



**ethnic  
communities'  
council of  
victoria**

Submission

To

Senate Employment, Workplace Relations and  
Education Legislation Committee

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

Statewide Resources Centre  
150 Palmerston Street  
Carlton Victoria 3053

t 03 9349 4122  
f 03 9349 4967  
eccv@eccv.org.au  
www.eccv.org.au

ABN 65071572705

Submitter:	Prabir Majumdar, Executive Officer
Organisation:	Ethnic Communities' Council of Victoria
Address:	150 Palmerston St Carlton 3053
Phone:	(03) 9349 4122
E Mail:	<a href="mailto:eccv@eccv.org.au">eccv@eccv.org.au</a>

The Ethnic Communities' Council of Victoria (ECCV) believes the Federal Governments Workplace Relations Amendment (Workchoices) Bill 2005, introduced into the Federal Parliament on Wednesday will adversely affect ethnic workers and new migrants, many of whom are employed in low skilled, low paid employment or receive government welfare payments.

Because they have language difficulties or do not have a formal education, many people from a non- English speaking background work in these sectors of the economy who do not belong to a union and who do not have the bargaining power or the opportunities for productivity increases to secure improved conditions through enterprise bargaining.

These people are entirely dependent on the Award conditions which are overseen by the Australian Industrial Relations Commission. The removal of the **“No Disadvantage Test”** in the ECCV's view exposes migrants and people from a Non English speaking background severely. Currently agreements are tested against the twenty allowable matters in Awards, in order to ensure “No Disadvantage” to employees. Under the proposed bill, the paring back of the allowable matters of twenty under the current Act to only four being annual leave, personal leave, parental leave and a maximum number of working hours is of serious concern and opens up the potential of an employer exploiting an employee who has no bargaining power.

Under the new bill, an employer could force an employee, who does not have a union and who speaks little English into a scenario of trading away such core entitlements as:

- Rest breaks, notice periods and variations of working hours
- Penalty rates
- Annual leave loading
- Paid public holidays
- Allowances and
- Redundancy pay.

If an employee is offered an agreement with these conditions not contained which will be possible under this Bill, an employee who fears the prospect of losing their job if they do not sign, who speaks poor English and has a low skill base, will have little choice but to agree.

Indeed under the Bill the clause Section 104 (6) the provision states “to avoid doubt, an employer does not apply duress to an employee for the purposes of subsection (5) merely because the employer requires the employee to make an AWA with the employer as a condition of employment”. This provision will leave new migrants or migrants looking for work and entrants to the workforce with little choice but to agree to whatever conditions offered.

When someone from a non-English speaking background is working in a low skilled industry and Centrelink is threatening to take away your payments, you have little choice, especially if you speak poor English.

The establishment of the **Fair Pay Commission** is also of extreme concern to the Ethnic Communities Council of Victoria. When people of a Non English Speaking background are entirely reliant on safety net award increases on their minimum award wage, we believe the Fair Pay Commission will effect real reductions in the minimum wage.

We are concerned that a delay in the next National Wage which will be determined by the Fair Pay Commission will mean low paid workers from a Non English speaking background will have to wait at least eighteen months until any pay increase above their \$484.40 a week is considered.

We believe a reduction in the real value of the minimum wage will have serious social impacts on low skilled non English speaking background Australians.

The ECCV is also very concerned about the changes to the **Unfair Dismissal** provisions which currently provide access to all employees. The provision in the Bill under Section 115 Sub section 170CE which removes unfair dismissal rights for employees in businesses with up to 100 staff and also includes a provision for businesses with over 100 employees that it is not a ground for unfair dismissal if you are terminated for operational reasons. This provision is very broad and incorporates "reasons of an economic, technological, structural or similar nature".

This section we believe will mean that highly vulnerable employees who come from a non English speaking background will be terminated for reasons that are unfair and they will have no recourse. The provisions for unlawful dismissal in the Bill will need to be heard in the Courts ultimately, they can take up to eighteen months to reach court and will require expensive legal representation, money an ethnic or migrant worker simply will not have.

In **conclusion**, this bill is over 680 pages in length with 500 pages of Memoranda, employees from a migrant background will have no hope of understanding its complexity and it appears only skilled Employment lawyers will be able to really understand it.

Indeed the Workchoices campaign costing millions of dollars, as we understand it, was not translated into any other languages. We believe this bill, if enacted will have serious consequences for the thousands of Australian employees from a non English speaking background. A decline in their minimum rate of pay, termination of their employment for no justified reason

Without recourse and the prospect of having to accept agreements presented to them by their employer which severely strips back their employment conditions with no other option but to sign the agreement will face them. The same offcourse goes for persons desperate to find employment and agreeing to poor conditions because they have no alternative, male or female, young or old.

We believe this must be taken into consideration by honourable Senators when they debate this bill.