



27 November 2019

S19.28

Submission to the Ministry of Business, Innovation & Employment on the Consultation Document Addressing Temporary Migrant Workers

Introduction

- 0.1. The National Council of Women of New Zealand (NCWNZ) is an umbrella group representing over 200 organisations affiliated at either national level or to one of our 15 branches. In addition, about 450 people are individual members. Collectively our reach is over 450,000 with many of our membership organisations representing all genders. NCWNZ's vision is a gender equal New Zealand and research shows we will be better off socially, environmentally and economically if we are gender equal. Through research, discussion and action, NCWNZ in partnership with others, seeks to realise its vision of gender equality because it is a basic human right.
- 0.2. This submission has been prepared by the NCWNZ Employment Standing Committee after consultation with the membership of NCWNZ.

1. Introduction

- 1.1. NCWNZ supports the review's statement that migrant exploitation leads to serious negative outcomes for migrants, businesses, New Zealanders and our international reputation. We therefore strongly support the stated goal of reducing the exploitation of temporary workers. However, we note the worrying trend of temporary visas increasing (year to September 2019 355,000 up from 335,000) whilst permanent residence approvals are decreasing (35,000 down from 42,600)¹. If this trend continues New Zealand might be accused of developing a pool of "guest workers" ripe for exploitation by every employer who wants to squeeze more profit from a grace and favour workforce.
- 1.2. Our particular concern is that it will be women workers who will be the most disadvantaged by this situation. Currently New Zealand nail and beauty salons, and orchards have high numbers of temporary migrant women workers with a general perception they are paid well below the legal minimum wage and in often hazardous working conditions. We have heard anecdotally of "two for

¹ Hickey B. 2019. The dirty little secret in this immigration debate. Newsroom November 11th 2019.
<https://www.newsroom.co.nz/2019/11/11/899072/the-dirty-little-secret-about-this-migration-debate>

the price of one” deals where a husband is paid legally as long as his wife works for free. Such a woman is officially invisible; no salary and no acknowledgement of work experience and skills to go on her CV. We were also depressed to learn that there is a gender pay gap even for below minimum wages e.g. men \$10 per hour, women \$7.

- 1.3. MBIE’s proposals for change are welcome and well-meaning but they do not tackle the root cause of the exploitation which is the temporary nature of the visa. NCWNZ would like to see much more limited use of repeat temporary visas and instead an easier process for migrants to achieve the protection of permanent visas. We asked migrant advocacy groups how many of the migrants who contacted them for help were on permanent visas. The answer – none.
- 1.4. A number of our members work alongside associations and unions which are already advocating for, representing and educating temporary migrant workers. We recommend that the government strengthen the work done in this area (often by volunteers) by providing resources and funding for such groups.
- 1.5. Temporary migrant women workers are open to sexual exploitation but seldom speak out about it as there is so much stigma attached. We recommend that visas are not attached to individual employers. Instead visas could be given for an occupation and/or a region, allowing an exploited worker to find work with another employer.
- 1.6. Some temporary migrant women workers have been forced to terminate pregnancies as time off to give birth would put their visas at risk. We recommend that women who give birth be automatically offered an extension to their visas to complete study or work commitments.

2. Proposals for Change

PROPOSAL 1: Introduce liability for parties with significant control or influence over an employer that breaches employment standards.

- 2.1. NCWNZ support this proposal plus recommend separation of visa from employer – attach the visa to an occupation/region instead.

PROPOSAL 2: Require certain subcontractors and franchisees to meet additional criteria under the currently proposed employer-assisted visa gateway system.

- 2.2. NCWNZ support this as it will leverage the system of accreditation changes that are part of the temporary work visa reforms.

PROPOSAL 3: Introduce a labour hire licensing scheme providing certain protections for workers.

- 2.3. This builds on the principles of the accreditation approach that is part of the temporary work visa reforms for labour hire companies by extending protections to all labour hire workers. NCWNZ supports this proposal.

PROPOSAL 4: Prohibit people convicted of exploitation under the Immigration Act from managing or directing a company.

- 2.4. NCWNZ supports this with the rider that prosecutions should be fast-tracked as affected employees can be left in limbo.

PROPOSAL 5: *Establish an MBIE dedicated migrant exploitation 0800 phone line and online reporting and establish an MBIE specialised migrant worker exploitation-focused reporting and triaging function.*

- 2.5. NCWZN supports this in principle but we note that this is a passive form of offering information. We would like to see a more active form of information provided by the government with the initial provision of the visa. This information should explain that temporary migrant workers have the same workplace rights as New Zealand workers including the right to join a union, coverage by ACC and the legislated minimum rights. Contact details for existing migrant advocacy groups and unions should be provided. Some of our members who came to New Zealand as migrants explained that their home countries didn't have the same rights to join a union and to speak freely especially as women and such rights and freedoms needed to be explained to them.

PROPOSAL 6, OPTION A: *Develop a bridging-type visa for exploited migrant workers.*

PROPOSAL 6, OPTION B: *Improve the current Immigration New Zealand visa status consideration process.*

- 2.6. NCWZN supports Option A.

PROPOSAL 7: *Establish new immigration infringement offences for non-compliant employer behaviour that contributes to exploitation and vulnerability.*

- 2.7. NCWZN supports this proposal.

PROPOSAL 8: *Allow Labour Inspectorate to issue an infringement notice to employers who do not provide documents requested within a reasonable timeframe.*

- 2.8. NCWZN supports this but don't Labour Inspectors already have the ability to do this? We also recommend that the existing Labour Inspectorate be expanded to include diverse staff who have had experience in the field of temporary migrant work themselves.

PROPOSAL 9: *Expand the stand-down list to capture existing immigration offences and, in future, immigration infringement offences for employer noncompliance.*

- 2.9. This aligns to changes to the employer assisted work visa changes, as having an expanded stand-down list would reduce the need for immigration officers to undertake an assessment of an employer's compliance with the immigration system at each accreditation application. NCWZN supports this.

PROPOSAL 10: *Notify those employees on employer-assisted visas who work for an employer who is stood-down.*

- 2.10. NCWZN supports this on the understanding that these employees will then be given a new bridging-type visa.

3. Conclusion

- 3.1. In summary NCWZN does not accept that New Zealand society and its economy need to be dependent on the exploitation of temporary migrant workers. We support the proposals for change but do not believe the changes go to the root of the problem. We strongly encourage the Minister to consider the merits of the recommendations we have made in this submission as outlined below:

- Increase permanent visas compared to temporary
- Resource and fund unions and associations already supporting migrant workers
- Detach visas from individual employers
- Automatically offer extension to visas for women who give birth
- Fast track prosecutions for exploitation under Immigration Act
- Provide information on rights and support with visa
- Expand and diversify Inspectorate

3.2. We thank you for the opportunity to submit on this very important topic.



Vanisa Dhiru
NCWNZ Board



Gabriel Brett Kelly
Employment Standing Committee