Mr Michael Brett Young  
Independent Reviewer  
Charter Review Secretariat  
Level 24  
121 Exhibition Street  
Melbourne VIC 3000

Tuesday 2 June 2015

Dear Mr Brett Young,

RE: VTHC SUBMISSION TO THE REVIEW OF VICTORIA'S CHARTER OF HUMAN RIGHTS

The Victorian Trades Hall Council (VTHC) welcomes the opportunity to make a submission to the Review of the Charter of Human Rights and strongly believes that such a charter is an important document in a civil society.

The VTHC was founded in 1856 and is the peak body for unions in Victoria. The VTHC represents approximately 40 unions and 400,000 workers in Victoria. These workers are members of unions that reach into every industry in the state, both in the public and private sectors.

Introduced to Victoria in 2006, the Charter is based on the International Covenant on Civil and Political Rights. The Victorian Charter laws are not ‘supreme laws’, but an act of Parliament that can be changed or overridden by later acts of Parliament. The Victorian Charter does not claim to be an exhaustive statement. Although the fundamentals of the document are sound, its language is esoteric and legal in its composure.

Therefore, the VTHC humbly suggests that a more complete, easily understood and relevant document is the Universal Declaration of Human Rights, which was ratified by The United Nations General Assembly in 1948.

This Declaration and its values have stood the test of time and is as relevant to the contemporary world as it was in 1948, and could be amended to suit Victorian law. Although some articles refer to ‘his rights’ and the language needs to be modernised so as not to be sexist, this Universal Declaration is a model for all of humankind - regardless of age, race, sex, disability, belief system, income or education.
If the Universal Declaration is not adopted by the review, the VTHC regards it as imperative that Articles 20, 23 and 24 be included (or updated) in the Victorian Charter:

**Article 20**
(1) Everyone has the right to freedom of peaceful assembly and association
(2) No one may be compelled to belong to an association

**Article 23**
(1) Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.
(2) Everyone, without any discrimination, has the right to equal pay for equal work
(3) Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.
(4) Everyone has the right to form and to join trade unions for the protection of his interests.

**Article 24**
Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

The Charter of Human Rights can, and should, have practical application in the real world. The VTHC, for example, is extremely concerned about newspaper and anecdotal reports that employers are threatening to deport guest workers if they exercise their right to join a union (see attached).

The VTHC is supportive of the Charter’s current preamble and its principles, noting especially as it relates to Australia’s first people and their connection with traditional land and waters.

The role of the Scrutiny of Acts and Regulations Committee in reviewing bills before they reach the Parliament is an important one and should be retained. It is vital that legislators consider human rights when making laws. (ToR 1c) The VTHC also believes that there is an obligation for legislation to be consistent with human rights.

Ongoing education regarding human rights and the Charter should be provided to the wider community, and the Victorian Equal Opportunity and Human Rights Commission should take a leading role in ascertaining and recommending the best pathways for this education to be available to all. (ToR 1d)

The Charter also requires ‘public authorities’ (and its staff) to act consistently with the Charter. VTHC would argue that no organisation or person, public or private, should act outside the Charter. (ToR 2a)
The VTHC is of the view that the Charter of Human Rights should be subject to a semi-regular review to ascertain its relevance to the changed views and conditions in society, as the Charter should be a 'living' document that reflects the aspirations of a progressive society. Therefore, the VTHC is of the opinion that the Charter be reviewed approximately every eight years (or two parliamentary terms). (ToR 3)

If you would like to discuss any part of our submission further, please do not hesitate to contact my office on (03) 9659 8551.

Yours Sincerely,

LUKE HILAKARI
SECRETARY

LH: LB
Ref: 71.27
Skilled Filipino migrants were given illegal contracts

Nick Toscano  
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Infrastructure giant Thiess employed migrant workers on illegal contracts that allowed the company to sack and deport them for joining unions, as new evidence emerges of human rights violations under Australian visa programs.

Details of the latest breaches within the controversial 457 visa scheme will be referred to a wide-ranging Senate inquiry into foreign worker exploitation. It comes after allegations of migrant farm labourers being grossly underpaid and kept in slave-like conditions were also referred for urgent investigation.

The Thiess Services contracts, seen by The Age, were uncovered when the company laid off about 30 powerline maintenance workers last month due to declining work in Melbourne. The forced redundancies left 11 skilled Filipino migrants with 90 days to leave the country or find alternative visa sponsorship.

Their contracts are signed by the general managers of Thiess Services Australia and were issued in 2012 via an agent in the Philippines.

But unusual clauses – threatening termination for engaging in "trade union activities" – have raised serious concerns, with the Electrical Trade Union claiming the contracts amount to the "most flagrant violation of international labour rights we have ever encountered".

"In terms of coercion against joining a union this is about as extreme as you can get," the union's state secretary, Troy Gray, said.

"The terrifying part is if these threats can be made in writing to migrant workers, by an iconic Australian construction conglomerate, what's happening everywhere else?"

Australian and international human rights laws ensure the right to freedom of association, including the right to join trade unions.

It is understood Thiess Services revised the contracts several months after signing on the Filipino workers, acknowledging that bans on union representation had been illegal. It is not known how many of the 457 visa workers had contracts changed.

Filipino worker Antonio Enriquez, 45, said employees on work visas remained in fear that the company could "take away our jobs at any time" if they sought union representation.

"We were worried about what would happen if we do that," he said. "We gave up everything to come here."

The workers have also accused Thiess management of repeatedly assuring them their jobs were safe and that they would be nominated for permanent residency in Australia after two years of work.

"They gave us so many promises we would be made permanent residents," Mr Enriquez said. "But instead of giving us residency, they gave us redundancy."

Christopher Velasco, 37, said he and his colleagues were careful to always obey the rules of their employment.

"We did the best we could at our jobs, hard working and obeying the company's policies, so we are very sad that in return they are not giving us their obligations," he said.

"Our children have adjusted here in our new environment ... this was a one-way ticket for us and our families."

A company spokesman declined to comment on questions from Fairfax Media.
Federal Greens industrial relations spokesman Adam Bandt said the contracts were in clear breach of workers’ rights and raised concerns that other illegal agreements could be in use among visa-sponsor employers.

He called on the government to ensure the 11 Filipino migrants could remain in Australia while the contracts were investigated.

"Thiess is one of a number of companies that have been given the power to self-regulate," Mr Bandt said. "The government must audit these companies’ contracts that are currently working under 457 visas to ensure that more workers aren't having their rights taken away through illegal contracts."

Australia's workplace watchdog, the Fair Work Ombudsman, has begun inquiring.

Thiess Services is half-owned by CIMIC Group, formerly known as Leighton Holdings, which is one of Australia's largest construction companies.

A spokeswoman for the Abbott government said the allegations were "serious, and if true, are a breach of the law".

Filipino community group Migrante said the workers had contributed enormously to their new country over the past two years, and deserved the protection and security of a better future in Australia.

Laid-off worker Ricardo Bernardo said he was searching frantically for another electrical job to allow his family to keep living in Melbourne. "It's about my family's future," he said. "My son is here, my wife is here, and now we only have 90 days."

This story was found at: http://www.theage.com.au/victoria/skilled-filipino-migrants-were-given-illegal-contracts-20150508-ggvi6g.html