

The Queensland Nurses' Union and the Indigenous Stolen Wages Case

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The primary jurisdiction of a trade union is to campaign for and obtain better conditions for the workers it represents. However, unions have also become involved in disputes which do not fall within this traditional role. The trade union movement has developed an interest in social justice issues beyond those that directly affect its members. An early example of this is the Green Bans undertaken by the Builders' Labourers' Federation in the early 1970s. Trade unionist Jack Munday, who coined the term 'Green Ban', described them as 'the withdrawal of labour for social or environmental reasons.'¹ Peak bodies such as the Queensland Council of Unions also lend their support to numerous social or environmental causes. Similarly, the Queensland Nurses' Union (QNU) have placed a notable focus on social justice issues. According to their website: 'The QNU has a firm commitment to facilitating action to achieve social change.'² This paper will investigate one example of this; the Queensland Nurses' Union's involvement with the Indigenous Stolen Wages campaign in the 2000s. The paper will explain how the QNU came to be involved in the campaign, what it contributed and the outcome of its involvement.

The QNU was formed in 1982 as part of a reform of Queensland Nursing unionism. Separate councils were elected for the QNU and the Queensland branch of the Royal Australian Nursing Federation (RANF), formally separating the two organisations. The QNU held jurisdiction over state awards and the RANF over federal. The Union covers nurses and midwives working in the public or private sector including in aged care. Membership reaches throughout the state including regional and remote areas and the Torres Strait. By the QNU's own account, 'Nurses and midwives have a long and proud history of organisation on industrial, professional and environmental issues.'³ One need only look into the catalogue of *The Queensland Nurse*, the Union's monthly magazine, for evidence of this. The magazines run articles on a number of issues including international awareness campaigns and charities.⁴ Similarly, archived copies of its website demonstrate a focus on social campaigns. One notable example, from the early 2000s was their campaign to end the detention of children and separation of families under the federal government's asylum seeker policies.⁵ Others include the 'Queensland is Not for Sale' campaign against privatisation and the recent 'Say Yes' campaign in favour of the Gillard Government's Carbon Tax.⁶

The QNU has a history of action on Indigenous issues. The most notable example is the 1985 campaign to achieve wage equality for Indigenous nurses. Throughout the 20th century and well into the 1980s, the Queensland government refused to fund award wages for its Indigenous employees.⁷ Consequently, Indigenous nurses continued to be paid considerably less than their

¹ Greg Mallory, *Uncharted Waters: Social Responsibility in Australian Trade Unions* (Brisbane: Boolarong Press, 2005), 110.

² Queensland Nurses' Union, 'Social Justice', www.qnu.org.au/your-life/social-justice. Accessed 20 January 2014.

³ Liz Todhunter, 'Innovation and Democracy in the Queensland Nurses' Union (QNU)', Queensland Nurses' Union, 2009: 8.

⁴ See *The Queensland Nurse*, Queensland Nurses' Union, 2000-.

⁵ Queensland Nurses' Union, 'Campaigns', web.archive.org/web/20040104132916/http://www.qnu.org.au/news_and_notices/campaigns. Accessed 15 January 2014.

⁶ Queensland Nurses' Union, 'Campaign Archive', www.qnu.org.au/news/campaigns/campaign-archive. Accessed 15 January 2014.

⁷ Ros Kidd, *Trustees on Trial: Recovering the Stolen Wages* (Canberra: Aboriginal Studies Press, 2006), 99.

non-Indigenous counterparts and were rarely awarded penalty rates.⁸ The QNU began a campaign in late 1984 to force the Queensland government to pay Indigenous nurses award wages.⁹ Union representatives lobbied Health Minister Brian Austin but it was a difficult campaign against the conservative Bjelke-Petersen government.¹⁰ Head of the Department of Aboriginal Affairs Pat Killoran was particularly resistant to the demands, citing budgetary restrictions as his main argument.¹¹ Aboriginal Affairs Minister Bob Katter Jr. was more responsive. Following initial lobbying efforts by the QNU, Katter warned, 'if we were to persist in delaying the payment of award wages some very serious problems could arise.'¹² Concern over costly industrial action led Katter to make assurances that award wages would be paid, although this success was limited.¹³ As a result of the QNU's lobbying in 1984 the cabinet directed the treasury to provide the funds to bring Aboriginal nurses in Health Department hospitals to award wages.¹⁴ However, this measure covered only seven hospitals and the nurses at the twenty Aboriginal or Islander hospitals in North Queensland and the Torres Strait did not share in the success.¹⁵ Having this history of awareness and responsiveness to Indigenous issues, particularly those related to wages and equality, sheds light on the QNU's willingness to become involved with the Stolen Wages campaign even though that campaign did not directly affect its members.

The Stolen Wages Case was a campaign by Indigenous workers, primarily in the pastoral industry, and their descendants to receive compensation from the Queensland government for wages withheld and misappropriated between 1897 and 1972.¹⁶ During this period, Aboriginal people were not paid their wages directly. Instead, the majority of their wages were paid to a Government Protector to be held in trust, with a smaller percentage going to the Station Masters to be handed out as 'pocket money'.¹⁷ This process was intended to protect Aboriginal people from being exploited by their employers, although in practice it led to different forms of exploitation. Dr Ros Kidd, the leading historian in the area of Stolen Wages, estimates that during this 75-year period approximately \$500 million was withheld, a figure which Labor Premier Peter Beattie did not dispute.¹⁸ The Queensland government has been well aware of the Stolen Wages issue. Ruth Matchett, the Director General of the Department of Aboriginal and Islander Affairs from 1990-95, recalls a number of proposals for how to use the money remaining in the trust funds and how best to compensate the Aboriginal community.¹⁹ She claims that none of these proposals were acceptable to the government. In 1997 the Queensland Aboriginal and Torres Strait Islander Legal Services Secretariat (QAILSS) commenced research into these funds to determine how much was owed and whether there was sufficient evidence to commence legal proceedings.²⁰ Subsequently, in early 2000, QAILSS began to seek negotiations with the State government.²¹ The Beattie government was responsive to negotiation attempts but elected to table discussions until after the

⁸ Ros Kidd, 'The Price of Justice: Underpayment of Aboriginal Employees in Queensland', *Hecate* 22, 2 (1996): 67-78.

⁹ Ibid.

¹⁰ Ibid.

¹¹ Ibid.

¹² Ibid.

¹³ Ibid.

¹⁴ Ibid.

¹⁵ Ibid.

¹⁶ Bradley Bowden, Simon Blackwood, Cath Rafferty and Cameron Allan, *Work & Strife in Paradise: The History of Labour Relations in Queensland 1859-2009* (Sydney: The Federation Press, 2009).

¹⁷ Ibid.

¹⁸ Ibid.

¹⁹ Centre for the Government of Queensland, *Queensland Speaks*, Ruth Matchett interviewed by Danielle Miller, 10 March 2011, www.queenslandspeaks.com.au/ruth-matchett.

²⁰ Cristy Dieckmann, 'Calling in Debts: The Savings Accounts and Wages Project - Formerly Known as the Aborigines' Welfare Fund', *Indigenous Law Bulletin* 10 (2001).

²¹ Ibid.

2001 State election.²²

On 9 May 2002, the QAILSS negotiation team, comprised of representatives of the major Aboriginal organisations in Queensland, met with Beattie and Aboriginal and Islander Affairs Minister Judy Spence.²³ The previous year QAILSS had submitted a proposal of \$180 million in reparations and were optimistic of realising that figure.²⁴ However, as soon as the meeting commenced Beattie placed a \$55.6 million 'take it or leave it' offer on the table with no room for negotiations.²⁵ The reparations, known as the Indigenous Wages and Savings Reparations Scheme, were to be distributed in one off payments of between \$2000 and \$4000 to individuals who'd had their wages withheld.²⁶ Beattie acknowledged that this figure was far lower than what had been stolen but considered that his offer was 'generous'.²⁷ Spence revealed that the government 'acted on the advice that no money had been systematically stolen', that the reparations were designed to 'alleviate the hurt in Aboriginal communities' and that they 'paid as much as the government could afford'.²⁸ The offer was initially accepted by negotiation leader 'Sugar' Ray Robinson although many in the team were disappointed.²⁹ Community response was mixed, with some believing the offer was 'too little, too late' and others believing it was the best that they could hope for.³⁰ It was later argued that the sum was insufficient and accepted without proper community consultation.³¹ The Indigenous policy of the Beattie government generally has faced significant criticism because of its paternalism and lack of communication with the Indigenous community.³² Subsequently, the campaign was resumed to fight for higher rates of compensation and to include the descendants of affected individuals among those who were entitled to receive compensation.

During the early 2000s the QNU was already at odds with the Beattie Labor government over stalled enterprise bargaining negotiations. The heightened radicalism and discontent of its members in this period allowed the QNU to quickly become involved in the Stolen Wages case. The QNU entered into its fifth round of enterprise bargaining in 2002, and in the same year the QNU launched the 'Nurses: Worth Looking After' campaign in order to alleviate the nursing shortage by 'rebuilding nursing as an attractive career option.'³³ The QNU argued that an increase in wages was essential in order to attract new people to the profession and warned that it was prepared to use strikes and work bans to achieve its objectives.³⁴ Engagement with the EB5 campaign was heavily encouraged in monthly magazine, *The Queensland Nurse*, with numerous dedicated articles in each issue during 2002 and 2003. The campaign involved work bans at about 100 hospitals as well as numerous strikes across the state.³⁵ Involvement in protest activities typically creates a sense of

²² Ibid.

²³ Kidd, *Trustees on Trial*.

²⁴ Ibid.

²⁵ Ibid.

²⁶ Robin Banks, 'Stolen Wages: Settling the Debt', *Australian Indigenous Law Review* 12 (2008): 55-67.

²⁷ Bowden et al, *Work & Strife in Paradise*.

²⁸ Centre for the Government of Queensland, *Queensland Speaks*, Judy Spence interviewed by Danielle Miller, 1 March 2011, www.queenslandspeaks.com.au/judy-spence.

²⁹ Kidd, *Trustees on Trial*, 7-8.

³⁰ Ibid., 10-18.

³¹ Christine Howes, 'Stolen Wages Update' (Brisbane: ANTaR, 2003).

³² Micheline Astley-Boden, 'From Bjelke-Petersen to Beattie: The Evolution of Queensland's Indigenous Policy', *Centre for the Government of Queensland Summer Scholar Journal* 1 (2011).

³³ 'Fed-up Nurses Issue Strike Threat', *Sunday Mail*, 10 March 2002, 13; Queensland Nurses' Union, 'Nurses. Worth Looking After', campaign update, web.archive.org/web/20040111011559/http://www.qnu.org.au/news_and_notices/press_releases/june_2002. Accessed 15 January 2014.

³⁴ 'Fed-up Nurses Issue Strike Threat'.

³⁵ 'Nurses. Worth Looking After'.

camaraderie which can be used to mobilise members for other protest activities.³⁶ This industrial action created a more radically mobilised membership, more willing and motivated to protest against the Queensland government. The QNU was disappointed by the outcome of the 2002 EB5 campaign and a substantial pay increase was not achieved until 2005.³⁷ Furthermore, the new agreement did not result in any real increase in nursing numbers.³⁸ This led to feelings of disenchantment and frustration towards the Beattie government. Similarly, the Stolen Wages campaign was unsatisfied by the outcome of their compensation negotiations. This tense relationship with the State Government created an atmosphere which made the QNU more willing to become involved in campaigns against Government frugality such as the Stolen Wages campaign.

Throughout the Stolen Wages campaign the QNU was involved in many capacities. Prior to the Beattie government's offer, unions gave support to the campaign in the form of legal assistance for claimants. A string of successful legal cases prompted the government to offer the compensation, a move that caused 'a surge of support for Aboriginal workers in Queensland from unions and community groups across the country.'³⁹ The QCU, the peak body representing many unions including the QNU, declared its support for the Stolen Wages campaign in 2002.⁴⁰ At a 2003 rally, QCU Secretary Grace Grace explained, 'it is a wage justice issue, which is a union issue.'⁴¹ In a 2014 interview, Grace recalls the process by which the QCU became involved: 'We had an Indigenous industrial officer... I think they came to us for help straight away and I took it up straight away and we got involved straight away. I think it went to our executive, it got endorsed as us assisting. Really it was more to get the unions to understand the issue and to get their support as well.'⁴²

The QNU was one of these affiliated unions and provided a similar official endorsement. Support from the QNU provided a high level of legitimacy to the campaign because of the level of respect that the profession commands in Australian society. According to QNU research and policy developer, Liz Todhunter, 'Because the community trusts and respects the profession when nurses speak out about an issue, the general public tends to listen.'⁴³ Following the 2002 offer the QNU and the union movement as a whole became more vocal. At a 2003 rally, QNU Assistant Secretary Beth Mohle declared, 'On all of the levels, on an industrial level, social justice level and on a health level, the Queensland Nurses' Union supports this campaign to see Stolen Wages properly paid to the Indigenous community of Queensland.'⁴⁴ She argued: 'What the Queensland government is currently offering is insufficient to address this past injustice - surely this offer is not the action of a smart state or a fair state. We can, we must do better than the offer that is presently on the table.'⁴⁵ At the rally, the Queensland Council of Unions launched a post card campaign to raise awareness of the Stolen Wages issue, which was supported by the QNU as well as numerous other

³⁶ G. Strachan, 'Not Just a Labour of Love: Industrial Action by Nurses in Australia', *Nursing Ethics* 4, no. 4 (1997): 294-302.

³⁷ Liz Todhunter, 'Innovation and Democracy in the Queensland Nurses' Union (QNU)', Queensland Nurses' Union, 2009.

³⁸ Queensland Nurses' Union, '2003-04 Queensland Government Budget: No Extra Nurses', [web.archive.org/web/20040111012124/http://www.qnu.org.au/news_and_notices/press_releases/june_2003](http://www.qnu.org.au/news_and_notices/press_releases/june_2003). Accessed 15 January 2014.

³⁹ Howes, 'Stolen Wages Update'.

⁴⁰ Ibid.; John Anderson, 'Aboriginal Pay Claim Endorsed', *Townsville Bulletin*, 21 June 2002.

⁴¹ Vera Devai, 'Unions Wage War on Indigenous Stolen Wages Issue', *Australian Associated Press General News*, 8 August 2003.

⁴² Centre for the Government of Queensland, *Queensland Speaks*, Grace Grace interviewed by Robin Sullivan and Ruby Ludski, 10 February 2014, www.queenslandspeaks.com.au/grace-grace.

⁴³ Todhunter, 'Innovation and Democracy in the Queensland Nurses' Union (QNU)', 10.

⁴⁴ Christine Howes, 'Stolen Wages Update 2' (Brisbane: ANTaR, 2003).

⁴⁵ Ibid.

unions. The QNU encouraged engagement with the campaign among its members through their newsletter and website.⁴⁶ Unions also participated by providing legal and political expertise and support to the campaign.⁴⁷ In order for affected people to claim the \$2000 or \$4000 offered by the government, the onus fell upon those people to provide documentary evidence to support their claims.⁴⁸ Union legal expertise was invaluable in supporting these claimants.

Despite the efforts of Indigenous communities and unions, the Stolen Wages campaign cannot be described as a success and is still ongoing. As of 2008, only \$22 million of the agreed upon \$55.6 million had been paid out.⁴⁹ According to critiques, this failed distribution of funds was due to several reasons: the burden of proof falling on the claimant; the cap on payments; and the stipulation that accepting a payment required the forfeiting of any right to claim further compensation.⁵⁰ The QNU has maintained an ongoing interest in the Stolen Wages campaign. A 2009 article in the Union's magazine criticised the mechanisms in place for distributing the compensation and the decision regarding unspent monies. By 2009, when the payment's had ended and much had not been claimed, the Bligh Labor government made the decision to begin a second round of payments to the sum of \$14.6 million with the remaining, \$21.1 million to be placed in a fund to support Indigenous education.⁵¹ The QCU and the QNU have criticised this decision as it 'perpetuates the original injustice suffered by Indigenous workers and denies them the closure that Peter Beattie spoke of in 2002.'⁵² As of 2014, the QCU continues to list the Stolen Wages Case as an active campaign although the QNU is no longer directly involved.

The QNU, however, remains active on social and Indigenous issues, some of them affecting its members and some relevant to the wider Indigenous community. The QNU has an interest in Indigenous health, including fighting to save jobs at The Torres Strait-Northern Peninsula Hospital and Health Service in Far North Queensland from the health cuts imposed by the Newman LNP government in 2013.⁵³ Furthermore, several of their Indigenous members, including Beryl Meiklejohn and Dr Sally Goold have made significant academic contributions to Indigenous studies. Both academics have lectured in Indigenous health at Queensland University of Technology and Griffith University respectively. Beyond the concerns of its membership base, the QNU displays an interest in the wider concerns of the Indigenous community, with its website and magazine featuring information about Indigenous health, wages and conditions.⁵⁴ Similarly, one of the key values on their website states, 'The QNU respects the fact that indigenous Australians are the original owners of our land, and that reconciliation between indigenous and non-indigenous Australians is a vital goal.'⁵⁵ Furthermore, on 19 February 2013 the QNU signed a pledge to give their resources and support to Indigenous people fighting for land rights.⁵⁶ These statements emphasise QNU's ongoing commitment and support for Indigenous campaigns in Queensland.

⁴⁶ *The Queensland Nurse*, 22, no. 6 (2003); Queensland Nurses' Union, 'Campaigns'.

⁴⁷ *The Queensland Nurse*, 22, no. 6 (2003).

⁴⁸ Thalia Anthony, 'Indigenous Stolen Wages: Historical Exploitation and Contemporary Injustice', *Precedent* 118 (2013): 42-46.

⁴⁹ Banks, 'Stolen Wages: Settling the Debt', 55.

⁵⁰ *Ibid.*

⁵¹ 'The Stolen Wages campaign', *The Queensland Nurse* 28, no. 5 (2009): 27.

⁵² *Ibid.*

⁵³ Janelle Miles, 'Health Jobs to Go in Remote Region', *The Courier-Mail*, 22 January 2013, 2.

⁵⁴ Sally Goold, 'As a Matter of Fact: Answering the Myths and Misconceptions About Indigenous Australians Review', [web.archive.org/web/19990224220715/http://www.qnu.org.au/atsicbook.htm](http://www.qnu.org.au/atsicbook.htm). Accessed 15 January 2014.

⁵⁵ Queensland Nurses' Union, 'Statement of Queensland Nurses' Union Values'.

⁵⁶ Queensland Nurses' Union, 'Social News', www.qnu.org.au/your-life/social-justice/social-news. Accessed 3 February 2014.

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