

**Submission to the Senate Legal and Constitutional Committee  
Inquiry into Stolen Wages**

by

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**I. Summary**

1. I welcome this Senate Inquiry into Stolen Wages. It brings to the public's attention, as this Submission will highlight, the grave injustice towards Indigenous people caused by missing or stolen wages. Measures to remedy this injustice would go a long way in Indigenous Reconciliation.
2. This Submission is focused on the missing or stolen wages owed to Indigenous workers on Northern Territory (NT) cattle stations. Similar circumstances existed on cattle stations in northern Queensland and the Kimberley.<sup>1</sup> This issue is particularly pertinent for the Federal government, as it governed the NT between 1911 and 1978.<sup>2</sup>
3. The Senate Committee's terms of reference, to inquire into 'Indigenous workers whose paid labour was controlled by the government', calls for examination of the Commonwealth's role when it had jurisdiction over NT Indigenous persons by virtue of its wide-sweeping Aboriginal Ordinances. The government had a duty to identify and 'protect them'. This duty was breached by a failure to register workers and children on cattle stations and safeguard employment conditions. Further, the

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\* BA (Hons) LLB (Hons) PhD (*Sydney*). Doctoral research focused on Indigenous employment relationships on northern Australian cattle stations and their consequences for Indigenous connections to country and Indigenous legal rights.

<sup>1</sup> See: Mary Anne Jebb (2002) *Blood, Sweat and Welfare: a history of white bosses and Aboriginal pastoral workers*, 223; Thalia Anthony (2005) *The Ghost of Feudalism: Aboriginal land and labour dependencies*, PhD thesis, University of Sydney, ch.1.

<sup>2</sup> *Northern Territory (Administration) Act 1910 (Cth)*; *Northern Territory (Self-Government) Act 1978 (Cth)*.

government stipulated the payment of wages in regulations under the Ordinances and allowed wages to be offset by managers' maintenance of workers' dependants. However, the food and clothing rations provided for dependants were of such poor quality that they would indicate a 'wages deficit'. This situation was not acted upon by protectors or welfare officers.

4. This Submission concludes with a proposal for a Commonwealth government compensation scheme for NT Indigenous cattle station workers. It points to various aspects of this scheme that would make it compensatory as well as conciliatory.

## **II. Background: labour conditions on Northern Territory cattle stations**

5. The cattle industry was the NT's largest industry<sup>3</sup> and predominant employer of Indigenous workers from the 1880s until the 1960s. The 1928 report on northern Australia by the Chief Protector of Aboriginals, J. W. Bleakley, estimated that 80% of Aborigines employed in the non-Indigenous economy were in the cattle industry.<sup>4</sup> The Indigenous labour contribution was acknowledged among officials and pastoralists. Chief Protector of Aboriginals, Baldwin Spencer, underscored in 1913 that 'under present conditions, the majority of stations are largely dependent on the work done by black 'boys'.'<sup>5</sup> H. E. Thonemann of the NT Pastoral Lessees' Association declared in 1929, 'The pastoralists in the Territory generally feel that the aboriginal is ... essential to the progress of the Territory. The stations – I am speaking particularly of the northern and western parts, – could not carry on without their assistance.'<sup>6</sup>

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<sup>3</sup> Government of Australia (1912) *The Year Book of Australia for 1911*.

<sup>4</sup> J. W. Bleakley (1929) *The Aborigines and Half-Castes of Central Australia and North Australia 1928*, Report to the Parliament of the Commonwealth of Australia, Canberra, 6.

<sup>5</sup> Baldwin Spencer (1913) *Preliminary Report on the Aborigines of the Northern Territory*, Dept of External Affairs, Melbourne, 43.

<sup>6</sup> C. L. A. Abbott (1929) 'Report of Debates', *Conference of Representatives of Missions, Societies, and Associations Interested in the Welfare of Aboriginals to Consider the Report and Recommendations submitted to the Commonwealth Government by J.W. Bleakley Esq.*, Department of the Interior, Melbourne, 20-1; NAA (Canberra): CRS A1 item 33/8782.

6. With few exceptions, wages were not given to Indigenous cattle station workers; neither in cash nor in trust accounts. The 1940 *Aboriginal Trust Account Investigation* noted that while Indigenous people in NT town districts had monies paid into trust funds, ‘very few accounts operate in respect of aboriginals employed in pastoral districts’.<sup>7</sup> This situation was patently evident in the late 1960s when Indigenous workers were expelled from stations following the Equal Wage decision<sup>8</sup> and the introduction of labour-saving machinery.<sup>9</sup> Indigenous workers become unemployed with no savings to draw on or opportunities to use their widely recognised ‘skills’<sup>10</sup>.

### **III. Various guises of unpaid wages on Northern Territory cattle stations**

7. Regulations between 1918 and 1949 gave the Chief Protector the power to exempt an employer from the ‘payment of wages’ to an Aboriginal person if the employer fed and maintained ‘relatives and dependants’.<sup>11</sup> Regulations were enforced through licences, which entitled managers to recruit an unlimited number of ‘aboriginal natives’.<sup>12</sup> Licences could be bought by managers for 10 shillings, provided that the Protector of the district deemed the manager ‘a fit person’.<sup>13</sup> They were renewed by protectors annually and could be cancelled if the manager failed to meet conditions. Under the licences, Aborigines were denied freedom to travel outside the employment premises; had no bargaining powers over their work conditions, and did not have the right to refuse to work.<sup>14</sup>

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<sup>7</sup> V. J. White (Secretary, Native Affairs Branch) *Aboriginal Trust Account Investigation*, 12 June 1940, 4-6; National Archives (Darwin): CRS F1, Item 42/40, 5.

<sup>8</sup> *In the matter of the Conciliation and Arbitration Act 1904-1965 and of The Cattle Station Industry (Northern Territory) Award* (1966) 113 CAR 553.

<sup>9</sup> Anon (1969) ‘Give us Stronger Vehicles and Build Better Roads’, *NAT/DEV*, 1, 4, 27-29.

<sup>10</sup> Paul Hasluck (1988) *Shades of Darkness: Aboriginal Affairs 1925-1965*, 52.

<sup>11</sup> See: *Aboriginals Ordinance* 1918-43 (Cth) Regulation 14.

<sup>12</sup> *Aboriginals Ordinance* 1911 s8(1); *Aboriginals Ordinance* 1918 s22(1); The indefinite number was permitted in the provisions of the Bill: *Report of the Select Committee appointed to report upon The Aborigines Bill*, 4.

<sup>13</sup> *Aboriginals Ordinance* 1911 s8(1); *Aboriginals Ordinance* 1918 s23(2).

<sup>14</sup> Tony Austin (1988) in Val Dixon (ed.) *Looking back*, 92.

8. The government and station managers breached regulations for employment licences by:

- Incorrectly classifying Indigenous people on stations as ‘dependants’, when in fact many of them were also workers. Indigenous women had especially significant work roles and were also assisted by Indigenous children, the elderly and invalids. They ran the homestead and attended to cooking, fencing, gardening, managing dairy cattle, building roads and shelter and digging dams.<sup>15</sup> Accordingly, drovers were sometimes denied wages (on the false pretence that dependants’ rations offset their wages) and many workers on the homestead and station property were denied wages because they were classified as ‘dependants’;
- Failure to enforce standards for Indigenous cattle workers as prescribed by the licence and government regulations. These provided standards for healthcare and food rations that amounted to ‘maintaining relatives and dependants’.<sup>16</sup> Commonwealth Department of Health surveys of cattle stations pointed to the high incidence of Aboriginal malnutrition and diseases.<sup>17</sup> V. C. Carrington, Acting Director of Native Affairs (NT), described these Aboriginal camps on stations as ‘unsightly and dirty.’<sup>18</sup> There were mostly no amenities or provisions for hygiene, washing or sanitation, including water pumps.<sup>19</sup> The incidence of illness on stations was made worse by the lack of medical services. Employers failed to make contributions to the government’s

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<sup>15</sup> Ann McGrath (1987) *Born in the Cattle’: Aborigines in cattle country*, 52.

<sup>16</sup> See: H. C. Giese (1981), *Interview with Dr C. E. (Mick) Cook*, Northern Territory Archives Service: NTRS 226 (Oral history transcript) TS179, 9.

<sup>17</sup> W. Wilson, (1952), *Dietary Survey of Aborigines in the Northern Territory*, Commonwealth Department of Health, 2.

<sup>18</sup> V. C. Carrington (1979) ‘Report to the Administrator, 10 Oct. 1945’, cited in Read, Peter Read (1979) *A Social History of the Northern Territory*, 2.

<sup>19</sup> H. C. Giese (1981), *Interview with Dr C. E. (Mick) Cook*, Northern Territory Archives Service: NTRS 226 (Oral history transcript) TS179, 37.

Aboriginals Medical Benefit Fund.<sup>20</sup> There was also a lack of Occupational Health and Safety standards for station workers, making Indigenous work injuries common.<sup>21</sup> Consequently, rations were not an equal trade-off for wages, even for Indigenous wages.

9. Second, when wages were required to be paid after World War II, governments failed to enforce their actual payment. The 1949 Regulations under the *Aboriginals Ordinance* provided for a cash wage for station workers of £1 per week,<sup>22</sup> which increased to £2 under the 1953 *Wards' Employment Ordinance*.<sup>23</sup> To avoid this obligation, station managers pursued a practice of converting wages to credits in the station store (known as 'booking down') and they inflated store prices. Prices in some station stores were marked up to 300% over town prices, such as at the VRD Station.<sup>24</sup> Despite protectors' awareness of the booking down system, the Chief Protector failed to use his power under the *Aboriginals Ordinance* which allows for legal proceedings for defrauding of an Aborigine. Patrol officers noted that even in the 1950s, 'work for no pay was not at all uncommon.'<sup>25</sup> Government officials were aware of 'booking down', but did not seek to ensure that station prices were kept at market levels.<sup>26</sup> Patrol officer Evans noted that the system 'was open to all kinds of abuse as you can well imagine, and with only one or two visits a year, which was the

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<sup>20</sup> Required between 1933 and 1947 under Regulation 12 of the *Aboriginals Ordinance*: M. M. Culnane (Department of the Interior) *Aboriginal Trust Account*, 4 May 1951, Memorandum No. 45/1/1544, 1; NAA (Darwin) F1 48/67.

<sup>21</sup> Bill Thorpe (1992) 'Aboriginal employment and unemployment: colonised labour', in C. Williams (ed.) *Beyond Industrial Sociology: The work of men and women*, 90-1.

<sup>22</sup> Mary Stephenson, (1982) *Transcript of Interview with Mr E. C. (Ted) Evans*, Northern Territory Archives Service: NTRS 266 (Oral history transcript) TS46 (Box3) 30.

<sup>23</sup> B. Higgins. (1986), *Presenting Aborigines in the Pastoral North: Economics, History and Anthropology*, Honours Thesis, ANU, 5.

<sup>24</sup> Deborah Bird Rose (1991), *Hidden Histories: Black Stories from Victoria River Downs, Humbert River and Wave Hill Stations*, 155.

<sup>25</sup> C. MacLeod, (1997) *Patrol in the Dreamtime*.

<sup>26</sup> Mary Stephenson, (1982) *Transcript of Interview with Mr E. C. (Ted) Evans*, Northern Territory Archives Service: NTRS 266 (Oral history transcript) TS46 (Box3) 30-31.

most that I could make, it was pretty hard to police.’<sup>27</sup> Other officials believed it assisted Indigenous people who were unable to handle their own money.<sup>28</sup>

10. Third, there are claims of missing monies in cases where cattle station workers had their wages or benefits put in a trust account. These included monies owed to itinerant drovers,<sup>29</sup> apprentices,<sup>30</sup> social security recipients and, after 1957, wards of the state.<sup>31</sup> Breaches that have been reported include:

- For itinerant drovers, the shortcomings in official monitoring of wage disbursement, resulting in employers pocketing the money.<sup>32</sup>
- Apprentices in the cattle industry were reported in the *Northern Standard* in 1935 to have had their wages stolen: ‘Concerning his wages, who has them. ... I would like to know how much this lad has to his credit, seeing he has been working for years.’<sup>33</sup> The article goes on to describe the ‘Raffety Rules apprenticeship’ agreement, where their monies went into building ‘houses for half-castes in Darwin’.<sup>34</sup>

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<sup>27</sup> Mary Stephenson, (1982) *Transcript of Interview with Mr E. C. (Ted) Evans*, Northern Territory Archives Service: NTRS 266 (Oral history transcript) TS46 (Box3) 23.

<sup>28</sup> C. R. Lambert (1953) 'Employment and Payment of Aborigines in the Northern Territory', NAA (Canberra) CRS F1, 1953/307.

<sup>29</sup> Henry Reynolds (2000) *Black Pioneers: how Aboriginal and Islander people helped build Australia*, 10; V. J. White (Director of Native Affairs) *Aboriginal Trust Account*, Memorandum to the Acting District Officer, Alice Springs, 8 June, 1939, 3; NAA (Darwin): F1 42/40.

<sup>30</sup> See *Aboriginals Ordinance* 1918, Apprentice (Half-Caste) Regulations 1930 – requiring managers to pay six shillings into an apprenticeship fund for part-Aboriginal apprentices.

<sup>31</sup> Under the *Wards' Employment Ordinance* section 41, the Director of Welfare could require Aboriginal workers' wages to be paid into trust funds. See *Welfare Ordinance* 1953 (gazetted in 1957); *Wards' Employment Ordinance* 1953-1960 (gazetted 1957): Russell McGregor (2005) 'Avoiding "Aborigines": Paul Hasluck and the Northern Territory *Welfare Ordinance*, 1953', *Australian Journal of Politics and History*, 51(4) 520.

<sup>32</sup> Mudoon (Mounted Constable and Protector, Stuart Police Station, NT) *Authority to spend moneys from Trust Funds of Aboriginal Drovers – George, Silas, Willie (1) Willie (2)* Memorandum to Sergeant Lovegrove, Officer in Charge Police, Stuart, and forwarded to The Chief Protector of Aborigines, Darwin) 2 July 1932; NAA (Darwin) F68, A8.

<sup>33</sup> "Yarrum", 'The Injured Half-Caste', *Northern Standard*, 5 September 1935, cited in Peter Read (1979) *A Social History of the Northern Territory*, 37.

<sup>34</sup> "Yarrum", 'The Injured Half-Caste', *Northern Standard*, 5 September 1935, cited in Peter Read (1979) *A Social History of the Northern Territory*, 37.

- The Commonwealth Department of Territories paid child endowments of five shillings, as required by the *Social Services Consolidation Act 1947*. These endowments were held by the Director of Welfare held in trust.<sup>35</sup> The disbursement procedure was for a claim to be made by managers and certified by a Patrol Officer. Payment was then made to management for the child's benefit.<sup>36</sup> Despite government intentions for endowments to be used for the betterment of Indigenous children, it was not uncommon for endowments to disappear into 'general station funds'.<sup>37</sup>
- The *Welfare Ordinance 1953* registered all but six of the NT's 15,700 'full blood' Aboriginal people in the NT as wards.<sup>38</sup> However, many Aboriginal people on remote stations were not registered as they did not come under the official purview.<sup>39</sup> Patrol Officer Giese noted the 'ambivalent attitude' that station management adopted towards the trust fund for Indigenous wages.<sup>40</sup>

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<sup>35</sup> A. S., *Proposals to change (i) the method of payment of pensions in respect of aboriginal pensioners on Settlements in Northern Territory (ii) the method of payment of child endowment to aboriginal endowees on pastoral properties in Northern Territory*, Memorandum to L.L Gillespie (Assistant NT Administrator) 20 December 1962, NAA (Canberra): A885/5, 456 Part 2.

<sup>36</sup> L.L Gillespie (Assistant NT Administrator) *Child Endowment for Aboriginal Children on Cattle Stations in the Northern Territory*, Memorandum to the Director, Department of Social Services, Adelaide, 31 October 1962, NAA (Canberra): A885, B456 Part 2.

<sup>37</sup> Frank Stevens, cited in Deborah Bird Rose (1991), *Hidden Histories: Black Stories from Victoria River Downs, Humbert River and Wave Hill Stations*, Canberra, Aboriginal Studies Press, 154. See also: L.W. Loveless (Director of Social Services) *NT Natives*, Memorandum to Director-General, Department of Social Services Melbourne, 24 July, 1952, NAA (Canberra): A885, B456 Part 2.

<sup>38</sup> Russell McGregor (2005) 'Avoiding "Aborigines": Paul Hasluck and the Northern Territory *Welfare Ordinance, 1953*', *Australian Journal of Politics and History*, 51(4) 520.

<sup>39</sup> F. T. Askins (1965) *Dark - Night. What of the Dawn: History Story of Australian (Northern Territory) Natives, 1605-1965*, Unpublished, Mortlock Archives, Adelaide (D5135 (Lit Ms)) 62.

<sup>40</sup> Peter d'Abbs, (1994), *Interview with Harry Giese*, Northern Territory Archives Service, NTRS 226 (Oral history transcript) TS 755, 11.

#### IV. Government's negligent oversight of cattle stations

11. The responsibility to protect Indigenous persons ultimately rested with the Chief Protector, including guarding against injustice and fraud.<sup>41</sup> Under the Protector, a network of District Protectors administered the Act. In 1939 these powers were transferred to the Director of Native Affairs who oversaw a body of patrol officers and police protectors, and in 1953 the Director of Welfare and welfare officers assumed this responsibility.<sup>42</sup> At each phase, the network of protectors or officers was responsible for inspecting stations and ensuring that practices complied with licence provisions.
  
12. The stations spanned thousands of kilometres, making government monitoring of pay and conditions for Indigenous workers largely impracticable. In the high tide of 'official' protection in the 1930s, there were only 48 NT protectors to cover 523,000 square miles,<sup>43</sup> with stations divided by shoddy roads. On their infrequent visits, protectors made inquiries only with management or relied on the managers' monthly reports.<sup>44</sup> Some owners avoided being on station when protectors visited.<sup>45</sup> The inspection of station provisions and employment conditions was 'nominal and superficial'.<sup>46</sup>
  
13. The failure of Protectors to scrupulously monitor station conditions for Indigenous people gave rise to major discrepancies between what the pastoralists officially conveyed and the reality of their treatment of Indigenous people. Examination of

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<sup>41</sup> See *Aboriginals Ordinance* 1918 (Cth) s5(1)(f)

<sup>42</sup> *Northern Territory Welfare Ordinance* 1953-60.

<sup>43</sup> M. McMahon (1977) *Colonial Domination: Aborigines in the Northern Territory 1911-1934. Background to Attitudes and Policies*, Honours Thesis, ANU, 25.

<sup>44</sup> Mary Stephenson, (1982) *Transcript of Interview with Mr E. C. (Ted) Evans*, Northern Territory Archives Service: NTRS 266 (Oral history transcript) TS46 (Box3) 42.; *Report of the Aborigines Welfare Board for Year ending 30th June, 1949*, 4-5, NAA (Darwin) NTAC1976/137/0.

<sup>45</sup> Mary Stephenson, (1982) *Transcript of Interview with Mr E. C. (Ted) Evans*, Northern Territory Archives Service: NTRS 266 (Oral history transcript) TS46 (Box3) 42.

<sup>46</sup> R.M. Berndt and C. Berndt (1987) *End of an Era: Aboriginal Labour in the Northern Territory*, 18.

statistics in the station ledgers reveals that there was a gross exaggeration in reported maintenance costs. For instance, the total cost in the report submitted by the managers of the large Victoria River Downs (VRD) property amounted to £9682, whereas the cost stated in the station ledgers was £4344.<sup>47</sup> According to Rosalind Kidd, 'entries on station books reflected neither the size of the workforce nor the quantity of rations distributed'.<sup>48</sup> Licences were maintained despite these violations.

14. Licences to employ Indigenous people were rarely cancelled. In one instance where enlightened Patrol Officer Ted Evans cancelled a licence after a manager of a station owned by Bovril refused for one year to install a water pump when all water was being carted by Aboriginal women on yokes. Within days, the Commonwealth government sent Evans a telegram, telling him to reinstate the licence.<sup>49</sup> Evans said,

Someone had obviously been in touch with *Canberra*.<sup>50</sup> It was just signed DENATAFF, which is the telegraphic name for Native Affairs Branch. I just said I would want to be assured that the telegram was authorised by the Director, stalling. At any rate a telegram came from the Director saying that it was authorised by him. So I had to restore the licence, regrettably. However, that's the kind of power and lobbying you're up against when you try to do something.<sup>51</sup>

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<sup>47</sup> B. Higgins. (1986), *Presenting Aborigines in the Pastoral North: Economics, History and Anthropology*, Honours Thesis, ANU, 10.

<sup>48</sup> Rosalind Kidd (2006) *National Report on Stolen Wages*, ch.3, 3 (pending publication).

<sup>49</sup> Mary Stephenson, (1982) *Transcript of Interview with Mr E. C. (Ted) Evans*, Northern Territory Archives Service: NTRS 266 (Oral history transcript) TS46 (Box3) 37-38.

<sup>50</sup> Emphasis added.

<sup>51</sup> Mary Stephenson, (1982) *Transcript of Interview with Mr E. C. (Ted) Evans*, Northern Territory Archives Service: NTRS 266 (Oral history transcript) TS46 (Box3) 39.

## V. Violations of domestic law

15. The government negligently administered the Aboriginals, Welfare and Wards' Employment Ordinances and their regulations in terms of cattle station workers. In some instances, enforcement of the regulations was deliberately avoided in order to forgo their welfare responsibilities to cattle stations.<sup>52</sup>
16. These breaches may give rise to a number of causes of actions in tort law and equity. In a number of these breaches, cattle stations could be found jointly liable with the government. The causes of action include:
- Breach of duty of care to protect Indigenous workers on stations.
  - Breach of statutory duty to ensure managers fulfilled their licence requirement to:
    - i. reasonably maintain Indigenous people on stations
    - ii. reasonably record the number of workers and dependants on stations.
  - Breach of duty to prevent pure economic loss to Indigenous workers in terms of:
    - i. not paying workers on stations and drovers
    - ii. condoning the unscrupulous booking down system.
  - Breach of fiduciary duty:
    - i. not to profit from fiduciary relationship by not overlooking conditions for Indigenous people in order to reduce government costs
    - ii. not to pursue a conflict of interest by supporting the pastoral industry
    - iii. not to profit from relationship of trust that was created when the government held monies for Indigenous workers in trust accounts.
    - iv. The stations also breached their fiduciary duty by withholding these wages and charging them as store credits. The manager could be seen to be holding the money as a trustee, and therefore had a duty not to profit from Indigenous workers as beneficiaries. Where managers

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<sup>52</sup> These were provided for *inter alia* under *Aboriginal Ordinance* 1918 s5(1)(b).

charged excessive prices at station stores, the stations breached the trust of Indigenous workers. The Commonwealth knowingly participated in this breach by not acting on licence conditions or employment regulations.

## **VI. Breaches of international law**

17. It could be argued that the Commonwealth government violated its obligations under international law. Relevant conventions of the International Labour Organisation (ILO) and the Office of the High Commissioner for Human Rights, which Australia has ratified, include:

- Minimum Wage-Fixing Machinery Convention 1928, which Australia ratified in 1931.<sup>53</sup> Article 3(2) requires that representatives of workers shall be consulted in setting minimum wages. Article 4 establishes that a system of supervision and sanctions shall ensure wages are not paid at less than minimum rates, and workers are informed of these rates.
- Forced Labour Convention 1930, which Australia ratified in 1932.<sup>54</sup> This treaty creates obligations to suppress forced or compulsory labour in all its forms.<sup>55</sup> Articles 4(1) and 6 prohibit public authorities from imposing ‘compulsory labour for the benefit of private individuals, companies or associations’. The Commonwealth government breached these obligations by providing licences to cattle station managers to employ an infinite number of Indigenous people, without their approval. In the early years, this often involved violence and force.

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<sup>53</sup> C26: Convention concerning the Creation of Minimum Wage-Fixing Machinery; Entered into force: 14.06.1930. Australia ratified in 09.03.1931.

<sup>54</sup> Convention concerning Forced or Compulsory Labour (ILO No. 29) 39 U.N.T.S. 55, Entered into force 01.05.1932. Australia ratified the Convention on 2 January 1932. Note: In 1960, Australia ratified the Convention concerning Abolition of Forced Labour Convention, (ILO No. 105) 320 U.N.T.S. 291 (Entered into force 17.01.59). The Convention contained stricter provisions by condemning any forced labour as a means of labour discipline, punishment, workforce mobilisation for economic development, and racial discrimination: Article 1(a)-(e).

<sup>55</sup> See Articles 1 and 4(2).

- Slavery Convention 1926, which Australia ratified at the time and then again in 1953 when the Convention was amended.<sup>56</sup> Article 2(b) stipulates that contracting parties shall endeavour ‘to bring about, progressively and as soon as possible, the complete abolition of slavery in all its forms’.
- Also, the Universal Declaration of Human Rights 1948 enshrines basic working standards.<sup>57</sup> As a resolution of the United Nations General Assembly it is non-binding, but of important symbolic value. Article 23(1) provides a right for ‘free choice of employment and to just and favourable conditions of work’. Article 23(2) further states that ‘Everyone, without any discrimination, has the right to equal pay for equal work.’

## **VII. Proposal for a Commonwealth government compensation scheme for cattle station workers**

18. The Commonwealth government is in a better position than courts to remedy wrongs inflicted on NT Indigenous cattle station workers. This is because it can adopt comprehensive solutions that engage both Indigenous communities, pastoral companies and the public. The Commonwealth government can provide long-term and meaningful remedies. However, the success of a compensation scheme hinges on the involvement of Indigenous organisations and legal services in setting up the process.

19. A compensation scheme should provide:

- restitution according to the individual workers’ contribution, taking into account the length of time employed, skills and position, as well as any losses from employment injuries

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<sup>56</sup> Office of the High Commissioner for Human Rights, entered into force on 9.3.1927. Amended 7.12.1953; entered into force 7.7.1955.

<sup>57</sup> Adopted and proclaimed by General Assembly resolution 217 A (III) of 10.12.1948.

- no time limits to claim wages to allow claimants time to find information relating to their employment
- the admission of oral evidence
- procedural transparency
- retention of the right to litigation
- contributions from surviving corporate entities that ran cattle stations during the period of large scale Indigenous employment. One of the largest of these was the Vestey Group, which continues to operate internationally.<sup>58</sup> Any justice would involve holding to account such corporations.

20. As well as economic compensation, consideration needs to be given to the impact of Indigenous people's unpaid labour in contemporary Indigenous communities. Ideally, a Commission investigating the issue of unpaid wages and benefits could make findings and recommendations on how to overcome the consequential and inter-generational detriment of unpaid wages. The impoverishment of communities in the northern interior can be considered in light of unpaid wages and the sudden expulsion of Indigenous workers from the cattle industry in the early 1970s.<sup>59</sup> In the NT, this would contribute constructively to the current debate on problems confronting Indigenous communities. Measures that could be considered in addition to compensation include the provision of employment opportunities that draw on the skills that Indigenous people displayed in the cattle era and harness those skills for future generations.<sup>60</sup> Government support for sustainable Indigenous industries<sup>61</sup> with properly remunerated employment opportunities would complement compensation in redressing the loss from stolen wages.

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<sup>58</sup> See: *Angliss International* <<http://www.angliss-international.com/vesteygroup.htm>>; *Classic Fine Foods* <<http://www.classicfinefoods.com/>>.

<sup>59</sup> Thalia Anthony (2003) 'Postcolonial Feudal Hauntings on', *Law Text Culture* (7), 298.

<sup>60</sup> This has been advocated by former stockworkers of the Kimberley: John Watson (1988) 'We know this country' in Paul Marshall (ed.) *Raparapa Kularr Martuwarra ... All right, now we go 'side the river, along that sundown way: stories from Fitzroy River drovers*, 248.

<sup>61</sup> See: Jon Altman (2003) 'People on country, healthy landscapes and sustainable indigenous economic futures: the Arnhem Land case', *The Drawing Board Journal* 4(2), 65-82.