

Submission  
No 7

## INQUIRY INTO IMPACT OF COMMONWEALTH WORKCHOICES LEGISLATION

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**Theme:**

**Summary**

**SUBMISSION –  
INQUIRY INTO THE IMPACT OF COMMONWELATH  
WORKCHOICES LEGISLATION**

My name is Maree McDermott and I am the Manager of South Penrith Youth & Neighbourhood Services Inc. a community based organisation specialising in community development and early intervention approaches to supporting individuals, families and communities in the Penrith LGA. I make this submission with the authority of the Management Committee of SPYNS Inc. and in collaboration with other workers in the organisation.

We are particularly concerned about the impact of the legislation on our communities from a number of areas: - young people, women, Aboriginal people, disadvantaged and lower socio-economic communities in Penrith. We are also concerned about the possible impact on people's continued ability to contribute social capital through their volunteer work in local community groups of all types.

Penrith city is located at the western fringe of the Sydney metropolitan area about 54 kilometres from the Sydney GPO and has a land area of 404 square kilometres. The following information is from the 2001 census:

- population of 172,000
- working age population (18-60) – 60.5%
- total employed 81,086
- highest employment industries – retail and wholesale trade 18,555 and manufacturing 12,424
- persons working with no qualifications 50.51%
- Indigenous population – 2% (double the percentage of the Sydney Statistical Division)

- persons who left school at year 10 or below – 52.1% (higher proportion than the Sydney Statistical Division of 37%)
- one parent families – 10.4% (higher than the Sydney Statistical Division of 7.7%)
- non-english speaking background 12.5%
- **given all of the above Penrith has a rating as no 13 on the SEIFA index of disadvantage with 31 council areas doing better.**

It is because of these indicators above as well as our professional knowledge and experience that we feel many people in the City of Penrith will be disadvantaged by the Workchoices legislation fundamentally because they do not have the bargaining power to be able to individually negotiate their own wages and conditions. Their lower level of education and training coupled with the types of work that they are predominantly employed in make it inevitable that these people will be seen as expendable and open to exploitation because of what they can offer a workplace. The primary industrial instrument the Government wishes is the individual workplace agreement.

The Workchoices legislation completely denies the obvious and well known and researched imbalance of power that operates throughout society with the workplace being one of those places where power automatically resides with the employer. It is precisely because of this that unions have played their most important role in Australia's history – to be able to lever the power differential towards fairness for the worker.

The Workchoices legislation is in fact very complicated. We have attended the seminar by the relevant departments and along with the information available have found it is a very difficult document to understand along with the setting up of new bodies, dismantling others and finding where a workplace fits is in itself quite a task. Employers, especially smaller employers will find this all very onerous.

We worry that the primary emotion in the workplace now will be one of fear – fear of losing one’s job because another worker might undercut you, fear of losing one’s job because you speak up, fear of losing one’s job because you can’t be at the beck and call of your employer, fear of losing one’s family and community life because they are seen as secondary to work.

In the following paragraphs we detail some specifics about our particular communities of concern:

### **Young People**

As indicated above Workchoices fundamental premise is that the individual agreement will be the primary tool for setting wages and conditions. This means that with the loss of a standardized award system for young people many will work more hours for less pay because of their lack of negotiation power (they are the employee and they are young and inexperienced, they are taught that older people/adults know best). This will therefore mean a drop in the standard of living for young people coming into the workforce and place pressure on families to continue to support their young person for a longer period of time.

Anecdotally we know this to happen, we know about the pressure on young people to be at the mercy of the employer, especially in the fast food and retail outlets where they are often incorporating shifts as well as undertaking study. They are told if they chose not to take a shift that they will be well down the list next time extra shift opportunities arise. We have heard of young people being told that there will be no room for promotion if they do not sign individual contracts. We have heard of young people having to sign on the spot and not being allowed to take the document home to show their parents. There are limited safe guards for our most vulnerable and inexperienced citizens. It is surprising how often they think that this behaviour is just something they have to put up with and the boss knows best

NSW Youth Action and Policy Association (YAPA) support this argument in a report conducted in early 2006 which surveyed over 400 young workers, showing that the majority of young people are not confident to negotiate their

own pay and conditions. The report identified that young people are more likely to put up with poor pay and conditions than to quit and look for another job.

It is simply unrealistic to think that the majority of young people can negotiate these things on their own behalf. Even with the help of parents (who would need to be fully informed themselves) this is silly and unhelpful nonsense as can easily be shown through any 'power analysis' research. Again YAPA's report highlighted this saying that a lot of parents don't know enough themselves to assist their young person to bargain. Many parents just say 'get a job'; in this case the parents are just as vulnerable and uninformed as their children. They have relied on the previous award structure which has set benchmarks across industries to ensure their children aren't exploited. With those Award structures going or gone, young people and their parents or guardians have little experience on what would be reasonable.

For many young people attempting to secure work in the competitive climate created by Workchoices, it may be a race to the bottom in terms of pay and conditions. **The reforms will undermine the rights of young people at work and further disadvantage them in their pursuit of a better life for themselves and their families.**

### **Children at Work**

A study conducted by the NSW Commission for Children and Young People 2005, which surveyed 11,000 children 12-16, found that 56% had worked in the previous 12 months:

50% were casuals

38% have regular work

29%earnt \$4or less per hour

22% earned \$6-8 per hour

48% had been verbally harassed and

23% experienced physical harassment.

And this is still in an era of regulation. YAPA's report does identify some areas where the situation could be improved for young people at work. They suggest that individual work contracts for workers under the age of 20 should be banned. This they believe may go some way to protecting some of our most vulnerable and valuable assets – our young people. The YAPA report: "Young people negotiating at Work" suggests that establishing a NSW based job watchdog that would be a one-stop advice and advocacy shop for young people to get job assistance and legal advice would bring NSW in line with other states. We firmly agree with this that there would need to be a body responsible for overseeing the employment of young people to ensure that our future workers are treated with respect and integrity.

## **Women**

Women have been fighting for **gender pay equity** for many years yet in 2006 full time women earners still only receive 82% of full time men's earnings. The gender pay gap is even more pronounced for part time workers.

International evidence shows that the more centralized the industrial relations system, the better the pay equity result for women. Australian women have benefited from the award system; the majority of workers on awards are women – 60%. Their minimum wage rates are usually adjusted through the annual cost of living adjustment. However, this will no longer be the case. The Fair Pay Commission will not operate in the same way that the Industrial Relations Commission did. It is not looking for the same outcome –that of fairness for workers which has been the fundamental Australian work tenet since the Harvester case.

To date in Australia the gender pay equity issue has been overseen by either the Australian Industrial Relations Commission or state industrial tribunals to ensure legality and fairness. We have had an actual body keeping an eye of how it is for women in their working lives and therefore guiding governments to pursue economic equality for women through a structured and facilitated method. Even so, this has been slow with many women not being paid for the actual value of their work e.g. women in community, health and childcare work

places, which are often not valued because they are seen as an extension of women's home lives.

Workchoices does not offer a centralized system – it says it is a unitary system but it promotes individual negotiations with each woman, even in the same industry and workplace. This means that women doing exactly the same or similar work may be paid differently depending on their individual negotiation and assertiveness skills.

**The Workchoices legislation has taken away the very system that afforded some opportunity for fairness and regulation for gender pay equity to be mapped and measured. It is a measure of a civilized democracy that women as a group are seen as needing direct intervention methods by government to ensure industrial equity because of historical discrimination and prejudice.**

The industry in which myself and other community service workers are employed is heavily female dominated and although many of the workers have tertiary qualifications, years of experience and expertise in a difficult area of work we are still undervalued and underpaid – we are still awaiting our gender equity.

The second point about women and the impact of the Workchoice legislation would be the assumption that women have the ability to be able to negotiate and bargain their own wages and conditions. Some women would be able to do; this there is no doubt. However, there exists an historical power imbalance between the genders which already plays itself out in the workplace and then in the case where employers would be men, women do not have equal bargaining power on account of both their gender and their employee status. **This is a fundamental flaw in the legislation as it impacts on a number of groups who do not have bargaining power because of gender, age, ethnicity, educational status or indeed a very specific, saleable skill. All of these people are relying on the goodwill of the employer, a very shortsighted and limiting principle.**

Women are more likely than men to be impacted by the needs of family life necessitating a family friendly work environment. They need stability and regularity around their working lives so that children's lives are simply not disrupted and relegated to a second class status. There is a possibility through the Workchoices legislation that women will not have the certainty of hours or shifts that they have previously enjoyed. Women are more likely to be part time or casual employees, where shift allowances and penalty rates supplement to make a family's income reasonable. These are the very things Workchoices looks to eradicate by making the Standard very low with few entitlements.

### **Aboriginal people**

Our organisation has an Indigenous project which works at a grass roots level offering family support, groups and activities to Aboriginal people in Penrith. Aboriginal people in Penrith make up 2% of the population making them one of the most significant Aboriginal population groups in NSW. They are the most disadvantaged groups of people in Australia. It is an unfortunate indictment on Australia that Aboriginal people are overrepresented in every category of disadvantage. Their lower levels of education and employment and reliance on government benefits makes their lives one of constant external intrusion, they have a lack of control or personal autonomy over their lives and levels of racism still exist within the Australian community; indeed, it would be our experience that racism is growing under the current lack of leadership from Australian governments and Aboriginal disadvantage is continuing to grow. With this as a dominating background it would be fantasy to suggest that Aboriginal people's bargaining power in the workplace would be equal. With lower levels of education Aboriginal people would more likely be employed in low paid or low skilled jobs which makes people particularly vulnerable to unfair work practises. **Coupled with systemic racism, the Workchoices legislation leaves them with no accessible protection.** Unions may well have afforded some protection in the past but with the restrictions on union participation in workplaces, this very accessible form of support and oversight has been lost.



### **Socio-economically disadvantaged communities**

Much of our work is undertaken in Cranebrook, an area of high disadvantage because of the number of people on government benefits, single parents and a public housing estate. Many of these people have multiple layers of disadvantage and have few personal resources or resilience to manage mainstream life. To be able to negotiate one's wages and conditions requires a level of personal confidence and knowledge of one's entitlements. Again, this group of people are the most likely to be exploited because of their low skills levels, low education and low expectations. In order to make ends meet, they will be the people required to work two jobs, further placing great strain on already stressed family relationships and stability.

**We are particularly concerned about how the Workchoices legislation along with the Welfare to Work reforms coming in July will further marginalise and harm the individuals and families in these stressed communities. We believe that exploitation will be rife for this group of people unless there is strong watchdogging in the types of industries these people will be employed in.** Again the restriction of union entry to workplaces undermines the very practical way of ensuring fairness and legality for vulnerable workers.

At the ACOSS Congress 2006 Associate Professor Alison McClelland, Head of School of Social Work & Social Study, La Trobe University, presented research undertaken on the similar NZ industrial reforms of 1990's showing that child poverty increased during this time because of the reduced wages to New Zealand families. **Do we want this to be now part of the Australian way of life?**

### **The impact on family and community life**

We are a community based organisation i.e. our residents give of their time and expertise to govern our organisation. Our meetings and the subsequent other requirements of belonging to and contributing to a community group means that there is a necessity to have stability and knowledge around

working requirements so that work, family and community time can be organised. We know this from our members. And they are like so many other community organisations in the area relying on resident's availability to be able to weave together the web of community, the connectedness that makes a happy and vibrant place to live and raise a family. It is called social capital and governments' say they want it.

Under current ways, we mostly give of our time in the evenings and on weekends. That is when the sporting fields are filled with family activity and fundraising groups are out and about doing their 'community service'. It is their time away from their work and it is predictable and able to be committed to. **Under the Workchoices legislation there is the distinct possibility that those people who now give of their time may be subject to unpredictability of hours.** Recent research (Giving Australia: Research on Philanthropy in Australia) showed that the average amount of time volunteered was 132 hours per year per person, women volunteered more than men and generally those on lower incomes (under \$52,000) volunteer more hours. Women and lower income people are more vulnerable under this legislation because of their historical weaker bargaining power and being employed in lower skilled positions.

We are a community development organisation whose task it is to try and engage community members in community life, to create opportunities and spaces for people to come together. The fast pace and work-dominated world of many people these days make this a difficult task. To undermine this further by limiting people's time and unpredictability of work requirements is dangerous to our community's future. **The Workchoices legislation has the potential to dominate and control people's lives to such an extent that community and family life will be savagely minimised.**

To summarise, many people living in Penrith will be worse off under the Workchoices legislation because of their lower educational and skill base; many are working in industries where exploitation is easily undertaken and their ally of ensuring fair work conditions and pay e.g. unions, are being

severely curtailed in being able to communicate with the workforce. Penrith people are vulnerable under this legislation. The Workchoices legislation is based on the premise that we are all equal. This is at best naive, at worst knowingly exploitative and biased in favour of the employer.

### References

**NSW Commission for Children and Young People;** *Children at Work*; June 2005

**Youth Action and Policy Association;** (YAPA), *Young people negotiating at Work Report*; April 2006

**Alison McClelland** - *Beggars Can't be Choosers* ACOSS Congress 2006

**Federal Department of Family & Community Services** on behalf of the Prime Minister's Community Business Partnership *Giving Australia: Research on Philanthropy Report*

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