



18 February 2016

Committee Secretary
Parliamentary Joint Committee on Law Enforcement
PO Box 6100
Parliament House
Canberra ACT 2600

UnionsWA Incorporated • ABN 64 950 883 305
Level 4, 445 Hay Street, PERTH WA 6000
PO Box Z5380, St Georges Tce, PERTH WA 6831
Tel: +61 8 9328 7877 • Fax: +61 8 9328 8132
unionsyes@unionswa.com.au • www.unionswa.com.au

Email: le.committee@aph.gov.au

Dear Madam/Sir

UnionsWA submission to inquiry into human trafficking

UnionsWA is the governing peak body of the trade union movement in Western Australia, and the Western Australian Branch of the Australian Council of Trade Unions (ACTU). As a peak body we are dedicated to strengthening WA unions through co-operation and co-ordination on campaigning and common industrial matters. UnionsWA represents around 30 affiliate unions, who in turn represent approximately 140,000 Western Australian workers.

UnionsWA thanks the Joint Committee for the opportunity to make a submission to the inquiry into human trafficking. Our concern about this issue is part of our general concerns about labour rights abuses of foreign workers arising out the Australian work visa system. Accordingly we have made submissions to various parliamentary inquiries and official reviews of that system.

UnionsWA would like to address the following term of reference for this inquiry:

5. the extent to which human trafficking is facilitated by:

a. migration visas (including marriage, partner, student and work visas)

We have been particularly concerned the continuing pressure from employer groups, and government policy makers, to

- a) make work visas easier to obtain (e.g. by reducing labour market testing requirements) for the benefit of employers,
- b) reduce the obligations of those employers to provide fair working conditions, and
- c) shorten the length of stay for visa holders themselves.

One of the more recent, egregious examples of this pressure is the Department of Immigration and Border Protection's 2015 proposal for a new 'short-term mobility' subclass of visa that would allow

companies to bring employees in work of up to a year, without requiring the same language, skill and labour market testing as the current 457 visa.¹

UnionsWA argues that such proposals will make abuses such as human and labour trafficking, and the accompanying slave-like treatment of workers, much easier – as they will increase the power of employers over workers. These arrangements will take away the ability for temporary workers to become settled in Australia, and will restrict their meaningful interaction with Australian society. Employers will have the power to endlessly rotate workers staying for just under one year, which will create a highly transient and unstable situation in these workplaces leaving workers open to exploitation and abuse. Looser validity criteria for work visas will make them extremely useful for those who wish to engage in human trafficking for the purposes of slavery. In 2010 the Australian Institute of Criminology published a study *Labour Trafficking* which found that groups who were at risk from unlawful conduct included

*workers at the lower end of the Australian Standard Classification of Occupations (ASCO) skill scale on 457 visas (also known as Temporary Business (Long Stay)—Standard Business Sponsorship [Subclass 457] visa) from developing countries and their spouses (known as secondary visa holders); – workers on various visa categories, in particular industries such as industrial cleaning, meat works, hospitality, construction, manufacturing, agriculture;*²

The study, conducted with assistance from UnionsWA and our affiliated unions, found that the meat industry in Western Australia had a ‘significant potential for the full spectrum of exploitation’.

A representative from the Australasian Meat Industry Employees Union, Western Australia (AMIEU WA) noted that the nature of the industry itself lends itself to exploitation; it is a labour intensive industry that is generally low technology and relatively low profit industry. The industry struggles to attract staff, with a high proportion of workers in the industry having low levels of education and literacy.

The AMIEU reported that, with ‘labour shortages increasingly affecting the industry, employers have been drawing on workers from overseas’.

*[T]his was described as being a ‘profoundly rich territory for exploitation’ both because of the nature of the industry itself, but also because the migrants that are being employed are people who are coming from very poor countries—Nigeria, the Philippines, China, Korea—and they would have been on very low salaries even in their own countries. The people who are employed have very little or no understanding of industrial conditions, so in that sense, very little in the way of coercion is required to get them to ignore safety or other standards.*³

A more recent case of potential exploitation in WA was uncovered in May 2014, when over 500 law enforcement agents raided properties in Perth’s northern suburbs, particularly a market garden

¹ AFR, *Short-term mobility visa opens doors to skills ‘flexibility’* (8 Jan 2015)

<http://www.afr.com/news/politics/shortterm-mobility-visa-opens-doors-to-skills-flexibility-20150107-12jufk>

² Fiona David, *Labour trafficking*, Australian Institute of Criminology, 2010 (p.x)

<http://www.aic.gov.au/documents/A/9/0/%7bA90867A2-1558-4B01-A233-34B3381D2F6D%7drpp108.pdf>

³ *ibid* (p.33)

compound at Carabooda, where more than 130 foreign nationals were taken into custody. According to media reports

Australian Federal Police Assistant Commissioner Ramzi Jabbour said it was alleged the workers were underpaid.

"It's alleged that the syndicate used foreign nationals who entered this country lawfully, many of whom over-stayed their visas and were subsequently illegally harboured by the syndicate," he said.

...

WA Police Minister Liza Harvey said on Sunday the workers had been shanghaied into working at low rates and in conditions that other Australian workers would never tolerate.⁴

The case of the workers from Carabooda has been handled by the Employment Law Centre (ELC) of WA. The ELC is a community legal centre that provides free, confidential employment law advice, assistance, advocacy, representation, education, information and referrals to vulnerable, non-unionised employees in WA. UnionsWA and affiliated unions are supporting organisations for ELC.

In July 2015 the ELC testified before the Senate's Education and Employment References Committee *inquiry into the impact of Australia's temporary work visa programs on the Australian labour market and on the temporary work visa holders*. They informed the committee about the employment law issues that their clients who are work visa holders continue to face in WA. Those cases include situations where:

- Temporary work visa holders have reported receiving less favourable pay and conditions than Australian workers;
- Temporary work visa holders have been exploited on threat of deportation – e.g. they have been required to pay for vehicle damage for which they were not responsible or which could have been recovered on insurance.
- Temporary work visa holders have been subjected to assaults, underpayment of entitlements, threats of deportation, unreasonable working hours and other forms of mistreatment;
- Employers have demanded that clients repay visa fees and other associated costs if they leave their employment within a certain period of time;
- Clients have been selected for redundancy and they consider that they were selected because they were temporary work visa holders;
- Clients on temporary work visas decided against enforcing their entitlements or making a claim because they were concerned about losing their job and being deported.⁵

⁴ ABC 'Carabooda raids: Numerous charges after WA operation targets organised crime', 5 May 2014
<http://www.abc.net.au/news/2014-05-05/ten-charged-after-carabooda-raids-uncover-foreign-workers/5429852>

⁵ Senate Education and Employment References Committee *inquiry into the impact of Australia's temporary work visa programs on the Australian labour market and on the temporary work visa holders*
http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Education_and_Employment/temporary_work_visa/Public_Hearings

Given these situations outlined by the ELC, UnionsWA continues to be concerned that government and business group proposals to make work visa requirements shorter and more 'flexible' will inevitably place more power to exploit in the hands of employers. This situation will add to an already toxic brew of worker exploitation, facilitating the growth of human trafficking.

UnionsWA and its affiliates would be happy to speak directly to the Joint Committee. Please contact me if you would like to discuss matters further.

Yours sincerely

Meredith Hammat
Secretary