



***ACTU Submission to the
Senate Employment, Workplace
Relations and Education Committee
Inquiry into Pacific Region
Seasonal Contract Labour***

August 2006

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The Australian Council of Trade Unions (ACTU) welcomes the opportunity to make a submission to this inquiry. This submission should be read in conjunction with the submissions made to this Committee by ACTU affiliates, the Australian Workers Union (AWU) and the Australian Manufacturing Workers Union (AMWU).

The ACTU strongly supports a multicultural society that respects cultural and social diversity. The ACTU also strongly supports a policy setting that emphasises good relations with our Pacific neighbours, through effective foreign policy including overseas development assistance. The ACTU recognises the special relationship between Australia and our Pacific Island neighbours, historically, economically and culturally.

The ACTU has been, and continues to be, a strong supporter and advocate for an ongoing permanent migration program and sees this as an essential part of Australia's social and economic development, for a richer society and a richer nation and as an expression of our nation's commitment to internationalism.

The ACTU however is absolutely opposed to guest labour schemes. Our objections are based on the reality of workers on guest labour programs, where they are not provided the conditions or respect of workers or residents with permanent migration status and are all too often subjected to conditions that amount to exploitation. There is a vast body of cases of exploitation of guest workers, globally and within the Asia-Pacific region. Guest workers face no freedom of employment, no capacity to take their families with them to the country of their work and no access to health care and other services. International institutions are at pains to recognise the plight of these workers and address the needs of the many millions of workers employed in exploitative conditions.

Australian unions will not accept guest labour in Australia and we are glad to see that the Federal Treasurer agrees with us on this matter.¹

The ACTU and our affiliates are very concerned that the 457 category of visa is being used effectively as a guest labour program which allows employers to both drive down wages and conditions of Australian workers and simultaneously exploit workers from neighbouring countries.

The issue of contract labour and labour mobility needs to be considered within the context of the global realities of migration, economic development and economic transition. Labour mobility must be considered from a rights based approach which protects and promotes the rights and conditions of all workers. Indeed, in the current climate of industrial relations in Australia, without the development of regulations that ensure the protection of working conditions and the promotion of employment opportunities, temporary migration is merely facilitating employer and government intentions to further deregulate the labour market and undermine labour rights and conditions.

¹ <http://www.treasurer.gov.au/tsr/content/transcripts/2005/161.asp> and <http://www.abc.net.au/am/content/2005/s1516618.htm>

As an important factor in considering the future of the Australian labour market, this submission will start from the premise that human, economic and social development must take into account the rights and dignity of the workers and communities involved.

a) **Labour shortages in rural and regional Australia:**

Any discussion of Pacific region seasonal contract labour to Australia must be understood in the context of labour market needs and supply factors within Australia as well as the economic and developmental requirements of the Pacific.

Seasonal contract labour is currently being spoken of as a way to address labour shortages in certain regions or industries in Australia. This is particularly in the agriculture industry, in relatively low paid jobs such as fruit picking. Australian trade unions challenge the assertion that there are significant labour shortages in rural and regional Australia. Where reasonable wages and conditions are offered, including appropriate accommodation or other facilities, then workers can be attracted to the areas where the jobs are located.

The ACTU believes that labour market needs could be better assessed and that mechanisms for matching supply of workers to specific needs, in specific regions or especially for seasonal work, could be facilitated by better cooperation between unions, employers and government.

It is clear that claims of significant labour shortages are being made at the same time as there are significant rates of unemployment or underemployment in many rural and regional areas, especially of young workers. There is around 5% unemployment and at least 6% underemployment and these combined figures are disproportionately high in rural Australia. Youth unemployment is also particularly high in rural areas. June 2006 statistics indicate for 15-19 year olds in the Hunter, unemployment is at 22.7%, in the Richmond-Tweed and NSW Mid-North Coast, 18.7%, Victorian Goulburn-Ovens-Murray, 10.2% and All Gippsland at 18%².

The ACTU is interested in finding better ways to match the supply of Australian workers to available jobs, to maximise the employment of Australian workers, to find medium and long-term solutions to effective labour shortages, in both skilled and unskilled categories. This issue therefore is critically linked to underinvestment in training and job matching programs.

² Australian Bureau of Statistics (ABS) Cat No. 6291.0.55.001. June 2006

In the agricultural and horticultural industry in Australia, the majority of farms are still operated as family farms. This business model relies on labour supplied by family members, business partners and sharefarmers. The proportion of labour being met by casual, contract and seasonal labour is increasing with changes in the demography of local communities, competition on the basis of economies of scale, and changing cost structures.

Family farms are increasingly being replaced by industrial-scale agriculture that can produce at higher economies of scale. This combines a structure of professional farm managers and low paid farm workers. Agricultural workers are the lowest paid workers in the economy. Most often, they are employed on a casual and part-time basis. They most likely have no other connection to the land, other than it is their job.³ Many academic studies provide an analysis of the phenomenon of people leaving the land, rural flight, and the impact on local and regional economies. Combined with a reduction in local services and low paid work with no certainty, we see labour shortages that are temporary and often seasonal in nature.

The percentage of those employed in horticulture as wage and salary earners has increased over the past decade.⁴ The ACTU believes that much of the labour shortages claimed in the agriculture and particularly horticulture industries result from skilled people leaving the farm workforce due to uncompetitive pay and conditions, where they move to higher paying occupations in other industries. The remaining locally available workforce may not have the appropriate mix of skills, knowledge and experience.

Some employer groups are pressing for access to temporary labour to meet these needs.

It is true that Australia is facing an ageing demographic profile, and that a lower birth rate will result in labour market shortages in the future, however, the evidence is that there currently are barriers to full participation in the labour market. The ACTU strongly advocates for this to be resolved by increasing investment in education and training, including incentives for employer investment in apprenticeships.

Rather, the broader issues of an underinvestment in training and fundamental labour market mismatches, the solution to these problems is not to open the labour market to migrant workers from overseas, the Pacific or elsewhere, leading to a "race to the bottom" of low pay and conditions.

³ Productivity Commission: "Trends in Australian Agriculture", Research Paper, Canberra, June 2005, p. 99.

⁴ Ibid. Also see the Australian Workers Union (AWU) submission to this inquiry.

b) **The availability and mobility of domestic contract labour, and the likely effects of such a scheme on the current seasonal workforce:**

The cyclical and seasonal nature of agricultural and horticultural work in Australia requires a workforce that is adaptable to a range of rural occupations. Farm workers often create full time employment by sequencing a mix of contract, casual or part-time work throughout the calendar year. In many areas of rural Australia, this requires a farm and non-farm skills base, such as combining with work in hospitality and tourism, construction, forestry, aged care and other service sector jobs. Seasonal agricultural work however is labour intensive, relatively poorly paid compared to other parts of the economy and is often paid on piecemeal rates, part-time, usually short-term casual or longer-term unskilled or semi-skilled with little career structure and provides few opportunities to develop a skills base.

The current seasonal workforce is made up of itinerant farm labourers, family members, local casual workers, students, grey nomads (retirees travelling around Australia) and backpackers on the Working Holiday Maker Scheme. In addition there is an undocumented seasonal workforce made up of overseas students working in excess of the hours permitted by the conditions of their visas, Australians working whilst receiving welfare benefits, foreign travellers working without work permits, and unauthorised residents (mostly from the Pacific, Southeast Asia or China).

It is asserted that a large part of Victoria's fresh fruit crop is picked by undocumented workers. These workers are vulnerable to exploitation and it has been reported that in some cases have been paid as little as A\$3 per hour.⁵ Farms have been the targets of raids by Immigration Department officials and when the raids have been undertaken at harvest time, the workforce has been decimated and the crop lost.

Young people are not taking on farming as a vocation and many farmers work beyond 65 years of age. Studies show that Australian farming families have become increasingly dependent on off-farm income (and employment) to maintain their standard of living. This has impacted the demographics of rural communities and the composition of small towns as they have traditionally provided seasonal or casual farm labour. Immediate labour shortfalls in agriculture would traditionally be met locally. Long-term unemployment or underemployment in regional areas has resulted in social tensions and the current experience of regional economic stagnation is common.

Areas of regional Australia with the highest youth unemployment could benefit from transitional employment programs and skills transfer or enhancing programs.

⁵ Gary Hughes and Larry Schwartz: "Outlaw Labour, rorts and all", The Age, 28 March 2004. p.1 & 8.

Vocational education and training is not generally provided in such a way that meets the needs of agricultural workers requiring a multi-skilled foundation in order to make a decent standard of living.

Appropriate consideration, following detailed consultations with all of the industry partners – employers, employer representatives, workers and their unions – should be given of the need to develop training and qualifications outcomes for workers in the rural economy. Such training and qualifications should recognise the unique nature of work in the sector and the need to often mix and match different types of employment to create on-going employment.

To facilitate training outcomes, group training companies and similar types of organisations should be utilised. These can assist in ensuring access to employment that supports training without the need for employers – who have cyclical demands – to assume the totality of the risk of employment. In providing training and qualifications outcomes through the use of group training or the like in rural and at times remote areas, the special requirements, including the impact of distance, of working in these areas needs to be recognised and additional support provided to those undertaking training in such an environment. The objective must be to increase the number of skilled rural workers who will remain in rural areas.

Programs such as these will assist in overcoming the true problems of a lack of skilled workers available to the industry. This will make employment in rural areas more attractive and reduce the demand for casual workers or guest workers.

c) **Social and economic effects of the scheme on local communities:**

The further casualisation of the agricultural sector will do nothing to improve productivity of this sector. Increases in efficiency and productivity in the farm sector is expected to be based on improved management skills with an increase in technological solutions. Further casualisation risks a greater informalisation of the farming sector. It is common sense that in order to attract and retain younger workers, career structures, improved wages, conditions and safety need to be promoted.

Targeted training assistance and other incentives are needed in order to encourage younger workers participation in agricultural work. The benefits of supporting and encouraging a local workforce would have obvious benefits in reinvigorating local communities and economies. Australian unions see the development of a “continuous local employment program” (for seasonal workers across different agricultural enterprises) as one way to do this.⁶

⁶ See the AWU's submission to this inquiry, op cit., p. 9.

d) **Likely technical, legal and administrative considerations for such a scheme:**

Given the industrial climate in Australia as a result of the introduction of the Workchoices legislation, it is not possible to enforce reasonable standards and protections for temporary migrant workers. Neither the Australian Government nor any of the Pacific island governments are signatories to the International Labour Organisation's (ILO) conventions relating to migrant workers, i.e. Convention 97, Convention 143 or the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Migrant Workers Convention).⁷

What the ACTU would consider sufficient regulation to protect temporary migrant workers would be contrary to the government's current policy setting, including current industrial law.

Any seasonal labour scheme in Australia would need to have safeguards to protect workers' rights and guarantee freedom of association. There would need to be mechanisms to ensure independent dispute resolution to manage conflicts and legal and practical means to ensure the health and safety of overseas workers was protected.

The ACTU has previously raised our concerns about the operation of temporary business visas, short stay Section 456 visas and long stay Section 457 visas with the Minister for Immigration. Employers are using imported labour to undermine negotiated award wage rates and conditions. It appears that the Federal Government lacks the capacity or will to adequately monitor the implementation of temporary working visas for skilled categories of workers, how much more so the need therefore to properly manage any other or proposed categories of visa. Indeed our concerns about the abuse of the system of temporary working visas in recent months are so serious that we have called upon the Commonwealth Ombudsman to conduct an independent inquiry.⁸ Indeed the temporary working visa system needs major reform in order for it to be managed effectively.

e) **The effects of the scheme on the economies of Pacific nations:**

The ACTU is a member of, and maintains a close working relationship with the South Pacific and Oceania Council of Trade Unions (SPOCTU) which provides a good mechanism to address issues of mutual interest and concern, across the Pacific region.

⁷ Convention 97: Migration for Employment Convention (Revised) 1949 and Convention 143: Migrant Workers (Supplementary Provisions), 1975. The Migrant Workers Convention came into force in 2003. A new Multilateral Framework for Labour Migration has been endorsed by the ILO Governing Body in March 2006.

⁸ ACTU letter to Senator Vanstone, 16 May 2006

The ACTU strongly supports Australia making the Pacific a regional development priority given Australia's economic and social responsibilities. Closer economic ties are recognised by all parties as being beneficial to Australia and our Pacific Island neighbours. An economic development model that will generate jobs in the local economies of the Pacific needs to be developed in an integrated way. The role of the Pacific Forum Secretariat is very important in this task.

Through AusAID and Australian non-government agencies, Australia has provides significant assistance to addressing poverty reduction and development in the Pacific.⁹

As the Global Commission on International Migration (GCIM)¹⁰ emphasises the importance of the link between migration and development and the role of co-development programs. Essential to the effective future development of the Pacific Island nations is the skilling and up-skilling of workers, and the Australian Government should undertake great effort in order to contribute relevant skills to retain people with the critical skills needed for development.

Remittances from migrant workers is an important earner of foreign exchange for developing countries in the Pacific. Sending migrant workers overseas has become a fundamental way to address unemployment and underemployment, to develop skills and experience and as an alternative to, or an accompanying tool, in delivering overseas development assistance. Issues of the loss of skilled workers (so called "brain drain") is a very relevant consideration to planning effective development programs in the Pacific.

The CGIM makes it clear that where temporary migration is an agreed solution to a demographic issue, this must be rights based and guest labour programs do not fit this bill.

Labour mobility and trade agreements:

Pacific island governments have argued that increased access to the Australian and New Zealand labour markets, for both skilled and unskilled workers, should be a component of regional economic integration. The "Pacific Plan for Strengthening Regional Cooperation and Integration" adopted in 2005 by members of the Pacific Islands Forum and the "Pacific Agreement on Closer Economic Relations" (PACER) endorsed in 2001, GATS "Mode 4" trade negotiations on trade in services and the temporary movement of people link these issues. Indeed together, these place demography, employment and labour mobility in the context of development and poverty reduction squarely on the regional agenda.

⁹ The ACTU's humanitarian development agency, Union Aid Abroad – APHEDA has for some 20 years provided technical and funding assistance for vocational training, health and education programs in the Pacific.

¹⁰ ACTU President Sharan Burrow is one of the 19 Commissioners on this body, established by the UN Secretary General, Kofi Annan. It's report can be found at: <http://www.gcim.org/en/>

The ACTU participates in the tripartite discussions at regional and sub-regional (Pacific) levels of the International Labour Organisation in promoting the achievement of “decent work”.

The need to generate decent work for the growing populations of the Pacific island nations, especially young workers seeking to be a part of their cash economies, skills development, access to education, credit and employment and business development are key issues for the Pacific governments.¹¹

We already see significant movement of people from rural areas and outlying islands to towns and cities within the Pacific and to the Pacific Rim industrial countries, including Australia.¹²

Whilst significant economic benefits are possible from migrant worker and seasonal work programs, important social costs are also evident. Negative impacts on family life, community and broader social structures as well as gender roles and traditional patterns of authority and leadership have been documented by non-government and church organisations.

Indeed, the economic structures of local communities and the impact of relatively more motivated or more skilled people leaving their communities for long periods has yet to be adequately assessed.

The ACTU recommends that the Committee:

- oppose any form of guest labour program.
- urges the Australian Government to make a greater contribution to skills development in the Pacific.
- acknowledges the important role of the South Pacific Commission and of the Pacific Forum and of networks of civil society across the region with a particular responsibility for our Government to engage in Pacific regional economic development and trading arrangements that advance Pacific sustainability.
- recognises that economic development must expand “Decent Work”.
- consider the role of permanent migration in supporting the aspirations for people from the Pacific Island nations.

¹¹ Labour force related data is available at: Secretariat of the Pacific Community (SPC) PRISM Project: http://www.spc.int/prism/social/lab_force.html and demographic related data at: <http://www.spc.int/demog/>

¹² Nic Maclellan and Peter Mares: “Labour mobility in the Pacific: creating seasonal work programs in Australia.” Paper presented at conference on “Globalisation, Governance and the Pacific Islands”, Australian National University, Canberra, 25-27 October 2005. p.2.