

SUBMISSION TO THE NATIONAL HUMAN RIGHTS CONSULTATION

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The United Nation's Universal Declaration of Human Rights (1948) states that:

- All human beings are born free and equal in dignity and rights,
- Everyone is entitled to rights without discrimination,
- Human rights cannot be taken away, traded or disposed of, and
- Human rights are the foundation for freedom, justice, peace and respect.

At the Institute for Community, Ethnicity and Policy Alternatives (ICEPA, Victoria University,) we are currently working on a three-year project on employment discrimination against migrants and refugees in Australia, Canada and the UK.

We recommend that a National Charter on Human Rights be adopted that, among other things, explicitly recognizes *employment rights for all* Australians, particularly for people of non-English-speaking background (NESB).

Current research has shown that there is workplace discrimination and barriers to gaining employment for culturally diverse groups whose race and religion differ from the dominant mainstream group in Australia, Canada and the UK. In Australia, this discrimination is most apparent for people from Asia, Middle East and Africa (although indigenous people are the most marginalized). There also appears to be more discrimination against Non-English speaking background (NESB) people in the public than private sector, given the disproportionately low representation of NESB people in the public sector (Australian Public Service Commission 2008; Bertone et al. 2005; Bertone et al. 2000; Wagner & Childs, 2006; Hugo, 2004; Constable et al., 2004).

Discrimination in employment is based on a range of factors, including: non-Anglo Saxon names, overseas qualifications, lack of local experience and social networks, gender, language, accent and appearance, stereotypes, prejudice and cross-cultural differences. The evidence shows that Australian employers generally do not value the cultural and linguistic capital held by migrants/refugees. As a result, there are pay differentials between ESB and NESB people, stunted career paths, occupational downgrading, lower access to work related training, prestigious jobs and promotion, unemployment/under-employment/low pay/exploitation, and mismanagement by recruitment agencies (Bertone & Leuner, 2008; Colic-Peisker & Tilbury, 2007a and 2007b; Wagner & Childs, 2006; Kler 2006; Doucouliagos et al. 2005; Constable et al., 2004; Ho & Alcorso, 2004).

Australia is one of the few developed country that lacks a Charter on Human Rights. Moreover, Australia is a country of immigrants whose rights should be recognized and protected. It should be noted that 16.8 percent of the population speak a language

other than English at home and 44% of Australians were either born overseas or have at least one parent who was born overseas.

Should employment rights for culturally diverse people be included in a human rights charter, we would expect to see at the least an increase of NESB representation in the public sector. Such a Charter may also lead to, strategic planning/policy programs designed to combat discrimination and provide cross-cultural training for organizations. Awareness of discrimination issues in society (public education: promoting respect, understanding, and acceptance of racial differences) would be promoted, and a lessening of barriers generally would occur. We know this because of the efficacy of such programs in Canada, where the representation of visible minority people in employment has improved significantly (Canada 2008; Fleras 2009).

Employment is a crucial area of social and economic participation for culturally diverse people in Australia, but the evidence suggests that neither the nation's economic interests nor the human rights of such people are being properly served. Recent protests by Indian students in Melbourne (many of them employed in local jobs) shows how volatile community relations can be when basic human rights are not addressed.

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