Welfare to Work* reforms, there is a dearth of scholarship on the income management of people with a PCW, despite the capacity for the policies to intersect in their regulation of *NSA* recipients thus resulting in the income management of people with a PCW. This dearth of literature, it could be suggested, is because the *DSP* is currently not a payment where automatic income management applies and people with a PCW are

often overlooked as *NSA* recipients. As Senator Rachel Siewert explains, “[q]uite often we look at Newstart as one cohort; whereas, if you break it down, there are lots of cohorts” (Commonwealth of Australia, Senate, October 24, 2012, p. 3). While *DSP* recipients could be income managed, it can only be applied following an assessment by a third party for example, a Centrelink social worker or the FRC. This is not the same as the automatic income management applied to people with a PCW as *NSA* recipients.

Previously, however, in the *SSOLA (WPR) Act 2007*, the *DSP* for Indigenous people with disability was income managed in prescribed communities in the NT where income management applied under that Act. This though was reformed when the *SSOLA (WPR) Act 2007* was superseded by the *SSOLA (Welfare Reform and Reinstatement of the RDA) Act 2010*. To remove *DSP* recipients from being income managed indicates that income management was considered as an inappropriate mechanism to regulate people with disability. This is evident through the *Report on the NTER Redesign Consultations* where respondents felt that if income management were to continue it “should not apply to certain groups such as disability pensioners” (Australian Government, 2009b, p. 25), “especially those who are able to budget their money the right way” (Australian Government, 2012a, p. 26). Buckmaster, et.al. suggest that income management does not target *DSP* recipients because they are “deemed to be less at risk” (2010, p. 19). This is further evidenced through the fact that following the suspension of the *SSOLA (WPR) Act 2007* income management can only be applied to someone on the *DSP* following an assessment by a third party. This however, does not protect people with a PCW as *NSA* recipients who are governed through sameness and who as a result of the long-term payment

recipients measure of income management can be compulsorily and automatically income managed. This is a significant problem with governing through sameness for people with a PCW as they can be subscribed to income management as a result of the intersection of *Welfare to Work* and the *SSOLA (Welfare Reform and Reinstatement of the RDA) Act 2010* and can continue to be governed through sameness in income management, sustaining their structurally disadvantaged position.

This chapter will explore how people with a PCW continue to be governed through sameness in income management. It begins by discussing how the criterion determining long-term welfare payment recipients silences the able-bodied norm which informs the criterion and categorises long-term welfare payment recipients. This criterion is likely to capture people with a PCW because in governing through an able-bodied norm (sameness) it obscures the reality of people with a PCW, including the lengthy duration that people with a PCW are on income support payments. Secondly, it examines how the income management exemption criterion is inadequate for people with a PCW who may seek an exemption from income management because it perpetuates an able-bodied norm which people with a PCW have to aspire to, but which is obscured in governing through sameness. Thirdly, this chapter considers how the determination of priority needs by the *SSOLA (Welfare Reform and Reinstatement of the RDA) Act 2010*, to be met by income managed funds employs the able-body as the reference point to determine priority needs. This and governing through sameness individualises the ‘different’ needs of people with a PCW which stem from impairment and structural barriers.

Long-Term Welfare Payment Recipients and the Able-Bodied Norm

The criterion of New Income Management is likely to automatically capture *NSA* recipients with a PCW. New Income Management targets ‘at risk’ people in ‘vulnerable regions’ (Buckmaster et al., 2010) who become categorised as “disengaged youth” or “long-term welfare payment recipients” (Commonwealth of Australia, 2009, p. 3). “The Long-Term Welfare Payment Recipient measure is directed at people [in the NT,] aged 25 and over who have been in receipt of income support and family assistance payments” (DSS, 2010, p. n.p.) for at least 52 of the last 104 weeks (*SSOLA (Welfare Reform and Reinstatement of the RDA) Act 2010*), this includes *NSA* recipients (Buckmaster et al., 2010). This criterion is likely to capture people with a PCW because the long-term payment recipients measure does not consider the disadvantaged position of people with a PCW who have difficulty accessing the labour market due to structural barriers as well as the dominance of ableism underpinning formal paid work which could impact on their duration on payment. Additionally, the criterion to determine recipients who are ‘at risk’ and therefore, considered long-term payment recipients ignores the barriers experienced by people with disability to education, the social isolation experienced by people with disability and the average length and median duration on payment for people with a PCW.

The automatic income quarantining of long-term payment recipients has been extensively problematised. Particularly, problematised is the homogenous assumption that such recipients are incapable of managing their income support payment because “[m]any income support recipients are quite capable of managing (their) limited finances without outside help and intervention – despite falling into

the Government's 'at risk' categories" (Buckmaster et al., 2010, p. 31). For people with a PCW they are likely to fall within the targeted 'at risk' categories because of their exclusion and disadvantaged position in society based on the dominance of ableism. "By 'at risk', the Government means those people who are susceptible to social isolation and disengagement, possess few or poor financial literacy skills and/or participate in risky behaviours" (Buckmaster et al., 2010, p. 17). It is clear through this criterion that ableism is the norm through which the conduct of people with a PCW is assessed; however, this is silenced in governing through sameness. This obscures the reality of people with disability who have poor education outcomes and are restricted through multiple barriers from being socially engaged, including the rate of NSA payment.

The *Shut Out* Report describes how educational opportunities for people with disability, their independence and further achievement are impeded by a lack of resources, funding, teacher training, knowledge and understanding, poor quality education, poor support for inclusion and inadequate preparation for post-school transition in the education system (National People with Disabilities and Carer Council, 2009). Some of the submissions to the *Shut Out* Report consultations suggest that the education system does not meet the individual needs of people with disability, in particular their learning needs, disadvantaging them. Additionally, the education system was described to have systemic problems for people with disability (National People with Disabilities and Carer Council, 2009). With regard to social engagement, the Report detailed how people with disability are often isolated, experiencing both social and attitudinal barriers to participation in the community.

This was suggested to impact on identity and self-esteem (National People with Disabilities and Carer Council, 2009). Similarly, Meekosha and Dowse state how

[i]ndividuals born with disabilities, particularly developmental disabilities, have usually had very limited access to any form of effective participation within civil society and are regarded as having little/ no role in any of the public, private, domestic or familial spheres (1997, p. 52).

Some “... people with disabilities liv[...e] in relative isolation” (Meekosha & Dowse, 1997, p. 53). Supporting this, a recent report by The Salvation Army highlighted that *NSA* recipients with disability and/ or illness “are more socially isolated tha[...]n either of the other two groups [that is, *NSA* and *DSP* recipients who access The Salvation Army emergency relief services and responded to the survey]” (The Salvation Army, 2014, p. 25). While the Report does not specify whether those respondents on *NSA* with disability and/or illness are those categorised with a PCW by Centrelink, the Report does make reference to continued changes to *DSP* eligibility in this section. This failure to explicitly mention people with a PCW supports suggestions that the problem with *NSA* is broader than people with a PCW discussed in the previous chapter. The reforms then fail to deconstruct the dominance of ableism as a result of governing through sameness and instead perpetuate it, reproducing the ‘risks’ which lead to the categorisation of people with a PCW as ‘at risk’ and thus requiring income management.

In fact the criterion that designates a long-term payment recipient does not consider the average length and median duration on payment for people with a PCW and the overrepresentation of people with disability considered to be long-term unemployed (Fowkes, 2011). This suggests that an able-bodied norm informs

compulsory income management for long-term payment recipients in the NT. People with a PCW receive welfare payments for an average of five years as opposed to approximately three and a half years for the general NSA population (DEEWR et al., 2012). The “median duration for Newstart Allowance recipients with a partial capacity to work [on payment was] ... 151 weeks compared to 88 weeks for the general Newstart Allowance population” (DEEWR et al., 2012, p. 81). While the long-term payment recipients criteria could capture both groups of NSA recipients, the prolonged duration for people with a PCW and their fit with the ‘at risk’ criteria means that it is more likely that people with a PCW would be automatically income managed. The long-term payment recipients category then uses an able-bodied norm to measure adequate duration on payment, ignoring the barriers experienced by people with a PCW in accessing employment and the difficulties with moving off welfare and into work for this group. It also fails to recognise the implications of impairment for people with a PCW and similar to discussions of breaching penalties in Chapter Four the embodied experience of living with an episodic impairment or mental illness. This indicates how income management governs bodies through an able-bodied norm, encouraging people with a PCW to condition their bodies and comply with norms about the expected duration on welfare payments. In a submission to a Senate Inquiry into the *SSOLA (Welfare Reform and Reinstatement of the RDA) Act 2010* ACOSS suggested that:

[m]ost long term unemployed people lack work for reasons such as disability or age discrimination ... A 2006 Job Network Services Survey of highly disadvantaged long-term unemployed recipients found that the most common barriers to employment reported were age, poor health or disability ... (ACOSS, 2010, p. 16).

This can suggest that the problematisation of “long-term welfare payment recipients” (Commonwealth of Australia, 2009, p. 3) governs through an ableist norm that does not consider the reasons for extensive duration on payment for people with a PCW and the general *NSA* population as a result of governing through sameness. This fails to produce equal outcomes for people with a PCW.

Further, the criticisms of DES discussed in Chapter Four highlights concerns with DES delivering meaningful employment for people with disability (PWDA, 2013a). It is then concerning that people with a PCW could be income managed if they have been receiving *NSA* for at least 52 of the last 104 weeks given the poor employment retention outcomes of the employment services meant to move people with a PCW off welfare and into work. This again indicates that the ‘different’ experience of people with a PCW fails to be accommodated as a result of governing through sameness, thus falling short of delivering equality.

Sameness and Time

Additionally, the time frame attached to automatic subscription to income management under the long-term payment recipients measure could create anxiety, particularly for people with psychosocial disabilities or mental illness, (who are anecdotally, reported to make up the majority of the PCW category) exacerbating their impairment. Governing through sameness then fails to produce equality for people with a PCW because people with disability are expected to live up to the able-bodied ideal and the reforms could have a detrimental effect on their impairment. This problematic timeframe for people with a PCW becomes particularly evident through Soldatic’s (2013) discussion of the *Welfare to Work* reforms and how the

Appointment time becomes a mechanism which regulates welfare recipients as discussed in Chapter Two. This becomes useful for considering the timeframe which triggers income management as a long-term welfare recipient. Soldatic (2013) identifies the Appointment as part of a disciplining technique; similarly, the income management time trigger acts as a disciplining technique to encourage employment and punish those who do not comply. With consideration of disability and the Appointment, Soldatic asks

what if the individuals involved in the Appointment do not actually ‘set’ the Appointment? And what happens when our bodily temporal patterns are unable to be synchronized with the multiplicity of rhythmic temporal patterns of everyday life with this forced appointment time? (Soldatic, 2013, p. 411).

The income management trigger for people with a PCW who have been in receivership of *NSA* for at least 52 of the previous 104 weeks is a deadline, similar to the Appointment, which has not been set by them. Also, similarly, particularly for people with episodic conditions, the capacity to synchronize bodily patterns on top of the barriers to employment and the activity test requirements, part of the mutual obligation requirements of *Welfare to Work*, in order to locate (and maintain) employment could be challenging. This can suggest that people are able “to control and synchronize the competing set of temporalities managed in everyday life” (Soldatic, 2013, p. 411) and that a failure to do this is a problem of the individual who has deliberately chosen to remain on income support. In reference to the Appointment, Soldatic states “[d]isabled people are highly cognizant of the disciplining role of the Appointment ... and its implications of having to make their bodies mobile to move through a multiplicity of workfare spaces and places” (2013, p. 412). The deadline of *NSA* receivership as triggering income management in the

NT indicates that welfare receivership is time limited. However, the effects of placing a time limit on people with a PCW, such as increased anxiety and unrealistic expectations based on social and impairment barriers, is ignored as a result of governing through sameness. This overlooks the cost and labour involved in attempting to perform in accordance with the able-bodied norm for persons with disabilities. In fact, the Australian Law Reform Commission which was commissioned by the Attorney General to “inquire and report on the treatment of family violence in Commonwealth laws [like income management]” (2011, p. 2) highlighted how income management is criticised for failing to consider the impact of “the prescriptive and punitive approach ... [of income management on] people with a disability or mental health problems” (2011, p. 40). This indicates, as does the discussion above on the Appointment time, how income management as a result of continuing the sameness attached to people with a PCW through the *Welfare to Work* reforms employs the able-body as the ideal to which people with a PCW and their impairments are measured, thus denying people with a PCW equality.

The Exemption Criteria

Further evidence that the *SSOLA (Welfare Reform and Reinstatement of the RDA) Act 2010* upholds the able-body as the “neutral-standard of the same” (W. Brown, 1995, p. 153) impacting on the delivery of equality for people with a PCW is clear through the criteria which allows exemption from income management for those automatically income managed under the long-term welfare recipients measure. Long-term payment recipients can be exempted if they have “a history of engaging in work” (Buckmaster et al., 2010, p. 18). Chapter Four outlined the barriers to employment participation experienced by people with disability as well as

the exclusion of people with disability from work since industrialisation (Galvin, 2004), making it unlikely that some people with a PCW will have an employment history to draw on. Governing through sameness obscures the ableist norm underpinning the exemption criteria of “long-term welfare payment recipients” (Commonwealth of Australia, 2009, p. 3) income management, failing then to produce equality for people with a PCW.

Additionally, with regard to exemption from income management, the onus is on the individual to seek exemption placing the “burden of proof ... on those [income managed] recipients to demonstrate that they are socially responsible” (Buckmaster et al., 2010, p. 17), demonstrable through prior work history, enrolment in study, engagement in paid work or evidence of responsible parenting (Buckmaster et al., 2010). This does not consider the circumstances of people with a PCW who face structural and impairment barriers to employment and education, and additional costs to employment and education (Salthouse, 2005) which are not adequately met by *NSA*. This again indicates how the conduct of people with a PCW is regulated through an ableist norm which is concealed through sameness, continuing the structurally disadvantaged position of people with a PCW.

Sameness and Priority Needs

Another area in which the continuation of governing through sameness in income management upholds the able-body as the standard to which people with a PCW have to live up to is in the determination of priority needs. Priority needs are defined in the Act as:

food; non-alcoholic beverages; clothing; footwear; basic personal hygiene items; basic household items; housing, including rent; home loan payments; repairs and maintenance; household utilities; rates and land tax; health; child care and development; education and training; items required for the purpose of the person's employment; funerals; public transport services; and the acquisition, repair, maintenance or operation of: a motor vehicle; or a motor cycle; or a bicycle (*SSOLA (WPR) Act 2007*, pp. 25-27).

However, governing through sameness obscures and individualises the 'different' needs of people with a PCW which stem from impairment and social and structural barriers, thus failing to deliver equality and access. This also provides evidence that it is the able-body which is the yardstick for the determination of what priority needs are considered as such. For people with a PCW their needs as persons with impairments and disabilities were previously acknowledged through their *DSP* receivership (Galvin, 2004). The fact that there is inadequate acknowledgement of these under *NSA* receivership (Humpage, 2007a; NWRN, 2013) and income management suggests that ableism informs the regulation of people with a PCW through income management. Despite

it ... [for example, being] widely acknowledged that disabled people 'face extra non-discretionary costs associated with their disability such as specialised aids and equipment for mobility or communication, additional transport and other needs' such as medical treatments and various therapies (Galvin, 2004, p. 348).

By leaving this out it denies their access to resources, highlights the able-body underpinning income management and establishes an assumption that “needs ... [are] simply given and [left] unproblematic” (Fraser, 1989, p. 294). This silences and ignores the interpretive dimension of need determination and delivery which is discussed by Fraser who argues that focusing on whether or not priority needs will be provided for ignores and makes unproblematic “who interprets the needs in question and from what perspective and in light of what interests” (1989, p. 294). Governing through sameness fails to deliver equality for people with a PCW with regard to the determination of priority needs because the able-body is the reference point with regard to need determination, thus obscuring and individualising the needs of people with a PCW. It is clear then that by continuing to govern people with a PCW through sameness in income management as in *Welfare to Work* that the disadvantaged position of people with a PCW is reproduced, as they become implicitly income managed and as a consequence regulated through an ableist norm which denies them equality and access.

Conclusion

This chapter suggested that as a result of being governed through sameness in *Welfare to Work* and the reclassification of people with disability as *NSA* recipients through *Welfare to Work*, people with a PCW in the NT could be income managed. Sameness was argued to continue as a mechanism governing people with a PCW in income management through the criteria determining “long-term welfare payment recipients” (Commonwealth of Australia, 2009, p. 3). This chapter also proposed that sameness continues to govern people with a PCW in income management perpetuating their structurally disadvantaged position. This was because the income

management criteria does not consider the disadvantaged position of people with a PCW, the difficulties they experience in accessing the labour market, and the ‘at risk’ criterion does not regard the poor education outcomes of people with disability based on social and structural barriers, their social isolation and their average and median duration on *NSA*. This provided evidence for the suggestion that people with a PCW continued to be governed through ableism in income management and thus sameness.

Additionally, it was argued that the income management timeframe could create anxiety for people with a PCW exacerbating their impairments and that the deadline triggering income management is similar to Soldatic’s (2013) discussion of the Appointment. The deadline triggering income management was suggested to be based on an able-bodied norm because it failed to consider the structural barriers experienced by people with disability to accessing employment and expected people with a PCW to manage their bodies so that they could comply with demands for adequate duration on payment as informed by an able-bodied norm.

This chapter also discussed the income management exemption criteria suggesting that it continues to govern people with a PCW through sameness and an able-bodied norm. This is because the criterion is unlikely to be met by people with a PCW based on barriers to employment and education, making it difficult for them to have a prior work history to draw on or participate in education.

Similar to *Welfare to Work*, governing through sameness in the long-term payment recipients measure ignores the differences of people with a PCW from the norm individualising the responsibility of disability and impairment to the individual, denying them access to resources for their needs that are “associated with living with an impairment in a disabling society” (Soldatic, 2009, p. 155). In particular, it was suggested that the determination of priority needs is informed by an able-bodied norm which is obscured in governing through sameness and its regulation of people with a PCW.

The continuation of governing people with a PCW through sameness from *Welfare to Work* is problematic because again governing through sameness fails to deliver equality and access for people with a PCW. Again, then, as in *Welfare to Work*, the normativity assigned to ableism through sameness means that the socially and economically disadvantaged position of people with a PCW is perpetuated, thus failing to deliver equality and continuing their structurally disadvantaged position.

The following chapter, Chapter Six, will continue to demonstrate how people with a PCW lack equality and access in the welfare state. This chapter also highlights further problems with the sameness/ difference binary for constructing and governing subjects.

CHAPTER SIX: GOVERNING THROUGH DIFFERENCE:
PEOPLE WITH A PARTIAL CAPACITY TO WORK AND
NATIONAL DISABILITY INSURANCE SCHEME PARTICIPANTS

Introduction

This chapter, similar to Chapters Four and Five argues that people with a PCW lack equality and access. It draws on the work of the previous two chapters as well as analysis of the NDIS to suggest that people with a PCW are constructed and governed differently to NDIS participants, people with severe and profound disabilities producing then a lack of equality and access.

As outlined in Chapter One, the NDIS emerged as a ‘Big Idea’ of the 2020 Summit in 2008, after Bruce Bonyhady now Chair of the Board of the NDIA and Helen Sykes submitted a proposal to the Summit outlining a care and support scheme for people with disability. From November 2009, the scheme and its feasibility for people with disability were investigated by the Productivity Commission. The Productivity Commission in its report *Disability Care and Support (2011)* problematised the adequacy of the previous care and support system for people with disability, supporting the need for a NDIS. This need was endorsed by the Gillard government and legislation was passed in 2013.

People with a PCW however, are not eligible for the main component of the NDIS, individualised care and support for people with severe and profound disabilities, known as Tier 3. This is because the disability requirements exclude people with a PCW from becoming participants in this main component of the

Scheme. The Tier 3 disability requirements, as specified in Chapter One, base eligibility on the presence of a disability which relates to “one or more intellectual, cognitive, neurological, sensory or physical impairments, or [a] psychiatric condition” (*NDIS Act 2013*, p. 28). It must be permanent, impact on one’s functional capacity and social and economic participation and the supports needed should be likely to continue over a lifetime (*NDIS Act 2013*). Therefore, while people with a PCW could be assisted through Tier 1, in particular the awareness raising component and the promotion of opportunities which is also part of this Tier, the tangible impact of the awareness raising component is yet to be seen in producing practical policy differences or opportunities to the lives of people with a PCW. Additionally, while they are eligible for Tier 2 it is unclear exactly how Tier 2 will provide support to people with a PCW because “there has been little focus on” (NDIA, 2014e, p. 14) the development and operation of this Tier. The NDIS then excludes people with a PCW from the NDIS as they do not qualify as disabled within the Tier 3 requirements.

The analysis within this chapter suggests that people with a PCW and NDIS participants, people with severe and profound disabilities are governed through hybrid rationalities in which each group is constructed and subjected to distinct techniques and mechanisms of rule. On the one hand, people with severe and profound disabilities through their eligibility for NDIS support are predominantly managed through social rationalities of government and neoliberalism, in particular neoliberal market principles. These rationalities of governing combine in the NDIS to produce a policy which has been described as “revolutionary” (McLucas, 2013, p. n.p.) to people with disability who receive care and support in Australia. On the other hand, the predominant hybrid rationality regulating people with a PCW in *Welfare to*

Work, the Family Assistance and Other Legislation Amendment Act 2011 and income management is disciplinary, combining aspects of neoliberalism and authoritarianism. However, it is important to acknowledge that although emphasising their distinctness there are points of comparison between the way that people with a PCW and people with severe and profound disabilities are governed, particularly through neoliberalism. This suggests that some of the rationalities do operate to govern both populations. This complexity will be seen in this chapter.

This chapter begins with an explanation and exploration of hybrid rationalities. Following this, under the subheadings ‘Choice, control and autonomy’ and ‘Individual risk and social risk’ is a discussion about the different ways in which people with a PCW and people with severe and profound disabilities are constructed and governed. For people with severe and profound disabilities the NDIS collectivises the risk of disability by pooling the costs of disability care and support and describing impairment as something which can be acquired by anyone. It is also represented by the government and the disability movement as enabling people with disability to exercise autonomy, choice and control over their care and support needs. In addition, it is constructed as delivering justice and social and economic inclusion. People with severe and profound disabilities are governed through freedom in the NDIS and their ‘difference’ is legitimated through access to resources and support.

Alternatively, people with a PCW in *Welfare to Work* and income management are represented as incapable of being governed through freedom because they are irresponsibly unemployed, welfare dependent and unable to regulate

their own conduct. In response the government intervenes to regulate, manage and reform the problematic unemployed position of people with a PCW and the unemployed individual themselves through authoritarianism.

Hybrid Rationalities

Subjects are constructed and governed through rationalities. A rationality or mentality of government according to Dean (1999) is:

[a]ny relatively systematic way of thinking about government. This can include the form of representation of the field to be governed, the agencies to be considered and enrolled in governing, the techniques to be employed, and the ends to be achieved. Rationalities of government can be theoretical knowledges, particular programmes, forms of practical know-how, or strategies (Dean, 1999, p. 211).

Different rationalities inform the regimes, practices and mechanisms used to govern, although these are irreducible to specific rationalities (Dean, 1999). Rationalities are underpinned by various assumptions and produce various effects. For example, a liberal rationality assumes the freedom of its subjects, and as such it governs through this freedom (Dean, 1999). Drawing attention to the rationalities which govern and how they govern has the capacity to destabilise what is taken for granted with regard to the regulation of subjects (Dean, 1999). It can also highlight how the way in which subjects are governed is socially constructed. By doing this, Dean (1999) argues, it gives scope to challenge or to resist such modes of governing.

Rationalities can be hybrid. Hybrid government is heterogeneous and refers to the operation of multiple rationalities of governing, with each making a contribution to governing (Clarke & Newman, 2007). Hybridity can also refer to and

include the influence of non-government organisations or social movements, such as, the disability movement. Hybrid governmentalities are common (Clarke, 2004; Larner, 2000a). For example, Larner states that “contemporary forms of rule are inevitably composite, plural and multi-form” (2000a, p. 20). “[R]arely [are they] ‘pure’ expressions of larger logics. They are compound formations” (Clarke, 2004, p. 41). Therefore, reforms or situations cannot simply be reduced to one rationality. Hybrid rationalities govern people with disability in the Australian welfare state.

While hybrid rationalities are common (Clarke, 2004; Larner, 2000a), the types of rationalities and their presence in governing people with disability reflect the contemporary political and policy context in Australia. Australia’s welfare state, alongside other countries has undergone significant change within the last half a century (Chouinard, 2010; Lantz & Dee, 2012; Wilton, 2004), indicating a shift in “welfare rationalities” (Harris, 2001, p. 6). Harris describes the “welfare rationalities” (2001, p. 6) operating in the welfare state from 1901 to the present, specifically “‘relief’ (1900 to the mid-1930s); ‘full employment’ (1940s to 1960s); [and] ‘mutual obligation’ (1970s to present)” (2001, p. 7), providing a useful framework to understand and capture the shift from the prior and post-war welfare state to its current form. Prior to reform the post-war welfare state acted in a supportive role to an economic policy of full employment (Fenna, 2004) and sought to protect “against the rigours, vagaries, demands and inequities of the market and the unconstrained powers of capital” (Clarke, 2005, p. 452). It also sought to provide equality and security for vulnerable members of society (Hartman, 2005). Harris suggests that the full employment welfare rationality took as its object of government the control of “economic cycles, rather than unemployed individuals” (2001, p. 11).

The 'problem' of unemployment was socialised and responded to at a public level. Unemployment was a government responsibility (Bacchi, 2009) and government played an active role in providing employment for its citizens and “stimulating spending on goods and services to the extent necessary to sustain full employment” (Commonwealth of Australia, House of Representatives, May 30, 1945, p. 2239). In this context, welfare provision for unemployment was seen as a social right of citizenship in a “welfare rationality” (Harris, 2001, p. 6) underpinned by a concern for social justice and the social wellbeing of citizens.

In this context though people with disability were rendered dependent, passive, objects of charity and pity and were subjected to exclusion and oppression. They were relegated to the private sphere, enforcing their exclusion from the labour market. This denied people with disability “parity of participation” (Soldatic, 2009, p. 135), inclusion and the right to work (Soldatic, 2009). This exclusion of people with disability from employment and the public sphere during this time was built on an assumption of their inability to contribute to society through employment, “a generalisation which served to reinforce the prevailing view of disability as an individual deficit and medical concern” (Soldatic, 2009, p. 99). As highlighted in Chapter Four, in response to the exclusion of persons with disabilities from employment, the disability movement argued that people with disability have a right to participate in the mainstream economy.

Changes to the welfare state have shifted notions of welfare as a social right for the unemployed and people with a PCW, thus shifting the way that subjects are constructed and governed. Responsibility for unemployment is no longer attributed

to the state; rather, responsibility has transferred to the individual and the market (Hartman, 2005). In particular, as demonstrated in Chapter Four, through *Welfare to Work* the notion that people with disability are worthy of state support shifted for people with a PCW. These changes to the welfare state have been triggered by globalisation, in particular the need to be economically competitive in a global economy (Clarke, 2004; Dean, 2002; Larner, 2000a) and neoliberalism. Neoliberalism developed from a concern around the interventionist nature of government evident in the previous period of full employment and “is associated with the preference for a minimalist state” (Larner, 2000a, p. 5). It presupposes the freedom and capacity for self-government of its subjects (Clarke, 2005; Dean, 1995; Larner, 2000b) employing this as a precedent to govern those incapable or partially incapable of exercising autonomy (Dean, 1995). In this context, the long-term unemployed, such as some people with a PCW, are represented as posing a risk to Australia’s economic global prosperity and do not behave like other Australians in the sense that they are unemployed and ‘rely’ on the government for subsistence. This logic led to a focus on the active income support system and welfare recipient who should personally strive to move off welfare and into work. People with a PCW are therefore expected to be “entrepreneurial [... and] enterprising” (Larner, 2000b, p. 246) of their self, a product to market to potential employers. They are expected to make themselves job ready by participating in training and programs, “enhancing [... their] skills, motivation and self-esteem” (Larner, 2000b, p. 258).

Linked to governing through freedom in neoliberalism are authoritarian mechanisms employed to regulate those subjects assumed to be incapable of being governed through freedom. “[I]n a neoliberal rationality subjects are ‘assisted’ to

practise their own freedom, but only in ways the state has defined anteriorly – for example as workers rather than as welfare recipients” (Hartman, 2005, p. 60). For those who are incapable of practising their own freedom in the ways defined by the state they become governed through authoritarianism. Authoritarian government intervention thus becomes justified as guaranteeing and protecting the freedom of those who are capable of self-government and conduct themselves appropriately (Dean, 2002). In this way government seeks to teach the capacities for self-government and responsibility, and objectify and discipline inappropriate conduct (Larner, 2000b).

For people with disability neoliberalism is problematic and aspects of it are in tension with disability rights (Owen & Parker Harris, 2012). Firstly, this is because of the focus of neoliberal policies on economic efficiency and reducing costs. In endeavouring to reduce costs, the eligibility criteria for the *DSP* changed through *Welfare to Work* and the 2011 Gillard government reforms, in order to move more people with disability into work. This extended the “neoliberal workfare” (Soldatic, 2009, p. 154) agenda to people with disability who are no longer eligible for the *DSP*, have to apply for *NSA* and then become categorised as people with a *PCW*. This sought to produce fiscal savings, by decreasing the amount of people receiving the higher paying *DSP* and moving people off welfare and into work. Secondly, neoliberalism focuses the ‘problem’ of unemployment on the individual with a *PCW*. As a result and as highlighted in Chapter Four, the structural barriers impeding their economic participation and inclusion fail to be acknowledged and the supports they may require for employment are not provided. Thirdly, the disability movement was

constrained through neoliberalism during the years of the Howard government.

According to Soldatic (2009):

[t]he institutional arm of the movement, disability advocacy services, endured a round of reforms, driven by neoliberal principles of fiscal restraint and individualism rather than collective structural advocacy (Jakubowicz and Meekosha 2002). These reforms consequently restrained the disability movement's representative role in the policy making process (Meekosha 2002) (Soldatic, 2009, p. 129).

Fourthly, employment services were privatised under the Howard government, funding shifted from block funding to case based funding and employment services became outcome focused. This brought neoliberal market principles to bear on the provision of employment, repositioning “funding formulas in line with the neoliberal principles of competition, markets and individualism” (Soldatic, 2009, p. 143). Problematically for people with disability, outcome-focused services led employment services to concentrate on those who were easiest to employ. This meant excluding those with high support needs who were ‘difficult to place’, continuing the individualisation of unemployment. Thus outcome-focused disability employment services targeted “the ‘most able of the disabled’” (Soldatic, 2009, p. 134) where a “new excluded class of disabled citizens was defined as the truly disabled and most deserving of nation state support” on the *DSP* (Soldatic, 2009, p. 161).

The neoliberal reforms to the welfare state have led Rose to question whether ‘the social’ is in fact dead (1996; 1999, p. 10; Rose & Miller, 2008, pp. 84-113). By ‘the social’ Rose is referring to the government of society and in particular, the nation state, through government centred programmes and technologies, like the welfare state “in the interests of social protection, social justice, social rights and

social solidarity” (1996, p. 329). However, Dean (1999) suggests that the social has metamorphosed rather than died, with the welfarist form of the social transforming through liberalism. This means that instead of state-centred control over welfare as in social rationalities of government “the social will be reconfigured as a set of constructed markets in service provision and expertise” (Dean, 1999, p. 193). Dean’s (1999) suggestion on the metamorphosis of ‘the social’ rather than its death is similar to Hartman’s (2005) proposal that the welfare state has been reshaped because of neoliberalism but not abolished or dismantled. Rose (1996, 1999) also describes the ‘death of the social’ as misleading, suggesting instead that ‘the social’ is undergoing a mutation influenced by neoliberalism and a restructuring of the welfare state to resemble the market. Also, Soldatic and Grover highlight how

it would be wrong to suggest that neoliberalism necessarily involves the absence of the state intervention. Neoliberal thinkers themselves, for instance, point to the state’s ‘role in ensuring the material well-being of the least well off in society’ (Penna and O’Brien 2009, 111) (Soldatic & Grover, 2013, p. 224).

Clarke (2004) too challenges claims that suggest that the social underpinnings of the welfare state have disappeared through neoliberalism arguing that the continued existence of some form of welfare state, despite reform, highlights rather than its death, the longevity of ‘the social’. This in a sense indicates aspects of ‘the social’ in neoliberalism because aspects of social rationalities are combined with neoliberal market principles.

This is also discussed by Giddens (1998; 2001), when he explores the relevance of what he refers to as old-style social democracy to the current political, social and economic climate which is challenged by globalisation, the information

age and changing understandings of work and welfare. In addition, it is considered when he examines the need for political parties previously ideologically affiliated with socialist values and social democracy (the political left) to find a new way forward. Referring to the changing nature of the welfare state and society more broadly as well as critiques of government intervention and provision of welfare in the 1970s, he discusses how the economic cost of socialist principles particularly in the welfare state, have been discredited. Additionally, social democracy has been challenged by free market philosophies of neoliberalism. Giddens' (1998) emphasis on the political left responding to such changes and shifts paves the way for his argument about a third way⁸. He argues that this third way should be concerned with social justice and values such as equality, protection of the vulnerable and freedom as autonomy. It should also emphasise no rights without responsibilities, an active approach to welfare which places obligations on the individual but also on broader society (Giddens, 1998; 2001). Ultimately, the

‘third way’ refers to a framework of thinking and policy-making that seeks to adapt social democracy to a world which has changed fundamentally over the past two or three decades. It is a third way in the sense that it is an attempt to transcend both old-style social democracy and neoliberalism (Giddens, 1998, p. 26).

However, hybrid government is not restricted to state regulation alone and the operation of the disability movement in this policy context is worth drawing attention to, particularly with regard to the NDIS which emerged out of the work and campaigns of the disability movement (Manne, 2011), including the ‘Every Australian Counts’ campaign. As mentioned in Chapter One, the ‘Every Australian Counts’ campaign lobbied the government to implement the recommendations of the

⁸ It is worth acknowledging, as Giddens (2001) does, the diversified practical enactment of ‘third ways’ across different nation states in response to different institutional backgrounds and constraints.

Productivity Commission report for a disability care and support scheme (Della Bosca, 2011). The work of the ‘Every Australian Counts’ campaign is suggested to be in part responsible for the successful implementation of policy to introduce the NDIS which encouraged persons with disabilities, their families and carers to educate broader society and the government about the importance of a NDIS from their perspective (Henry, 2014). This challenges the top-down assumptions underpinning political rule and sees “the operations of civil society ... folded back into the operations of the state” (Dean, 2002, p. 45). The disability movement is thus an “active agent ... in the policy process of political-economic change” (Larner, 2000a, p. 17).

Choice, control and autonomy

It is evident that people with a PCW and people with severe and profound disabilities are being governed through distinct hybrid governmentalities through examining the key concepts of choice, control and autonomy. While the ability of people with a PCW to exercise their choice, control and autonomy is managed and regulated in *Welfare to Work* and income management, people with severe and profound disabilities are governed through the NDIS, a policy which recognises and enhances the choice, control and autonomy of NDIS participants. As a result of this it can be argued that people with a PCW are denied autonomy, choice and control in contrast to people with severe and profound disabilities who are represented as having autonomy through the *NDIS Act 2013*.

People with a PCW are represented as unable to be governed through freedom and autonomy because they are seen as incapable of self-government as a result of their unemployment. They are represented as at ‘high risk’ of welfare dependency and a threat to the ‘active’ focus of the reshaped welfare state. This justifies their regulation through authoritarianism and “*illiberal* practices and rationalities of government” (Dean, 1999, p. 204). For example:

(i) increased surveillance through the use of mentoring (‘case managers’, ‘advisers’, etc), increasing publicity around their obligations in respect of finding a job and the sanctions available to welfare agencies should they fail to meet these obligations, and ... coercive measures such as workfare (‘welfare-to-work’ or ‘work-for-the-dole’) programmes ... deemed necessary to render the individual autonomous, i.e. as manifesting the sturdy independence and good character of those who prefer paid employment to welfare benefits as a source of their lively-hood (Dean, 2002, p. 47).

This is then reinforced through their subscription to income management after at least 52 of the last 104 weeks on NSA providing further penalisation and discipline for recipients continued status and ‘choice’ as unemployed.

Alternatively, NDIS participants are represented as responsible and capable of autonomy and they are governed through freedom in a Scheme which enhances their choice and control. They are positioned through the NDIS as consumers; that is, “mark[ing] a shift from ‘passive recipient’ to ‘active choice maker’ in relation to services” (Clarke, 2004, p. 39). For instance, recently ‘The Choice and Control Expo’ was held in Canberra (Peake, 2014). The Expo provided a space where persons with disabilities, potential NDIS participants, could look at the types of supports they might like to purchase through their individualised funding packages.

Another reason behind the Expo was to familiarise people with disability with having control and making choices, as previously they have been controlled by others who make decisions for them (Peake, 2014).

The NDIS has thus largely shifted to a certain extent previous assumptions about people with severe and profound disability and the exercising of autonomy. For example, although “(fluid) categories of liberal subjects of government grouped according to their [capacity for] autonomy” (Dean, 2002, p. 48), Dean (2002) previously categorised people with disability as Group D. Group D is “those who, having reached maturity of age, are for one reason or another not yet or no longer able to exercise their own autonomy or act in their own best interests” (Dean, 2002, p. 48). He elaborates, this “includes the chronically welfare dependent, [and] those with certain mental and physical illnesses” (Dean, 2002, p. 48). The assumption that people with disability, particularly, people with severe and profound disabilities lack autonomy has been heavily challenged by the disability movement and disability studies scholars who argue that the autonomy of people with disability is impeded by the social barriers they experience to exercising their autonomy and how definitions of autonomy employ the able-body as the norm socially constructing ‘disabled’ bodies as lacking autonomy. This is similar to discussions of the definitions of ‘independence’ and ‘self-reliance’ discussed in Chapter Four and is also challenged through the NDIS which is underpinned by autonomy, choice and control.

As a result of their capacity for autonomy being recognised through the NDIS, participants are represented as engaging with a system underpinned by freedom and individualised choice and control. Alternatively, Lantz and Marston

highlight how as a result of *Welfare to Work* “individuals have little capacity to be self-determining: they are asked to choose from a range of limited options that are narrowly defined in terms of education and training to increase employability” (2012, p. 865). At times then, choice appears to only be an option for people with a PCW and the unemployed when choosing to engage or withdraw from the income support system restraining the freedom of unemployed people because of their unemployment to a decision about choosing to engage with support which they no doubt need. “The ‘choice’ [... the unemployed] are faced with is either to take the payment or suffer the consequences of having no income” (Moss, 2001, p. 5). This point applies particularly to those who face difficulties in finding employment, such as persons with disabilities (Moss, 2001) who experience social and structural barriers to economic participation.

People with a PCW thus engage with systems which provide limited scope for choice and control, such as the employment service system. The privatisation of employment services was envisioned as providing “a market of flexible and responsive providers” (Marston & McDonald, 2006c, p. 13). However, because employment services are grounded in case-based funding (Lantz & Marston, 2012) and are outcome-focused (Parker Harris et al., 2012) the flexibility and responsiveness of providers is restricted. ACOSS in fact suggests “[a] significant constraint on the system’s responsiveness to jobseekers and employers is that it operates as a Government purchasing regime, not an employment services ‘market’” (2012, p. 14). Case-based funding and outcome-focused services means for employment services that financially it is important to have high caseloads of people who are easy to achieve employment outcomes for in order to ensure that the

government renews the services contract (Marston & McDonald, 2006c). The high case loads of case managers means that there is an emphasis on how much time is spent with each client and it is difficult to deliver “support and services that are individually tailored to [... a client’s] particular capacities [and aspirations]” (Lantz & Marston, 2012, p. 865). As result of the system’s design people accessing the employment service system, like people with a PCW are seen as outcomes (Marston & McDonald, 2006c) rather than as consumers. This means that there is little scope for them to exercise their choice, control and autonomy. Additionally, employment services are expected to help job seekers find employment but also monitor and police their compliance with their Activity Agreement (Lantz & Marston, 2012). Therefore “employment services had a role not only in surveilling the disabled welfare subject but also monitoring the disabled welfare subject’s progress in moving to a state of public respectability” (Soldatic, 2009, p. 184; Soldatic & Pini, 2009, p. 88). Choice and control by people with a PCW is inhibited by this because their interaction with employment services is already mapped out. In this way, their autonomy is limited because they are coerced to comply with their mutual obligations. Consequently, “their role is reduced to that of ‘followers of rules’ rather than active participants who influence or shape the services provided” (ACOSS, 2012, p. 14).

The assumed inability of people with a PCW to exercise choice and control can also be seen in the mutual obligation contract which, alongside neoliberalism and authoritarianism, shifted the individual from being understood “as a sovereign individual to a subject of paternalistic supervision” (Shaver, 2002, p. 332). The mutual obligation contract is not one based on negotiation and mutual consensus;

rather, it is designed to produce behavioural change in the subjects of regulation, people with a PCW. Those subscribed to the mutual obligation contract, like people with a PCW, have no bargaining power to change or alter the contract (Carney, 2007; Moss, 2001) suppressing choice and control. Moss (2001) further argues that those subscribed to such contracts have very little choice or option in accepting the terms of the contract given that they are approaching the welfare state in some form of financial difficulty. This is likely because the means-tested structure of the Australian income support system ensures that welfare payments are targeted to the most vulnerable citizens who are in need of assistance (Shaver, 2002). Therefore, unlike in the NDIS, power is disproportionate in this contractual process.

The NDIS, alternatively, allows scope for negotiation and mutual consensus through the relationship of a NDIS participant with a NDIS delegate where the individual's NDIS plan is in some ways driven by the participant. A plan maps an individual's goals and aspirations and details the supports, either general and/ or reasonable and necessary to be provided to meet their care and support needs (NDIA, 2014d). Once assessed as likely to be eligible for the NDIS, participants meet with a delegate to prepare, discuss and arrange their plan. While the delegate must approve the plan a NDIS participant has a role in designing their plan which must "[a]s far as reasonably practicable" (NDIA, 2014b, p. 1), be "directed by the participant", "underpinned by the right of the participant to exercise control over his or her own life" and "maximise the choice and independence of the participant" (NDIA, 2014b, p. 1). Further evidence of opportunities for negotiation and direction by NDIS participants can be seen through the relationship between the delegate and the participant which is described in the NDIS Operational Guidelines as a "partnership"

(NDIA, 2014c, p. 1). Delegates are encouraged to “[a]dopt a relationship-based approach to the planning process with the aim of building a sustainable, supportive relationship between the NDIA officers, participants and their supporters” (NDIA, 2014a, p. 2). Additionally, the planning conversation held between the delegate and the participant is underpinned by negotiation and enables the participant to lead, demonstrating the difference between the policies’ regulating NDIS participants and people with a PCW. For example:

[t]he planning conversation will involve the delegate facilitating a participant-led discussion based on the participant’s statement of goals and aspirations. The delegate is to take an active listening role, gaining a rich picture of the participant’s goals, aspirations, current life circumstances and supports to the extent the participant wishes to engage. The focus of the planning conversation will be on strengths and abilities which can be maximised or enabled (NDIA, 2014d, p. 3).

The ability of NDIS participants to exercise choice, control and negotiation is in direct contrast to the authoritarian regulation of people with a PCW, whose ability to negotiate and direct is withheld through the mutual obligation contract. This demonstrates their assumed incapacity to be governed through freedom, and most significantly, the diversity in the hybrid governmentalities regulating people with a PCW and people with severe and profound disabilities in current Australian policies which results in inequality for people with a PCW.

In comparison to NDIS participants designing statements and plans which outline their goals, aspirations and care and support needs through the NDIS, people with a PCW do not have their employment goals, aspirations or objectives recognised in their relationship with the income support system. Rather, people with a PCW are expected to accept all reasonable offers of employment and can have their

payment suspended for eight weeks if they have “refused or failed, without reasonable excuse, to accept a suitable offer of employment” (*Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Act 2006*, p. 129). Owen and Parker Harris, whose article focuses on the UK under New Labour, argue that this forces people with disability “into ‘any work’ rather than a career of their choosing” (2012, p. n.p.).

Further restrictions are placed on the ability for choice and control by people with a PCW through the state defining their priority needs through income management after a year of receiving NSA. A participant in Lantz and Marston’s research on *Welfare to Work* “points to the way in which people are rendered mere spectators when defining their needs” (2012, p. 859) in the income support system. This is because decisions are made on behalf of people with disability, often by people who have “little understanding of the everyday reality of disabled people’s lives” (Lantz & Marston, 2012, p. 859), rather than by the persons with disabilities themselves. The same could be argued with income management where the legislation sets the priority needs of those income managed, making people with a PCW “mere spectators” (Lantz & Marston, 2012, p. 859) yet again and as suggested in Chapter Five, defining their needs through an ableist norm. As explained in an Indigenous context income management controls and manages what Indigenous Australians can purchase and where they can purchase goods and services from (Altman & Hinkson, 2010). This denies and undermines Indigenous autonomy, choice and control (Lantz & Dee, 2012). This is because the *BasicsCard* can only be used in certain Centrelink approved stores (Lantz & Dee, 2012) for approved purchases.

In contrast, NDIS participants can choose how their plans and packages will be managed. They can choose to self-manage, elect “a plan nominee”, “registered plan management provider” (Buckmaster & Tomaras, 2013, p. 25) or choose for the NDIA to manage their plan. They can also use a combination of the above. NDIS participants who choose to self-manage their plans are represented as being able to control who they employ for their care and “sourcing and arranging ... [their] own supports” (NDIA, 2013, p. 1). While the plan they will develop is established in consultation with an NDIA delegate, NDIS participants are able to identify their care and support needs and self-managed NDIS participants have the freedom to choose how they attend to their care and support needs, therefore, exercising their agency and autonomy. This is unlike people with a PCW whose needs are predetermined through income management, indicating different forms of hybrid rationalities and the inequality in the mechanisms employed to govern people with a PCW and people with severe and profound disabilities, and the lack of opportunity that people with a PCW have to exercise choice and control.

Further, unlike people with a PCW, the NDIS provides mechanisms to maximise the choice and control of NDIS participants. For example, a participant has to develop a statement of goals and aspirations. The Operational Guidelines highlight how “to maximise choice and control the statement is to be prepared by the participant (with or without support) to the fullest extent possible in the circumstances subject to participant preference” (NDIA, 2014d, p. 4). The inclusion of guidelines to advance the choice and control of people with severe and profound

disabilities indicates its importance to the NDIS, unlike for people with a PCW where choice and control is managed and contained to a 'choice' to engage with the income support system.

Neoliberal market principles

The NDIS as underpinned by choice and control relates to neoliberal market principles which provides further evidence of hybrid rationalities. Larner describes how “[m]arkets are understood to be a better way of organizing economic activity because they are associated with competition, economic efficiency and choice” (2000a, p. 5). The market then provides a mechanism to deliver on the diverse needs of people with disability, centred on the individual (Clarke, 2006). The disability movement, as a policy actor, critiqued the existing disability service system and argued for recognition of the autonomy of people with disability through choice, control and individualised planning (Bleasdale & In Control Australia, 2011) in ways that fits with neoliberalism’s emphasis on the market (Gibbs, 2013). Positioning NDIS participants as consumers in the market means that they are empowered in their relations with service providers having the choice to withdraw their funding should they not receive the outcome they want. As Clarke suggests

[t]he active consumer is the force that requires modern public services to be adaptive, responsive, flexible and diverse [as well as “entrepreneurial, enterprising, and innovative” (Larner, 2000b, p. 246)] rather than paternalist, monolithic and operating on a model of ‘one size fits all’ (2004, p. 39).

This puts NDIS participants in control of the care and support system which used to control them and determine their life chances and livelihoods. For example, reflecting the experiences of numerous people with disability under the previous care

and support system Manne (2011) discusses Lillian's testimony to the Productivity Commission's inquiry into disability care and support. Lillian "ha[...d] no idea at what time of the day the care workers might arrive to shower her ... com[...ing] when it suit[...ed] their timetable and refus[...ing] to be pinned down" (Manne, 2011, p. n.p.). Thus disability services through the market are envisioned to be provided by "efficient suppliers, disciplined by the competitive realities of the market" (Clarke, 2004, p. 31). This has therefore shifted disability service provision from the public to private industries which according to Clarke "has been legitimised in a number of ways" (2004, p. 32) and which reflect criticisms of existing disability services by the disability movement and people with disability. For example, many commentators and submissions to the Senate Community Affairs Committee Inquiry into the NDIS Bill 2012 highlight excessive amounts of red tape (Gerathy, 2012; King, 2012; Manne, 2011), waiting lists (King, 2012; Mihailof, 2012), a complex system and inadequate service provision (Davies, 2012). Clarke states "[a]t the core was an assault on 'bureaucratic' inertia and inefficiency (Du Gay, 2000) and the celebration of the market as dynamic, innovative and flexible" (2004, p. 32). Though Clarke (2004) is referring to a UK context there are some similarities between the critiques he identifies of public provision and Australian criticisms of the previous disability care and support system. Such critiques are envisaged to be addressed through the market.

However, while the market is assumed to deliver choice and control to NDIS participants, engaging in the NDIS requires participants to engage with the NDIA as it is their gateway to individualised funding. This links with arguments made by Moss (2001) in relation to the mutual obligation contract discussed earlier where he

argues that power is disproportionate in the welfare state and there is little scope for negotiation given that those approaching the welfare state generally do so in a position of financial difficulty. This link can be made because people with severe and profound disabilities approach the NDIA from a care and support system which, as highlighted previously, has been identified as inadequate (Productivity Commission, 2011). Their access to care and support resources to be provided by the NDIS are essential. It could be argued then that it is difficult to negotiate with an Agency that provides much needed access to care and support. From this perspective NDIS participants are not empowered and power is disproportionate. This could relate to arguments made by participants in a study by Clarke (2007) on the National Health Service in the UK, who suggest that they do not feel like consumers because they need the services that are being provided. While the National Health Service is a public health system in the UK it is the similarity between the need for health services or care and support in order to economically and socially participate for NDIS participants that a comparison can be made. In this sense then there is no choice, it is not a matter of “*take it or leave it*” (Clarke, 2007, p. 243).

Additionally, parts of the NDIS are dismantling existing disability services in order to align services with market principles (See for example, T. McIlroy, 2014) and work on a model of individualised rather than block funding. While essentially this dismantling is justified as delivering a new system based on choice and control that can adequately provide for the needs of people with disability, it leaves people with severe and profound disabilities little choice but to engage with the NDIA because their existing support or program may no longer exist or may be transitioning to the NDIS. For some it also means that their current ‘choice’ may be

problematized and deconstructed. Winther (2014), for example, discusses how he lives in a Youngcare apartment complex which is built on a block funding model. He argues that while he understands that often block funding is associated with the institutionalisation of people with disability in his experience the block funding model works for him, suggesting that “if the NDIS is about choice, our [or rather his] choice is block funding” (Winther, 2014, p. n.p.). Winther’s (2014) concerns about the NDIS and individualised budgets illustrate the point made by Fawcett and Plath (2014), discussed in Chapter Two, which draws attention to the success of schemes which offer individualised budgets as a choice. This is as opposed to Tier 3 of the NDIS where individualised budgets are distributed to most participants.

Some have also raised concerns about negotiating the bureaucracy of the NDIA. For example, parents whose children are NDIS participants in South Australia have suggested that funding for plans has been restricted and NDIA delegates have made recommendations about where to spend funding “instead of the tailor made programs which were promised” (Winter, 2014, p. n.p.). They also suggest that the pledge of individualised support which is unique to each individual has to an extent failed to be delivered. The individuality of plans was tied to enabling choice and control. For example:

Harry’s mother says the initial assessment meeting with NDIS workers was positive about what her son required.

But she says the follow-up sessions left her feeling judged, unsupported and confused about how to negotiate the support system.

“I guess we were seeking something very unique to Harry and to what he needs as an individual and what we got was more of a one-size-fits-all plan, so ‘here you go, here’s your funding, try and make that work for you’” (Winter, 2014, p. n.p.).

This can suggest that on some level choice and control is impeded by aspects of the NDIA. The operation of the market alongside the NDIA is not dissimilar to the “British ‘personal social services’” (Rose, 1999, p. 146) discussed by Rose. Rose (1999) suggests that ‘personal social services’ in ‘Britain adhered to “the so-called purchaser-provider split [which] separated the responsibility for identifying need and identifying a care plan, which was still to be undertaken by a social worker, from the provision of the required care. This was to be purchased in a quasi-market” (Rose, 1999, p. 146). While the NDIS encourages the individual to design their plan to meet their goals and aspirations alongside a NDIA delegate, it is the delegate who decides how much funding is allocated to each plan. To a certain extent then they become the expert in valuing the costs of people’s needs. Rose suggests that while it appears that power is dispersed from bureaucracies through neoliberalism, in fact “new techniques of control [are established], strengthening the powers of centres of calculation who set the budgetary regimes, the output targets and the like, reinstating the state in the collective body in a new way” (1999, p. 147). Further evidence of aspects of centralised control is the fact that the NDIA sets the prices for supports included in participants’ plans (NDIA, n.d.-a). “Prices for supports to be included in participant plans are developed and published by the ... NDIA” (NDIA, n.d.-a, p. n.p.). For NDIS participants then, on the one hand, choice and control is enabled through the market and on the other, access to the NDIS and therefore, choice and control is concentrated in the NDIA. This indicates the hybrid governmental rationalities operating within the context of the NDIS and some similarities between the government of people with a PCW and people with severe and profound disabilities through neoliberalism. This indicates some of the complexity that was referred to in the introduction of this chapter.

Gibbs (2013) raises concerns about the neoliberal market principles underpinning the provision of care and support to people with severe and profound disability in the NDIS. She argues that despite “[t]he deregulation of the disability support system being sold as a continuation of the activist drive for people to have more control and choice over the services they use” (Gibbs, 2013, p. n.p.) the market principles are not also being broadly employed to challenge the structural barriers to inclusion and participation that people with disability experience. In this model, rather, “[t]he rights that are being defended are those of individualised consumers within a deregulated market, with no expectations of structural change” (Gibbs, 2013, p. n.p.). Gibbs suggests that as a consequence there is an “unravelling of the social contract between citizens and government” (2013, p. n.p.) through a focus on individualised funding packages to be met by the market. She argues that this could mean that the government has less of an obligation to deliver broader social change and break down the social barriers experienced by people with disability that are not experienced by able-bodies (Gibbs, 2013). In this context then she questions whether individual choice will facilitate structural change for people with disability (Gibbs, 2013).

Defining (or confining) choice, expectations and flexibility by responsibility and reasonable and necessary

Also, despite the possible achievements of a market model of disability support for people with severe and profound disability in a format which enables choice and control, Clarke (2006) cautions about the flexibility and expectations of choice. For instance, he suggests that because social care in the UK is based around “the question of ‘need’ – ... this skews the argument about choice in peculiar ways” (Clarke, 2006,

p. 427) because “need is never simply a matter of ‘what people want’. Need (rather than want) implies the existence of an objective condition” (Clarke, 2006, p. 427). The NDIS is also centred around need (Bonyhady, 2009) and “reasonable and necessary supports” (*NDIS Act 2013*, p. 4) are funded for participants. However, there are questions and contestations emerging around what can be considered as ‘reasonable and necessary’ and who determines and defines this ‘choice’. This can be seen, for example, in a discussion about ‘reasonable and necessary supports’ where McKim (2014) writes about her NDIS participant plan which includes a goal to travel overseas. Its classification as ‘reasonable and necessary’ is debated in the comments section of her opinion piece on *Ramp Up* with ‘Honest’ stating

[i]t is beyond me how anyone can even think of holidays overseas as reasonable. I and others I know are being told by the NDIA wanting to eat is unreasonable and we shouldn’t expect the community to be burdened with our care costs, for simply day to day life needs ... (2014, p. n.p.).

Similarly, ‘Reasonable ...’ (2014) declares:

I suppose we in the disability community are fortunate that we have a great deal of public support behind the NDIS and are lucky that the ‘shock jocks’ have not attacked the NDIS.

However I believe that those attacks will occur and I do not believe that supported holidays overseas are reasonable.

Would the public accept that 400,000 plus people with disabilities will or could be supported to travel overseas? Is that reasonable?

Anyone receiving supports should ask the same question, i[...’]s what[’]s reasonable to me reasonable to others.

We could undo the NDIS if we ourselves are not careful (Reasonable ... 2014, p. n.p.).

Reasonableness in this context appears to tie to responsibility, that is, a responsibility as a consumer to exercise your choice and control in a way that considers others, referring to taxpayers and those also seeking resources. As Clarke (2005) argues:

it would be wrong to mistake this independence [or platform to exercise choice, control and autonomy] for freedom, since autonomy must be exercised responsibly ... Citizen-consumers must make 'reasonable' and 'responsible' choices when consuming public services (rather than abusing or wasting tax payers' money) (Clarke, 2005, p. 451).

Exercising choice responsibly could also relate to the management of finite resources (Clarke, 2006) and financial budgets. In particular, the cost of the NDIS has been met with criticism by financial advisors to the Abbott government since its election generating concerns about potential delays to the roll out and full implementation of the NDIS or possible cutbacks (Ireland, 2014). For example, Maurice Newman "head of the Prime Minister's Business Advisory Council" (Harrison, 2013, p. n.p.) describes the previous Labor government's commitment and implementation of the NDIS as "reckless" (Newman, 2013, p. n.p.) knowing the poor state of the nation's budget. Similarly, the National Commission of Audit in its Report *Towards Responsible Government* made several recommendations to the Abbott government about reducing the cost of the NDIS (National Commission of Audit, 2014). In addition, the NDIS has been challenged by reports of cost blowouts, with "plans completed in the first three months of the scheme ... more than 32 per cent higher than the ... average cost modelled by the Productivity Commission in designing the scheme" (Harrison, 2013, p. n.p.). According to the National Commission of Audit this could suggest that the scheme will cost more than anticipated "[a]s most of the costs of the scheme are participant driven, any unanticipated increase in participant numbers or package costs will have a substantial impact on total expenditure"

(National Commission of Audit, 2014, p. 90). Concerns about the cost of the NDIS could thus limit the expanse of choice. Similarly, a UK social care worker in Clarke's study describes how with regard to choice "the world is not our oyster, we can't say you can have what you want" (2006, p. 432). Choice, often assumed to mean whatever one wants, is problematic in a landscape of limited funds and resources.

While rights, wants or needs outstrip resources, some processes of 'demand management' will necessarily come between demands and outcomes. Our study revealed significant organisational effort being expended on trying to construct 'responsible consumers' who would have 'reasonable' expectations of what services would provide. This level of effort reflected anxiety about the ways in which the 'choice' agenda might inflate expectations in difficult ways (Clarke, 2006, p. 436).

However problematically, arguments about finite resources steeped in economic rationalism have often been used to oppress people with disability and to deny their rights. Goggin and Newell (2005), for example, discuss the priority placed on the needs of people with disability in comparison to the able-bodied norm suggesting the needs of people with disability have often been denied based on impairments and using a justification of finitude. For instance, they examine "[...]the lower priority [placed] on children with Down's syndrome and other disabilities, who need heart transplants' ... [suggesting that] Savulescu [a prominent medical ethicist argues ...] that it is indeed justifiable ... in a climate of finite resources" (Goggin & Newell, 2005, p. 32) to place a lower priority on persons with disabilities. Alternatively, Goggin and Newell contend that this ignores "the values, concepts and methods to comprehend – and allow – the full benefits as well as costs of disability, and the complex issues posed in resource allocation, consumption and production" (2005, p. 32). This means that it positions people with disability as merely passive

recipients of resources. It also compares with a medical model of disability which individualises the ‘problem’ of disability and represents disability as a tragedy. Arguments of finite resources could divert people with disability back to justifying their equal right to support in a competition with able-bodies.

Yet also brought into the comments section of McKim’s (2014) opinion piece is a discussion of rights and how what is defined as “reasonable and necessary” (*NDIS Act 2013*, p. 4) should be determined by a right to equality. For example, some of the comments discuss how politicians and the able-bodied public are able to take holidays and suggest that it is only fair based on the right to equality that people with disability have the same options (Big thinker, 2014; Hoolibob, 2014). Vidler and Clarke (2005) discuss rights and needs, suggesting that in the context of social care recipients in the UK access to resources was dependent on a needs assessment. In this context, rather than needs and rights being constructed as the same thing they are in fact in conflict because a “needs assessment renders rights to services conditional and contingent rather than universal and absolute” (Vidler & Clarke, 2005, p. 31).

Income support and responsibility

The responsibility tied to the receivership of government or taxpayer funds or resources particularly in the welfare state is reflected in governing people with a PCW. For example, their regulation through the mutual obligation contract in *Welfare to Work* reflects the responsibilities tied to income support receivership. For people with a PCW their conduct is surveyed and monitored through Job Capacity Assessments, Activity Agreements (Lantz & Dee, 2012), reporting their weekly

earnings, attending interviews, searching for and recording a specified number of employment contacts per fortnight, and producing Employer Contact Certificates which document their application for work. The *Welfare to Work* legislation states for example that, “[t]he person must give the Secretary a written statement from each employer whose job vacancy the person applied for during that period that confirms that the person applied for that job vacancy” (*Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Act 2006*, p. 84).

They are also disciplined through breaching penalties where they can lose their payment for eight weeks if they lose their job due to their inappropriate conduct as a worker (*Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Act 2006*) and must ensure that they do not commit a *Newstart Participation Failure*. Further, through income management people with a PCW are monitored through the *BasicsCard* (Lantz & Dee, 2012), part of their income is quarantined and their spending conduct is restricted through disallowing their access to lump sum payments which exceed \$200 (*SSOLA (Welfare Reform and Reinstatement of the RDA) Act 2010*). For people with a PCW the receivership of state support should not be expected, rather earned, and is not deserved but rather conditional. As Pearson explains “social income support is different. It is part of our social contract, and the contract should be conditional” (2011, p. n.p.). This connects to the principle underpinning mutual obligation discussed by Moss which assumes that because “[o]thers have sacrificed their labour in order to ensure that there are resources available to provide welfare ... it is fair that the beneficiaries of that sacrifice give something back” (2001, p. 5). This is reflected in the Budget Speech 2005-06 by the Honourable Peter Costello, former Treasurer of the Howard government, when he states “[p]eople who are unable to work deserve support from

the taxes paid by those who are working. But those who are working deserve to know that others capable of work are at least looking for work in return for their income support” (Costello, 2005, p. 3). Also illustrating this, “The Policy Statement foreshadowing the Welfare Reform Act” (Billings, 2011, p. 178) *Landmark Reform to the Welfare State, Reinstatement of the Racial Discrimination Act and Strengthening of the Northern Territory Emergency Response* which extended income management stated:

[t]he welfare system needs to be seen as a two-way transaction. Governments have a responsibility to support people and families through hard times. In turn, welfare recipients have a responsibility to demonstrate personal responsibility and spend payments appropriately (Australian Government, 2009a, p. 1).

The disability movement however, does not have a problem with mutual obligation, rather, with the way that mutual obligation operates in the *Welfare to Work* reforms. Instead, Wallace argues obligations should be held by “governments, businesses and communities” (2014a, p. n.p.) to provide the necessary supports to enable people with disability to economically participate. This was to a certain extent recognised by the Reference Group on Welfare Reform who conducted a review into income support in 2000 for the Howard government, who suggested that “[a]ll these groups [governments, businesses, communities and individuals ...] need to be more active in identifying and developing opportunities for social participation” (Reference Group on Welfare Reform, 2000, p. 5). The mutuality of the mutual obligation agreement between the government and people with a PCW however, lacks reciprocity by the government and Moss (2001) suggests rather, that it is more

heavily based in obligation on the part of unemployed welfare recipients. This suggests that “the ‘problem’ ... is represented to be a supply-side ‘problem’” (Bacchi, 2009, p. 66), continuing the individualisation of unemployment.

The responsabilised citizen produced as a product of neoliberalism is, therefore, expected to spend state support responsibly. This idea of the responsabilised citizen will be explored further in the section below which discusses how through this responsabilised discourse the individual is now held accountable for their unemployment and is expected to meet their needs through employment and the market (Owen & Parker Harris, 2012).

Individual Risk and Social Risk

The attribution of risk and responsibility within *Welfare to Work* and income management and the NDIS highlights the discrepancy in the hybrid governmental combinations governing people with a PCW and people with severe and profound disabilities. “[R]isk [operates] as a governmental rationality” (Dean, 2002, p. 176) becoming “a way – or rather, a set of different ways – of ordering reality” (Dean, 1999, p. 177). As Dean argues, risk “is a way of representing events in a certain form so they might be made governable in particular ways, with particular techniques and for particular goals ... the significance of risk lies not with risk *itself* but with what risk gets attached to it” (1999, p. 177) and how that risk is governed. Both *NSA* and the NDIS insure against risk and uncertainty, for example, *NSA* insures against the ‘risk’ and uncertainty of unemployment by providing a ‘safety net’ and the NDIS ensures that the long-term care and support needs of people with severe and profound disabilities are addressed as well as provides security for the ‘risk’ of impairment

(Bonyhady, 2009). However, the ‘risk’ of unemployment is individualised impeding the access of people with PCW to resources in contrast to the ‘risk’ of impairment which is socialised through the NDIS. This provides evidence of the distinct hybrid governmentalities operating in this context to regulate people with a PCW and people with severe and profound disabilities, resulting in a lack of equality for people with a PCW.

The ‘problem’ of unemployment is individualised to people with a PCW in *Welfare to Work* and income management, reflecting a neoliberal rationality. Neoliberalism shifted the responsibility of unemployment from the state to the individual (Galvin, 2006). According to Dean, O’Malley refers to this “as the ‘new prudentialism’” (1999, p. 167). This is because the individual through this shift is encouraged to be prudent, taking responsibility for their own insurance and protection through the market (Rose, 1999). In this context of unemployment “social insurance is no longer seen as a socializing and responsabilizing principle of solidarity [rather] it ... stifles responsibility, inhibits risk taking and induces dependency” (Rose, 1999, p. 159). This resulted in the “privatization of risk management” (Rose & Miller, 2008, p. 215) where “social and economic risks are... increasingly individualised” (Lantz & Marston, 2012, p. 855). Therefore, while the government still provides income support through the welfare state which indicates an element of social rationalities, the individual is expected to take up an active identity and become responsible for one’s needs (Larner, 2000a). Dean explains, “the responsible subject seeks to optimize his or her independence from others and from the state ... [encouraging one] to adopt ... what Foucault called ‘practices of the self’” (1999, p. 191) where the individual acts upon their own conduct and manages,

regulates and reforms it, if necessary. The unemployed individual with a PCW thus became ‘the cause’ of their unemployment which focuses on their moral character and motivations, and unemployment is seen as a ‘choice’ (McCoy & Peddle, 2012; Soldatic, 2009) through the individualisation of unemployment constructing them as undeserving of state support and thus denying their access to resources. This, however, “oversimplifies the causes of unemployment” (Carney, 2007, p. 7). In particular, the social barriers and “structural processes of exclusion and inequality” (Soldatic, 2009, p. 132) experienced by people with disability which impede their employment participation. It also fails to recognise the supports required for their economic participation as discussed in Chapter Four.

In contrast, the NDIS collectivises the ‘risk’ of severe and profound impairment and the responsibility of the care and support of people with severe and profound disabilities. This indicates the regulation of people with severe and profound disabilities through principles of social insurance as well as a distinct hybrid rationality in comparison to the rationality applied to people with a PCW. The social insurance underpinnings of the NDIS, as suggested, collectivise the ‘risk’ of severe and profound impairments. As Ewald explains “[i]nsurance [... is] quite a different idea of justice: the idea of cause [for damages or ills] is replaced by the idea of a distributive sharing of a collective burden” (1991, p. 206). This “distributive sharing of a collective burden” (Ewald, 1991, p. 206) can be seen in the Productivity Commission report which explains that “[m]ost families and individuals cannot adequately prepare for the risk and financial impact of significant disability. The costs of lifetime care can be so substantial the risks and costs need to be pooled” (Productivity Commission, 2011, p. 2). Additionally, the collectivisation of risk can

be seen in the Productivity Commission's explanation of Tier 1 which is for "Everyone" and states "[i]n one sense, the NDIS is for all Australians, since it would provide insurance against the costs of support [for any Australian who] acquire[s] a significant disability" (Productivity Commission, 2011, p. 10). Wallace, for example, states that "we're all paying for it and we might all need it" (2014b, p. n.p.), "[d]isability is a slip on a bath mat or a complicated pregnancy away from every Aussie family" (2014b, p. n.p.) and Bonyhady describes the Scheme as "for the benefit of all Australians. With each of us at risk of experiencing a disability" (2009, p. 146). This rationale also underpins disability scholars and the disability movement's suggestions that most in society are "temporarily able-bodied" (Goggin & Newell, 2005; D. Marks, 1996, p. 66).

Additionally, NDIS campaigns and the disability movement problematised the previous disability care and support system which was described by the Productivity Commission as "underfunded, unfair, fragmented, and inefficient, and gives people with a disability little choice and no certainty of access to appropriate supports" (Productivity Commission, 2011, p. 2). Responsibility for redressing the problems with the previous system are represented as lying with the state as well as broader society and this is reflected in the submissions to the Senate Community Affairs Committee Inquiry into the NDIS Bill 2012. For example, often in reference to the previous disability care and support system, submissions describe adequate care and support for people with disability as a human right (Di Blasio, 2012) and an entitlement (McCandless, 2012). It is additionally described as expected of a "modern civilisation" (Damiani, 2012, p. 1) and a "first world democracy" (Stephens, 2012, p. 1), and a responsibility of citizens (Davies, 2012; Thornhill,

2012). One submission states “I expect governments at all levels to address the unmet need issues for people with disabilities” (McCandless, 2012, p. 1). Similarly, another suggests that “it is the responsibility of government and community to assist the needy who lack choices, opportunities, skills and capacities to cope and live a life as a community member with full dignity and respect” (S. Brown, 2012, p. 1). These submissions essentially collectivises the responsibility of risk.

Additionally, the NDIS, unlike the unemployment benefit, is underpinned by the collective hope of redressing the exclusion, isolation and poverty experienced by people with disability. For example, the ‘Every Australian Counts Campaign’ Director, John Della Bosca describes how the NDIS seeks to address the social and economic exclusion experienced by people with disability in the community and their treatment as second class citizens (Kyriacou, March 20, 2014). Also in the ‘Every Australian Counts’ campaign, the NDIS is described as delivering “peace of mind” (NDIA, n.d.-b, p. n.p.) to individuals, families and carers, “changing lives” (NDIA, 2012, p. n.p.) and giving “people with disability a better future” (Kyriacou, March 20, 2014, p. n.p.). These aspects of the NDIS have framed it as a “worthwhile endeavour” and “has led to broad public and political support for the [S]cheme” (Baker, 2012, p. 1). The right to care and support coverage which can facilitate the right of people with disability to economically and socially participate is pushed as an outcome of NDIS receivership and a pursuit of justice for people with disability (Manne, 2011). The NDIS is thus seen as an investment (Baker, 2012), rather than, welfare. Ewald states, “[w]hat distinguishes insurance is not just that it spreads the burden of individual injuries over a group, but that it enables this to be done no longer in the name of help or charity but according to the principle of justice, a rule

of right” (1991, pp. 205-206). Framing NDIS support as a right, justice or an entitlement as referred to earlier in the submissions reflects Frisch’s (2013) suggestion that the NDIS is an entitlement and not welfare, as well as represents NDIS participants as deserving of state support unlike people with a PCW. Frisch (2013) explains her argument that the NDIS is an entitlement and not welfare by stating:

[t]he objects of the Bill establishing the NDIS include promoting an inclusive and equal society, and giving effect to Australia’s obligations as a signatory to the UN Convention on the Rights of Persons With Disabilities, a document which recasts disability rights as human rights. Different to the Disability Support Pension ... funding under the NDIS is not means tested recognition that people with disability are entitled to the support they need to participate meaningfully in society (Frisch, 2013, p. n.p.).

However, unlike NDIS support which is framed through a justice lens, unemployment support is no longer framed as a right, entitlement or a “principle of justice” (Ewald, 1991, p. 206). Instead “the concern for disadvantage and ... social justice has become linked to a fear of long-term welfare dependency and its consequences” (Dean, 1995, p. 579). Pursuits of insurance then to mitigate the effects of inequality and poverty (Dean, 1999) through social rights while still in pursuit for NDIS participants are reproduced for people with a PCW because their position of inequality and poverty is represented to be a product of their own choices and irresponsibility through individualisation, constructing them as undeserving of state support and thus reproducing their position of inequality. This reflects the shift from welfare as an entitlement to welfare conditionality (Moss, 2001) and supports a move from a social rationality of government to neoliberalism in the context of income support payments for the unemployed and people with a PCW.

Deserving and legitimate versus undeserving and illegitimate impairment

On some levels entitlement to NDIS support and deservedness of NDIS support appears to be based on the severity of disability, which relates to an individual or medical model of disability, rather than based on rights. This is despite one of the objects of the *NDIS Act* being to “give effect to Australia’s obligations under the Convention on the Rights of Persons with Disabilities” as well as to the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination Against Women and the Convention on the Elimination of All Forms of Racial Discrimination (*NDIS Act 2013*, p. 4 & 5). Deservingness based on severity of disability can be seen, for example, in former Deputy Prime Minister and Treasurer the Honourable Wayne Swan’s 2012-13 Budget Speech when he stated:

[t]onight I am proud to announce funding for the historic first stage of a National Disability Insurance Scheme ... An NDIS will ensure people with disabilities get the individual care and support they need. Over 400, 000 Australians live with a significant and permanent disability and are among the most deserving of our support (Swan, 2012, p. n.p.).

Representing the NDIS as an entitlement or deserved based on the severity of impairment is problematic because it reinforces a medical model focus on the individual body rather than also considering the social and structural barriers experienced by all people with disability. This can often require persons with disabilities and their carers to frame themselves through this deserving discourse, emphasising the severity of their impairment in order to receive much needed

support. For example, the *Shut Out Report* discusses how people with disabilities have to construct themselves as ‘deserving’ in order to receive support. It highlights prior to the NDIS how:

[s]ervices [... were] often so limited that individuals report[ed] going to extraordinary lengths to meet eligibility criteria and receive support[, a ...] process [which] often [... left] them feeling demeaned and humiliated. Parents also expressed frustration at ... being forced to paint the worst possible picture of their child and their needs in order to access support (National People with Disabilities and Carer Council, 2009, p. 20).

Gibbs (2014) also highlights the connection between the medical model and evaluating ‘deservedness’ based on impairment through her discussion of eligibility changes to the *DSP*. She suggests that this simplifies the complexity of disability and that

continuing to focus on who is the ‘right’ kind of disabled person completely misses the point ... [and] should be reframed to change the focus from who deserves a pension, which is irrelevant, to the myriad of ways that people with disabilities are excluded (Gibbs, 2014, p. n.p.).

However, this assumption of deservedness is perpetuated with regard to the NDIS and can also be seen in an article in *The Australian* titled “Mildly disabled threaten viability of NDIS” (Sloan, 2013, p. 16). In this article people with “mild” disabilities are represented as a “threat” (Sloan, 2013, p. 16) to the NDIS. The article states “... the danger is that more and more individuals with milder disabilities will secure coverage” (Sloan, 2013, p. 16). Again this implies that in some ways ‘deservedness’ is problematically based on the value of one’s impairment. Further, this can also be seen in the Gillard government changes to *DSP* eligibility through the *Family Assistance and Other Legislation Amendment Act 2011*. This is because the

legislation's introduction of new criterion into the 'incapacity to work test' excluded most people with disability from accessing the *DSP*, except for those with a 'severe impairment'.

A person will be considered to have a 'severe impairment' if they have at least 20 points or more under the Impairments Tables, and at least 20 points is a result of a rating under a single impairment table. In addition, the person will need to be assessed as not being able to undertake any work or training within the next two years (Daniels, Garden, et al., 2011, p. 13).

Alternatively, those seeking to access the *DSP* without a 'severe impairment' had to demonstrate that they had previously actively engaged with a POS, like a DES. If the individual had no previous engagement with a POS then they were excluded from the *DSP* and had to engage with a POS for 18 months. Therefore, through the Gillard government's reforms eligibility for the *DSP* was determined based on the severity of disability framing eligibility around deservedness.

This is problematic for those whose deservedness is based on their impairment rather than on their right to care and support and it is also problematic for those whom this discourse excludes because their impairment is not severe enough. This can pose questions to the legitimacy of their impairments, something which *Welfare to Work* already did for people with a PCW by excluding them as persons with disabilities from the *DSP*. This is reflected in the 2005-06 Budget Speech where the Honourable Peter Costello stated that "[t]he object of ... [the *Welfare to Work*] changes [... was] to protect the genuinely disabled but to encourage those capable of part-time work to look for it" (Costello, 2005, p. 3). The questions posed to the legitimacy and genuineness of disability for people with a PCW in *Welfare to Work* and thus their 'deservedness' based on their impairment is also seen in the UK where

an investigation into people receiving the Disability Living Allowance and Invalid Care Allowance is described by Roulstone as “an attempt to internally separate real from spurious disabled people” (2000, p. 424). This challenges the integrity of some people with disability (Garthwaite, 2011) and marks some people with disability as fraudulent. Roulstone elaborates it became “... an ideological separation of real and fictitious disabled people [taking] on a Foucauldian binary division between real and imagined, deserving and undeserving” (2000, p. 435). Roulstone argues that these assumptions about the legitimacy of some persons with disabilities:

legitimat[...ed] unreasonable denial of benefits of those who need[ed] them. This is particularly significant for people with severe hidden impairments or medically contested conditions who might be deemed too sick to employ, but not eligible for disability benefits (Roulstone, 2000, p. 435).

Roulstone’s (2000) comments resonate with an Australian context where ‘illegitimate’ impairments are objectified, denied access to resources, governed through neoliberalism and authoritarianism and regulated differently to those with ‘legitimate’ impairments who are deserving of state support. The distinct mechanisms employed to govern each category of disability then produce a lack of equality for people with a PCW.

Conclusion

This chapter discussed how subjects are governed through rationalities which inform the mechanisms and regimes employed to regulate them. It suggested that rationalities could be hybrid, in fact highlighting the commonality of this (Clarke, 2004; Larner, 2000a), and indicating that hybrid rationalities govern disability in Australia. It demonstrated the shift in “welfare rationalities” (Harris, 2001, p. 6) in

Australia from a social rationality to neoliberalism and briefly outlined criticisms of each by disability studies scholars and the disability movement. It also discussed how rather than the death of the welfare state and a social rationality of government, the welfare state has undergone a metamorphosis (Dean, 1999), reshaping (Hartman, 2005) or mutation (Rose, 1996, 1999) underpinned by neoliberalism. The chapter also examined the Third Way and explained the disability movement's role in governing through hybridity.

The chapter argued that people with a PCW and NDIS participants, people with severe and profound disabilities, are governed through distinct hybrid rationalities. Although, it was suggested, that there are instances where people with a PCW and people with severe and profound disabilities are governed similarly through a neoliberal rationality. It was proposed that people with severe and profound disabilities are governed through a social rationality of government and neoliberal market principles, in contrast to people with a PCW who are regulated through neoliberalism and authoritarianism. The distinctiveness with which they were governed was evidenced through a discussion of choice, control and autonomy and individual risk and social risk. Interestingly, the 'difference' of people with severe and profound disabilities legitimated their access to resources and rights unlike people with a PCW in the income support system.

The discussion of choice, control and autonomy suggested that people with severe and profound disabilities become repositioned as consumers through the NDIS supported by a policy which facilitates their choice, control and autonomy.

The NDIA, for example, encourages NDIA delegates to formulate a supportive relationship between themselves and the NDIS participant, creating scope for negotiation and through designing a participant plan, the participant is encouraged to direct the process. Additionally, NDIS participants can choose how their package is managed.

It is suggested that choice and control in the NDIS relates to neoliberal market principles. From a neoliberal perspective the market provides scope for flexibility and innovation and gives NDIS participants control over the support system which previously controlled them. The market was suggested to address criticisms of the previous care and support system.

However, this section identified some concerns with the practicalities of a discourse of choice and control. This firstly related to the NDIA. For example, it was suggested that access to choice and control comes through the NDIA who grants access to much needed resources. It was highlighted that it is difficult to negotiate with an institution which holds the key to necessary care and support. Concerns were raised also about negotiating the bureaucracy of the NDIA. Secondly, it was questioned whether individualised choice and control delivers structural change, highlighting concerns that a focus on the individual and neoliberal market principles may detract from broader social model changes (Gibbs, 2013). Thirdly, the flexibility of choice in meeting expectations was discussed in a context of need and “reasonable and necessary” (*NDIS Act 2013*, p. 4). It touched on the debate about what can be

considered ‘reasonable and necessary’ and suggested that this appears to be tied to responsibility, that is, a responsibility to tax payers and in a context of finite resources.

Further evidence of distinct hybrid rationalities was provided through a discussion of risk. It was suggested that through the NDIS the risk of impairment was socialised where there is “distributive sharing of a collective burden” (Ewald, 1991, p. 206). This was supported through examples from the Productivity Commission report and the existence of Tier 1 and was argued to be underpinned by the notion that everyone is “temporarily able-bodied” (Goggin & Newell, 2005; D. Marks, 1996, p. 66). Additionally collectivised was the responsibility for redressing the problems with the previous disability care and support system. The NDIS became framed as an investment not welfare and a right and an entitlement, establishing links with Ewald’s (1991) explanation of social insurance. However, the chapter problematised the possible links between deservingness for NDIS participants being based on the severity of their disability which was suggested to focus on the body, simplify the complexity of disability (Gibbs, 2014) and could leave persons feeling demeaned and humiliated.

In contrast, it was suggested that people with a PCW lack choice, control and autonomy in the welfare state. For example, the only choice available to people with a PCW was a ‘choice’ to disengage from the income support system as their conduct and bodies are managed, surveyed, controlled, penalised and disciplined through the mutual obligation contract and income management as a result of their unemployment. The mutual obligation contract is not based on a mutual obligation

and people with a PCW have no choice in accepting the conditions, power is thus disproportionate in the contractual process. Further evidence of the inability of people with a PCW to exercise their choice, control and autonomy was provided through suggesting that people with a PCW do not have their employment goals recognised by the income support system. Instead they are expected to accept any reasonable job offer (*Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Act 2006*). In addition, the employment service system impedes choice for people with a PCW because it focuses on outcomes, securing government contracts and has a role in monitoring mutual obligations. Further evidence was provided of a lack of choice, control and autonomy by people with a PCW through income management, where it was noted that the state defines the priority needs of those with a PCW who are income managed. Income management also restricts where persons can spend their payments through the *BasicsCard*.

In relation to the additional evidence of distinct hybrid rationalities risk was examined. It was highlighted that unlike the risk of impairment, which was socialised, the risk of unemployment was individualised as well as responsibility for unemployment. This was suggested to be consistent with a neoliberal shift in the income support system where the individual is expected to assume responsibility for their own needs. As in Chapter Four, it was indicated that this simplified the causes of unemployment. Despite this, the Chapter reflected on how unemployment support is no longer represented as a right based on concerns of welfare dependency and assumptions that unemployment is a 'choice'. Thus welfare is conditional.

This Chapter however also raises concerns with the framework of sameness and difference. In particular it draws attention to the inequality and lack of access for people with a PCW in a context where they and persons with severe and profound disabilities are constructed and governed through hybrid rationalities. What this chapter makes clear then is that the directive to move beyond sameness and difference. This will be taken up in the Conclusion.

CONCLUSION

Through an analysis of how people with a PCW are constructed and governed in the welfare state, this research found that people with a PCW are constructed and governed through sameness in the *Welfare to Work* reforms which is continued in income management. Sameness is problematic because it employs the able-body as the normative standard to which people with a PCW have to aspire to. This was identified as problematic because it ignored the ‘differences’ of people with a PCW, in particular, their experience of disabling social and structural barriers and their impairment which could impact on the fulfilment of activity test requirements. It also ignored the effects of upholding an able-bodied norm through notions of efficiency and productivity which socially construct disabled bodies as unproductive and inefficient. Additionally, governing through sameness was highlighted as concerning for other groups of *NSA* recipients, including the broader *NSA* population and Indigenous Australians. Thus it was suggested that the reforms failed to consider human difference and diversity in governing through sameness, thereby also failing to deliver equality and access.

The research also found that people with a PCW are constructed and governed through a distinct hybrid rationality in comparison to NDIS participants, those with severe and profound disabilities. Specifically, it was identified how people with a PCW are constructed and governed through neoliberalism and authoritarianism, in contrast to persons with severe and profound disabilities who are constructed and governed through a social rationality of government and neoliberal market principles. The distinct ways in which each group are constructed and governed produced inequality for people with a PCW. This is because persons with

severe and profound disabilities are facilitated in exercising choice, control and autonomy unlike people with a PCW. In addition, the ‘risk’ and responsibility for impairment was socialised for NDIS participants in contrast to the individualisation of ‘risk’ and responsibility for unemployment and impairment in *Welfare to Work* and income management in governing through sameness.

However, though largely problematising the way in which people with a PCW are governed through a distinct hybrid rationality, in comparison to persons with severe and profound disabilities, it can be suggested that this in a way positively recognises the diversity of persons with disabilities and challenges the homogenisation of disability as a social category. By recognising the difference of people with a PCW and persons with severe and profound disabilities and by constructing and governing each group as persons with disabilities distinctly, one could argue that this positively deconstructs the homogenisation of the social category of disability, recognising the diversity within the social category and also diversity more broadly. This could be represented as providing an acknowledgement of human diversity and difference, as expressed as necessary by Chapter Four and Five and as therefore resolving some of the concerns of Chapters Four and Five. For example, Chapters Four and Five problematised how sameness in governing people with a PCW fails to recognise the ‘difference’ of people with a PCW from the able-bodied norm which regulates them and the diversity of *NSA* recipients who are disadvantaged by the reforms. This, however, is inadequate as a result of the inequality that results for people with a PCW from both sameness and difference in

failing to recognise their structurally disadvantaged position suggesting that more is needed beyond recognising human diversity to provide a solution to sameness and difference.

This research thus proposes, alongside other CDS scholars, that the way to move beyond sameness and difference is to establish an “embodied ontology” (Shakespeare & Watson, 2002, p. 2). An embodied ontological approach would acknowledge impairment, the body as socially constructed and the social barriers experienced by people with disabilities as part of their embodied experience. It also provides scope to recognise human diversity and the value of the individual, challenging the ability/ disability binary. This is because it deconstructs the power awarded to the able-body as the epitome and definer of humanness, and thus sameness and difference and how this causes ability and disability to operate in a binary which fails to adequately capture the situations of people with a PCW.

An embodied ontological perspective suggests that all persons are impaired in one way or another, capturing the fluidity of human bodies which cross the rigid boundaries of the social categories of ability and disability, and which are essentially embraced in the notion that all human beings are temporarily able-bodied (Goggin & Newell, 2005). This not only is able to recognise human diversity and the experiences of all embodied subjects, regardless of disability, but it also deconstructs the power, privilege and normalisation of the able body. As Sutherland contends “[w]e have to recognise that disablement is not merely the physical state of a small minority of people. *It is the normal condition of humanity*” [italics in original] (1981, p. 18).

The myth of the normal/perfect person (read: un-impaired/disabled) is unsustainable since categorizing into 'normal' is arbitrary and subjective (who decides who is normal, and valuable?). Acceptance of the ubiquity of impairment and frailty reveals an essential connection between impairment and embodiment (G. Mcilroy, 2005, p. n.p.).

This research also supports criticisms of the social model by CDS scholars which suggest that impairment and disability are inseparable, particularly, in individual lived experience. The research for example, highlighted the intersection of disabling social barriers and impairment barriers to seeking (and maintaining) employment and fulfilling Activity Agreements. This support was also presented through using the work of scholars who argue that the body and impairment is socially constructed. However, the impairment/ disability distinction of the social model disappears with an embodied ontological approach as it "refers to a spectrum of positions of belonging" (G. Mcilroy, 2005, p. n.p.).

An embodied ontological approach also values the individual which "is followed up in a mature society that supports everyone on the basis of the needs they have, not on the work they have done" (G. Mcilroy, 2005, p. n.p.). Additionally, an embodied ontological approach, through challenging oppression and seeking emancipation, gives scope to the voices of all, but in particular those who have previously been marginalised. This is one of the keys to the importance of an embodied ontological approach in this context because it allows subjects to define their needs and there is scope, in theory, for their delivery. Thus, embracing an ontological approach would resolve the tensions discussed earlier with regard to acknowledging human diversity and difference within the social category of

disability because it would regard the worth of both people with a PCW and persons with severe and profound disabilities, provide for their needs and give both voice and autonomy.

From a policy perspective, by giving citizens voice in policy there is scope to capture the embodied experience of policy subjects. Voice, however, must be valued and listened to particularly with regard to policy subjects articulating their needs. By considering the individual, and their experiences and knowledges, the ability/disability binary can also be destabilised through a focus on the embodied individual. Here, the distinction between ability and disability is no longer appropriate as a means to organise people because there is an emphasis on the subjective knowledge and experience of individuals. For people with a PCW this could provide the opportunity to acknowledge and respond to impairment, the body as socially constructed and social barriers which could be part of an articulated embodied experience. This would need to work alongside or operate following a deconstruction of the privileged position of ableism in broader society.

People with a PCW

This research has also contributed to existing scholarship on people with a PCW and drawn attention to the dearth of existing literature that examines the intersection of other policies which govern people with a PCW beyond *Welfare to Work*.

The thesis began with a discussion of the establishment of a PCW category, suggesting that it was established to move more persons with disabilities capable of

employment into formal paid work. This category constructed in 2006 by the Howard government, has achieved little with regard to enhancing the employment participation of persons who have a PCW. This can be attributed to the design of the reforms which are underpinned by ableism, neoliberalism and authoritarianism and a representation of the individual as the barrier to employment which fails then to undertake broader structural reform.

With regard to the PCW category this research has found that the category does still exist, that there have been legislative changes which have contributed to the increase in those categorised as with a PCW and that people with a PCW make up one fifth of the *NSA* population. It also found that often *NSA* recipients are discussed, governed and regulated in a way that homogenises them as one category without consideration of the diversities of *NSA* recipients. In addition, people with a PCW can be automatically income managed in the NT through a policy intersection. The impact of *Welfare to Work* for people with a PCW could then be worsened through the operation of income management in this context. Finally, it was established that people with a PCW are excluded from the NDIS. However, the PCW category requires further research. This is because despite the findings of this research there is little consolidated information or data on who makes up the category, their impairments, their experience in the income support system and empirical research on the impact of the various reforms they are subscribed to.

Finally, the 2014-15 Budget changes are potentially subscribing some *DSP* recipients to work-first obligations and penalties for failing to comply with their contractual requirements. This is the first time that compliance measures have been

placed on *DSP* recipients (Buckmaster, 2014a). Additionally, as mentioned, the reassessment of those *DSP* recipients under 35 who were assessed as eligible for the *DSP* between 2008 and 2011 could mean that more persons are shifted into the PCW category. Thus as the amount of persons with a PCW reaches approximately 135,000 and there is the possibility that more people will be added to the category, there is no better time to draw attention to how they are constructed and governed.

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