



### Setting the Record Straight

A Senate inquiry into the widespread exploitation of Aboriginal labour throughout Australia has culminated in a report entitled *Unfinished Business: Indigenous Stolen Wages*, which was tabled in Parliament on 7 December 2006.

Senator Andrew Bartlett called for the inquiry in June this year to examine a wide range of issues in relation to Aboriginal workers whose labour was controlled by government. He acknowledged in Parliament that the inquiry had only just scratched the surface, 'There is a lot about our history that we do not know about or just will not acknowledge.'

The Report urges the Commonwealth, and State Governments to open their archives in order that further research can take place into stolen wages practices at a national level. Most significantly the report has urged all state and territory governments to establish compensation schemes using the NSW scheme as a model. The Queensland scheme came in for heavy criticism as being unjust and 'insultingly low' in its offer of reparation.

The chairperson of the Senate Inquiry, Senator Marisa Payne said, 'It is imperative that governments take immediate action to address these injustices. In fact, we go so far as to say it would be an abrogation of moral responsibility to delay any further, particularly with the knowledge that the age and infirmity of the Indigenous people concerned limit their capacity to pursue their own claims.'

The inquiry has been an important milestone in setting the record straight, but there is still a long

road to travel to ensure that Australia understands the ongoing legacy of government practices in relation to Aboriginal wages, particularly as it relates to the current poverty and disadvantage that exists amongst Aboriginal people today.

Charmaine Smith together with Gary Highland, the National Director of ANTaR, QLD stolen wages claimant Yvonne Butler and her husband Russell Butler travelled to Canberra to be present at the tabling of the report.



From left to right: Gary Highland, Charmaine Smith, Senator Andrew Bartlett, Yvonne Butler and Russell Butler. Photograph by Chris Graham.

Talkin' Justice is the Indigenous Justice Project of the Public Interest Advocacy Centre (PIAC). PIAC is a legal and policy centre. The Indigenous Justice Project was established by PIAC in 2001 to promote and protect the rights of Aboriginal and Torres Strait Islander people. PIAC thanks law firm Allens Arthur Robinson for its continuing funding support for this Project and for the printing of this publication. The Talkin' Justice logo was designed for the Project by Adam Hill. The author of this newsletter is Charmaine Smith.

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# Indian American talks justice in Redfern

There was barely an empty seat at Redfern Community Centre on Wednesday 11 October 2006 when PIAC and Australians for Native Title and Reconciliation (ANTaR) hosted a Community Forum on Stolen Wages with international guest speaker Dr Eloise Cobell.

Dr Cobell, an American Indian woman and member of the Blackfeet Indian tribe, is the lead plaintiff in the largest class action against the Government of the United States of America. The lawsuit, *Cobell v Norton*, which was filed in 1996 on behalf of 500,000 American Indians and relates to the misappropriation of Indian trust fund monies.

Dr Cobell acknowledged that while the circumstances of the trust fund accounts were different between the USA and Australia, the same abuses of power occurred and governments in both countries had failed dismally in their role as trustees. Dr Cobell encouraged stolen wages claimants in Australia to remain strong and committed to the fight for justice.

Guest speakers at the forum also included:

- Robynne Quiggin, ATFRS Panel Member
- Charmaine Smith, Stolen Wages Lawyer
- Aunty Marjorie Woodrow, Stolen Wages Claimant
- Gary Highland, ANTaR National Director

The stolen wages community forum was broadcast on Radio National and Koori Radio.



Dr Cobell (right) with Aunty Marjorie Woodrow at the Redfern Community Centre.  
Photograph by Jason Mumbulla.

## Stolen wages: how the states compare

The Senate inquiry into stolen wages has recommended that each State and Territory consult with Aboriginal people in relation to stolen wages, and establish a stolen wages repayment scheme based upon the NSW Aboriginal Trust Fund Repayment Scheme. The Senate committee were heavily critical of the QLD Indigenous Wages and Savings Reparations scheme. The table below demonstrates some of the key differences between the NSW and QLD schemes.

### New South Wales

- No cap on the amount that can be claimed.
- Claimants not prevented from making a further claim if more evidence becomes available.
- Scheme can receive both written and oral evidence about amount (though still requires documented evidence of trust fund account).
- Claim forms became available in September 2005 and will only be accepted until December 2008.

### Queensland

- Claims capped at \$2,000 and \$4,000.
- Claimants must sign an indemnity clause releasing government from any further liability.
- The scheme will not receive written or oral evidence about amount owed.
- Claims commenced in May 2002 and closed on 31 January 2006.



## ATFRS panel hearing

PIAC appeared before the Aboriginal Trust Fund Repayment Scheme (ATFRS) Panel in September to challenge an Interim Assessment that was based upon incomplete and inaccurate records. Much of PIAC's concern about the claims process to date has stemmed from the requirement that the Scheme rely heavily on written financial records, which has the potential to be seriously detrimental to claimants.

Our client was present at the hearing and submitted oral evidence for the Panel's consideration. Our client's evidence was that she did not receive payments directly from the Aborigines Welfare Board, frequently changed address, was naïve with respect to banking and financial matters, worked for longer periods than those specified in the documentation and did not receive the cheque containing the balance of her trust fund account in the mail.

It was submitted that our client's evidence was the most reliable evidence for the purpose of determining whether she had received payments as she was an honest witness with a clear recollection of important events occurring to her throughout her life.

The Panel found our client's evidence compelling and used its authority under Section 8 of the ATFRS Guidelines to revise the original Interim Assessment to reflect a substantially higher amount.

**If you think you  
have a stolen wages  
claim or would like  
more information  
telephone  
the ATFRS on:**

**1800 765 889**

## Aboriginal police officer settles case against employer

PIAC acted for an Aboriginal man who served for over a decade with the NSW Police Service. During the course of his service he was subject to a number of racially motivated comments from co-workers.

At times he was called 'abo', 'boy' and 'jigaboo' and ridiculed in situations such as the firing range when it was suggested that he use a spear instead of a gun. Our client complained to his supervisors about these incidents and alleged that his supervisors took little or no action to respond to his complaints.

Under federal discrimination law an employer can be vicariously liable for discrimination or harassment occurring in the course of employment if it can be demonstrated that the employer did not take reasonable steps to reduce this liability.

While a resolution could be negotiated in this instance, the circumstances of the case are indicative of a more serious and systemic issue relating to the culture within the NSW Police Service. PIAC believes the NSW Police Service would benefit from the following measures:

- A greater commitment to cultural awareness training at an entry level and by way of ongoing professional development.
- Training for supervisors to respond appropriately and promptly in situations where an employee alleges that they are the victim of race discrimination and harassment.
- Establishment of an effective internal complaints procedure.
- Closer monitoring of the workplace environment.

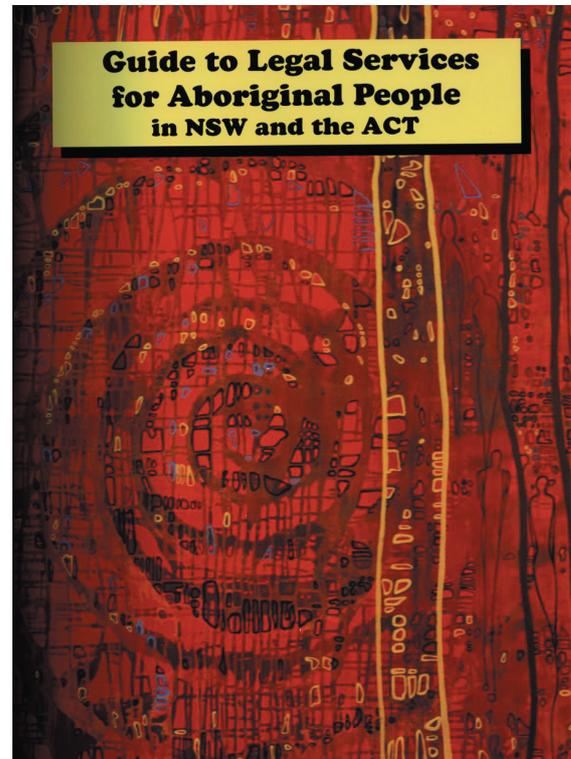


# Guide to Aboriginal Legal Services in NSW/ACT

A new guide has been launched that assists Aboriginal people, and organisations working with Aboriginal people, to locate appropriate legal services in NSW and the ACT. The guide was developed through the NSW Legal Assistance Forum (NLAF) Working Group on Aboriginal Legal Services and was comprised of representatives from the following organisations:

- Coalition of Aboriginal Legal Services of NSW
- Legal Aid Commission
- Wirringa Baiya Aboriginal Women's Legal Centre
- Law and Justice Foundation
- Women's legal Service NSW
- Redfern Legal Centre
- Public Interest Advocacy Centre
- Public Interest Law Clearing House
- NSW Combined Community Legal Centres' Group
- NSW Bar Association

The guide is designed to be easy to read and clearly sets out the details of each legal organisation and the services they provide. If you would like a copy of the guide please contact Raymond Brazil at the Aboriginal Legal Service on (02) 8842 8000.



## Talkin' Justice

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If you know someone who you think would like to get sent Talkin' Justice, please get them to give us a call or send an e-mail with their name and postal address.

## Christmas & New Year Break

The staff at the Public Interest Advocacy Centre wish to extend to you and your family a happy Christmas and safe new year and advise that our offices will be closed from 25 December 2006 up to and including 1 January 2007.

