

# Submission

to

Senate Employment, Workplace Relations and Education  
Legislation Committee

## **Inquiry into the Workplace Relations Amendment (WorkChoices) Bill 2005**

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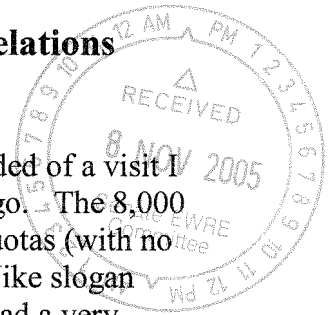
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## Submission to Senate Inquiry into the Workplace Relations Amendment (WorkChoices) Bill 2005



When the industrial relations changes were first proposed, I was reminded of a visit I made to a factory in Indonesia making Nike sports shoes a few years ago. The 8,000 workers in the factory worked long hard hours to fulfil unreasonable quotas (with no unpaid overtime), for a wage then equivalent to Aus\$2 per day. The Nike slogan “Just do it” (meant, I believe to encourage us to “follow our dreams”, had a very threatening ring to it in that environment.

At the time I thought how fortunate we are in Australia that there are regulations preventing this sort of exploitation. Now I am afraid that we about to see this protection eroded for many of the least skilled and lowest paid workers in Australia.

Undoubtedly the factory created jobs – 8,000 of them. Also undoubtedly the 8,000 workers preferred employment there to starvation. However, in the conversation I had with them in the evening, they were tired, dispirited, lacking hope for the future. There was no sense that they felt a greater self-worth because they were employed there.

With the claims made by the government that the new legislation will (a) increase jobs and (b) make us more internationally competitive, I ask myself whether we are on the way to creating employment situations in Australia akin to that of these young Indonesian workers. It seems to me that the only way employers will increase jobs to any significant extent will be by slashing wages. And could Australia ever compete in the low waged, low skilled jobs with countries like China, India and Indonesia?

**Outworkers and “WorkChoices”:** One group of workers in particular is likely to lose whatever gains have been made for them over the past few years. I refer to outworkers. Their situation reminds me in a number of ways of the young Indonesian factory workers. In the clothing industry, about 75% of companies have most of their work done by women working at home. According to the Senate Economics References Committee, ‘Outwork is now so prevalent [in the fashion clothing sector] that is not just a characteristic of the industry, the entire industry is structured around it’. Who are these outworkers? In Queensland, according to a study done by the Community Service and Research Centre of The University of Queensland in 2004, they number between 20,000 and 25,000 people (over 320,000 Australia- wide), mostly women, living across the state, but particularly in the south east. Actually, it is impossible to state their numbers accurately because they are hidden in their homes and garages and very reluctant to make themselves known in case they lose the work. Many are Vietnamese, though other ethnic groups are also represented. They are generally aged between 30 and 50 years and have poor English skills, which makes it very difficult for them to find alternative employment.

They are paid by the piece at very low rates: in the UQ study, participants reported receiving rates of between \$2 and \$5 per hour for their work. Like the young Indonesian workers, they may have to meet high quotas – between 100 and 200 garments per week, which means working 12 to 15 hours per day and over weekends to meet the deadlines.

Although the pay is poor and the hours are long, the women certainly want to keep their jobs. They have children to care for at home and the nature of the work allows them some flexibility to do this, although one has to wonder how much time they can really give to the children when they are working such long hours. In addition, given poor language skills, they see no alternative employment options for themselves.

From the mid 1990s to the present, Fairwear, a coalition of church and community groups and unions, has been campaigning for greater justice for outworkers. Success has been achieved in getting states to pass laws that protect outworkers. For example, the Queensland Industrial Relations Act 1999 deems all outworkers as employees and not as contractors. The Industrial Relations Amendment Act 2005 of Queensland contains amendments that “ensure that the overall pay and conditions for outworkers are fair and reasonable when compared with the pay and conditions of workers who perform the same work at the employer’s premises under a relevant award”. It is likely that 11 employers will face court in Queensland in the near future for non-compliance with the Code of Conduct. This marks some real progress towards achieving better working conditions for outworkers. These gains could not have been achieved without the work of Fairwear and the Textile, Clothing and Footwear Union.

However, according to a briefing provided by NSW Fairwear after a meeting with the Workplace Relations Minister, Kevin Andrews, these gains are about to be swept aside. All existing outworker protections will be removed or overridden by the proposed new legislation. Outworkers will be deemed to be independent contractors freely entering into contracts for the low wages that they receive. Mechanisms that enable the union to monitor conditions in the clothing industry will be removed. *Individual* outworkers will be able to seek remedies for the exploitations they experience. However, given their generally poor English language skills and their reluctance to take on their employers, even under more benign legal systems, it is most unlikely that individual outworkers will be in any position to fight for their rights in this new dispensation. Their ability to negotiate about things like price per piece or the number of garments to be completed is already highly limited – arguably, they need *more* regulation to protect their rights, not the greater “flexibility” that the proposed new legislation promises.

At the very least, the Federal Government should maintain the current protections, inadequate though they may be, that apply to outworkers in state legislation. Outworkers also need the support of the appropriate union to help monitor their conditions: for most of them, this is their only hope of achieving better conditions.

**Casual and Low Paid Employees and WorkChoices:** The fate of outworkers in the textile industry is likely to be shared by other casual workers in the future under the proposed legislation. We will then see an increase in the population of the “working poor” and the development of a “beggars can’t be choosers” mentality by a number of employers that goes against everything Australians have fought for over the past century. Obviously it will be the lowest paid, least skilled workers who will bear the burden of making us “more competitive” – the ones least likely to be able to exercise any choice in the new WorkChoices environment.

My attention was drawn just recently to a situation facing three workers in part-time employment (all of them women with children and one a single mother) where the employer wishes to change their rosters so that they will work on different days in different weeks e.g. Monday to Wednesday one week and Tuesday, Wednesday and Friday in another) thus making it impossible for them to find other work to increase their income. Is this also the face of the future?

**My Rights as an Employer and WorkChoices:** I find it hard to credit that a bill entitled WorkChoices can prohibit me, as an employer, from including in an agreement with my staff provisions against unfair dismissal and can stop me from allowing employees full access to their union and union involvement. If this is indeed my choice as their employer and we are mutually agreed on this, where does the government find a problem? The word “choices” in the bill’s title appears to be very poorly chosen given the restrictions it places on employers who do want to continue to provide what they regard as a fair and just workplace for their own employees.

I ask the Senate to ensure that any industrial relations legislation contains provisions ensuring fair and just conditions in Australian workplaces. This cannot be left to the goodwill of employers – if they are caught in a race to the bottom, it is their workers who will bear the brunt of this.

Bring the word “fairness” back into the spirit of this legislation and ensure a better future for all Australian workers.

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