

**Submission to the Legal and Constitutional Affairs Committee - Stolen Wages
Inquiry - Public Hearing, Brisbane, 25 October 2006 by the
Queensland Stolen Wages Campaign Working Group**

**80 George Street
Brisbane, Queensland, Australia**



The campaign

In May 2002 the Queensland Government's Wages & Savings Reparations offer became public. The package offered a payment of \$2000 or \$4000 to eligible Indigenous workers.

Not long after the announcement in 2002 of this offer a community meeting of nearly 200 Indigenous people in Brisbane, including representatives from the north, passed resolutions denouncing the process and the offer. At this meeting we all agreed to fight for a better deal.

Over the past 4 years there has been growing awareness of the Stolen Wages issue amongst both Indigenous and non Indigenous communities across Queensland and nationally.

Beginning here in Brisbane, a coalition of Indigenous organisations formed a working group and campaign to renegotiate the offer. The Working Group consists of Elders, claimants, family and other Indigenous community representatives for the former workers affected by this issue. The ground support in the campaign has swelled considerably over the last four years and can now boost awareness and active participation in the campaign from across the state. Communities and community organisations within Hopevale, Fitzroy Basin Elders, Committee, Normanton Elders, Aurukun, Hopevale, Wujal, Napranum, Mapoon, Yarrabah, Palm Island, Cherbourg, Rockhampton, Townsville, and Cairns. In western Queensland St. George and Cunnamulla Indigenous peoples and organisations have been actively raising awareness about Stolen Wages.

The Working Group has campaigned to let the wider public know the story of Stolen Wages and to pressure the Queensland Government to reconsider its final offer on the matter.

There has been great support from trade unions for this campaign. In November 2002 after the offer was formalised the Queensland Council of Unions passed a resolution supporting community demands for re-negotiation. This resolution was subsequently supported by the Australian Council of Unions, Victorian Trades Hall Council and the United Trades & Labour Council of South Australia along with dozens of affiliated unions. A wide range of Indigenous communities and social justice groups across Queensland and Australia have now joined that call.

We have had great support from Senator Andrew Bartlett who initiated this very Senate inquiry.

⇒ **It's just a down payment**

The consensus view coming from Indigenous people¹ in Queensland is that the Queensland Premier's offer was and should be nothing more than a down payment. The Stolen Wages working group have repeatedly heard the call from claimants that they are "not asking for a handout, this is our own money".

There is also consensus that it should not be transferred into another "Welfare Fund" or be guided by Individual 'proposals for expenditure'.

In May of this year the Queensland Premier declared that he would consult widely with Indigenous people about what to do with the remaining monies but to date no consultation has occurred.

Less than a third of the \$55.6 million allocated was paid to Indigenous people. On the 31st January this year only \$17.278 million had been paid out, with 67 per cent of the 8,689 claimants deemed eligible for the payment – that was only half the number of

¹ The word "Indigenous" within this document refers to Indigenous and Torres Strait Islander people and communities.

people they expected to apply for the offer with one third of Indigenous claimants being determined as ineligible.

⇒ **Their offer did not extend to families of deceased workers.**

Many claimants worked alongside deceased siblings and parents, and bitterly resent exclusion of their rightful entitlement. If a claimant is deceased monies owing must go to their family.

With the offer by the Government Indigenous people in Queensland were denied the rights of fair and proper processes under the Succession Act 1981 which sets out legal procedures for claiming deceased estate and monies belonging to the family members.

Stolen Wages campaigners believe that closure for the Stolen Wages issue must be re-negotiated directly with Indigenous communities across Queensland.

Despite numerous meetings with successive Ministers of Indigenous affairs - we are now dealing with Warren Pitt who is the fourth Minister we have dealt with in as many years - we still have hope that a negotiated reparations process is achievable. But we also strongly feel that the Qld Queensland Government must demonstrate a genuine commitment to reconciliation before entering into any substantive reparation.

This is now necessary because:

- Their initial offer did not acknowledge the crucial role of Indigenous workers in the development of this State, particularly the pastoral industry.
- Their initial offer did not acknowledge that contemporary poverty is due in large part to long term financial deprivation.
- Their initial offer did not include a process for negotiating a fairer compensation scheme for individual claimants. It was a 'take it or leave it' offer.

Their initial offer ignored the voices of those whose stories make up the often untold history of this State.

Re-negotiated reparations would be grounded in the building of community participation through evidence gathering and clear access to archival records. We maintain that it is the community's role to determine:

- who will represent us in a negotiation process

- the best process for informing people of their full choices including legal
- options
- the preferred process for speaking/recording/sharing experiences
- the preferred vehicle for independent assessment of real losses.

The last Minister for Indigenous and Torres Strait Islander Policy Minister John Mickel said cabinet would decide on how to allocate the remaining funds after the last claims were processed which was expected to be around June of this year. We are still waiting for them to announce how they will allocate the remaining \$35 million.

⇒ **Stolen Wages, land, lives and futures**

From the outset we want to declare that we see no differences between the theft, removal, confiscation of wages, land and children in so far as these were all instrumental in developing the current social, economic and political profile of Indigenous people here in Queensland and in other states and territories.

When wages were being stolen, so were our children, so too was our land. These were and are interlinked components of all Indigenous history since colonial occupation.

History tells us that the dominant Euro-Australian culture had the power to enforce its own framework of values, laws and institutions as the only "legitimate" framework in Australia. That it has done so in the past is not a question that can be seriously disputed, but that it continues to do so in the present is discomfoting to those who see this country as being committed to the rule of law and respect for human rights.

The renegotiation of a substantive relationship between the State and Indigenous people has never been more urgent. Given the evidence of misappropriation of Stolen Wages by Queensland Governments and its agents it's clearly a moral obligation of Queensland Government to now return to the table with Indigenous people and decide a proper way forward. The evidence is there, what is needed now is a leap of faith by the Queensland Government so that we can all jointly cultivate a just and sustainable outcome.

The Queensland Government wishes to engage in the spirit of reconciliation and for public good the first step will be to take account of its own historical impact on the social, economic and legal rights in regards to Indigenous people.

The Stolen Wages Working Group believes this can only be conducted by an independent body such as a Royal Commission.

It is a common belief of Indigenous people that the misappropriation, misuse and loss of moneys by the Protectors and their agents contributed significantly and tragically to a cycle of intergenerational poverty in our communities. Since the Indigenous trust's inception in 1904, successive Queensland Governments, including the current, have enjoyed the powers of a trustee without observing their legal and moral responsibilities. This can and should be remedied.

The depth of despair and apathy that exists in many of our communities can in many ways be attributed to how Queensland Governments have consecutively "passed the buck" on Stolen Wages and Stolen children.

But what we witness time and again is yet more legislation and policy reform. While good policy and legislation is often required issues such as Stolen Wages are about how Indigenous people participate in restoring our own sense of place and citizenry in this land as well as contributing more broadly to a civil society. Resolving Stolen Wages is a fundamental to addressing Indigenous social justice imperative and it is also encompassing of Indigenous birth rights to land, inheritance values, and cultural heritage ~~and~~ to kith and kin.

These can be without doubt sensitive and difficult political issues but they are not intractable, they need strong leadership from both Indigenous people and from the Queensland Government. Throughout our campaign the have spoken to community leadership and we feel that a reparations process would itself develop leadership in our communities and within Queensland Government.

Our children (both Indigenous and non-Indigenous) should not inherit this outstanding moral and legal issue. This is an issue we have a responsibility to address with their futures in mind.

A real dialogue between Indigenous people and the Queensland Government would begin by renegotiating a relationship that is real, not abstract, future focused, and importantly for the benefit of our children. Our children should feel proud about their people's contribution to the economic prosperity that Queensland Governments speak of in their election campaigns and budget forecasts. Non Indigenous children should grow up knowing about the substantial contribution Indigenous people made to the development and wealth that Queenslanders enjoys.

Many Indigenous and non-Indigenous colleagues view the resolution of Stolen Wages as a great opportunity for both Indigenous people and Queensland Government to take Indigenous affairs to a higher moral, ethical and political plain.

The Stolen Wages issue evolved in our view because of the unusual relationship between our people and the State and their agencies over a long period of time.

This is a relationship based on the Queensland Government's assumption of Indigenous subservience and abeyance to Government and its agencies – at any cost. The theft and mismanagement of our wages and Commonwealth welfare payments shows a clear disregard for our human rights past and present.

It is this relationship that continues to characterise the Queensland Government's role in their political and legal responses to Indigenous people calls for a just response to Stolen Wages.

The policy of assimilation confirmed at the Conference of State and Commonwealth Ministers responsible for Indigenous Affairs in 1961 stated that Indigenous peoples should;

"Attain the same standard of living as other Australians....Observing the same customs and influenced by same responsibilities, hope and loyalties as other Australians".²

² Native Welfare Conference, *The Policy of Assimilation. Decisions of the Commonwealth and State Ministers at the Native Welfare Conference, Canberra.*, Commonwealth Queensland Government Printer, 1961.

The history of withholding of trust monies and the blatant mismanagement of these funds has not been equally supported by the sentiment expressed in the above statement. Queensland Governments past and present have not observed the same customs or upheld the same responsibilities, hope or loyalty to Indigenous people as it has for other Australians.

For Indigenous people the political and legal ground beneath us has not moved significantly for over 200 years. There have been some victories but the interface between Indigenous people and the state continues to be adversarial and unproductive.

The National Inquiry into the Separation of Indigenous and Torres Strait Islander Children from their Families (*Bringing them home*) recommended that a wider conceptual framework of repatriation be explored, adopted and implemented.

Governments in nations across the globe are increasingly scrutinising the practices of their predecessors and acknowledging the importance of making reparation to victims of violations of human rights.

The international examples illustrate international acceptance of:

- the principle of reparation for violations of human rights, including monetary compensation;
- the importance of acknowledgment of the wrongs and a necessary apology;
- the need for a variety of responses to redress the harm caused;
- the human rights basis of providing redress; and
- the importance of participation of victims.³

A reparation would not just encompass compensations but would also extend to cover acknowledgments and apologies, restitution, rehabilitation and guarantees against future repetition.

³ Buti, T and Parke, M, 1999, 'International Law Obligations to Provide Reparations for Human Rights Abuses', *E-Law Murdoch University Electronic Journal of Law*, vol. 6 no. 4, viewed 30/9/2002 http://www.murdoch.edu.au/elaw/issues/v6n4/buti64_text.html.

Adopting these measures would not just benefit those individuals who were stolen but also make a significant contribution towards Australia's development of a truly civil society through reconciliation with the first peoples of this nation.

What must be realised is that many Indigenous people do not see their conceptions of public-good promoted in the institutions of the state. Indeed, our ideas of public good are often downplayed or even rejected, as is the case for fair and just reparation for Stolen Wages.

It is one thing to declare Indigenous Queenslanders to be equal before the law, quite another to how this equality is a tangible and substantive benefit to Indigenous people who live on the political and economic borderlands in Queensland.

For the Queensland Government to take seriously the establishment of an appropriate repatriation process would in my view require the kind of leadership that Indigenous people have rarely experienced in this country from non-Indigenous people.

While litigation has delivered some benefits for Indigenous people over the last 40 years and litigation has often been our only recourse, but as we now know this will not itself deliver the beginning of repatriation process, the beginning a process of justice that is sustainable and real.

The Stolen Wages Working Group believes that when we rely on the courts or the legislatures to define our rights, we run the risk of limiting, in fundamental and often irrevocable ways, the possibilities for positive change. Indigenous rights have already been limited and circumscribed by a narrow legal reading on a line of authorities from native title to stolen generations.

The Working group acknowledges that formal legal protection and advocacy is vital, but there is also a belief that a more wholesome approach to how we ensure any rights gained need to supported by an ongoing social and political processes. Reconciliation is after all a matter of justice not benevolence.

It's was clear to the Working Group that the criterion that the Queensland Government imposed in 2002 on claimants makes no account of the enslavement of Indigenous people or makes any reference to international precedents in law and the many UN treaties that this Nation has been signatory to for over 50 years.

It could easily be argued that regardless of whether Indigenous people were under the control of Government Acts or not, the regulation, control and thus exploitation of Indigenous people was an embedded culture within non-Indigenous notions of public duty. In fact a right of non-Indigenous citizenry whereby station owners, policemen and indeed anyone who found themselves in a position to make decisions about the movement and working lives of Indigenous people could do so with the active facilitation of Queensland Government and their agents.

Likewise, the Queensland Government's offer of \$2000 and \$4000 implies that they take for granted the legal and constitutional rights of Indigenous citizens as apparently not as substantive as other citizens. It has been discovered that Government consistently dealt with Aboriginal money in the accounts as one pool of money and used it for purposes that were not related to individual account holders. This implies that Aboriginal workers were not considered to be the beneficial owners of the money that they could not rely on their rights as human beings and workers being recognised by government.

Bearing this in mind that we are the most disadvantaged and underprivileged of Queenslanders is important to note - this should not mean that we should only enjoy a substandard enjoyment of the fiduciary responsibilities and obligations of government.

From the perspective of the Working Group this *substandard entitlement* informed the underlying logic of the Queensland Governments offer in 2002.

We know that from our campaigning that to many non-Indigenous Queenslanders in 2002 the offer of \$2,000 and \$4,000 was more than reasonable – to many it was reasonable recompense for 'welfare dependent, lazy, drunk' Aborigines already living off white tax payer contributions.

Such are the often negative perceptions of Aboriginal people in the broader community.

Nonetheless, our campaign has contributed significantly to changing these opinions and many non Indigenous people in Queensland now have a holistic understanding of Aboriginal labour history and the travesty that is Stolen Wages.

You may recall that in 2002 the popular political discourse was 'Indigenous welfare dependency' which was in full swing as both prominent Indigenous and non Indigenous public intellectuals were busily re-educating everyone with their novel approach to *blaming blackfellas* for their own poverty.

Non Indigenous peoples were given a new way of blaming Indigenous people and the beauty of this new approach was that no one was required to know about the historical contribution of Indigenous people in the labour market. The underlying rationale in this new analysis was that since invasion Indigenous people were itinerate drunks and fringe dwellers that were living off the scraps of a booming modern white economy.

The Stolen Wages Working Group believes these approaches to social policy were sanitised from the history of ruthless dispossession, exploitation, and enslavement of Indigenous peoples. It seems that the right to declare what Indigenous are entitled to [or not] appears to be a right that only the government and their supporters can decide. A broader perspective of the contributions of Indigenous people needs to evolve and inform public debate, certainly one that encompasses and acknowledges the legacy of Stolen Wages.

In conclusion we want to point out that it is unfortunate that at a time when the community is debating potentially significant changes to industrial relations laws we are yet to see a just settlement of this outstanding industrial and human rights scandal.

Only then can we truly declare a movement of reconciliation exists. The Stolen Wages Working Group believes that reparations of Stolen Wages would create a meaningful dialogue between European and Indigenous political values and systems.

It's time for this dialogue to begin and resolving the stolen wages in the interests of Indigenous people will go some ways toward to create a reconciliation process that is meaningful and just.

This can only be executed with and impartial and objective inquiry into how and why wages and Commonwealth welfare payments were mismanaged by governments and their administrators.

Research evidence conducted by ⁴Dr Ros Kidd shows that government raided Aboriginal monies. It intercepted federally-paid maternity allowances from 1912 and child endowment from 1941, and paid only a fraction to mothers.

If one then considers that many Aboriginal children were removed from their mothers because they were deemed to be 'unfit mothers' the tragedy of the stolen generations is revealed. The connection between stolen wages and government allowances along with the rearing and forcible removal of Aboriginal children clearly illustrates that government and its agencies were deliberately engaged in all aspects of the lives of Aboriginal people.

The Stolen Wages Working Group commends this Senate Inquiry and hope that the recommendations you generate are cognisant of Indigenous history and the need for Indigenous social justice. Social justice for us means social justice for all.

⇒ **Recommendations**

1. That the Commonwealth Government support our call for a Royal Commission into Stolen Wages within Queensland and in other Australian States and Territories.
2. That this Royal Commission have the functions of a reparations tribunal.
3. That neither of the above be funded by what remains of Aboriginal wages and entitlements held by government.

⁴ Kidd, Rosalind (2006) *Trustees on trial: recovering the stolen wages* Canberra: Aboriginal Studies Press.

We submit this on behalf of the Qld Stolen Wages Working Group on this day,
Wednesday the 25th October 2006.

Aunty Ruth Hegarty.....

Aunty Vera Hill.....

Mr Victor Hart.....

The Stolen Wages Campaign Executive has been and is -
Yvonne Butler , Lillian Willis, Peter Guivarra, Aunty Ruth Hegarty, Aunty Vera Hill,
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