



**The Hon Jenny Macklin MP
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and Indigenous Affairs**

Parliament House

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Senator Patricia Crossin
Chair
Senate Standing Committee on Legal and Constitutional Affairs
Department of the Senate
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Dear Senator

The report *Unfinished Business: Indigenous stolen wages*, is a result of an inquiry by the Legal and Constitutional References Committee (the Committee) into Indigenous workers whose paid wages were controlled by Government.

The Inquiry was referred to the Committee by the Senate on 13 June 2006 and commenced in June 2006. The Committee released its report on 7 December 2006. A response by the previous Government was not provided prior to the 2007 election.

The Australian Government has given careful consideration to the issues and recommendations raised in this report and has prepared the following response for tabling.

Yours sincerely

A handwritten signature in blue ink that reads 'Jenny Macklin'.

JENNY MACKLIN MP

**Australian Government response to
recommendations from**

Unfinished business: Indigenous stolen wages

Report of the Senate Standing Committee on Legal and
Constitutional Affairs

May 2010

The report, *Unfinished business: Indigenous stolen wages*, is the result of an inquiry by the Senate Standing Committee on Legal and Constitutional Affairs (the Committee) into Indigenous workers whose paid labour was controlled by government.

The inquiry was referred to the Committee by the Senate on 13 June 2006 and commenced in June 2006. The Committee released its report on 7 December 2006.

The report considers the controls put in place by governments during the 19th and 20th centuries over the employment, working conditions and wages of Indigenous workers, including claims that governments systematically withheld and mismanaged Indigenous wages and entitlements over decades.

The Government has carefully considered the report and all the recommendations made by the Committee. The Government is not in a position to divert substantial resources to a general investigation of the wages and entitlements that may have been withheld from Indigenous workers, but will consider any substantive claims from Indigenous Australians who came within the Commonwealth's jurisdiction, in the Northern Territory and the Australian Capital Territory, during the relevant period.

Committee Recommendation	Response
<p><u>Recommendation 1</u></p> <p>The committee recommends that the Commonwealth Government and state governments facilitate unhindered access to their archives for Indigenous people and their representatives for the purposes of researching the Indigenous stolen wages issue as a matter of urgency.</p>	<p>Noted.</p> <p>The National Archives of Australia (Archives) holds many records which contain information about Indigenous Australians, mainly about those in the Northern Territory and Victoria.</p> <p>The <i>Archives Act 1983</i> (Act) requires Archives to release records for public access after 30 years unless they contain information that falls within one of the exemption categories in section 33 of the Act.</p> <p>Archives has entered into special arrangements with the Indigenous community concerning access to records that would normally be withheld from public access because the records relate to personal affairs.</p> <p>Specialist reference staff guide people with archival research, although they do not conduct research on behalf of individuals. As archival research can be time consuming and reliant on the availability of finding aids to locate material, Archives has prepared a number of guides to records relating to Indigenous people.</p> <p>On 23 February 2010, the Australian</p>

Committee Recommendation	Response
	Government announced that it would co-locate the Darwin, Adelaide and Hobart archives with similar institutions in the same city to enable them to continue to provide high quality face-to-face services and put them on a sustainable footing for the long term.
<p><u>Recommendation 2</u></p> <p>The committee recommends that the Ministerial Council on Aboriginal and Torres Strait Islander Affairs agree on joint funding arrangements for:</p> <ul style="list-style-type: none"> • an education and awareness campaign in Indigenous communities in relation to stolen wages issues; and • preliminary legal research on Indigenous stolen wages matters. 	<p>Noted.</p> <p>The Ministerial Council on Aboriginal and Torres Strait Islander Affairs agreed, at its meeting of 22 June 2007, that educational programs and further legal research into Stolen Wages need to occur at the jurisdictional level and as such are outside the MCATSIA remit.</p>
<p><u>Recommendation 3</u></p> <p>The committee recommends that the Commonwealth Government provide funding in the next budget to the Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS) to conduct a national oral history and archival project in relation to Indigenous stolen wages.</p>	<p>Noted.</p> <p>The Government acknowledges the importance of telling one's story, and having it documented, as evidenced by Government support for oral history projects for members of the Stolen Generations following the National Apology.</p> <p>At this point in time, the Australian Government does not support the provision of funding to AIATSIS for the purpose proposed in this recommendation.</p>
<p><u>Recommendation 4</u></p> <p>The committee recommends that:</p> <p>a) the Western Australian Government:</p> <ul style="list-style-type: none"> i) urgently consult with Indigenous people in relation to the stolen wages issue; and ii) establish a compensation scheme in relation to withholding, underpayment and non-payment of Indigenous wages and welfare entitlements using the NSW scheme as a 	<p>Noted.</p> <p>Recommendation 4(a) is for the Western Australian Government.</p> <p>Recommendation 4(b) – During the course of the Committee's inquiry, the Australian Government conducted preliminary research of its archival material in relation to the stolen wages issues in Western Australia. Limited material about the inquiry conducted in 1965 by Special Magistrate Davies in relation to the Kimberly, Western Australia was found. However, a copy of the report of the inquiry has not been located.</p>

Committee Recommendation	Response
<p>model, and</p> <p>b) the Commonwealth Government conduct preliminary research of its archival material in relation to the stolen wages issues in Western Australia.</p>	
<p><u>Recommendation 5</u></p> <p>The committee recommends that the Commonwealth Government in relation to the Northern Territory and the Australian Capital Territory, and the state governments of South Australia, Tasmania and Victoria:</p> <p>a) urgently consult with Indigenous people in relation to the stolen wages issue;</p> <p>b) conduct preliminary research of their archival material; and</p> <p>c) if this consultation and research reveals that similar practices operated in relation to the withholding, underpayment or non-payment of Indigenous wages and welfare entitlements in these states, then establish compensation schemes using the New South Wales scheme as a model.</p>	<p>Not supported.</p> <p>The Government is not in a position to divert substantial resources to a general investigation of the wages and entitlements that may have been withheld from Indigenous workers, but will consider any substantive claims from Indigenous Australians who came within the Commonwealth's jurisdiction, in the Northern Territory and the Australian Capital Territory, during the relevant period.</p> <p>In the period leading up to, during and after the Committee's inquiry, no claims for payments that may have been withheld have been received.</p>
<p><u>Recommendation 6</u></p> <p>The Committee recommends that the Queensland Government revise the terms of its reparations offer so that:</p> <p>(a) Indigenous claimants are fully compensated for monies withheld from them;</p> <p>(b) further time is provided for the lodgement of claims;</p> <p>(c) claimants are able to rely on oral and other circumstantial evidence where the records held by the state are incomplete or are allegedly affected by fraud or forgery;</p> <p>(d) new or further payments do not</p>	<p>Recommendation 6 is for the Queensland Government only.</p>

Committee Recommendation	Response
require claimants to indemnify the Queensland Government; and (e) the descendants of claimants who died before 9 May 2002 are included within the terms of the offer.	