



7 February 2022

Senator Tony Sheldon
Chair
Senate Select Committee on Job Security
C/o Committee Secretary
Department of the Senate
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Dear Chair

Thank you for the opportunity to make a submission and to participate within the Senate Select Committee Inquiry on Job Security. We are writing with responses in regard to Questions on Notice arising from the public hearing on 2 February 2022.

1. The systematic exploitation of migrant workers in the horticultural industry

Question

We've heard a lot of evidence today, and throughout the inquiry, of mistreatment of migrant workers. There is no doubt that exists. Do you have evidence of how systemic or widespread it is?

Answer

The exploitation of migrant workers in the horticultural industry is well documented. A large-scale survey of 4,322 temporary migrants conducted in 2017 by academics from University of NSW and University of Technology Sydney demonstrated wage theft was prevalent in the horticultural industry.

A copy of the report can be accessed at: <https://www.migrantjustice.org/publications>

The report found one in seven participants (15%) working in fruit and vegetable picking and farm work earned \$5 an hour or less and a third (31%) earned \$10 or less per hour with 53% of the participants earned less than \$15 per hour.

Unions NSW own research and report, "*Wage Theft: The Shadow Market, Part Two: The Horticulture Industry*" revealed the severe exploitation of workers in the industry continued throughout the pandemic. The report included a review of 1,000 job ads for positions in the horticultural industry with over 96% of the piece rates advertised would not allow a worker to earn the national minimum wage, and in several instances, workers would earn less than \$1 an hour. Additionally, almost 70% of the advertisements offered an hourly rate below the National Minimum Wage.

In 2021, a joint survey report by Unions NSW and the Migrant Workers Centre found 78% of respondents reported being underpaid when working in the horticultural industry with:

- 80% being underpaid when paid via piece rates; and

- 61% underpaid when earning an hourly rate.

Unions NSW believes the evidence, academic and otherwise, demonstrates a significant level of exploitation of migrant workers in the horticultural industry.

The Australian Workers Union (AWU) applied in December 2020 to the Fair Work Commission (FWC) to vary the Horticulture Award 2020, to guarantee a minimum rate of pay for horticultural workers because of the exploitative effect of piece rate agreements.

In its decision of 3 October 2021, the FWC ruled in favour of the AWU acknowledging at <https://www.fwc.gov.au/awards-and-agreements/awards/award-modernisation/variation-applications/AM2020/104> :

“Significant proportion of pieceworkers, and Working Holiday Makers in particular, earn less per hour than the National Minimum Wage (\$20.33 per hour; which is also the minimum hourly rate for a level 1 employee in the Horticulture Award) and a substantial proportion earn less than the ‘target rate’ for the ‘average competent pieceworker’ prescribed in clause 15.2.4”

2. Australian Reputation as a destination for working holiday makers

Question

The Hon Matthew Canavan posed the question: *“If exploitation were widespread, I imagine Australia would become a less popular destination for migrant workers. Is there any evidence that this is occurring?”*

Answer

Prior to COVID-19, the popularity of Australia as a travel destination for working holiday makers from European countries was in decline. There was a proliferation of media reports warning of the mistreatment, exploitation and health and safety risks experienced by migrant workers in Australia.

The death of British traveller Mia Ayliffe-Chung in August 2016, while performing the 88 days farm work to extend her visa for a second year, resulted in a campaign seeking the abolition of the 88-day requirement. The numerous negative reports from working holiday makers lead the UK Government to include a warning on their website regarding the risks associated with backpacking in Australia, see following article:

UK backpackers warned of exploitation in Australia

A FOREIGN government is warning backpackers about holidaying in Australia amid complaints of “rife” exploitation of young travellers here.

Suze Metherell

 less than 2 min read August 24, 2017 - 11:21AM AAP

<https://www.news.com.au/travel/travel-updates/warnings/uk-backpackers-warned-of-exploitation-in-australia/news-story/43f085b61074867e8b7162a702995574>

Mia’s case was one of many reported that affected Belgium, German, and Canadian backpackers. In November 2017, Belgian backpacker Olivier Max Caramin died just three days after starting his work picking pumpkins at a family-run farm. He was forced to work under 40 degree Celsius conditions and suffered severe heat stroke that resulted in organ failure, see following article:

**Australian
immigration and
asylum**

Death in the sun: Australia's 88-day law leaves backpackers exploited and exposed

 Belgian backpacker Olivier 'Max' Caramin died after picking pumpkins on a farm in Queensland. Photograph

The 2017 death of Olivier Caramin joins a growing list of problems backpackers can face in rural jobs, including rape, harassment and underpayment

Martin Hand knew something was wrong as he watched a fellow backpacker stagger down the road in the searing heat of a Queensland summer.

Hand, a British traveller, had been picking pumpkins on a farm near Ayr, a small country town 10km (6 miles) from the coast, along with other young backpackers including a 27-year-old Belgian, Olivier "Max" Caramin.

<https://www.theguardian.com/australia-news/2018/may/21/death-in-the-sun-australias-88-day-law-leaves-backpackers-exploited-and-exposed>

The proliferation of media stories and campaigns advocating for reform of the Australian Working Holiday Maker Program preceded the recent removal of the 88 days requirement in the Australia and United Kingdom Free Trade Agreement, which was seen by UK advocates and the families of many victims as a response to their claims, and a recognition by Prime Minister Boris Johnson that the Australian Working Holiday Scheme was not safe, see following articles:

Mother of British backpacker, 20, who was murdered during mandatory farm work in Australia says dropping visa scheme for UK tourists is a 'first step' but warns young people from other countries remain at risk of exploitation and 'abuse'

- Mia Ayliffe-Chung, 20, worked on cane field to get second year Australian visa
- Was dragged from hostel bed and stabbed to death by backpacker Smail Ayad
- Earlier this week mandatory farm work scheme was abolished for UK nationals
- Mother Rosie Ayliffe, of Derbyshire, is 'internally grateful' to Boris Johnson

By MONICA GREEP FOR MAILONLINE

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<https://www.dailymail.co.uk/femail/article-9705485/Mum-backpacker-murdered-mandatory-farm-work-Australia-praises-PM-dropping-scheme.html>



Joy and horror on Australia's farms: From building lasting friendships to harrowing claims of slavery and even rape, Britons describe their farm work experiences in the Outback as controversial requirement is scrapped

Britons under 35 will be allowed to live and work in Australia for three years
The comes as part of a new post-Brexit trade deal agreed by Britain and Australia
Brits will no longer have to complete 88 days of regional work for second year
The MailOnline looks at some of the stories of Brits who carried out this work

<https://www.dailymail.co.uk/news/article-9688675/Australia-scraps-compulsory-farm-work-Brits.html>

Pre-covid statistics on Australia's migration inflows may give the false impression migrants continue arriving in Australia because the country offered them adequate living standards and safeguarded their employment rights. The reality is migrants come to Australia for diverse reasons, including study, family integration and employment opportunities. Many arrive with expectations of receiving Australian wages, saving money, and improving their family's quality of life.

Upon arrival, they are often shocked at the inhumane working conditions and the prevalence of underpayment, discrimination, and sexual harassment which is continually referenced in backpacker social media groups in various languages.

The vast majority tolerate workplace exploitation because they hope things will improve, however, migrants' resilience cannot absolve perpetrators and should not prevent the enforcement of Australian law.

Should you have any questions or require further information please do not hesitate to contact me.

Yours sincerely

Mark Morey
Secretary