

9 May 2022

The Hon. Anthony Albanese MP, Leader of the Labor Party: A.Albanese.MP@aph.gov.au
Senator the Hon. Kristina Keneally, Shadow Minister for Home Affairs, and Immigration and
Citizenship: senator.keneally@aph.gov.au
The Hon. Tony Burke MP, Shadow Minister for Industrial Relations: Tony.Burke.MP@aph.gov.au
The Hon. Mark Dreyfus MP, Shadow Attorney-General: mark.dreyfus.mp@aph.gov.au

Sent via email

Dear Ministers,

Re: Preventing the exploitation of migrant workers

We, the undersigned organisations, undertake to achieve access to justice for migrant workers in Australia and hold serious concerns about the ongoing exploitation of our client base.

Prime Minister Morrison has pledged to create 1.3 million jobs over 5 years. Given Australia's closed borders during the COVID-19 pandemic, economists have indicated that immigration will be critical to reaching such targets.¹

A recent Senate Committee² recognised that wage theft and exploitation of migrant workers is deliberate and systematic. We see this every day: underpayment of entitlements is our clients' single-most common employment-related problem. Many migrant workers simply accept wage theft as the status quo.

"My visa is my main concern: 100%. I'm not going to risk my visa to chase my wages if there is only a chance or a hope that the government will protect me." – Hayma, international student and cleaner.

Migrant workers tell us they are unwilling to risk their visas to pursue unpaid wages and entitlements through a complicated and lengthy process with an uncertain outcome. Many of our clients are simply too scared to act. Unscrupulous employers target and exploit this vulnerability for commercial gain, allowing them to undercut businesses doing the right thing.

"I've been working in Australia for almost 5 years. I've paid my taxes and abided by the law. I worked hard to make Australia my home. Work owes me 10 weeks of annual leave but they cannot afford to pay me. Who is going to help me?" – Tristan, skilled sponsored worker and chef.

These workers often struggle to recover their entitlements through the courts, and if their employer's business fails, they are ineligible for the Australian government's Fair Entitlement Guarantee.

The undersigned are employment law specialists and organisations supporting migrant workers. We are in a unique position to comment upon the legal structures that lead to exploitation and the law reform needed to effectively protect some of the most vulnerable workers in the community.

¹ Chris Richardson, quoted in ABC Online, 'Scott Morrison has made a federal election pledge to create 1.3 million jobs. Here's why post-COVID immigration might play a big part' 12 April 2022, available at <<https://www.abc.net.au/news/2022-04-12/election-scott-morrison-million-jobs-pledge-explained/100984456>>

² the Senate Economics References Committee, Parliament of Australia, *Systemic, sustained and shameful. Unlawful underpayment of employees' remuneration* (2022)

In recent years, our services were consulted in numerous government inquiries and reviews into 'wage theft' and migrant worker exploitation, both at a federal and state level. These inquiries made significant and wide-ranging recommendations for reform. There is widespread accord on what must be done to end the exploitation of migrant workers.

What we now need is government action.

We ask you to start the process of ending the exploitation of migrant workers. Please indicate your support for three key reforms recommended by Senate Committees to reduce the exploitation of migrant workers:

- 1) Allow migrant workers to act against exploitative employers by providing effective visa protections to whistle-blowers that report exploitation or wage theft to the Fair Work Ombudsman and extend these protections to exploitation and wage theft claims progressed through the courts.³
- 2) implementing an efficient, accessible, and inexpensive dispute resolution mechanism for workers to promptly recover all unpaid entitlements and superannuation.⁴
- 3) Extend the Fair Entitlements Guarantee to all employees, including those on temporary visas.⁵

The signatories of this letter are happy to work with you to achieve the implementation of these recommendations and change more broadly.

We request that you make a pre-election commitment to the above reforms by 11 May 2022.

If you have any questions or wish to discuss this letter, please do not hesitate to contact Sharmilla Bargon, Coordinator, Employment Rights Legal Service, at sharmilla@rlc.org.au or 0490 313 844.

³ Recommendations 16 and 17, the Senate Economics References Committee, Parliament of Australia, *Systemic, sustained and shameful. Unlawful underpayment of employees' remuneration* (2022); Recommendation 29, the Senate Select Committee on Temporary Migration, Parliament of Australia, *Report* (2021); Recommendation 21, Migrant Worker Taskforce, Australian Government, *Report of the Migrant Workers' Taskforce* (2019)

⁴ Recommendation 5, the Senate Economics References Committee, Parliament of Australia, *Systemic, sustained and shameful. Unlawful underpayment of employees' remuneration* (2022); Recommendation 32, the Senate Select Committee on Temporary Migration, Parliament of Australia, *Report* (2021)

⁵ Recommendation 15, the Senate Economics References Committee, Parliament of Australia, *Systemic, sustained and shameful. Unlawful underpayment of employees' remuneration* (2022); Recommendation 29, the Senate Select Committee on Temporary Migration, Parliament of Australia, *Report* (2021); Recommendation 13, Migrant Worker Taskforce, Australian Government, *Report of the Migrant Workers' Taskforce* (2019)

List of signatories

1. Circle Green Community Legal
2. Community Legal Centres NSW
3. Employment Rights Legal Service
4. Ethnic Communities' Council of Victoria
5. Inner City Legal Centre
6. JobWatch Inc
7. Kingsford Legal Centre
8. Migrant Workers Centre
9. Migrant Justice Institute
10. Redfern Legal Centre
11. Shoalcoast Community Legal Centre Inc.
12. South-East Monash Legal Service Inc.
13. Uniting Church in Australia, Synod of Victoria and Tasmania
14. WEstjustice



UNSW
SYDNEY



UNSW
Kingsford
Legal Centre



ICLC
INNER CITY LEGAL CENTRE



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Uniting Church in Australia
SYNOD OF VICTORIA AND TASMANIA

