

Australia: Widespread exploitation of backpackers and overseas labourers

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The Fair Work Ombudsman released a damning report earlier this month exposing the super-exploitation of backpackers, young overseas workers and students staying in Australia on the 417 working holiday visa.

The inquiry showed that young workers employed in the agricultural and farming sector under the visa often received half the legally-mandated rate of pay, while some were forced into slave-like conditions with no compensation. Workers were routinely denied penalty rates and other basic rights, and were threatened by employers with the revocation of their visa.

The report noted that some businesses also forced employees to pay in advance for the “opportunity” of securing regional work. Others were blackmailed into paying their employers for an extension of their visa.

The 417 visa is available for people aged 18 to 31 years from 19 countries. In 2005, the Liberal-National government of John Howard introduced an option that allowed 417 visa holders to extend their stay in Australia for a second year, on the proviso that they undertook 88 days of “specified work” in the first year of their holiday in regional Australia. They are required to provide evidence of their work to the Department of Immigration and Border Protection (DIBP), including an Employment Verification Form (EVF) signed by an employer.

The scheme, which was continued by the Labor governments of Julia Gillard and Kevin Rudd, was aimed at providing a source of ultra-cheap labour for major agribusinesses and farming concerns. The exploitative character of the scheme was exemplified by the fact that it was not until December, 2015, after mounting public anger, that legislation was passed requiring that 417 visa holders be “paid” for the performance of the specified work.

The report commented that the DIBP does not monitor the activities of employers of 417 visa holders, “nor are there any legislative consequences under the migration laws for any contraventions of workplace laws. All obligations and any resulting penalties/punishments fall to the 417 visa holder.”

It also noted that “there is no legal or statutory requirement for an employer to sign the EVF and there are no penalties for employers who refuse to sign this form in a situation where a visa holder has in fact completed these work requirements.”

Based on a survey of 4,000 417 visa holders, the report gave a sense of the scale of the exploitation. Some 66 percent said that underpayment was common, while 28 percent did not receive any payment for some, or all, of the work that they performed. The majority stated that they would not make a complaint for fear of victimisation.

The report featured a number of case studies. In one instance, four mango orchards near Darwin in the Northern Territory underpaid 12 workers, 11 of them on 417 visas, a total of \$35,630. Most were paid \$2.74-\$4.79 per hour. Some received nothing.

Another study examined the operations of subcontractors. In one case, 417 visa holders hired by a subcontractor for Thomas Foods, Big Mars Pty Ltd (Big Mars) did not receive overtime or penalty rates for working up to 50 hours per week. They were not paid superannuation, and were required to establish an Australian Business Number (ABN)—effectively changing their legal status from employees to independent contractors with few rights.

Backpackers often live in overcrowded accommodation provided by employers. In one case, workers at a meat-processing plant in the Upper Hunter Valley in New South Wales (NSW) were forced to live

in garages. The report noted a series of house-fires in similar accommodation for 417 visa holders in the nearby town of Scone last year.

The report also documented cases where employers would promote jobs on advertising web sites such as Gumtree, offering work for a second-year visa. The employer would then request money for the job or accommodation on the pretext that the work was considered to be “voluntary,” in order to avoid paying wages.

One company in Northern Queensland that supplies herbs, lettuce and vegetables to supermarkets has actively hired backpackers for unpaid work since 2009. Over 600 417 visa workers have passed through the farm. They were provided with an induction package which stated:

“This is NOT a holiday farm—this is a business and you are here to work for your second year visa. If you are not prepared to work to the best of your ability then we will replace you with someone who will respect us and fulfil the requirements set by the Australian government.”

A supermarket supplier of cucumbers in northern NSW was identified as one of the top five businesses sourcing labour from the 417 visa program in NSW. The inquiry found that in April last year its workforce was comprised solely of 417 visa holders, all on unpaid arrangements. They were provided with minimal food, accommodation in caravans and limited transport in exchange for an EVF form.

Earlier this year, Fair Work found that the same business was giving workers payslips indicating they were paid \$17.29 per hour. However, all their wages were withheld, supposedly to cover food and accommodation. According to the report, the director of the company asserted “without the benefit of unpaid labour, the business would not be able to grow and sell cucumbers profitably.”

The report touts a handful of cosmetic regulatory changes introduced by the government since late last year. The facts and figures in the document, however, make clear that wholesale exploitation of cheap labour was always the purpose of the 417 visa arrangement. After a series of reports, lawsuits and media exposures over the past two years, thousands of backpackers and overseas workers still confront dire conditions.

Their plight is a particularly sharp expression of the

consequences of the wholesale destruction of full-time jobs, and the erosion of wages and working conditions, overseen by successive governments, Labor and Liberal-alike, and enforced by the corporatised trade unions. According to most estimates, between 40 and 50 percent of all workers are employed in casual, part-time or contract positions.

The National Union of Workers (NUW), in league with the Labor Party, has cynically postured as an opponent of the exploitation of backpackers and others.

Like its counterparts, however, the NUW has worked hand-in-hand with the major supermarket and farming concerns, suppressing any industrial and political action by the workers they falsely claim to represent.

Most recently, the NUW has signalled that it will work with the chicken supplier, Baiada, to ensure an orderly closure of its Laverton plant in Victoria, which has historically employed a number of heavily-exploited foreign labourers. To the extent that the union has concerns over the 417 visa arrangements, it is from the standpoint that the super-exploited backpackers are not dues-paying members, depriving it of a cash source, and locking it out of the bargaining table.

At the same time, the current debate around a proposed “backpacker tax” underscores the complicity of the entire political establishment in the atrocious conditions documented in the report. The Liberal-National government of Malcolm Turnbull has proposed a 19 percent tax rate on the already meagre pay of backpackers. The Labor opposition has called for a review of the measure, warning that it could stem the flow of ultra-cheap labour to farming businesses.



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