

# **POLITICAL SOLUTIONS URGENTLY REQUIRED TO RESOLVE THE CHALLENGES FACING TEMPORARY MIGRANT WORKERS**

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Migration for work purposes, is firmly on the political agenda. Under the previous Australian Conservative Government, there was no debate, let alone debate where all points of view were heard. It's heartening that the new Labor Rudd Government has heard the public voices highlighting the serious shortcomings of the current temporary work migration system, which is known in my country as the *457 Visa Scheme*.

## **AUSTRALIA'S 457 VISA SCHEME – SAFETY BECOMES THE FIRST CASUALTY**

The first test of any system regulating work should be the safety of workers and their right to return home uninjured. In 2007 there was a string of guest workers' deaths – details are scarce because the Howard Government wouldn't release information. One of the men, Guo Jian Dong, worked in Cyprus pine forests. This worker's living conditions were harsh – he lived in a tiny shack with other temporary migrants.

The day he died, he was sent out into the forest to work alone, on work he was not qualified to do, and work that was not the basis of the 457 Sponsorship Visa. He died an agonizing death, trapped under a fallen tree, and his body was not discovered until

many hours later. Two Filipino workers died at work around the same time. All three men entered Australia under the *457 Skilled Migration Visa Scheme*. Proper safety protections are one of many aspects of the *457 Visa Scheme* which were never adequately addressed by the last government.

Our research found data that showed *457 Visa Workers* are almost twice as likely to die at work as the national average. There are 3.0 workplace deaths per 100,000 workers nationally. The figure for *457 Visa Workers* is 5.8 - almost double that of local workers.

## **MINIMUM SALARY LEVELS AND MARKET RATES**

Another inherent problem relates to pay rates. Most guest workers are paid only at the Minimum Salary Level (*Minimum Salary Level*), which in most instances is well below market rates of pay. Thus there is a substantial economic incentive for employers to engage these temporary workers.

When a worker's ability to stay in the country (and one day gain permanent residency) depends entirely upon the sponsoring employer maintaining the sponsorship, guest workers will put up with almost any hardship or abuse.

Our Union has been in a number of disputes with employers in regard to the exploitation of guest workers.

In every case these disputes have been with employers whose workforce is not unionised. Therefore we have used a variety of other tactics to achieve an outcome for 457 Visa Worker. These include:

- a. Public exposure through mainstream media
- b. Pickets and public rally at the employers premises or those of the employer's clients;
- c. Arranging for friendly politicians to raise the matter in Parliament to expose the abuse of the scheme and embarrass the Government;
- d. Enlisting the support from local ethnic community groups (often the employer is of the same ethnicity);

## **EXAMPLES OF GUEST WORKERS DISPUTES**

5 young Cook Islanders were imported as guest workers, one of whom was about 17 years old. These young men worked a minimum of 13 hours a day, six days a week, were paid \$10 a week in cigarette money, and provided with accommodation and meals by their employer.

Severe restrictions were placed on their personal freedom and they were regularly mistreated, and physically and mentally abused.

One of these workers gave evidence in court that he:

- was regularly bashed by his employer and
- had suffered a broken jaw,
- had total blindness in one eye after being hit with a claw hammer by his employer,
- had suffered partial loss of sight in the other eye, partial deafness and partial brain damage.

Two of these workers were awarded \$136,000 and \$ 66,000, and the employer was sent to jail.

### **Indian stonemasons**

8 Indian Stonemasons were brought to Australia to work on a Hindu Temple for 3 ½ years. They were paid \$ 45.00 a month for working 7 days a week, with another \$100 a week being sent to their families in India. They were forbidden from leaving the temple grounds unless they were accompanied during an organised day trip.

When the Union took up their cause, we were told by the Temple authorities that the work they had been performing was part of their religious duties.

The Union was successful after a long campaign, achieving hundreds of thousands of dollars in unpaid wages and other entitlements.

### **Southern Cross Rigging**

A number of Indian workers were recruited to work in Australia through an employment agency in Singapore. The employment agency required each worker to pay SING \$ 6,000 before departing for Australia, and SING \$ 6,000 upon their return.

The accommodation supplied by their Australian employer was a factory floor on which 6 men slept, and for this “luxury”, each worker was required to pay the employer \$100 a week rent.

They worked extremely long hours, usually 6 or 7 days a week, and told that if they complained - their employment would be terminated, and they'd be sent back to India.

4 of the workers complained and were immediately dismissed, but the Union was successful in having their employment reinstated, and having all of the workers properly remunerated and moved to decent living accommodation.

## **Brazilio Reyes vs Sombreros Restaurant**

Mr Reyes was sponsored to come to Australia by a restaurant to work as a chef. He worked for nearly a year, but unfortunately contracted cancer and underwent surgery to remove the cancer. As a result he could not work for some weeks because of the surgery, so the restaurateur terminated his employment - claiming poor work performance.

The CFMEU organised a 12 week community picket line each Friday night outside the restaurant, and received a lot of support from the locals.

We eventually recovered several thousand dollars in unpaid entitlements for this unfortunate *457 Visa Worker*.

## **Elite Marble & Granite**

2 Chinese workers who were sponsored to work in Australia by Elite Marble & Granite as stonemasons, and had paid \$12,000 each to an Employment Agency in China for 3 years work in Australia. They were being paid only \$50 per week for working long hours in Australia. They were unable to sustain themselves on that money, so they complained to their employer.

The employer immediately terminated their employment and evicted them from their lodgings by using the state police force. The union found them wandering the streets - destitute. After providing food, accommodation and general assistance, we were eventually able to secure \$50,000 each prior to their voluntary return to China.

### **Rados Stevnovik and the Serbian Orthodox Church**

Rados Stevnovik was an accomplished iconographer. Again this talented artist was paid a pittance, and the Serbian Orthodox Church also contended that the work was part of his religious duties. Again we were successful in obtaining the correct wages and entitlements for this worker.

I have given examples of successes of the Union, but there are hundreds of cases that do not come to our attention. The exploitation is not confined to any particular ethnic group – such is the hunger for profit by these unscrupulous employers.

### **TEMPORARY MIGRATION – A STRUCTURAL DISADVANTAGE**

This issue of having temporary migrant status as compared to permanent migrant status is the key difference with these special migrants we know as guest workers.

These workers are the ultimate contingent workers. Their right to stay in the country

is dependent on their employer (in the case of the *457 Visa Worker* the employer is the “sponsor”).

The problem is clearly a structural one – it’s in the design of the *Australian Visa Scheme*. Indeed, we argue that problems are likely to compound so long as we favour temporary migration over permanent migration. Temporary migrants with work rights now exceed the numbers under the permanent migration program and this trend is only likely to continue unless policymakers take stock.

Permanent migrants have the same rights as Australians in every respect. By contrast guest workers are always 28 days from a notice by the Department of Immigration that their employer has terminated their sponsorship and they must leave the country.

While-ever the worker does not have freedom of movement, that is the freedom to stay in the country that a permanent migrant has, then the room for abuse and exploitation of these workers is apparent.

The guest worker is in an inferior position in other ways too. They don’t get the full suite of rights that a permanent migrant has in relation to social security rights, health care etc.

## **THE NEO-LIBERAL AGENDA**

At the global level we see one of the key economic institutions involved in spreading the neo-liberal economic model, namely the World Bank, is strongly advocating the spread of these guest worker arrangements. Similarly, we see the countries with vast pools of abundant, low skilled workers agitating through Free Trade Agreements to place their workers overseas to obtain remittances.

While one can understand the point of view of the Philippines and Bangladesh (or increasingly the emerging giants of China and India), it doesn't mean other countries such as Australia should rush toward the two track labour market model without fully understanding the consequences.

## **THE UNITED ARAB EMIRATES EXPERIENCE**

Let me address the situation of migrant workers in one of the Gulf States, the United Arab Emirates (UAE), as it represents the worst case scenario for temporary migrants.

The use of temporary labour is booming there. An incredible 25% of the world's construction activity is centred in that one small country. Millions of guest workers have been brought in. A recent article in an Australian daily newspaper detailed the conditions of migrant workers in an emirate town this way:

*“It is a Middle Eastern Soweto, where as many as 500,000 foreign labourers, mostly illiterates from impoverished rural villages of the sub-continent, who build Dubai are housed in some of the most depressing conditions I’ve seen.”*

This town does not even appear on official maps so keen are the UAE authorities to ignore the issue. A recent report by Human Rights Watch “Building Towers, Cheating Workers” details the misery endemic in this workforce.

Average per capita income in the UAE is US\$2,106 per month. The average wage for migrant construction workers is US\$175 per month. Routinely workers have their passports taken from them by their employer and their first two months wages withheld to ensure they do not quit.

Many of these workers are illegally charged between US\$1,000 and US\$3,000 for the privilege of working in slave like conditions by recruitment agencies in their home country. So they start in debt, go into arrears and the interest mounts.

Unionisation is illegal. There are approximately 240,000 businesses employing temporary migrant workers, with 140 government inspectors to police their conditions. Following the Human Rights Watch Report, Al Jazeera produced a television special “Blood Sweat and Tears” in August last year. They found that in 2006, 109 Indian labourers committed suicide.

In the longer term I hope the Rudd Government:

- a. Places the primary emphasis regarding labour force supply on training Australians;
- b. Restores our permanent migration program to become the primary migration vehicle;
- c. Accepts that temporary work migration schemes should only have a short term niche role under a strong regulatory framework;
- d. Accepts our responsibility to our Pacific neighbours rests primarily in lifting our economic aid particularly to develop sustainable industry models rather than locking these societies into an unstable migrant remittances dependency, and
- e. Opens its eyes to the moral bankruptcy of poaching the best and brightest skilled workers from the developing nations rather than training our own.

I hope I've raised some issues and strategies for your consideration.

Thank you.