

***Submission to the Social Issues Committee
of the NSW Legislative Council***

***INQUIRY INTO THE IMPACT OF COMMONWEALTH
WORK CHOICES LEGISLATION
ON THE PEOPLE OF NSW***

***Submitted by
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INTRODUCTION

The Australian YCW

This submission is presented on behalf of The Australian Young Christian Workers Movement (YCW), a movement that educates, represents, and provides services for young adults. It is autonomously run by, for and with young workers. The YCW seeks to organise, educate and empower young people to be leaders of positive change within their own lives and the community. The YCW believes that both personal and collective action is the starting point for building justice, dignity and harmony into the fabric of society.

The YCW operates out of specific goals and beliefs:

- that each young worker should be able to live and work in dignified conditions
- that each young worker should be able to find value and meaning in work.
- that each young worker should be empowered to assume responsibility for finding solutions to work situations at the local, national, and international levels, in order to create a better world for all.

This submission will focus on the effect of the current legislation on young workers, particularly in the areas of human dignity, wages, conditions, security of employment, and the possibilities for genuine bargaining. Our conclusions are derived from our own involvement with young people and their families.

We commend the Legislative Council and the Social Issues Committee for the establishment of this Inquiry. It is hoped, that in addressing the issues named, the Committee may be in a favourable position from which it can provide the

Government, the community and the media with a more informed basis from which just decisions may be taken.

BACKGROUND: YCW INITIATIVES

The YCW is involved with young people across a wide range of social and economic issues. In our **Workplace** Campaign, we have provided services such as 'casual worker and industrial relations forums', information packages about work, and developed a 'Get Smart about Casual Work' curriculum school kit and school talks for high school students.

As part of our **Employment** campaign we provide services such as the **Way Out Project** in Sydney, Job Clubs, classes for unemployed young workers, homework centres for high school and TAFE students, and computer and English classes for unemployed and underemployed migrant workers and refugees. We have also represented the young people experiencing unemployment on individual levels in the appeals process at Centrelink offices across Australia, at the National Full Employment Conference at the University of Newcastle in December 2003, and continuously through postcard campaigns, letter writing and the local media.

We educate our membership about the effects of unemployment by holding discussions and social enquiries that consider the reality of unemployment and youth employment, and the effects of unemployment (including the ways we contribute to the problem). Through our services we share ideas and strategies with young people experiencing unemployment about dealing with Centrelink, budgeting and ways to move from unemployment.

THIS SUBMISSION

Underpinning the current Commonwealth Government attitude to the WorkChoices legislation is an emphasis on reform of the Australian labour market, seen almost exclusively in terms of economics. It is based on a belief that this reform is necessary if Australia is to sustain its economic expansion and build on the recent

improvements in its productivity performance. After analysing the Federal Government's proposed changes to the Industrial Relations System, the YCW has concluded that these proposals wrongly attempt to put profits before people. In this process, young people in particular believe that they suffer considerable disadvantage.

At a recent ***Review of Life and Worker Action (ROLWA) Gathering***, young workers raised a number of issues and concerns about the Industrial Relations reforms and their impact on young people, even at this early stage of implementation. These concerns stem from a belief that:

- the Industrial Relations reforms are causing a lack of security and support, and are generating confusion;
- the gaps between rich and poor in our society will inevitably widen, creating greater inequality;
- a division amongst workers will be exacerbated because workers will need to negotiate their own wages and conditions in competition with each other;
- increased competition will potentially cause workers to be overworked, with less time for holidays and family time.
- people without skills or experience will have less power to negotiate an individual contract, leaving many young people in particular vulnerable to exploitation.

Reports of the experiences of young people since the introduction of this legislation have reinforced these concerns in a number of specific areas.

AREAS OF CONCERN

1. Dignity for all Workers and their Families

In their workplaces, young workers meet and mix with other workers. Work promotes a real sense of identity, fulfilment, status and commitment, as well as providing a wage. In our society, work is a critical underpinning of our dignity and worth because work is the foundation of our relationship with others in the community. If employers treat workers as no more than money making machines, and young workers know they have no access to justice in the face of new workplace agreements and unfair dismissal laws then they are less likely to develop a strong workplace culture and commitment, they are less likely to find their identity in their work, and they are less likely to discover the true dignity and worth with which their work should provide them.

Evidence to date suggests that the new legislation has increased this problem for young people. Already, YCW review groups have expressed concern about their vulnerability. The case of young worker from the northern beaches whose weekend job was threatened when she refused to sign a new contract which would have slashed her Sunday pay by 35 per cent supports this concern.

Not only is the situation causing anxiety for the individual worker. There are also genuine concerns that the changes will contribute further to a lack of community. We believe that they will increase the pressure on people, especially young workers, to be increasingly individualistic and compete against each other. They threaten relationships within businesses. They take away the time and energy needed to develop strong and supportive work groups, which form some of the basic units of our community and our society.

Even more importantly, workplace agreements, unfair dismissal laws, loss of penalty rates, long hours and fragmented hours undermine traditional Australian values attributed to family life and erode these values by limiting quality family time, sporting opportunities, and involvement in the local community.

2. Just Wages

The Australian Fair Pay Commission, established by the new legislation, will set minimum wages, junior wages, training and disability wages, as well as casual loadings. Despite the claims of independence, the role of this Commission as an instrument of the Government, will ensure that the government's agenda, rather than the rights of workers, will drive the decisions that are made. As has already been indicated in the cases already publicised, this can lead to lower wages for unskilled and particularly young workers.

The YCW has two major concerns about the legislation regarding wages:

1. It is the worker, and particularly the low-skilled worker, rather than the skilled worker or those in management positions who will be forced to pay the price for increasing profits in the workplace. It appears that the new workplace agreements will reduce the pay of the low skilled, theoretically to help provide work for others, while the wages and conditions of those at the top will continue to rise. The increasing gap between the cleaners' wages and the CEO salaries at Macquarie Bank indicate clearly who are the winners and losers in the current economic climate. The claims of the Government that the changes are needed to advance the economy and create lower unemployment are not only questionable in economic terms; they undermine the rights of the worker for a fair day's pay for a fair day's work. The burden of providing work for all should not fall on the low-paid, but on society as a whole. And those who are unemployed and underemployed must be assured that the work they seek will provide a fair and just wage that will keep them out of poverty.
2. The setting of the minimum wage according to the wage of the single adult raises significant questions about the attitude of the Commonwealth Government to families and the needs of individuals. The Australian YCW is firstly concerned about the minimum wage being set according to the needs of a single adult. There has been a general belief in Industrial Relations in Australia for almost 100 years that the minimum wage should be set according to the living costs of a

family. The reason for this emphasis on the family's cost of living has been the importance of protecting and enhancing family structures and relationships. In the recognised breakdown of "the family" in our society, there is often not enough support available in families and communities to develop the dignity and worth of individuals and families. The "Living Wage," based on a family, has been a foundation of Australia's Industrial Relations system because as a nation we have recognised the need to support and build families as the basic units of our society. Without them society cannot function effectively. The new legislation clearly undermines this principle.

If the wages paid to workers do not allow them to provide financial support and human dignity to their partners and children the family will experience difficulty and breakdown. This is clearly recognised by the United Nations Declaration:

"Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment; Everyone, without any discrimination, has the right to equal pay for equal work; Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection." UNDHR Article 23

The Government claims that when setting minimum wages, "the new Fair Pay Commission will need to have regard to... the capacity for the unemployed and low paid to obtain and remain in employment." There is a real concern among young workers that this will slow down and even reduce minimum wages, and this appears to be the thrust of the Government's legislation. Even if this is the aim of the new laws, however, there is inconclusive international evidence that the lowering of wage levels has a significant effect on employment levels. International estimates are that a 10% drop in minimum wages could affect unemployment by anywhere between 0% and 5%. In the national debate over the economic benefits of these proposals it is important that Australians are aware that the government has not been able to produce proof that their changes will in fact lower unemployment. People also ask

about the value of a particular job when that job will not allow them to provide properly for themselves and/or their families.

3. Conditions

The conditions of workers, and particularly low-paid workers are threatened by the new legislation, in the areas of hours, allowances for overtime, duties, classification and union rights. The new legislation clearly changes the power-balance held in our society, increasing the power of employers at the expense of workers. Australia's society and economy has traditionally been about ensuring that there is a "fair go" for all, that the interests of employers are balanced against the interests of employees, and also that those employees with low levels of skills and experience are balanced against those who are highly skilled and experienced. The changes enacted by the Federal Government do not protect this idea of the "fair go".

Confirming the YCW experience, a recent survey published in the *Sydney Morning Herald* (24.4.06) indicated that almost one in five workers under 26 is unhappy with pay and conditions, but that most young people cannot afford to resign, even when they feel poorly treated. For these reasons, many young Australians are subjected to poor pay, unreasonable sackings, bullying and shoddy contracts. And this appears to set to accelerate under the new industrial laws.

There are clear aspects of the new legislation moreover, that appear to be about gaining political and ideological advantage. A number of measures include severely limiting the right to strike and the right of entry for union representatives. These measures will reduce the ability of unions to represent their members and could lead to poorer work conditions. By reducing both the income and effectiveness of unions, the Government is effectively undermining the base of the Australian Council of Trade Unions to lobby for better conditions for workers.

The YCW also believes that the Government legislation does not provide proper protection for workers' right to rest and leisure, a right clearly articulated in Article 24 of the Universal Declaration of Human Rights:

“Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.” UNDHR Article 24.

Those workers in a poor bargaining position may be forced into trading their entitlements to holidays and meal breaks for more pay. Thus, the time that workers can spend with family and friends, and time that they can spend on themselves will be reduced.

Naturally, the YCW is particularly concerned about the impact of these changes on young people. Because of their age, young workers often have little workplace experience, low levels of skills and very limited knowledge of their rights and responsibilities. Therefore young workers generally possess a weak bargaining position and are amongst some of the most vulnerable workers in a deregulated labour market. These problems are only being increased by the Government’s changes, as the cases cited in the Sydney Morning Herald (25.4.06) indicate. The majority of young workers will find it extremely difficult to negotiate successfully with employers who are in the position where they can sack them without protection, and reduce their wages and conditions with impunity.

Clearly, there are winners and losers under the legislation. The Prime Minister has claimed that workers will be able to change workplaces to gain better conditions as our economy is now a “workers market” because of a skills shortage. However, only those who are highly skilled will be able to take advantage of this situation. Workers who are in low skilled jobs will not gain the benefits of the skills shortage because they do not hold the skills that are in high demand. It is important that the Industrial Relations system used in this country takes into account the needs of all workers (employed, underemployed and unemployed) and not just those who benefit from current conditions. It is also important that Australians take a long term view of the effects of these proposals. Simply because there might be a “workers’ market” now does not mean that this will exist forever. Protections are most needed when the economy isn’t going well and it is vital to consider how the changes will affect the most vulnerable workers in our society when the economy reaches its next negative phase.

It appears that the logical outcome of the new industrial laws will be that the “working poor” (many of whom are untrained young people) will be forced into a succession of low paid, low skilled, short-term jobs that are their only alternative to unemployment. It will be these workers who bear the brunt of the negative impact caused by the changes. It is of particular concern to the YCW that there are many young people who fall into this category.

4. Security of Employment

Job security is a major concern for young people under the new legislation. The judgement that the workers at Cowra could legally be made redundant under the new unfair dismissal laws has caused serious concern among workers who rely on security of employment for economic planning and independence. It is clear that there is no protection against unfair dismissal for almost four million Australian workers

Socially as well, the lack of secure employment for all workers undermines their ability to develop proper relationships in their workplaces and find an identity in the work that they do.

It is our experience that long periods spent in highly flexible casual jobs, where the flexibility is largely on the employer’s terms has led to insecurity and uncertainty. The new legislation, particularly the unfair dismissal laws, exacerbates this uncertainty. It is time to question whether the new legislation will increase the high proportions of casual employment across a broad range of industries. Australia cannot be described as a fair society if a growing number of workers are engaged in uncertain, irregular and insecure jobs, without access to the basic right to permanent work.

5. The Right to Genuine Bargaining Powers

The change to the workplace bargaining process is of major concern in the new legislation. It is clear that as wages and conditions will depend on the bargaining power of individual employees, the proposed changes have vastly different impacts on different workers. Those who are in more advanced positions in the workforce, those with significant experience, and those with high skill levels will be able to take advantage of their better bargaining position. However many workers do not possess a sound base of skills or experience, and these workers will have less strength in a negotiating situation. In many cases, young people who are usually inexperienced at work are particularly vulnerable, have a low level of skills, and are in fragile financial positions.

The new legislation has allowed for young people to access a 'bargaining agent' during the negotiation period. This agent can be anyone aged 18 years and over. The reality is that a young worker would have limited awareness that they have the right to access a 'bargaining agent'. In the case that they do have this knowledge, it will be more than likely be their parent representing them.

These situations reinforce the need for strong and active trade unions in the workplace. The reality is of course, that the new Industrial Laws undermine the power and authority of the unions, originally formed in order to balance the strength of the workers' bargaining together with the power of the employer. The YCW is concerned that the limits placed on the "right to strike" and the "right of entry" for union representatives will weaken the position of vulnerable workers rather than promote fairer workplace relations.

CONCLUSION

There is little doubt that young workers will be disadvantaged by the WorkChoices Legislation.

- These laws abolish protection from unfair dismissal for almost four million Australian workers employed in companies with less than 100 staff.
- The legislation allows employers to put workers onto AWA individual

contracts that cut take-home pay and reduce employment conditions putting conditions like weekend and shift rates; overtime; redundancy pay; allowances; and loadings at risk.

- The laws change the way that minimum wages are set so that their real value can be reduced over time.
- They leave Australian workers with no legally enforceable right to bargain collectively with their employer if that is what employers choose to do. They make it more difficult for workers to access the support and assistance of a union.

Even at this stage, investigations have exposed the vulnerability of young Australians - often working for no pay, signing contracts with outrageous conditions, or being used as cheap labour under the guise of traineeships. For young people who are the Australians of today and tomorrow, such policies undermine aspirations for a hope-filled future.

The Australian YCW does not claim to have all the solutions to the problems created by the current Industrial Relations Legislation. We are convinced however, that a number of elements are vital if the Industrial Relations system is to protect and encourage the dignity of every Australian:

- The minimum wage being set as a living wage that provides for the expenses of a family rather than a single adult;
- Security in employment for all workers, regardless of the size of their workplace;
- Strong, active, member-driven unions that maintain the ability to properly represent and serve workers;
- Equal bargaining position for all workers, without differences based on skill level, experience, age, etc, ensuring that young workers and other vulnerable workers are not forced to negotiate in an unfair bargaining position;
- Adequate time for all workers to enjoy rest, leisure, and family;

- The encouragement of strong relationships, a discovery of identity and a sense of worth built within work and workplaces.

For families and young people, strong support from an effective leadership will demonstrate a clear valuing of all workers and their contribution to the entire Australian community. Long-term mandated objectives and strategies, which support these goals, are essential for increased opportunities for all workers, and especially for young people, who embody society's hopes for a united and vibrantly diverse Australia. Unless these needs are met, our nation will not realise its potential.