

**Questions on Notice for the Senate Economics References Committee for its
Inquiry into the Unlawful Underpayment of Employees' Remuneration
Public Hearing on 18 September 2020**

Associate Professor Anna Boucher, University of Sydney, on behalf of herself and James Hall and Umeya Chaudhuri (co-authors of the submission No 43).

1. Migrant Worker success rates in cases in Australia across different violation types

The Senate was interested in knowing the success rates of violations brought by migrant workers in the Migrant Worker Rights Database devised by Anna Boucher and funded by the Australian Research Council Project (DE17010080). This project compiles all available court and tribunal cases of migrant workplace violations in Australia, Canada, England and the State of California over the period 1996 through to 2016.

Below are the most common claims brought by migrant workers in Australia only and their various success rates, as requested by the Committee.

Most common claims for events, Australia			
Violation	N (violations)	%	Migrant success rates %
Unpaid wages	531	47%	95%
Dismissed unfairly, unlawfully or wrongfully	144	13%	28%
Subjected to misrepresentation	122	11%	95%
Subjected to visa fraud	101	9%	2%
Not informed about pension (retirement) rights commencing employment	62	6%	76%
Subjected to breach of contract	44	4%	70%
Subjected to unsafe work conditions (leading to injury not death)	39	3%	72%
Subjected to sexual servitude	25	2%	64%
Incorrectly defined as a contractor	22	2%	64%
Subjected to forced or compulsory labour	8	1%	63%
TOTAL	1,123		

As is clear, success rates for migrant applicants vary between 2 % of the time for the violation of being subjected to visa fraud, up to 95% for unpaid wages. To clarify in this table: the first numerical column is the total number of claims against violations brought by migrants (successful or not), the second column is the proportion of N claims brought of that violation of the total N of migrants in the Australia dataset (denominator = 1 123). The third column is the success rate of claims for each violation, as a proportion of the claims brought for that violation. The overall success rate however across all violations (including less frequent ones not represented in this table) is 66%.

“Success” was defined as any case the migrant won partially or fully. Cases that were won on procedural grounds or were remitted to an original decision-maker were excluded from this calculation.

2. ILO research on effects on minimum wages on underpayment

The Senate asked for further information on the research referred to on the relationship between minimum wages and underpayment. This work demonstrates that minimum wage regulation is protective against underpayment rather than having a downward effect on wages. The literature review by these two ILO economists also explores some of the controversies in the scholarship around the relationship between minimum wage settings and job loss:

Patrick Belser and Uma Rani, Chapter 5, “Minimum Wage and Inequality,” *Building Just Societies in the 21st Century*, edited by Janine Berg, International Labour Office, 2015.