

Submission

to

Senate Employment, Workplace Relations and Education
Legislation Committee

Inquiry into the Workplace Relations Amendment (WorkChoices) Bill 2005

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The Workplace Relations Amendment (WorkChoices) Bill 2005 is **extremist**. The Bill will erode the Human Rights of Australian citizens.

The provisions will minimise the ability of the majority of working people to maintain, protect and enhance their economic standard of living and their family and community life styles. It will increase the levels of workforce insecurity.

Abrogation of the Responsibility of Government to Maintain a Fair and Just Australia

1. WorkChoices effectively eliminates the responsibility of the system that sets wages and conditions from having any role to ensure that the level of payment (and conditions) made for labour is at an appropriate rate to allow working people and their families a reasonable standard of living and lifestyle, with dignity.
2. Instead, it is apparent that the primary objective of WorkChoices is to move more power and wealth to the corporations and those individuals who own the corporations. These corporations have no legal or constitutional responsibility for the wellbeing and living standards of the Australian population. The legal responsibility of a corporation is, in fact, to maximise the return for their shareholders. Most of the shares of corporations are owned by other corporations. An extremely small number of Australian citizens own a massive proportion of the corporate wealth of Australia in comparison to the vast majority of the population. WorkChoices is in fact a massive move of power and wealth to a small minority of Australian and overseas interests, at the expense of the Australian population as a whole.
3. **WorkChoices is an abuse of power.** The extreme nature of WorkChoices was never communicated to the Australian electorate prior to the last federal election. The control by the federal Coalition Parties of both Houses of the Federal Parliament is being abused by the Coalition. This abuse of power via WorkChoices will fundamentally undermine the social relations that have created the Australian society that we have today.
4. In comparison to most societies in the world today, Australia is a fairer, less stratified, more peaceful and tolerant society than elsewhere. This has been brought about by the institutions that have been created in the past to regulate our society. One of these is the institution and the system that for the last one hundred years, conciliated and arbitrated in disputes between labour and the owners of capital. This institution existed in the form of the Australian Industrial Relations Commission and the individual state industrial commissions. This system helped create a fairer society in how it allocated the wealth created by our industry. The system also reflected the view that society should acknowledge that it has a social responsibility to have a mechanism to deal with conflict in the workplace as well as a system to deal with the distribution of the wealth created by industry. It reflected the view that the mechanism to deal

with the conflict and wealth distribution should be one that has the respect of the community as a whole, and one that provides a fair outcome, irrespective of the relative difference in the level of power that exists between working people and those that already have the wealth. WorkChoices effectively abolishes this system.

5. Early in the twentieth century, decisions such as the Harvester Judgement reflected the view that the industrial system had a social responsibility to distribute the wealth created in production. The underlying premise of the Harvester Judgement was that wealth created by industry should be distributed in a fair manner to ensure the reasonable living standard of a family that was dependent upon the labour that the worker in that family provided. In other words, the profits of a company were reduced in order to ensure that working people benefited in a reasonable way from their labour. This reduction in business profit to provide reasonable living standards to working people was accepted by the society's moral and ethical values. It was justified so as to ensure fairness and a minimum living standard for all.
6. Progressively during the twentieth century, the role of government increased to provide a greater level of wealth redistribution through the tax and welfare system to the poorer sections of our society. Employees on low levels of wages were also entitled to receive welfare payments. This allowed them to have a greater level of income and to lift them to a living standard that "society" deemed the minimum to be accepted in a modern country. During the twentieth century, under pressure from business, the industrial system's social responsibility to ensure that the minimum wage provided the minimum living standard for that worker was reduced. It became accepted that the minimum wage would be topped up by low wage earners being entitled to welfare benefits. The socially accepted obligation that had previously existed for the wages system alone to provide reasonable living standards was eroded to one where welfare had to supplement wage income.
7. The functions of the AIRC under the present Act at Section 88B(2) states:

"the Commission must ensure that a safety net of fair minimum wages and conditions of employment is established and maintained, having regard to the following:

 - (a) the need to provide fair minimum standards for employees in the context of living standards generally prevailing in the Australian community;
 - (b) economic factors, including levels of productivity and inflation, and the desirability of attaining a high level of employment;
 - (c) when adjusting the safety net, the needs of the low paid."

WorkChoices will abolish any requirement that the AIRC or the new Australian Fair Pay Commission “must ensure that a safety net of fair minimum wages and conditions of employment is established and maintained”. WorkChoices also abolishes any requirement that the industrial system must take into account “the needs of the low paid”.

WorkChoices delivers the demands of those employer zealots who believe that they have no social responsibility as the owners of business to share the profits of their business in a way that provides minimum standards of living to the low paid. These employers have the support of the Coalition government. WorkChoices will ensure that unskilled labour will not receive a decent living wage through the industrial system.

8. In more recent times, the Coalition and business are also trying to reduce taxation and the role and size of government. They also consistently demand harder income and eligibility tests for persons at the lower income levels to be able to access welfare support. Persons at lower income levels are being pressured and attacked from two directions. On the one hand, the coalition government supports the corporation view of the world that business should not have a responsibility to ensure a minimum living standard to be provided through the industrial system; on the other hand, and again with the support of business, the Coalition persistently tries to reduce its welfare support to the unemployed and to those in low paid employment.
9. At the same time that these pressures are being increased against the least well off in our society, there has been a significant increase in the share of wealth being held by the richest 10% of the population. This is occurring when there has been a loss in the share of the nation’s wealth held by the poorest 60% of the population.

It is clear from this that WorkChoices will further tilt the balance of power and wealth to favour corporations and the wealthy.

10. The WorkChoices legislation will deliver over time, **the atomisation of the Australian workforce.**

It will remove the ability of the workforce to effectively collectively bargain as more employees are forced on to AWAs. The provision in the Bill at (S100A) forces a worker who is already covered by a collective employee agreement to remain on that collective agreement until its nominal date is reached, even if a new collective agreement is entered into by the employer relevant to all employees. This will further undermine the ability of groups of employees to achieve the required level of collective strength to meaningfully negotiate by collective bargaining.

11. WorkChoices will **massively undermine collective bargaining.**

It will progressively take away the ability of working people to join together as a group to collectively bargain in their attempt to match the power of the employer. Individual employees and small groups of employees, especially those at the lower skill levels, have never had, and will never have the power to ensure that an employer will bargain with respect and the acknowledgement of the dignity of working people. Australian working people who depend upon wages will be totally dependent upon the "fair-mindedness" of their employer.

12. **Fair minded employers will be undercut and their businesses placed in jeopardy.**

Employees will be totally dependent upon the integrity and fair mindedness of a particular employer. Over time, in industries where some employers will use WorkChoices to exploit and reduce the wages and conditions of employees, fair minded employers will be undercut and this will lead to either them going out of business, or alternatively, having to also cut the wages and conditions of their employees in order to compete. The race to the bottom will have begun. This will lead to a spiralling downward movement in the wages, conditions and living standards of workers in these industries. Consequently, a reduction in the living standards of a growing proportion of the Australian population is inevitable.

13. This capacity for unscrupulous employers to drive down the salaries and conditions of working people will further increase the share of this nation's wealth to the ownership of the already immensely wealthy. This will lead to extreme divisions in our society, and may lead to a reduction in safety, tolerance and security. This is not acceptable.

14. In this context, workplace tensions and conflicts are likely to escalate, but WorkChoices will systematically remove the Australian Industrial Relations Commission from having any role in the conciliation or arbitration of the majority of disputes unless the employer agrees that the Commission can have such a role. This is absurd. Why would the Australian government introduce into our society an industrial system that will increase rather than decrease, the level of social disharmony and dislocation?

15. The reality is that conflict in the workplace is a given. It is a social responsibility of a civilised society to create respected institutions that can assist in the resolution of this conflict. It is an obligation of a responsible government to ensure these institutions exist and function to resolve industrial disputes. Industrial conflict must be resolved in a way that does not lead to its escalation or to its unjust suppression. The AIRC has had the respect of our society and the fair minded parties to industrial disputes to be able to conciliate and to arbitrate disputes when required.

It is socially irresponsible for the Australian Federal Government to legislate by WorkChoices, a new industrial relations system that places no responsibility on

government to provide a respected system to fairly resolve industrial disputes. WorkChoices gives the power to unscrupulous employers to refuse to agree to any form of arbitration. This is an abrogation of responsible government if we are to have a civilised society.

16. WorkChoices will undermine the democratic basis of Australian society by:

- (i) Minimising the role of trade unions, and in too many cases destroying totally the ability of trade unions to represent the interests of working people and the disadvantaged.
- (ii) Removing the right of the elected Federal Parliament to consider, debate and amend laws relating to the industrial system by the excessive number of provisions in WorkChoices that allow Regulations to be made that will control the fundamental rights and obligations of employers and employees. There are approximately 270 places in the Bill that authorises the production of future Regulations. Concern is also that these Regulations will, in the main, be made to the detriment of employees.
- (iii) Unilaterally and potentially in contravention of the Constitution, removing the legal rights of state governments to legislate for industrial matters relating to corporations in their own states.

17. The capacity to call a society a "democratic society" goes to more than the right of the citizens of that society to vote for an elected government. Trade unions are an integral part of civil society. They have appropriately intervened in our society on many fronts to ensure that Australian society is democratic. These fronts are broader than the immediate responsibilities and obligations of particular employees and employers. Historically trade unions have raised crucial issues in the areas including OHS, welfare support for the disadvantaged, the rights of minority and exploited groups, peace and international obligations, environment and discrimination.

18. The historical high quality of Australia's democracy has been created because our society has had trade unions and other non-government organisations (frequently voluntary organisations that have also been supported by trade unions) advocating for these issues to be dealt with by government. The likely consequences of WorkChoices will be to severely deplete the capacity of trade unions to advocate on these extremely important social and community issues. Trade unions have historically advocated for the needs of the most severely disadvantaged in our society so that in our democracy, the needs of these groups are heard by government, and government is forced to respond.

19. The obvious intention of WorkChoices is to attack the existence of trade unions in Australia, and to undermine the capacity of unions to represent the interests of their constituencies.

20. **WorkChoices will erode the capacity of Australian trade unions to effectively advocate in our society and this will undermine the quality of Australia's democracy.**
21. Australia's democracy is also judged by assessing the ability of our elected Federal government to properly create and debate the legislation for our nation. Work Choices gives excessive power to the administrative arm of government to establish Regulations in at least 270 areas affecting the rights of working people. The affect of devolving this power to Regulations is to take away from the elected Parliament its capacity to publicly review, question and amend the laws that are to be established. This is a depletion of parliamentary democracy and a movement of significant power to executive government. This is proposed to happen in an area that fundamentally affects the standard of living and human rights of the majority of the Australian population.
22. **WorkChoices undermines the role and responsibility of our democratically elected Parliament to determine our nation's industrial laws and in so doing undermines Australia's democracy.**
23. Australia is a federation of states. If it is agreed that a national system of laws was preferred to regulate industrial matters then a more proper and democratically reasonable manner to achieve such a national system would be to facilitate genuine negotiations between federal and state governments, trade unions and business. This process would require all parties being recognised as legitimate players to bring about a new national system. Instead, WorkChoices is forcing all players to conform to an ideologically driven model that shows little concern for working Australians.
24. The underlying premise of the ideology that underpins WorkChoices is that working Australians only live in an economy; that working Australians' purpose is to produce for that economy but within that economy only a very few people get the maximum benefit of the wealth of that economy. What is lost in WorkChoices is that in a civilised society the purpose of the economy is to serve the interests of the community, and that the quality of life of the community is determined by factors far more broad than the narrow interests of the economy.
25. What we are witnessing through WorkChoices is that those forces in our society that only see the interest of the economy as paramount now control the elected government. The elected government is prepared to abuse the total power that it has from its control of both houses of Parliament. This behaviour is a severe destabilisation of Australian democracy.