



Immigration Advice
and Rights Centre

11 April 2023

Committee Secretary
Senate Legal and Constitutional Affairs Committee
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Committee,

Inquiry into the Migration Amendment (Australia's Engagement in the Pacific and Other Measures) Bill 2023 and the Migration (Visa Pre-application Process) Charge Bill 2023 (Bills)

We refer to the above inquiry and thank you for the opportunity to comment on the Bills.

Background

The Immigration Advice and Rights Centre (**IARC**) is a specialist community legal centre that has been operating for over 35 years and provides free immigration advice and assistance to people experiencing vulnerability. IARC is the only community legal centre in Australia that provides free advice and assistance on all immigration and citizenship matters.

Unions NSW is the peak body for trade unions and union members in New South Wales, with 48 affiliated trade unions and Trades and Labour Councils, representing approximately 600,000 workers across New South Wales. Affiliated trade unions cover the spectrum of the workforce in both the public and private sectors. Unions NSW aims to create a fairer and just society and actively campaigns to improve workplace pay and conditions for all workers in New South Wales, regardless of their linguistic or cultural background. The Unions NSW team includes senior industrial law specialists, researchers and community organisers and educators. It is the only trade and labour council which engages in dedicated migrant worker outreach and research.

IARC in partnership with Unions NSW has developed a project called "Visa Assist", which is currently in its fourth year of operation. Visa Assist provides free immigration and employment law advice to migrant workers in Australia. The project was created on the basis that everyone should be safe regardless of their visa status. To date, Visa Assist has provided more than 2,000 legal services to more than 1,000 migrant workers, many of whom have faced workplace exploitation while on temporary visas in Australia.

Through Visa Assist, IARC and Unions NSW has come in contact with migrants from the Pacific region. In particular, IARC and Unions NSW have advised people who have been engaged in the Pacific Australia Labour Mobility Scheme (**PALM Scheme**) in Australia. Many of these people have

been referred to Visa Assist as they have been subject to severe workplace exploitation and, given the conditions imposed on their temporary visa, are unable to leave these exploitative situations.

IARC and Unions NSW position on the Bills

IARC and Unions NSW commend the Australian Government on creating a pathway to permanent residency for people from Pacific Island countries and Timor Leste. IARC and Unions NSW strongly believe that the migration system needs to provide more clear and certain pathways to permanent residency.

However, IARC and Unions NSW do not support the mechanism the Bills propose to obtain permanent residency. In particular, IARC and Unions NSW cannot support the "ballot" system considered by the Bills as it does not create a certain pathway to permanent residency. Rather, this new system relies on a lottery for people to be potentially eligible for permanent residency. Our concern is that these systems disempower people by requiring them to be held to the behest of a random system outside their control or influence. We have seen people spend thousands of dollars and put their lives on hold through similar systems on the oft chance that they may obtain permanent residency (i.e. the EOI system for Skilled Independent visas). We have also seen those same people, through no fault of their own, never achieve permanent residency.

We further note that the PALM Scheme has led to cases of exploitation¹ and comparisons to modern slavery.² The people who are eligible participate in this program (i.e. people from the Pacific region) are entitled to certainty and the potential to plan their future in Australia. Clear pathways to permanent residency would mean that way are in control of the process and can make informed decisions about their lives and work that will allow them to achieve permanent residency.

Possible alternatives

As noted above, IARC and Unions NSW propose a system whereby people are eligible for permanent residency after satisfying certain criteria that is objectively achievable by the visa applicant. This will empower people to make informed decisions about both their work and their lives in Australia. A possible mechanism could be a permanent residency pathway through the PALM Scheme (or a scheme that better supports migrant workers), whereby people who have worked in that scheme for a number of years and satisfy certain health and character requirements are then eligible for permanent residency.

We welcome any opportunity to discuss our submissions further with the Committee.

¹ SBS News, Pacific Islander farm workers demand justice after claims of 'modern slavery', 22 February 2022, <https://www.sbs.com.au/news/article/pacific-islander-farm-workers-demand-justice-after-claims-of-modern-slavery/ylxf0k3wj>

² ABC News, Pacific nationals working on Queensland farms claim they are barely making enough money to survive, 1 February 2022
<https://www.abc.net.au/news/2022-02-01/pacific-worker-slaves-bundaberg/100793780>



Please do not hesitate to contact us should you wish to discuss.

Yours sincerely,

IMMIGRATION ADVICE AND RIGHTS CENTRE Inc and UNIONS NSW

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