

Submission  
No 33

## INQUIRY INTO IMPACT OF COMMONWEALTH WORKCHOICES LEGISLATION

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**Theme:**

**Summary**

# Community Relations Commission

For a multicultural NSW

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The Hon. Jan Burnswoods MLC  
Committee Chair  
Standing Committee into Social Issues  
Legislative Council  
Parliament House  
Macquarie Street  
Sydney NSW 2000

Dear Ms Burnswoods

Thank you for your letter, dated 21 April 2006, asking for input from the Community Relations Commission (CRC) For a multicultural NSW into the impact of the Commonwealth Government's WorkChoices legislation. A copy of the Commission's submission is attached, and has also been sent to your Committee electronically.

The Office of Industrial Relations also subsequently wrote to the CRC asking for input into the whole-of-government response from NSW Government agencies, and this has also been provided.

Should you have any enquiries, please do not hesitate to contact Ms Beverley Bell in my office on (02) 8255 6789.

Yours sincerely

Stepan Kerkyasharian AM  
**Chairperson**



## Submission to NSW Legislative Council

### On the Impact of the Commonwealth *WorkChoices* legislation

#### From the Community Relations Commission For a multicultural NSW

#### Introduction

The Community Relations Commission (CRC) For a multicultural NSW has focussed its submission on the impact of the Commonwealth Government's *WorkChoices* legislation on the NSW population, which is acknowledged to be highly diverse in relation to culture, language and religion.

The report of the Productivity Commission on the *Economic Impacts of Migration and Population Growth*, released in May 2006, states that, as the result of better targeting of Australia's immigration selection policy, immigrants are better able to contribute to labour market and economic outcomes. The report also quotes from research by Cobb-Clark saying that 'Though the demographic composition...of immigrants remained much the same, individuals entering Australia in 1999-2000 had more education, better English language skills and more pre-migration labour market experience skills than did their predecessors (2006, pp 20-1)' (p.165, *Economic Impacts of Migration and Population Growth*, Productivity Commission).

The CRC has analysed labour market statistics provided by the Australian Bureau of Statistics (attachment A), and found that:

- 87% of working immigrants are employees, with many reliant on award wages and conditions;
- Proficiency in the English language enhances the employment prospects of immigrants. Over three-quarters (77%) of employed immigrants who spoke a language other than English at home, spoke English well or very well.
- Generally immigrants are employed in unskilled or semi-skilled areas - manufacturing (16%), property and business services (14%), health and community services (12%) and retail trade (11%).
- Immigrants who lack skills or qualifications, and with poor English skills, will find themselves in a more precarious position in the labour market as the result of the *WorkChoices* legislation.
- Women are more likely to be concentrated in work which is low paid – such as part-time or casual work or in workplaces with no award coverage. Women from a non-English speaking background make up a large proportion of workers in these areas.
- The disadvantage faced by young people from certain non-English speaking background groupings will be exacerbated – this may have serious consequences for those who are most vulnerable.
- Immigrant women have traditionally shouldered the greater responsibility as primary carers for their partner, child or extended family – given the lack of a traditional extended family structures in Australia.
- Regional and rural areas, which generally have a higher unemployment rate than metropolitan areas, are becoming home to some of Australia's most vulnerable immigrants – those arriving under the humanitarian and refugee programs. The NSW Government, through the CRC, is coordinating efforts to

plan and support settlement in these areas, however, these efforts are likely to be undermined by WorkChoices legislation, which will increase uncertainty for these recently arrived and vulnerable immigrants.

## **Terms of Reference of Inquiry on Impact of WorkChoices Legislation**

### **1. Ability of workers to genuinely bargain, focussing on groups such as women, youth and casual employees and the impact upon wages, conditions and security of employment**

#### **1.1 General Barriers to Labour Force Participation for Immigrants**

The following barriers are commonly experienced by immigrants in the workforce, and make people more vulnerable under WorkChoices legislation:

- Lack of English language proficiency;
- Unfamiliarity with culture and customs in Australia;
- Limited knowledge of educational opportunities and support services, thereby affecting settlement in Australia.
- Possible discriminatory or racist behaviour within workplace;
- Women from non-English speaking backgrounds can face gender issues as well as communication issues;
- Difficulties having overseas qualification recognised, resulting in under-employment or unemployment;

#### **1.2 Discrimination Issues**

People from culturally, religious and linguistically diverse backgrounds still face significant discrimination within the workplace. Of 618 complaints about employment made to the Anti-Discrimination Board during 2004-05, over 10% (64 complaints) related to discrimination on the grounds of race.

#### **1.3 Socio-Economic Disadvantage in Western Sydney**

According to the Australian Bureau of Statistics, and based on the 2001 census, the Western Sydney region has a lower socioeconomic status as compared to the Sydney region and to New South Wales as a whole. Indicators of disadvantage include higher lower participation in education, higher proportion of people in receipt of government assistance, and higher unemployment with lower labour force participation.

The Western Sydney region has a culturally diverse population. For example, Fairfield City is one of the most diverse cities in Australia, with 133 nationalities represented and over 70 languages spoken. According to the 2001 Census, 95,343 people (53%) living in Fairfield City were born overseas.

Given its affordability, Western Sydney continues to attract new and recent arrivals, with six per cent of its population resident in Australia for less than five years, and 5.3% with poor proficiency in English.

However, the major employers in Western Sydney region are in manufacturing, retail trade, property and business services and health and community services, with a range of predominantly unskilled or semi-skilled work. Such employment already attracts low wages and poorer conditions, and this is expected to become further entrenched under the WorkChoices legislation.

## 1.4 Recently Arrived Immigrants Are Highly Vulnerable

Refugees and immigrants arriving under the Australian Government's Humanitarian Program comprise one of the most vulnerable groups in the community. Under the Program the number of people resettled from Africa has increased from 31% (2001-02) of the total offshore program, to around 70% in 2005-06. It is expected to be around 60% in 2006-07.

As at 30 June 2004, refugees and immigrants from North African countries came from Egypt (14 per cent) and Sudan (6 per cent). Those from Middle Eastern countries came from Lebanon, Turkey, Iraq and Iran.

Ninety-seven per cent of immigrants are settling in metropolitan areas including Sydney, Newcastle and Wollongong, with 16% settling in regional and rural areas during 2004-05 (see also item 2 below).

Many humanitarian entrants have experienced a variety of pre-migration experiences which will impact on their ability to settle in Australia, and their ability to participate in the labour force. These include:

- firsthand experience of conflict and persecution, either as a victim or a witness, with almost three in four exposed to traumatic events such as forced dislocation and loss of family members in violent circumstances<sup>1</sup>;
- physical health problems and poor nutrition;
- existing mental illness or mental health problems and/or a propensity to develop these problems;
- low literacy levels, little or no prior schooling and little or no knowledge of English, for example 82% of humanitarian entrants assisted under the IHSS in 2004/05 stated that they required an English language interpreter;
- limited financial, material and social support available in the early settlement period which, where combined with language barriers, make for a challenging time for many new arrivals (ABS Labour Force Statistics September 2005, developed by Department of Employment and Workplace Relations).

The proportion of young people entering Australia through the Humanitarian Program is rising. As at November 2005, there were nearly 40,000 humanitarian entrants of school age (5 – 18 years old) in Australia (Transitional Needs of Humanitarian Youth – Background Paper for Inter-Jurisdictional Meeting, 3 March 2006, Department of Immigration and Multicultural Affairs).

Young humanitarian entrants are particularly vulnerable. Many have experienced a range of traumatic experiences such as physical injury, exposure to child soldier activity, witnessing the violent death of a family member, famine, sexual violence, or forced prostitution. The education levels of young humanitarian entrants are generally much lower than their Australian peers. These experiences are compounded by the stresses associated with settling in a new country, and occur at a time when young humanitarian entrants are particularly vulnerable: the transition to adulthood

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<sup>1</sup> Victorian Foundation for Survivors of Torture (2002), *The Rainbow Program for Children in Refugee Families*, Melbourne, at 4.

(Transitional Needs of Humanitarian Youth – Background Paper for Inter-Jurisdictional Meeting, 3 March 2006, Department of Immigration and Multicultural Affairs).

According to the above DIMIA paper, the ABS Labour Force Survey reflects these difficulties. As at September 2005 migrants of North African and Middle Eastern origin had a relatively higher unemployment and lower participation rates than those from other regions, including Sub-Saharan Africa (mostly South Africa).

**Table 1 – Unemployment and Participation Rates for African Australians**

<b>Country of Birth</b>	<b>Unemployment Rate (%)</b>	<b>Participation Rate (%)</b>
Australia	5.0	68.6
Oceania and Antarctica	5.5	77.2
North-West Europe	4.0	57.8
Southern and Eastern Europe	4.9	41.6
<b>North Africa and Middle East</b>	<b>11.8</b>	<b>49.3</b>
South East Asia	6.0	65.8
North East Asia	6.3	54.9
Southern and Central Asia	6.8	70.7
Americas	6.4	71.8
<b>Sub-Saharan Africa</b>	<b>5.6</b>	<b>72.4</b>
<i>All Countries</i>	<i>5.1</i>	<i>64.9</i>

Strong proficiency in the English language enhances the employment prospects of migrants in the Australian labour market. Most (83.5%) immigrants from North Africa and the Middle East, speak a language other than English at home (Transitional Needs of Humanitarian Youth – Background Paper for Inter-Jurisdictional Meeting, 3 March 2006, Department of Immigration and Multicultural Affairs).

Because of this relationship between English language proficiency and employment, the Commonwealth Government needs to properly fund the provision of English as a Second Language (ESL) to people entering under both the humanitarian and non-humanitarian programs. This is particularly the case in regional and rural areas where there is greater competition for the work available.

Whilst these groups can and will make a full contribution to life in NSW in the long term, they require coordinated support during settlement from Federal, State and local government in the short-term in order to maximise their participation. The CRC considers that the WorkChoices legislation will undermine the efforts of the NSW Government to settle in regional and rural areas, and that they require settlement services, and links to education, health and employment services so as to limit the marginalisation of this group.

## 2. Impact on Rural Communities

### 2.1 Settlement of Refugees in Regional and Rural NSW

During 2004-05 16% of humanitarian entrants, including refugees, settled in regional NSW. The following table shows the arrivals to regional NSW by Statistical Division (SD) during this period, as well as the percentage of humanitarian entrants (HE) represented in these arrivals.

Hunter Metropolitan (Newcastle)	580	(64% HE)
Hunter Regional	410	(14% HE)
Illawarra Metropolitan (Wollongong)	1020	(47% HE)
Illawarra Regional	250	(12% HE)
Richmond-Tweed (inc Lismore)	340	(9% HE)
Mid-North Coast (inc Coffs Harbour)	350	(35% HE)
Northern (inc Tamworth)	120	(20% HE)
North Western (inc Dubbo)	80	(28% HE)
Central West (inc Bathurst-Orange)	150	(14% HE)

(NB: South Eastern, Murrumbidgee, Murray, and Far West SDs not included).

Whilst these numbers of immigrants are relatively small, they are significant enough in areas where there is already higher unemployment (see *Administration and Operation of the Migration Act 1958*, Senate Committee Report March 2006). The NSW Government has expressed its concerns that the settlement of these immigrants is not always planned and supported in the most appropriate way. Therefore, it is a concern that, under WorkChoices legislation, a more deregulated industrial relations system may result in the further marginalisation of refugees and humanitarian settlers within the workforce in regional and rural areas.

### 2.2 Coordination of Settlement into Regional and Rural NSW

New South Wales continues to be the destination of choice for approximately 40% of immigrants into Australia. However, given social and environmental limitations of the Sydney Basin, the Commonwealth and NSW Government are working together to plan more effective settlement in regional and rural areas of the State.

However, New South Wales acknowledges that educational and employment opportunities as well as appropriate and well-funded settlement services are crucial to the settlement of people in regional areas.

A study on *The Economic Impact of Afghan Refugees in Young, NSW*, by Professor Frank Stilwell, found that immigrants are able to make a positive contribution to a region where employment opportunities were available. From 2001 to 2003 Afghani refugees were able to fill positions at the local Burrangong meatworks, which was otherwise unable to retain its Australian workforce. In the process, their work generated income and expenditure as well as other indirect benefits:

- The work ethic of Afghan workers resulted in greater productivity at meatworks;



- Young received national publicity when it accepted the Afghan refugees, with a boost to the town's reputation;
- Social capital in Young was strengthened, with local community groups, Council and businesspeople working together to support the Afghan workers;
- If the workers had been able to stay (they were on three year temporary protection visas) they could have contributed further to the town's economic development.

To better support settlement of new immigrants, and therefore allow for their social, cultural and economic participation in the State, the NSW Government, through the CRC, has established the NSW Immigration and Settlement Planning Committee. With the involvement of NSW government agencies and Department of Immigration and Multicultural and Indigenous Affairs (DIMIA), New South Wales is better able to coordinate the development of NSW policy and positions on settlement issues.

The CRC co-convenes a Commonwealth-NSW Working Party on Migration to Sydney and Regional NSW to report on options to encourage business and skilled migrants to consider locating in regional NSW.

However it is arguable that the WorkChoices legislation may erode incentives for immigrants to move to regional and rural areas by providing less stability and security in the workforce. There is also a concern that the WorkChoices legislation will create feelings of resentment within local communities, if immigrants requiring work displace local workers, when employers offer lesser wages and conditions under AWA's.

### **3. Impact on gender equity, including pay gaps**

#### **3.1 Women More Likely to be in Low Paid Work**

Professor Peter Brosnan of Griffith University, in his research paper called *Can Australia Afford Low Pay?*, has found that female, indigenous, migrant and young workers are more likely to be low paid. Some forms of employment lead to low pay – casual work, part-time, workplaces with no award coverage, and illegal workplaces. Women are also more likely to be employed in these areas, with research in 1997 showing that a fifth to three-quarters were women from a non-English speaking background.

#### **3.2 Vulnerability Within Textile, Clothing and Footwear Industries**

Workers in the textile, clothing and footwear industries are a particularly vulnerable sector of the workforce. According to the Textile Clothing and Footwear Union, in its submission into the impact of the Workplace Relations Amendment (WorkChoices) Bill 2005:

- almost three-quarters of their members are female;
- 80% of union members in the clothing industry, and 60-70% within the textile and footwear industries are from a non-English speaking background;
- A large proportion of its members are reliant on either Federal or State Awards to determine their terms and conditions of employment.

- The most vulnerable groups are outworkers and those in clothing sweatshops, as well as workers in regional areas, which already face high unemployment and fewer job opportunities.

Given the unskilled nature of the work, employers know that they will be able to replace present employees, if they choose not to sign agreements with diminished wages and conditions.

### **3.3 Clean Start campaign – Cleaners in Commercial Offices**

Since the introduction of the WorkChoices legislation, the Liquor Hospitality and Miscellaneous Union has launched the *Clean Start* campaign highlighting the vulnerable situation of cleaners in commercial offices.

Fifty per cent of cleaners in this sector are women, with at least 40%, but up to 90% of cleaners from a non-English speaking background. The majority are employed on a part-time or casual basis, with an average income of \$14,360pa (poverty line in Australia of \$15,288). Nearly half of cleaners have dependent children, and in addition many are unskilled, having left school at 15 years or younger. (Source: p. 18, *A Clean Start for the Property Services Industry, Liquor Hospitality and Miscellaneous Union*)

## **4 Impact on Balancing Work and Family Responsibilities**

Immigrant women have traditionally taken the responsibility of being the primary carers for their partner, child or extended family – this is particularly so given the lack of traditional extended family structures when arriving in Australia.

According to the ABS, over 2.6 million people across Australia provide care to a person who is frail aged, disabled or has a chronic physical or mental illness. Of these 474,600 (18%) are primary carers, looking after a partner (43%), child (25%), or a parent (21%)

## **5 Impact on Injured Workers**

Workers from a non-English speaking background are more likely to be represented in injuries at work. In addition, supervisors are required to ensure that their employees understand safety procedures in the workplace, by using interpreters or translated information to accurately convey information.

During 2004-2005, a number of industries were identified as employing significant proportions of workers from language backgrounds other than English. In its analysis of multicultural initiatives in the State, the CRC found that WorkCover had a number of programs supporting these industries, which incorporate initiatives to assist employers and employees to address workplace safety issues and included:

- the Clothing Outworker Strategy Project, which aimed to prevent injury and illness among outworkers, who are predominantly from non-English speaking backgrounds
- the Behind the Label Strategy, now completed, which provided education and training to improve the employment opportunities for outworkers, and also recovered over \$182,000 in unpaid wages and entitlements for employees
- the Cleaning Industry Compliance Project, which included the use of a Korean interpreter, as needed, in workplace visits
- the Business Assistance Unit, which provided assistance to small and medium enterprises, included diversity strategies and consultation processes for improving OHS in its state-wide workshops for small business owners and operators.

## **6 Impact on Employers and Especially Small Business**

At the last Census in 2001 NSW has the highest proportion of small businesses in Australia (33.2%), according to data available from the Department of State and Regional Development. This sector also employed over a million people, with almost half of those employed in small business (defined as having less than 20 employees).

Thirty per cent of these small businesses are located in Western Sydney, an area of high cultural, religious and linguistic diversity, and an area which also attracts new and recent immigrants to Australia (as discussed in item 1).

The sectors which offer the highest employment in small business are also those which require less or lower skills – these are construction, property and business services, retail trade and manufacturing.

In addition, as at June 2004 almost a third of small business employers (31%) were born overseas.

Given that growth in the small business sector continues to be strong, the CRC would expect that employers would take advantage of the WorkChoices legislation. Both employers and employees need to be provided with information about their rights and responsibilities under the Act, with information provided in the appropriate languages.

It would also be expected the wages and conditions will be diminished for employees, where their work is unskilled or semi-skilled.

## **Attachment 1: Demographics and Relevant Labour Force Statistics**

As at the 2001 Census, 23.3% of the population of NSW was born overseas. It is more relevant to the Inquiry that over two-thirds (69.1%) of the overseas-born came from a non-English speaking country (making up 16.1% of the NSW population).

### **Labour Force Participation of People from Culturally and Linguistically Diverse Backgrounds**

According to *Australian Labour Market Statistics* of the Australian Bureau of Statistics (July 2005), the following summarises labour force participation of people from culturally and linguistically diverse backgrounds:

- As at November 2004, of the 1.4 million who migrated to Australia after 1984, 70% were in the labour force (of whom 94% were employed and 6% unemployed);
- Most immigrants were at a working age aged between 25 – 54 years, with 25% aged between 25-34 years, 34% aged 35-44 years and 22% aged 45-54 years.
- The labour force participation rate was 84% for male immigrants and 59% for female immigrants – however the unemployment rate was similar for male and female immigrants at 5% and 6% respectively;
- Most 87% of immigrants in work were employees, followed by own account workers (9%), employers (3%) and contributing family workers (less than 1%).
- Migrants born in the main English-speaking countries – United Kingdom, Ireland, New Zealand, Canada, The United States of America and South Africa - had a higher labour force participation rate (79%) than those born in other than main English-speaking countries (66%).
- Generally, migrants were employed in the following sectors: manufacturing (16%), property and business services (14%), health and community services (12%) and retail trade (11%).
- Over three-quarters (77%) of employed immigrants who spoke a language other than English at home, spoke English well or very well, compared to two-thirds (66%) of unemployed immigrants and 36% of those not in the labour force.

### **Migration Program Can Improve Labour Outcomes When IR Rights Protected**

Since the 1990s the Australian Government has targeted the migration program, resulting in improved labour market outcomes. Changes included:

- A shift in favour of skilled migration categories;
- Changes to eligibility criteria resulting in immigrants having greater English proficiency;
- Introduction of temporary work migration categories, increasing the number of temporary immigrants who tend to be highly skilled, employed and have high levels of education;
- Preference given to immigrants with Australian qualifications or immigrants on a student visa;

- With the exception of humanitarian immigrants, immigrants are excluded from most social welfare payments for the first two years in Australia. (p. 165, Productivity Commission, May 2006).

Changes to Australia's immigration policy selection have seen '...improvement in human capital endowments [education, English language skills and pre-labour market experience] completely explain the higher participation rates amongst immigrants arriving in Australia at the end of the 1990's. Moreover, approximately half of the fall in men's unemployment rates also stems from increases in productive skills (Cobb-Clark 2006, p.49) quoted in *Migration, Population and Productivity*, Productivity Commission, May 2006).