

**Submission to Senate Select Committee on Job Security by  
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**9<sup>th</sup> March 2021**

We, Michael Garry Quinlan B.Ec (hons) PhD (University of Sydney) Emeritus Professor, UNSW, FASSA and Dr Elsa Underhill M.Com (Melb) PhD (UNSW), Visitor, Deakin University make the following submission to the Senate Select Committee on Job Security, established to inquire into and report on the impact of insecure or precarious employment on the economy, wages, social cohesion and workplace rights and conditions, with particular reference to:

- the extent and nature of insecure or precarious employment in Australia;
- the risks of insecure or precarious work exposed or exacerbated by the COVID-19 crisis;
- workplace and consumer trends and the associated impact on employment arrangements in sectors of the economy including the 'gig' and 'on-demand' economy;
- the aspirations of Australians including income and housing security, and dignity in retirement;
- the effectiveness, application and enforcement of existing laws, regulations, the industrial relations system and other relevant policies;
- accident compensation schemes, payroll, federal and state and territory taxes;
- the interaction of government agencies and procurement policies with insecure work and the 'on-demand' economy; and
- any related matters.

Given our particular areas of expertise (see below) our submission focuses upon the following terms of reference:

- the risks of insecure or precarious work exposed or exacerbated by the COVID-19 crisis;
- the effectiveness, application and enforcement of existing laws, regulations, the industrial relations system and other relevant policies; and
- accident compensation schemes, payroll, federal and state and territory taxes.

### **Expertise**

I, Michael Quinlan have been researching insecure/precarious work and particularly its effects on health/safety and labour standards since the mid-1990s, including securing a number of large competitive research grants on this area (including Australian Research Council). I have published extensively on the subject as well as preparing a number of reports for governments and international agencies and submissions to government inquiries. Listing of the more directly relevant material and evidence of my expertise can be found in Appendix 1.

I, Elsa Underhill have been researching insecure/precarious work and particularly its effects on health/safety, workers' compensation and labour standards amongst labour hire workers since the early 1990s. My more recent research has focused upon temporary migrant workers, especially visa 417 working holiday makers, in horticulture. I have published extensively on the subject, made submissions to government enquiries, and been an expert witness for WorkSafe Victoria in several prosecutions involving injuries/deaths to labour workers. A listing of the more directly relevant material and evidence of my expertise can be found in Appendix 2.

This submission will deal with each of the three terms of reference identified above, followed by recommendations. We begin with an account of the OHS risks associated with precarious and insecure work in general, before focusing on how the risk of insecure or precarious work has been both exposed and exacerbated by the COVID-19 crisis. This is followed by a briefer discussion on the problems associated with the effectiveness, application and enforcement of existing laws and regulations, and accident compensation schemes. Our recommendations complete our submission.

### **TERM OF REFERENCE – THE RISKS OF INSECURE OR PRECARIOUS WORK EXPOSED OR EXACERBATED BY THE COVID-19 CRISIS**

The COVID-19 pandemic has highlighted the considerable health and safety risks associated with insecure/precarious work, as well as demonstrated the additional problems posed by serious outbreaks of infectious disease. In short, the pandemic accentuated an already serious problem that has been attracting increasing attention from health researchers since the 1990s, as well as mounting pressure on policy-makers and regulators to address the problem. The recent public debate over deaths amongst food delivery riders is but the latest in a string of such debates (and some regulatory initiatives) that span decades. Government reports and inquiries dealing with aspects of the adverse effects (often safety and health) also stretch back several decades, including ones identified in Appendix 1. To give but one example, problems associated with the labour hire/agency labour industry including labour standards compliance, worker exploitation and poor occupational health and safety (OHS) outcomes has been the subject of government inquiries in multiple states over the past two decades. The findings repeatedly paint a picture of serious challenges, culminating in two state governments taking the initiative to regulate the industry. One of the most recent and by far the most detailed inquiry undertaken by Professor Anthony Forsyth for the Victorian government in 2016 documents the problems and possibly regulatory solutions that are relevant to the wider scope of work arrangements being considered by the current Senate inquiry.<sup>1</sup> Temporary migrants/special visa-holders (like s457 and s417) have also been the subject of a number of federal government reports, most notably *A National Disgrace: The Exploitation of Temporary Work Visa Holders* 2016 Senate enquiry which also pointed to failures in labour standard compliance and OHS issues. Similar problems have been identified in a series of state and federal government inquiries/reports prepared since the 1990s on contracting/subcontracting/sham contracting in the construction industry. More recently there have been a number of state inquiries into 'gig' work arrangements further examining the same sort of issues.

All the work arrangements just mentioned, and others like fixed-term contracts and dependent forms of subcontracting, share a number of key characteristics – most notably they are contingent and generally insecure. Recent immigrants, refugees, temporary work-visa holders, the young, female workers, the old and other vulnerable groups are concentrated/over-represented in these types of arrangements. The present Senate Inquiry, given its wide scope, is uniquely placed to consider all these areas, the inter-linkages between them, the problems posed, and more consistent

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<sup>1</sup> Forsythe, A. (2016) *Victorian Inquiry into the Labour Hire Industry and Insecure Work: Final Report*, Industrial Relations Victoria, Department of Economic Development, Jobs, Transport & Resources, Melbourne.

and forward-looking pathways to addressing them and in so doing build a stronger and more sustainable society and economy into the future.

### ***General Evidence of Poor OHS Outcomes Associated with Insecure and Precarious Work***

For well over the past 25 years a large body of global research and evidence, amounting to many hundreds of independent peer-reviewed scientific studies (including a significant number undertaken in Australia) had examined the association between job insecurity and precarious work arrangements and OHS. This included studies focusing on casuals, temporary work, labour hire/agency labour, part-time and fixed-term contract employees and self-employed subcontractors. It is important to note that some categories overlap. For example many casual are also part-time workers, some labour hire workers are self-employed, and multiple-jobholding (itself a growing phenomenon associated with insecure work) is common amongst part-time workers in industries like hospitality, security and aged care. Further, some workers shift back and forth between different categories and legal statuses (for example moving from employee to self-employed contractor). Research has also examined the impact of job insecurity on OHS, including mental wellbeing, amongst workers holding nominally secure jobs but who experienced (and survived i.e. retained their jobs) often repeated rounds of restructuring (including outsourcing, offshoring and privatisation) or downsizing. The last aforementioned research – one of the largest bodies of research in the area – has overwhelmingly found a significant association between job insecurity and worse OHS indices, especially mental health, for those who survive such incidents. Other effects include increased drug-use or poorer physical health.<sup>2</sup> These findings highlight the point that while insecure and precarious work are concentrated within a number of specific work arrangements – arrangements found in virtually every industry though more concentrated in some – job insecurity extends to many other workers.

Published research on insecure and precarious work has used a diverse array of research methods (like cross-sectional and longitudinal surveys, incident analysis, population and health or safety indices analysis). Researchers have also examined an array of OHS indices including injuries, hazard exposures, mental health, drug use, regulatory knowledge and compliance. In combination with the large number of studies, the diversity of measures and methods adds confidence that, if findings are generally consistent, this is not due to bias in methods or category of work arrangement studied. Further, findings have tended to form predictable and consistent patterns.

Taken as a whole, reviews of the research findings since 2001 have, with some nuances as would be expected, repeatedly found that the vast majority of studies have reached broadly similar findings with regard to the OHS outcomes associated with these types of work arrangement.<sup>3</sup> For example,

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<sup>2</sup> For reviews of this research see Quinlan, M. (2007) Organisational Restructuring/Downsizing, OHS regulation and worker health and wellbeing, *International Journal of Law and Psychiatry*, 30:385-399; Quinlan, M. & Bohle, P. (2009), Over-stretched and Unreciprocated Commitment: Reviewing research on the OHS effects of downsizing and job insecurity, *International Journal of Health Services*, 39(1): 1-44.

<sup>3</sup> See for example, Quinlan, M. Mayhew, P. & Bohle, P. (2001) The Global Expansion of Precarious Employment, Work Disorganisation and Occupational Health: A Review of Recent Research, *International Journal of Health Services*, 31(2):335-414; Virtanen M, Kivimäki M, Joensuu M, Virtanen P, Elovainio M, & Vahtera J, (2005) Temporary employment and health: a review *International Journal of Epidemiology* 34:610–622; Quinlan, M. & Bohle, P. (2008) Under pressure, out of control or home alone? Reviewing research and policy debates on the OHS effects of outsourcing and home-based work, *International Journal of Health*

findings from studies in a range of countries that specifically examined labour hire/agency labour have overwhelmingly reached similar findings, particularly a higher rate of injury amongst these workers when compared to direct-hire ongoing/permanent employees (other findings relate to lower reporting of OHS problems and more problematic access to workers' compensation).<sup>4</sup>

Overall, there has been a remarkable degree of consistency in the hundreds of published articles on the health outcomes associated with precarious work arrangements' array of arrangements or job-insecurity more generally.<sup>5</sup> For example, Lamare et al stated there 'is also a substantial body of evidence that shows that the effects of insecure work, whether it is through subcontracting or not, are pervasive and overwhelmingly negative.'<sup>6</sup> The same conclusion has also been reached in international reports like one on the social determinants of health by the World Health Organisation in 2007.<sup>7</sup>

Broadly summarised, the main negative health and safety outcomes associated with these types of work arrangement that have been identified when compared to workers holding full-time permanent/ongoing jobs are:

1. Higher incidence/frequency of injuries, including fatalities
2. Poorer physical and mental health (including susceptibility to bullying and drug use).
3. Poor knowledge of and access to regulatory employment rights and less willingness to raise OHS concerns.

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*Services*, 38(3): 489-525; Quinlan, M. & Bohle, P. (2009), Over-stretched and Unreciprocated Commitment: Reviewing research on the OHS effects of downsizing and job insecurity *International Journal of Health Services* 39(1): 1-44; and Quinlan, M. (2015) The effects of non-standard forms of employment on worker health and safety, Conditions of Work and Employment Series Working Paper No.67, International Labour Organisation, Geneva.

<sup>4</sup> See for example Francois M, & Lievin D, (1995) *Emplois Precaires et Accidentabilite: Enquete Statistique Dans 85 Entreprises*. Paris, Institut National de Recherche et de Securite; Storrie D, (2002) *Temporary Agency Work in the European Union*, European Foundation for the Improvement of Living and Working Conditions, Dublin; Silverstein B, & Foley M, (1998) Protecting contingent workers from work-related injury. Paper presented to the Ergonomics Society of Australia Conference, October 5-7, Melbourne; Park Y, & Butler R, (2001) The safety costs of contingent work: Evidence from Minnesota, *Journal of Labor Research*, 22(4):831-850; Underhill E, (2008) Double Jeopardy: Occupational injury and rehabilitation of temporary agency workers, PhD thesis, UNSW Sydney; Lippel K, MacEachen E, Saunders R, Werhun N, Kosny A, Mansfield L, Carrasco C, Pugliese D, (2011) Legal protections governing the occupational safety and health and workers' compensation of temporary employment agency workers in Canada: reflections on regulatory effectiveness, *Policy and Practice in Health and Safety*, 9(2):69-90, DOI: 10.1080/14774003.2011.11667762.

<sup>5</sup> For reviews of this research see Quinlan, M. Mayhew, P. & Bohle, P. (2001) The Global Expansion of Precarious Employment, Work Disorganisation and Occupational Health: A Review of Recent Research, *International Journal of Health Services*, 31(2):335-414; Virtanen M, Kivimäki M, Joensuu M, Virtanen P, Elovainio M, & Vahtera J, (2005) Temporary employment and health: a review *International Journal of Epidemiology* 34:610-622; Quinlan, M. & Bohle, P. (2008) Under pressure, out of control or home alone? Reviewing research and policy debates on the OHS effects of outsourcing and home-based work, *International Journal of Health Services*, 38(3): 489-525; Quinlan, M. & Bohle, P. (2009), Over-stretched and Unreciprocated Commitment: Reviewing research on the OHS effects of downsizing and job insecurity *International Journal of Health Services* 39(1): 1-44

<sup>6</sup> Lamare R, Lamm F, McDonnell N. & White H, (2015) Independent, dependent, and employee: Contractors and New Zealand's Pike River Coal Mine disaster, *Journal of Industrial Relations*, 57(1): 78.

<sup>7</sup> World Health Organisation Employment Conditions Knowledge Network (EMCONET) (2007) *Employment Conditions and Health Inequalities*, Report, Geneva:  
[http://www.who.int/social\\_determinants/resources/articles/emconet\\_who\\_report.pdf](http://www.who.int/social_determinants/resources/articles/emconet_who_report.pdf)

Further, the use of contract labour/subcontracting has also been linked to workplace disasters in a number of industries by official investigations, or detailed research. The use of contractors and especially multi-tiered subcontracting has been associated with fractured OSH management and corner cutting on safety that was a causal factor in catastrophic incidents like the AZF factory fire in France in 2001 (30 killed and resulting a recommendation to ban multi-tiered subcontracting on Seveso type sites), the sinking of the Brazilian Petrobras 36 oil rig (claiming 11 lives) in the south Atlantic in the same year, Texas City refinery fire in 2005 (15 killed), the Hangzhou (China) subway collapse in 2008 (21 killed immediately) and the Soma mining disaster in Turkey in 2014 (claiming 311 lives).<sup>8</sup> Similarly, the outsourcing/offshoring of heavy aircraft maintenance was linked to three fatal air crashes (subsequent research identified a fourth fatal crash, the Chalks Ocean Airways flight 101 crash in 2005)<sup>9</sup> and also a number of serious 'near misses' in the USA between 1995 and 2009 (including two involving ValuJet aircraft in the months prior to the fatal crash of a ValuJet plane into the Florida swamp in 1996). Contract labour has also been linked to serious hazard exposures, one example being the French nuclear industry where Thebaud-Mony found contract labour received far higher exposure to radiation than direct-employees.<sup>10</sup>

Finally, it is important to note the health-harming effects of insecure and precarious work do not represent either a new or hitherto unpredictable outcome. Insecure and precarious work were the norm in countries like Australia, New Zealand, the USA, Canada, the UK and other countries in Western Europe if not elsewhere in the second half of the 19<sup>th</sup> century through to World War Two. Indeed, precarious employment, insecure jobs and analogous terms were widely used in public and parliamentary debates in these countries.<sup>11</sup> The parliamentary debates were sparked by growing evidence that these types of work arrangement were socially dislocating and harming in terms of health and other indices. Between 1870 and 1930 a series of government inquiries (for example into sweated labour), independent reports, agitation by social reformers/feminists like Florence Kelley in the USA and Emma Miller in Queensland, and investigations by leading health journals like *The Lancet* as well as a growing body of academic research documented the adverse health effects (injuries, physical and mental illness) of insecure and generally poorly paid work arrangements. The evidence showed the close inter-linkage between poor living and working conditions especially for home-based workers.<sup>12</sup> Ultimately this sparked important regulatory/institutional initiatives

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<sup>8</sup> Loos, F and Le Deaut, J (2002) *Rapport Fait Au Nom de la Commission D'Enquete sur la Surete des Installations Industrielles et des Centres de Recherche et sur la Protection de Personnes et de L'environnement en cas D'Accident Industriel Majeur*, Assemblée Nationale No 3559, Paris; P-36 Accident Inquiry Commission (2001) *Final Report, Inquiry Commission, Final Report*; Baker, J (2007) Report of the BP US Refineries Independent Safety Review Panel, United States; Ma, Y. de Jong, M. Koppenjan, J. Xi, B. & Mu, R. (2012) Explaining the organizational and contractual context of subway construction disasters in China: The case of Hangzhou, *Policy and Society*, 31:1, 87-103, DOI: 10.1016/j.polsoc.2012.01.001.

<sup>9</sup> The other incident identified subsequently was a seaplane that lost its wing. NTSB (2007) *Accident Report: In-flight Separation of Right Wing Flying Boat, Inc (doing business as Chalk's Ocean Airways) Flight 101 Grumman Turbo Mallard (G-73T) N2969 Port of Miami, Florida December 19, 2005*, NTSB/AAR-07/04, National Transportation Safety Board, Washington DC.

<sup>10</sup> Thebaud-Mony, A. (2011) *Nuclear Servitude: Subcontracting and health in the French civil nuclear industry*, Routledge, New York.

<sup>11</sup> Quinlan, M. (2012) The 'pre-invention' of precarious employment: The changing world of work in context, *The Economic and Labour Relations Review*, 23(4):3-24.

<sup>12</sup> Quinlan, M. (2013), Precarious and Hazardous work: The health and safety of merchant seamen 1815-1935, *Social History* 38(3):281-307; Quinlan, M. (2013) Precarious employment, ill-health and lessons from history: The case of casual (temporary) dock workers 1880-1945 *International Journal of Health Services* 43(4):721-744;

(minimum labour standards, stronger OHS laws and union campaigns for more secure work aided by post-war Keynesian full employment policies) that significantly reduced the extent of insecure work.

Research undertaken since the mid-1990s has to a large degree echoed evidence on the health effects of insecure employment that was around and widely known a century earlier. In short, while the ‘newer’ forms of flexible work make use of digital surveillance, communication/transaction technologies and transport technologies (though note many food delivery workers use push-bikes) the so-called ‘gig’ economy is essentially a centuries old subcontracting-type arrangement enabled with the addition of an App. Much of what is labelled the new world work is a recycling of older insecure types of work and with it has come rediscovering the adverse health and other effects reminiscent if not identical to those identified a century ago. This includes greater vulnerability to and facilitation of infectious disease. In 1876 *The Lancet* pointed to the connection between the insecure sweated labour/home-based work in the garment industry and the spread of infectious disease, due to the combination of poverty with crowded living/working conditions and because these workers and their landlords were reluctant to report an outbreak because they would lose their only source of income (and landlords lose rent). *The Lancet* acknowledged this connection had been made some years before that by a pioneering public health advocate.<sup>13</sup> In essence, the COVID-19 pandemic brought to public notice a connection known for about 150 years. Before turning to the lessons and evidence relating to COVID-19 this submission says something about how and why insecure and precarious work harms health.

### ***Why insecure and precarious work is more hazardous/health harming***

While further research investigating interconnections between these work arrangements and OHS would be valuable, three sets of risk/causal factors repeatedly emerge as significant, namely

- Economic and Financial Pressures
- Disorganisation
- Regulatory Failure

Table 1 provides a summary of risk factors typically linked to each element of the Pressure, Disorganisation and Regulatory Failure (PDR) model.<sup>14</sup> The PDR model of how work organisation factors shape OHS outcomes applies to a number of health indices (including mental health)<sup>15</sup> as well

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Quinlan, M. (2013) Underleverantörssystem, sweating och arbetsmiljö inom konfektionsindustrin 1880–1920: Otrygga arbeten i ett historiskt Sammanhang, *Arbetshistoria*, 3–4:6-15

<sup>13</sup> Gregson S & Quinlan M, (2020) Subcontracting and low pay kill: lessons from the health and safety consequences of sweated labour in the garment industry, 1880–1920, *Labor History*, (61)5-6: 534-550.

<sup>14</sup> For examples of international research applying the model (including to temporary agency/labour hire workers) see Strauss-Raats P (2019) Temporary Safety. Regulating Working Conditions in Temporary Agency Work, *Safety Science* 112: 213–222; Pilbeam C, Denyer D, & Doherty N, (2020): Safety risk factors in two different types of routine outsourced work: a systematic literature review, *Policy and Practice in Health and Safety*, DOI: 10.1080/14773996.2020.1787701; Lippel K, & Thebaud-Mony A, (2020) Precarious Employment and the Regulation of Occupational Health and Safety: Prevention, Compensation and Return to Work in Peter Sheldon, Sarah Gregson, Russell D. Lansbury, and Karin Sanders (eds.) *The Regulation and Management of Workplace Health and Safety*, Routledge, New York, 80-99.

<sup>15</sup> See for example, Bohle, P. Quinlan, M. McNamara, M. Pitts, C. & Willaby, H. (2015) Health and wellbeing of older workers: Comparing their associations with Effort–Reward Imbalance and Pressure, Disorganisation and Regulatory Failure, *Work & Stress*, 29(2):114-127.

as safety, and is not restricted to situations of contracting or other uses of non-standard labour. Most of the risk factors identified in Table 1 can apply to incidents not involving precarious workers. The difference is that these failures/risks appear **more likely and conspicuous** in situations with non-standard work arrangements. For example, disorganisation is more likely at work-sites where multiple employers (with different chains of command and communication processes) are present, a problem that has attracted considerable attention in the research literature on subcontracting. The risk factors or elements are fairly self-explanatory to those familiar with OHS but a number of examples will be given below.

**Table 1: Pressure, Disorganisation and Regulatory Failure Risk Factors**

| <i><b>Economic/Reward Pressures</b></i>                  | <i><b>Disorganization</b></i>                         | <i><b>Regulatory Failure</b></i>   |
|--|---|--|
| Economic/financial pressures on work effort/cost cutting | Short tenure, inexperience                            | Poor knowledge of legal rights, obligations                                    |
| Contingent, irregular payment and job insecurity         | Poor induction, training & supervision                | Limited access to OHS, workers compensation                                    |
| Long or irregular work hours                             | Ineffective procedures & communication                | Fractured/complex or disputed legal obligations                                |
| Multiple job holding/ under-employment                   | Ineffective OHSMS / inability to organise into unions | Non-compliance & regulatory oversight (stretched resources and poor targeting) |

Economic/reward pressures refer to the economic pressures that can encourage worker and organisational behaviour to increase production to the extent or in ways that safety is compromised (for example longer hours or corner cutting on safety, including not pausing production to consider potential hazards). The financial pressure aspect relates to how irregular income or hours of work or the fears associated with job insecurity (and its implications for family budgeting, housing and the like) can affect the behaviour of workers or others in ways that compromise safety. As a number of studies have observed, outsourcing/subcontracting primarily motivated by a cost-cutting objective has repeatedly compromised safety within workplaces, including transferring more hazardous activities to contractors.<sup>16</sup> Financial pressures, especially associated with insecure work, can encourage multiple-jobholding.<sup>17</sup> Research pointing to connections between economic/reward and financial pressures and poorer OHS outcomes include studies of labour hire workers.<sup>18</sup> Reward and

<sup>16</sup> See for example Walter J, (2017) Safety management at the frontier: Cooperation with contractors in oil and gas companies, *Safety Science*, 91:394–404 at 395.

<sup>17</sup> As an important aside, the current pandemic has provided a graphic demonstration of the wider public health implications of large sectors of the workforce being casual/temporary/self-employed who must work to live, including casuals working in more than one aged-care facilities.

<sup>18</sup> See for example, Underhill E, & Quinlan M, (2011) How precarious employment affects health and safety at work: the case of temporary agency workers, *Relations Industrielles*, 66(3):397-421; Strauss-Raats P (2019) Temporary Safety. Regulating Working Conditions in Temporary Agency Work, *Safety Science* 112: 213–222



financial pressures can be especially acute when workers are paid under performance-based regimes including bonuses, piecework or analogous arrangements, including subcontracting or paying truck-drivers for the number of kilometres driven (and remaining unpaid for other activities like waiting-times/queuing at warehouses etc.). Contracting arrangements, especially multi-tiered subcontracting can translate into more intense pressures on successively lower levels (including businesses) as the price for the service/work progressively reduces. Further, in competitive industries the deteriorating remuneration and conditions of contract labour can flow onto to employees as has occurred in trucking in Australia through a variety of mechanisms most obviously the extension of performance-based pay (like driving distances) to employed-drivers.<sup>19</sup>

Disorganisation refers to gaps in systems and practices that increase the likelihood of hazardous incidents. Disorganisation is not confined to organisations using contractors or other ‘precarious’ work arrangements but some factors, including the greater complexity associated with using these arrangements arguably make these failures more likely. Key elements of disorganisation include short tenure, inexperience, induction/training deficiencies and poor supervision. With regard to the crash of Air Midwest commuter plane crash (killing all 21 aboard) in the USA the National Transportation Safety Board (NTSB at pages 58-59) identified a series of flaws or limitations with regard to the outsourced maintenance arrangements including the short job tenure of SMART mechanics at the maintenance site; training deficiencies regarding new hires (and record keeping); and that RALLC’s site manager worked a day shift and was not present at night to oversee maintenance when the work was actually being carried out. Five of the six SMART mechanics on duty the night maintenance was carried out on the ill-fated plane had worked at the site for less than eight weeks and the RALLC site manager estimated average tenure at the site was ‘about three months’ (NTSB at pages 58, 98).<sup>20</sup> All these factors increased the likelihood of errors and miscommunication. Another aspect of disorganisation is ineffective procedures and communication. The National Commission inquiry (at pages 116-124) into the Deepwater Horizon disaster found inadequate communication between BP and its contractors and sometimes its own employees, including failing to pass on safety critical information to personnel on oil rigs.<sup>21</sup>

Regulatory failure can arise from gaps or flaws in legislative coverage as well as limitations in regulatory oversight/enforcement.<sup>22</sup> Changes in work arrangements, and particularly contract labour, present more complex inter-organisational chains of responsibility and increase demands on regulator/inspectorate resources. The challenges associated with outsourcing tasks and contract

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<sup>19</sup> Hensher D, Batellino H, Gee J, & Daniels R, (1991) Long Distance Truck Drivers On-road Performance and Economic Reward, Research and Analysis Report. Institute of Transport Studies, Graduate School of Management & Public Policy, Sydney; Mayhew, C. & Quinlan, M. (2006) Economic pressure, multi-tiered subcontracting and occupational health and safety in the Australian long haul trucking industry *Employee Relations*, 28(3): 212-229; Rodriguez, D., Targa, F. and Belzer, M., (2006), ‘Pay incentives and truck driver safety’, *Industrial and Labor Relations Review*, 59(2): 205-225.

<sup>20</sup> Cited in Quinlan M, Hampson I and Gregson S, (2013) Outsourcing and offshoring aircraft maintenance in the US: implications for safety, *Safety Science*, 57: 283-292.

<sup>21</sup> National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling (National Commission) 2011, *Deepwater: The Gulf Oil Disaster and the Future of Offshore Drilling*, Report to the President, Washington DC <[www.oilspillcommission.gov/final-report](http://www.oilspillcommission.gov/final-report)>.

<sup>22</sup> See for example Quinlan M, Johnstone R & McNamara M, (2009) Australian health and safety inspectors’ perceptions and actions in relation to changed work arrangements *Journal of Industrial Relations* 51(4): 559-575.

labour including labour hire have attracted research and policy attention for over 20 years.<sup>23</sup> Problems that have been identified include poorer knowledge of and ability to exercise legislative rights amongst contract and other contingent workers, fractured/disputed regulatory obligations and more problematic regulatory oversight and stretched inspectoral resources. Research on temporary workers has found they are significantly less likely to have access to complaint mechanisms, health services, statutory entitlements to protections/benefits, return to work pathways, and representation. A Swedish study found temporary workers were less likely to raise safety issues than permanent workers and when they did raise concerns they were less likely to be treated seriously.<sup>24</sup>

Finally, regulatory failure reflects a more wide-ranging policy failure with regard to the shift to/promotion of more flexible work arrangements. More flexible work arrangements were frequently touted as an opportunity for more family-friendly and work/life balanced arrangements. While there were opportunities realising them (on more than a partial of sporadic basis) depended on having appropriate policy framework that ensured temporal flexibility was balanced with some consistency/security. Examining this issue, a recent Australian study concluded:

This research finds that work-time arrangements can provide the temporal scaffolding necessary for health practices (through routines, rhythms and rituals), but only when there is day-to-day, mid-term, and long-term work predictability. Australia's flexible work policies do not provide this requisite temporal predictability. Health promoting employment provisions would have to reinstate employment standards from the 1970s, providing the desired predictability for flexible provisions to benefit workers.<sup>25</sup>

### ***Covid-19, insecure work and health***

The COVID-19 pandemic has been a sharp illustration of how periods of heightened uncertainty and economic upheaval exacerbates insecurity and in turn the adverse health effects of insecure work. Societies heavily relying on insecure work are both more vulnerable to pandemics and find it more difficult to suppress/manage them. As a pandemic like COVID-19 was long predicted and unlikely to be the last experienced in the reasonably foreseeable future, it also represents a warning signal.

First, some essential background is needed. A serious global pandemic has been long predicted by public health experts and the World Health Organisation, and an increased likelihood of further pandemics is also predicted. The current pandemic is unlikely to be a 'one-off' even though the last

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<sup>23</sup> See for example Johnstone R, Quinlan M & Mayhew C, (2001) Outsourcing Risk? (2001), The regulation of OHS where contractors are employed, *Comparative Labor Law and Policy Journal*, 22(2&3): 351-93; Johnstone, R. & Quinlan, M. (2006) The OHS Regulatory Challenges of Agency Labour: Evidence from Australia *Employee Relations*, 28(3): 273-289.

<sup>24</sup> Aronsson, G. (1999) Contingent Workers and Health and Safety, *Work, Employment and Society*, 13(3): 439–459.

<sup>25</sup> Sargent, G. McQuoid, J. Dixon, J. Banwell, C. & Strazdins, L. (2020) Flexible Work, Temporal Disruption and Implications for Health Practices: An Australian Qualitative Study, *Work, Employment and Society*, <https://doi.org/10.1177/0950017020954750>, (accessed 8 March 2021).

major pandemic occurred a century ago.<sup>26</sup> Despite this, planning for and remedial measures to deal with a pandemic were limited in most countries, including Australia. Indeed, the shift to neoliberal market-driven policy making arguably undermined the setting of long-term policy settings in this regard.<sup>27</sup> Neoliberal policies that became globally dominant after 1975 favouring market-driven rules and decision-making, curbing government involvement in setting social objectives/policy parameters, corroding international agencies like WHO and ILO and consequent growing economic inequality undermined community health and created more vulnerable societies.<sup>28</sup> Neoliberalism was associated with a reduction in long-term planning by many governments, compounded by downsizing, privatisation and other cost-cutting measures with regard to healthcare and other essential infrastructure like aged care staffing levels.<sup>29</sup> These and other changes like increased reliance on global supply-chains, the concentration of food production and processing (such as fewer but larger abattoirs), more concentrated population densities and growing economic inequality (and with it increased co-morbidities amongst the poor) increased the vulnerability of societies to pandemics. The pandemic exposed the acute vulnerability if not unsustainability of neoliberal-guided social organisation with some evidence those countries most wedded to it and with higher levels of inequality were faring worst.<sup>30</sup>

Australia was one of small number of countries that responded relatively well and effectively (being a relatively remote island continent with a strong history regarding public health and quarantining helped<sup>31</sup>), closing its international borders fairly rapidly (and shutting state/territory borders to

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<sup>26</sup> Watterson, A. (2020) COVID-19 in the UK and Occupational Health and Safety: Predictable not Inevitable Failures by Government, and Trade Union and Nongovernmental Organization Responses, *New Solutions*, 30(2): 86-94. Watterson AE. Chief coroner's guidance on covid-19 deaths: workers outside the NHS are also vulnerable to risk. *BMJ*. 2020;369:m2179. Published 2020 Jun 2. doi:10.1136/bmj.m2179; Quinlan M, (2020) Five Challenges to Humanity: Learning from pattern/repeat failures in past disasters, *Economic and Labour Relations Review*, 31(3): 444-466, doi/full/10.1177/1035304620944301

<sup>27</sup> van Barneveld K, Quinlan M, Kriesler P, Junor A, Baum F, Chowdhury A, Junankar PN, Clibborn S, Flanagan F, Wright CF, Friel S, Halevi J, & Rainnie A, (2020) The COVID-19 pandemic: Lessons on building more equal and sustainable societies, *Economic and Labour Relations Review*, 31(2):133-157.

<sup>28</sup> Labonté, R., & Schrecker, T. (2009) Rights, redistribution, and regulation, in R. Labonté, T. Schrecker, C. Packer, & V. Runnels (Eds.), *Globalization and health: Pathways, Evidence and Policy*, Routledge, New York, 317-333; Schrecker, T. (2016) 'Neoliberal epidemics' and public health: Sometimes the world is less complicated than it appears. *Critical Public Health*, 26(5), 477-480. doi:10.1080/09581596.2016.1184229; LaDou, J. (2020) A World of False Promises: International Labour Organization, World Health Organization, and the Plea of Workers Under Neoliberalism, *International Journal of Health Services*, 50(3):314-323; O'Neil, R. (2020) WHO Knew. How the World Health Organization (WHO) Became a Dangerous Interloper on Workplace Health and Safety and COVID-19, *New Solutions*, 30(3):237-248.

<sup>29</sup> van Barneveld K, Quinlan M, Kriesler P, Junor A, Baum F, Chowdhury A, Junankar PN, Clibborn S, Flanagan F, Wright CF, Friel S, Halevi J, & Rainnie A, (2020) The COVID-19 pandemic: Lessons on building more equal and sustainable societies, *Economic and Labour Relations Review*, 31(2):133-157.

<sup>30</sup> Navarro, V. (2020) The Consequences of Neoliberalism in the Current Pandemic, *International Journal of Health Services*, 50(3):271-275; Barrera-Algarín, E. Estepa-Maestre, F. Sarasola-Sánchez-Serrano, J. & Vallejo-Andrada, A. (2020) COVID-19, neoliberalism and health systems in 30 European countries: relationship to deceases, *Rev Esp Salud Pública*. 94: 1-15; Elgar, F. Stefaniak, A. Wohl, M. (2020) The trouble with trust: Time-series analysis of social capital, income inequality, and COVID-19 deaths in 84 countries, *Social Science & Medicine*, 263:113365 <https://doi.org/10.1016/j.socscimed.2020.113365>; Deakin, S. & Meng, G. (2020) The Governance of Covid-19: Anthropogenic Risk, Evolutionary Learning, and the Future of the Social State, *Industrial Law Journal*, 49(4): 539-594; Tomson, G. et al (2020) Solidarity and universal preparedness for health after covid-19, *BMJ* 2021;372:n59 <http://dx.doi.org/10.1136/bmj.n59>;

<sup>31</sup> However, the closure of purpose built quarantine stations like that in Sydney Harbour was more than unfortunate, proving short-sighted especially as the serious limitations of hotel quarantining became apparent.

prevent/slow transmission when necessary) and state/territory and federal governments followed sound public health/epidemiological advice (mandating social distancing, mask wearing, establishing rapid contact-tracing/ring-proofing, isolating vulnerable indigenous communities, and mandatory quarantine for international arrivals). At least equally as important the federal government established a national cabinet to coordinate policy debates/actions (as far as possible) and introduced a number of measures that mitigated the impact of job insecurity including job-keeper, increased jobseeker payments and some federal and state government schemes that gave some temporary workers (especially groups like aged care workers) but not all (for example foreign temporary workers) pandemic leave entitlements though not all of this was paid leave.

Turning specifically to the issue of insecure and precarious work and the pandemic a number of points can be made. Since the mid-1970s there has been a substantial growth in insecure and precarious work both globally and in Australia, with a large body of research documenting this. This is not the focus of our submission - we are concerned with the health effects of this shift. One point that needs to be made at the outset is that the pandemic revealed many categories of non-healthcare workers who were undertaking what were deemed to be essential activities who, with some exceptions like teachers, could not work remotely. Yet overall risk-indexes or information on these activities in a pandemic did not exist and protocols/safe-work plans had to be hurriedly developed.<sup>32</sup> Nonetheless, in many countries a wide group of workers were placed at risk, not just health-workers. The college named after the founder of occupational medicine observed the pandemic wasn't just a public health catastrophe it was simultaneously represented a workplace/occupational health disaster.<sup>33</sup> Further, one of the groups affected, somewhat ironically, were OHS inspectors and health inspectors whose role was to protect the health and safety of these at-risk workers or the community.

The prevalence of insecure work interacted with the virus in a number of ways which we explain below.

- 1. An expansion in precarious employment, and its intensity, with associated negative health impacts.** The economic downturn associated with the pandemic, disruption to a number of industries in particular (some long term) and subsequent disruptions due to periodic lockdowns and state/territory border closures increased the number of workers who lost their jobs, whose work became precarious, or precarious workers whose work became even more precarious. People were forced to change jobs and industries and for some, work became more intermittent (i.e. periods of work interspersed with periods of unemployment) whilst for others, especially women, full time child care was added to their paid workload.<sup>34</sup>

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<sup>32</sup> For one such study see Larochelle, M. (2020) "Is It Safe for Me to Go to Work?" Risk Stratification for Workers during the Covid-19 Pandemic, *New England Journal of Medicine*, 383(5):e28(1)-e28(2), DOI: 10.1056/NEJMp2013413.

<sup>33</sup> Fellows of the Collegium Ramazzini, (2020) 24th Collegium Ramazzini Statement: Prevention of Work-related Infection in the COVID-19 Pandemic, *Annals of Global Health*, 86(1) 79 <https://annalsofglobalhealth.org/article/10.5334/aogh.2929/>

<sup>34</sup> A growing body of global research is tracking these effects, including on particular groups like retail workers. See for example, Rodríguez-López, A.M. Rubio-Valdehita, S. Díaz-Ramiro, E.M. (2021) Influence of the CoViD-19 Pandemic on Mental Workload and Burnout of Fashion Retailing Workers in Spain, *International Journal of Environmental Research and Public Health*, 18, 983. <https://doi.org/10.3390/ijerph18030983> (accessed 8 March 2021)

In addition to the considerable mental anguish this caused (and for some more basic issues of food security and accommodation) it increased the number of workers and families in Australia exposed to the well-documented adverse OHS effects of insecure and precarious employment. As far as we are aware this impact is yet to be researched and the full effects won't be estimable for some time. However, what evidence is available indicates the effects will be profound, with a World Health Organisation report indicating that the pandemic had a significant, long-term and disproportionate effect on informal workers – an insecure category of work – and these workers had the least resources to withstand these risks.<sup>35</sup> Further guidance may be taken from the impact of previous business cycle downturns/crashes like the GFC that have been the subject of some research in a number of countries. These suggest the health effects were significant and long-term in both rich and poor countries, compounding existing health inequities more broadly in the community.<sup>36</sup> This included an increase in suicides, something also found especially amongst lower class occupations by Australian research.<sup>37</sup> Given the pandemic far outweighed even the GFC in scale it is logical to presume its effects will be even more profound. Even as the Australian economy bounces back it is unlikely to be a return to the prior economy and labour market. The uncertainty the pandemic created is likely to affect business employment decisions for years and may well include an even greater preference for insecure work arrangements, with consequent negative outcomes for OHS.

2. **Precarious workers were under pressure to attend work, notwithstanding Covid symptoms or being close contacts of others exposed to the virus.** Workers holding insecure jobs faced strong pressure not to report illness symptoms or isolate themselves because this would mean losing income they needed on a daily/weekly basis. Unlike permanent employees, insecure workers such as casual, gig workers etc. have no entitlements to sick leave. These jobs are typically low paid and therefore they have few savings/resources to fall back on.<sup>38</sup> These workers also faced the risk of job loss if they failed to attend work. The greater likelihood of attending work whilst ill or injured has been found to contribute to more severe injuries<sup>39</sup>; this same practice during a pandemic extends the risks to others, with potentially fatal outcomes. In Australia the success in keeping overall infection numbers low, Job-keeper, enhanced- Job-seeker entitlements and the special pandemic/sick leave entitlement

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<sup>35</sup> World Health Organisation (2020) *COVID-19 health equity impact policy brief: informal workers*, WHO/EURO:2020-1654-41405-56445

<sup>36</sup> See for example, Karanikolos, M. Heino, P. McKee, M. Stuckler, D. & Legido-Quigley, H. (2016) Effects of the Global Financial Crisis on Health in High-Income Oecd Countries: A Narrative Review, *International Journal of Health Services*, 46(2) 208–240 ; Ruckert, A. & Labonte, R. (2014) The global financial crisis and health equity: Early experiences from Canada, *Globalisation and Health*, 10(2): 10.1186/1744-8603-10-2

<sup>37</sup> Milner, A. Niven, H. & LaMontagne, A. (2015) Occupational class differences in suicide: evidence of changes over time and during the global financial crisis in Australia, *BMC Psychiatry* 15:223 DOI 10.1186/s12888-015-0608-5.

<sup>38</sup> This important point was made by the ILO as well as a number of studies. See for example, ILO (2020), Covid-19 and the world of work: Impact and policy responses, International Labor Organization [www.ilo.org/wcmsp5/groups/public/-dgreports/-dcomm/documents/briefingnote/wcms\\_738753.pdf](http://www.ilo.org/wcmsp5/groups/public/-dgreports/-dcomm/documents/briefingnote/wcms_738753.pdf); Yeganeh, H. (2021) Emerging social and business trends associated with the Covid-19 pandemic, *Critical Perspectives on International Business*, DOI: 10.1108/cpoib-05-2020-0066

<sup>39</sup> Underhill, E and Quinlan, M. (2011) How precarious employment affects health and safety at work: the case of temporary agency workers. *Relations Industrielles*, 66(3), 397-421.

measures introduced by some State governments mitigated these pressures. However, as many of these protections were temporary, the central problem of vulnerability this creates remains if the pandemic is prolonged (as is likely) or another occurs (also likely).

- 3. Precarious work is prevalent in sectors likely to be potential ‘super spreaders’.** Insecure and precarious work is most prevalent, indeed the norm, in a number of industries where large numbers of people congregate like gyms, cafes, hotels, retail outlets and other areas of hospitality which have the potential to be ‘super-spreaders’ in the event of a disease outbreak. A similar point can be made with regard to other service and transport activities like food/meal delivery workers engaged by companies like Uber and Hungry Panda. Commercial truck drivers, another category in this group, are often engaged under insecure forms of employment. Drivers often cover large distances both within (short-haul) and between (long-haul) urban centres and indeed this was a mechanism for transmitting the Victorian outbreak to NSW via a hotel in South-West Sydney. Accordingly commercial drivers were identified as a priority for COVID-19 vaccinations in the USA and elsewhere.<sup>40</sup> Along with some other groups of non-health-care workers deemed essential, delivery drivers not only continued working during the pandemic but their workloads increased substantially due to consumer restrictions on other options, social distancing requirements and the like. In at least some instances, and probably more widely, this has had deleterious effects on their health and safety through exhaustion and traumatic incidents. In South Korea the death of 15 such drivers sparked serious concerns and debate that these workers were not adequately protected and a similar spate of deaths and debate has occurred in Australia.<sup>41</sup>
- 4. Precarious work is common in industries that contain highly vulnerable populations.** Insecure and precarious worker including labour-hire, casuals and the like are also prevalent in a number of industry-sectors dealing with highly vulnerable populations like the aged and disabled or carers for at-risk children.<sup>42</sup> These workforces are also predominantly female. The combination of this with multiple job-holding (as workers sought to supplement inadequate single incomes) along with under-staffing/inadequate skill-mixes arguably contributed both to outbreaks and the death-toll in several aged care centres in Australia.<sup>43</sup> Similar connections have been identified in other countries like Canada.<sup>44</sup> It is almost

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<sup>40</sup> Lemke, M. (2021) Commercial truck drivers should be a priority population for COVID-19 vaccinations, *American Journal of Industrial Medicine*, 64:217–219.

<sup>41</sup> Yoon, D. (2020) Covid-19 deluge overwhelms South Korea’s Delivery Drivers: ‘I’m so exhausted’ *Wall Street Journal*, 23 November <https://www.wsj.com/articles/covid-19-deluge-overwhelms-south-koreas-delivery-drivers-im-so-exhausted-11606144267>

<sup>42</sup> Bohle, P., Finn, J., Quinlan, M. & Rawlings-Way, O. (2009) *A Report on the Occupational Health and Safety of Homecare Contract Workers in Adelaide and the Barossa Region*. A report prepared for The South Australian Office of the Employee Ombudsman. Sydney: The University of Sydney; Quinlan, M. Bohle, P. & Rawlings-Way, O. (2015) Health and safety of homecare workers engaged by temporary employment agencies, *Journal of Industrial Relations*. 57(1):94-114.

<sup>43</sup> The Department of Health periodically published information on these outbreaks and the death toll associated with them. See for example Department of Health (2020) *COVID-19 outbreaks in Australian residential aged care facilities as at 18 December 2020*, Australian Government, Canberra.

<sup>44</sup> Lippel, K. (2020) Occupational health and safety and COVID-19: Whose Rights Come First in a Pandemic? Colleen M. Flood, Vanessa MacDonnell, Jane Philpott, Sophie Thériault & Sridhar Venkatapurum (eds),

certainly a factor in the high-death toll in aged care centres in other countries.<sup>45</sup> Insecure and precarious work is also used in the healthcare sector (for example casual and part-time nurses as well as hospital staff including cooks and cleaners). Whether this exacerbated risk is unknown and requires investigation. Strong protocols, planning and preparedness, experience with dealing with infectious disease and the like probably mitigated the risks in healthcare, although there has been debate both in Australia and in other countries about the adequacy/supply of personal protective equipment (PPE), especially in countries where infection rates stretched if not overloaded healthcare.<sup>46</sup> In some countries, though not Australia and New Zealand, healthcare workers were arguably sacrificed to deal with a pandemic government policy failures arguably magnified.<sup>47</sup> The global healthcare worker death toll has yet to be calculated but will be substantial based on evidence already available on infection rates and deaths.<sup>48</sup>

**5. Precarious employment underpins multiple jobholding, facilitates the spread of Covid 19.**

Multiple-jobholding, strongly associated with insecure/precarious work has also been a transmission factor in several outbreaks involving quarantine hotels and aged care facilities, resulting in measures to ban this practice, but only on a selective/temporary basis rather than assessing its long term implications, including future pandemics. The Victorian 2020 outbreak which was due at least in part to subcontracted security services using poorly paid and trained guards highlighted why insecure work was entirely inappropriate in high risk exposure settings. It is also worth noting that problems/risks associated with multiple-jobholding, insecure work and understaffing in aged care had been identified by a preliminary report of the Aged Care Royal Commission prior to the pandemic.<sup>49</sup> Yet this risk doesn't appear to have been considered until after outbreaks began to occur in aged-care facilities that were linked back to staff working at multiple sites. This is relevant to a more general point. As evidenced in earlier parts of this submission, there is clear evidence of the capacity of particular work arrangements like subcontracting to contribute to serious (indeed catastrophic) safety incidents in the past, and indeed this is widely known within the

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*Vulnerable: The Law, Policy & Ethics of Covid-19*, University of Ottawa Press, Ottawa, 473-486  
<https://ruor.uottawa.ca/handle/10393/40726>

<sup>45</sup> See for example Bui, D. See, I. Hesse, E. et al (2020) Association Between CMS Quality Ratings and COVID-19 Outbreaks in Nursing Homes — West Virginia, March 17–June 11, 2020, *Morbidity Mortality Weekly Reports* 69(37):1300-1304.

<sup>46</sup> For some research on this see Vuma, C. Manganyi, J. Wilson, K. & Rees, D. (2019) The Effect on Fit of Multiple Consecutive Donning and Doffing of N95 Filtering Facepiece Respirators, *Annals of Work Exposures and Health*, 63(8): 930–936; Lippel, K. (2020) Occupational health and safety and COVID-19: Whose Rights Come First in a Pandemic? Colleen M. Flood, Vanessa MacDonnell, Jane Philpott, Sophie Thériault & Sridhar Venkatapuram (eds), *Vulnerable: The Law, Policy & Ethics of Covid-19*, University of Ottawa Press, Ottawa, 473-486 <https://ruor.uottawa.ca/handle/10393/40726>

<sup>47</sup> See for example, Brophy, J. Keith, M. Hurley, M. & McArthur, J. (2020) Sacrificed: Ontario Healthcare Workers in the Time of COVID-19, *New Solutions*, 1-15: DOI: 10.1177/1048291120974358. For a preliminary report on New Zealand see Ministry of Health, (2020) *COVID-19 in Health Care and Support Workers in Aotearoa New Zealand*. Wellington: Ministry of Health.

<sup>48</sup> For some preliminary research on Australia see Quigley, A. Stone, H. Nguyen, P. Chughtai, A. & MacIntyre, R. (2020), Estimating the Burden of COVID-19 on the Australian Healthcare Workers and Health System, *International Journal of Nursing Studies* (2020), <https://doi.org/10.1016/j.ijnurstu.2020.103811>

<sup>49</sup> Royal Commission into Aged Care Quality and Safety (2019) Interim Report: Neglect, Volume 1, Government of Australia, Canberra.

OHS community (for example contractor safety management has been a subject for industry conferences for several decades). Health and safety challenges, and how to mitigate them, should be a priority consideration where decisions to use subcontractors, labour-hire and similar work arrangements are made in high-hazard workplaces (which aged-care facilities and quarantine hotels arguably are – i.e. workplaces with the potential to be associated with for mass fatality events). The risk factors of these arrangements were well known (less so with multiple-jobholding until now but certainly into the future) and a clear lesson of the pandemic is that there needs to be a breakdown of knowledge silos so these risks inform decisions by government and industry in the future.<sup>50</sup>

- 6. Increasing use of mobile workers risks the spread of Covid 19 across borders.** Another change in work arrangements increasing the risk of disease spread has been the growth of long-distance commuting to work including FIFO, which probably contributed to Western Australia's stringent approach to the pandemic in terms of border closures given its heavy dependence on extractive industries in remote locations that used FIFO.<sup>51</sup> However, it wasn't just FIFO but also drive-in-drive out (DIDO) used by many labour hire workers in the mining industry in Queensland and elsewhere.<sup>52</sup> Long distance commuting and workers moving from their home to work at some considerable distance is a growing global phenomenon and involves not just extractive workers but those in other industries including homecare dealing with vulnerable populations like the aged.<sup>53</sup> Not all this work is insecure or precarious but the categories overlap with potentially compounding effects for disease risk/spread.<sup>54</sup> The more general issue of mobility and covid risk is the subject of international research.<sup>55</sup>
  
- 7. Temporary migrants' vulnerability to Covid-19 and lack of economic support.** A further exacerbating factor for transmission associated with insecure and precarious work arose amongst vulnerable populations like recent immigrants/refugees and temporary visa holders, who have marginal economic reserves, often suffer language and other challenges

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<sup>50</sup> This has received insufficient attention even in reports dealing with pandemic decision-making and practices. For example, while the national review of hotel quarantine refers to contract procurement controls and the like we could find no reference to the risk factors associated with outsourcing/subcontracting, multiple job-holding or other risk factors raised in this submission. Halton, J. (2020) *National Review of Hotel Quarantine*, Report prepared for the Australian Government, Canberra. However, in contrast, the Victorian inquiry into hotel quarantine devoted considerable attention to subcontracting, the risks it posed and the necessary preventative measures. Coates, J. (2020) *COVID-19 Hotel Quarantine Inquiry Final Report and Recommendations*, Board of Inquiry Final Report Volume 1 PP No 191, Session 2018–2020, Government Printer, Melbourne.

<sup>51</sup> The pandemic also prompted specific attention was also given to industrial relations on mega projects. See Ellem, B. (2021) Labour and megaprojects: Rethinking productivity and industrial relations policy, *Economic and Labour Relations Review* published online, DOI: 10.1177/1035304620984294.

<sup>52</sup> The use of labour hire in the coalmining industry is currently under examination by the Independent Board of Inquiry into the methane explosion at the Grosvenor coalmine in Queensland.

<sup>53</sup> Neis, B. Neill, K. & Lippel, K. (2020) Mobility in a Pandemic: COVID-19 and the Mobile Labour Force, On the Move Partnership Working Paper, Memorial University. <https://www.onthemovepartnership.ca/>

<sup>54</sup> Neis, B. Neill, K. & Lippel, K. (2020) Mobility in a Pandemic: COVID-19 and the Mobile Labour Force, On the Move Partnership Working Paper, Memorial University. <https://www.onthemovepartnership.ca/>

<sup>55</sup> Carteni, A., Di Francesco, L., & Martino, M., (2020) "How mobility habits influenced the spread of the COVID-19 pandemic: Results from the Italian case study", *Science of the Total Environment*, 741, 140489.



and live in shared accommodation. Temporary migrant abattoir workers in western Victoria, for example, live in cramped, shared accommodation supplied by their agent/labour hire employer. Harvest workers on working holiday visas staying in farmer/contractor housing, or backpacker hostels were also vulnerable though it appears a large number returned to their country of origin as soon as flights became available once the pandemic hit.<sup>56</sup> Their cramped living conditions offer ideal conditions for the spread of a highly contagious virus.<sup>57</sup> In Australia, like the USA, immigrants are also significantly over-represented in essential industries like supermarkets, meatworks/abattoirs, aged-care and harvest work/food processing. They and their families are disproportionately exposed to the risk of infection.<sup>58</sup> Some of these immigrants, such as international students and working holiday makers, were not entitled to federal government pandemic safety-net measures, with state governments offering only some relief. Charities provided critical support. In Australia this exclusion from government support was the consequence of changes to migration policy and programs that promoted temporary migration, undermining migrant inclusion in Australian society, such as ensuring access to basic labour standards.<sup>59</sup> Another vulnerable population disproportionately represented amongst those undertaking insecure and precarious work are those working informally. Informal work is legal work undertaken but without legislative protections. Typical examples include ‘cash-in-hand’ payments in the construction and hospitality industry. Also known as the black-economy, it has been a major source of concern, including extremely poor health and safety standards, in the European Union and elsewhere.<sup>60</sup> There is an overlap between foreign-workers and the informal sector, including undocumented workers and those doing work contrary to their visa conditions – they are especially vulnerable to intimidation and unlikely to seek regulatory protections/entitlements.

- 8. Some groups of workers, with fewer resources and greater economic insecurity, were disproportionately affected by the pandemic.** In addition to migrants/temporary visas-holders other groups were disproportionately represented in precarious work arrangement, including women, the young, the old and those with lower education. There is a body of

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<sup>56</sup> Underhill, E. & Rimmer, M.(2016). Layered vulnerability: Temporary migrants in Australian horticulture. *Journal of Industrial Relations*, 58(5), 608-626.

<sup>57</sup> The impact of COVID-19 on immigrants, including immigrant workers, is being researched in a number of countries. See for example, Lopez Zarzosa, H. (2021)The Impact of the COVID-19 Pandemic on the Lives of Latin American migrants and IRMO’s Response: An IRMO Research Report, irmo.org.uk /@IRMOLondon;

<sup>58</sup> Clibborn, S. and C.F Wright (2020) COVID-19 and the Policy-Induced Vulnerabilities of Temporary Migrant Workers in Australia, *Journal of Australian Political Economy*, No. 85:62-70; Reid, A. Ronda-Perez, E. & Schenker, M. (2021) Migrant workers, essential work, and COVID-19, *American Journal of Industrial Medicine*, 64:73–77.

<sup>59</sup> Clibborn, S. and C.F Wright (2020) COVID-19 and the Policy-Induced Vulnerabilities of Temporary Migrant Workers in Australia, *Journal of Australian Political Economy*, No. 85:62-70; Toh, S. & Quinlan, M. (2009), Safeguarding the global contingent workforce? Guestworkers in Australia, *International Journal of Manpower*, 30(5): 453-471; Guthrie, R. & Quinlan, M. (2005) The Occupational Health and Safety Rights and Workers Compensation Entitlements of Illegal Immigrants: An Emerging Challenge *Policy and Practice in Safety and Health*, 3(2): 69-89.

<sup>60</sup> See for example Cardiff University et al, (2011), *Contract to assess the potential impact of emerging trends and risks on labour inspection methodologies in the domain of occupational health and safety (the NERCLIS\* Project)*, Report prepared for the European Commission, Luxembourg (I reviewed and drafted significant elements of this report). <http://www.cf.ac.uk/cwerc/reports/NERCLIS%20Vol%201%20FINAL.pdf>

research on the gender and age-dimension impacts of precarious work on OHS – illustrations of which can be found in the literature already cited.<sup>61</sup> Again, it is likely that COVID-19 exacerbated this vulnerability. For example, women were concentrated in a number of industries that were forced in shutdown/trading restrictions like hospitality, tourism, beauty/hair-care and gyms as well as a number that had to continue operating even during lockdowns like supermarkets, pharmacies, aged and healthcare.

**9. Industries highly dependent upon precarious workers have operated throughout lockdowns.** Even during lockdowns some activities highly dependent on insecure and precarious work including abattoirs/meatworks, food distribution warehouses, supermarkets and road transport continued to operate because these were essential to maintaining the health and wellbeing of the community. A number of outbreaks therefore occurred in abattoirs (e.g. Colac and Melbourne), distribution-centres (e.g. Melbourne) and supermarkets (e.g. Balmain). Similar problems occurred in other countries like the USA and Germany.<sup>62</sup> The connection to insecure employment has not gone unrecognised. Indeed, in Germany the federal government responded by introducing new regulations banning subcontracting in meatworks. Further, the use of temporary agency workers (i.e. labour hire) has been significantly restricted to a maximum of 8% of the workforce.<sup>63</sup> Another industry dominated by precarious employment (predominantly drawn from poor countries with weak healthcare regimes) is shipping - both freight and passenger/tourist ships – and the latter experienced a series of COVID-19 outbreaks including, in the case of Australia, the *Ruby Princess*. While the insecure work connections to the spread of disease on crowded cruise ships was not to our knowledge specifically investigated, the same general risk factors identified earlier apply (along with crew turnovers, many vulnerable older passengers and confined spaces create ideal disease spreading conditions). Further, while the cruise-ship industry largely closed down or was banned from ports (as in Australia) freight shipping continued but with port quarantine, longer service periods/delayed relief and other changes that exacerbated the health, especially mental strain on already vulnerable and precariously employed workers.<sup>64</sup>

**10. Precarious workers in essential services faced significant risks to health.** As in other countries like Canada, workers - many holding low-paid and insecure/precarious jobs – continued to work in industries deemed essential like food-processing, warehouse-distribution, supermarkets and categories of road transport. These workers faced significant risks to the health of themselves and their families through exposure to the virus. Unlike many healthcare workers they were not trained to deal with infectious disease, did not have access to high-grade PPE, and their workforces had not planned for this eventuality. It is

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<sup>61</sup> See too Bohle, P. Pitts, C. Quinlan, M. (2010), Time to call it quits: Older workers, contingent employment, safety and health *International Journal of Health Services*, 40(1): 23-41.

<sup>62</sup> Donahue M, Sreenivasan N, Stover D, et al. (2020) Notes from the Field: Characteristics of Meat Processing Facility Workers with Confirmed SARS-CoV-2 Infection — Nebraska, April–May 2020, *Morbidity Mortality Weekly Reports* 69(31):1020–1022.

<sup>63</sup> Erol, S. & Schulten, T. (2021), Renewing Labour Relations in the German Meat Industry: An end to ‘organised irresponsibility’? *WSI Institute of Economic and Social Research Report* No.61e; 1-21.

<sup>64</sup> Kirkby D, (2020) “[I]f you thought about those things, your life would be a misery!” Mental health and the safety of seafarers, *Labour History*, 123: 197-208.

worth noting in passing that even amongst healthcare workers there has been some debate about the adequacy of protections and the pandemic demonstrated a lack of preparedness within the aged care sector. Over time, measures were implemented including COVID-safe plans and sentinel-testing in especially high-risk workplaces like abattoirs. Nonetheless, there is a growing body of evidence that non-healthcare workers in essential industries have suffered significant mental anguish, if not other health effects. For example a Canadian study by Smith et al (2020) examined workplace infection control procedures and mental health amongst Canadian non-healthcare workers during the COVID-19 pandemic. They found that adequate design and implementation of employer based infection controls has implications for the mental health of site-based workers.<sup>65</sup> These effects have not yet been studied in Australia and may prove less significant than some other countries because the virus has been better controlled. However, workers in these essential industries contain a disproportionate number of already vulnerable immigrants as well as lower socio-economic groups more generally whose communities are more liable to existing co-morbidities. That widespread infection (that would have magnified the risk to these workers) was avoided this time is no basis to presume that will be the case into the future.

**11. Industries reliant upon casual workers are more likely to be characterised by disorganised management systems.** A further aspect of insecure and precarious work that made it more difficult to prevent or manage outbreaks was that many casual and gig-work jobs in industries like security, hospitality, food delivery and the like typically entail a higher level of labour turnover/job-turnover and can be conducive to more disorganised workplace management. For example, more inexperienced workers and high labour turnover can make it harder to ensure adequate training and induction, such as occurred in at least one Victorian quarantine hotel. The potential for this to compromise OHS and sometimes public safety too has long been recognised in published OHS research as well as one of the problem factors known to OHS regulators and unions.<sup>66</sup> COVID-19 added a new hazard to this mix. These problems may also make it more difficult to ensure workers are vaccinated in industries where this is deemed a legitimate requirement (apart from which vaccination will remain voluntary).<sup>67</sup>

**12. Increased problems with OHS regulatory protections and entitlements.** In addition to the risks and problems already identified another important issue concerns OHS-related regulatory protections and entitlements. As noted in an earlier section even prior to the pandemic, safeguarding the OHS of workers in insecure and precarious employment

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<sup>65</sup> Smith, P. Oudyk, J. Potter, G. & Mustard, C. (2020) Labour Market Attachment, Workplace Infection Control Procedures and Mental Health: A Cross-Sectional Survey of Canadian Non-healthcare Workers during the COVID-19 Pandemic, *Annals of Work Exposure and Health*: <https://academic.oup.com/annweh/advance-article/doi/10.1093/annweh/wxaa119/6032759>.

<sup>66</sup> Quinlan, M. Johnstone, R. & McNamara, M. (2009) Australian health and safety inspectors' perceptions and actions in relation to changed work arrangements *Journal of Industrial Relations* 51(4): 559-575; Underhill, E. and Quinlan, M. (2011) How precarious employment affects health and safety at work: the case of temporary agency workers. *Relations Industrielles* 66(3):397-421.

<sup>67</sup> Vaccination protocols for workers have the subject of some debate in Australia and elsewhere. See for example, Alex Denny, A. Vennesson, E. (2020) Can U.K. Employers Make COVID-19 Vaccinations Mandatory? *The National Law Review*, 11(20):1-2.

presented a particular challenge to OHS and mine safety regulators (the latter currently under investigation by the Board of Inquiry into the May 2020 Grosvenor mine explosion).<sup>68</sup> The pandemic has exacerbated these challenges due to greater difficulties doing workplace inspections with COVID-19 restrictions in place, the considerable time/resources inspectorates needed for pandemic-related risks (producing guidance material and ensuring workplaces had COVID-safe plans in place and the like) and the apparent acceleration of at least some gig-work type arrangements (like meal delivery) during lockdowns in response to the Pandemic. Further, coverage for workers compensation for insecure and precarious workers was a significant problem prior to the pandemic due to workers deemed self-employed mostly being excluded for legislative workers' compensation schemes, as well as ignorance and fear of claims-related retribution or future employment prospects amongst casuals/temporary workers who are covered.<sup>69</sup> The problem is even more acute for temporary visa holders and the like.<sup>70</sup> Again, the pandemic has most likely exacerbated these problems by increasing the numbers in precarious work, increasing the vulnerability of those already holding such jobs and through increased job volatility (thereby making it harder to establish a relationship between a specific job and an injury or illness).

Many of these risk factors have been identified in global health research journals.<sup>71</sup> For example a paper published in the *International Journal of Health Services* by 29 leading researchers on precarious work argued that the pandemic would interact with precarious work in five critical ways: increasing precarious employment, workers in precarious work will become more precarious or 'will face unemployment without being officially laid off', those in in precarious work 'will be exposed to serious stressors and dramatic life changes that may lead to a rise in diseases of despair,

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<sup>68</sup>Johnstone, R. Quinlan, M. & Mayhew, C. (2001), Outsourcing Risk? (2001), The regulation of OHS where contractors are employed, *Comparative Labor Law and Policy Journal*, 22(2&3): 351-93; Johnstone, R. Quinlan, M. & Walters, D. (2005), Statutory OHS Workplace Arrangements for the Modern Labour Market *Journal of Industrial Relations*, 47(1): 93-116; Johnstone, R. & Quinlan, M. (2006) The OHS Regulatory Challenges of Agency Labour: Evidence from Australia *Employee Relations*, 28(3): 273-289; James, P. Johnstone, R. Quinlan, M. & Walters, D. (2007) Regulating supply chains for safety and health *Industrial Law Journal*, 36(2): 163-187; Quinlan, M. Johnstone, R. & McNamara, M. (2009) Australian health and safety inspectors' perceptions and actions in relation to changed work arrangements *Journal of Industrial Relations* 51(4): 559-575.

<sup>69</sup> This problem is not confined to Australia. For specific Australian research evidence see Quinlan, M. & Mayhew, C. (1999), Precarious Employment and Workers' Compensation, *International Journal of Law and Psychiatry*, 22(5&6):491-520; Mayhew, C. & Quinlan, M. (2002), Fordism in the fast food industry: pervasive management control and occupational health and safety risks for young temporary workers, *Sociology of Health and Illness*, 24(3): 261-84; Quinlan, M. (2004), Workers' Compensation and the Challenges Posed by Changing Patterns of Work: Evidence from Australia *Policy and Practice in Health and Safety*, 2(1): 25-52; Quinlan, M., Fitzpatrick, S. J., Matthews, L. R., Ngo, M., & Bohle, P. (2015) Administering the cost of death: Organisational perspectives on workers' compensation and common law claims following traumatic death at work in Australia, *International Journal of Law and Psychiatry*. 38:8-17.

<sup>70</sup> Guthrie, R. & Quinlan, M. (2005) The Occupational Health and Safety Rights and Workers Compensation Entitlements of Illegal Immigrants: An Emerging Challenge *Policy and Practice in Safety and Health*, 3(2): 69-89; Toh, S. & Quinlan, M. (2009) Safeguarding the global contingent workforce? Guestworkers in Australia, *International Journal of Manpower*, 30(5): 453-471.

<sup>71</sup> See for example Quinlan, M. (2021) Editorial: COVID-19, Health and Vulnerable Societies, *Annals of Work Exposure and Health*, published online 6 January 2021, doi/10.1093/annweh/wxaa127/6065783; Matilla-Santander, N. et al (2021) COVID-19 and Precarious Employment: Consequences of the Evolving Crisis, *International Journal of Health Services*, DOI: 10.1177/0020731420986694.

and...precarious work might be a factor in deterring the control of or in generating new COVID-19 outbreaks.<sup>72</sup> The connections between the pandemic and insecure work have also been recognised at least to some degree by some state governments. In the midst of the Victorian June–October 2020 outbreak, premier Daniel Andrews made a largely overlooked statement about the connections:

Insecure work is toxic. There is nothing good about insecure work, and when this is done, when this virus has been beaten, we will need to commit ourselves to do something really significant about it. It is no good for anything, for families, for a sense of security [and] for public health, for any purpose. We have a lot of people who work very hard but have no safety net to fall back on and that is just not something we should settle for.<sup>73</sup>

This statement was followed by concrete budget measures to address some of the risks already alluded to, including committing \$5.3 billion for social housing and some moves on sick leave though the latter was more difficult given it falls within the Federal powers.

### **TERM OF REFERENCE: THE EFFECTIVENESS, APPLICATION AND ENFORCEMENT OF EXISTING LAWS, REGULATIONS, THE INDUSTRIAL RELATIONS SYSTEM AND OTHER RELEVANT POLICIES**

This submission will largely focus on the area of OHS but also its intersection with other labour standards like wages/industrial relations. It is important to note that governments have been aware of the challenges posed by changing work arrangements and the need to address this, at least to some degree, for many years. Concern with the effects of changed work arrangements (including temporary work, contracting and labour hire/agency labour), including in terms of OHS, have prompted a number of government inquiries and government commissioned reports in Australia, New Zealand, Canada, the European Union, the UK and indeed many countries. This includes the challenges posed to regulators such as the report prepared for the European Commission in 2011 after concerns expressed by the body representing inspectorates in Europe.<sup>74</sup> It is beyond the scope of the report to provide even a brief summary of all these reviews as far as they pertained to OHS although they are indicative of longstanding concerns.

As noted in an earlier section of this submission safeguarding the health, safety and wellbeing of those holding insecure or precarious employment has presented a particular challenge for OHS regulators/inspectorates. However, while the problem has long been recognised and some remedial

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<sup>72</sup> Matilla-Santander, N. et al (2021) COVID-19 and Precarious Employment: Consequences of the Evolving Crisis, *International Journal of Health Services*, DOI: 10.1177/0020731420986694.

<sup>73</sup> Insecure work is toxic, Daniel Andrews says, Guardian Australian Edition 15 August 2020  
<https://www.theguardian.com/world/live/2020/aug/15/coronavirus-live-news-victoria-in-australia-adds-303-cases-as-restrictions-tighten-in-europe?page=with:block-5f3742ec8f0803703d9235b9>

<sup>74</sup> Cardiff University et al, (2011), *Contract to assess the potential impact of emerging trends and risks on labour inspection methodologies in the domain of occupational health and safety (the NERCLIS\* Project)*, Report prepared for the European Commission, Luxembourg,  
<http://www.cf.ac.uk/cwerc/reports/NERCLIS%20Vol%201%20FINAL.pdf>

measures have been introduced, they have been very limited in scope and arguably only had a limited effect given the size and scale of the problem.<sup>75</sup>

## **TERM OF REFERENCE - ACCIDENT COMPENSATION SCHEMES, PAYROLL, FEDERAL AND STATE AND TERRITORY TAXES**

Here we concentrate predominantly on legislative access to compensation for insecure and precarious workers suffering an injury or disease at work. As with prevention, insecure and precarious employment poses a serious challenge, indeed significantly undermines, the provision of compensation to large groups of workers notwithstanding that evidence suggests these workers are at greater risk of injury if not disease exposure at work.<sup>76</sup> As noted earlier, coverage for workers' compensation for insecure and precarious workers was a significant problem prior to the pandemic due to most workers deemed self-employed being excluded by legislative workers' compensation schemes, and because of ignorance and fear of claims-related retribution or future employment prospects amongst casuals/temporary workers who are covered. Their reluctance to disclose an injury at work can compound the injury, resulting in more serious and chronic injuries. While self-employed workers can take out their own accident cover these schemes are often inferior to workers' compensation and many do not insure or find it difficult to maintain membership due to the volatility of their earnings.<sup>77</sup> The problem is even more acute for temporary visa holders and the like who are poorly informed of their rights, and are deterred from lodging claims because of their short-term stay in Australia.<sup>78</sup> Without stronger protections against retaliatory actions for lodging a claim, and without better communication of workers' compensation related rights, precarious

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<sup>75</sup> For research on the regulatory problems and some of the responses see Johnstone, R. Quinlan, M. & Mayhew, C. (2001), *Outsourcing Risk?* (2001), The regulation of OHS where contractors are employed, *Comparative Labor Law and Policy Journal*, 22(2&3): 351-93; Johnstone, R. Quinlan, M. & Walters, D. (2005), Statutory OHS Workplace Arrangements for the Modern Labour Market *Journal of Industrial Relations*, 47(1): 93-116; Johnstone, R. & Quinlan, M. (2006) The OHS Regulatory Challenges of Agency Labour: Evidence from Australia *Employee Relations*, 28(3): 273-289; James, P. Johnstone, R. Quinlan, M. & Walters, D. (2007) Regulating supply chains for safety and health *Industrial Law Journal*, 36(2): 163-187; Quinlan, M. Johnstone, R. & McNamara, M. (2009) Australian health and safety inspectors' perceptions and actions in relation to changed work arrangements *Journal of Industrial Relations* 51(4): 559-575.

<sup>76</sup> Underhill, E. & Quinlan, M. (2011) How precarious employment affects health and safety at work: the case of temporary agency workers. *Relations Industrielles*, 66(3), 397-421.

<sup>77</sup> This problem is not confined to Australia. For specific Australian research evidence see Quinlan, M. & Mayhew, C. (1999), Precarious Employment and Workers' Compensation, *International Journal of Law and Psychiatry*, 22(5&6):491-520; Mayhew, C. & Quinlan, M. (2002), Fordism in the fast food industry: pervasive management control and occupational health and safety risks for young temporary workers, *Sociology of Health and Illness*, 24(3): 261-84; Quinlan, M. (2004), Workers' Compensation and the Challenges Posed by Changing Patterns of Work: Evidence from Australia Policy and Practice in Health and Safety, 2(1): 25-52; Quinlan, M., Fitzpatrick, S. J., Matthews, L. R., Ngo, M., & Bohle, P. (2015) Administering the cost of death: Organisational perspectives on workers' compensation and common law claims following traumatic death at work in Australia, *International Journal of Law and Psychiatry*. 38:8-17.

<sup>78</sup> Guthrie, R. & Quinlan, M. (2005) The Occupational Health and Safety Rights and Workers Compensation Entitlements of Illegal Immigrants: An Emerging Challenge *Policy and Practice in Safety and Health*, 3(2): 69-89; Toh, S. & Quinlan, M. (2009) Safeguarding the global contingent workforce? Guestworkers in Australia, *International Journal of Manpower*, 30(5): 453-471; Underhill, E., Huang, S., Yi, S., & Rimmer, M. (2019/20). Using social media to improve temporary migrant workers' access to information about their employment rights. *Journal of Australian Political Economy*, 84, 147-176.

workers will continue to lack support when injured at work. Finally, the growth of precarious work involving frequent job changes is making it harder to identify and monitor work-related hazard exposures within the community.<sup>79</sup> This presents a problem not only with regard to workers' compensation claims (and industry rather than the community bearing the costs) but also limits the information that could be used to drive better prevention practices that would reduce the burden of illness in the long-term.

## **RECOMMENDATIONS:**

The economic shock of COVID-19 has been viewed by a range of governments as offering an opportunity to restructure economies, and work to make economies more resilient, sustainable and prosperous into the future. COVID-19 shone a light on a number of existing problems of an economy and society overly dependent/focused on insecure work, the serious shortcomings of which had already been identified in research stretching back decades.<sup>80</sup> These problems are too fundamental to be addressed with 'tinkering' but require a major policy re-set. Our recommendations identify some of the remedies and benefits of such a shift.

- 1. Industry policy that supports industries less reliant upon personal services.** The Australian economy has relied too heavily on a number of service industries that the pandemic immediately stalled because they depended on international movements of people, namely international tourism and overseas student-education. Many thousands lost their jobs in both industries - mostly insecure workers but also thousands of permanent staff in universities. Notwithstanding a succession of optimistic pronouncements from airlines, universities and other stakeholders, it seems unlikely these activities will resume soon, at least not at the scale of the past. Regarding international tourism, research has indicated that highly connected tourist nodes were infected earlier, making them susceptible both to renewed outbreaks (or new variants) of COVID-19 and new viruses.<sup>81</sup> This should be factored into any re-opening of international tourism (and perhaps both temporary visa holders and international student movements too) and how government manages tourism into the future.
- 2. Industry policy that promotes more skilled, stable employment in manufacturing.** The virus exposed the vulnerability associated with the long-term decline in domestic manufacturing, including essential goods, as supply chains were disrupted. While many supply chains were restored fairly rapidly, the virus demonstrated that global supply chains could not be relied

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<sup>79</sup> Quinlan, M. (2005) The Hidden Epidemic of Injuries and Illness Associated with the Global Expansion of Precarious Employment in Mayhew C. and Peterson, C. eds. *Occupational Health and Safety: International Influences and the New Epidemics*, Baywood, New York, 53-74.

<sup>80</sup> van Barneveld K, Quinlan M, Kriesler P, Junor A, Baum F, Chowdhury A, Junankar PN, Clibborn S, Flanagan F, Wright CF, Friel S, Halevi J, & Rainnie A, (2020) The COVID-19 pandemic: Lessons on building more equal and sustainable societies, *Economic and Labour Relations Review*, 31(2):133-157; Gusheva, E. & de Gooyert, V. (2021) Can We Have Our Cake and Eat It? A Review of the Debate on Green Recovery from the COVID-19 Crisis, *Sustainability* 13, 874 <https://doi.org/10.3390/su13020874>;

<sup>81</sup> Tsiotas, D. & Tselios, V. (2020) Understanding the uneven spread of COVID-19 in the context of the global interconnected economy.

on and indeed might prove increasingly unreliable amidst rising global uncertainties and tensions. A global rethink on supply-chain dependence and the need/advantages of more localised manufacturing (but not autarky) is under way, including re-discovering what economist John Maynard Keynes argued 80 years ago.<sup>82</sup>

Manufacturing, especially for domestic consumption, is less seasonal than some services industries and therefore more conducive to stable employment. Indeed, Australian society and the economy could benefit from a re-invigorated manufacturing sector, especially if a significant component was tied to increasing jobs in the regions along with increased healthcare, education, research and other services that would build population outside the major cities (exploiting and building on a shift already underway). This - together with other industries like energy generation (for local use and export), mineral processing, engineering/maintenance and R&D - would create larger more independent and sustainable regional centres with quality of life, infrastructure and climate/environmental footprint advantages. There are also advantages in terms of building improved decentralised transport infrastructure as well as the strategic/defence advantages of a more decentralised populations and economy (with more capacity to manufacture defence materials). Greater regional populations would also increase the labour pool for local harvest workers – a more sustainable approach than reliance upon temporary migrant workers (and what used to happen along with a mobile pool of local labour on the ‘harvest trail’ several decades ago).

**3. Enforce minimum employment standards in agriculture to attract local workers.**

Agriculture was hit during the pandemics because it had become heavily dependent on foreign-born harvest workers on temporary visas (like s417) who were easily exploited and experienced sub-standard wages and employment conditions.<sup>83</sup> The highly publicised conditions which temporary migrant harvesting workers endured has contributed to an industry whose reputation has been sufficiently tainted that locals now refuse to work in it. Crops have been left to rot. While this might be viewed as a temporary problem or one-off aberration, any future pandemic or other global catastrophe requiring the closure of borders and limits to movements of people will have similar effects. Minimum wages and employment conditions need to be enforced to encourage the industry to become attractive to domestic labour, supplemented by the Seasonal Worker Programme.

**4. Introduce limits on the use of precarious, insecure employment.** As discussed in our response to the first term of reference, insecure precarious employment is prevalent in industries which are both potential ‘super-spreaders’ and those that remain essential during a pandemic. It is important that employers be encouraged to limit their reliance upon precarious works in these industries. One example is the German approach which placed

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<sup>82</sup> Helliener, E. (2021) The Return of National Self-Sufficiency? Excavating Autarkic Thought in a De-Globalizing Era, *International Studies Review*, 1–25 doi: 10.1093/isr/viaa092; van Barneveld K, Quinlan M, Kriesler P, Junor A, Baum F, Chowdhury A, Junankar PN, Clibborn S, Flanagan F, Wright CF, Friel S, Halevi J, & Rainnie A, (2020) The COVID-19 pandemic: Lessons on building more equal and sustainable societies, *Economic and Labour Relations Review*, 31(2):133-157.

<sup>83</sup> Underhill, E. & Rimmer, M. (2016) Layered vulnerability: Temporary migrants in Australian horticulture. *Journal of Industrial Relations*, 58(5), 608-626.



limits on the percentage of abattoir workers who could be hired by a labour hire agency. Another approach is to deem regular casual employees as permanent employees after a set time, such as six months. Of course, it is not simply COVID-19. As already indicated, insecure work has been linked to significantly poorer OHS outcomes more generally and there is also evidence it is incompatible to sustainable quality service in at least one industry that has been the focus of concerns regarding COVID but also more generally, namely aged-care. The Commonwealth Royal Commission into Aged Care heard evidence on these problems with Commissioner Lynelle Briggs stating 'I have recommended that aged care providers preference the direct employment of workers, rather than use casuals who may be unable to provide continuity of care and form ongoing relationships with older people.'<sup>84</sup>

- 5. Better minimum pay and conditions for precarious workers to discourage multiple job holding.** Precarious workers in essential industries, such as aged care and security, work second jobs because they cannot earn a living wage in one irregular, short-hour job. Rostering systems need to be reevaluated and minimum wages lifted to enable workers to earn enough income to live off, in a single job. At least two state governments banned essential workers from multiple job holding during the height of the pandemic. Industry groups and unions need to work together to enable such practices to continue into the future. Such provisions need to be rigorously enforced if they are to be meaningful, with at least one 'insider' report (backed by internal emails) that identified breaches with regard to people (nurses in this case) working at multiple sites in quarantine hotels notwithstanding contractual provisions banning such arrangements.<sup>85</sup>
- 6. Licensing labour hire employers.** The move to licensing labour hire employers has gained momentum in recent years, and the federal government now needs to also recognise the need to promote better employment practices amongst labour hire operators. Licensing should be contingent upon employment practices which are consistent with minimum labour standards and do not disadvantage workers taking sick leave/lodging workers' compensation claims. As with employers more broadly, the deeming of casual labour hire workers as permanent employees after a set time period will encourage labour hire employers to invest in a more permanent workforce, and potentially discourage multiple job holding amongst labour hire workers. Finally, licensing should include limits on the proportion of subcontracting/labour hire in high-hazard industries like abattoirs and mines.
- 7. Specialist industry tribunals should be established.** Specialist industry tribunals should be established to regulate remuneration (and associated cost-recovery/working time) for all workers, irrespective of employment status, who are in a dependent work arrangement like those in road transport (long and short-haul trucking, food delivery workers etc.) or other industries where the mixture of precarious work and subcontracting/app-enabled outsourcing means the present industrial relations system is failing to prevent hyper-exploitation, endemic under-payment, unacceptable exposure levels to hazards and

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<sup>84</sup> Pagone, G. & Briggs, L. (2021), *Royal Commission into Aged Care Quality and Safety Final Report: Care, Dignity and Respect*, Volume 1 Summary and Recommendations, Commonwealth of Australia, Canberra, 42.

<sup>85</sup> 'Nurse tells of hotel quarantine 'breaches'', *Age* 6 March 2021, p1.

widespread inability to access workers' compensation when injured or suffering a disease. As Rawling and Riley point out, there are already state and federal models for this, and in regulatory terms it is the preferred path – the one most suited to Australia.<sup>86</sup> It was also the method used to deal with 'sweated labour' beginning in Victorian wages boards in 1896 and shortly thereafter state and federal arbitration tribunals.<sup>87</sup> In many respects the expansion of insecure work and its domination of particular industries have re-created sweated labour (low wages, long hours and health/safety damaging work arrangements). We strongly support the arguments and recommendations of the Rawling and Riley report which can be applied to those industries where similar problems pertain.<sup>88</sup> It is our understanding that this report has been made available to the Senate Select Committee so will say no more on this.

- 8. Supply chain regulation and the integration of industrial relations/labour standards, OHS and workers' compensation standards and protections to provide a more system coverage of all workers but especially those in vulnerable insecure work arrangements.** The evidence presented in this submission highlights the limitations of a trifurcated approach to protecting labour, OHS and workers' compensation protections because failure in one area tends to cascade onto others reinforcing the adverse effects on the workers themselves, their families and the wider community. This issue is also raised in the Rawling and Riley report.<sup>89</sup> This is a complex and challenging issue but again there are model solutions such as the comprehensive legislative package introduced with regard to clothing outworkers. It is also worth noting that current proposed reforms in industrial relations in Australia fail to address the lessons from the pandemic much less the more fundamental re-set needed.<sup>90</sup> There is now a wider global policy debate about the failures of current regulatory frameworks (industrial relations, welfare) with job insecurity at its core.<sup>91</sup> With all their vulnerabilities now evident the proliferation of elaborate supply chains has been one of the key drivers in the growth of precarious work arrangements and the need to regulate these chains both locally (and via contractual arrangements and ILO standards globally) has been under consideration/debate for over a decade, with Germany being the most recent country to draft legislation in this regard. Several of our other recommendations touch on aspects of this but a more integrated and mandatory approach warrants serious consideration.

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<sup>86</sup> Rawling, M. & Riley, J. (2021) *Proposal for legal protections of on-demand gig workers in the road transport industry*, Report prepared for the Transport Education Audit Compliance Health Organisation (TEACHO), Sydney.

<sup>87</sup> Anderson, G. & Quinlan, M. (2008), *Regulating Work Arrangements in Australia and New Zealand 1788-2006 Labour History* No.95, 111-132.

<sup>88</sup> Rawling, M. & Riley, J. (2021) *Proposal for legal protections of on-demand gig workers in the road transport industry*, Report prepared for the Transport Education Audit Compliance Health Organisation (TEACHO), Sydney.

<sup>89</sup> Rawling, M. & Riley, J. (2021) *Proposal for legal protections of on-demand gig workers in the road transport industry*, Report prepared for the Transport Education Audit Compliance Health Organisation (TEACHO), Sydney, 24.

<sup>90</sup> Forsyth, A. (2021) 'Thanks, but really, no thanks' : Morrisons IR Reform Bill hurts our pandemic heroes, *Labour Down Under*, 22 February <https://labourlawdownunder.com.au/?p=965> (accessed 6 March 2021)

<sup>91</sup> See for example, McGaughey, E. (2021) *A Social Recovery, Workplace Democracy and Security*, *Kings Law Journal*, ( February, 1-14, [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3781475](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3781475) (accessed 6 March 2021)

**9. Government support for effective industry programs aimed at preventing suicide amongst insecure workers.** In response to the risk of suicide of workers in the construction industry, an industry where insecure work is the norm, a bipartite (industry and union) program, Mates in Construction, was established.<sup>92</sup> The program began in Queensland before spreading to other jurisdictions and has now operated very successfully for some years (one of us has been a director of NSW program for some years). The program is not about counselling but about training workplaces and the workforce to recognise and deal with suicide ideation – to provide a self-support network where workers themselves are heavily involved. It receives considerable support from the industry and is group focused. The program has spread to other industries like mining with analogous schemes in road transport. Notwithstanding industry support, programs have relied on additional community and government funding which has been valuable but irregular. There is clear potential for the scheme to extend to other industries where insecure work and suicide are a problem but this would require more government support. We recommend the Senate Select Committee examine the program and ways of expanding/supporting it as a very practical measure to deal with suicide risks in industries characterised by insecure work.

**10. Portable employment entitlements for casual workers.** Our submission has highlighted the problems associated with casual employees not having an entitlement to paid sick leave, resulting in casual employees working whilst ill or injured, including working whilst potentially exposed to, or carrying, covid-19. Whilst the casual loading includes an allowance for sick leave, not all casual employees receive the loading, and evidence suggests their base rate of pay may be lower than that paid to permanent employees.<sup>93</sup> A portable leave scheme would enable casual workers to access paid leave irrespective of their duration of employment with a single employer, and irrespective of multiple short hour jobs. The building and construction industry demonstrate the feasibility of such schemes. In Victoria, Incolink has operated a levy based portable sick leave scheme (as well as a redundancy scheme) for several decades,<sup>94</sup> and the Victorian portable long service leave scheme, Coinvest, demonstrates how such schemes can provide long service leave, based on a levy only 2.7% of wages.<sup>95</sup> The Victorian government extended portable long service leave to community services, contract cleaning and security workers.<sup>96</sup> A review of these schemes would inform the Committee of a low cost, administratively light model for portability. We consider such a scheme an interim measure to support casual workers. We do not regard such a scheme as a substitute for our other recommendations focused upon discouraging and/or limiting precarious work especially in high hazard settings.

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<sup>92</sup> <https://mates.org.au/>

<sup>93</sup> For example, see Watson, I. (2004). Contented workers in inferior jobs? Re-assessing casual employment in Australia. *Journal of Industrial Relations*, 47(4), 371-392.

<sup>94</sup> <https://incolink.org.au/workers/insurance>

<sup>95</sup> <https://www.coinvest.com.au/about-coinvest/how-coinvest-works>

<sup>96</sup> <https://www.vic.gov.au/portable-long-service>

## Appendix 1: Evidence of Expertise – Emeritus Professor Michael Quinlan

### *Involvement in Competitive Research Grants on Precarious/Insecure Work and Its Effects*

1. 1994 Mayhew, C. Quinlan, M. & Bennett, L. NOHSC grant to research OHS implications of subcontracting.
2. 1996 Mayhew, C. & Quinlan, M. NOHSC grant to research OHS implications of clothing outwork.
3. 2001-3 Bohle, P. Quinlan, M. & Williamson, A. Large Australian Research Council Discovery grant to explore OHS effects of precarious employment, \$141,381.
4. 2001 Quinlan, M. & Mayhew C. Grant for commissioned research brief from WorkCover New South Wales on developing strategies to address OHS and workers' compensation responsibilities arising from changing employment relationships. \$25,000
5. 2001-5 LaMontagne, A. Aroni, R. McNeil, J. Quinlan, M. Wolfe, R. Grant from National Heart Foundation for research project on occupational stress and health behaviours in low status workers
6. 2005-6 Quinlan, M. International Consultant to research grant on employment strain funded by Ontario Workers' Compensation Board, Canada (Wayne Lewchuk, Alice deWolf, Andy King, Leah Vosko and Emile Tompa).
7. 2010-15 *Employment precarity and poverty in Southern Ontario*, Social Science & Humanities Research Council of Canada CURA Award (multiple investigators), \$CAN1,000,000.
8. 2011-13 Quinlan, M. Junor, A. Hampson, I. Barrett, G. Australian Research Council Linkage Grant on the Skill and Safety Effects of Outsourcing Heavy Aircraft Maintenance, \$226,000.
9. 2011-13 Bohle P. Quinlan, M. Mavromaras, K. Rawlings-Way, O. *Caring for the carers: Occupational health and safety in homecare* Australian Research Linkage Grant, \$680,205.
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#### *Submissions and evidence given to government inquiries*

1. Quinlan, M. (2002) Gave formal evidence to Family and Community Development Committee, Parliament of Victoria Inquiry into the conditions of clothing outworkers in Victoria, 15 July.
2. Quinlan, M. (2002) Developing strategies to address OHS and workers' compensation responsibilities arising from changing employment relationships, research report prepared for WorkCover Authority of NSW, Sydney.
3. Quinlan, M. (2002) Submitted formal written opinion to Health Employee Associations Charter Case Challenge, British Columbia.
4. Quinlan, M. (2003), Submission to Productivity Commission Inquiry into National Workers' Compensation and Occupational Health and Safety Frameworks, No. 93.
5. Quinlan, M. (2003 & 2004) Submitted affidavit, expert witness statements and gave testimony on OHS effects of contingent work to test case on casual employment, NSW Industrial Relations Commission, No.IRC 4330 of 2003, December 2003, February and May 2004.
6. Quinlan, M. (2004) Gave evidence to Victorian Parliamentary Committee Inquiry into Labour Hire Employment in Victoria, 21 June.
7. Quinlan, M. (2004-2005) Expert Panel Member, *NSW Mine Safety Review*, Report to Hon Kerry Hickey MP, Minister for Mineral Resources, November 2004 to February 2005.
8. Quinlan, M. (2005), Submission to Senate Employment, Workplace Relations and Education References Committee inquiry into the practicality and value of seasonal contract labour, December.
9. Quinlan, M. (2006) expert submission and cross examination before the NSW Industrial Relations Commission test case on mutual responsibility in the road transport industry.
10. Quinlan, M. (2008) Submission on OHS to DEEWR review of s457 visa scheme, 9 July.
11. Bluff, L. Johnstone, R. Quinlan, M. (2008), Submission to National OHS Review, 10 July.



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#### APPENDIX 2: EVIDENCE OF EXPERTISE DR. ELSA UNDERHILL.

Government agency and Industry Reports including significant consideration of effects of insecure/precarious work

1. Underhill, E., Worland, D., & Fitzpatrick, M. (1997). *Self-employment in the Victorian construction industry: An assessment of its impact on individual workers and the industry.* Melbourne: Workplace Studies Centre, Victoria University and Incolink (the Redundancy Payment Central Fund Limited).
2. Gallagher, C., Underhill, E., & Rimmer, M. (2001). *Review of the Effectiveness of OHS Management Systems in Securing Healthy & Safe Workplaces.* Sydney: National Occupational Health & Safety Commission.
3. Underhill, E. (2002). *Extending Knowledge on Occupational Health & Safety and Labour Hire Employment: A Literature Review and Analysis of Victorian Worker's Compensation Claims.* Melbourne: WorkSafe Victoria.
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11. Underhill, E., & Rimmer, M. (2017). Private governance, state regulation and employment standards: how political factors shape their nexus in Australian horticulture. *Relations Industrielles*, 72(1), 33-55.

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3. Underhill, E. (2004) Submission on labour hire workers' OHS to Maxwell Review of the Victorian Occupational Health and Safety Act.
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5. Underhill, E. (2015) Submission to the *Productivity Commission Inquiry into the Workplace Relations Framework*, Melbourne
6. Underhill, E. (2015) Expert submission and cross examination on casual employment and OHS before the Fair Work Commission case, conversion of casual employees to permanent employment.
7. Underhill, E. and Rimmer, M. (2016) Submission to Senate Enquiry Senate Education and Employment Committee Inquiry into the impact of Australia's temporary work visa programs on the Australian labour market and on the temporary work visa holders.
8. Underhill, E. (2016) Invited to consultations for the *Victorian Inquiry into the Labour Hire Industry and Insecure Work*, Melbourne.
9. Underhill, E. (2017) Invited to consultations with the *Migrant Worker Taskforce (Fels)*, Melbourne.