

Submission

to

Senate Employment, Workplace Relations and Education
Legislation Committee

Inquiry into the Workplace Relations Amendment (WorkChoices) Bill 2005

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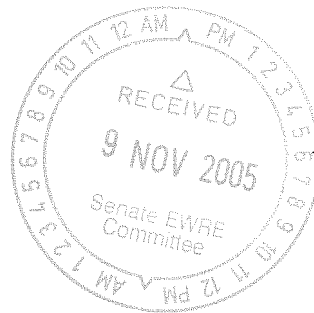
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**Submission by Northern Rivers Community Legal Centre to the
Inquiry into the Workplace Relations Amendment (WorkChoices)
Bill 2005**

Tenants Service:
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We are a community legal centre servicing the Far North Coast of New South Wales. The coastal strip of our area is growing rapidly and yet the region as a whole is one of the most disadvantaged in Australia with high numbers of income support recipients and high unemployment. Many of our clients seek advice about employment related matters including unfair dismissal and unfair terms and conditions in employment contracts. Most of the clients we see about employment related issues are employed in the hospitality, service, manufacturing, horticultural and transport related industries. As such they are precisely the types of workers most affected by this legislation, and in our experience, those least likely to be able to maintain the current levels of pay and conditions they enjoy under the relevant awards.

Domestic Violence Service:
1300 720 606
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We fear that the changes proposed by the Workplace Relations Amendment (WorkChoices) Bill will adversely affect many members of our community; both those who work and those who seek employment. We are appalled at the time allowed for making submission to your inquiry, particularly in light of the length and complexity of the Bill. This submission is an effort to comment on those areas we have identified as posing a serious threat to the rights of many of our community members but in no way reflects the entirety of our objections to the changes.

Inquiry Process

The introduction of the Workplace Relations Amendment (Work Choices) Bill 2005 represents the most significant shift in industrial relations in Australia since the 1980's when the award system was restructured and the concept of a safety net for workers was introduced. The significance of the Bill is highlighted by the parliamentary process that has followed since its announcement and its introduction in the House of Representatives in October 2005.

The Senate considered it necessary to pass a motion on 12 October 2005 referring the Bill to the Senate Employment, Workplace Relations and Education Committee at the same time as the Bill was introduced into the House. The role of the committee is to investigate and draw attention to what they find, throw "light in dark corners"¹ and give advice on matter of public policy. The Senate refers matters to its committees because it considers that "matters warrant detailed examination and it provides an opportunity for organisations and individuals to make representations to Parliament"². In particular the Legislative Scrutiny Committees, such as this one, have the role of scrutinising bills to ensure that they conform to certain principles mainly concerned with civil liberties.

Hence, the role and process of Senate Committee Inquiries is central to the democratic process purported to be enshrined in Australia and one whose role is to ensure scrutiny of proposed legislation and the protection of civil liberties.

We contend that the time-frame set by the government for the senate inquiry into the Workplace Relations Amendment (Work Choices) Bill 2005 undermines the democratic process discussed above and represents a departure from the underpinning principles of Australian politics. It mocks the role of this extremely important committee and allows only a token examination of a Bill that significantly affects the civil liberties of Australians.

In contrast to other Bills examined by this committee, the government has provided a ridiculously limited amount of time to consider a voluminous and complex Bill which radically alters industrial relations in Australia. In the last year, the time-frames allowed by the government for senate inquiries into employment and workplace matters have been in excess of two months, with this time-frame only allowing one week for submissions. The time-frame is disproportionate to the significance and complexity of this Bill and begs questioning of the government's commitment to democratic process.

The Bill will NOT carry forward:

Evolution of Australia's workplace relations system to improve productivity

The Workplace Relations Amendment (Work Choices) Bill will not improve productivity as it will create a workforce that is undervalued by employers in contrast with productivity. But what is a business without its workers? The proposed reforms, which herald flexibility, will result in workers having fewer entitlements (only 5 minimum standards) and fewer avenues for redress when they are treated unfairly by employers. Such an environment will be detrimental to the well being of workers and productivity. Our clients share with us their negative sentiments resulting from underpayment of entitlements or unfair treatment and how difficult it is to continue working in that environment.

¹ Senate Brief No. 4 June 2004.

² Ibid.

Increase of wages

The increase in wages proposed by the government under this Bill is dependant on the cashing-in of entitlements, long enshrined in Australian culture. Will workers truly benefit from the extra 2 weeks wages (after tax) rather than time away from work with family or pursuing other interests? Can that really be called increase in wages or rather the undervaluing of the workforce? Further, it will only be the articulate and confident workers who will be able to negotiate increased wages through an agreement making process. Most of our clients would be unable to engage in discussions about entitlements let alone increased wages.

Balance of work and family life

The proposed increase in productivity under the Bill relies on more hours of work and lowers costs for employers. That does not correlate with workers being able to spend more time with family but rather longer days and weeks with fewer penalties. Using the example discussed above, how can a worker who trades their leave entitlements due to the financial needs of their family, have more time to spend with their family? Our clients often present with struggle to balance work and family under an award system that guarantees a range of paid leave entitlements – it is horrific to imagine the increased pressures under the proposed reforms.

Recognition of entitlements already gained through the bargaining process.

The action of reducing allowable award matters is an insult to workers who have over many years requested and attained increased entitlements in exchange for increased productivity and in recognition of basic human rights. The allowable matters should be increased.

The ability of workers to negotiate on an equal footing.

Our clients have difficulty understanding and enforcing their legal rights under the current regime and we anticipate another category of the working poor will emerge in Australia. This new category will be those workers who are part-time and casual employees for the whole of their working lives, able to be dismissed without reason and never accruing any entitlement to sick leave, holidays, long service, redundancy, paid family leave. Even those who may be in employment where an agreement is proposed are disadvantaged by these changes. We are concerned the legislation reduces the time employees have to consider proposed agreements from 14 to 7 days. It is unrealistic to expect employees to get advice within this time frame and this should be remedied by allowing at least 14 days for employees to consider proposed agreements.

Fairness and Equity

Our experience shows in almost all cases of employees consulting us about dismissal, employers give no reason, give conflicting advice about the reason, or falsely invent reasons for the dismissal of our clients. Of course these cases represent the worst of the private employment market however these are the employers who will prosper under the proposed regime, not those who have always followed fair employment practices. A

simple and cost-free forum for testing the claims of employees and employers in dismissal matters should be retained.

We are more than willing to expand on our response to the proposed changes should the opportunity arise.

Northern Rivers Community Legal Centre

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