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Foreword | *As part of the Australian Government's response to trafficking in persons, the Australian Institute of Criminology (AIC) has undertaken preliminary research to assess the risks and protective factors for labour trafficking and to identify matters for priority research. In this context, a literature review is presented of Australia's Pacific Seasonal Worker Pilot Scheme (PSWPS), which is designed to enable Pacific Islanders to temporarily work in the horticultural sector and following a recent announcement, to also allow East Timorese access to tourism work in Australia. The paper is informed by literature relating to the longer running New Zealand Recognised Seasonal Employment (RSE) Program, supplemented with targeted stakeholder consultations conducted between 2008 and 2010 in the Pacific. At this early stage, the PSWPS is regarded as a positive development in the legal sourcing and use of overseas temporary labour but its planned growth will nonetheless be challenging. The RSE may provide valuable lessons for the recently announced expansion of the PSWPS and other temporary workers schemes for Pacific Islanders.*

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Australia's Pacific Seasonal Worker Pilot Scheme: Managing vulnerabilities to exploitation

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Australia is not immune to the risks of labour trafficking; labour shortages, sector tolerance to illegal work practices and the recruitment of vulnerable workers can result in labour exploitation (David 2010). The horticultural sector in Australia is experiencing some of these risks and Pacific Islanders are a vulnerable migrant group working in this sector.

Australia's Pacific Seasonal Worker Pilot Scheme (PSWPS) aims to create a safe pathway for unskilled or low-skilled Pacific Islanders to temporarily work in Australia's horticultural sector. Recent research by the AIC suggests that addressing labour trafficking does not just involve prosecuting the most extreme cases but should also have a focus on preventing and reducing a broader spectrum of practices that create an environment that is tolerant, or even encouraging, of exploitation (David 2010). While the PSWPS is not an anti-trafficking program, it has been designed and piloted to prevent a broad spectrum of poor or illegal labour practices and therefore may assist to prevent labour trafficking in Australia and regionally. This paper provides an analysis of the PSWPS and examines emerging evidence about how the program manages risks of exploitation of overseas temporary workers from the Pacific Islands.

Pacific Island migrant workers in Australia

Australia has experienced a steady influx of Pacific Islanders, particularly from Fiji, who settle in major capital cities including Sydney, Melbourne and Brisbane, as well as the regional horticultural centres of Griffith in New South Wales and Mildura in Victoria (Rose, Quanchi & Moore 2009). The size of the Pacific Islander population in Australia has grown significantly over the past 40 years. In 1966, the Australian Bureau of Statistics reported that there were 3,005 people born in the Pacific Islands now living in Australia; this reached 100,000 by the 2006 census and is increasing by more than 3,000 per year (see Table 1; Rose, Quanchi & Moore 2009). Most entry into Australia by Pacific Islanders has been via migration arrangements from New Zealand, which may obscure the Pacific Island origins of many migrants in Australia. For this reason, Rose, Quanchi and Moore (2009: 100) argue that for Pacific Islanders in Australia

the official population statistics are not accurate and may be misleading...Pacific Islanders as a single entity or in their separate homeland communities are mostly invisible in the social atlas.

Table 1 Estimates of Pacific Islanders in Australia by major countries of origin

Country of origin	2006 census figures ^a	Unofficial estimates ^b
Fiji	48,150	70,000
Papua New Guinea	24,020	30,000
Samoa ^c	15,240	29,000
Tonga ^c	7,580	24,000
Cook Islands ^c	5,030	n/a

a: DIAC 2009a

b: Rose et al. 2009

c: These figures obscure those arriving under a New Zealand passport, as a large proportion of Australia's New Zealand population is of Polynesian descent

Estimates of the number of *documented* residents in Australia of Pacific Island descent range from 300,000 to 500,000 (Rose, Quanchi & Moore 2009).

There has been a considerable increase in Pacific Islanders entering Australia and most have done so legally. Of the estimated 48,720 unlawful citizens at June 2009, 1,450 (3%) had a Pacific Island as their country of origin, with four Pacific Islands being the county of origin for unlawful citizens; in descending order these were Fiji (n=900), Tonga (n=820), Samoa (n=300) and Papua New Guinea (n=250; DIAC 2010). Those Pacific Islanders who have unlawful status are at greater risk of exploitation since unlawful status can increase the opportunities for coercion into exploitative labour practices and potentially trafficking (Joudo Larsen 2010).

The New Zealand Recognised Seasonal Employer Scheme

The RSE was established by the NZ Government following discussions at the Pacific Island Forum held in Papua New Guinea in 2005 (Rose, Quanchi & Moore 2009). It aims to create a sustainable seasonal supply of experienced labour for the horticulture and viticulture sectors (NZDoL 2010). The scheme also responds to 'significant concerns' about 'poor and illegal business practices' by labour contract companies hiring overseas migrant workers (NZDoL 2010: 3). For example, in 2007, eight Thai nationals allegedly paid NZ\$14,000 each on the promise of pay and conditions that were subsequently not met ('Thai workers complain of exploitation in New Zealand' *humantrafficking.org* 5 Aug 2007. <http://www.humantrafficking.org/updates/675>).

Bilateral facilitative arrangements were negotiated between the NZ Department of Labour and the governments of five Pacific 'kick-start countries' (ie those countries initially participating in the scheme) of Kiribati, Samoa, Tonga, Tuvalu and Vanuatu (Luthria 2008; NZDoL 2010). The arrangements also allowed for labour to be sourced from additional countries under certain circumstances, including if a reasonable attempt to source labour from the five kick-start countries was not successful (NZDoL 2010). In 2007–08 (the first full season of the RSE), 126 New Zealand employers employed 2,883 overseas workers, 83 percent of whom came from the five Pacific kick-start countries (NZDoL 2009). In the second season, 7,157 workers arrived. Although there was a greater number of workers from the kick-start countries, they comprised a lower proportion (73%) of all workers compared with the previous year (NZDoL 2010).

In order to hire workers under the scheme, employers must first apply to the NZ Department of Labour for recognition as a Recognised Seasonal Employer and meet a range of conditions (Klapdor 2008; NZDoL 2010). Once recognised, employers must apply for an Agreement to Recruit for a specific number of workers under specific work arrangements. Under an Agreement to Recruit, an employer is able to directly recruit workers from participating countries, or may choose to obtain workers through agents in labour sending nations.

Demonstrating good practice, an evaluation was conducted on the first two seasons (1 April 2007–31 March 2008 and 1 April 2008–31 March 2009) of the RSE. The mixed-method evaluation sought information

from Pacific Island workers, employers, government officials, agents and industry and union representatives. Culturally appropriate practices were used to interview 159 workers from kick-start countries in 2008 from a total of 2,390 kick-start workers in 2007–08 and 5,207 in 2008–09. This was followed in 2009 by in-depth, on-site interviews with 32 workers from the three kick-start countries with the most participating workers being from Samoa, Tonga and Vanuatu. It was found that (NZDoL 2010: 70):

[o]verall, the RSE Policy has achieved what it set out to do. The policy has provided employers...with access to a reliable and stable seasonal workforce... Pacific workers and three pacific states have benefitted financially...Skill development has also been identified as a positive outcome for workers.

It was acknowledged in the report that the policy was still being 'bedded down' by all parties and that it would continue to 'evolve' (NZDoL 2010: xvii). In this context, it identified worker support and dispute resolution as key issues requiring attention. Related issues included criticism by some employers and unions of the 'facilitative' approach of the relevant regulator, the NZ Department of Labour (NZDoL 2010: xvii). While this approach contributed to the achievements of the RSE, on occasion 'more decisive action such as rescinding... RSE status' was required (NZDoL 2010: 68).

It was also found in the evaluation that protection processes were not easily accessible by workers (NZDoL 2010). In addition, some Pacific Islander workers did not understand their contracts. Indeed, in one Pacific country, the official contracts may not have been the same as those offered to workers (NZDoL 2010). The evaluation also found that deductions, especially for accommodation, had been varied and 'appeared excessive' for poor arrangements; at one site, there was an accommodation shortage and at another, site workers' movements were restricted to within a five kilometre radius (NZDoL 2010: 63). A matter for more detailed investigation was the workers' conditions. Overall, workers recruited under the Scheme

were regarded as highly productive, partly because they were willing to work 'in very hot, cold or windy conditions...long hours, weekends and night shifts' (NZDoL 2010: 56).

Although the scheme provides for a minimum remuneration regardless of the availability of work, and workers surveyed for the evaluation reported that they were generally satisfied with the amount they earned, it appears that for some, earnings were below the point of any net financial benefit. It was noted in the evaluation that for surveyed workers, it was only after working for over four months that workers were delivered a net financial benefit after deducting their costs (such as airfares, visa, health insurance and accommodation; NZDoL 2010). Yet a significant proportion (41%) of Islanders working under the RSE remained in New Zealand for less than four months (NZDoL 2010), which could increase their vulnerability to working excessive hours in order to ensure they returned home with a net financial benefit. Overstaying occurred in a couple of instances and one of the causal factors identified was insufficient work to supplement the minimum guaranteed remuneration (NZDoL 2010).

The RSE allows labour contract companies to be both the recruiters and employers of workers, in a context where there has been criticism of the regulation, as explained above. Although it was noted in the evaluation that practices of contractors had improved, it was also noted that

there are contractors who continue to operate outside the law and growers who are willing to use their illegal workers, particularly in two localities where the use of labour contractors was already widespread, involving larger scale farm arrangements with absent owners/investors (NZDoL 2010: 62).

Research on labour trafficking in Australia has identified the role agents and recruiters can play in facilitating or hindering trafficking and exploitation, and noted the need for effective regulation and monitoring to reduce the risks of this contributing to vulnerabilities and opportunities for exploitation (David 2010).

The issues linked to the RSE's management of vulnerabilities of workers that have been summarised above were not widespread and are in the process of being dealt with by labour sending countries and communities and the NZ Government. For example, steps have been taken to provide more accommodation in some locations. Nonetheless, the issues raised demonstrate vulnerabilities to exploitation that some Pacific Islander workers can experience, even when participating in closely monitored temporary worker schemes such as the RSE.

Furthermore, some unintended negative impacts on the source countries were identified from their participation in the RSE. This included the loss of able-bodied persons for food production and loss of family members to care for children and other family members (NZDoL 2010). A challenge for many temporary workers schemes is that, without careful design and management, they can contribute to labour shortages in the labour sending countries, which then increases the risk of exploitation of vulnerable inward migrants. There are cases of severe exploitation of inward migrant workers into the Pacific that suggest this issue needs particular attention in any temporary workers scheme for the Pacific Island region. For example, in a 2006 Niue case, Indian migrant workers were deceived and forced to work for low wages for five years in a Pacific Island nation (Lindley & Beacroft forthcoming). While the evaluation indicated some best practice responses to this issue, for example, in one Vanuatu 'model', community controls the numbers participating in the RSE scheme to ensure village sustainability (NZDoL 2010: 48) and others spread 'recruitment around a district' or require 'workers to plant crops before leaving' (NZDoL 2010: 53), it remains an important area for monitoring.

Overall, the findings of the RSE evaluation were favourable but pointed to the need for action by industry, Pacific Island labour source nations, as well as regulators and the NZ Government to reduce the potential risks to workers recruited under the RSE scheme (NZDoL 2010). As demonstrated by the number of workers employed, there has been enthusiastic uptake of seasonal

workers since 2007 and it has been reported that less than one percent of workers overstayed (NZDoL 2010). Another positive outcome has been that 51 percent of RSE workers from the kick-start countries returned for the second season (mostly to the same employer), with some receiving higher wages (NZDoL 2010). However, a higher percentage of non kick-start country RSE workers were found to return for a second season (73%). The 2010 evaluation did not assess the circumstances of the non kick-start country workers (NZDoL 2010). Further research is therefore required to understand why non kick-start country workers have a higher return rate and whether it is a result of only limited labour being available from the kick-start countries. Further, it is important that there is a more general assessment of the outcomes and risk management for exploitation for non kick-start country workers.

Background to the PSWPS Scheme in Australia

Temporary workers schemes offer advantages to labour-receiving and labour-sending countries, but they are not without risk (Millbank 2006). In this context, the Australian Government established the PSWPS in August 2008 as a three year pilot scheme. The first workers arrived under the scheme in February 2009.

The establishment of the PSWPS is related to Australia's regional engagement with Pacific Island countries. Facilitating labour mobility is a key issue for the region, in fact it is

an issue by which Australia's relations with the Pacific will be judged over the next few years. It may indeed become the single most important issue in Australia's relations with the Pacific, so strongly are the Pacific island governments supporting this (Yourn 2007: 59).

In addition, the scheme aims to reduce unmet demand for seasonal work, as stated in the recently released interim evaluation of the PSWPS (TNS Social Research 2010).

While the PSWPS is designed to facilitate Pacific Islander access to the Australian labour market, the special access it grants

may increase the attractiveness of the Pacific as a transit route for labour supply from outside the region (Lindley & Beacroft forthcoming). This brings with it greater risks of people smuggling and labour trafficking, particularly if Pacific borders and migration controls are weak in labour source countries. Further, if the wage rates that are being promised through the PSWPS are actualised, there may be pressure from workers throughout the Asia-Pacific to access seasonal employment in Australia via the Pacific. For these reasons, the methods by which the PSWPS manages the risks of exploitation of overseas temporary workers is relevant to anti-trafficking within Australia and globally.

The 2008 announcement that four Pacific Island countries had been selected to be involved in a three year labour mobility pilot program with Australia was welcomed among the Pacific Island community, who had lobbied for such a scheme for many years. To date, numbers of actual workers under the scheme have been low, but are increasing. Fifty-six visas were issued under the scheme in 2008–09, 67 in 2009–10 and 550 had been issued as at July 2011 since the beginning of the pilot (DEEWR 2011a). Under the PSWPS, up to 2,500 visas will be available over the life of the program for workers from Kiribati, Papua New Guinea, Tonga and Vanuatu to work in the Australian horticultural industry for up to seven months in any 12 month period (DIAC nd).

It is not clear why these countries were selected for the PSWPS, however, three of the four countries (Papua New Guinea was not included) participated in New Zealand's RSE scheme. As a result, these countries have systems and protocols to facilitate the movement of seasonal workers to New Zealand, which could also be used to form the basis for facilitating movement into Australia. The design of the PSWPS takes into account the concerns of Australian unions to protect Australian workplace standards and to protect the Pacific Islander workers themselves. The involvement of Australian unions in discussions regarding the structure of the scheme demonstrated a clear intention by the government for this system to be worker-friendly, both in terms

of the protection of rights for workers under the PSWPS and the maintenance of Australian labour market workplace standards and conditions.

The arrival of the first workers under the Australian pilot was delayed by several months, in part reflecting the complexity of processes required to achieve the scheme's goals. It had initially been announced that the first workers would start work by December 2008; however, the first intake of 56 workers from Tonga and Vanuatu arrived in early 2009, in time for particular harvests. Papua New Guinea formally entered the scheme in 2010. This delay was partly due to limited demand in Australia for workers under the scheme. A total of 650 visas were allocated to PNG nationals and they began to be issued in May 2011 (DIAC 2011).

The structure of the PSWPS and emerging issues

Under the Australian model, by mid-2011, a small number of approved employers/labour hire companies had been selected by the Australian Government. These employers, which include some growers, are licensed to recruit and supply workers to farmers, and provide their pastoral care while in Australia. This limited number of approved employers, compared with the larger numbers of employers under the RSE model, act as the worker's legal employers. A deed and a Special Program Agreement have been signed between these approved employers and relevant departments of the Australian Government (DEEWR 2011a). Farmers who have demonstrated they cannot attract Australian workers, including Indigenous Australians and Humanitarian job seekers (ie refugees), can apply for access to Pacific Island workers under the scheme (DEEWR 2011a). With assistance from the approved employers, farmers apply for workers, but are not obligated to accept any workers. Once approved, farmers may then settle an agreement with one of the approved employers, who then recruit and place the Pacific Island seasonal workers (DEEWR 2011a).

Importantly, the independent agency of the Fair Work Ombudsman actively monitors

arrangements for such workers in Australia (including audits of approved employers), while the role of facilitating the PSWPS is performed separately by government departments. Due in part to the complexity of the Australian industrial agreements, which vary by jurisdiction and employment sector, the specific conditions under which seasonal workers in the PSWPS are employed can vary. This makes the regulation of the scheme more complex.

In this complex employment environment, the minimum conditions that apply to workers under the scheme have, in practice, been somewhat confusing and the subject of debate ('ACTU says Pacific workers not being paid their full entitlements'.

ABC Radio Australia 2 Jun 2009.

<http://www.radioaustralia.net.au/asiapac/stories/200906/s2587586.htm>;

'Seasonal workers scheme hits hurdle over employment status' *ABC News* 23 Feb 2009. <http://www.abc.net.au/news/2009-02-23/seasonal-workers-scheme-hits-hurdle-over/305792>). However, the approved employers are required to employ workers in line with Australian industrial requirements.

Initially, workers were to be employed for a minimum of six months; however, this was considered too long by some employers and by some Pacific Island workers. It was found that workers experienced periods of unemployment or underemployment and that six months was too long for some workers to be away from home (DEEWR 2010b; TNS Social Research 2010). Under recent amendments to the scheme, workers must work a minimum of 38, 35 or 30 hours per week, depending on whether they are employed for a period of four, five or six months respectively (DEEWR 2010). This means workers should be able to earn the same amount in four or five months as they would in six months (TNS Social Research 2010).

Even with this change, it is unknown whether this minimum work guarantee ensures a net financial benefit to every worker. The interim evaluation of the PSWPS (TNS Social Research 2010: 3) concluded that overall, the scheme provided 'substantial income to the PSWPS workers

over the six month period'; however, the minimum work hour requirements were not met for some workers in Griffith, New South Wales and Mundubbera, Queensland. Further, there were reported instances of inappropriate infrastructure, accommodation and pastoral care for some workers. These matters need ongoing monitoring to ensure every worker receives the minimum standard, since it is relevant to managing risks of exploitation, as discussed for the RSE.

As noted above, monitoring the risks of exploitation involves monitoring visa violations by persons under the PSWPS, since Pacific Islanders who don't have legal or documented status are at greater risk of exploitation. However, at this early stage, overstaying under the PSWPS is minimal (Australian Government representative personal communication April 2011), with disincentives including the workers not being able to return in subsequent seasons, and in some instances, there are ramifications for the worker's home community's access to the scheme.

The initial uptake of workers by farmers in the PSWPS was low in the early years of the pilot (TNS Social Research 2010); however, more recent statistics show an increase in the number of visas issued and that the scheme is gaining momentum. One possible explanation for the low numbers of visas issued in the early years of the scheme may be the higher costs of using seasonal workers relative to market rates. As with the RSE, workers employed under the PSWPS are not a cheap option; the costs of RSE workers are reported to be NZ\$1.50 to NZ\$2.25 per hour more than NZ workers (NZDoL 2010). In the recent interim evaluation of the PSWPS, it was reported that employing scheme workers resulted in 'an increase of 5% to 10% in the cost of labour to employers' (TNS Social Research 2010: 6). Other factors that may have impacted on the use of workers under the PSWPS relate to seasonal demand and/or impacts of the Global Financial Crisis, resulting in greater availability of Australian nationals for horticultural employment (TNS Social Research 2010).

By comparison, the RSE has demonstrated high worker uptake. However, the RSE Scheme was more established than the PSWPS prior to the onset of the Global Financial Crisis. Further, the faster uptake of workers under the RSE in the second year was in part driven by those outside the Pacific kick-start countries, although the reasons for this are not well understood.

Other challenges for the PSWPS

As previously outlined, the Australian Government has designed the PSWPS to minimise risks of adverse outcomes including the exploitation of workers. However, the context within which the PSWPS is operating makes the successful implementation of the scheme challenging.

Workers coming to Australia will be employed in one of the major sectors of the Australian labour market, where employment conditions are the most marginalised. Indeed, the agricultural sector, which includes the horticultural industry, is one of four major sectors of employment for undocumented workers in Australia—the other three being the hospitality, sex and industrial manufacturing industries (AWU 2006). Workers in the agricultural sector have been identified as 'potentially vulnerable' and possibly subject to 'unlawful conduct of varying degrees of extremity' (David 2010: xi). Two of the major concerns surrounding the establishment of the PSWPS in this context were that such a scheme could create a tiered migration system, where workers employed on a seasonal basis may be more vulnerable to exploitation than those employed on a more secure or longer term basis and therefore, that such a scheme poses potential problems of visa overstay (Millbank 2006).

From an industry perspective, the PSWPS could be regarded as a mechanism to legalise and 'clean up' substandard employment practices in the agriculture sector. In addition, it could be argued that the PSWPS assists primary producers to avoid relying on undocumented labour or substandard employment conditions that

would leave them vulnerable to immigration raids with the risk of resultant labour shortages affecting harvests ('Immigration raids catch illegal meat workers' *ABC Rural* 12 March 2009. <http://www.abc.net.au/rural/news/content/200903/s2514268.htm>; AWU 2006; Landers 2005; Peacock 2004).

Labour market patterns in the agricultural sector

While workers in the agricultural industry are among the most disadvantaged in Australia, at the same time, the demand for agricultural workers has been increasing. While there are no credible statistics as to the size of the seasonal workforce in this industry, estimates suggest that the number of people employed in the agricultural industries across Australia increased by more than 40 percent to approximately 68,000 in the 10 years to 2003 (AWU 2006). Consistent with this trend, the ratio of employees to employers in horticulture in the decade to 2001 rose from 2.8:1 to 3.8:1 (AWU 2006). Despite these increases, the National Farmers Federation (2008) estimated that there would be a need for an additional 100,000 workers in agriculture in coming years to meet consumer needs.

The horticultural industry, like the wider agricultural sector, has labour supply problems and these continue to accelerate. AgriFood Skills Australia's Environmental Scan (2011a) and recent submission to Australia's Sustainable Population Strategy (2011b) both highlight a rapidly ageing workforce across the food producing industries of Australia. When combined with low unemployment rates in regional Australia and workers exiting the sector to work in the mining industry, it creates a situation of critical labour supply constraints and difficulties. Legal workers in the horticultural industry (besides farmers' family members) include significant numbers of travelling farm labourers, Australian and international students, retirees and backpackers taking advantage of working holiday visas (AWU 2006). Historically, seasonal agricultural work is unattractive to most Australian citizens, being based largely in rural and remote locations. It is also considered of

low social status and often poorly paid for manually difficult work; AWU 2006). Earnings of fulltime employed agricultural and horticultural labourers are one-third lower than the average fulltime employee, making agricultural workers the lowest paid workers in the economy on average (AWU 2006).

The undocumented agricultural workforce consists of unauthorised residents who are not recorded in the Department of Immigration and Citizenship (DIAC) records (primarily from the Pacific Islands, South East Asia and China), international students working in excess of permitted hours, Australians working while in receipt of benefits, foreign travellers working without authorisation (AWU 2006; Mares 2005) and people working on forged documents ('Immigration raids catch illegal meat workers' *ABC Rural* 12 Mar 2009. <http://www.abc.net.au/rural/news/content/200903/s2514268.htm>). One in four growers in the Murray Valley surveyed in 2005 admitted to employing illegal workers (ie visa overstayers or people working outside their visa conditions; Mares 2006). The Australian Workers Union has found that a significant proportion of Victoria's fresh fruit crop is picked by undocumented workers who are highly vulnerable to exploitation and who were, in some cases, offered wages as low as three dollars per hour (AWU 2006). If large numbers of undocumented workers are willing to work for low wages in poor conditions, this may set a standard that then deters legal workers (AWU 2006).

The high degree of dependence on undocumented workers and the labour shortages in horticulture are reflected in the calls from political and industrial bodies for short-term amnesties for such workers (Yaxley 2004). However, it is difficult to gain a comprehensive understanding of the extent of illegal employment practices in this industry, by virtue of the secrecy surrounding it. David Hunt-Sharman from the Australian Table Grape Association claimed that there are between 40,000 to 70,000 illegal workers across Australia in the agricultural sector, which includes the

horticultural industry ('Fruit growers call for amnesty on illegal farm workers' *ABC Rural* 24 Mar 2004. <http://www.abc.net.au/rural/news/stories/s1072710.htm>). DIAC estimates that there are 48,500 unlawful non-citizens overstaying their visas, who are concentrated within agricultural towns (DIAC 2009b). In Shepparton, Victoria (a centre for horticulture), it was estimated that 4,000 (of 10,000) workers are on tourist visas each harvest season (Nolan 2000). Due in part to the reluctance of Australian citizens to participate in the horticultural labour market, much of the crops are harvested by people overstaying their visas—reportedly sometimes as long as 15 years—in the area around Riverina, New South Wales (Yaxley 2004).

Illegalities in the horticultural industry relate not only to the status of workers, but also to the conditions of employment. Attracting workers who are sourced from countries where wage rates are lower is favourable to Australian businesses seeking to lower their costs of production, particularly in horticulture where profit margins can be greatly impacted by labour costs. Savings can also be generated by some workers being employed under reportedly exploitative conditions (Rule 2009).

Although unsuccessful, various agricultural industry representatives have lobbied government to lower labour costs and provide a stable labour supply through the large-scale importation of migrant workers who are temporary (but stay for longer periods than the short seasonal timeframes under the PSWPS). For example, some Australian fruit growers have sought to initiate large-scale worker provision agreements with Chinese companies (Mares 2005). In this context, there has been union concern that any agreement with the Pacific Islands would create a precedent for a future influx of cheaper labour on a much larger, longer term scale (AWU 2006).

The role of unscrupulous labour brokers is a matter to be monitored, as was outlined above for the RSE. Reports indicate that serious labour shortages in Australian horticulture has meant that growers, particularly in Victoria, are increasingly

turning to labour supply contractors who provide them with teams of undocumented workers, although the extent of this practice remains unclear (Mares 2005; Rule 2009). Unscrupulous contractors shoulder the risk of illegal employment contracts and secure a large profit margin by paying the worker well below the award wage, while being able to claim the award wage from the grower. The existence of an organised 'industry' for the supply of undocumented workers, involving 'brokers', is an indicator of increasing risk of exploitation (Joudo Larsen 2010).

Ensuring that such brokers are effectively regulated is vital to attempts to minimise the vulnerability of the workers and opportunities to exploit them and to prevent extreme exploitation, such as trafficking in persons. There are a range of related good practices that can assist in achieving this, including sound regulation and monitoring of broker companies (David 2010). In the past, while compliance raids against unlawful non-citizens by government officials have received high-profile media attention, brokers or employers have rarely faced legal action (Landers 2005; Rule 2009). However, this may be changing, exemplified by the publicity around the referral for prosecution by DIAC of a major labour-hire contractor operating illegally in the agricultural industry, based on the department's new powers to take action (Jackson 2009). Similarly, an initiative has been launched by DIAC, in conjunction with the Australian Federal Police and the Construction, Forestry, Mining and Energy Union to target the hiring of illegal workers in the construction industry in Sydney ('Investigators uncover Sydney labour hire racket' *Media release* 29 Jan 2010. http://www.newsroom.immi.gov.au/media_releases/779).

Robust systems for managing labour supply are central to short and longer term success and the integrity of any such scheme, for both labour importing and source nations. More detailed research on the factors associated with the development and operation of successful labour supply systems is required to inform the refinement and growth of such schemes.

Relevantly, in the evaluation of the RSE, it was found that the risks of exploitation under the scheme were best managed where employers engaged directly with the specific worker communities in the source countries, therefore removing the need for an agent, while harnessing the protections against exploitation that can be present in cohesive communities and groups. Better outcomes for the RSE occurred when employers

shifted away from using agents to recruiting directly. Employees have realised that groups sourced from the same community are more cohesive, work better together, and have recognised leaders who can support and monitor the group (NZDoL 2010: 75).

Conclusion

The Australian Government has been cautious in piloting the PSWPS. Its design and implementation has been informed by the NZ RSE Scheme and has incorporated key protections in response to the identification of some of the risks to exploitation that such schemes can pose. These measures include active regulation and monitoring of the scheme and tight controls over a limited number of approved employers. At this early stage, the PSWPS is regarded as a positive development in the legal sourcing and use of overseas labour (David 2010, TNS Social Research 2010). Consistent with best practice, an interim evaluation has been undertaken and a full evaluation of the PSWPS is currently underway, with the final report to be published in late 2011 (TNS Social Research 2010). Given the labour supply problems and risks of exploitation in the horticultural and wider agricultural industry that have been identified in this paper, and the potential unintended consequence of such schemes to exacerbate the risk of exploitation in labour source countries, expansion of the PSWPS may be challenging. Long-standing plans to expand into Papua New Guinea and the recent announcement of expansion into Nauru, Samoa, Solomon Islands and Tuvalu, as well as East Timor for tourism

work (DEEWR 2011b) will therefore require continued management and monitoring, in labour supply countries and in Australia, if the risks associated with labour exploitation are to continue to be addressed.

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