



Melbourne Catholic Migrant & Refugee Office

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Committee Secretary
Senate Legal & Constitutional Committee
Department of the Senate
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Sir/Madam

**Re: Submission to the Inquiry into the
Migration Amendment (Employer Sanctions) Bill 2006**

Based on reading the Amendment, the Explanatory Memorandum and the speech introducing this Amendment to Parliament, this Office would like to make the following comments –

Firstly, we would question the suggestion that illegal workers take job opportunities from Australian citizens and lawful migrants. It is our understanding that many so-called 'illegal workers' work in jobs that Australians generally do not want to do, such as seasonal fruit picking and abattoir work.

Secondly, we feel there is a certain hypocrisy when employers can recruit directly from overseas without having to prove that they have advertised adequately in Australia beforehand.

A recent *A Current Affairs* report, showed employers recruiting migrant workers into jobs that could have easily been filled by Australians. However, without clearly defined work rights and minimum standards for migrant workers, these 'legal' workers can be exploited.

Thirdly, we were pleased to see in the Parliamentary speech that the government is *particularly concerned about circumstances in which women may be trafficked into Australia to work illegally in conditions of sexual servitude, forced labour or slavery.*

However, the government has to be careful not to treat trafficking of women and young girls into prostitution and sexual servitude in Australia as simply an employer non-compliance issue. There are a whole range of other more serious crimes and human rights violations occurring apart from employers employing 'illegal workers'.

It is noted (on p.15 of the Explanatory Memorandum) that –
The ability to successfully prosecute employers is also made difficult by the fact that illegal workers are almost never willing to cooperate with the Department by providing statement against their employers. In many cases, this is because of the fear of retribution, by the employer or other stakeholders who trade in illegal workers, against themselves or members of their families. This is particularly the case for women and young girls that have been trafficked into prostitution.

The Religious Congregations Trafficking Working Group in its recent shadow report to the UN Committee for the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) recommended – *that the trafficked victims should be eligible for visas that will eventually lead to permanent protection/residency on the basis of their status as a victim of trafficking, their safety needs and their need for victim support, regardless of their involvement in the criminal justice system.*

It is argued that if the trafficking victim has no long-term security, she will be less likely to testify for fear of ending up back in the country she was trafficked from, with the person who trafficked her still present and perhaps a hefty debt bondage still demanding to be paid.

Fourthly, it is noted that the government has totally rejected *Option 6: Expanding work rights on visas*. This Office recommends that they should at least extend the right to work to all BVE holders.

Without access to clear figures, we are unsure of how many people this would affect. If there are 8,000-9,000 people trying to live in the Australian community without any financial means to support themselves, then that is too many people forced into poverty and destitution just to deter others from seeking asylum or appealing a decision. If the figure is much less (say 466 as some reports suggest) then giving them the right to work should have little effect on the Australian workforce or the unemployment rate.

Finally, it appears that the 'whole of government' or 'holistic approach' that this Amendment is attempting to achieve focuses mainly on breaches of taxation and welfare legislation (i.e. crimes against government legislation) rather than crimes against vulnerable people, such as trafficked women and exploited workers.

Yours sincerely

Brenda Hubber
Executive Officer