

In Conversation with Joshua Creamer: A Speedbump on the Way to Progress



Josh, barrister Melia Benn and lawyers from Shine Lawyers working on stolen wages in the Tiwi Islands.

Interview by
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The Centre reached out to Queensland barrister Joshua Creamer to hear about his pro bono work advocating on Indigenous issues, recent cases challenging structural racial discrimination and his response to the Voice Referendum result.

OLIVIA: Tell us about growing up in Mount Isa and how you came to study law.

JOSHUA: My life now is probably the furthest away from any dream I could have had as a child. Honestly, I didn't know any lawyers. The

only real opportunities in Mount Isa were working in the mines or the Council. My mother and stepfather separated, and my mother moved us out to Yeppoon in Central Queensland. I started working part way through school, in a butcher shop, and then I ultimately did my trade after I completed grade 12.

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I always wanted more and knew there was a whole world out there and I was interested in law, politics, social justice and Indigenous rights. Law seemed like a really good fit, and fortunately Griffith accepted me and I started from there.

O: You moved your Mum's admission a few years back. How did you feel doing that?

J: Pretty special. Probably the only day I've ever been nervous in court. And I wasn't dressed properly - I didn't put my jabot on properly.

It was a relief because my mum has had a pretty hard life. Her mother died when she was a baby, and she only went to Grade 9. She had two partners who beat her. She's had a tough run and she

put all her dreams on hold. Then once she saw her four children leave home, she could go do something for herself, and make an investment in her own learning. It wasn't easy for her to get admitted. It took a bit of work and time,

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and to get her over the line was very special for the whole family. I think it was also important for her to get some public acknowledgement of the struggles that she’s had to get through.

O: Were the themes of social justice instilled throughout your childhood by your mum?

J: I look at my family from Mount Isa, and they’ve got a strong sense of community. My grandfather was really well known throughout that region and would open his door to anybody. And my mother is a very determined person. When we were children she spoke to us about Indigenous rights, social justice

issues, public issues, and she wanted us to have an opinion on all those things. More importantly, she wanted us to be involved in those things.

O: Tell us about some of your proudest career moments and milestones.

J: It’s not so much the milestones, but what really stays with me.

Firstly, the people, like Lex Wotton, who was instrumental in leading the Palm Island Case (*Wotton v State of Queensland* [2016] FCA 1457). I spent so much time with Lex and his family over probably two or three years and still have a close relationship with them. Then people like Hans Pearson, who was the applicant in the Queensland Stolen Wages Case (*Pearson v State of Queensland (No 2)* [2020] FCA 619) and Mervyn Street from the Western Australian Stolen Wages Case (ongoing).

So there’s those people, but also the stories are really special. I’ve come to learn Australia’s history through working on these cases and hearing the stories first-hand from people who were in the missions, worked on cattle stations or women working as domestics, and children in the Northern Territory who were removed from their families. Eileen Cummings is another really special person – she was an applicant in the Stolen Generation case.



Josh and Kara announcing the inaugural recipient of the Griffith University Joshua Creamer and Kara Cook Excellence in Law Award, Alicia Smyth.

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O: Can you share some of your recent work in the Stolen Wages cases?

J: *Street v State of Western Australia* is definitely all-consuming at this very minute. It’s a case I’ve been involved with now for six years. There’s been an extraordinary amount of time in the Kimberleys.

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On 1 November 2023, the Western Australian government announced they had reached a settlement in the Stolen Wages Class Action. Eligible Aboriginal and Torres Strait Islander people who worked in Western Australia for zero or little wages between 1936 and 1972 will be able to claim up to \$16,500 each, with \$180 million in total available in the fund, including costs.

The case has recently settled for \$180 million and there are a number of steps the parties will need to undertake in order for the Court to approve the settlement. I have had calls from group members and the important part has been the acknowledgment of Aboriginal people’s experience under that system. The apology which will be given in Parliament at the end of November is integral to that acknowledgement.



Josh moving the admission of his mum, Sandra Creamer.

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A more recent one was a 16-year old girl in Townsville, which is still ongoing. She was at school being questioned by police as a victim of sexual assault. She went to a disability school in Townsville, and they started tasing her. She now has up to 50 seizures a day. A community legal centre contacted me last year, and

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O: Tell us a bit about the pro bono work that you do.

J: Three cases really stand out for me. The first one is the Elijah Doherty case in Kalgoorlie, where a young boy riding a motorbike got run over and killed. I appeared on a very discrete issue, where the accused was trying to get the trial transferred from Perth back to Kalgoorlie. I appeared as amicus curiae on behalf of the family to argue against that.

We had all this material that demonstrated that Kalgoorlie was very racist, and the state would not receive a fair trial. It was a really interesting argument, because there’s all this stuff about the accused getting a fair trial. The judge didn’t give us leave, but also did not transfer the case back to Perth.

said they were going to mediation with the police and the state education department. They had five or six lawyers in the room, and on our side it was just me and the community legal centre lawyer. We got that moved from the Queensland Human Rights Commission into the federal Australian Human Rights Commission. We got through that mediation only because we had to. The priority was getting it terminated and now that matter is fairly well advanced.

Then there was one from last year, an Indigenous law professor who brought a discrimination complaint against the Queensland Police Service to the Queensland Civil and Administration Tribunal.

They are probably the three that stand out for me, and they are all cases involving Indigenous people. There’s no way you cannot put your hand up to try and help out in those instances. When you read the facts of the case and you hear about these kids just getting railroaded you know that you can come in and bring another team of lawyers in and get a really decent result.

But if you can make an impact, why not?

O: The Voice to Parliament Referendum result came through a few days ago, and this week has been very intense and sad. I want to check in and see how you are feeling after Saturday night, after the Voice result.

J: The way I think about the Voice is it’s just a speed bump on the way to progress. I know it’s a big hit, but it’s certainly not going to stop.

There’s a lot of people in the Aboriginal community that, whether it’s a death in custody or a suicide or a death in an accident, live with these types of things all the time. It’s an enormous hit across the nation. But it has to be seen in the context of people’s everyday lives as well and like I say, it’s a speed bump for me. For the Aboriginal community and allies out there, there’s strong motivation for change, so it’ll keep moving on.

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O: What more would you ask of the legal profession in terms of what these next steps are going to be?

J: Queensland passed the *Path to Treaty Act 2023* (Qld), and that calls for truth-telling and treaty. The truth-telling is something, given my work over the last decade, which I think is critically important and it’s probably something which could have tipped the balance and a lot of people would have understood why we need to make these changes in the Voice.

It’s important for all of us to get behind the truth-telling and treaty process and whatever comes next after the Voice.

O: What can the legal profession do better to increase representation for First Nations lawyers?

J: There’s a big structural discrimination issue that exists. I don’t know across every jurisdiction, but in Queensland Indigenous children are diverted away from university, and pushed into vocational training. The second thing is that the ones that go to university are then working for government rather than the private sector. I really want to see them in the private sector because I want to get them to the bar and the bench.

You need representation at all levels and some awareness around what the barriers are is important. The reason my wife and I established the Joshua Creamer and Kara Cook Excellence in Law Scholarship is because financial support is an issue, but the big thing that we can provide is

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Josh and the legal team at Uluru while working on stolen wages in the Northern Territory.

open access to our networks, trying to bring female First Nations law students into our networks.

A third part is mentoring. For the two successful [scholarship] recipients that have come through already, the conversations I’m having with them are conversations which I think their parents would have with them if they were second or third generation lawyers.

O: What advice do you give to aspiring First Nations lawyers?

J: I tell them to go to the bar. It’s just instilling that sense of confidence and showing what the opportunities might be and they are two really critical parts. Sometimes they just need a little nudge to be told that they can do it and [going to the bar] is an option.

My work is all about trying to make an impact in the Indigenous community, and I’ll look at any opportunity I can to do that. ■



Joshua Creamer is Waanyi and Kalkadoon. He has a national practice and specialises in class actions and native title, appearing in in two landmark class actions, *Wotton v State of Queensland* [2016] FCA 1457, (the Palm Island Case), Australia’s largest racial discrimination case, and *Pearson v State of Queensland (No 2)* [2020] FCA 619, (Stolen Wages QLD), Australia’s largest human rights case. In 2023, he was appointed to the Queensland Law Reform Commission. Josh is ranked in *Chambers and Partners Asia-Pacific* and *Doyle’s Guide* for his work in the native title jurisdiction.

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