

## **Submission to the Select Committee on Temporary Migration by the Development Policy Centre, Australian National University**

### **Inquiry into the impact temporary migration has on the Australian economy, wages and jobs, social cohesion, and workplace rights and conditions**

The Development Policy Centre is a think tank for aid and development serving Australia, the region and the global development community, based at the Crawford School of Public Policy at the Australian National University. Established in 2010, we undertake independent research and promote practical initiatives to improve the effectiveness of Australian aid, support the development of Papua New Guinea and the Pacific island region, and contribute to better global development policy. This submission was prepared by Holly Lawton, Research Officer, and Ryan Edwards, Deputy Director.

This submission relates to the Committee's interests in the impact of wage theft, breaches of workplace rights and conditions on temporary migrants; policy responses to challenges posed by temporary migration; and whether permanent migration offers better long-term benefits for social cohesion. Pacific labour mobility is a key research area of the Development Policy Centre, and this submission draws on observations of Pacific labour mobility, particularly the Australian Government's Pacific Labour Scheme (PLS) and Seasonal Worker Programme (SWP).

This submission does not seek to detail the impacts of COVID-19 on temporary migrants. COVID-19 has, and continues to have, serious impact on Australia's economy and labour market. It has also highlighted the essential role that temporary migrants play in supporting Australia's development. But temporary migrants have been particularly hard hit. The pandemic has highlighted and exacerbated existing temporary migrants' vulnerabilities.

#### **Summary of Recommendations**

1. Note that there is no convincing evidence to lead us to expect temporary migrants to harm pre-existing workers' employment outcomes. If anything, we should expect positive rather than negative impacts and any negative impacts to be small.
2. Greater coordination and complementarity is needed in Australia's migration program. Review policy changes to the backpacker visa that reinforce exploitative behaviour, encourage dependency on employers, and de-incentivise purpose-built, regulated schemes with in-built worker protections.
3. Further exploration of options that afford workers greater agency and flexibility to change employers is needed.
4. Remove forced family separation for Pacific schemes for better social cohesion and development outcomes.
5. Develop and implement permanent pathways for Pacific migrants.

## Labour market impacts

The terms of reference seek to inquire into, among other things, the impact of temporary skilled and unskilled migration on Australia's labour market. There is an extensive body of empirical research in economics on the impacts of immigration on native employment and local labour markets, which we will not detail but interpret broadly to make two simple points.

The first point is that there is a general consensus among economists that, on average, the impact of immigration on native wages and employment is approximately zero. The evidence in this matter is discussed for a general audience by two MIT professors, also 2019 Nobel Prize winners, here<sup>1</sup>, here<sup>2</sup>, and here<sup>3</sup>. Michael Clemens discusses one of most important studies on the United States case here<sup>4</sup>, and conducts his own here<sup>5</sup>. Together with Hannah Postel and Ethan Lewis, he found that when US president John F. Kennedy suddenly excluded almost half a million Mexican seasonal workers from the US labour market, it did nothing to improve wages or employment for the American workers it sought to benefit. David Card and Giovanni Peri, two of the world's leading labour economists, review additional evidence here<sup>6</sup> and here<sup>7</sup>. Two important guides on how to think about assessing impacts, providing the analytical context for the evidence above, are here<sup>8</sup> and here<sup>9</sup>.

The second point is that the best studies in the Australian context firmly line up behind this international evidence. That is, we have no reason to think that Australia is any different. For example, Robert Breunig, Nathan Deutscher, and Hang To<sup>10</sup> study the relationship between immigration to Australia and labour market outcomes for Australian-born workers. They find that, after adjusting for experience and education, there is no evidence that immigration harms the labour market outcomes of people born in Australia. Robert Bruenig also has a helpful review of the Australian and international evidence here<sup>11</sup>.

A new paper published this year by Daniel Crown, Alessandra Faggian, and Jonathan Corcoran<sup>12</sup> uses Home Affairs data specifically on temporary work visa applications to examine impacts on native wages and occupation-specific skills. They find that skilled international workers actually increase native wages and induce them to specialize in roles with higher communication and cognitive skill intensity. They also find no evidence that the temporary visa programme harms the labour market outcomes of high-or low skilled natives, or previous migrants who might have substituted for them.

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<sup>1</sup> <https://www.youtube.com/watch?v=i1pZFFY132Q>

<sup>2</sup> <https://www.vox.com/future-perfect/2019/12/6/20992071/abhijit-banerjee-esther-duflo-good-economics-hard-times-interview>

<sup>3</sup> <https://www.amazon.com.au/Good-Economics-Hard-Times-Problems/dp/1610399501>

<sup>4</sup> <https://www.vox.com/the-big-idea/2017/6/23/15855342/immigrants-wages-trump-economics-mariel-boatlift-hispanic-cuban>

<sup>5</sup> <https://voxeu.org/article/impact-immigration-barriers-native-workers>

<sup>6</sup> <https://pubs.aeaweb.org/doi/pdf/10.1257/jel.20151248>

<sup>7</sup> [http://giovanniperi.ucdavis.edu/uploads/5/6/8/2/56826033/peri\\_do-immigrant-workers-depress-the-wages-of-native-workers.pdf](http://giovanniperi.ucdavis.edu/uploads/5/6/8/2/56826033/peri_do-immigrant-workers-depress-the-wages-of-native-workers.pdf)

<sup>8</sup> <https://www.aeaweb.org/articles?id=10.1257/jep.30.4.31>

<sup>9</sup> <https://www.aeaweb.org/articles?id=10.1257/jep.30.4.3>

<sup>10</sup> <https://www.pc.gov.au/inquiries/completed/migrant-intake/report/migrant-intake-supplementa.pdf>

<sup>11</sup> [https://crawford-anu-edu-au/sites/default/files/uploads/crawford01\\_cap\\_anu\\_edu\\_au/2018-10/immigration\\_case\\_study.pdf](https://crawford-anu-edu-au/sites/default/files/uploads/crawford01_cap_anu_edu_au/2018-10/immigration_case_study.pdf)

<sup>12</sup> <https://academic.oup.com/oep/article-abstract/72/3/585/5841554?redirectedFrom=fulltext>

**Recommendation One: note there is no convincing evidence to lead us to expect temporary migrants to harm pre-existing workers' employment outcomes. If anything, we should expect positive rather than negative impacts and negative impacts to be small.**

#### Existing immigration settings undermine temporary migrant rights

A number of industries have long and heavily relied on migrants to meet workforce needs. Yet, temporary migrants are amongst the most vulnerable in the Australian labour market and over-represented<sup>13</sup> in workplace disputes, particularly temporary migrants in less regulated schemes. Worker exploitation and wage theft are more likely when backpackers (i.e., working holiday makers), students, and spouses of Temporary Skills Shortage visa holders are involved.

Exploitation of temporary migrant workers in Australia and the layered vulnerabilities they face has been well documented. Reports<sup>14</sup> of underpayment and non-payment of wages, unlawful deductions from worker wages, failure to meet pay slip and record keeping obligations, sexual harassment, and workplace health and safety issues are common. There is also evidence<sup>15</sup> of added vulnerability due to higher incidences of cultural and language barriers, low levels of awareness of workplace rights, and barriers to raising concerns and seeking assistance—structural barriers that encourage exploitation.

Recent changes including greater focus<sup>16</sup> on supply chain transparency, licensing<sup>17</sup> of labour-hire companies, efforts to enforce<sup>18</sup> workplace regulations, and recent reforms to industry awards, agreements, and visa conditions in industries with heavy temporary migrant participation are all, at surface value, likely positive for temporary migrants. However, reform and monitoring efforts have failed to keep pace<sup>19</sup> with an increased number of temporary migrants and, in some cases, had adverse effects.

The 2016 Fair Work Ombudsman Inquiry<sup>20</sup> into changes to the backpacker visa (the 88 day requirement) found 'exploitative workplace cultures and behaviours'. Recent reforms to the backpacker visa risk further entrenching<sup>21</sup> exploitation and exacerbating<sup>22</sup> downward pressure on wages and conditions for migrant workers. There is concern<sup>23</sup> too, that recent changes to the Horticulture Award could, unintentionally, in efforts to control labour costs, push growers to rely on illegal workers, such as temporary visitors on tourist visas (without work entitlements) or visa over-stayers. Policy changes

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<sup>13</sup> <https://www.fairwork.gov.au/annual-reports/annual-report-2017-18/02-fwo-performance-report/proactive-activities/vulnerable-and-migrant-workers>

<sup>14</sup> <https://www.fairwork.gov.au/how-we-will-help/helping-the-community/campaigns/national-campaigns/harvest-trail-inquiry>

<sup>15</sup> <https://www.mwji.org/survey>

<sup>16</sup> <https://www.fairfarms.com.au>

<sup>17</sup> <https://devpolicy.org/cleaning-horticultural-labour-market-two-breakthroughs-20170512/>

<sup>18</sup> <https://www.fairwork.gov.au/how-we-will-help/helping-the-community/campaigns/national-campaigns/harvest-trail-inquiry>

<sup>19</sup> <https://www.pc.gov.au/inquiries/completed/migrant-intake/report/migrant-intake-report.pdf>

<sup>20</sup> <https://www.fairwork.gov.au/about-us/access-accountability-and-reporting/inquiry-reports#417-visa>

<sup>21</sup> <https://devpolicy.org/proposed-backpacker-visa-reform-will-increase-worker-exploitation-and-cause-strategic-damage-20180928/>

<sup>22</sup> <https://devpolicy.org/the-horticulture-labour-shortage-myth-20191101/>

<sup>23</sup> <https://devpolicy.org/unintended-consequences-of-new-farm-labour-regulations-20190912/>

also work to incentivise the use of unregulated labour and undermine<sup>24</sup> better regulated and targeted temporary migration schemes, namely the PLS and SWP, which also play a central role in Australia's foreign and development policies.

**Recommendation Two: Greater coordination and complementarity is needed in Australia's migration program. Review policy changes to the backpacker visa that reinforce exploitative behaviour, encourage dependency on employers, and de-incentivise purpose-built, regulated schemes with in-built worker protections.**

#### Maximising impact: worker welfare and the role of regulation

Australia's Pacific temporary migration schemes are highly regulated and are designed specifically as labour schemes. While demand-driven, they take a more migrant-informed and -centred approach<sup>25</sup> which tends to result in better worker experiences and fewer incidences of exploitation (see here<sup>26</sup>, here<sup>27</sup>, here<sup>28</sup>, here<sup>29</sup>). Terms of engagement are set by the Australian Government and employer participation needs to be approved and endorsed.

Workers receive tailored support<sup>30</sup> to facilitate integration into life and work in Australia. Pre-departure briefings are conducted with workers to build understandings of workplace rights and responsibilities, the terms of their employment contracts, and avenues for support. The SWP mandates<sup>31</sup> that Approved Employers provide pastoral care support<sup>32</sup> to workers, and additional third-party welfare support has been provided to support workers during COVID-19. The PLS provides workers with intensive pastoral care support via mobilisation support, case management, and site visits. Investment in more rigorous employer screening and program oversight has also been made. All employers must be vetted and approved to participate in the schemes. Approved Employers in each program need to be able to guarantee workers a minimum average of 30 hours' work per week to help ensure workers are able to benefit financially from participation.

Participating Pacific islanders are entitled to the same rights as Australian workers in so far as rates of pay, workers compensation, and entitlements. Participants will likely be subject to agreed payroll deductions to cover mobilisation and living expenses (e.g., mobilisation airfares, mandated health insurance, and accommodation). They are however tied, via the conditions of their visas, to one employer, making them intrinsically vulnerable to exploitation.

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<sup>24</sup> <https://devpolicy.org/food-with-justice-informality-exploitation-and-the-swp-20190709/>

<sup>25</sup> <https://www.tandfonline.com/doi/full/10.1080/1323238X.2017.1392478>

<sup>26</sup> <https://devpolicy.org/returned-seasonal-workers-and-small-business-in-timor-leste-reasons-for-hope-20190722/>

<sup>27</sup> <https://devpolicy.org/seasonal-workers-and-rising-oceans-mccormack-needs-to-understand-the-reality-20190829/>

<sup>28</sup> <https://www.youtube.com/watch?v=AXm2lxeMwJY&feature=youtu.be>

<sup>29</sup> <https://www.inverelltimes.com.au/story/6535276/pacific-labour-scheme-workers-welcomed-into-the-inverell-community/>

<sup>30</sup> <https://devpolicy.org/backpackers-v-seasonal-workers-20181127/>

<sup>31</sup> <https://docs.employment.gov.au/documents/seasonal-worker-programme-deed-agreement-effective-1-january-2020>

<sup>32</sup> [https://docs.employment.gov.au/system/files/doc/other/seasonal\\_worker\\_programme\\_guidelines-may\\_2020\\_v1.1.pdf](https://docs.employment.gov.au/system/files/doc/other/seasonal_worker_programme_guidelines-may_2020_v1.1.pdf)

This dynamic has the potential to foster dependency and undermines migrant bargaining power and agency. Coupled with the temporary nature of the schemes, this means regulation is critical to upholding migrant welfare. While the two schemes report fewer incidents of exploitation than other, less regulated, temporary pathways (e.g., backpackers, students, and spouses) they are not exempt from exploitation or vulnerability. Notable reports involve underpayment of workers (particularly where seasonal workers are paid by piece rates<sup>33</sup>), poor quality accommodation and living conditions, and inflated costs for wrap around services (e.g., transportation<sup>34</sup> and accommodation<sup>35</sup>). The widespread industry buy-in and the level of stringent employer regulation, monitoring, and punitive measures for non-compliance observed in New Zealand's Recognised Seasonal Employer (RSE) scheme are yet to be observed<sup>36</sup> in Australia and could further help to uphold controls and support broad-based industry reform. However, the SWP and PLS remain tightly controlled schemes. Other temporary migration schemes: not so much.

COVID-19 has afforded the opportunity to trial greater migrant mobility with special measures introduced to facilitate the movement of workers between Approved Employers, based on employer demand. This expands on a portability pilot, the SWP Regional Pilot<sup>37</sup>, trialled in a handful of regions pre-COVID-19. More work is needed to understand the impacts of such initiatives and whether they may provide a promising avenue to empower workers while providing employers and the market with more flexibility to deal with ebbs and flows in these typically seasonal industries.

**Recommendation Three: Further exploration of options that afford workers greater agency and flexibility to change employers is needed.**

#### Addressing family separation

Given the often circular nature<sup>38</sup> of participation in the SWP and extended periods of migration on the PLS, migrants are straddling dual states of impermanence as they manage and maintain relationships in both their home and host communities. Both the SWP and PLS involve family separation. Both, based on visa conditions, are unaccompanied schemes. This is particularly concerning with periods of separation now extended under the PLS. The potential impacts of family separation are serious and concerning—for example, emotional and psychological stress, care deficits, and impacts on children—and impact on a worker's ability to integrate into the community. Joined by family, migrants are more likely to invest in and integrate into their host communities and are better able to plan for the future.

Family separation is also inconsistent with conditions of other temporary migration visas<sup>39</sup>. All other temporary work visas have provisions for workers to be accompanied. Consistency on this front could improve the optics of the programs, better support broader foreign and development policy objectives in the region, build stronger people-to-people links, and improve education and health outcomes for Pacific migrants and their families.

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<sup>33</sup> <https://www.fairwork.gov.au/how-we-will-help/helping-the-community/campaigns/national-campaigns/harvest-trail-inquiry>

<sup>34</sup> <https://devpolicy.org/limiting-possible-exploitation-in-transportation-services-for-seasonal-worker-programs-20191001/>

<sup>35</sup> <https://devpolicy.org/suitable-accommodation-for-seasonal-worker-programs/>

<sup>36</sup> <https://onlinelibrary.wiley.com/doi/full/10.1002/app5.261>

<sup>37</sup> <https://docs.employment.gov.au/documents/swp-regional-pilot-fact-sheet>

<sup>38</sup> <https://devpolicy.org/are-pacific-islanders-making-a-career-no-20180926/>

<sup>39</sup> <https://devpolicy.org/medicare-family-separation-and-temporary-migrants-20200715/>

**Recommendation Four: Remove forced family separation for Pacific schemes for better social cohesion and development outcomes.**

Promoting social cohesion and strengthening ties with the Pacific: the case for permanent pathways

Australian communities benefit from migrant contributions. Migrants, temporary and permanent alike, use local services, support local businesses, and join local churches, sporting, and community organisations. They form strong relationships with employers and host communities (see here<sup>40</sup>, here<sup>41</sup>).

The temporary nature of the schemes and lack of permanent pathways undermine social cohesion by eroding workers' sense of belonging and community. A pathway to permanent residency<sup>42</sup> for Pacific migrants participating in the PLS would help to address a range of challenges closely linked to worker welfare and associated with temporary migration, including family separation. It could also lead to greater economic integration and people to people links with 'our Pacific family' and facilitate improved social engagement of migrant workers, as networks and a strong Pacific diaspora and a range of migration pathways develop over time. A permanent pathway such as this, would both complement and support existing regulated temporary migration with the Pacific. It would also complement other programs in the region that facilitate the movement of people and are designed to support human development and strengthen relationships, while contributing to greater regional integration, such as New Colombo Plan, Australia Awards, and Pacific Secondary Schools Scholarships Program.

New Zealand's Pacific Access Category visas, operating since 2002, offers a tried and tested template<sup>43</sup> to follow. There is a significant imbalance between current temporary migrant numbers and permanent visa places. The Pacific labour mobility schemes are one area where the creation of a permanent migration window makes sense, and crucially offer the opportunity to reign in the transaction costs and better service domestic labour demand for some of the most important temporary migration programs, which, like many of the others are permanent features of our migration system.

**Recommendation Five: Develop and implement permanent pathways for Pacific migrants.**

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<sup>40</sup> <https://devpolicy.org/pacific-workers-in-rural-victoria-20190426/>

<sup>41</sup> <https://www.abc.net.au/radio-australia/programs/pacificbeat/call-for-financial-support-for-pacific-workers-in-covid-limbo/12354726>

<sup>42</sup> <https://devpolicy.org/time-for-a-permanent-australian-step-up-in-pacific-labour-mobility-20191212/>

<sup>43</sup> <http://pubdocs.worldbank.org/en/555421468204932199/labour-mobility-pacific-possible.pdf>