

# Migration and Migrants in the Australian Construction Industry: Issues Facing Tiling Workers in the Sydney Metropolitan Area

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## Introduction

This paper outlines the experiences of migrant workers in the construction industry and the influences migrant workers are having in terms of reorganisation of construction industry labour processes. It specifically focuses on the subcontracting and wages systems that have emerged in the tiling sector of the construction industry in the Sydney area. It outlines the effect of this system on migrant workers and the ways in which migrant workers themselves are reshaping this sector of the construction industry. Whilst there are points of variation concerning the labour process and subcontracting between tiling and other sectors of the construction industry, the material below depicts the far-reaching influence of migrant workers. The first section of the paper outlines the changing role of head (main) contractors in relation to subcontractors, the second section discusses control of subcontractors over the labour process, the next four sections discuss, respectively, workers' entitlements, skill formation the use of inferior materials and contract wage rates in the context of growing informal employment. The sixth and seventh sections discuss the roles of Korean and Chinese workers in the tiling sector and emergence of a racially divided work system. The appendix briefly outlines the political and industrial relations background.

## Main Contractors (builders) and Hierarchical Control

The process of industrial restructuring in the formal sector of the Sydney construction industry has led to the decentralisation of production and informal employment since the early 1990s. Political and legislative changes from the early 1990s ushered in decentralised bargaining with Enterprise Bargaining Agreements (EBAs) becoming the main industrial relations regulatory mechanism (see also Appendix). Since 1987, key changes in the construction industry included restructuring the subcontracting system and flexible employment arrangements. The process of restructuring the subcontracting system has given more power to main contractors (builders) who control the labour process in a hierarchical style by using multiple employment arrangements.

The main contractors (big builders) in the Sydney metropolitan area have few direct employees. They largely just employ key management personnel, including some office workers, some project managers, site clerks and forepersons and a small number of workers such as hoist drivers, safety crew and first aid officers. On the other hand, builders employ specialised trade subcontractors who supply the labour force and materials.

The main contractors (builders) control huge financial resources on many construction sites through thousands of trade workers engaged via the external labour market. They can increase their profits by applying hierarchical control through the subcontracting system.

## Subcontractors (tiling companies) and Bureaucratic Control over the Labour Process

In the construction industry subcontracting system, there are several layers in the contractual chain in the unionised sites, involving multiple employment practices as follows:

- 1) Main contractors (builders) who make a contract with the client to complete a construction project and sub-contract-out to specialised trade principal subcontractors.
- 2) Subcontractors who supply both the labour and materials necessary (supplying and fixing) for the performance of construction work. The subcontractor employs a few office workers, and a marketing manager.

Also, for tile-laying the EBAs between the CFMEU and the subcontractors allow that they can employ direct skilled tradespersons, labourers and a few apprentices in permanent and full-time positions. In addition,

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they can engage self-employed workers ('own-account' workers), individual sub-subcontractors as well as a few supervisors.

- 3) In many cases, a subcontractor further sub-subcontract the fixing jobs to other sub-subcontractors (middlepersons) breaching the EBAs. The latter (middlepersons) are labour-only subcontractors (second layer subcontractors) who supply the labour necessary for the performance of construction work.

In particular, the subcontractors deploy labour market flexibility to reorganise the labour process at the workplace level in order to enhance their bureaucratic control over the middlepersons and their workers. The role of supervisors for subcontractors has changed from supervising to inspecting the tile-laying done by the middlepersons' team. The middlepersons become team leaders who employ trade workers including a few skilled, semi-skilled and unskilled tiling workers to create a team divided according to their level of skill. The middlepersons apply bureaucratic and craft control over the labour process to exploit their team members. In some cases, as higher wage workers, the high skilled workers also have autonomy and craft control over the semi- and unskilled workers to expand benefits for the sub-subcontractor, team leader.

The structure of the Australian construction industry generates three kinds of employment relationships, which differ in terms of the responsibility for wages payments. These employment arrangements sometimes confuse the responsibility of workers' entitlements.

### **Informal Employment and Unpaid Workers' Entitlements**

The development of informal employment is a result of industry restructuring, subcontracting, new labour market policies, immigration policies, new migrants' working cultures and tile-layers' subjectivity. This section identifies how these factors influence the development of informal employment.

Subcontractors in the tiling sector have expanded labour market flexibility and manipulated the immigrants' working cultures – including Italian, Korean and Chinese background workers – to increase capital accumulation. Most Italian-background tile-layers who migrated to Australia in 1950s and 1960s are multi-skilled. Also, they have had a long history of ceramic, marble and mosaic tiling which has made them very familiar with the tiles and materials. The second and third generations born in Australia are multi-skilled because of the Italian working culture and because they have usually completed TAFE (Technical and Further Education) courses in Australia. Commencing with their Italian father/grandfather, subsequent generations of trade workers have succeeded as self-employed tiling businesses (Italian Tile-layers, Interview May-June, 2005).

Currently, in the housing industry Italian-background tile-layers more commonly employ an apprentice or work by themselves. In the big commercial and apartment union sites, Italians have accepted the EBAs. This has allowed tile-layers to become contract tile-layers (individually self-employed), permanent wage workers or casual workers in special cases (Italian Tile-layers, Interview May-June 2005). For them, tiling industry restructuring through subcontracting has produced a decentralisation of production to small enterprises – sole traders – but they still work in the formal sector in the unionised sites in which they gain all workers' entitlements including portable superannuation and redundancy and site allowances. They also receive a little above the minimum contract rates of pay in the EBAs (Better Contracting Pty Ltd and CFMEU, 2003: 36-37).

However, many subcontractors have violated the EBAs to sub-let their tile-laying jobs to middlepersons (sub-subcontractors) who employ Korean and Chinese tiling workers. Sub-subcontracting to Korean and Chinese middlepersons has enabled subcontractors to reduce costs by taking advantage of culturally specific working arrangements. Most Korean and Chinese-background tile-layers prefer to work as sub-subcontractors (middleperson) even though the EBA does not allow this. The changes in the employment status have restricted the middlepersons and their workers from obtaining workers' entitlements. By avoiding subcontractors' responsibilities, they create a large amount of 'illegal income', gained by not paying portable superannuation (9% of wages), portable redundancy (6%) and site allowances (5%). This amounts to about \$ 10,000 per year per tiling worker.

### **Informal and Self-skill Formation**

The CFMEU has promoted institutionalised skill formation through formal training providers including TAFE. The CFMEU has always campaigned for construction companies to employ more apprentices. The union prescribes a ratio of one apprentice to every five tradespeople in the private sector and one to four in the public sector (CFMEU, 1997: 7; CFMEU, 1999: 10). The union has inserted a clause in EBAs so these ratios shall be automatically applicable to subcontractors (Classic Tiles Pty Ltd and CFMEU, 2001: 25).

However, Korean and Chinese background tiling workers have been trained through the communities' informal, self-regulatory arrangement. This sidesteps institutionalised skill formation and the subcontractors (tiling companies) avoid investment in training. In particular, most skilled workers and employers in the Sydney Korean community do not provide on-the-job training for their workers for the following reasons:

- 1) When workers improve their skills, they seek employment in more highly remunerated positions as shown Table 3 (Shin et al, 2004:19). Middlepersons do not want to be the provider of on-the-job training for a worker who will go to another employer.
- 2) When workers reach the skilled worker level, they want to do just tile installation and no longer want to clean the sites, therefore the middleperson has to pay an additional AUS \$100 per day for a tiling helper which is a financial burden.
- 3) After becoming skilled tile-layers, most want to be self-employed contractors rather than wage workers which creates more competition in the tiling tendering process.
- 4) Middlepersons think semi-skilled workers are the best for them in terms of efficiency because they work very quickly, cut tiles and clean work sites, too (Shin et al, 2004: 26).

For the abovementioned reasons, most Korean-speaking tiling workers improve their skills by themselves to earn more money in the unique Korean community wage and skill structure. Although the institutionalised skill formation system is important in promoting tile-laying standards in Australia, the Korean and Chinese communities' informal self-regulation training system has undermined traditional and institutionalised skill formation.

### **Subcontractors' Unfair Benefits through Inferior Materials**

Some subcontractors in the unionised sector of the Sydney tiling industry provide inferior materials in order to expand benefits as outlined below:

- Subcontractors make contracts with builders (head contractors) and the subcontractors promise to provide 'A' standard tiles.
- However, when almost 20% of the project is finished, subcontractors revert to 'B' or 'C' level quality tiles which reduces the cost of tiles by 20-30%. They procure large profits dishonestly through this material supplying method. Furthermore, this illegitimate method delivers less quality tiling work to consumers.
- Moreover, the material providing method burdens middlepersons as the labour cost is increased by 30% because jobs with less quality tiles need more time to complete (Korean-born Tile-layers, Interview 01/2004-11/2005).

The three groups – permanent workers, Italian-background workers and Korean or Chinese-background workers – respond differently to subcontractors' use of inferior materials. Firstly, permanent tiling workers generally do not complain about jobs with inferior quality tiles which take more time to complete because these jobs simply increase the labour cost for subcontractors. Thus, the subcontractors generally provide standard quality tiles to permanent tiling workers to avoid extra labour costs. Secondly, individual contractors (self-employed) mainly Italians, are not given inferior quality tiles by subcontractors because the individual contractor will complain about the financial burden which will reduce their family income by about 30%. Thirdly, the Korean and Chinese middlepersons (sub-subcontractors) generally can not complain about receiving inferior quality tiles from subcontractors because they worry about losing their tile-laying contract.

The middlepersons think they can earn more money by using fake companies if they get more jobs even with lower contract rates of pay and inferior quality tiles. Thus, subcontractors prefer to give tile-laying jobs to Korean and Chinese middlepersons because they can easily apply indirect bureaucratic control over middlepersons to expand profits rather than employing direct workers and Italian self-employed contractors. However, these changes sacrifice customers' rights and reduce government revenue.

### **Lower Contract Rates, Division of Labour and Benefits for Middlemen**

In addition to the effects of lower quality materials, there are differences in the contract rates of pay. Subcontractors contract-out to Korean middlepersons at about 10% less than rates in the EBA and to Chinese middlepersons rates that are about 20% lower. The subcontractor procures unfair financial benefits by reorganising the labour process, deploying Korean and Chinese middlepersons and tiling labour force. This breaches the EBAs.

The CFMEU has negotiated wall and floor tiling contract rates based on square metres with principal subcontractors on behalf of self-employed contract tile-layers. The contract rates associated with industry 'pattern bargaining' in the Sydney metropolitan area are shown as an example in Table 1.

**Table 1: Wall and Floor Tiling Minimum Contract Rates of Pay with Principal Subcontractors in EBAs (e.g. 300 mm x 300 mm size ceramic tiles)**

Year	1998	1999	2000	2001	2002	2003	2004	2005
Wall	24.80	26.71	27.51	27.51	28.34	29.20	30.66	31.89
Floor	29.74	32.03	32.99	32.99	33.98	35.60	37.38	38.88

Source: CFMEU (1998; 2000; Classic Tiles Pty Ltd and CFMEU (2001: 22-23); Bettertiles Contracting Pty Ltd and CFMEU (2003: 36-37)

However, Korean-born middlepersons receive rates of pay that are about 10 % lower than the rates in the EBA even if they work at unionised sites. Despite the fact they receive lower contract rates (see Table 2), they are sometimes still able to make more money than non-Korean tile-layers (individual self-employed) because they obtain more contracts and complete more jobs by working their workers longer and harder. However, Korean-born tile-layers are criticised by other tile-layers because their contract rates have not increased reasonably which is due to the competition created by Korean tile-layers' cheaper contract rates.

**Table 2: Real Contract Rates of Pay for Korean-born Tile-layers in Union Sites (e.g. 300 mm x 300 mm size ceramic tiles)**

Year	1995	1998	2000	2001	2003
Wall	20.00	24.00	24.00	25.00	28.00
Floor	24.00	28.00	28.00	30.00	32.00

Source: Interviews with Korean Tile-layers (11/01/2002; 10/02/2004; 17/01/2004)

The Korean-speaking middlepersons also implement an extended division of labour through team working which includes performance-based payments. With these methods, the middlepersons believe they can earn more money because they are able to employ Korean-skilled tile-layers to finish the task quicker with their crouching position of work method rather than kneeling work methods of non-Asians.

Koreans have introduced a division of labour in tiling teams and a different wage determination method as shown in Table 3. This has led them to exploit people from the same cultural background and avoid taxes, but not stand-up and fight against their subcontractors' hegemony. Under the situation of low contract rates, the middlepersons use laundering of money to avoid 10% GST and all other taxes. They misuse sham companies employing overseas students, 457 working visa holders or working holiday makers, reaping financial gain when these workers return to their own countries. This leads to the expansion of informal employment.

**Table 3: Tiling Workers Wages in the Korean Community (2004-5)**

Wage Categories	Period of Experience	Daily Wage	Weekly (5 days/week)
Labourer 1	(0-1 month)	100	500
Labourer 2	(1-3 months)	110	550
Labourer 3	(3-4 months)	120	600
Labourer 4	(4-6 months)	130-40	650-700
Labourer 5	(6 months-1 year)	150-160	750-800
Semi-skilled	(1 year - 2 years)	170-180	850-900
Skilled 1	(2 years- 2.5 years)	190-200	950-1,000
Skilled 2	(2.5 years - 3 years)	210-250	1,100-1,250
Skilled 3	(3 years-5 years)	260-290	1,300-1,450
Leading hand	(5 years +)	300 +	1,500 +

Source: Shin et al (2004: 19)

### Informal Wage-determination in the Korean and Chinese-community

Australian government policy in concert with the global labour market has facilitated the deployment of workers from Korean and Chinese backgrounds to expand their capital accumulation using the subcontracting system. The new migrants have relatively weak bargaining power and rarely have access to the CFMEU.

The Korean- and Chinese-speaking tiling workers' wage system is based on performance with a clear focus on efficiency. The wage levels for Korean tiling workers shown in Table 3 are much more detailed than the wages in the EBAs. The wage difference between Labourer 1 and Leading hand could be \$1,000 or more per week. This represents

extreme wage flexibility compared to the difference of \$50 in the EBA (Bettertiles Contracting Pty Ltd and CFMEU, 2003). In general, Chinese tiling workers receive at about 10-20% lower wage rates from the Chinese middlepersons than Korean tiling workers' wage rates (see Table 3) (Korean Tile-layers, Interview 01/2004-25/11/2005; and Chinese Tile-layers (Interview, 05/2005-10/2005). The labourer receives a very low wage because the Korean-born middlepersons pay the labourer not according to how much time the labourer spends working on the job. Instead, the subcontractor calculates the amount the labourer has improved the performance of the skilled worker (Shin et al, 2004: 19).

Despite a strongly-held CFMEU principle of wage equity the union has recognised that tiling work is easily quantified (square metres), providing a basis for contract rates of pay. (In comparison, form work and carpentry are much harder to calculate by square metre.) This facilitates tiling subcontractors' preference for contract rates of pay through the subcontracting system which results in the externalisation on labour costs as well as the externalisation of risks and responsibilities. The method of calculating the amount of tiling work and the subcontractors' labour market strategy has led to an increase in the number of contract workers.

### **Subcontractors' Hegemony, Racial Segmentation of the Labour Market and the New Class**

Even though the Korean-background middlepersons have applied team work, division of labour and wage differentiation to keep or increase their benefits, they have found it hard to survive because the subcontractors (tiling companies) have deployed more Chinese-background middlepersons to expand their earnings. This is particularly so since the end 2005 when the *Building and Construction Industry Improvement Act 2005* and the *Workplace Relations Amendment Act 2005* were introduced.

In general, the Chinese-background middlepersons have established a similar system to Korean-background middlepersons including wage differentiation and tax avoidance. These trends have produced racial income differentiation such that middlepersons can earn weekly about \$2,000, self-employed (mostly Italians) and Korean high skilled workers \$1,300-1,500, Korean semi-skilled and Chinese high skilled workers \$850-1,000, Chinese semi-skilled workers \$675-700, Korean labourers \$500 and Chinese-labourers \$400 dollars

On the other hand, to maintain their incomes, the middlepersons drive their workers to work longer and harder under this extended division of labour. These teams include skilled and unskilled tiling workers in the same ethnic communities who rely on performance-based payment (Korean Tile-layers, Interview 01/ 2004-11/2005; Chinese Tile-layers, Interview 06/2005-10/2005). The new labour process is fundamentally different from the reorganisation of the labour process in the early 1950s and late 1960s when multi-skilled craft tiling workers still controlled many aspects of the labour process in the 'craft-based housing project'. For Korean and Chinese tiling workers, the sector is becoming an informal sector in which it is not guaranteed that they will obtain workers' entitlements.

Thus, the subcontractors' hegemony over the labour process has created more occupational and racial segmentation of the labour market and established new racially-based working classes. Furthermore, some ethnic groups may be pushed out of the tiling sector. In particular, skilled Australian-background workers who have trained for a long time may no longer have a place in the industry.

### **Conclusion**

This paper has outlined some of the adversities facing migrant workers once they enter construction industry. Structural change in the construction industry over the past decade-and-a-half has generated multiple kinds of employment relationships, which differ in terms of responsibility for wages payments and confuse responsibilities for workers' entitlements. In the tiling sector, sub-contractors commonly sub-let their contracts, contravening the EBA and creating a new category of 'middlepersons'. Subcontractors are able to avoid many of their responsibilities, and capture a large amount of illegal income by avoiding payment of superannuation and other benefits to migrant workers. Such things as lower contract wage rates and the supply of inferior quality tiles have pressured Korean and Chinese subcontractors to exploit people from the same cultural background. This subcontracting system creates pressures for informal self-skilling which sidesteps and undermines institutionalised skill formation, and increases the number of contract and informal workers.

## Appendix

### Background

From the early 1990s, the Keating labour government applied neo-liberal restructuring in industries and workplaces. Also, Australian employers put pressure on the state to change the priority of immigration policy from a population focus to temporary immigration policy in line with the labour market flexibility policy.

The 1987 'restructuring and efficiency principle' of the federal government accelerated into a headlong rush towards the introduction of enterprise bargaining (Cook, 1992:115). Enterprise bargaining was implemented in 1991 under the Keating Labour Government as a neo-fordist accumulation strategy. The introduction of enterprise bargaining led to considerable interest in labour market flexibility at industry and workplace levels (Rimmer and Zappala, 1988; Green and Macdonald, 1991; Wailes and Lansbury, 1997). Presently workers' wages and conditions are generally established through employer-union negotiation (enterprise bargaining) and documented in resulting agreements (EBAs). Awards provide a 'safety net' or a set of minimum terms and conditions for workers not covered by an EBA.

Non-standard (irregular) employment that is part of the restructured subcontracting system in the construction industry in Sydney metropolitan area limits construction workers' access to Awards or EBA entitlements such as long service leave, superannuation, redundancy payment, annual leave, sick leave, workers compensation and training. The BWIU (Building Workers Industrial Union) developed policies in the early 1970s to implement the "Family Welfare Concept" or "Income Security Policy" in response to the problems generated by the subcontracting system (McDonald and McDonald, 1998: 175).

The BWIU policies have been implemented in all unionised sectors of the construction industry through 'pattern bargaining' negotiation with employers. As a result, the EBAs include common collective bargaining wage sheets, redundancy, superannuation, site allowances, workers compensation, long service leave and training in the all levels of subcontracting layers (CFMEU, 1998: 6).

Through amalgamation with other building unions, the BWIU was able to regulate institutionally by extending its coverage beyond traditional skilled trade persons including tile-layers, carpenters and brick-layers. It implemented the union policies industrially rather than across just a few trades. By amalgamating with the BWIU in 1967, the tile-layers (the Tile-layers Union of NSW) overcame the limited power of the craft union, to cope with the negative results produced by subcontracting the reorganisation of the subcontracting system. All tiling workers have been entitled to all the benefits of the EBA (Classic Tiles Pty and CFMEU, 2001: 11).

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### INTERVIEWS

**Tile-layers**

Chinese Tile-layers have been interviewed between June and October, 2005

Italian Tile-layers have been interviewed between May and June, 2005.

Korean Tile-layers have been interviewed many times since January, 2002, both formally and informally.

(35 Korean-born, 4 Anglo-background, 9 Italian background and 5 Chinese-born Tiling workers have been interviewed and 3 Italian and 1 Korean-background principal subcontractors have been interviewed, January, 2005 – November, 2005.)