

ACSJC

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25 July 2006

Mr Jonathan Curtis
Committee Secretary
Senate Legal and Constitutional Committee
Department of the Senate
PO Box 6100
Parliament House
Canberra ACT 2600



Dear Mr Curtis,

Re: Inquiry into Indigenous Workers Whose Paid Labour Was Controlled by Government

The Australian Catholic Social Justice Council (ACSJC) welcomes the opportunity to provide Senators on the Legal and Constitutional References Committee with a copy of our background paper "Stolen Wages – An Opportunity for Justice?"

As the peak social justice body for the Catholic Church in Australia, the ACSJC has a long term commitment to the process of national reconciliation.

Pope Benedict XVI reaffirmed this commitment recently in an address to Australia's Ambassador to the Holy See.

I encourage you and the government to continue to address with compassion and determination the deep underlying causes of their plight. Commitment to truth opens the way to lasting reconciliation through the healing process of asking for forgiveness and granting forgiveness – two indispensable elements for peace.¹

The ACSJC holds that fair and compassionate dealing with the issue of unpaid wages of Indigenous Australians must be part of the process towards a lasting reconciliation.

Aboriginal and Torres Strait Islander peoples have played a significant role in the development of Australia as a nation. In many cases Indigenous workers did not receive

¹ From Address by Pope Benedict XVI to the new ambassador of Australia to the Holy See, Anne Maree Plunkett. 18th May 2006

full payment for this contribution. We strongly support a national forum to 'set the record straight'. It is important that the wider Australian community has an understanding of past policies of unpaid labour and the corresponding consequences.

In any deliberations we would encourage all governments to avoid the impression that reparation measures come from state and federal taxpayers. The money in question rightly belongs to the Indigenous workers involved. The background paper, "Stolen Wages – An Opportunity for Justice?", depicts clearly the human cost of this historic injustice. The denial of Indigenous workers' entitlements in effect meant the denial of some of the most basic human needs. Any payment or system of reparations must take this into account. We also acknowledge the pain caused by some governments refusing to deal with the unpaid wages of deceased workers.

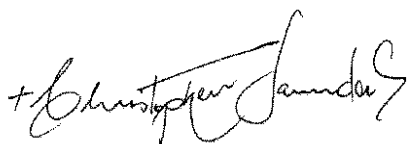
This inquiry and the acknowledgement of the issue by the Queensland and New South Wales governments are a wonderful first step on the road to justice. It is important that the next steps taken be ones that truly honour the tens of thousands of hours of unpaid labour of Indigenous Australian workers. As the Australian Declaration Towards Reconciliation states,

Our nation must have the courage to own the truth, to heal the wounds of its past so that we can move on together at peace with ourselves.²

In May of next year we celebrate the 40th anniversary of the 1967 Referendum. This historic moment was an acknowledgment by the wider Australian community that Indigenous Australians must be fully acknowledged as Australian citizens. It was also a recognition that special measures needed to be adopted at a federal level to achieve social justice for Aboriginal and Torres Strait Islander peoples. A fair and compassionate response to the issue of unpaid wages would be one concrete way of acknowledging our past and embracing our future together.

The ACSJC welcomes this opportunity to provide copies of the attached background paper, prepared by Dr Mark Copland, for the information of this Committee Inquiry and wishes Senators well in their deliberations.

Yours sincerely,



Bishop Christopher Saunders
Bishop of Broome
Chairman, Australian Catholic Social Justice Council

² From the Australian Declaration Towards Reconciliation (Council for Aboriginal Reconciliation, Sydney, 2000)



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ACSJJC BACKGROUND PAPER

Stolen Wages - An Opportunity for Justice?

Tens of thousands of Aboriginal and Torres Strait Islander people worked for government and non government employers during the 20th century. Many of these workers received only a portion of the wage to which they were entitled. The cycle of poverty experienced by a number of Aboriginal and Torres Strait Islander peoples can be partly attributed to wages not being paid. A large amount of money earned by Aboriginal and Torres Strait Islander workers remains in the hands of the state. Some measures taken so far to remedy this past injustice have not been adequate.

The issue of "stolen wages" needs to be examined in depth by all Australian governments. It is an opportunity for symbolic and practical reconciliation firmly grounded in the basic principle of justice.

This Background paper provides basic information on the circumstances facing many Aboriginal and Torres Strait Islander individuals and families seeking wages they were not paid for years of work.

*The ACSJC thanks Dr Mark Copland for preparing this Background Paper.
Dr Copland is a member of the Australian Catholic Social Justice Council,
Executive Officer of the Social Justice Commission of the
Catholic Diocese of Toowoomba, and historian.

“Stolen Wages”

Over many generations thousands of Aboriginal workers have made a profound contribution to Australian society. Many of these workers endured conditions which historically and empirically could be described as slavery.¹ Through to the 1970s tens of thousands of Aboriginal and Torres Strait Islander Australians were forced into oppressive labour situations. Many of these people and their descendants are yet to receive the wages they earned. This is a situation which demands a national, state and territory response. It is an opportunity for symbolic and practical reconciliation firmly grounded in the basic principle of justice.

A long and enduring myth present in the Australian community is that Aboriginal people have rarely worked. This assumption is not borne out by the historic record. From frontier times Aboriginal people worked as shepherds, stockmen, nursemaids and domestic servants. The impact of gold-rushes was softened with the use of Aboriginal workers on pastoral stations. Historian Dawn May rightly asserts that the Northern cattle industry could not have succeeded without Aboriginal labour. During times of war and economic downturn many primary industries relied upon Aboriginal and Torres Strait Islander labour to continue to function.

Some of this employment was undertaken with a degree of free will, but much of it was not. For example, in Queensland between 1897 and 1972 more than a thousand people were forcibly removed to government settlements or missions for employment related reasons.² These reasons could be as simple as refusing to sign a work agreement. At times physical punishment was meted out to individuals who absconded from such a work agreement.

What happened in various States?

In New South Wales the establishment of the Aboriginal Protection Board (APB) in the early 1880s meant that an estimated 9,000 people were controlled by the NSW government. A focus on part-Aboriginal children during the 20th century meant Aboriginal boys and girls over 14 could be sent to training homes and eventually onto stations and domestic service. The wages and bank accounts of these children were controlled by the APB. The enactment of the 1909 *Aborigines Protection Act* gave the New South Wales government control over the fiscal interests of Aboriginal and Torres Strait Islander people in that state.

In Victoria the 1869 *Aboriginal Protection Act* regulated where people could live, work and have contact with their children. Once again children who were separated from their parents were institutionalised and could be sent out to work in various situations or as apprentices.

An *Industrial Schools Act* was introduced in Tasmania in 1867 and children could be boarded out or placed in service or in an apprenticeship. Aboriginal children coming under the 1935 *Infants Welfare Act* were also institutionalised. These practices impacted on Aboriginal families until the 1960s.

From the mid 1890s Aboriginal children deemed to be “neglected” in South Australia could be placed in industrial schools and apprenticed to work.³ In 1911 the Chief Protector of Aborigines was made legal guardian of all Aboriginal children. He could control property of people under the age of 21. This guardianship continued until 1962.

During the late 1880s pastoralists in the Northern Territory were almost totally dependent on unpaid Aboriginal labour. Even in the 1930s there were many instances of Territorian Aboriginal workers not being paid. In 1934 town workers received 5/- a week (equivalent of \$12 today) but 2/- of this was kept in a trust account. When savings reached £20 (\$1170) an individual account was opened and withdrawals were supervised. A report on Aboriginal labour in the Territory in 1945 found that many pastoral workers were still unpaid, although in many cases the entire family worked. This sometimes included children under the age of 12. As late as 1966 the managers of pastoral stations were still the official distributors of child endowment.

In Western Australia over 2,000 Aboriginal people were employed in the pastoral industry in the early 1880s. The 1886 *Protection Act* allowed children as young as five to be signed on as servants. Poor working conditions are most clearly indicated in the physical punishment of employees caught escaping their positions and the fact that cash payment for work was not considered necessary. The 1905 Roth Royal Commission found 4,000 workers without a contract with no minimum conditions and no wages. As late as 1967 there was still no set wage for Aboriginal people in the Kimberley region.

In Queensland, with the passing of the 1897 *Aboriginal Protection Act*, almost every aspect of Aboriginal people's lives could be controlled by the government. People could be forcibly taken from their homes and lands and placed on a reserve or mission. Even the choice of a marriage partner or whom an Aboriginal person could associate with could be determined by public servants. By 1904 all employment, wages and savings were controlled by the government under compulsory labour contracts. Wages were paid directly to police protectors with a little "pocket money" retained by the employer to be used during the work period. For generations Aboriginal people in Queensland have not received a fair or just wage, at times only receiving 30% of the amount owed to them.

What happened to the wages?

The way in which wages were taken differed across the country. In Queensland a system of 'compulsory savings' was introduced for over half of the State's Aboriginal and Torres Strait Islander population. This system continued from 1905 through to 1972. This meant that Aboriginal workers would receive a minimal payment, with up to 75 percent of the remaining wages paid into the government's Queensland Aboriginals Account. It is estimated that 500 million dollars of life savings were placed in government hands in this way⁴. At the same time workers had to ask local police officers for personal items, travel, medical care etc.

The impact of removals compounded by lack of adequate wages is well illustrated by a letter to Queensland's Chief Protector of Aborigines in 1936. A woman from the Croydon district was removed to Barambah with her mother and two brothers at the age of four. From Barambah, she was sent out to work from the age of eleven. The long hours and harsh conditions caused her to have a nervous breakdown.

After marrying and receiving an exemption from the Act, the woman continued to request that she receive the £103-7-6 which was owed to her as part of her wages. Things became difficult for her around Christmas of 1935 when her husband was out of work. She was pregnant and due to have a baby:

The last time I drew out money was before Christmas. I wanted it to get some extra fruit and green vegetables — they are very dear in this town. My baby was expected just before Christmas and the Doctor ordered a few extras. My husband was out of work at the time. The sergeant came to the house to see me. I am afraid the majority of Blackall people are very narrow-minded. Because after the Sergeant left I was asked by the people I had rented the house from to get out because they didn't want people to know that they had someone in the house the police were after.

We had paid our rent up until the 18 of December and my baby was to be born in a week. I hunted all over Blackall trying to get a room only for a week and as long as I live I shall never forget that nightmare experience of room hunting. Everywhere I went I got the same answer and whispered, but loud enough for me to hear, "Poor thing I'd like to take her in but the police have been after her and you never know."⁵

Aboriginal people were not given any written record of their money. Historian Dr Ros Kidd has uncovered much evidence of negligent accounting, mismanagement and fraudulent use of Aboriginal wages⁶. In some cases this money contributed to the construction of hospitals and other state infrastructure. Early research suggests that other States also amassed and

exploited Trust funds from earnings, inheritances, compensation payments, child endowment, maternity allowances, pensions, Army pay and benefits. While most is known about the taking of wages in Queensland and New South Wales, the situation in other states also requires investigation. Governments hold a legal duty to return Aboriginal moneys taken in this way.

The effects of taking the wages

Community and family bonds were often broken as people were forced into work agreements. In Queensland some children were held in dormitories while their parents were sent long distances to serve 'employment agreements'. Young people were also sent to work and separated from their parents. There was no system of monitoring the safety of these employed children and allegations of sexual abuse were often ignored or resulted in the child being placed in the hands of another employer.

One of the longest lasting effects of the non-payment of wages has been the pauperisation of whole Aboriginal and Torres Strait Islander communities across generations. The cost of removal and incarceration in specific Aboriginal institutions was often paid for by the wages of individuals involved. Associate Professor Anna Haebich connects the disadvantage of the present with the taking of wages in the past.

By denying generations of Aboriginal people the right to decent and productive work, proper wages, sufficient services and adequate welfare, governments laid the basis for an Aboriginal underclass without sufficient land, property, capital, economic skills or employment prospects.⁷

Often the reasons used for the removal of Aboriginal people from their homelands and communities was that this was for their benefit and welfare. The proceeds of Aboriginal wages were spent maintaining people on reserves and missions where the basic needs of life were often unmet. Sub-standard healthcare, education, food and shelter were often hallmarks of institutional life.

How have governments responded?

The Human Rights and Equal Opportunities Commission (HREOC) ruled in 1996 that between 1975 and 1986 the Queensland government had breached the 1975 *Racial Discrimination Act* by under-paying Aboriginal workers. The government made a formal written apology and offered compensation of \$7000 to each claimant. Ultimately \$40 million was returned from the \$187 million underpaid during the eleven year period. In 2002 the Queensland government announced a reparations package for Aboriginal people affected by financial controls during the twentieth century. The 56.5 million dollar package - between \$2000 and \$4000 per person - was only a fraction of the total amount of wages owing. Descendants of deceased workers cannot claim reparation. Claimants must indemnify the government against legal action to recover full moneys owing.

In 2004 the *National Indigenous Times* published a leaked New South Wales cabinet document relating to stolen wages in that state. Prepared in 2001, but not tabled in cabinet, the document urged the government to return an estimated 69 million dollars still owing to 11,500 Aboriginal people whose wages, pensions, inheritances, lump sum entitlements and child endowment payments were placed in government trust accounts between 1900 and 1969. Premier Carr made a formal apology and a commitment to identify and reimburse all claimants. Despite the lack of official records he insisted that written evidence would be required for reparations to be made. In October of 2005 it emerged that Aboriginal people who were eligible for reparations would be taxed on their unpaid wages. This situation has now been remedied.

On the 5th October 2005 Democrat Senator Bartlett raised the issue of stolen wages in the Australian Parliament. He mentioned the widespread practice of taking of wages in Australian states:

There is a growing argument that there needs to be an overall examination of the extent of this disgraceful injustice, which extends back over many decades, to try to get to the truth. I think that, in many ways, acknowledgement that injustice was done is more important than the money. There needs to be reparation where possible and there certainly needs to be a recognition of the extent of this clear-cut example of racial injustice and workplace injustice.⁸

Issues of governance and corruption have been highlighted regarding money management in Aboriginal and Torres Strait Islander organisations over many years. It is ironic then that both the Queensland and New South Wales governments have failed to account for the wages of thousands of Aboriginal and Torres Strait Islander workers. The Queensland government offers several thousand dollars for those who must promise not to sue for what is rightfully theirs. The New South Wales government will pay back only what it says can be identified as owing on remaining files. Difficulties resulting from poor record-keeping are regularly cited as impediments to action.

In his 2002 Price of Reconciliation speech former Federal High Court Judge and international human rights lawyer Justice Marcus Einfeld made an impassioned call for justice for the stolen wages.

We stole their land. We stole their children. Now we admit to stealing their money too. Is there anything left to take?⁹

Justice Einfeld also called for a national independent inquiry 'to get to the roots of the matter'.

On Human Rights Day 2005 a national day of action was held highlighting the issue of stolen wages. Supporting this action, Aboriginal and Torres Strait Islander Social Justice Commissioner Tom Calma stated,

The stolen wages issue is an outstanding matter that needs to be resolved by Australian governments. It is regrettable that we are yet to see a just settlement in relation to this issue across Australia.¹⁰

A Christian response

As Christians we are called to be committed to justice. In this land, this commitment requires us to have an honest and respectful relationship with Australia's Aboriginal and Torres Strait Islander peoples. Archbishop Polding, the first Archbishop of Sydney, issued a pastoral letter in 1869 discussing the historic legacy of dispossession.

We have dispossessed the Aborigines of the soil, at least we have deprived them of that use of it from which they gained a subsistence...In natural justice, then, we are held to compensation....¹¹

One of the principles of Catholic Social Teaching is that workers be provided with a just wage. As far back as 1891 the papal encyclical *Rerum Novarum* called on employers to provide workers with all that they required to live in dignity. For generations Aboriginal Australians have not received a fair or just wage.

The scriptures and teaching of the Church strongly affirm the right to fair remuneration and income distribution. The Compendium of the Social Doctrine of the Church spells this out:

They commit grave injustice who refuse to pay a just wage or who do not give it in due time and in proportion to the work done. (cf. Leviticus 19:13; Deuteronomy 24:14-15; James 5:4). A salary is the instrument that permits the labourer to gain access to the goods of the earth.¹²

In 1986 the late Pope John Paul II visited Alice Springs. In his address to Australia's Aboriginal and Torres Strait Islander population he emphasised the importance of an honest dealing with our shared past.

Christian people of goodwill are saddened to realize – many of them only recently – for how long a time Aboriginal people were transported from their homelands into small areas or reserves where families were broken up, tribes split apart, children orphaned and people forced to live like exiles in a foreign country.¹³

The taking of wages was a part of the process of colonisation for Australia's Aboriginal and Torres Strait Islander population. In his Alice Springs address Pope John Paul II called for just and mutually recognised agreements. He stated that these agreements should not cause new injustice and that their greatest value was a respect for the dignity and growth of the human person. The acknowledgement of past injustice involving stolen wages is an important step which has been taken by some Australian governments. There is a risk, however, that the method of addressing the original injustice may not serve to restore an honest and respectful relationship.

Consider whether the community would accept the Queensland reparations package for any other group of people. Imagine that a number of employees of Queensland Railway discovered that they had not received their proper wages over a number of years. In some cases they had only received 30 percent of their rightful entitlement. Acknowledging that a wrong had occurred, the government promises to address the situation "in the spirit of reconciliation". Past employees could make a claim for either \$2000 or \$4000. Upon signing this agreement a formal apology would be made as long as they promised not to take any further legal action in the matter. The railway employees would not be given past wage records. Any instances of bullying or mistreatment on the part of the employer could not be addressed. Would such a response be considered fair, adequate and just?

In a Pastoral Letter during the Bicentenary of European settlement in Australia the Australian Catholic Bishops Conference wrote:

What was done in the past is beyond anyone's ability to change, but not beyond remedy. What we ask for now is a new heart that can admit past injustices while looking to the future with hope, a new heart that seeks individual and national reconciliation.¹⁴

Addressing the issue of unpaid wages is not just remedying a wrong from the past but helping create a better future for all of us. Together as God's instruments of reconciliation, we still need to hear the Lord's promise communicated through the prophet Ezekiel:¹⁵

I am going to gather you together and bring you home to your new land. I shall give you a new heart and put a new spirit in you. You shall be my people and I will be your God. (Ezekiel 30: 24,26,28)

It needs to be acknowledged that some employers treated Aboriginal employees with respect and paid them a fair wage. The issue of stolen wages is one of individual injustice, but also one of structural injustice. The taking of wages often occurred through the actions of the state. In this sense it was done in the collective name of the Australian people. It can also be remedied in the collective name of the Australian people. When this matter is fully and properly addressed it will be a practical and real way of acknowledging the great contribution made to this country by generations of First Australians.

Acknowledgement: *This Background Paper draws upon the work of: Zoe Craven who is currently working on the issue of stolen wages in New South Wales; Dr Ros Kidd, historian, acknowledged expert on stolen wages, and author of *The Way We Civilise*; and, Associate Professor Anna Haebich, Co-Director of Centre for Public Culture and Ideas and author of *For Their Own Good and Broken Circles*. Associate Professor Haebich is a recognised expert on the history of separation of Aboriginal and Torres Strait Islander children in Australia.*

The Australian Catholic Social Justice Council thanks Ms Melissa Brickell, Chairperson of the National Aboriginal and Torres Strait Islander Catholic Council for her assistance in the preparation of this Background Paper.

January 2006.

Resources and information on the 'Stolen Wages':

- Kidd, Rosalind. *The way we civilise: Aboriginal affairs - the untold story*. St. Lucia, Qld.: University of Queensland Press, 1997
- Kidd, Rosalind. *Black lives, government lies*. Sydney: UNSW Press, 2000
- Australians for Native Title and Reconciliation - www.antar.org.au/stolen_wages_index.html
- Australians for Native Title and Reconciliation (Queensland)
http://www.antar.org.au/stolen_wages_factsheet.html
- http://www.griffith.edu.au/centre/cpci/pdf/ros_kidd_garma.pdf
- Government Services for Aboriginal and Torres Strait Islander Peoples –
<http://www.AboriginalandTorresStraitIslander.gov.au/ip.dll/SearchResults?s=3379>
- Petition to Queensland Government - www.uq.net.au/cipc

Other helpful links:

- National Aboriginal and Torres Strait Islander Catholic Council - www.natsicc.org.au
- Catholic Justice and Peace Commission, Archdiocese of Brisbane - www.uq.net.au/cipc
- Social Justice Commission, Catholic Diocese of Toowoomba - www.tsjc.org
- National Council of Churches of Australia - www.ncca.org.au/natsiec/issues/stolen_wages
- Human Rights & Equal Opportunity Commission - Aboriginal and Torres Strait Islander Social Justice - http://www.hreoc.gov.au/social_justice/index.html
- Dr Ros Kidd - www.linksdisk.com/roskidd/

¹ R Evans, "Kings in Brass Crescents: Defining Labor Patterns in Colonial Queensland" in Saunders, K. (ed) *Indentured Labour in the British Empire 1834 – 1920*, Croom Helm; London, 1984.

² Mark Copland, "Calculating Lives: the numbers and narratives of forced removals in Queensland 1859 – 1972", PhD Thesis, Griffith University, 2005, p.260.

³ It is important to note in some states that "neglected" could be defined as simply being born of an Aboriginal or "half caste" mother.

⁴ Dr Ros Kidd, "Stolen Wages a National Issue", Garma Festival, Gulkula, Gove Peninsula Arnhem Land 9 August 2004

⁵ Letter dated 11 June 1936, Queensland State Archives A/3846.

⁶ For example see Ros Kidd, *The Way We Civilise* (St Lucia: University of Queensland Press, 1997), pp. 150; 187-89; 239

⁷ Anna Haebich Kathleen Fitzpatrick Lecture, History Department, Melbourne University. 20th May 2004

⁸ Hansard, Senate – Australian Parliament. Wednesday October 5, 2005. pp.96-97

⁹ National Aboriginal and Torres Strait Islander Times, December 4, 2002

¹⁰ "Social Justice Commissioner renews calls on Queensland stolen wages" Human Rights and Equal Opportunities Commission Media Release Friday 8 July 2005

¹¹ The Pastoral Letter of the Archbishop and Bishops of the Province, 1869

¹² Compendium of the Social Doctrine of the Church, Pontifical Council for Justice and Peace, 2004, 302, p. 173.

¹³ The Address given by His Holiness Pope John Paul II at the Meeting with Aboriginal and Torres Strait Islander people at Alice Springs on 29 November 1986. St Pauls, Homebush, 1986.

¹⁴ "The Church and Aborigines in the Bicentenary" – A Pastoral Letter to the Catholic People of Australia from the Australian Catholic Bishop's Conference, 1988

¹⁵ "Sharing the Country Through Understanding" Pastoral Letter of the Australian Bishops, Aboriginal Sunday, 1990.