



## Submission to the Select Committee on Temporary Migration

Be Slavery Free welcomes the opportunity to contribute to the Select Committee’s Inquiry on Temporary Migration regarding the impacts that temporary migration has on the Australian economy, wages and jobs, social cohesion and workplace rights and conditions with particular reference to the impact of wage theft, breaches of workplace rights and conditions, modern slavery and human trafficking on temporary migrants.

### Our Organisation

Be Slavery Free is a coalition of more than 20 member organisations. It aims to stop slavery by changing demand and supply. As slavery is a global problem, our work starts in Australia, but extends to include partnerships with other organisations and businesses around the world, especially in the Asia-Pacific region to achieve systemic and lasting change. We work to educate those who have power to end slavery – business, consumers, media, academics, civil society and governments – because we recognise that ending modern slavery is a shared responsibility.

### Global Context of Migration

According to the International Organization for Migration (IOM), there are over 250 million international migrants around the world, with another 750 million domestic migrants.<sup>1</sup> One in seven is a migrant in today’s world. This is more than at any other time in world history. Mr William Lacy Swing, Director General of IOM in 2016 stated simply that migration is:

- **Inevitable** in view of the driving forces in the globalized, interconnected and interdependent world we have created;
- **Necessary**, if skills are to be available, jobs to be filled and economies to flourish; and,
- **Desirable** for the contributions that migrants make both to countries of origin and destination and, most of all, for the direct and indirect benefits that migration brings to migrants themselves and their families.<sup>2</sup>

### Australian Context of Migration

Australia is a migrant nation and has experienced the truth of Mr William Lacy Swing’s comments. Australia used indentured labourers in its early years but in modern times, Australia has again found itself increasingly dependent on short and longer term migrants to fill the void

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<sup>1</sup> Swing, William. “Migration: The future of a prosperous Europe or undermining the political status quo.” Speech, Swiss RE Advisor Group, Zurich, Switzerland, October 13, 2016. <https://www.iom.int/speeches-and-talks/inaugural-dinner-swiss-re-group-advisers-migration-future-prosperous-europe-or>

<sup>2</sup> Ibid



in labour needs. Fortunately, Australia has been able to attract migrant workers with the number of temporary migrant visas issued with work rights increasing 54% over the past decade.<sup>3</sup> And Australia has benefited immensely from the contributions that temporary migrants have made to build up Australia,<sup>4</sup> with some industries and economies (namely agriculture, hospitality and domestic services industries) becoming reliant, arguably too reliant on temporary migrant labour.<sup>5</sup> Seasonal peaks can create an urgent need for labour which might not be able to be met by the domestic workforce.

*The reality is we need these people.*<sup>6</sup>

### **Vulnerabilities Created with Temporary Migrant Labour**

There have been numerous inquiries on all levels of government, government agency investigations, academic research, media investigations, and reports and submissions made by non-profits and faith-based groups that have explored the exploitation of workers, which in extreme cases are akin to modern slavery.

There are a number of vulnerabilities to workplace exploitation that are common among migrant workers, including

- limited English language skills
- lack of knowledge of Australian laws and trust in government agencies
- social isolation
- fear of visa cancellation, detention and removal from Australia<sup>7</sup>
- reluctance of workers to complain about their exploitative conditions, for fear of loss of future opportunities to work in Australia<sup>8</sup>

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<sup>3</sup> The Migrant Worker's Taskforce, *Report of the Migrant Workers' Taskforce March 2019*, 21 [https://www.ag.gov.au/industrial-relations/industrial-relations-publications/Documents/mwt\\_final\\_report.pdf](https://www.ag.gov.au/industrial-relations/industrial-relations-publications/Documents/mwt_final_report.pdf). The overall size of the population of temporary visa holders with work rights has grown by 54 per cent in the 10 years since 30 June 2008.

<sup>4</sup> In Australian farming, immigrant farmers fill the growing intergenerational gap in farm succession and bring with them new technologies and innovations. Collins, Jock, "How migrant workers are critical to the future of Australia's agricultural industry". [theconversation.com https://theconversation.com/how-migrant-workers-are-critical-to-the-future-of-australias-agricultural-industry-66422](https://theconversation.com/how-migrant-workers-are-critical-to-the-future-of-australias-agricultural-industry-66422) (accessed March 2, 2020)

<sup>5</sup> Fair Work Ombudsman, *Harvest Trail Inquiry Report 2018*, 30, <https://www.fairwork.gov.au/how-we-will-help/helping-the-community/campaigns/national-campaigns/harvest-trail-inquiry> found over 67% of employers in the agricultural industry investigated (420 employers out of 626) depended on overseas workers.

<sup>6</sup> Meldrum-Hanna, Caro, et al, Interview with Keith Pitt (Federal Member for Hinkler) "Labour exploitation, slave-like conditions found on farms supplying biggest supermarkets". [abc.net https://www.abc.net.au/news/2015-05-04/supermarkets-food-outlets-exploit-black-market-migrant-workers/6441496](https://www.abc.net.au/news/2015-05-04/supermarkets-food-outlets-exploit-black-market-migrant-workers/6441496) (accessed March 2, 2020)

<sup>7</sup> The Migrant Worker's Taskforce, *Report of the Migrant Workers' Taskforce March 2019*, 36

<sup>8</sup> The Freedom Partnership, *Submission 199*, Hidden in Plain Sight Report, 62–63. [https://www.aph.gov.au/Parliamentary\\_Business/Committees/Joint/Foreign\\_Affairs\\_Defence\\_and\\_Trade/ModernSlavery/Submissions](https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Foreign_Affairs_Defence_and_Trade/ModernSlavery/Submissions)



- a fear of repercussions and an inability to ‘walk away’ from the exploitative conditions due to threats, blackmail or other reasons (for example, related to honour, shame or financial constraints)<sup>9</sup>

Often temporary workers are trapped a cycle of vulnerability, whereby the worker, usually after a long struggle to find a job, are then not only systematically underpaid<sup>10</sup> but also forced to work in breach of their visa conditions, which increases their vulnerability.<sup>11</sup> They are not only more likely to work in precarious conditions, but are more likely to suffer workplace injuries.

In many cases the supply of labour needs to be outsourced to third-party labour suppliers in order to meet the demand. The practice of outsourcing can in turn create an environment that supports exploitation of workers by unscrupulous employers.<sup>12</sup> In February 2020 it was revealed<sup>13</sup> that temporary migrant workers employed on a berry farm in Tasmania, were found to be housed in slum-like accommodation. Costa, the owner of the farm, arranged for accommodation through a “third-party labour supplier”, essentially denying any knowledge of wrong-doing. Some have described the practice of hiring third-party labour suppliers similar to hiring a hitman, and then denying any responsibility of the hitman killing someone.<sup>14</sup> The experience also highlights exploitation of labourers through unreasonably high accommodation and transport costs.<sup>15</sup>

### Attitudes of Australians

One of our partners is Freedom United,<sup>16</sup> in late 2019, undertook a survey of their supporters asking, “What’s needed to tackle modern slavery?” with a focus on the role of Government. 398 people from Australia completed the survey and Freedom United generously shared their raw data from Australia. These respondents are people who would have been targeted with information and campaigning around the Commonwealth Modern Slavery Act and other issues of modern slavery over a period of many years. Below is a sample of relevant questions asked and the Australian respondents’ answers.

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<sup>9</sup> Marmo, Marinella, *Slavery and slavery-like practices in South Australia: a report*, Flinders University (2019), 4  
<https://dspace.flinders.edu.au/xmlui/handle/2328/39334>

<sup>10</sup> Ferguson, Adele and Ben Scheniders, “Underpayment as business model: what is wage theft?” *Sydney Morning Herald*.  
<https://www.smh.com.au/national/underpayment-as-business-model-what-is-wage-theft-20190509-p51lko.html> (accessed March 2, 2020)

<sup>11</sup> Marmo, Marinella, *Slavery and slavery-like practices in South Australia: a report*, 39

<sup>12</sup> The Migrant Worker’s Taskforce, *Report of the Migrant Workers’ Taskforce March 2019*, 37

<sup>13</sup> Uibu, Katri and Erin Cooper, “Dozens of farm workers found living in five-bedroom building in Latrobe in Tasmania’s north”, ABC.net <https://www.abc.net.au/news/2020-02-07/dozens-of-foreign-workers-live-in-five-bedroom-building/11942660> (accessed March 2, 2020)

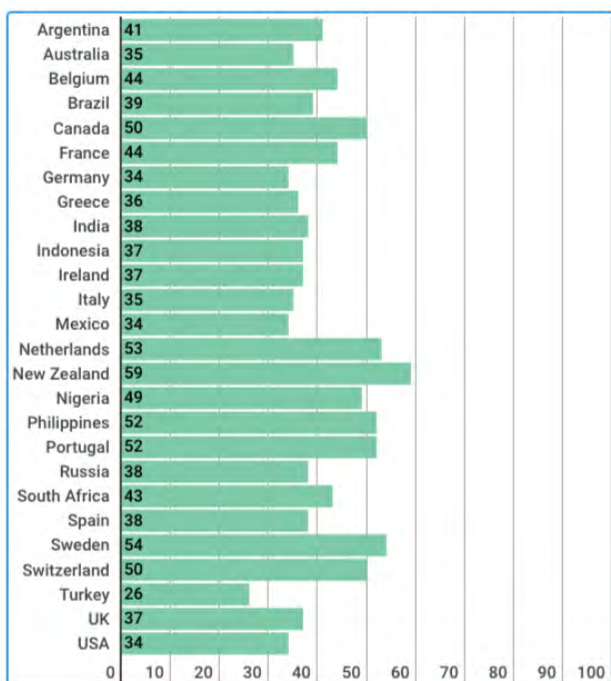
<sup>14</sup> Cooper, Erin, interview with Daniel Walton (national secretary of the Australian Workers’ Union) “‘Squatter-like’ property owned by Burnie Mayor Steve Kons used to house Tongan workers”, ABC.net <https://www.abc.net.au/news/2020-02-12/burnie-seasonal-worker-accommodation-concern-from-union/11959286> (accessed March 2, 2020)

<sup>15</sup> Over 70 workers paid \$100 per week each for accommodation in a 5-bedroom house, as well as further \$20 per day for transportation to and from the farm.

<sup>16</sup> <https://www.freedomunited.org>



How would you rate your country's government response to modern slavery on a scale from 0 to 100?  
(0 being extremely poor and 100 being excellent.)



The global average was a very low (39) with Australia scoring slightly below the global average at 35. On the left is a listing of countries from which people responded.

When Australians were asked why they gave the score they did, most reflected a belief that the Government was not concerned about this issue. Around 75% of the comments expressed concern for seasonal and migrant worker visas and slavery in Australia. Below is a sample of the responses.

*“Australia has a lack of protection for guest workers, foreign students and backpackers, who are vulnerable to financial and physical exploitation and poor record in prosecuting employers who exploit workers.” – Tracey*

*“New arrivals on jets (modern boat people) often just disappear off the radar. We know they end up in the sex trade, manufacturing and agriculture. Their lives are horrendous. There is no escape.” – Cheryl*

Other comments had the following themes:

*“This is not a vote winning issue for any politician.” – John*

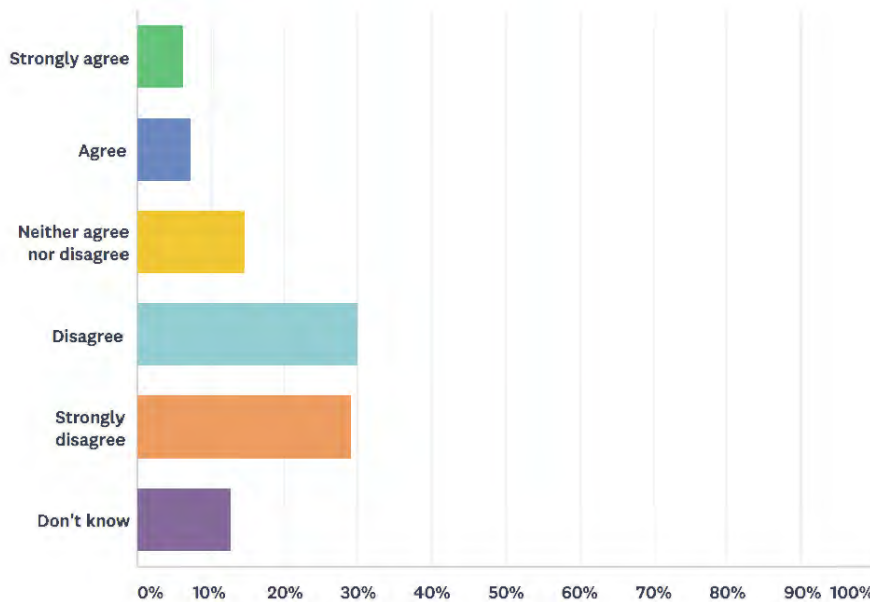
*“Once slavery is identified, the response is swift and can be severe. Identifying slavery in Australia is difficult however.” – Jenine*

*“I think our government chooses to believe that slavery doesn't exist here.” – Marion*

*“Modern Slavery Reporting Act (Commonwealth) is a good start, but no penalties and only an assessment of risk. The Government constantly fails to take action against wage theft, so I'm not convinced that they care about workers.” – Rebecca*

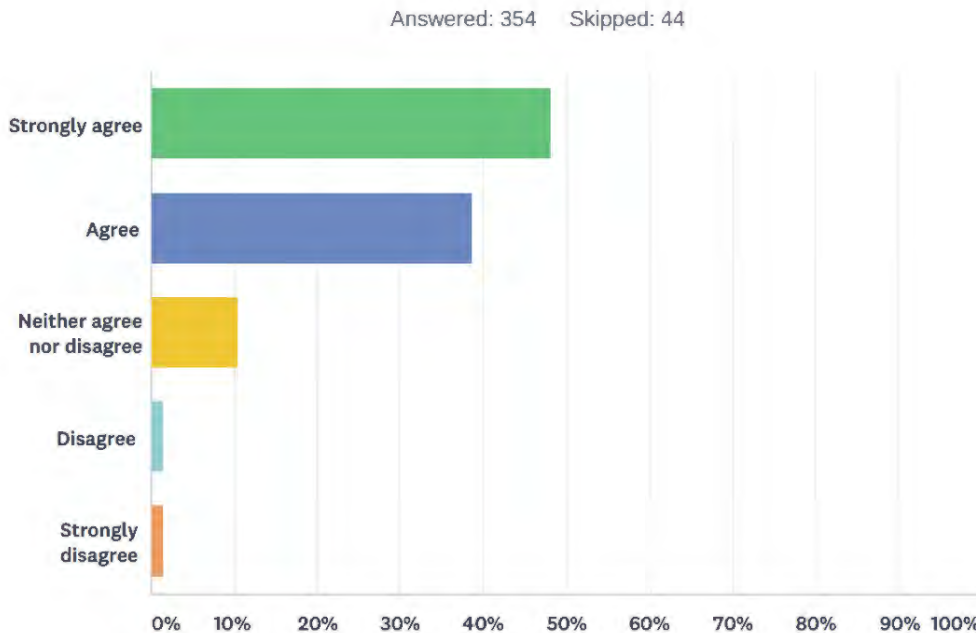


**Agree or disagree: undocumented victims of human trafficking can come to the authorities in my country without fear of being deported or punished for immigration offenses.**



Of the 354 Australians who responded, 209 felt that undocumented workers would not be able to go to authorities without fear of being deported.

**Agree or disagree: foreign survivors of human trafficking should have the right to stay (i.e. a visa) in the country where they were trafficked in order to obtain rehabilitation support.**

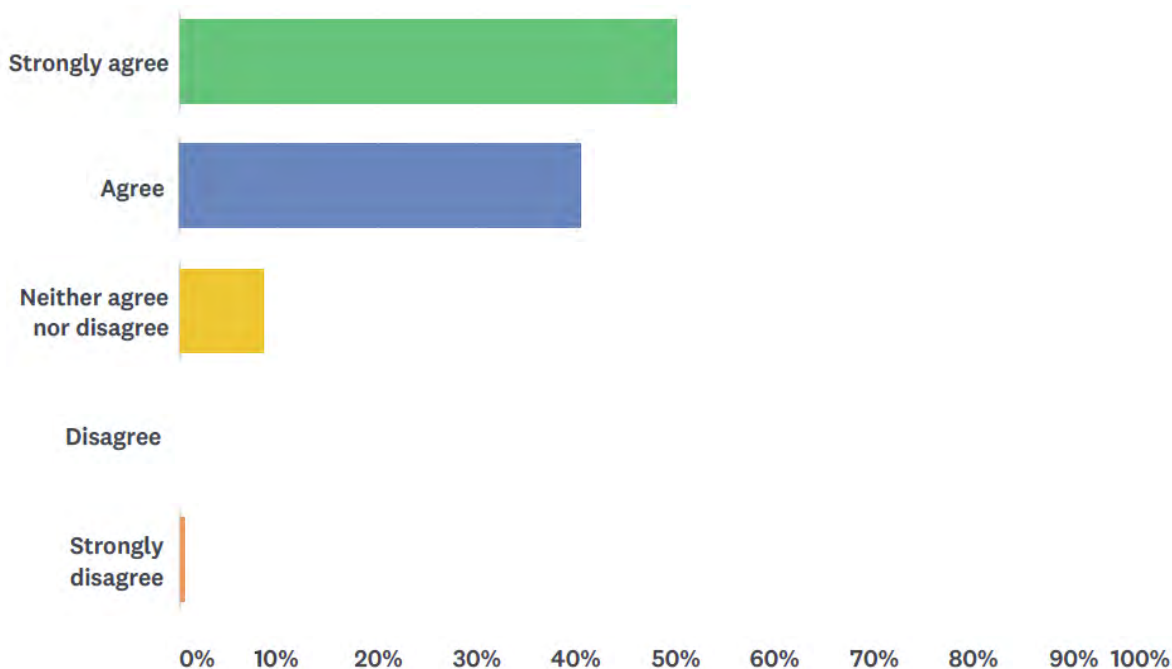


307 of the 354 respondents (or 87% of respondents) strongly agreed or agreed that victims should have a right to stay in the country where they were trafficked so they can receive support.



**Agree or disagree: victims of trafficking should be given the right to work while their case is being investigated by the government**

Answered: 353 Skipped: 45



302 of the 353 who answered (or 86% of respondents) strongly agreed or agreed that victims should be given to right to work why their case was being investigated.

**Conclusion**

It is clear, Australians who are engaged around modern slavery issues see a lack of response from the government and desires change and action from the government.

Australia needs to make changes to the temporary visa systems in order to maintain its reputation as a country that values a ‘fair-go’, to continue to attract both migrant workers of all skills that it needs from around the world. Exploitation not only damages individual workers, it also undermines the Australian workplace relations framework.<sup>17</sup> Stories of migrant workers and their individual experience of Australia can also quickly tarnish (may already have tarnished) Australia’s reputation as a human rights leader in the world.

<sup>17</sup> WEstjustice, *Overview of Not Just Work Report*, 1 [https://www.westjustice.org.au/cms\\_uploads/docs/westjustice-report--not-just-work--overview-\(electronic\).pdf](https://www.westjustice.org.au/cms_uploads/docs/westjustice-report--not-just-work--overview-(electronic).pdf)



## Recommendations

Our recommendations may not be new but they are no less potentially transformative. They are evidence-based recommendations that have been made by reputable individuals and organisations and are also drawn from government inquiries around the issues of exploitation of migrant workers, and modern slavery in general.<sup>18</sup> Be Slavery Free recommends the following:

- change or eliminate 'tied' visa conditions to reduce the vulnerability of visa holders to exploitation<sup>19</sup>
- ratify and implement *Private Employment Agencies Convention, 1997 (No. 181)*<sup>20</sup>
- require labour hire firms pay the market rate for employees
- increase accountability of labour hire firms,<sup>21</sup> including a robust registration process, training and ongoing auditing
- as a condition of operation, labour hire firms inform workers of their entitlements and rights delivered by an approved trainer
- ensure workers are able to remain in Australia while legal proceedings are concluded
- create incentives for workplace violations to be reported by ensuring illegal workers (those who have overstayed, or violated visa conditions) have clear paths to become legal<sup>22</sup>
- increase support for those found to be exploited or victims of trafficking<sup>23</sup>
- increase funding for Fair Work Ombudsman to be able to investigate and enforce laws that are already in place and the Office of the Commonwealth Director of Public Prosecutions to undertake criminal proceedings as appropriate
- greater effort at the Commonwealth level to promote respect for workers' rights

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<sup>18</sup> Westjustice, *Overview of Not Just Work Report*, 1 [https://www.westjustice.org.au/cms\\_uploads/docs/westjustice-report--not-just-work--overview-\(electronic\).pdf](https://www.westjustice.org.au/cms_uploads/docs/westjustice-report--not-just-work--overview-(electronic).pdf)

<sup>19</sup> Joint Standing Committee on Foreign Affairs, Defence and Trade, *Hidden in Plain Sight*, 2017, Canberra, [9.93]

<sup>20</sup> [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_INSTRUMENT\\_ID:312326](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312326)

<sup>21</sup> Joint Standing Committee on Foreign Affairs, Defence and Trade, *Hidden in Plain Sight*, [9.35]

<sup>22</sup> Joint Standing Committee on Foreign Affairs, Defence and Trade, *Hidden in Plain Sight*, [9.67]

<sup>23</sup> Freedom United ([www.freedomunited.org](http://www.freedomunited.org)) survey of Australians on modern slavery found that over 95% of those surveyed (354 total participants) supported minimum of 1 year government support for victims, with the vast majority of those indicating victim support should not be limited but judged in a case-by-case fashion.