

Australia's workchoices

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In a journey towards the economic stability and prosperity of a community, social awareness gives us an idea that people need to interact with others in order to grow. The dream is only imaginary if one refuses to acknowledge any recognition of equal opportunity of the people who partake in the economic struggle with their own bare hands; the employees. It is an employee's performance in the workplace that gets the job done and ensures productivity. Australian Prime Minister John Howard has called for a conscious change in the workplace relations with laws passed. Vigorous governmental action and national cooperation is expected for the achievement of a common purpose in implementing effective reforms that thereby promote a higher level of growth and performance. Better employment laws shall work to provide legitimate guidelines for the allowance of a healthy working atmosphere for both employer and worker. Other major economic competitors have incorporated these inclusions into their prevailing national laws to adapt with the current flexible trends in the employment system. Legislators and capitalists are enjoined to work hand in hand to promote a better future for its workforce thereby allowing a broader expansion of Australia's economic goals.

In 2005, the Howard Government and the Australian Parliament launched the Workplace Relations Amendment Bill 2005 "Workchoices" guide that announced series of amendments to the Australian Labor Law. Last March 2006, the Workplace Relations Act 1996 took effect despite heavy protests from the labor sector and equally heavy expenditures for the law to take full impact. The Australian Labor Party and the Australian Council of Trade unions had originally described the amendment as "sugar-coating a poison

pill” and a “ representation of the old package”. The Howard Government countered that reforms were necessary as step in the deregulation of the Australian economy. Andrews in Senate Hansard(2005, p. 28) reasoned that the 1. 7 million extra jobs created in Australia and the 14% increases in real wages were part of the reason part of the reason for that is because of the reforms that were made in 1996.[1] Accountably, the government claims that such reforms made a substantial impact on the present economic status and that “ Workchoices” will have more choice and flexibility and this in turn will lead to a higher productivity (Senate Hansard, p. 28).[2]

Laws and Provisions under Workchoices

The creation of several minimum workplace system conditions in Australia has been equated by the government and the business sector in the effort to maintain the economic stability. Under the new unfair dismissal practices, companies with fewer than 100 employees are exempted from unfair dismissal. At the same time employees of larger corporations will not be protected if they are dismissed for ‘ operational reasons’ that previously allowed them to claim compensation or reinstatement. This was done to alleviate the stifling penalties imposed by the Labor government of 1993 that according to the Howard government has slowed business growth and lesser jobs. If however the reasons do not fall under ‘ operational requirements’; claims under unfair dismissal practices will have some solid ground and as an alternative, the government has offered pay \$4000 to employees who were unlawfully dismissed to aid in the legal costs (Senate Hansard, p. 23).[3] For areas where unfair contract legislation allows dismissed employees to seek compensation upon contract termination, ‘

Workchoices' has specifically excluded them from such legislation. This further explains that an employee under this area will no longer be allowed to seek remedy under this act.

The grounds cited where an employee may claim for unlawful dismissal would include racialdiscrimination, familycommitments and retaliations. The sovereign right to work in a job of choice that an employee has been trained and academically prepared will always remain under equal opportunity. Equal rights for every man is afforded in the workplace by citing potential discriminatory acts committed by employers and will still be highly mandated as punishable. In spite of the cited provisional exempt of dismissal for companies with fewer than 100 employees, there is a greater possibility of violations deemed contradictory to the equal opportunity laws[4]. Regardless of size, companies still has to adhere to the mandated anti-discrimination laws.

The proof a nation's real economic asset lies in its investments, output and the employment sector (Abel and Bernanke, p. 65)[5]. The Keynesian analysis according to Abel and Bernanke (p. 67)[6] concentrates on the behavior of the output consumption and investment with the government, firms and households totally interacting solidly. To ensure that production is attained, the labor force is mobilized to maximize output by the award system through wages. Wage and price as a critical factor are not simply 'given' to the economy but are the results of decisions made by individuals and firms (Abel and Bernanke, p. 447).[7] The government therefore must take the necessary steps to ensure that restrictions imposed on companies are reasonable enough to balance the entitlements afforded to the

employment sector. Policies included under the Fair Pay and Conditions Standard discussed issues revolving wage increase which has received enough staging and shall be determined by the relevant federal or state industrial tribunal applicable soon after-commencement of " Workchoices". Awards herein are justified as legally enforceable by legislation as instruments that contain wages. It is expected though that sooner, confusion shall set in post implementation as the federal government and the states have the same power to make awards. Employees of certain areas may not be entitled to a future wage increase which shall be determined by their respective states and decided based on equity principles. However if they are granted as a consent of both parties, future wage increases may not be enforceable and relevant thereby prevailing state agreements will continue its respective operational dates.

Other relevant provisions provided for the Australian working sector personal leave for carer's which as a beneficial provision was not equally provided under the pre-existing federal and state award provisions. This will be bestowed upon those states and territories whose legislation does not cover the provision as a statutory requirement. Other beneficial entitlements include compassionate leave; paid 30-minute meal breaks for every 5 hours of continuous work; right to refuse to work on public holidays.

Agreements

The government has assured that employees will have more choice and flexibility which in turn will lead to higher productivity according to the Senate Hansard (p. 28).[8] The master and servant act of the nineteenth century (Senate Hansard, p. 29)[9] shall be deemed a history specifically in <https://assignbuster.com/australias-workchoices/>

the industrial and mining sector to economically sustain itself and prosper. People with disabilities according to the new trends will be afforded a technological change that will soon be readily available within the economy. Further changes will also serve to heighten the flexibility and productivity pay-off flowing through from the first reforms. All the programs of the government however require all parties to positively share their responsibility for providing the opportunity which is to give each person the fair chance to go to work, be given an incentive and be rewarded for playing a greater role in the decision-making process. Such efforts will be jointly shared between the government, business, individuals and the community where the social and labor services are delivered. The parallel mutual obligation is an approach to the employment process where people are encouraged to work as the best route to alleviate poverty. Dispute resolutions should have an equal chance for mediation within the Workplace Relations Act and external mediators is better seen to tailor to local circumstances. Rather than allowing any conflicts to ensue and thereby result to a full blown action against the company, a better mediation board is seen to alleviate the tension and to iron out issues.

Evaluation of the provisions

To evaluate the effectivity and sufficiency of the above provisions in the modern workplace at this point in time is not very conclusive. However we can take into account the differing viewpoints of the labor sector and the business sector in response to the laws that the government imposed and has currently undertaken. Although critical arguments may pose as an opposing political backlash against the present government for its workplace

reforms; looking closely into the reaction of the labor sector could help us weigh the consistencies of the new laws and its possible impact on the worker's side. At the same time, the business interests of the employers will have to be entertained to weigh the possible answers to the sufficiency of such new laws.

Labor Sector Viewpoint

A statement criticizing the changes was issued by a group of 151 academics from the the fields of economics, law, business and industrial relations studies. The group indicated that they "... share grave concerns about the historic and far-reaching changes now proposed for Australia's workplace relations and their potential effects upon Australian workplaces, workers, and the larger society and economy (Official Hansard, 2005)[10]. Further, on the Government's claims that changes would serve to promote and improve productivity, employment and the general economy, the group stated that these assumptions, while repeatedly asserted, are not supported by evidence, and are contradicted by much of the empirical evidence that is available (Official Hansard, 2005).[11] A report in 2004 by Docep,(No. 215) [12] concludes that pay equity is fundamental to gender equality as it increases women's career prospects, financial independence and life choices. For the workforce, this is particularly important for it can particularly deliver a more committed workforce and use better skills and experience of the female employees as well as addressing the shortage in the labor market. Eventually this reaction summarily states the importance of training opportunities equally available for women to move forward to better paying jobs.

On the unfair and unlawful dismissal categories, Munro (2006) has pointed out that in the previous laws, an employee who successfully claimed to be unfairly dismissed could be reinstated to the same similar position or receive, as compensation, a maximum of 6 months' pay[13]. Depending on the employee's personal circumstance, this act is along with 'unfair contracts' employees will no longer be able to access the remedies that were provided for in the previous bills. DOCEP was quick to explain that this provision seeks "to give concessions to small business employers, such as compelling the AIRC to consider the cost to an employer of attending a hearing when determining whether an unfair dismissal application is valid". [14] The provision exempting the small businesses from unfair dismissal procedures is also frowned upon by the labor sector and raised awareness that employees would be worse off under 'WorkChoices'. McCallum (2005) [15] also criticized the bill as 'absurd' and maintaining that the "extraordinary re-regulation" went much further than laws and policies other countries towards restricting union negotiation rights and controlling collective bargaining processes. He further added that the government is allowing employees to bring proceedings when they have been unfairly treated, unfairly dismissed or unfairly demoted (McCallum, 2005)[16]. With the laws on collective bargaining and exemptions, it has been pointed out that the government may well be putting the future of the working sector into the hands of the corporations, in particular the large multi-national corporations in its effort to attain globalization and the better economy. If we are to listen to the labor sector's woes, it will be intrinsically noted that there is an allowance or extraordinary managerial power to control workers by

using the corporate power. Such moves would ironically promote employees as mere slaves to the whims and caprices of the giant corporations. The rights of an employee are further taken away as job security and enormous managerial power is placed in the hands of the capitalists who are keen to earn more with the least possible expense to their own pockets.

The Business Sector's Opinion

The Business Council of Australia,(BCA) is represented by the Australia's top 100 corporations and has agreed with the government's efforts that a specific agenda for workplace relations shall work in conjunction with an action plan. A fair and prosperous plan that is accessible to all should according to them consider Australia's workplace relations policies and their objectives. The results of using workplace relations to achieve fairness through restrictive workplace practices are often the opposite of those intended: fewer jobs are created, unemployment is higher than it would otherwise be (especially for the low-skilled, women and teenagers); and average incomes are lower. Where workplace relations policies are better targeted towards creating opportunities there is growth and prosperity. Fairness is better achieved in a more direct manner through the tax-transfer system. With this analysis, the BCA will ensure that there is a strong productivity; high levels of employment and people working to their full potential and rewarded fully for their efforts. In this context, the BCA has pursued training and skill formation policies to ensure the best outcomes. BCA President Michael Chaney says the proposed workplace changes are the continuation of a necessary process that began 20 years ago, and not a radical overhaul to be resisted.[17] Notably, as the participant in the draft of

these laws, BCA naturally would laud the passage of such laws and aim for its implementation. It has adequately made sure that the laws are neither in high favor of the employee sector to sacrifice the nature of investments.

Conclusion

The nation recognizes the need for an economic reform to maintain its stability and cooperation is expected among all. However we all need a fair and balanced set of laws that is fair to both employer and employees. A nations economy doesn't run on its own, it needs the most important asset to promote economic growth; its labor sector. A balance should work interactively between the government, the business sector and the working sector to work hand in hand in the promotion and implementation of its goals rather than trying to outdo one another to find who gets the biggest share first. A fair and honest set of acceptable laws is needed to create confidence among the working and the business sectors. In this modern age, harassment in the workplace may still occur on several occasions despite media attention. We need to all look out against the infringement of that particular right. Although we can not expect changes to take effect and exhibit the best possible result overnight but if we shall all work hand in hand, we may enjoy the fruits of own toil and escape from the confines of an oppressive workplace. The recognition of our rights as a person or as a group in the workplace should take several measures to identify and bring this to the government's attention. Laws are made for everybody as a guide to how we might behave accordingly in the workplace.

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- [1] Australia. Commonwealth of Australia, Senate Hansard , April 30, 2005, p. 28.
- [2] ibid, p. 29.
- [3] ibid, p. 23.
- [4] “ as provided under the Racial Discrimination Act 1975 , Sex Discrimination Act1984Disability Discrimination Act 1992 and Age Discrimination Act 2004 .
- [5] Abel, Bernanke, Macroeconomics, p. 65.
- [6] ibid. p. 67.
- [7] ibid, p. 447.
- [8] Hansard, p. 28.
- [9] ibid, p. 29.
- [10] Australia. Commonwealth of Australia, House of Representatives, 2005, “ Parliamentary Debates”, Official Hansard, No. 18, 2 November 2005.
- [11] ibid.
- [12] Australia. Docep, Labor Relations newsletter,#215, Dec. 16, 2004, http://www.docep.wa.gov.au/lr/labourrelations/Media/LR_News_Issue_215.pdf
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- [14] In Docep.
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[16] Ibid.

[17] BCA, The BCA workplace relations action.