



The Human Rights Council of Australia Inc.

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Senate Education and Employment Committees  
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**Submission to the Education and Employment References Committee  
Inquiry into the Impact of Australia's Temporary Work Visa Programs on the  
Australian Labour Market and on Temporary Work Visa Holders**

Thank you for the opportunity make this submission to the abovementioned inquiry.

The Human Rights Council of Australia Inc (HRCA) is a small non-government organisation whose primary objective involves promotion of universal human rights for all without discrimination in Australia, the Asia-Pacific region and the world. Human Rights Council members are or have been human rights professionals with extensive domestic and international experience in diverse areas of human rights policy and practice. The HRCA's goals include monitoring actions by the Australian government, calling for the observance of international human rights obligations and improving Australia's human rights policies and performance. The HRCA advocates a human rights-based approach that analyses inequalities and discrimination by reference to international human rights standards, and proposes action directed towards the promotion and protection of human rights for all. The HRCA has Special Consultative Status with the United Nations and as such is accredited with observer status at meetings of the UN Human Rights Council.

In 2014, the HRCA made a submission to the Independent Review into the Integrity of the 457 visa program (copy enclosed). The current enquiry is broader in scope, as it covers additional temporary work visas, but in essence addresses the same issues. Little has changed to suggest any significant departure from the substance of the HRCA's submission to the previous inquiry. In brief, key points from the HRCA's 2014 submission relevant to the current review are as follows:

1. A human rights-based approach should be taken to the current review. This would substantially strengthen Australia's ability to protect and fulfil the rights of both local and migrant workers.
2. Australia must ensure that it meets the principle of non-discrimination in respect of non-citizen workers; and that it protects the rights of all non-citizens on temporary visas working in Australia.

3. The two most important issues are the adequacy of laws upholding the abovementioned principles and the adequacy of enforcement of existing laws. There is significant evidence that current laws are not adequately enforced.
4. The HRCA reiterates its recommendations that the Australian government urgently ratify:
  - (a) the *International Convention on Protection of the Rights of All Migrant Workers and their Families*. This Convention reflects already accepted international human rights standards. Ratification is consistent with Australian ratification practice generally. No rational basis for non-ratification has yet been advanced. Not only does ratification advance human rights internally; it also advances human rights for migrant workers everywhere by reinforcing a trend to a shared minimum international standard.
  - (b) the *International Labour Organisation Migration for Employment Convention (Revised) 1949* (ILO C-97); and
  - (c) the *International Labour Organization Migrant Workers (Supplementary Provisions) Convention 1975 concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers* (ILO C-143).
5. These Conventions do not affect Australia's freedom or discretion in respect of admission or non-admission of non-citizens, but address the rights of workers once admitted to Australia. They uphold human rights which Australia has already accepted through its ratification of other Conventions, in application to migrant workers.
6. The strong dependence created by 457 visas on a particular employer empowers an ecosystem of abuse.
7. Current enforcement levels and oversight are entirely inadequate to prevent abuse of migrant workers, irrespective of visa.

The HRCA makes the following observations arising from the work of border scholars. These scholars have observed that "borders" are institutions with wide-ranging implications far beyond the point of entry. Australia's current system for recruiting and deploying temporary workers primarily through employer sponsors, or by incorporating restricted work rights into other visa categories, has profound implications for the protection of the labour rights of all people working in Australia. The HRCA's 2014 submission highlights weaknesses in the existing visa conditions and urges the Government to dramatically strengthen, and increase resources for, enforcement and monitoring procedures. Without action, common ways in which temporary migrant workers in Australia are exploited could generate an ecosystem where the violation of worker rights becomes normalised and leads to the creation of an under-class of vulnerable non-citizen workers facing precarious employment conditions.

In this context, careful consideration should also be given to methods of enabling workers who may arrive temporarily, to extend their stay in Australia, and become permanent residents and citizens. These methods should not be primarily based on the patronage of one employer sponsor as this positions temporary workers as dependent on individual employers and vulnerable to exploitation.

Yours sincerely



**Andrew Naylor**  
Chairperson  
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