

## **SLAVERY OR SALVATION?**

### **UNSKILLED LABOUR MIGRATION INTO QUEENSLAND**

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## Introduction

The immigration of low-skilled and unskilled workers into Queensland and other parts of Australia has a stormy history and remains a controversial issue today. The introduction of regulated migration programs in the 1960s and the annual planning of immigration intakes by the Minister for Immigration have focused exclusively on skilled immigrants, family reunion and, to a lesser degree, on refugee and humanitarian immigration schemes.

The Australian immigration system, together with the country's economic development and comparatively high education levels, has reduced the availability of low-skilled and unskilled workers within Australia. As a result, there is significant unmet labour demand, especially in the horticulture industry in Queensland, New South Wales, and Victoria. Jobs in these industries are often filled by working holiday makers or by illegal foreign workers who often work in poor conditions and do not receive adequate pay and other benefits.

Several industry groups, along with researchers, lobbyists, and some segments of the community have advocated immigration schemes for low-skilled and unskilled workers for some time. Furthermore, overseas nations with high unemployment and large pools of low-skilled workers, in particular neighbouring Pacific Islands, have called for the creation of schemes which would allow their nationals to work in Australia in order to escape unemployment and send remittances back to their home country.

Until recently, successive Australian Governments have, however, rejected any proposal for formal regulation of unskilled labour immigration. Large parts of the community and some political movements also remain fiercely opposed to the immigration of unskilled workers for fear they may be willing to work for lower wages, take away jobs from Australian workers, and may overstay their visas and not return to their home countries.

In short, the debate about unskilled foreign workers remains extremely polarised despite high levels of unmet labour demand in certain industries.

In August 2008, the Australian Government changed the course of Australia's migration policy when it announced the introduction of the Pacific Seasonal Worker Pilot Scheme (PSWPS). This scheme allows unskilled workers from selected Pacific Islands to work in the Australian horticulture industry.

This scheme attempts to address two separate but equally important issues: First, the PSWPS seeks to provide growers — who have previously had to rely on transient, unsustainable, and sometimes illegal pools of workers — with a reliable source of seasonal harvest labour. Second, the pilot scheme aims to contribute to the economic development of Pacific Island nations through seasonal employment opportunities, remittances, and training.

The introduction of the PSWPS has been met by opposition, criticism, scepticism, but also by praise, and support.

Some opponents fear that the scheme could downgrade productivity and competitiveness of Queensland's prized agriculture industry. Following the introduction of a foreign labour program, a practice could develop amongst growers to resist investment in new technology and farm management systems. Instead, horticulture growers make decisions based upon assumptions that migrants will continue to be available for work. Additionally, some critics remain sceptical about the economic costs and benefits of the PSWPS. Others fear that some temporary workers may abscond and overstay their visas and create a burden to the Australian community. Concerns have also been expressed that the scheme creates a new 'underclass' of migrant workers and have likened the PSWPS to slavery and so-called 'black-birding' practices that were used in the early days of Queensland's history.

On the other hand, industry groups, Pacific Island nations, and many of the workers employed under the scheme have generally welcomed the introduction of the PSWPS and point to the benefits for growers and workers. Proponents argue that the scheme has the potential to eliminate the need to employ illegal workers and that it creates improved working conditions and better wages in this industry. It has also been stressed that many fears over a perceived influx of foreign unskilled workers and high levels of so-called 'overstayers' are not based on facts.

This paper explores the PSWPS, contrasts it with the 'blackbirding' practice in the late 1800s, examines the perspective of Pacific island nations, the operation and early experiences of the PSWPS after two years of operation, and paves the way for a broader discussion about whether unskilled migration schemes like the PSWPS have the potential to prevent labour trafficking and the exploitation of foreign workers on a wider scale.

## History of Pacific Islanders in Queensland

### Queensland in the 1860s

For the first decades of British colonial rule in Australia, convicts provided a steady supply of inexpensive labour for agriculture.

The decline in convict transportation from the mid-1830s onwards led to pressure from wealthy pastoralists on the New South Wales Government to facilitate the immigration of non-European workers. It was thought that these labourers were well suited to the sort of hot, dirty work in the tropics. As a New South Wales parliamentary committee on immigration stated in 1837

in the event of a settlement being formed to the northward, where the heat of the climate might be too oppressive for the European labourer, and where the culture of sugar, cotton, coffee, and tobacco might be prosecuted with advantage [...] the introduction of Indian labourers would be conducive to the general benefit of the colony<sup>1</sup>

These calls were largely ignored until the colony of Queensland was separated from New South Wales in 1859. Pastoralists quickly took advantage of agricultural labour shortages in the new colony to justify the introduction of cheaper, indentured labourers from Asia and the Pacific. Ultimately, over 62,000 labourers from the Pacific Islands would be brought to Queensland between 1863 and 1904.

### Captain Towns and the rise of 'blackbirding'

Captain Robert Towns is widely regarded as Queensland's first employer of labourers from the Pacific Islands, who are often referred to as 'Kanakas' (a term historically used for native Hawaiians). From 1863, these labourers were put to work on the Captain's Townsvale cotton plantation, located north of what is now Beaudesert, south of Brisbane.

Queensland's cotton industry developed rapidly in the early 1860s, due to price rises during the American civil war, which had dramatically reduced exports of slave-cultivated cotton

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<sup>1</sup> 'Final Report of the Committee on Immigration (Indian and British) into New South Wales' 25 August 1837, vol. 19, *BPP, Emigration*, 433-6. Quoted in: Janet Doust, 'Setting Up Boundaries in Colonial Eastern Australia: Race and Empire' (2004) 35(123) *Australian Historical Studies* 152, 161.

from the Confederate States. With the end of the civil war, the development of local sugar industry and the move north towards more productive agricultural land, the employment of Pacific Island labourers in sugar cultivation became dominant.

Henry Ross Lewin was employed by Captain Towns as his chief labour 'recruiting' agent and supervisor. As demand for labour increased and the colony's industry developed, Mr Lewin went into business as a labour "agent", operating his own recruiting ship and advertising in local newspapers. In his advertisements, Mr Lewin stated that for £7 per labourer, he would be 'happy to receive orders for the importation of South Sea natives to work on the cotton and sugar plantations now rapidly springing up in this colony' and that 'parties favouring Lewin with orders could rely on having the best and most serviceable natives to be had among the islands'.<sup>2</sup> Blatant commodification was also displayed by the entry of John Fenwick & Co Auctioneers, located in Queen Street, Brisbane, into the labour trade; in addition to farm machinery, the company now also sold people.

At this stage the trade in persons was subject to no regulation. Kidnappings, also known as 'blackbirding', murder, extortion and exploitation quickly became the hallmarks of the trade. These were issues the Colonial government felt could be ignored, especially given that the Premier of the day, Mr Robert Mackenzie, was a partner of Fenwick & Co, and many other members of the Government, as pastoralists and land-owners, had a vested interest in the trade's unregulated continuation.

As Figure 1 shows, the Pacific Labour trade impacted directly on the lives of many people across the region, and was neither limited to Queensland nor to the cultivation of sugar. Another British colony, Fiji, was also a major hub of the trade. Other industries implicated in the trade apart from sugar were pearl fishing in the Torres Strait, cotton growing in New Caledonia, Samoa, and Tahiti, and phosphate extraction in Nauru and Palau.

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<sup>2</sup> Cited in: Edward Wybergh Docker. *The Blackbirders: A Brutal Story of the Kanaka Slave-Trade*. (1971, Angus and Robertson, Sydney) 45.

Figure 1: Pacific islands labour flow since 1860

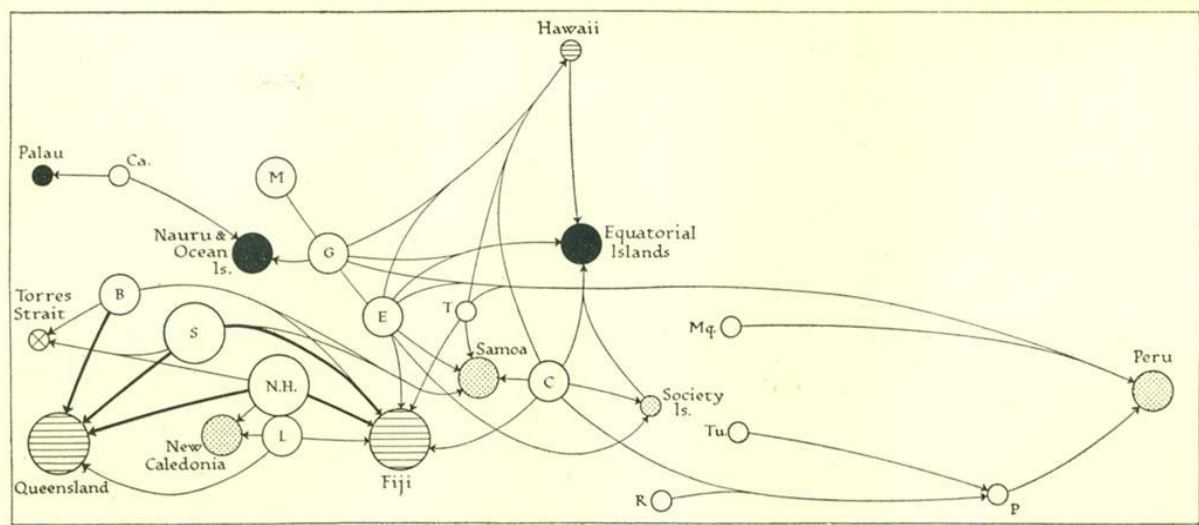


Fig. 91. Pacific islands labour flow

This cartogram illustrates the movement of native labour in the Pacific islands area since 1860. The size of the circles which represent the various island groups indicates roughly their importance as areas of recruitment or of employment. Detailed explanation is as follows:

*Areas of recruitment* : ○ ; Ca., Caroline islands ; B, Bismarck archipelago ; S, Solomon islands ; M, Marshall islands ; G, Gilbert islands ; E, Ellice islands ; N.H., New Hebrides ; L, Loyalty islands ; T, Tokelau group ; C, Cook islands and Niue ; Mq., Marquesas ; Tu., Tuamotu archipelago ; R, Rapa ; P, Easter island.

*Areas of employment* (principal occupations) : ⊖, sugar cultivation ; ⊕, cotton growing and other plantation agriculture ; ●, phosphate extraction ; ⊗, pearl and *bêche-de-mer* fishing.

Based on contemporary books, printed official reports, and manuscript sources.

### Polynesian Labourers Act 1868 (Qld)

Perceptions started to change in the late 1860s. The British Colonial Office pressured Queensland to prevent abuses of Kanakas around the French possessions of New Caledonia. The death of 24 labourers due to dysentery on board the *Syren* in 1867, eventually led to the introduction of legislation to regulate the trade.

The *Polynesian Labourers Act* of 1868 was the first attempt by the Queensland Government to regulate the labour trade. In theory, it sought to strike a balance between the interests of labourers and plantation owners, as can be seen from the Act's preamble:

[M]any persons have deemed it desirable and necessary in order to enable them to carry on their operations in tropical and semi-tropical agriculture to introduce to the colony Polynesian labourers [...]

[I]t is necessary for the prevention of abuses and for securing to the labourers proper treatment and protection as well as for securing to the employer the due fulfillment by the immigrant of his agreement.

In practice, the Act was largely not enforced, which is unsurprising given the vested interest of members of government in the trade's unhindered continuation. The interests of workers were ostensibly protected not as end in themselves, but as a means of comforting those in the colonies and in London that something was being done to control the trade.

The legislation provided for government supervision of labourers on plantations, and for immigration checks at their point of arrival. The Act required that employers applied to the authorities for recruitment approval specifying the number of labourers desired before engaging a recruiting agent to source those workers from the Pacific islands. Recruiting agents were also prohibited from kidnapping any workers. Minimum standards for the voyage, which was not to be longer than 15 or 30 days, depending on the type of vessel

involved, were provided, as were minimum standards for employment contracts which were specified to be for a duration of 3 years.

Figure 2 shows the standard contract, as set out in the *Polynesian Labourers Act 1868* (Qld) which was required to be signed onboard the recruiting ship. The agreement specifies minimum daily rations of 1 pound of mutton or 2 pounds of fish, 1 pound of bread, and various quantities of sugar or molasses, vegetables, tobacco, salt, soap and clothing per worker.

Figure 2: Standard contract, *Polynesian Labourers Act 1868* (Qld)

FORM D.

186 .

MEMORANDUM OF AGREEMENT made this day between

of the first part and of the second part  
of the first part as a per ship of the second part  
The conditions are that the said party of the second part engages to serve to the said party  
of the first part as a and otherwise to make generally useful  
for the term of calendar months and also to obey all or  
overseer's or authorised agent's lawful and reasonable commands during  
that period in consideration of which services the said party of the first part doth hereby  
agree to pay the said party of the second part wages at the rate of not less than six pounds  
(£6) per annum to provide with the understated rations daily to provide  
suitable clothing and proper lodging accommodation and to defray the expense of  
conveyance to the place at which to be employed to pay wages in the coin  
of the realm at the end of each year of the agreement and provide them with a return  
passage to their native island at the expiration of three years No wages shall be deducted  
or medical attendance.

DAILY RATION.

	lbs.	ozs.
Beef or mutton (or 2 lbs. of fish) ... ..	1	0
Bread or flour ... ..	1	0
Molasses (or sugar) ... ..	0	5
Vegetables (or rice 4 oz. or maize meal 8 oz.) ...	2	0
Tobacco (per week) ... ..	0	1½
Salt (per week) ... ..	0	2
Soap (per week) ... ..	0	4

CLOTHING.

	Yearly.
Shirts (one of flannel or serge) .. ..	2
Trowsers pairs ... ..	2
Hat ... ..	1
Blankets ... ..	1 pair.

In witness whereof they have mutually affixed their signatures to this document.

Witness: The

In 1871, the Queensland Government assigned its first on-board inspection agent, Mr John Meikeljohn, to the *Jason*, which was under the command of Captain John Coath, a former deputy of Henry Ross Lewin. The blackbirders were not pleased by this new development: throughout the first stages of the voyage, Mr Meikeljohn was threatened and continuously abused by the captain and crew, particularly when he began to question the provisions on board, which clearly did not meet the requirements specified in the *Polynesian Labourers Act 1868* (Qld).

When the ship began recruiting Islander's by hauling their canoes alongside the ship and forcing them into the hold where they were chained, Mr Meikeljohn protested. Captain Coath threatened him with a revolver until he backed down. Later in the voyage, according to Mr Meikeljohn's account, Captian Coath said:

If I thought you would report me, you would never see Maryborough, as it would be very easy to put you out of the way, and that I surely could not be so cruel, as it would completely ruin him and his family. [...]

I took about a wine-glassful of wine out of tumbler, standing at the time in the cabin in front of the captain's berth. [...] The next thing I remember was finding myself in the ship's hold among the islanders, handcuffed and chained.<sup>3</sup>

It was this first-hand account that proved crucial in the conviction of Captain Coath for the kidnapping of the islanders during the voyage. It was only when a white man was imprisoned that the machinery provided by the Act, supposedly designed to protect Islanders, moved to condemn the practices of the recruiters.

In Captain Coath's appeal against conviction, the Queensland Supreme Court stated that failure to stop abuses by the recruiters would jeopardise both the future development of the colony and the reputation of the British Empire:

[I]f once amongst these nations an opinion should get abroad that our law proceeded upon principles so inhuman that their rights could be violated with impunity by any man who might choose to sally forth to outrage them, I say that the safety of commerce itself and the blessings it maintains — the safety of our fellow subjects and fellow colonists — would be endangered [...].<sup>4</sup>

### The end of indentured labour

The *Pacific Island Labourers Act 1880* (Qld) and its subsequent amendments sought to restrict the operation of the trade in the colony, through restricting Pacific island labourer employment first to jobs connected to tropical and semi-tropical agriculture, then only to harvesting and processing, and eventually only to harvesting.

The *Pacific Island Labourers Act Amendment Act 1885* (Qld) provided that no new agreement was to be entered into from 1891 onwards, and would have effectively ended the trade from 1894. However, under intense pressure from plantation-owners, and recognising that the Queensland economy had become dependent on plantation-grown sugar, and that the plantations were dependent on indentured labourers, the Act was later amended by the *Pacific Island Labourers (Extension) Act 1892* (Qld), indefinitely extending the operation of the trade.

At the Constitutional Convention of 1892, Sir Samuel Griffith advocated the inclusion of a power for the new Commonwealth Government to make special laws for the people of any race, which eventually became part of the Australian Constitution, and was used to support the exclusion and deportation of Pacific Island labourers after Federation under the *Pacific Island Labourers Act 1901* (Cth).

The 'White Australia' policy as introduced by the *Immigration Restriction Act 1901* (Cth), in which the prohibition on Pacific Island labourers played a major role, included as a prohibited migrant 'any persons under a contract or agreement to perform manual labour'.<sup>5</sup>

The experiences of agricultural slavery in Queensland from 1863 to Federation had profound and lasting consequences for the peoples of the Pacific region, but they also were crucially

<sup>3</sup> Quoted in: Edward Wybergh Docker. *The Blackbirders: A Brutal Story of the Kanaka Slave-Trade*. (1971, Angus and Robertson, Sydney), 73.

<sup>4</sup> *R v Coath* [1871] 2 SCR (QLD) 178 at 179 per Cockle CJ.

<sup>5</sup> *Immigration Restriction Act 1901* (Cth) s 3(g).

important in developing a persistent aversion amongst Australian governments to the idea of temporary labour migration.

## Contemporary Perspectives

A hundred years since the indentured labour trade, the picture of the Pacific looks a bit different. The Pacific islands are made up of some 30,000 islands. For the purposes of this paper, 'the Pacific islands' refers to the fourteen member states of the Pacific Islands Forum, not including Australia and New Zealand.<sup>6</sup>

### The perils of being small

Today, the Pacific islands face significant economic, social and environmental challenges which hamper their capacity to develop.

Pacific island nations have high levels of unemployment and underemployment. As a result of their small domestic markets, which are distant from international trade flows, the Pacific islands do not benefit from economies of scale — that is, they do not benefit from the potentially high profits to be generated from mass production with low fixed costs.<sup>7</sup>

Furthermore, there is a large unskilled population who work in the informal sector. Unemployment disproportionately affects young people, who also represent a significant proportion of most Pacific island nations' overall population.<sup>8</sup> While poverty has not traditionally been regarded as a major problem for Pacific island nations, after several decades of poor economic growth, fairly rapid population growth and urbanisation, among other factors, poverty is an emerging issue for some countries.<sup>9</sup>

While many Pacific island countries have moved past the peak of their youth bulge, economic growth rates have not kept pace and opportunities for most young people remain limited.<sup>10</sup> Many young people therefore choose to seek a better life elsewhere, as the opportunity to do so arises. This process of emigration is facilitated by the presence of large diaspora abroad.

A recent meeting of the Pacific Islands Forum identified climate change as 'the greatest threat to the livelihoods, security and well-being of the peoples of the Pacific'.<sup>11</sup> The Pacific islands are struggling to address loss of biodiversity, threats to freshwater resources, degradation of coastal environments and land and sea pollution.<sup>12</sup> Furthermore, the

<sup>6</sup> That is, the Cook Islands, Federated States of Micronesia, Fiji, Kiribati, Nauru, Niue, Palau, Papua New Guinea, Republic of Marshall Islands, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu.

<sup>7</sup> See, e.g. UNESCAP, 'Improving Employment Opportunities in Pacific Island Developing Countries' (2007) 1 *Small Island Developing States Series*.

<sup>8</sup> World Bank, 'Pacific Islands: Development in 3D' (2009) Extract from *World Development Report 2009* and other reports, p. 2.

<sup>9</sup> Lesley Russell, 'Poverty, Climate Change and Health in Pacific Island Countries: Issues to Consider in Discussion, Debate and Policy Development' (2009) *Menzies Centre for Health Policy*, p 13.

<sup>10</sup> Mark Thomson, 'The Human Tide: An Australian perspective on demographics and security' (2009) *ASPI: Strategy*, p. 48.

<sup>11</sup> *Forum Communiqué*, Forty-first Pacific Islands Forum, Port Vila (Vanuatu), 4-5 August 2010, para 5.

<sup>12</sup> Lesley Russell, 'Poverty, Climate Change and Health in Pacific Island Countries: Issues to Consider in Discussion, Debate and Policy Development' (2009) *Menzies Centre for Health*



vulnerability of these nations to natural disasters is likely to be exacerbated as the effects of climate change worsen.

These economic, social and geographical pressures will undoubtedly accelerate, and perhaps necessitate, the movement of people from the Pacific islands, potentially even as refugees.

### **Calls for unskilled labour migration programs**

Pacific leaders have called for preferential migration agreements with Australia and New Zealand since the 1960s.<sup>13</sup> Undeniably, access to Australia's labour market can be characterised as a long-term policy goal for Pacific nations. Despite their persistence, Australian governments categorically ignored the Pacific island nations' calls for access to Australia's labour market, citing Australia's non-discriminatory immigration policy as the decisive factor.

In 1971, Ratu Mara, Fiji's then Prime Minister, called Australia's immigration policies 'racist' and recommended the establishment of a guest-worker scheme.

Throughout the 1970s and 1980s, other Pacific leaders took up Mara's call. Lobbying Australia for a guest-worker scheme was a recurrent theme in communiqués from the Labour Ministers.

In 2004, at the Pacific Island Forum's Economic Ministers' Meeting, specifically raised the issue of labour mobility within the region as an overlooked tool for economic development. In 2005, the Pacific Islands Forum adopted the *Pacific Plan* as a road map for strengthening regional cooperation and integration. While the Plan makes no explicit mention of labour mobility, it is clear that it was contemplated as a key expression of the *Pacific Plan*. In fact, the 2005 Forum Communiqué explicitly states: 'In endorsing the Plan, Leaders agreed to note in particular the need to [...] continue to consider the issue of labour mobility in the context of member countries' immigration policies.'<sup>14</sup>

The establishment of guest-worker schemes would constitute a clear demonstration of Australia and New Zealand's commitment to regional integration.

At the close of the 2005 forum, then New Zealand Prime Minister Ms Helen Clark announced the establishment of the Recognised Seasonal Employer (RSE) scheme, which was instituted one year later.

In Australia, a proposed pilot Pacific guest-worker scheme was considered and rejected by Cabinet in the planning of the 2005–06 immigration program. At the Pacific Islands Forum meeting on October 25, 2005, then Australian Prime Minister Mr John Howard made the following comments alongside Ms Clark as she took questions from the media about New Zealand's proposed guest worker scheme:

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*Policy*, pp 17-18.

<sup>13</sup> See John Connell, 'Emigration from the South Pacific: An Australian Perspective' in Committee to Advise on Australia's Immigration Policies, Parliament of Australia, *Immigration: A Commitment to Australia – Consultant's Reports* (1988). Connell provides a detailed outline of most Pacific lobbying efforts in the 1970s and 1980s. Unless otherwise indicated, examples are taken from Connell's report.

<sup>14</sup> *Forum Communiqué*, Thirtieth Pacific Islands Forum, Port Moresby (Papua New Guinea), 25-27 October 2005, para 4(4).

[W]e have had some long standing reservations about the concept. We apply an open, non-discriminatory immigration policy and people from the Pacific Island area come in increasing numbers. We have always had a preference for permanent settlement or permanent migration [...]

There are some fundamental issues involved in seasonal workers and it's not something that in the past Australia has felt inclined to embrace and it's not something that we change our policy on regularly. [...] I think you either invite somebody to your country to stay as a permanent resident or a citizen or you don't.<sup>15</sup>

As a small concession, Mr Howard did announce the establishment of the Australian-Pacific Technical College in order to establish a higher education facility to train Pacific islanders in skills that would then make them eligible for migration to Australia under existing visas. This measure was consistent with the focus on skills in the migration program that has been particularly pronounced since 1996.

### Labour demand

Around the same time, calls from Australian industry, particularly peak agricultural bodies, in support of such a scheme were growing louder.

Several reports written by industry associations made a persuasive economic case for an unskilled migration program.<sup>16</sup> In labour intensive sectors, such as horticulture, the crop wastage and economic loss from chronic labour shortages is particularly serious; for example, \$1.1 billion is lost in company tax alone. The logical solution therefore, would be the creation of an unskilled seasonal guest-worker scheme to supplement the existing labour force and at the same time meet the development demands of Pacific island nations. Even though such a program would signify a departure from Australia's skilled, non-discriminatory migration program, it was arguably necessary for the continuing viability of the horticulture industry.

The Senate Committee on Employment, Workplace Relations and Education endorsed this line of reasoning in its 2006 *Inquiry into the use of labour from countries in the Pacific region to meet the seasonal employment needs of the horticultural and other intense agricultural industries*.<sup>17</sup>

### Labour supply

A further important consideration in setting up unskilled labour migration schemes is the demographics of the labour force in Australia's horticulture industry.

Given the seasonal nature of work in the horticulture industry, Australian citizens and residents have generally proven reluctant to fill the labour void. Consequently, working holidaymakers, colloquially known as backpackers, and a combination of local and itinerant

<sup>15</sup> John Howarrd, 'Transcript of the Prime Minister the Hon John Howard MP Joint Press Conference with the Prime Minister of New Zealand the Hon Helen Clark MP (Port Moresby, Papua New Guinea)' (25 October 2005), p. 2.

<sup>16</sup> See, e.g. National Farmers' Federation, *Discussion Paper on Migration Options to resolve Labour Shortages in the Agricultural Industry* (2005); Synapse Research & Consulting and Bob Hudson Consulting, *Australian Farm Sector Demography: Analysis of Current Trends and Future Farm Policy Implications* (2005).

<sup>17</sup> Senate, Education, Employment and Industrial Relations Committee, *Information about the inquiry* (2006), *Inquiry into Pacific Region seasonal contract labour*. For more information on calls from industry, see the submissions to this inquiry.

Australian labourers, have largely filled the labour shortage. However, the National Farmers' Federation notes that the high turnover, continual training costs, and volatility of workers limits the suitability of backpackers as a durable solution to the labour shortage.<sup>18</sup>

More importantly, Australia's horticulture industry has also been repeatedly singled out as one of the main employers of illegal workers. For example, one in four growers in the Murray Valley surveyed in a 2005 study admitted to employing 'illegals', that is visa overstayers or people working outside their visa conditions.<sup>19</sup> As the Australian Workers' Union notes, undocumented workers are also most likely to accept below-average wages and are highly vulnerable to exploitation.<sup>20</sup>

One rationale for the introduction of unskilled labour migration programs in other developed countries has been to resolve the immigration status of migrants in industries susceptible to illegal workers, increase regulation of problem industries, and decrease the need for illegal labour supply in the future.

## PSWPS

The Pacific Seasonal Workers Pilot Scheme, or PSWPS, commenced in November 2008. The pilot allows Australian employers to recruit people from the Pacific islands for temporary harvest work in the horticulture and viticulture industries.

The PSWPS pursues two different, but equally important goals: assisting the economic development of Pacific Island countries and addressing the unmet labour demand in Australia's horticulture and viticulture industries. It signifies a new level of engagement between Australia and Pacific Islands — ramping up labour mobility as a key geopolitical issue in the Pacific region and a key mechanism for regional integration. It is regarded within the region as pivotal to Australia's relationship with the Pacific, and could be one by which Australia's relations with the Pacific will be judged in the next few years.

## Design

The pilot is being implemented in a two-staged approach. All up, 2,500 visas are available to Pacific Island workers. Phase 1 was in operation until last year, while Phase 2 commenced in July 2009 until the end of the 2011-2012 financial year. The estimated cost of the scheme is 23.6 million dollars.

The four participating countries, Kiribati (a Micronesian nation), Tonga in Polynesia, Vanuatu in Melanesia, and Papua New Guinea have a set number of places available as shown on this slide.

Only 76 workers are in the country at the moment and have been placed in properties around Mundubbera in Queensland, Guyra in New South Wales and Robinsvale in Victoria. Larger numbers of workers are expected to arrive in Australia for the 2010-11 harvest season.

<sup>18</sup> National Farmers' Federation, *Labour Shortage Plan 2008* (2008), see p. 82-87.

<sup>19</sup> Peter Mares, 'Labour Shortages in Murray Valley Horticulture' (2006) *Institute for Social Research* (Swinburne University of Technology), p. 4, pp. 14-15 <<http://hdl.handle.net/1959.3/5610>> at 15 September 2010.

<sup>20</sup> Gary Hughes and Larry Schwartz, 'Outlaw Labour, Rorts and All', *Sunday Age* (Melbourne), 28 March 2004, p. 1.

## Employment conditions

The visas issued under the scheme allow workers to engage in seasonal work in Australia for seven months over a twelve-month period, with a minimum of at least six months work. They are allowed multiple entries during this time and are free to re-apply for the same visa class (subclass 416) in future years, subject to their compliance with visa conditions and the continuation of the PSWPS. It is in fact anticipated that most seasonal workers will return to Australia for employment in future harvests.

Participants in the scheme are required to pay for half their travel expenses, and their full living expenses and other incidentals. They are limited to working for approved employers, are not permitted to bring dependants, and are not permitted to apply for any other visa while in Australia. Further, seasonal workers who have previously participated in New Zealand's scheme are not eligible for participation in the PSWPS.

## Recruitment

Recruitment of employers for the PSWPS scheme is based on four Memoranda of Understanding (MoU) between Australia and the governments of Papua New Guinea, Kiribati, Vanuatu, and Tonga. While each country has different arrangements to recruit seasonal workers domestically, the MoUs are largely identical.

Under the PSWPS, the seasonal workers are not employed directly by growers but rather through an approved Australian employer. These approved employers oversee and manage the recruitment, employment, and placement of seasonal workers from the Pacific with eligible Australian horticultural enterprises.

For participation in the PSWPS, horticultural enterprises need to demonstrate an unmet local demand for labour. This is done to ensure that Australian nationals are not disadvantaged by the pilot scheme. The workers are then selected, an employment contract is set up, and they are placed with a horticultural enterprise.

The approved employers, rather than individual farmers, act as the workers' employers. This model aims to reduce the burden on growers by placing the responsibility for the seasonal workers onto approved employers; it seeks to add a buffer layer to the operation.

The process to become an approved employer is rather arduous. The organisation must lodge an Expression of Interest with the Department of Education, Employment and Workplace Relations (soon to be renamed). This sets out a long list of onerous requirements placed on the potential employer. The employer must then submit to the government outlining the way in which workers will be recruited and placed with horticultural enterprises. Once approved, the employer then enters into a deed with DEEWR as well as a Special Program agreement with the Department of Immigration and Citizenship (DIAC). Presently, there are seven approved employers participating in the pilot.

Once approved, a wide range of requirements are placed on approved employers. These include:

- Provide pre-departure briefing;
- Pay for return airfare (half can be re-couped);
- Identify work opportunities, accommodation, transport & pastoral care arrangements;
- Provide initial assistance (food, toiletries, clothing, etc);
- Ensure access to religious observance and recreational activities;
- Deliver on-arrival briefing and on-farm induction;

- Guarantee work of 30 hours/ week for 6 months;
- Appropriate rate of pay;
- Ensure compliance with visa conditions;
- Monthly reports that monitor progress of workers.

Concerns have been raised about the extent of responsibility and risks borne by the labour-hire companies. One main issue is whether this model is sufficiently responsive to fluctuations in the demand for labour. Another is the question whether a minimum of six months' continuous work is too onerous a requirement for the labour-hire companies. There are also concerns over the close management of workers required under this model.

### **Early experiences**

The PSPWS is still in its infancy, hence it is premature to make conclusive comments about the operation and effectiveness of this pilot. However, since its inception almost two years ago, a number of early observations can be made:

Firstly, the initial worker uptake by farmers in the PSWPS has been very limited despite claims of a rather large worker shortage in the industry. From the 2,500 visas made available to the four countries, only 123 visas were issued as at June this year.

One factor that is heavily impacting on the scheme is its competition with New Zealand's similar RSE Scheme, which has been operating fairly successfully since it began in 2007. Three of the four countries selected for the Australian pilot are already involved with New Zealand's RSE Scheme.

In undertaking the pilot, the Australian Government has tried to closely regulate the scheme in an effort to minimise risks of adverse outcomes, including exploitation of workers. However, it is these tight controls which could be making the PSWPS uncompetitive. The onerous requirements placed on approved employers in addition to the high costs of administering the scheme could be negatively impacting on the success of the scheme. The scheme's tight controls, are in stark contrast to those under the New Zealand model, which provides individual farmers or collectives of employers greater flexibility.

Other issues arise surrounding the size of the pilot scheme and the fact that it is not set up as a long-term solution. Some argue that the relatively small scale of the scheme is insufficient to test the appeal of having a seasonal labour program. The limited size of the pilot and uncertainty regarding its future may also prevent some farmers from investing in taking the time and money to place and train workers.

Finally, long recognised issues with temporary and guest-worker programs elsewhere also cloud the PSWPS. Whether the scheme is, in fact, an effective, long-term solution for the population pressures faced by Pacific Island countries, is plagued by doubts. While it offers potential as a useful tool for development, the practicalities may question its effectiveness.

### **Conclusion**

In conclusion, the question remains: is the PSWPS slavery or salvation? The answer to this question focuses on three separate issues.

Firstly, ownership. The seasonal workers are closely tied to their employers and the horticultural farms on which they work. It is their employers who significantly determine

where they will be placed to work. Yet, on the flip side, the employers guarantee their pay for at least 6 months and provide them with other benefits the workers would not receive otherwise.

Secondly, restricted freedom. The visas granted under the scheme restrict workers to a particular type of work. The seasonal workers also cannot apply for permanent residence or another visa type while in the country. The workers are aware, however, that the scheme is industry-specific which provides them with some idea of what type of work they will be undertaking.

Finally, exploitation. The high associated costs of employing Pacific seasonal workers make them uncompetitive with the existing workforce, who are often willing to work for less. Yet it is the fair pay and other benefits the workers receive that keep the scheme from straying down the path of exploitation.

In summary, the PSWPS is neither a new form of slavery, nor does it offer salvation to the people of the Pacific islands. The scheme shares few similarities with the indentured labour trade of the late 19<sup>th</sup> century. But it also fails to get to fully tackle the two problems it sets out to solve. In its current form, it is not a durable solution. However, the symbolic significance of the pilot scheme must not be underestimated, even if uptake has been low. The PSWPS marks the important beginning of meeting the unskilled labour shortages Australia faces.

The issues that led Australia to introduce the PSPWS are not unique to this country. Economic and population developments have left some countries with a lack of workers to fill vacant positions. In some instances, local workers may also be unwilling to engage in work that is seen to be 'dirty or dangerous'. Elsewhere, rapidly ageing populations have created a vacuum in the workforce that cannot be filled by locals. As a result, a number of countries have high levels of unmet labour demand, especially for low skilled and unskilled workers in the agriculture industry, construction, hospitality, and domestic work.

This labour demand stands in sharp contrast to those countries where economic development is slow, unemployment high, and where a large population of young workers is ready and mobile to take up employment abroad and support their families with remittances. A substantial part of labour migration is irregular, uncontrolled by national governments and international organisations. In many cases these movements are illegal, violating immigration, emigration, or other border control laws. Frequently migrant workers fall victim to labour trafficking or are lured by the promises of scrupulous migrant smugglers.

In an attempt to control or at least manage immigration by migrant workers, most advanced economies have implemented schemes to direct the flow of migrant workers towards job vacancies, thus responding to industry demands and supporting local economies. Frequently the schemes involve recruitment agents that operate in the sending countries. Sometimes the destination countries liaise directly with the governments of sending countries and vice versa. For the migrant workers, these schemes assist in finding employment abroad and also have the potential to prevent labour trafficking and other forms of illegal migration, such as migrant smuggling.

Future research of The University of Queensland's Human Trafficking Working Group will examine the rationale, design, operation, advantages and disadvantages of the PSWPS and other controlled migration programs for low-skilled and unskilled workers in advanced economies of Asia and Oceania and assess how these programs impact on labour trafficking, the use of illegal workers, exploitation of foreign workers, and migrant smuggling.

