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Senate Employment, Workplace Relations and Education Committee  
Department of the Senate  
Parliament House  
Canberra ACT 2600  
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Tuesday 7 March 2006

Dear Sir/Madam,

Please find attached my submission to the Senate Employment, Workplace Relations and Education Committee Inquiry into Pacific Region seasonal contract labour.

I offer this submission in my role as a senior research fellow at the Institute for Social Research at Swinburne University of Technology, where I have been responsible for the project *Pacific Labour and Australian Horticulture*. The project is funded by the Australian Research Council through its Industry Linkage Scheme. Our industry partners in the project at the Sunraysia Mallee Economic Development Board (Mildura), the Economic Development Unit of the Swan Hill Rural City Council and the international development agency Oxfam/Community Aid Abroad.

While this submission draws on our findings in this research project, the views expressed are those of the author alone and should not be construed as representing the views of any of our industry partners, Swinburne University or the ISR.

Some members of the Committee might also be aware that I also work as a journalist and broadcaster with ABC Radio National. However I would like to stress that this submission and the research on which it is based are separate to my role at the ABC and relate only to my work at the Institute for Social Research.

I would be happy to appear as a witness before the Committee should this be considered helpful.

Yours truly,

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Submission  
to  
Senate Employment, Workplace Relations and  
Education  
References Committee

**Inquiry into Pacific Region seasonal  
contract labour**

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## 1. Introduction:

This submission draws on my research for the project *Pacific Labour and Australian Horticulture* at Swinburne University of Technology. The project is funded through the Australian Research Council's Industry Linkage Scheme. Our industry partners are the Sunraysia Mallee Economic Development Board (Mildura), the Economic Development Unit of the Swan Hill Rural City Council and Oxfam/Community Aid Abroad. However the views expressed here are those of the author alone and should not be regarded as representing the position of any organisation or institution.

The *Pacific labour and Australian Horticulture* project has three main components:

**The Australian component** involves a survey of growers in the target area to determine their current use of seasonal labour, estimate the extent of any labour shortage and analyse grower attitudes to the idea of bringing in seasonal workers from overseas

**The Canadian component** involves a critical analysis of Canada's long running Seasonal Agricultural Workers Program, to see what lessons it may hold for Australia. This involved field work in Ontario, with funding from the Canadian government's Faculty Research Program

**The Pacific component** assesses responses to the idea of a seasonal labour program from stakeholders in the Pacific. This has involved fieldwork in Fiji, Tonga, Vanuatu and New Caledonia (carried out by my colleague Nic Maclellan) and a survey of the available literature on issues like remittances, migration and development, the social costs of migration, the impact of the extended absence of family members and so on.

The project is due for completion in mid-2006 and has resulted in a number of publications, which are available on our website<sup>1</sup>. I would draw the Committee's attention to these publications but do not intend to replicate them here. Rather, I will attempt to distil the key findings of the research to date in response to the Inquiry's terms of reference. In doing so, I will draw extensively on the experience and operation of the Canadian Seasonal Agricultural Workers Program, which I believe provides a useful reference point when considering the development of any similar scheme for Australia.

For clarity, I therefore describe the operation of the Canadian scheme before addressing the Committee's terms of reference.

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<sup>1</sup> Please see: <http://www.sisr.net/cag/projects/pacific.htm>

## 2. Canada's Seasonal Agricultural Workers Program (CSAWP)

Many developed nations make 'considerable use of unskilled foreign labour, particularly in the agricultural sector and on a seasonal basis' and in general there has been a 'steady upward trend' in inflows of these seasonal workers since the beginning of the 1990s.<sup>2</sup> For example each year, half a million seasonal workers from non-EU countries are employed in EU agriculture, especially in Germany, which issued 260,000 seasonal work permits in 2001<sup>3</sup>. The US relies heavily on seasonal agricultural labour from outside its borders, both undocumented workers and via the formal H-2A visa system. The UK has a seasonal agricultural workers scheme (SAWS) targeted at tertiary students from non-EU countries. Thai labourers toil in the fields of Israel, Moroccans tend the tomatoes in Spain and Chinese workers pluck apples in Japan.

In fact Australia and New Zealand may be the only developed nations that do not import temporary labour for agriculture<sup>4</sup>, and even here a significant proportion of seasonal work is carried out by so-called 'Working Holiday Makers'<sup>5</sup>.

Of the existing seasonal agricultural workers schemes overseas, the one operating in Canada appears to provide the most useful lessons for Australia and the Pacific for a number of reasons:

- the Canadian scheme has been operating for almost four decades and has been subject to extensive study and critique;
- like Australia, Canada is a traditional 'immigration' country with a common law legal system and federal political set up;
- the Canadian scheme engages workers from small island states in the Caribbean, providing a useful reference point for the Pacific.

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<sup>2</sup> United Nations Department of Economic and Social Affairs: World economic and social survey 2004, part II, international migration, p128;

<sup>3</sup> Ibid.

<sup>4</sup> Sue Pickering and Helen Barnes: "Towards a sustainable workforce across horticulture", The Orchardist (New Zealand) May 2005 pp30-34

<sup>5</sup> A distinction is made between the Working Holiday Maker (WHM) scheme in Australia and New Zealand and seasonal agricultural labour schemes elsewhere for two reasons. Firstly, the WHM program is not limited to agricultural; secondly, it was never designed to be a labour market program but was intended to be 'experiential', allowing young travellers to 'supplement' their travel funds through 'incidental employment, and to experience closer contact with a local community'. (Department of Immigration and Multicultural Affairs fact sheet <http://www.immi.gov.au/facts/49whm.htm>)

## 2.1 Overview of the Canadian scheme

Canada's Seasonal Agricultural Workers Program (CSAWP) has operated to bring temporary workers from the Caribbean since 1966 and from Mexico since 1974. In 2004, the program brought approximately 19,000 workers to Canada (85% of them to the province of Ontario) for an average of 4 months employment. The maximum stay allowable under the scheme is 8 months.

Initially CSAWP was administered by the government, via its then Department of Manpower and Immigration. In 1987, after a government review, responsibility for the scheme was handed over the private sector and the Foreign Agricultural Resources Management Service (F.A.R.M.S.) was established.<sup>6</sup> F.A.R.M.S. is a non-profit, private sector agency governed by a board appointed from (and by) horticultural commodity groups (such as the Ontario Fruit and Vegetable Growers Association). It operates under the authorisation of a federal government ministry (HRDC - Human Resources Skills Development Canada<sup>7</sup>).

In theory farmers need approval from local HRDC employment centres to certify that no Canadian workers are available to fill the jobs. However after a farmer's first year of involvement in the scheme such approval is perfunctory. In practice, farmers notify HRDC of the number of foreign workers they wish to employ at least 8 weeks prior to the start of work. HRDC approves the labour request and sends the information on to F.A.R.M.S.. F.A.R.M.S. then determines how many workers are needed and sends that information to government liaison officers from the Caribbean and Mexico. The liaison officers transmit the information to the Labour Ministry in their home country and details are sent to the Canadian consular officials in the relevant capital (e.g. Kingston, Mexico City).

Workers are selected from a pool of applicants who are 'pre-medicated' and readily available to leave for Canada. The Canadian government authorises 'designated medical practitioners' to carry out health checks. The primary concern is active TB. No HIV-testing is done for people staying less than 9 months in Canada. If a returning worker has been back in their homeland for less than 6 months after returning from Canada, then they do not need to repeat the medical<sup>8</sup>.

F.A.R.M.S. charges employers a flat administration fee of C\$35 (+ GST) per worker. The same charge is applied if a worker is transferred between employers after arriving in Canada. (Transfers require prior approval from F.A.R.M.S.) The workers' travel from their home country to Canada is organised through CanAg travel services, which is a subsidiary of F.A.R.M.S.

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<sup>6</sup> Private interview: Human Resources and Skills Development Canada; Toronto, June 2005

<sup>7</sup> Recently merged with Social Development Canada to become Human Resources and Social Development Canada

<sup>8</sup> Private interview, Citizenship and Immigration Canada, Ottawa, June 2005

International travel is paid in advance by farmers, with around 40% these costs later re-couped via deductions from workers' wages. Farmers also pay for the visa up front (C\$150 per worker) and this amount can be fully recouped through wage deductions. However, in recovering costs from workers, farmers can deduct a maximum of 5% of gross earnings per pay period (in the case of Mexican workers) or C\$3.50 per day (for Caribbean workers)<sup>9</sup>.

Farmers are responsible for all domestic travel from the workers' point of arrival in Canada to their place of work and must provide the migrant workers with free housing (including meals or cooking facilities) for the duration of their employment. They must guarantee each worker a minimum of 240 hours work over six weeks at or above prevailing minimum wage rates (C\$8 per hour for fruit picking in 2005<sup>10</sup>). Employers must also take out workers compensation insurance to cover the migrants in the case of industrial accidents.

Farmers can specify the country from which they want to employ workers and can even request particular workers by name. In fact the majority of workers (around 80%) are 'named' in this way, having already spent at least one season in Canada and been asked by their employer to return the following year<sup>11</sup>. The vast majority of workers are men, although in recent years a small number of women have also come to Canada under the scheme.

Workers enjoy the same tax free threshold as Canadian residents (\$15,000 per annum for a married worker, \$8148 for a single worker) but must contribute from day one of commencing employment to mandated insurance and pension schemes. Migrant workers:

- are covered by the universal health care system while working in Canada<sup>12</sup>
- make pension fund contributions (Canada Pension Plan 4.95% of earnings<sup>13</sup>) and can access their accumulated entitlements and transfer them to their home country after reaching retirement age
- pay Employment Insurance of 1.87% of earnings<sup>14</sup>, but cannot claim unemployment benefits in Canada

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<sup>9</sup> F.A.R.M.S Ontario 2005 Employer Information Booklet

<sup>10</sup> Foreign Agricultural Resource Management Service Ontario (F.A.R.M.S) Employer Information Booklet 2005

<sup>11</sup> Private interview: Human Resources and Skills Development, Canada: Toronto, June 2005

<sup>12</sup> The health care system is provincially based and in some cases migrant workers may be required to pay a health care premium. Ontario, British Columbia and Alberta deduct a premium from workers wages, however in Ontario it only applies to workers earning more than C\$20000 per annum.

<http://www.health.gov.on.ca/healthpremium/factsheet.pdf>

<sup>13</sup> <http://www.cra-arc.gc.ca/newsroom/releases/2005/nov/nr051102-e.html>

<sup>14</sup> Rate for 2006 <http://www.fin.gc.ca/news05/05-075e.html>

Workers must be prepared to work long hours (11-12 hour days are not uncommon) for a six-day week at a flat hourly rate. There is no provision for overtime pay or penalty rates. Each worker is tied to a designated employer and must leave Canada at the end of the labour contract. (All CSAWP visas expire on December 15<sup>th</sup> each year).

## 2.2 Benefits of the Canadian Scheme

A major study of CSAWP as a 'model of best practice and migrant worker participation in the benefits of economic globalisation' was undertaken by the North South Institute in Canada.<sup>15</sup> This study and other research, particularly by Basok<sup>16</sup>, suggest that CSAWP has benefits at a number of levels.

For Canadian growers and Canadian rural communities the benefits are that:

- CSAWP increases labour reliability at times of peak demand, and enables growers to plan production increases with greater confidence.
- Growers build up a skilled labour force, with the same workers returning each year, thus improving productivity and quality.
- Seasonal employment of foreign workers maintains and expands employment in higher skilled jobs, through the expansion of associated rural industries such as transport services, construction, food processing.
- Local spending by seasonal migrant workers provides an economic boost to Canadian country towns and helps to sustain local businesses (eg shops) and services (eg banks, post offices).
- Growers need not fear being in breach of the law or suffering the disruption of immigration raids through employing undocumented migrants (illegal immigrants).

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<sup>15</sup> Canada's Seasonal Agricultural Workers Program as a Model of Best Practices in Migrant Worker Participation in the Benefits of Economic Globalization, North-South Institute 2004 Executive summaries online at: <http://www.nsi-ins.ca/english/research/archive/2004/05.asp>

<sup>16</sup> Basok, Tanya 'Mexican seasonal migration to Canada and development: a community-based comparison' *International Migration* V. 41 N. 2 2003, pp 3-25; 'Migration of Mexican seasonal farm workers to Canada and development: obstacles to productive investment' *The International Migration Review* V.34. N. 1 2000 pp 79-98



For migrant workers the benefits are that:

- CSAWP provides opportunities for un- or underemployed Mexican and Caribbean workers to earn income at pay rates well above those on offer in their home countries.
- Workers return home each year and can use their savings and remittances to improve housing, nutrition, clothing, education and health care for their families.
- The scheme has long term development outcomes in source countries; in particular, the children of migrant labourers are likely to stay longer in school.
- Workers are spared the smugglers' fees and risky journeys required to enter North America without the appropriate papers. Unlike undocumented (illegal) workers, they return home regularly and are not forced to endure long years of separation from loved ones.
- The scheme is more accessible to the very poor in the source countries, those who do not have the financial resources required to pay the guides or bribes required to cross borders as undocumented migrants.
- The scheme creates mechanisms (at least on paper) to protect the rights of foreign workers in terms of wages, health and safety and regulated work hours - protections that are completely denied to undocumented workers.

For the Canadian, Mexican and Caribbean governments, the benefits are that:

- CSAWP has 'more or less eradicated the employment of undocumented workers in agriculture' in Canada<sup>17</sup>
- The circular nature of the scheme (with workers returning to Canada in subsequent years) results in low overstay rates by reducing the incentive for workers to 'disappear' into the community at the end of the contract<sup>18</sup>.
- Recruitment of seasonal workers can be targeted at impoverished regions, the unemployed and the landless,

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<sup>17</sup> private meeting with Human Resources and Development Canada, Toronto, June 2005

<sup>18</sup> Basok, Tanya 'He came, he saw, he ... stayed. Guest worker programs and the issue of non-return' International Migration V.38 N.2 2000 pp 215-236

thus ensuring greater equity and spreading the benefits of the scheme to priority areas<sup>19</sup>.

- Sending governments have the capacity to monitor and protect the rights of their migrant citizens.

### 2.3 Problems with the Canadian scheme

Despite its many benefits there are a number of problems associated with the Canadian scheme, particularly in the area of workers' rights and dignity. There have been protests and strikes by migrant workers, cases of abuse and exploitation, examples of sub-standard or overcrowded accommodation, and industrial accidents due to insufficient training, inadequate safety equipment or overlong working hours.<sup>20</sup> The United Food and Commercial Workers (UFCW) union in Canada says the exploitation of migrant workers under CSAWP is 'Canada's shameful little secret'<sup>21</sup> and one researcher refers to it as 'a revolving door of exploitation'<sup>22</sup>.

In October 2005, 32 Mexican blueberry harvesters walked off a farm in British Columbia. For three months they had lived in unheated construction trailers and cooked on outside propane stoves, with forty four pickers sharing a single washing machine and no clothes dryer. They had put up with these conditions while earning C\$8.30 per hour picking blueberries, but when the summer ended the workers were moved on to picking mandarins at piece rates. They claim they were earning just C\$24 for a 10 hour day<sup>23</sup>.

In Ontario, where most migrants are employed, agricultural workers are effectively prevented from organising in trade unions (although this is currently subject to legal challenge) and are not covered by workplace health and safety

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<sup>19</sup> For example Mexico's Ministry of Labour 'seeks out males from rural areas who are in good physical condition, possess little or no land, resources, or non-agricultural marketable skills, and who are generally married and responsible for maintaining several dependents'. Binford, Leigh 'Contract labour in Canada and the United States: a critical appreciation of Tanya Basok's "Tortillas and Tomatoes: Transmigrant Mexican Harvesters in Canada"' *Canadian Journal of Latin American and Caribbean Studies* V. 29 N 57-58. p 293. (Binford also notes that these selection criteria favour people 'whose desperation to work ensures that they will form a relatively docile and pliable labour force'.

<sup>20</sup> For examples, see Phillip L. Martin: *Managing Labour Migration: Temporary Worker Programs for the 21<sup>st</sup> Century*, International Institute for Labour Studies, Geneva, September 2003; Tanya Basok: *Tortillas and tomatoes: transmigrant Mexican harvesters in Canada* (McGill-Queens University Press, Montreal and Kingston, 2003); Sue Ferguson: "Hard Time in Canadian fields", *Macleans*, 11 October 2004; *El Contrato* (documentary film by Min Sook Lee), National Film Board of Canada, 2003

<sup>21</sup> United Food and Commercial Workers Union, Canada): National report: status of migrant farm workers in Canada, December 2002 [http://www.ufcw.ca/publications\\_main.cgi](http://www.ufcw.ca/publications_main.cgi)

<sup>22</sup> Sharma, Nandita (quoting Ramirez) 'On being not Canadian: The social organisation of "migrant workers" in Canada' *Canadian Review of Sociology and Anthropology* V.38 N. 4 p.424

<sup>23</sup> Jonathan Woodward 'They came to Canada to work. But \$24 for a 10-hour day wasn't what they had in mind' *Toronto Globe and Mail* 3 October 2005 p.S1

legislation (although provincial occupational health and safety laws will be extended to agriculture in June 2006)<sup>24</sup>.

A distinctive feature of the Canadian scheme is that it operates under umbrella of bilateral (government to government) agreements, which provide for annual review. In theory this means that problems and inadequacies in the scheme can be addressed, and contracts and regulations updated. The agreements also provide a formal mechanism - consular liaison officers - for workers to raise grievances through their diplomatic mission. However consular liaison officers suffer from a conflict of interest: maintaining good relations with Canada and the smooth operation of the scheme versus taking up complaints on behalf of individual workers.

The documentary film *El Contrato* offers evidence to support this view in a scene depicting a meeting between Mexican consular officials and workers at a greenhouse. The workers had called in the consular liaison officers after a supervisor had grabbed one of their compatriots by the throat. The response from the Mexican officials is to tell the workers that the incident was 'a misunderstanding' and to urge them to 'stay away' if they see such things happen so that there will not be further trouble. 'We need your cooperation to make things run smoothly' they tell the workers.<sup>25</sup>

Preibisch argues that genuine representation is compromised by consular officials' obligation to maintain their country's 'market share' in the Canadian program: 'When employers are displeased with the behaviour of either their workers or the supply country representatives, they have the option of switching countries.'<sup>26</sup> Union organiser Stan Raper says that it is simpler for consular officials to replace workers who raise concerns in the workplace than to address the root cause of their complaints.<sup>27</sup>

As noted, a positive feature of the Canadian scheme is that growers can request the same workers back each year, which means that they retain the skills that workers have built up and do not need to invest constantly in retraining. But since workers are essentially bonded to a particular employer for the duration of their stay in Canada, this also creates a major problem. The employer has an almost absolute power to determine whether a worker will return in the following year and can send workers home before their contracts expire, on the basis of 'non-compliance, refusal to work, or any other sufficient reason'.<sup>28</sup>

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<sup>24</sup> Ministry of Labour, Ontario 'Occupational Health and Safety on Farms' Backgrounder 05-83 29 June 2005

<sup>25</sup> *El Contrato*, a film by Min Sook Lee, National Film Board of Canada 2003

<sup>26</sup> Preibisch, Kerry, 'Migrant agricultural workers and process of social inclusion in rural Canada: Encuentros and Desencuentros' *Canadian Journal of Latin American and Caribbean Studies* V. 29 N 57-58 2004 p.213

<sup>27</sup> Stan Raper, United Food and Commercial Workers Canada, interview Toronto, June 2005

<sup>28</sup> United Food and Commercial Workers Union, Canada: "National report: the status of migrant farm workers in Canada, 2003" [http://www.ufcw.ca/publications\\_main.cgi](http://www.ufcw.ca/publications_main.cgi) (emphasis added).

Workers can thus find themselves trapped in exploitative or abusive situations and have very little power to refuse unreasonable demands such as working excessive hours or in unsafe conditions.

Another problem area is accommodation. Growers must provide free housing for overseas workers, which reduces workers' living costs and maximises their savings and remittances to family members. However, since the provision of accommodation becomes part of the farmers' cost of production, this also creates an incentive for employers to cut corners. A lax inspection regime has resulted in numerous cases of sub-standard housing. Workplace health and safety specialist Mark Parent describes workers living in a dark cement basement with no electric lighting:

The only light they had was through the window, which was a very shallow one-foot deep window that had a window well and it happened to be located on the farther side of the sun ... So any light they had was with candles. Their running water was a hose that ran from the outside of the building and down through that window and they had made a little makeshift kitchen.<sup>29</sup>

The trade union UFCW Canada alleges that some farmers have housed workers in accommodation 'directly attached to or located directly over greenhouses' creating obvious dangers to workers health from living in buildings housing chemicals, fertilizers, herbicides, and industrial equipment.<sup>30</sup>

A less obvious problem associated with the provision of on-site accommodation by farmers is that 'gives employers an opportunity to control farm worker's behaviour' both on and off the job<sup>31</sup>. While farmers have no legal power to restrict workers movements off farms out of work hours 'some employers prohibited workers from leaving the property'. The workers' capacity to travel into town to socialise or shop thus 'depends ultimately on the subjective goodwill or the individual employer'<sup>32</sup>.

In summary, the Canadian scheme is weighted heavily in favour of employers: it is administered by an employer group (F.A.R.M.S) and there is no systematic representation of workers interests and no independent forum to which workers can take concerns and complaints. While many employers treat workers well,

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<sup>29</sup> Mark Parent, Executive Director, Occupational Health Clinic for Ontario Workers, personal interview, Windsor, Ontario, June 2005

<sup>30</sup> UFCW Canada National Report on The Status of Migrant Farm Workers in Canada, 2004 pp18-19

<sup>31</sup> Wall, E 'Personal labour relations and ethnicity in Ontario agriculture' in Satzewich, Vic (ed) *Reconstructing a nation: immigration, multiculturalism and racism in 90s Canada* Fernwood, Halifax 1992 pp 261-274

<sup>32</sup> Preibisch, Kerry 'Migrant agricultural workers and process of social inclusion in rural Canada: Encuentros and Desencuentros' *Canadian Journal of Latin American and Caribbean Studies* V. 29 N 57-58. 2004 p.212-214

the structure of the CSAWP fosters relations between employer and employee that can be characterised as 'paternalistic and inequitable'<sup>33</sup>.

## 2. 4 Overstaying in the Canadian scheme

A frequent objection to the idea of seasonal labour programs in Australia is the fear that temporary workers will overstay their visas and 'disappear' into the community (adding to the stock of undocumented migrants). The Canadian experience suggests that this fear is greatly exaggerated. Of the 15,123 workers who entered Ontario under CSAWP in 2004, only 221 (or less than 1.5%) were listed as going AWOL (absent from their jobs without leave) and some of these returned to their homeland early (perhaps due to homesickness or for other personal reasons). All workers were reported to have left Canada and returned home by the end of the year.<sup>34</sup>

Initially, the low overstay rate in the Canada scheme was engineered through recruitment criteria that were skewed to select those seasonal workers deemed most likely to return to their homeland – that is, male workers who were married with children still at home.<sup>35</sup> Recently however, the scheme has also been opened up to single men and to women.

The most important factor in the low overstay rates in the Canadian scheme appears to be that workers can return to their homeland with the expectation that they will be re-engaged to work in Canada under CSAWP the following year. This 'partly explains the lower number of overstayers compared with those in other similar programs' in other countries.<sup>36</sup>

The circularity of the CSWAP – with workers returning to work year after year – is probably the single most important element of the Canadian scheme when considering setting up a Pacific region seasonal labour program in Australia.

***Suggestion 1: If Australia is to set up a Pacific region seasonal labour program then it should incorporate the circularity of the Canadian scheme.***

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<sup>33</sup> Wall, E 1992 p. 265

<sup>34</sup>F.A.R.M.S (Foreign Agricultural Management Service) Regional Report – Caribbean/Mexican Seasonal Agricultural Workers Programs as of 31/12/2004.

<sup>35</sup> Tanya Basok: "He came, he saw, he ... stayed. Guest worker programs and the issue of non-return", International Migration Vol.38 No.2, 2000, pp 215-236.

<sup>36</sup> United Nations Department of Economic and Social Affairs: World economic and social survey 2004, part II, international migration <http://www.un.org/esa/policy/wess/>

### 3. Response to reference (a): labour shortages in rural and regional Australia

There are widespread indications of labour shortages in rural and regional Australia, particularly during peak activity periods in labour intensive industries such as horticulture<sup>37</sup>. Underlying these labour shortages are long term social and economic trends.

The relentless impact market forces mean farmers must struggle to achieve economies of scale, which results in increased farm sizes and a shift from the traditional family farm to larger scale agri-businesses: the number of farms in Australia declined by 25% over twenty years to 2002-03 and average farm size increased from 2,720 hectares to 3,340 hectares<sup>38</sup>. This trend to larger-scale, more corporate style agriculture brings in its wake an increased demand for non-family wage labour. Over the two decades to 2003-4, the proportion of employees in the agricultural workforce has increased from 33% to 51%, while the combined share of employers, own account and contributing family workers has fallen from 67% to 49%<sup>39</sup>.

However the increased demand for agricultural workers coincides with the rapid aging of the rural workforce and evidence that the farm sector is unattractive to younger entrants.<sup>40</sup> Rural labour shortages are exacerbated by the current resources boom, which is driving up wage rates in the mining industry and so drawing labour away from agriculture<sup>41</sup>, where work is often part time or casual and generally poorly paid:

‘The median weekly earnings for full-time paid employees in agriculture in 2003 was \$575. This was around one third lower than the median weekly income for all full-time employees (\$769), making agriculture workers the lowest paid workers in the economy.’<sup>42</sup>

Horticulture is particularly hard hit by labour shortages for a number of reasons.

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<sup>37</sup> See for example: Kathryn Shine ‘Fruit rots as workers pick and choose’ *The Weekend Australian* 5-6 March 2005; John Breusch ‘Labour shortage hits rural recovery’ *Australian Financial Review* 21 November 2005.

<sup>38</sup> Productivity Commission: *Trends in Australian Agriculture* Research Paper, Canberra, June 2005 p.31.

<sup>39</sup> *Ibid*, p 99.

<sup>40</sup> Since 1976 the number of farmers aged in their 20s has declined by over 60%. Neil Barr ‘The Micro-dynamics of change in Australian agriculture 1976-2001’ Australian Bureau of Statistics, Australian Census Analytic Program. Online at: [http://www.ausstats.abs.gov.au/Ausstats/free.nsf/0/F1E8D5C8F82A9E5ECA256E37000429FA/\\$File/205\\_5\\_2001.pdf](http://www.ausstats.abs.gov.au/Ausstats/free.nsf/0/F1E8D5C8F82A9E5ECA256E37000429FA/$File/205_5_2001.pdf)

<sup>41</sup> John Breusch ‘Mining boom lures agricultural workers’ *Australian Financial Review* 5 September 2005

<sup>42</sup> Productivity Commission *Trends in Australian Agriculture* Research Paper, Canberra, June 2005, p.107

Firstly, the demand for labour fluctuates dramatically over the course of the year, and large numbers of workers are required for brief but intense periods of work when crops ripen.

Secondly, while Australian growers are generally efficient producers and quick to introduce new technologies, many tender fruits are simply not amenable to mechanisation (eg table grapes).

Thirdly, with the growing consumer appetite for diversity (boutique products and new varieties) and quality (e.g. tree ripened rather than green-picked fruit), comes the need for ever more careful handling of crops, especially as primary producers move out of commodities (e.g. sugar, beef) into higher-return but more intensive specialist horticulture<sup>43</sup>.

In an attempt to assess the extent of labour shortages in horticulture, we carried out a survey of growers along the Murray River between Swan Hill and Mildura<sup>44</sup>. Key findings were that:

- half of the growers surveyed find it difficult to meet their seasonal labour needs
- one in ten respondents say labour shortages were preventing the expansion of their business and more than a quarter anticipated that labour shortages would prevent future expansion
- One in four growers admitted using illegal workers to meet their seasonal labour needs
- 70% of growers expressed interest in an offshore seasonal labour scheme
- one in five growers said that they could employ offshore workers every year

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<sup>43</sup> National Harvest Trail Working Group Harvesting Australia: Report of the National Harvest Trail Working Group Commonwealth of Australia, Canberra, June 2000 p. 5

<sup>44</sup> Peter Mares 'Labour shortages in Murray Valley horticulture: a survey of growers' needs and attitudes' Institute for Social Research, Swinburne University. Online at:  
<http://www.sisr.net/publications/0603Mares.pdf>

#### **4. Response to reference (b): the availability and mobility of domestic contract labour, and the likely effects of such a scheme on the current seasonal workforce**

Despite the relatively low level of unemployment in Australia at the present time, there remain pockets of deep disadvantage and entrenched long term unemployment.

In our survey of Murray Valley growers about their seasonal labour needs<sup>45</sup>, some growers argued that rather than bring in seasonal workers from overseas, measures should be taken to encourage or force unemployed Australians to undertake seasonal work:

The dole should be withheld to make some of the people who think it is a right to get it go out and do some work. I see young kids in my town sitting around doing stuff all when we need pickers. They don't need to be smart just willing to do some hard work.

I don't think overseas workers should be employed. There are enough workers on the dole.

I think most growers would prefer to employ locals or at least Australian residents, as there are still many unemployed.

Stop the unemployment/or work for the dole - no need for overseas labour.

However, other growers argued with equal passion that forcing the long-term unemployed into seasonal agricultural work would create more problems that it solves:

I feel the current employment agencies are inclined to send unemployable 'dole' candidates on occasions. This can be at busiest time of year with crops at risk and you time becomes unproductive because of need to manage poor performers.

Much rather have somebody who is prepared to have a go regardless of where they are from than somebody being sent to work against their wishes i.e. Dole being cut.

A shortage of seasonal labour creates the need to employ those who are extremely tiring in a very critical time.

In my view a simple equation which attempts to solve labour shortages in regional and rural Australia by forcing the unemployed into seasonal jobs is doomed to failure.

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<sup>45</sup> Ibid.



Firstly, seasonal work is by its very nature temporary, and does not offer the job security and stability that many unemployed Australians are searching for.

Secondly, seasonal agricultural work is often physically demanding and requires workers who are fit and mobile. Many unemployed Australians will not necessarily meet these requirements for one or more of the following reasons:

- frailty due to age or physical disability may prevent them from undertaking such strenuous activity;
- the corrosive psychological effect of long-term unemployment may mean that they are not 'work ready' and require intensive assistance to rejoin the workforce;
- they may live far away from the site of work without access to transport;
- they may be unable to spend long periods of time away from their primary residence because of family care duties (dependent children or elderly relatives).

On the other hand, the fact that it can be difficult to facilitate the entry of the long-term unemployed into the workforce should not deter governments from innovative policy approaches. In this context I would draw the Committee's attention to the initiative of Cape York Partnerships to bring young indigenous workers from far north Queensland to pick fruit in Victoria and South Australia<sup>46</sup>. While small in scale this project proved successful in its early stages and is being expanded.

The initiator of the Cape York scheme (Milton James) has expressed concern that an offshore seasonal labour program for horticulture could swamp his project<sup>47</sup>. Such an outcome would be regrettable indeed. However in my view the two ideas are not mutually exclusive. Any scheme to introduce an offshore labour scheme to enable Pacific Islanders to perform seasonal work in Australia should be complementary to, rather than a replacement for, intensive programs to encourage the long-term unemployed or other disadvantaged groups into jobs.

*Suggestion 2: Any scheme to introduce an offshore labour scheme to enable Pacific Islanders to perform seasonal work in Australia should be complementary to, rather than a replacement for, intensive programs to encourage the long-term unemployed or other disadvantaged groups into jobs.*

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<sup>46</sup> Milton James 'New thinking on indigenous employment' Australian Prospect, special report, Autumn 2005 <http://www.australianprospect.com.au/>

<sup>47</sup> Private discussion with the author

It is preferable that job vacancies should be filled by Australian residents where possible, and for this reason I argue that growers must bear a significant proportion of the costs of any offshore scheme.

In other words growers should be required to pay a proportion of the offshore workers' travel and other costs, (in addition to the prevailing award wage) rather than recouping all these expenses as deductions from wages.

***Suggestion 3:*** *In any seasonal labour scheme for the Pacific region, Australian growers should be required to pay a proportion of the offshore workers' travel and other costs, (in addition to the prevailing award wage).*

Growers should also be required to pay a flat fee that would go towards administrative costs such as regulation and oversight of the scheme.

***Suggestion 4:*** *Growers should pay a flat fee towards the administrative costs (regulation and oversight) of any Pacific region seasonal labour scheme.*

These extra costs would act as a disincentive for growers to employ offshore labour when local workers are available.

## 5. Response to reference (c): social and economic effects of the scheme on local communities

An offshore seasonal labour scheme for Pacific Island workers would create both opportunities and challenges for communities in rural and regional Australia.

### 5.1 Economic impacts

The most obvious potential benefit is that a more secure labour supply would allow primary producers to expand their enterprises with greater confidence.

In Ontario, where 85% of Canada's offshore seasonal workers are employed, horticultural output expanded by 90% between 1994 and 2000<sup>48</sup>. Industry groups say that without the offshore labour scheme 'there would be no labour force on the farm, there would be no horticulture industry in Canada.'<sup>49</sup>

F.A.R.M.S estimates that 15,000 offshore seasonal workers coming to Ontario each year generate 84,000 direct jobs and 63,000 indirect jobs within the province<sup>50</sup>. Basok reports that each horticultural farm worker supports '2.6 jobs in the supply and processing sectors'<sup>51</sup>. Thus a scheme to bring seasonal migrant workers to Australia could contribute to economic expansion and increase regional employment opportunities, particularly in industries like transport, construction and food processing.

Research on the Canadian scheme suggests that country towns benefit from the multiplier effect of spending by seasonal workers on goods and services, particularly food, entertainment, hardware products and telecommunications (phone cards)<sup>52</sup>. A shop owner in the Canadian town of Simcoe says the effect of local spending by seasonal workers is 'literally like Christmas [i]n September'<sup>53</sup>.

Seasonal workers are intensive users banks and post offices (particularly to transfer money), thus assisting local communities to maintain and even

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<sup>48</sup> Sue Ferguson 'Hard Time in Canadian fields' *Macleans* 11 October 2004

[http://www.macleans.ca/topstories/canada/article.jsp?content=20041011\\_90409\\_90409](http://www.macleans.ca/topstories/canada/article.jsp?content=20041011_90409_90409)

<sup>49</sup> Art Smith, CEO, Ontario Fruit and Vegetable Growers Association. Personal interview with the author, Toronto, June 2005

<sup>50</sup> F.A.R.M.S. promotional video supplied to the author.

<sup>51</sup> Tanya Basok *Tortillas and tomatoes: transmigrant Mexican harvesters in Canada* McGill-Queens University Press, Montreal and Kingston, 2003, p.146

<sup>52</sup> Harald Bauder, Kerry Preibisch, Siobhan Sutherland & Kerry Nash 'Impacts of foreign farm workers in Ontario communities' *Communities' Sustainable Rural Communities Program*, OMAFRA 2003

<http://www.uoguelph.ca/geography/research/ffw/papers/impacts.pdf>

<sup>53</sup> Ibid.

expand services which might otherwise be at risk of closure or centralisation in urban areas. The presence of seasonal workers can even have a revitalising effect on local church congregations.

## 5.2 Social and cultural interaction

However the economic activities of temporary migrant workers do not automatically translate into social acceptance or meaningful interaction with local residents.

In general, after more than 30 years of the Canadian scheme, relations between seasonal workers and locals remain predominantly commercial (shopping trips, restaurant visits etc) and the temporary migrants are not engaged to any great extent in community life. This is only partly explained by language barriers (while Mexican workers mostly speak only Spanish, most Caribbean workers speak English). As Preibisch notes 'residents, for the most part, are either unaware or choose to ignore the migrant worker community living in their midst'<sup>54</sup>.

Where awareness of the seasonal workers does exist, most local residents view them in stereotyped but generally positive terms (e.g. 'friendly, hardworking people'), although this veneer can prove brittle when social relations move beyond the superficial to the intimate. For example, Caribbean workers have suffered racial attacks after becoming involved with Canadian women. Such outbursts of animosity may explain why the workers themselves perceive that they are viewed negatively by the local community<sup>55</sup>.

There are signs of a deepening engagement between Canadian residents and seasonal workers. Ironically, this has developed in part as the result of critical academic scrutiny and negative media reports about the rights and conditions accorded to workers. In response, a nascent advocacy movement has emerged - often based in Church communities and now actively assisted by a leading trade union - that has generated more meaningful forms of interaction between workers and local residents. This takes the form of neighbourhood houses where workers can meet on their days off and access counselling and advice services, English language classes, joint worship services, sports fixtures, dances and barbecues<sup>56</sup>

This grassroots response to Canada's migrant workers can be compared to the experience in Australia, where people in country towns reached out to

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<sup>54</sup> Kerry Preibisch 'Social Relations Practices between Seasonal Agricultural Workers, their Employers and the Residents of Rural Ontario' Executive Summary, North South Institute, 2004 <http://www.nsi-ins.ca/english/research/archive/2004/05.asp>

<sup>55</sup> Ibid.

<sup>56</sup> Ibid; Basok *Tortillas and Tomatoes* pp 150-151

refugees living on temporary protection visas, particularly through such groups as Rural Australians for Refugees<sup>57</sup>.

This suggests that rather than wait for community engagement with offshore seasonal workers to evolve over time, as in Canada, diverse forms of community engagement could be planned and integrated into a well-designed seasonal workers scheme in Australia.

### 5.3 Provision of services

At a practical level, the presence of temporary migrant workers in Australian country towns would pose a challenge for the adequate provision of services.

The delivery of health care in rural areas is a constant subject of concern in the Australian media and overstretched hospitals and GPs would face some additional demand. If special arrangements were made to cater for the migrants, then this might provoke resentment on the part of locals, who feel their calls for improved services have fallen on deaf ears. However the impact would be minimised assuming that offshore workers would be screened for general health and fitness prior to recruitment.

Providing adequate and suitable accommodation for offshore seasonal workers would be another significant challenge for rural and regional communities.

Australian country towns already experience difficulties in accommodating seasonal workers and workers who are employed temporarily on the start-up phases of new investment projects. Skill shortages in the construction industry make it unlikely that such bottlenecks can be quickly overcome<sup>58</sup>. Accommodation issues will be addressed further under 6.2 below.

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<sup>57</sup> See Peter Mares'Unfinished Business' in Peter Browne and Julian Thomas (eds) *A Win and a Prayer: Scenes from the 2004 federal election* UNSW Press 2004

<sup>58</sup> Economic Development Committee, *Economic Contribution of Victoria's Culturally Diverse Population*, Parliament of Victoria, September 2004 pp 43-53.

## 6. Response to reference (d): likely technical, legal and administrative considerations for such a scheme

### 6.1 Taxation issues

If Pacific Islanders were to come to Australia to undertake seasonal employment for periods of less than six months in any one year, then under current rules they would be regarded as 'non-residents' for tax purposes. This is the situation that also applies currently to backpackers legally employed in Australia under the Working Holiday Maker scheme. As non-residents they:

- pay 29% tax on all income up to \$21,600 (with tax rates increasing after that threshold is reached)
- are NOT be eligible for the tax free threshold of \$6000
- do not pay the Medicare levy and are not entitled to claim Medicare benefits<sup>59</sup>

By contrast, Australian residents who engage in seasonal work in horticulture enjoy a discounted tax rate of 13%. In response to the rural labour shortage, the National Farmers Federation has called on the federal government to amend the rules so that non-residents are also taxed at a lower rate, in order to encourage more Working Holiday Makers to engage in seasonal work.<sup>60</sup>

If a seasonal labour scheme for Pacific Island seasonal contract labour is to be successful, then amendment to current tax rules would be necessary for the following reasons:

- Equity: under current rules, contract workers from poor developing nations in the Pacific would be subjected to a much heavier taxation burden than domestic workers yet would be ineligible to access any government services.
- Practicality: the current heavy taxation burden on non-residents (29% on all earnings) would make it difficult for Pacific Island workers to save and remit sufficient amounts of money in a short burst of seasonal work, especially if they were also expected to repay a proportion of their travel costs.

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<sup>59</sup> Australian Taxation Office: <http://ato.gov.au/individuals/content.asp?doc=/content/29089.htm>  
For a definition of residency rules for tax purposes, see:  
<http://www.ato.gov.au/individuals/content.asp?doc=/content/64131.htm>

<sup>60</sup> National Farmers' Federation 'Labour shortage action plan' September 2005 p.73  
[http://www.nff.org.au/pages/policies\\_industrial\\_relations.htm#labour%20shortages](http://www.nff.org.au/pages/policies_industrial_relations.htm#labour%20shortages)

I would suggest that under any seasonal labour scheme, Pacific Islanders engaged in seasonal work should be subject to the same tax rules as resident Australians (i.e. 13% tax and a \$6000 tax free threshold).

*Suggestion 5: Pacific Islanders engaged in seasonal work in Australia should be subject to the same tax rules as resident Australians (i.e. 13% tax and a \$6000 tax free threshold)*

Further I would suggest that Pacific Island workers should pay the Medicare levy and be eligible for Medicare benefits for health services during their period of employment in Australia.

*Suggestion 6: Pacific Island workers should pay the Medicare levy and be eligible for Medicare benefits for health services during their employment in Australia.*

In addition any seasonal labour program will need to take account of taxation agreements (or the lack of them) between Australia and the Pacific to avoid issues of double taxation.

## 6.2 Accommodation issues

Finding sufficient housing of a reasonable standard to accommodate seasonal workers in horticulture is already an issue in regional and rural Australia, even without the introduction of an offshore scheme for Pacific region labour.

In Canada, the attempted solution to this problem was to require farmers to provide on-site accommodation. However as I have outlined above, this has created a new set of problems, since there is an incentive for farmers to cut costs by offering sub-standard lodgings, there is the potential for seasonal workers to be isolated from the wider community and it can give employers excessive control over workers private lives.

If Australia were to introduce an offshore seasonal work scheme for Pacific Island workers, then I would propose a model under which workers would pay to use the same kind of 'backpacker' style accommodation that is currently available to Australian residents and Working Holiday Makers.

*Suggestion 7: Pacific Island seasonal workers should pay for reasonably priced backpacker style accommodation rather than being housed on site by employers*

Admittedly this would cut into workers savings potential and there would still be a need for some level of regulation to ensure that standards were high and

prices were reasonable. But in comparison to the Canadian scheme it would have other advantages:

- Workers would not be isolated or hidden away on remote farms
- They would be rental customers with certain rights rather than dependents of their employers
- It would generate a market incentive for the creation of new seasonal accommodation in rural areas
- It would foster greater interaction between Pacific seasonal workers, their domestic and working holiday maker counterparts and the local community.
- Backpackers' accommodation would be subject to existing inspection regimes for safety and suitability.

### 6.3 Labour rights issues

The problems documented with Canada's Seasonal Agricultural Workers Program highlight the need for any seasonal labour program to balance the rights of migrant workers and the rights of employers.

In Canada, the system is weighted far too heavily in favour of farmers; their power to send workers home early, or prevent them from getting a job the following year is almost unchecked. There is no systematic, effective and independent mechanism through which workers can appeal against a farmer's decision or raise concerns about issues such as health and safety, excessive working hours or personal abuse.

It should go without saying that any migrant workers employed on seasonal labour schemes should enjoy the same rights and protections as their Australian counterparts – they should be paid the same award wage, protected by the same OH&S legislation, covered by the same workers compensation schemes and free to join a trade union.

***Suggestion 8: Pacific region workers employed on seasonal labour schemes should enjoy the same rights and protections as their Australian-resident counterparts***

A scheme that fails to protect the rights of migrant workers will meet with significant opposition from trade unions in Australia and the Pacific. It will result in negative media exposes of abuse and exploitation that damage the reputation of the Australia and its agricultural industries.



Above and beyond this, it should be recognised that as non-citizens and non-residents, Pacific workers undertaking seasonal jobs on temporary visas would be more vulnerable to exploitation and abuse than their Australian resident counterparts. Therefore an independent body should be set up to monitor the operation of the scheme and to provide a forum to which workers can take complaints and concerns.

I would suggest that such a body needs to have tri-partite representation from the growers, government and unions, with some input from Pacific Islander organisations in Australia (eg Churches or community groups). It needs to have the power to impose sanctions of employers who fail to honour their commitments (such as a temporary or permanent ban on future access to offshore workers under the scheme).

***Suggestion 9:*** *An independent body should be set up to monitor the operation of any Pacific region seasonal labour scheme and to provide a forum to which workers can take complaints and concerns.*

Workers should not be tied to an individual employer for the duration of their stay. There should be mechanisms under which a worker can seek to change employer or be transferred to a different workplace, particularly in the event of a dispute.

***Suggestion 10:*** *Workers should not be tied to an individual employer for the duration of their stay. There should be mechanisms under which a worker can seek to change employer or be transferred to a different workplace, particularly in the event of a dispute.*

#### 6.4 Migrants' rights issues

The matter under investigation by the Committee is 'Pacific region contract labour schemes' – that is, it is a temporary *employment* program, rather than a *migration* program. Nevertheless, issues of migration and migrants' rights also arise.

Firstly if such a scheme were to become operational cases would inevitably arise in which some Pacific Island workers might want to seek permanent residency in Australia. It is also likely that some employers might seek to keep Pacific island workers on as permanent staff members, 12 months of the year.

It would be unfortunate to duplicate the situation that exists under the Canadian scheme, in which workers may spend the majority of their time in Canada (up to

8 months per year) over a period of decades, and yet gain no residency rights whatsoever – a status that Sharma describes as 'permanently temporary'<sup>61</sup>.

In this regard, it is desirable that any scheme should include some pathways to permanent residency. This is not to suggest that permanent migration should be automatic or that it should be the primary intention or expected outcome of the scheme: rather it is anticipated that most seasonal workers will want to return home to their own family, community, culture and land.

However it should be recognised at the outset that in particular circumstances the option of permanent residency may come into play: for example, for Pacific Island workers who marry Australian residents, or who secure an offer of on-going employment that would enable them to support themselves and their family as independent migrants.

*Suggestion 11: Any Pacific region seasonal labour scheme should include some pathways to permanent residency in certain circumstances.*

Secondly, there will be political issues relating to undocumented workers (illegal immigrants) from Pacific Island (and other) countries, currently living or working in Australia in breach of their visa conditions. The creation of a regulated temporary work program should be accompanied by an amnesty, which would enable undocumented workers to regularise their position, either as permanent migrants or as temporary workers.

*Suggestion 12: The introduction of a Pacific region seasonal labour scheme should be accompanied by a regularisation mechanism for undocumented migrants in the rural labour force.*

## 6.5 Recruitment issues

The need for targeted and ethical recruitment of seasonal workers is of particular importance, given the disparities in wage levels between Australia and most island countries. There is no doubt that the Pacific Islanders keen to gain a place on any such scheme will vastly outnumber the jobs on offer. This opens the way for corruption and exploitation in recruitment.

For example, Thai workers recruited to do agricultural jobs in the USA under its H-2A temporary visa program, report paying up to US\$2000 each to local recruiters in their homeland to secure a place on the scheme<sup>62</sup>. Closer to home, some Fijians seeking well-paid work as security guards or truck drivers in Iraq

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<sup>61</sup> Sharma, Nandita, On being not Canadian: The social organisation of "migrant workers" in Canada Canadian Review of Sociology and Anthropology V. 38 N. 4 2001 pp 417-439

<sup>62</sup> Leah Beth Ward 'Thai farm workers seek equity in strange land' Yakima Herald Republic 9 October 2005

and Kuwait have lost hundreds of dollars paid as cash deposits to so-called 'recruiters' for non-existent jobs.

There is also anecdotal evidence skilled Pacific Islanders travelling to Australia for fruit picking and unskilled labouring work, because they could earn more than their own trade or profession (e.g. school teachers who travel to Australia on a tourist visa during the term break, and go fruit picking for a couple of months after briefly visiting relatives). It is my view that recruitment schemes should be targeting the unskilled and unemployed, rather than contributing to the process of 'brain drain' by taking trained tradespeople and professional staff away from the workforce.

*Suggestion 13: Recruitment for a Pacific region seasonal labour scheme should be targeted at the unskilled and unemployed.*

Pacific Island governments are not well equipped to handle the difficult issue of recruitment on their own. It would be advisable that any Pacific region seasonal labour scheme should be linked to Australia's international development assistance program, so that for example, in country recruitment could form part of a capacity building and training exercise.

*Suggestion 14: Recruitment for a Pacific region seasonal labour scheme should be linked to capacity building under Australia's foreign aid program.*

## 6.6 Cost sharing issues

Any seasonal labour scheme for Pacific Islanders to work in Australia will involve costs – the bureaucratic costs of regulation, administration and oversight, and the practical costs of airfares, visas, medical checks and accommodation. Increased numbers of Pacific workers in Australia will also place new burdens on Pacific High Commissions, consular staff, immigration and labour ministries.

A key question in the design of the scheme will be how those costs are to be shared between growers, workers and governments without sacrificing equity or efficiency. In an unregulated environment, the disparity in wealth and opportunity between Australia and the Pacific creates conditions in which recruitment agencies can extract exorbitant 'application fees' from would-be migrant workers who are hungry for jobs, and then drive down the conditions and pay under which they are expected to work.

In my view employers should share the costs of any seasonal workers scheme in Australia. While Canada's scheme has been tailored much more heavily to the needs of employers than workers, it does provide a reasonable model of cost sharing.

As noted above, growers advance the cost of international travel and visa fees and then recoup approximately 40% of these costs as deductions from workers wages. Growers also provide workers with free accommodation and pay a non-recoverable administration fee of \$35 per worker per season to F.A.R.M.S. Workers must be guaranteed a minimum of 240 hours work over six weeks to ensure that they will have an opportunity to make at least some savings in Canada.

I would propose a similar model with growers advancing the airfare and visa costs and then recouping some proportion of these expenses (not more than 50%) as restricted deductions from wages (a rate of not more than 5% gross per pay period). However I would propose the following modifications to the Canadian model:

- for the reasons outlined above (6.2) accommodation should be a service that workers buy separate from their employment.
- the minimum guaranteed period of employment should be 3 months, rather than six weeks to ensure that workers have an opportunity to make substantial savings
- any administrative body set up to run the scheme (the Australian equivalent of F.A.R.M.S) should not be an employer-dominated and controlled entity
- the non-recoverable fee paid by farmers for the administration of the scheme should be a fee per worker per week rather than a single flat charge (facilitating the employment of workers on different farms at different points in the season)

***Suggestion 15:** Any Pacific region seasonal labour scheme for Australia should adopt a cost-sharing formula similar to the Canadian scheme, with growers paying workers' costs up front and recouping up to half these costs through periodic wage deductions*

## 6.7 Administration and regulation

From the arguments made above in response to Inquiry reference (d) it should be clear that any Pacific Region seasonal contract labour needs to be carefully regulated to minimise the potential for abuse and exploitation.

However, one pitfall of a more regulated scheme is that rural villagers from the Pacific would have less comfort with complex bureaucratic procedures,

especially where the only High Commission is located in the capital city. Given low levels of literacy in Melanesian countries like Papua New Guinea, Vanuatu and Solomon Islands, from many islanders, there may be costs and delays in regulation and recruitment procedures.

Experience in Canada suggests that complexity can result in migrant workers missing out on their entitlements – for example tax returns, pension entitlements or workers compensation – because they do not have the skills to negotiate bureaucratic systems. Similarly, horticultural producers do not have time to deal with complex paperwork at the height of the harvest - so while a scheme must be regulated it also needs to be user friendly for both workers and employers.

This raises the question about who should administer such a scheme: should it be a private sector labour hire company, a government body (local, state, federal), a non-government organisation (development agency or church group), a new body with representation from various stakeholders? There is no simple answer to this question and arguments can be made for each of the above: my primary argument is that whatever arrangements are made must be transparent; agencies involved must be accountable and there must be some independent arbiter to whom workers can turn in the case of disputes.

## 7. Response to reference (e): the effects of the scheme on the economies of Pacific nations.

*NOTE: In responding to this reference, and in this submission generally, I am assuming that the Committee's term 'Pacific nations' refers to the island states of the Southwest Pacific including Papua New Guinea (members of the Pacific Islands Forum) rather than to the broader usage common in the United States, which refers to the Pacific islands and East Asia.*

We should be under no illusion that the creation of a seasonal labour program for Pacific Islanders in Australia could solve the problems of unemployment, and underemployment in the Pacific region. The development challenges faced by small island states and by linguistically and culturally diverse societies like PNG are far more complex and intractable than that. Even if an Australian labour scheme were to expand to the size of the Canadian program (involving approximately 20-thousand workers per annum), it would only provide employment opportunities for a small proportion of Pacific Island workers overall.

Nevertheless, evidence from Canada supports the view that a scheme such as this could make a very significant and positive contribution to particular communities and families.

According to Canadian economist Dr Rudi Robinson, who led the study of the CSAWP for the North South Institute, a worker who earns C\$14,000 in a season in Canada will, on average, spend C\$4000 locally on goods and services (especially food) and remit the balance of C\$10,000 to family at home<sup>63</sup>.

Initially remittances are likely to be used to pay off family debt, improve housing and nutrition and purchase household items such as fridges, stoves and TVs.

While this is sometimes dismissed as 'consumerism', it should be remembered that household improvements such as better sanitation or modern stoves can make a fundamental difference to health (particularly women's health). As Robinson argues 'It is a tragic mistake to judge other people's decision making process. These workers' decisions are rational to them. The spending decisions are made by families; they know what they want and need.'<sup>64</sup>

In addition, 'consumption' spending by returning workers can have spin-off effects in the home community, circulating remittances beyond the immediate family and generating economic activity (such as purchasing additional food) and jobs (such as creating employment on building projects).

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<sup>63</sup> Personal interview, North South Institute, Ottawa, Canada June 2005

<sup>64</sup> Ibid.

Moreover, there is strong evidence from the Canadian scheme that education of children is a high priority when it comes to spending remittances. Jamaican workers were found to spend up to 35% of remittances on children's education<sup>65</sup> and there was a positive correlation between the number of years workers are employed in CSAWP and their children's school leaving age.<sup>66</sup> This finding is consistent with other surveys on the high proportion of migrant workers remittances used to fund spending on children's education.<sup>67</sup>

The longer a worker stays with the Canadian scheme the more likely it is that a proportion of remittances will be invested in some form of small business or business expansion – such as purchasing additional land or livestock, or investing in a car or truck to set up a small transport business<sup>68</sup>.

However it should be noted that capital (in the form of remittance savings) is a necessary but not sufficient requirement for the development or expansion of an enterprise.

Recruitment in Mexico for inclusion in the Canadian scheme is deliberately targeted at farmers from some of the poorest regions of the country; ironically, as Basok argues, this makes it *less* likely that they will invest in a productive enterprise at home<sup>69</sup>. Investment in additional land or crops does not make much sense if a farmer lives in a remote area without ready access to markets; by contrast a farmer who lives on the outskirts of a major city may be in a good position to grow additional crops, raise more livestock, open a small shop, or set up a taxi or trucking service.

In this context, it is unlikely that remittances alone will generate extensive business development or large scale productive investment in the workers' home community– at least not in the short term. This is an argument for linking any Pacific region seasonal contract labour scheme to Australia's official development assistance program, to ensure that opportunities for productive investment are maximised.

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<sup>65</sup> Roy Russell: "Jamaican workers' participation in CSAWP and development consequences in the workers' rural home communities" (executive summary) North South Institute 2004 <http://www.nsi-ins.ca/english/research/archive/2004/05.asp>

<sup>66</sup> Gustavo Verduzco and Maria Lozano: "Mexican farm workers' participation in Canada's seasonal Agricultural labour market and development consequences in their rural home communities" (executive summary) North South Institute 2004 <http://www.nsi-ins.ca/english/research/archive/2004/05.asp>

<sup>67</sup> United Nations Department of Economic and Social Affairs: World economic and social survey 2004, part II, international migration, pp95-111 <http://www.un.org/esa/policy/wess/>

<sup>68</sup> Basok, Tanya 'Mexican seasonal migration to Canada and development: a community-based comparison' *International Migration* V. 41 N. 2 2003, pp 3-25; 'Migration of Mexican seasonal farm workers to Canada and development: obstacles to productive investment' *The International Migration Review* V.34. N. 1 2000 pp 79-98

<sup>69</sup> 'Migration of Mexican seasonal farm workers to Canada and development: obstacles to productive investment' *The International Migration Review* V.34. N. 1 2000 pp 79-98

The research project by the North South Institute also found some evidence that returning workers used skills gained in Canadian horticulture or trained family and friends in their home community about modern technology. (Those were engaged in farming by profession used the skills; those who were not agricultural workers at home tended to transfer those skills to others.)<sup>70</sup>

Again, this is an argument for linking any Pacific regional seasonal labour scheme to Australia's official development assistance program, and for the inclusion of some specific on-the-job training components in the seasonal employment of Pacific Island workers in Australia.

***Suggestion 16:** Any Pacific region seasonal labour scheme should be linked to Australia's foreign aid program to maximise potential for skills transfer and the productive investment of remittances.*

In short, a seasonal labour scheme for Pacific Island workers is not a panacea for the economic and social problems facing the region. However it could make a dramatic and positive difference to families directly involved in the scheme and have a generally beneficial impact on their home communities.

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<sup>70</sup> Personal interview, Dr Rudi Robinson, North South Institute, Ottawa, Canada, June 2005



## **8. A people-to-people model for Pacific seasonal labour**

A seasonal employment scheme for Pacific Island workers to enter the Australian labour market should not be conceived purely as an economic project. It should also be seen as an opportunity to encourage the expansion of people-to-people contacts between Australia and the Pacific.

The 'sister city' relationships that exist between some local Councils in Australia and towns or regions overseas could provide a model here.

Under this scenario, a specific Australian municipality might develop a seasonal labour program with a particular Island or region in the Pacific. The Australian government and the Pacific Islands Forum would create the framework and lay down minimum rules and standards for the scheme, and would approve any specific arrangement before it commenced, but it would be up to local communities to initiate the project and make it happen.

For example, the town of Robinvale in Victoria, which has a significant Tongan-born and Tongan-descended population, might seek to develop a seasonal labour program with Tonga (or a particular region or island in Tonga) building on pre-existing links and personal connections.

In addition to recruiting seasonal workers for horticulture, community organisations (perhaps Pacific church groups) could take a lead role in organising social events and cultural activities to welcome the workers into the community. Tonga-related educational activities could be devised for local schools and information evenings convened to help prepare locals for the seasonal workers arrival.

Workers would be engaged in some level of formal training – for example in first aid, chemical safety and handling – to ensure that they go home with useful skills as well as money in their pockets.

Service clubs (Rotary, Lions), Churches and other groups might engage in fund-raising for the sister community (helping to purchase books for Tongan schools or equipment for a medical clinic), while volunteer programs (AVI and AESOP) might co-ordinate development activities (eg visits to Tonga by surgeons or other health professionals for special clinics). Community-based organisations in both countries could co-operate to develop ways for remittances to contribute to general development activities, through micro-finance schemes, small business programs, and the education of young women.

Linking specific localities in this way would help to create a bond between communities in Australia and the Pacific and foster people-to-people links: each community would have an investment in the success of the other and in the success of the seasonal labour scheme.

This is not just a 'feel good' idea - there are practical reasons for preferring such a people-to-people approach.

Firstly, as a local initiative it would be 'owned' by local residents, rather than being a project imposed from outside. It would build on pre-existing links and connections. Its local nature would help to build personal relationships of trust and minimise abuses.

Secondly, and at a broader level, a locality-to-locality program would help to overcome one of the major political problems to immediately emerge with a seasonal labour scheme for the Pacific: the question of which nation (or nations) gets to take part. If the Australian government were to open the scheme to one country but not another, that would open up a diplomatic can of worms. If however, it is up to communities in Australia and the Pacific to generate their own local schemes then this becomes less of an obstacle.

Thirdly, community-to-community schemes would allow for different mechanisms to be set up to suit local conditions in different areas: for example, one community might choose to use a local labour contractor as the 'broker' to manage the scheme; elsewhere it might be organised through a collective of growers or via a local non-government organisation.

***Suggestion 17:*** *If Australia is to set up a Pacific region seasonal labour program then it should link individual communities in Australia and the Pacific in 'sister city' style relationships*

## 9. Conclusion and recommendation

It is clear that Australian rural and regional communities have jobs without workers and that Pacific Island nations have workers without jobs. This creates the potential for the development of a seasonal labour scheme that could benefit communities in Australia and the Pacific.

Translating this potential into an efficient, practical and equitable program is no simple matter. However Australia and the Pacific can learn from Canada's seasonal agricultural workers program to design a program that minimises the problems and maximises the advantages.

*I respectfully submit to the Committee that it recommend that the federal government authorise small-scale pilot programs to further test and develop a seasonal labour program for Pacific islanders to work in Australian horticulture.*

The evaluation of such pilot projects would assist in determining whether an ongoing overseas seasonal workers scheme is practical and desirable. If such trials proved successful, they could provide the basis for developing a realistic model for the administration, cost sharing and regulation of any such scheme in the longer term.

I suggest that the pilot programs should draw on the Canadian experience and incorporate the suggestions made in this submission.

I would note in conclusion that inaction is also a policy decision. As outlined above, current labour shortages in seasonal horticulture result in relatively high rates of illegal employment. Unless there are initiatives to increase the supply of legitimate workers, the existing problems will continue and potentially worsen. This is a lose-lose-lose situation for employers, workers and government: employers run the risk that raids will interrupt their peak harvest, undocumented workers remain vulnerable to exploitation, arrest and detention, legitimate workers run the risk that their wages and conditions will be eroded by illegal employment and government must continue to finance expensive immigration compliance activities that foster ill-feeling in the horticultural industry and local communities.

Appendix: Summary of suggestions

**Suggestion 1:** *If Australia is to set up a Pacific region seasonal labour program then it should incorporate the circularity of the Canadian scheme.*

**Suggestion 2:** *Any scheme to introduce an offshore labour scheme to enable Pacific Islanders to perform seasonal work in Australia should be complementary to, rather than a replacement for, intensive programs to encourage the long-term unemployed or other disadvantaged groups into jobs.*

**Suggestion 3:** *In any seasonal labour scheme for the Pacific region, Australian growers should be required to pay a proportion of the offshore workers' travel and other costs, (in addition to the prevailing award wage).*

**Suggestion 4:** *Growers should pay a flat fee towards the administrative costs (regulation and oversight) of any Pacific region seasonal labour scheme.*

**Suggestion 5:** *Pacific Islanders engaged in seasonal work in Australia should be subject to the same tax rules as resident Australians (i.e. 13% tax and a \$6000 tax free threshold)*

**Suggestion 6:** *Pacific Island workers should pay the Medicare levy and be eligible for Medicare benefits for health services during their employment in Australia.*

**Suggestion 7:** *Pacific Island seasonal workers should pay for reasonably priced backpacker style accommodation rather than being housed on site by employers*

**Suggestion 8:** *Pacific region workers employed on seasonal labour schemes should enjoy the same rights and protections as their Australian-resident counterparts*

**Suggestion 9:** *An independent body should be set up to monitor the operation of any Pacific region seasonal labour scheme and to provide a forum to which workers can take complaints and concerns.*

**Suggestion 10:** *Workers should not be tied to an individual employer for the duration of their stay. There should be mechanisms under which a worker can seek to change employer or be transferred to a different workplace, particularly in the event of a dispute.*

**Suggestion 11:** *Any Pacific region seasonal labour scheme should include some pathways to permanent residency in certain circumstances.*

**Suggestion 12:** *The introduction of a Pacific region seasonal labour scheme should be accompanied by a regularisation mechanism for undocumented migrants in the rural labour force.*

**Suggestion 13:** *Recruitment for a Pacific region seasonal labour scheme should be targeted at the unskilled and unemployed.*

**Suggestion 14:** *Recruitment for a Pacific region seasonal labour scheme should be linked to capacity building under Australia's foreign aid program.*

**Suggestion 15:** *Any Pacific region seasonal labour scheme for Australia should adopt a cost-sharing formula similar to the Canadian scheme, with growers paying workers costs up front and recouping up to half these costs through periodic wage deductions*

**Suggestion 16:** *Any Pacific region seasonal labour scheme should be linked to Australia's foreign aid program to maximise potential for skills transfer and the productive investment of remittances.*

**Suggestion 17:** *If Australia is to set up a Pacific region seasonal labour program then it should link individual communities in Australia and the Pacific in 'sister city' style relationships*