

Submission

to

Senate Employment, Workplace Relations and Education
Legislation Committee

Inquiry into the Workplace Relations Amendment (WorkChoices) Bill 2005

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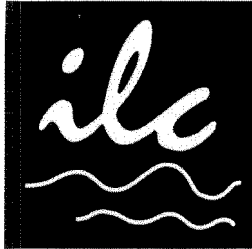
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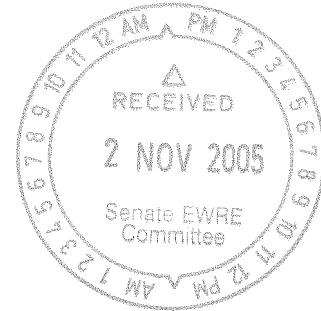
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28 October 2005

The Secretary
Senate Employment, Workplace Relations and Education Committee
Department of the Senate
Parliament House
CANBERRA ACT 2600



Dear Sir or Madam,

Re: Inquiry into the Workplace Relations Amendment (Workchoices) Bill 2005

The Illawarra Legal Centre is part of a national network of community legal centres which provide free legal advice, information, education, representation, law reform and advocacy to members of the public. The Illawarra Legal Centre is a not-for-profit organisation funded by grants from the State and Federal governments. Our aim is to provide access to justice for the more disadvantaged sections of society, particularly those people who are disabled, young people, women, people who are from a low socio-economic background or who are from a culturally and linguistically different background (CALD).

One of our areas of legal practice is the provision of advice and representation in unfair dismissal, particularly those involving an element of discrimination. We are aware that this inquiry will not consider reform of unfair dismissal arrangements, and so we wish now to make the following general comments expressing our deep concern at the impact the proposed changes will have on our clients.

1. "If it's not broken don't fix it."

This phrase was John Howard's mantra during the Republic debate several years ago. We believe it is applicable to this debate also.

There is no equivocal evidence that the existing employment regime is "broken". If we are to believe the Commonwealth Government, employment levels have risen steadily over the past few years and are at an all time high. We question what is to be gained by introducing radical changes, without proper debate or scrutiny, which will in fact have a negative impact on the lives of millions of individuals.

2. The changes won't result in higher levels of employment.

There is no evidence that employers will employ more people if they have greater flexibility. To assert otherwise is based on an assumption that all businesses want to expand. There is no basis for that assumption. Businesses want to be profitable. They don't all want to be big.

Therefore, the only certainty arising from the creation of a cheaper, more vulnerable workforce, is greater profits for the employers. There is no basis to expect that all employers will share those profits with their employees.

3. The changes will have a negative impact on the well-being of workers.

The changes which are proposed will certainly lead to workers feeling unsafe and disadvantaged in their employment. They will be unable to plan for their futures, for example committing to mortgage payments, if they have no certainty over their future employment.

4. There can be no equality in the bargaining power between employer and employee.

To assert otherwise is ridiculous and ignores the reality of the employment relationship. To suggest otherwise assumes that all employees are highly skilled and therefore highly desired by the prospective employer (and therefore in possession of a valuable bargaining chip), assertive, eloquent, well-informed, experienced and with highly developed negotiation skills. It also assumes that all employers are not motivated by profit and keen to reach a deal (in the form of an AWA) which is to their best advantage.

5. An ideal of individual workplace agreements is not workable.

It is naïve to suggest that individuals will be able to negotiate agreements tailored to their needs. To achieve that ideal requires employers being open to entering individual agreements with all employees. Such a proposition is clearly not feasible. The likely reality is that, in order to create a uniform working environment where all employees are treated equally, employers will present a proposed agreement to prospective employees and they will be presented with the option of either taking it or leaving it.

6. The interrelationship between the proposed IR reforms and the proposed "Welfare to Work" scheme will have a severe and negative impact on many disadvantaged workers.

The Prime Minister is no doubt aware that it will be impossible for people moving from Centrelink benefits into the workplace to negotiate a fair workplace agreement. If they refuse to accept an agreement then benefits will be suspended. For people living week to week on benefits, and therefore unable to support themselves and their dependents while benefits are suspended, it will not be an option to refuse to accept employment regardless of how unfair the conditions may be.

7. In conclusion

The Illawarra Legal Centre is deeply concerned about the negative impact which the proposed IR changes will have not only on workers, but the flow-on negative impact on the families and dependents of workers. The proposed changes do not respect workers as individuals. Workers are being viewed as inanimate objects akin to factory machinery, or stock in trade, existing purely to enhance the capacity of their employers to maximise profits.

We submit that monetary profit is not the true measure of success of any society. Economic measurements do not acknowledge or appreciate the intrinsic value of human happiness or wellbeing. No price can be put on the existence of the feeling of security which comes from knowing that one's job, and income, is secure.

We believe that the proposed IR changes are misguided and unnecessary. We oppose them in the strongest terms possible.

Yours faithfully,



Karyn Bartholomew
Principal Solicitor