



Workers for All Seasons?

Issues from New Zealand's Recognised Seasonal Employer (RSE) program

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Introduction

In April 2007, New Zealand introduced the Recognised Seasonal Employer (RSE) program, which allows NZ employers to recruit overseas workers from the Pacific and South East Asia for seasonal work in horticulture and viticulture. Over the last year, New Zealand has opened its doors to seasonal workers from neighbouring island nations: villagers from Kiribati, Samoa, Tonga, Tuvalu and Vanuatu have come to New Zealand on temporary visas, to work in vineyards, farms and orchards in regions like Hawke's Bay, Bay of Plenty, Nelson, Marlborough and Otago.

Despite years of pressure from Pacific Island leaders and Australian primary producers, the coalition government under Prime Minister John Howard refused to create a seasonal work scheme. Now, following its November 2007 election victory, Labor has opened the way for a review of policies towards the islands region. The government of Prime Minister Kevin Rudd says it will closely monitor New Zealand's experience on seasonal employment of workers from the Pacific, to decide whether Australia should create its own seasonal worker program. Prime Minister Rudd is expected to make an announcement at the next meeting of the Pacific Islands Forum in Niue in August 2008.

This paper aims to contribute to this policy discussion by assessing the first year of operation of the New Zealand scheme.

The New Zealand and Pacific island governments, while acknowledging early glitches and administrative short-falls, argue that the program has been a great success. Tofilau Kerupi Tavita of the NZ Department of Labour says:

We have seen significant successes from the policy, from employers who have been able to meet their seasonal labour needs for the first time in many years, to workers who have been able to earn enough money to build new houses in their home countries and improve their standard of living. This is a policy that has so much scope to provide significant benefits to New Zealand industry and the development of Pacific nations. There are still areas we need to work on, but everyone involved in the policy is determined to work together to get the best result for all.¹

One Pacific island official interviewed for this paper noted:

Overall, the RSE is going very well. It's made a difference to people's lives. You can see tangible things, like buildings going up for young families. The first year has been a very good learning experience – we've learnt a lot from the boys from Lapaha and Kolovai who first went on RSE. New Zealand is really doing all the hard work for Australia!²

Not surprisingly, government officials are putting the best face on the program. But as this report details, there are a number of areas where a lack of engagement with unions, the community sector and Pacific diaspora communities has led to significant problems. The first year of RSE program has highlighted the need for increased effort on welfare services and "pastoral care" for seasonal workers, and also the potential for linking seasonal work programs to broader development assistance, to maximise the outcomes of increased remittance flows into Pacific villages and rural communities.

The first part of this paper outlines the key elements of the RSE scheme, and details the numbers of employers and workers who have participated in the scheme since it began a year ago. The second part of the paper then raises issues and concerns arising from the initial operation of the RSE scheme, which Australian policy makers should consider in designing a similar program.³

¹ NZ Department of Labour "Recognised Seasonal Employer Policy", Media release, 14 February 2008.

² Interview with Mr. Sione Maumau, Deputy Secretary, Ministry of Labour, Commerce and Industry, Kingdom of Tonga, February 2008.

³ This paper focuses on the RSE program and does not attempt to study skilled migration, the wider issue of temporary migrant workers in New Zealand or broader issues of migration policy (e.g. there are a range of other mechanisms for recruitment of Pacific workers into New Zealand, such as the Pacific Access quota, and there are particular issues relating to recruitment in other sectors, such as nursing and caregivers). It also focuses on issues relating to the recruitment of Pacific islanders, and does not discuss the hundreds of Asian workers who have also been recruited.

Executive summary

In April 2007, New Zealand introduced the Recognised Seasonal Employer (RSE) program, which allows NZ employers to recruit overseas workers from the Pacific and South East Asia for seasonal work in horticulture and viticulture. The Australian government says it is closely monitoring New Zealand's scheme to decide whether Australia should create its own Pacific seasonal worker program. Prime Minister Rudd is expected make an announcement on the issue at the next meeting of the Pacific Islands Forum in Niue in August 2008.

The New Zealand and Pacific island governments, while acknowledging early administrative short-falls, argue that the RSE program has been a great success and this paper acknowledges the many positive outcomes to date. But it also identifies significant problems arising from a lack of engagement with unions, the community sector and Pacific diaspora communities. These difficulties cannot be dismissed as teething problems. If Australia is serious about learning from the NZ experience then similar problems can be avoided by designing a scheme that pays more attention to the welfare of Pacific workers and their home communities.

The first year of RSE program has highlighted the need for increased effort on support services and "pastoral care" for seasonal workers, and also the potential for linking seasonal work programs to broader development assistance to maximise the outcomes of increased remittance flows into Pacific villages and rural communities.

Over 20 per cent of workers came from South-East Asia rather than the Pacific in the first year of the RSE program, even though the New Zealand government has a stated preference for recruiting Pacific islanders. It will be important for Australia to develop clear policy on why seasonal worker schemes should be targeted only at small island developing states in our neighbourhood, in order to offer opportunities for development and employment in Pacific Island nations with restricted economic options.

New Zealand's RSE program

New Zealand Prime Minister Helen Clark announced in 2006 that New Zealand would introduce a new scheme for temporary seasonal work for New Zealand's horticulture and viticulture industries. The Recognised Seasonal Employer (RSE) program began in April 2007. By April 2008 after a year of operation, 92 companies had been approved as Recognised Seasonal Employers and 4,070 workers from the Pacific and South East Asia had RSE visa applications approved. Of RSE visas issued, 3,923 have been used (as at 23 April 2008).

There is clear evidence of strong demand for places in the program in Pacific island countries. Five "kickstart" countries were chosen by New Zealand to start the program (Vanuatu, Tonga, Tuvalu, Kiribati and Samoa). Four of these countries have used their national Labour Ministries to select and screen potential workers in consultation with local island governments, churches and chiefs – the exception is *Vanuatu*, which has relied on private sector recruiters who contract with NZ employers.

The regulation and licensing of recruitment agents will be a central feature of ongoing monitoring of workers rights, to avoid any perception of favouritism, corruption or kickbacks in the recruitment of workers.

Beyond pre-selection and health and police checks, another key step is the pre-departure briefing and orientation of workers. As discussed in this paper, the provision of timely and accurate information to aspiring applicants to the program is a central element of any scheme, to allow workers to make an informed choice as to whether they should apply for the program.

Priority for the Pacific islands?

NZ government ministers have highlighted the development content for Pacific island nations and workers from the Pacific are given preferential access under the RSE scheme. Over time, the program will expand from the five “kickstart” countries to all island countries in the Pacific Islands Forum.

But over the last year, employers have also engaged workers from Thailand, Malaysia, Indonesia and the Philippines. New Zealand ministers and officials have stressed the particular focus on recruiting workers from the Pacific rather than from other regions, but in spite of the stated focus on the islands, more than 20 per cent of RSE workers came from South-East Asia (811 of 3,923 as of April 2008).

This undermines one of the principal justifications for the scheme – that it offers opportunities for development and employment in Pacific Island nations with restricted economic options. As Australia is currently discussing a free trade agreement with China, where labour mobility is an issue in negotiations, it is important to have clear policy guidelines on the priority or exclusivity offered to Pacific countries, in light of their special and differential needs as small island developing states.

Remittances and development

A key aim of a seasonal work program is to encourage more remittances to flow into rural communities, to fund children’s education, improve housing or start small businesses. As yet, there have not been comprehensive studies on the earnings and spending patterns of RSE workers, but the limited data available and interviews with workers and recruiters show that there are clear financial benefits for Pacific villagers. The paper details examples where workers have cleared thousands of dollars in just a few months work, after paying their share of travel and administrative costs.

The early evidence from RSE suggests potential for links between NZ horticulture regions and districts or communities where workers are recruited. One significant outcome of the RSE program is that some Pacific communities are nominating a number of workers at a time and encouraging them to commit a portion of their wages for community development projects. The paper provides two case studies – the Lapaha Town Council in Tonga and the Lolihor Development Council in Vanuatu – where recruitment of seasonal workers is being co-ordinated by communities as well as individuals and families.

Social costs and ‘pastoral care’

The benefits of increased remittances should not overshadow the significant social costs of temporary migration for work. Seasonal workers are separated from family for extended periods of time, which can impact on children’s welfare and education and put an extra burden on the elderly left in the village. The New Zealand experience suggests that the length of time that workers are away from home is an important issue that needs careful consideration. Workers may wish to stay as long as possible to maximise their earnings but this may not be in the best interests of family at home.

Based on the first year of the RSE program, support services and pastoral care for seasonal workers are the weakest element of the process thus far. The paper details examples of disputes between seasonal workers and employers in New Zealand, and outlines concerns over:

- poor housing;
- lack of work at down times (which means no income but ongoing expenses for housing and food);
- contracts being set by piece rate (e.g. per bin or per tree) at minimum wage rather than “market rates.”

- the contentious issue of deductions – workers may be told the gross rates of pay, but not fully informed of all deductions by employers to cover housing, transport costs or recouping airfares.

If those issues are to be addressed, governments, employers and community organisations have a responsibility to invest in inspection of workplaces, pre-departure orientation and support services.

Transitional RSE (TRSE), skills and training

When the RSE scheme was announced, it was intended to replace existing schemes that allowed NZ horticulture and viticulture employers to recruit backpackers and other workers from overseas. But the original design of RSE has been amended twice. In a major blow to the integrity of the registration system, the government introduced a Transitional RSE (TRSE) scheme to run alongside the RSE scheme proper for two years from 26 November 2007 until 2009. These changes reduce the extent to which employers have to take responsibility for issues like local recruitment, pastoral care, skills training and workforce development. NZ unions are concerned that the TRSE is the first foot in the door to water down conditions that have been negotiated in the original RSE package, and that employers will seek further exemptions in coming years.

Early RSE pilots indicate that only a few employers see the potential for extra skills training. However seasonal worker programs must complement, rather than undercut, investment in workforce development and skills training. There is significant potential to use the program for capacity building between Australia, New Zealand and Island countries. This creates an opportunity for unions, NGOs and AusAID to integrate training into the recruitment and after-care programs for seasonal workers.

Workers' rights and entitlements

The protection of workers' entitlements and health and safety is a major concern in precarious industries like horticulture, agriculture and construction, which often operate in areas with low union coverage, limited government regulation and a highly casualised, mobile workforce. Breaches of labour rights and workplace safety under Australia's s457 visas for temporary *skilled* workers highlight significant challenges for the recruitment of *unskilled* workers from the Pacific, who have little knowledge of their legal or political rights in another country. This issue is exacerbated by the weaknesses in labour law across the Pacific, with island nations relying on outdated or inadequate legislation.

Pacific governments are concerned that examples of overstaying or substance abuse will damage the reputation of the sending countries and promote a backlash that could end opportunities to send seasonal workers. Government officials are lobbying local islander communities in New Zealand to help enforce the rules, and have supported the rapid return of workers who breach visa conditions. The RSE scheme places financial obligations on employers to cover the costs for repatriating workers if they overstay their visa.

The paper documents cases of workers sent home for drinking off-orchard or other offences, which raises serious questions about the fundamental rights and autonomy of Pacific Island seasonal workers. Workers' lawful leisure time activities should not be subject to the discretion of employers or immigration authorities.

New Zealand officials state that the number of people breaching their visa conditions is relatively small, given that nearly 4,000 people have participated in the scheme over the first year. However NZ unions are concerned about a lack of standardised disputes procedure, to ensure that workers being sent home are provided natural justice and disputes processes. There is a disparity of power between employer and overseas worker, and in other migrant worker programs there are cases where workers have been sent home after they agitated for better conditions.

A seasonal labour program for Australia?

Pacific governments are continuing to lobby Australia to open up its labour market and Australian officials travelled to New Zealand in May 2008 to meet their New Zealand counterparts, as part of a process for developing a Cabinet submission for the Australian government. In the past, some Australian politicians have stated that granting a seasonal work program should be a trade off in negotiations for the proposed PACER-Plus free trade agreement between Australia, New Zealand and Forum island countries. However if the seasonal labour development plan is a genuine development opportunity, then it should not be linked to discussion around free trade agreements or the 'temporary movement of natural persons' (Mode 4).

The experience of New Zealand's seasonal worker program shows that the social, cultural and development impacts in small island states are a central element of the RSE program, which require investment and interventions outside the straight employer / employee relationship. There are significant dangers in regarding seasonal workers as commodities to be traded between countries, and the heritage of the blackbirding era should be warning enough for policy makers – seasonal labour programs in Australia will only work if they take account of the rights and interests of the workers from the Pacific.

The New Zealand experience has raised crucial issues about the need for consultation with unions, churches, welfare and support services and local islander communities in the Pacific diaspora before any program starts in Australia.

Recommendations

The experience of seasonal worker programs in Canada and New Zealand raise issues and concerns which Australian policy makers should consider in designing a similar program. The first year of New Zealand's RSE program has highlighted a number of issues, including:

- the priority that should be given to the Pacific islands for recruitment
- the need for increased effort on welfare services and "pastoral care" for seasonal workers,
- the potential for linking seasonal work programs to broader development assistance, to maximise the outcomes of increased remittance flows into Pacific villages and rural communities.

Recommendation 1: For Australia, there needs to be a clear policy statement on which countries will be prioritised for recruitment under a seasonal worker program (especially as Australia has political relationships with countries like Papua New Guinea, Timor Leste and Indonesia that differ from New Zealand's ties to Polynesia).

Recommendation 2: There is a crucial need for ongoing monitoring and evaluation of the remittance saving, spending and investment activities of RSE workers in their home countries.

Recommendation 3: The creation of a seasonal labour scheme in Australia should engage banks, credit unions or other financial institutions in the provision of efficient, low cost mechanisms for remitting funds to workers' home countries.

Recommendation 4: AusAID should be involved in the design and implementation of a seasonal labour scheme in Australia from the start, to ensure that development outcomes in the Pacific are central to its conception.

Recommendation 5: The Australian and NZ governments should investigate the possibility of co-ordinating development aid and investment programs in areas where seasonal workers are returning and investing in community development projects. To promote more financial literacy and amplify the benefits of remittance transfer, AusAID and NZAID should investigate ways that remittances can be directed into community development initiatives (such as programs that supplement remittances with government development grants, like Mexico's 3 x 1 scheme).

Recommendation 6: Australian policy makers need to investigate innovative solutions to address social problems arising from temporary labour programs, such as creating regional stakeholder groups involving employers, unions, local government officials, church and government welfare groups and relevant representatives from local Pasifika communities. There is also a need to develop greater involvement of Pacific unions and community organisations in pre-departure briefings, support and advice programs etc.

Recommendation 7: Given evidence of alcohol abuse by Pacific workers in New Zealand, there is a need for greater pre-departure information on issues like substance abuse, HIV-AIDS and gambling, along with information on financial budgeting and the costs of transmitting remittances. (The SPC's Regional Maritime Program has developed social responsibility modules for training seafarers – it would be worth further study to see whether elements of these pre-departure training programs could be adapted for use in pilot programs for seasonal agricultural workers.) Governments and employers need to translate key information into local languages and develop standard contracts.

Recommendation 8: Co-ordination of support services for seasonal workers will be assisted by provision of timely and transparent information about which employers are recruiting Pacific workers, to allow interaction with relevant unions, diaspora communities and social welfare organisations. Relevant government ministries and regional development authorities could assist with initiatives like public websites that list which employers are registered for overseas recruitment and where they are recruiting.

Recommendation 9: The recruitment of workers from overseas will only be integrated into a long-term industry development if there is sector wide planning for labour market testing, skills development, training, and improved wages and conditions in an industry based on precarious and physically challenging work with relatively low pay. Any transitional period to a new program must be firmly defined, and this will require ongoing resources from government (national and local) as well as employers for skills development and training, especially in rural, regional and remote areas.

Recommendation 10: In Australia, there is a need for federal and state governments to work with Aboriginal and Torres Strait Islander organisations to investigate whether seasonal work programs should be designed to engage indigenous Australians in the measures being proposed for Pacific Islander workers.

Recommendation 11: Australian tax officials should consider changes to provisions taxing non-residents who perform harvest labour in Australia, as Pacific Islanders performing seasonal work could find themselves in the inequitable position of paying taxes for services which they can never access.

Recommendation 12: Any seasonal workers program should include a disputes resolution procedure and positive incentives for visa compliance – Australia and New Zealand should work with Pacific governments to develop comprehensive legislation or regulations to assist migrant workers with:

- roll-over of any superannuation or pension rights
- access to tax rebates after leaving the country
- reduced freight costs to bring home goods
- tax benefits for repatriated funds
- maintenance of seniority and leave entitlements for former government workers.

Recommendation 13: Any seasonal worker program in Australia should be developed as an element of migration and development assistance policy, rather than used as a trading chip in proposed negotiations for a regional free trade agreement.

1. The Recognised Seasonal Employer (RSE) program

1.1 Introduction of temporary work programs in New Zealand

With growing numbers of young people outside the formal wage sector, Pacific island governments have long argued for increased access to the Australian and New Zealand labour markets, especially for unskilled workers. But in spite of lobbying by island leaders and a 2006 World Bank report endorsing increased labour mobility from the Pacific⁴, former Prime Minister John Howard repeatedly stated his opposition to proposals for seasonal labour programs in Australia. Opposition to a Pacific seasonal worker program was reaffirmed even though there was a significant increase of temporary workers in Australia during the Howard years, through working holiday schemes, work allowances for overseas students and the use of Temporary Business (Long Stay) visas, known as 457 visas.

In contrast, New Zealand Prime Minister Helen Clark announced in 2006 that New Zealand would introduce a new scheme for temporary seasonal work, in addition to existing migration quotas for the Pacific. Although seasonal work programs are promoted as a component of development assistance to the Pacific, the framework of the policy has been driven by domestic labour market policy. Announcing the Recognised Seasonal Employer (RSE) scheme at the time of the 2006 Pacific Islands Forum, NZ Social Development and Employment Minister David Benson-Pope argued:

The new Recognised Seasonal Employer policy has been designed to ensure New Zealanders get first opportunities at jobs. It contains strong incentives for employers to train and upskill the domestic workforce... This is a good policy – it helps New Zealand employers, protects New Zealanders' employment opportunities, and supports our Pacific development focus.⁵

When the scheme was announced in 2006, New Zealand unions expressed measured support for the program. NZ Council of Trade Unions (NZCTU) secretary Carol Beaumont stated:

While broadly supporting the policy approach announced today in the Recognised Seasonal Employer proposals, the CTU strongly asserts that there must be a serious commitment to ongoing work at an industry level to lift skills, wages and productivity in New Zealand, and replace reliance on low paid workers. Unions will want to ensure that the Recognised Seasonal Employer policy genuinely addresses development needs in the Pacific, including a commitment to skills enhancement and other development opportunities for Pacific workers.....Unions are intending to be actively involved in the ongoing development of the scheme, to uphold not only the employment rights of migrant workers, but also wider social protections including access to public health care.⁶

New Zealand's horticulture and viticulture industries have exports of over NZ\$2.3 billion a year, as well as production for domestic consumption worth NZ\$2.5 billion. In the past, the sector has been plagued by employer abuses involving tax fraud and illegal use of migrant workers⁷, and unions and government departments have been pressing for increased efforts to invest in workforce development rather than just outsource responsibility for labour supply to private contractors.

Historically, New Zealand has drawn on Polynesian workers to staff its manufacturing industry, and the country has experienced past debates over seasonal work and visa overstayers – including an immigration scare campaign in 1975 and the infamous dawn raids and deportations of workers

⁴ M. Luthria et al: *At Home and Away – expanding job opportunities for Pacific Islanders through Labour Mobility* (World Bank, Manila, 2006). Declaration – the author co-wrote a chapter in this report, as part of the ISR's "Pacific Labour and Australian Horticulture" study.

⁵ David Benson-Pope, Minister for Social Development and Employment: "Seasonal policy good news for NZ, Pacific states", press release, 25 October 2006.

⁶ NZ Council of Trade Unions (NZCTU): "Seasonal Labour Plan Must Focus on Development in NZ and the Pacific", media release 25 October, 2006.

⁷ For example in November 2007, a horticulture contractor using migrant labour to harvest kiwifruit in the Bay of Plenty was prosecuted over a \$15 million tax fraud based on false invoicing.

under the Muldoon government.⁸ The new seasonal work program comes at a time of ageing populations, shortages of rural workers for horticulture and viticulture and debates over the future of economic development options for growing Pacific populations.

In December 2005, NZ unions, employer groups and government departments signed a “Medium to long-term horticulture and viticulture seasonal labour strategy”⁹, which includes five streams:

- Job opportunities for New Zealanders
- Accessing global labour
- Improved information on labour markets in the industry sectors
- Skills development
- Improving the business practices of contractors

The creation of the RSE program came after a short term Seasonal Worker Program (SWP), which offered a 9-month work permit to people already in the country, such as backpackers who wanted to earn cash through fruit picking. The SWP was widely criticised as it did not address workers’ conditions and also encouraged people to enter the country illegally. Given the failings of the SWP scheme, the Department of Labour and other authorities began consideration of the RSE program, which had the in-principle approval of the NZCTU because it included a number of benefits over past programs:

- it would require the industry to take responsibility for labour supply at an industry level
- promoted jobs for New Zealanders first
- included more rigorous protection for migrant workers in relation to pastoral care, deductions and market wage rates
- had a development dimension focussed on neighbouring island states.

NZ WORK SCHEMES

The Working Holiday Scheme (WHS) – for visitors issued with 9 or 15-month permits to holiday and work in NZ, depending on which country they hail from.

The Variation of Conditions (VOC) scheme – allows on-shore recruitment of people in New Zealand on temporary permits.

Recognised Seasonal Employer (RSE) – permits offshore recruitment from Pacific Islands and some South East Asian countries.

Transitional RSE – employers can recruit people in New Zealand on temporary permits lasting up to six weeks. This policy is available for the next two years while employers are moving to the RSE program.

⁸ For discussion of the dawn raids and islander community responses, see Melani Anae, Lautofa Iuli and Leilani Burgoyne (eds.): *Polynesian Panthers* (Reed Publishing, NZ, 2006).

⁹ Copies of the strategy can be found at:

http://www.hortnz.co.nz/communications/pdfs/Seasonal_Labour_Strategy.pdf

1.2 Structure of the RSE program

Under the Recognised Seasonal Employer (RSE) program, which began in April 2007, New Zealand employers in the viticulture and horticulture sectors undertake a process of registration and approval before recruitment of temporary overseas workers can commence.¹⁰

Firstly, an employer applies for registration as a Recognised Seasonal Employer (RSE). To achieve registration, employers must provide evidence of good workplace practices, pledge to pay the “relevant market rate”, ensure workers are “suitably accommodated”, provide for workers’ “pastoral care needs” (including food, shelter and clothing); allow Immigration officials and Labour Inspectors to make site visits and ensure that any recruitment agents do not charge commissions. There are also provisions requiring written policies on HR, health and safety and recruitment and training of New Zealand citizens. Once an employer gains RSE status, it initially lasts for two years, with subsequent renewals for 3 year periods.

Secondly, an RSE employer can seek an “Agreement to Recruit” (ATR) overseas workers when local employees cannot be found. The ATR allows employers to seek a certain number of workers from a designated country, states how many workers are required in what roles and for how many hours

Under the ATR, employers have to guarantee to:

- pay half the travel costs for overseas workers flying to and from NZ;
- provide pay for 240 hours of work (an average of 30 hours per week minimum, or 40 hours for visas of less than 6 weeks);
- provide “pastoral care” including accommodation, translation, transportation, recreation, religious observance and induction to life in New Zealand;
- provide evidence of market rates of pay;
- pay costs of removing workers from NZ if they overstay (and face possible revocation of their RSE status in some cases).

Thirdly, workers from approved countries apply for a special RSE work visa

RSE applicants from developing countries can obtain a visa for New Zealand under this policy if they meet certain criteria:

- are aged 18 or over;
- have a job offer in New Zealand from an RSE-registered employer;
- have a return air ticket;
- meet health and character requirements (e.g. HIV-positive people are not eligible for a visa under the RSE policy, and TB testing is required for some countries).

Seasonal workers cannot transfer to another type of visa or permit while they are in New Zealand and must leave at the end of their stay, which is limited to a maximum of seven months over an eleven month period (For workers from Kiribati and Tuvalu, this policy was extended to nine months in eleven, recognising the extra costs and distance in travel in comparison to other Pacific countries that have direct air connections to New Zealand). Most workers are employed by one RSE employer, but it is possible for two or more employers to submit joint Applications to Recruit (ATR) – thus a group of seasonal workers might pick apples for two months, then kiwifruit for the next two months with a neighbouring farmer.

¹⁰ Full details of the RSE program and application forms can be found at:
<http://www.immigration.govt.nz/migrant/stream/work/hortandvit/rse/>

A new ATR must be submitted each season, but the aim is to use workers who have been trained in previous seasons if both parties agree, with the aim of reducing overstaying by seasonal workers (because they can be confident of returning in the subsequent season) and enabling employers to build up a more skilled and productive workforce and reduce training costs.

There is a cap of up to 5,000 people from the Pacific who can enter New Zealand each year as seasonal workers.

In the Pacific, the program will expand over time to eleven Forum island countries¹¹, but began with five “kickstart” countries (Vanuatu, Tonga, Samoa, Kiribati and Tuvalu). Employers can look beyond these countries if they have made a “reasonable attempt” to recruit from the Pacific and have a pre-existing relationship with other countries – so although workers from the Pacific are given preferential access under the RSE scheme, it is open to South East Asian countries and workers have also been engaged from Thailand, Malaysia, Indonesia and the Philippines.

1.3 Numbers of employers and applicants

After a year of operation, by April 2008, 92 companies had been approved as Recognised Seasonal Employers and there had been 4,070 approved RSE visa applications from workers from the Pacific and South East Asia (Of the RSE visas approved, 4,022 were issued, 28 visas were cancelled and in 20 instances, no visa was issued).¹²

Of RSE visas issued, 3,923 have been used (as at 23 April 2008) from the following countries:

Sending country	Number of workers
Vanuatu	1,376
Tonga	713
Samoa	640
Malaysia	364
Indonesia	249
Solomon Islands	238
Thailand	118
Tuvalu	99
Philippines	80
Kiribati	45
Czech Republic	1
Total	3,923

Most Pacific island countries are characterised by an *oversupply of unskilled workers and an undersupply of skilled workers*. There is much larger demand for employment opportunities from workers who are skilled at farming or fishing, but lack the trade and professional qualifications needed for urban employment or the chance to migrate. The large number of applications for RSE visas in the Pacific highlights the attraction of employment in New Zealand and Australia, given the disparity in wage rates between Forum member countries – when workers can earn a few thousand dollars in less

¹¹ Federated States of Micronesia, Kiribati, Nauru, Palau, Papua New Guinea, Republic of the Marshall Islands, Samoa, Solomon Islands, Tonga, Tuvalu, Vanuatu. Fiji was removed from the scheme following the December 2006 military coup, but could potentially be included after elections in March 2009 and the restoration of parliamentary rule.

¹² Figures supplied by NZ Department of Labour, with thanks to Stella Tanoi.

than six months, the financial benefits are significant at a time when the minimum wage for an agricultural worker in Vanuatu is equivalent to A\$300 a year.

There is clear evidence of strong demand for placements in the program in Pacific island countries. By the start of the RSE program in April 2007, 4,500 Tongans had applied to the Ministry of Labour, Commerce and Industry for work and the Ministry currently has a pool of over 5,500 applicants.¹³ In Samoa, the government had received 4,000 applications for RSE by June 2007.

Kiribati already has many workers overseas, working as seafarers on the European shipping lines, but many workers have expressed interest in RSE as the Micronesian nation signed up as one of the kick-start countries. In December 2007, when Garry Maxwell-Smith from the company Fore-Vintage Contracting in Blenheim travelled to Kiribati to interview workers for the RSE program, many people travelled from remote outer islands to the main island of Tarawa to apply for the initial jobs to be advertised. The company is the first to recruit i-Kiribati workers under the scheme, with 45 workers currently in New Zealand, and another 55 scheduled to travel later in 2008.

Vanuatu workers have been concentrated in Hawkes Bay and Central Otago. The first group of 45 workers from Vanuatu travelled to the Central Otago region in a successful pilot program named Seasonal Solutions Central Otago (SSCO). This group of workers lived together in Cromwell and Alexandra, picking grapes and apples between January and May 2007. Following SSCO, workers were recruited through the RSE; by the end of 2007, 246 ni-Vanuatu had arrived in New Zealand under the RSE scheme, with numbers increasing rapidly in 2008.

1.4 Recruitment

For the recruitment of Pacific island workers, the “kickstart” countries have left pre-selection and screening to the relevant Labour Ministry in each Pacific nation, in consultation with local island governments, churches and chiefs. The one exception is *Vanuatu*, which has relied on private sector recruiters who contract with NZ employers. All recruiters operating in Vanuatu must obtain a licence from the Commissioner of Labour, recruitment must be conducted in consultation with chiefs and church leaders and all RSE employees must have a written contract after selection.¹⁴

Kiribati has opted for two choices: the Ministry of Labour and Human Resources Development has created a pool of workers from which the employer can interview (workers have passed pre-selection by Island Councils and screening by a Selection Committee). Otherwise employers can hire a recruitment agent, who must be licensed by the Kiribati government.

Tuvalu has a similar scheme, with workers chosen by the *Falekaupule* (traditional island assembly) and a recruitment pool managed by the Department of Foreign Affairs and Labour.

In *Tonga*, Ministry of Labour, Commerce and Industry (MLCI) officials work with local committees of town and district officers, church ministers and other community leaders to select applicants. With the aim of recruiting 1,000 workers by June 2008, the government has set quotas for recruitment for all islands in the Kingdom, determining the quota in proportion to census data. The Deputy Secretary of the MLCI informed me that the government would prefer to send people with young families: of the 539 Tongans sent by February 2008, about 100 were single and 60 were female. The Tongan government aims to send a “group leader” with every group of workers, choosing the leader by age and rank, but is also seeking “to have people who can be good communicators and act as negotiators for the group.”¹⁵

The regulation and licensing of recruitment agents will be a central feature of ongoing monitoring of workers rights, to avoid any perceptions of corruption and kickbacks in the recruitment of

¹³ Interview with Mr. Sione Maumau, Deputy Secretary, Ministry of Labour, Commerce and Industry, Kingdom of Tonga, Nuku'alofa, February 2008.

¹⁴ Interview with Vanuatu recruiter Dick Eade from Port Vila, 16 January 2008, and MFAT RSE brochures.

¹⁵ Interview with Mr. Sione Maumau, Deputy Secretary, Ministry of Labour, Commerce and Industry, Kingdom of Tonga, Nuku'alofa, February 2008.

workers. The Tonga and Tuvalu governments have expressly stated that they prefer workers to be chosen from the pool recruitment rather than private recruiters, and the NZ government is moving to require all immigration agents to register by 2010.

Beyond pre-selection and health and police checks, there is another important step involving the pre-departure briefing and orientation of workers. For example, the pre-departure briefing for i-Kiribati workers is conducted in Tarawa by New Zealand High Commission staff and the Kiribati Ministry of Labour, covering working and living conditions in New Zealand “on topics from winter weather and clothing to driving rules”, banking and remittances, taxation, health insurance, accident compensation.¹⁶

As discussed below, the provision of timely and accurate information to aspiring applicants to the program is a central element of any scheme, to allow workers to make an informed choice as to whether they should apply for the program. Given the inherent imbalance of resources and information between employers and employees, it is vital that this issue be addressed with adequate resourcing.

2. Issues arising from the RSE program

2.1 Priority for the Pacific?

There is already a long history of migration to New Zealand from Polynesian countries, with special migration rights according to NZ freely associated states and territories (Cook Islands, Niue and Tokelau); direct access for Samoans from NZ’s former colony, and the Pacific Access quota created in 2002 for workers from Tonga, Fiji, Kiribati and Tuvalu.¹⁷

While the development of the RSE program grew out of domestic lobbying by the horticulture industry, NZ government ministers have highlighted the development content of the program for Pacific Island countries. Foreign Affairs Minister Winston Peters has noted:

Every effort will still be made to get New Zealanders into jobs first, but when Kiwis are not available, it makes sense to turn to the Pacific. The Pacific is the primary focus of the New Zealand’s overseas development work, and offering island nations first crack at seasonal labour opportunities will assist that development work in a number of ways.¹⁸

New Zealand’s development aid agency NZAID acknowledges that RSE is just one piece in a broader strategy for development programs in the Pacific:

The RSE does not diminish the urgent need for domestic economic policies in the islands that promote job creation. Only 5,000 seasonal workers can come to New Zealand under the RSE scheme each year, far short of the number of people in the region who need jobs. But labour mobility can expand the job opportunities for Pacific Islanders. The RSE scheme is an example where New Zealand policy can contribute to economic development in our neighbours.¹⁹

Immigration Minister David Cunliffe has stressed the particular focus on recruiting workers from the Pacific rather than from other regions:

We are prioritising Pacific people as temporary migrants for these industries because of our special relationship with and commitment to the Pacific region. This policy will lead to the upskilling of Pacific workers, who will return to their home countries with new experiences and capabilities. This

¹⁶ MFAT: “Kiribati – Recognised Seasonal Employer scheme”, Media release, 27 March 2008.

¹⁷ For discussion of the broader context see Charles Stahl and Reginald Appleyard: “Migration and development in the Pacific islands: lessons from New Zealand” (April 2007) available at: <http://www.ausaid.gov.au/publications/pdf/migration.pdf>

¹⁸ Winston Peters: “Seasonal workers”, Media release, 23 October 2006.

¹⁹ Vicki Plater, NZAID: “New opportunities for Pacific development – seasonal labour to New Zealand”, *Just Change*, No.6, 1 May 2007.

policy has been designed to further contribute to Pacific development and New Zealand's objectives for economic success and stability in the region.²⁰

But in spite of the stated focus on the Pacific, over 20 per cent of RSE workers came from South-East Asia in the first year (811 of 3,923 as of April 2008). This undermines one of the principal justifications for the scheme – that it offers opportunities for development and employment in Pacific Island nations with restricted economic options.

While there is no doubt that countries like the Philippines and Indonesia also face economic challenges, they do not share the structural problems of many Pacific island nations (geographical remoteness, limited international transport links, small internal markets and manufacturing sectors etc). The recruitment of workers from non-English speaking backgrounds raises important issues about the adequacy of pre-departure information, welfare services and capacities in the workplace (e.g. the ability of workers to understand information or instructions on occupational health and safety). Broadening the pool of potential labour source countries to Southeast Asia, China and beyond also dilutes the diplomatic capital to be gained from the scheme and weakens its potential to build “people to people” relations with the Pacific.²¹ As Australia is currently discussing a free trade agreement with China, where labour mobility is an issue in negotiations, it is important to have clear policy guidelines on the priority given to the Pacific countries, in light of their special and differential needs as small island developing states.

Recommendation 1: For Australia, there needs to be a clear policy statement on which countries will be prioritised for recruitment under a seasonal worker program (especially as Australia has political relationships with countries like Papua New Guinea, Timor Leste and Indonesia that differ from New Zealand's ties to Polynesia).

2.2 Earnings and remittances

A key aim of seasonal work is to encourage more remittances to flow into rural communities, to fund children's education, improve housing or start small businesses. After meeting Vanuatu's Prime Minister Ham Lini in February 2008, NZ Prime Minister Helen Clark noted that:

The significance of this [program] for Vanuatu is that the remittances from the workers who are coming to New Zealand stand to be probably the second largest source of foreign exchange earnings for Vanuatu after its tourism industry, so it is very, very significant.²²

There is an extensive literature on the link between remittances and development and the use of remittances for basic needs, consumption and investment – recent studies from the World Bank have focussed on the role of remittances in poverty reduction.²³ A 2005 study by the World Bank's International Migration and Development Research Program has found that globally, international remittances reduce the level and depth of poverty – a 10 per cent increase in individual remittances will lead to a 3.5 per cent decline in the share of people living in poverty.²⁴ Novib (the Oxfam International affiliate in the Netherlands) convened an important international meeting on remittances and development, with research showing how remittances can improve education and

²⁰ “Seasonal policy good news for NZ and Pacific”, Media release, 25 October 2006.

²¹ For more argument in support of a Pacific focus for an Australian seasonal labour program see Peter Mares: “Objections to Pacific seasonal work programs in rural Australia”, *Public Policy*, Vol.1 No.2 2007, pp 68-87.

²² “Ni-Vanuatu workers employed under RSE scheme set to increase”, *Radio New Zealand International*, 18 February 2008

²³ World Bank: *Global Economic Prospects 2006: The Economic Implications of Remittances and Migration* (World Bank, Washington, 2006); M. Luthria et al: *At Home and Away – expanding job opportunities for Pacific Islanders through Labour Mobility* (World Bank, Manila, 2006).

²⁴ Richard Adams and John Page: “Do international migration and remittances reduce poverty in developing countries?” in *World Development* 33 (10) 2005, pp1645-1669.

health in developing countries, as they allow poorer families to supplement their limited cash incomes and invest in the future.²⁵

Over the last decade, the amount of recorded remittances has grown much faster than government aid budgets at global level. Remittances are the largest source of external capital in many developing countries and should total US\$240 billion in 2007, more than double the amount in 2002.²⁶ This amount is more than twice the level of development aid from all sources and nearly two thirds of FDI in developing countries.

In the Pacific as a whole, development aid levels remain greater than remittances, but the growth in remittances to the islands as a proportion of GDP is increasing, as noted by AusAID latest economic survey of the region:

Unlike in other parts of the developing world, aid is still more important than remittances in the Pacific. However since 2000, Pacific island remittances have increased rapidly, with an annualised average growth of 36 per cent to reach US\$245 million in 2005 (These official numbers significantly underestimate actual remittance volumes because they ignore informal transactions, which can be one third or more of total remittances)...Extrapolating growth rates between 2000 and 2005 (36 per cent for remittances and 2.7 per cent for aid), remittances to the Pacific will overtake aid by 2009.²⁷

For many Pacific countries, remittances make up a significant element of the country's GDP (see table). For example in 2006, remittances amounted to over a third of Tonga's GDP, the largest percentage for all countries in East Asia and the Pacific and the third highest rate of remittances in the world as a proportion of GDP.²⁸

	Aid (as percentage of GDP)	Remittances (as percentage of GDP)	Exports (as percentage of GDP)
Fiji	2.3	7.0	30.1
Kiribati	31.5	12.0	6.9
PNG	6.4	0.2	47.8
Samoa	10.4	14.2	5.2
Solomon Islands	25.7	-	25.2
Tonga	16.3	39.2	11.6
Tuvalu	38.6	35.9	0.9
Vanuatu	11.7	3.3	42.4

Source: 2005 data, Centre for International Economics: *Pacific Island Economies: the role of international trade and investment*, August 2007

As yet, there have not been comprehensive studies on the earnings and spending patterns of RSE workers, but the limited data available and interviews with workers and recruiters show that there are clear financial benefits for Pacific villagers.²⁹

²⁵ *Bridging the Gap: international migration and the role of migrants and their remittances in development*, Novib International Expert meeting 2004 (Novib, the Netherlands, November 2004). See also Ernesto Lopez Cordova: "Improving health and education" in *id21 Insights* No.60, January 2006.

²⁶ World Bank: *Migration and remittances factbook 2008* (World Bank, Washington, 2007), p2.

²⁷ AusAID: *Pacific Economic Survey 2008* (AusAID, Canberra, 2008) pp31-32.

²⁸ Dilip Ratha et al: *Remittance trends 2007*, Migration and Development Brief 3 (Migration and Remittance Team, World Bank Development Prospects Group, 29 November 2007), p3.

²⁹ Interviews with Tongan workers and Lapaha Town Council officials in Nuku'alofa, February 2008 and interview with recruiter Richard Eade from Port Vila, 16 January 2008. For comments from ni-Vanuatu workers and their use of

The first Tongan workers recruited from the villages of Lapaha and Kolovai on the main island of Tongatapu were employed with contractor Vinepower in Blenheim over seven months between July 2007 and February 2008. In total, Vinepower paid nearly NZ\$290,000 in wages to the first group of 20 Tongans. Based on a 30 hour week, the average hourly rate was between NZ\$16 – 17. The lowest earning worker earned NZ\$13.88 per hour, grossed just over NZ\$11,000 and worked a total of 936 hours over the seven-month period. The highest earning worker earned NZ\$20.15 per hour, grossed just over NZ\$16,000 and worked a total of 1,360 hours over the seven-month period.

Vanuatu's Interior Minister Joe Natuman has estimated that ni-Vanuatu workers will bring home over 600 million vatu in remittances (A\$6.6 million) by May 2008. Recruiter Dick Eade from Manpower Associates Vanuatu currently has 70 ni-Vanuatu workers with three employers in New Zealand, picking apples and strawberries. He says that even after deducting costs for travel, accommodation and food, workers can still make a good income: "For five months work, we've had workers clearing up to 500,000 vatu – that's about A\$5,500."³⁰

Useful data on the developmental impact of workers' remittances is only likely to emerge over a much longer time frame. Studies of remittance spending by workers in Canada's long running seasonal labour scheme suggest that workers' initial earnings are frequently used to meet long-pent up demand within the household (such as to pay off debts, provide extra food, to purchase new clothes and consumer goods or carry out building repairs). However after a worker has been engaged in the program for a number of seasons (and those immediate needs are satisfied), savings are more likely to be directed to longer-term ends, such as the education of children or investment in local enterprises.³¹

Recommendation 2: There is a crucial need for ongoing monitoring and evaluation of the remittance saving, spending and investment activities of RSE workers in their home countries.

A major problem is the high cost of transmitting remittances: companies like Western Union charge a fee of A\$20 to transfer an amount of up to A\$75 from Australia to Fiji, or A\$22 for amounts between A\$75 and A\$150. In an interview, World Bank economist Manjula Luthria noted that: "the cost of transmitting remittances is higher in the Pacific than anywhere else in the world."³²

Ms. Luthria added that the World Bank is currently working with Pacific countries to address capacity problems in their programs for seasonal workers:

I'm very optimistic about the potential for these types of programs. We've established an institutional development fund for the five kickstart countries to draw on, we're working with regulators and private sector organizations on the costs of transfers, and promoting dialogue with other labour exporting countries like the Philippines.³³

funds to improve their housing, see "Working for the man" (report on Foreign Correspondent, ABC TV), 15 April 2008, transcript at: <http://www.abc.net.au/foreign/content/2008/s2218384.htm>

³⁰ Interview with Richard Eade from Port Vila, 16 January 2008.

³¹ See Tanya Basok: "Mexican seasonal migration to Canada and development: a community-based comparison", *International Migration*, Vol.41 No.2 2003; R. Russell: "Jamaican workers' participation in CSAWP and development consequences in the workers' rural home communities", North South Institute, 2004 <http://www.nsi-ins.ca/english/research/archive/2004/05.asp>; G. Verduzco and M. Lozano: "Mexican farm workers" participation in Canada's seasonal Agricultural labour market and development consequences in their rural home communities", North South Institute, 2004 <http://www.nsi-ins.ca/english/research/archive/2004/05.asp>

³² Interview with Manjula Luthria, Senior Economist, World Bank, Sydney, February 2008.

³³ Ibid.

Recommendation 3: The creation of a seasonal labour scheme in Australia should engage banks, credit unions or other financial institutions in the provision of efficient, low cost mechanisms for remitting funds to workers' home countries.

2.3 Using remittances for community development

There is an extensive literature on remittances in the Pacific and the costs and benefits that an influx of cash brings to local communities, especially in rural areas and outlying islands.³⁴

Professor Richard Brown and a research team at the University of Queensland have detailed the positive spending patterns for remittances in extensive household surveys in Tonga and Fiji: “Common to both countries is the critical, positive role that migration and remittances perform in relation to household savings, education, income distribution and poverty alleviation.”³⁵ At the same time, there are initiatives that governments can take to maximise the benefits of remittance transfer, and minimise the “negative moral hazard effects on the recipients’ incentives to engage in domestic income generating activities or to save and invest.”³⁶

Vicki Plater, Economics Adviser to New Zealand’s development aid agency NZAID, has argued that the RSE program has potential to develop people to people links that would contribute to community development outcomes in the Pacific. She states that the early evidence from RSE suggests potential for links between NZ horticulture regions and districts or communities where workers are recruited:

As relationships between employers and communities strengthen, other opportunities for collaboration may develop, such as support to community projects, additional training opportunities, or even joint ventures. Early RSE pilots indicate that employers are seeing the potential for community linkages.³⁷

Increased remittances into rural communities can cause dissension if there are no mechanisms to address ongoing development needs as well as immediate consumption of resources. But one significant outcome of the RSE program is that recruitment of seasonal workers is being coordinated by communities as well as individuals and families. Some Pacific communities are nominating a number of workers at a time and encouraging them to commit a portion of their wages for community development projects. Two examples of communities recruiting for RSE are the Lapaha Town Council in Tonga and the Lolihor Development Council in Vanuatu.

Example 1: Lapaha Town Council in Tonga

Tongan community leaders are slowly developing initiatives around “bottom up governance” – drawing on popular concerns but also the involvement of cultural leaders. One example is the creation of the Lapaha Town Council in 2007, the first effective town council in the country, which has long relied on the *ofisa kolo* or Town Officer as a link between national government and local communities. Membership of the elected Lapaha Town Council includes three representatives from each block and one representative from each of the Town Development Committees established to manage local activities and services. These Development Committees include two members nominated from each block and cover a range of sectors: infrastructure (transport and electricity),

³⁴ For a detailed bibliography, see John Connell and Richard Brown: *Remittances in the Pacific – an overview* (Asian Development Bank, Manila, March 2005).

³⁵ M. Luthria et al: *At Home and Away – expanding job opportunities for Pacific Islanders through Labour Mobility* (World Bank, Manila, 2006), p93. Chapter 3 documents the results on the economic benefits of remittances in Tonga and Fiji following extensive household surveys in 2005.

³⁶ Ibid. p48.

³⁷ Vicki Plater, NZAID: “New opportunities for Pacific development – seasonal labour to New Zealand”, Just Change, No.6 1 May 2007.

water, security, agriculture, health and disaster, women, youth, finance, sports, lands, education, history and culture. The Council meets monthly and has five standing committees (Social Welfare; Development and environment; Finance; Power and authority; Information and Research).

This community mobilisation at local level has manifested in some concrete development outcomes (e.g. the Council has markedly improved village water supply, providing 24/7 water to households with financial support from NZAID, and there is a focus on communal activities such as a weekly “Walk for Health” to address health and obesity.)

In an interview with Her Royal Highness Princess Mele Siu'ilikutapu Kalaniuvalu Fotofili and discussions with Lapaha Town Council officials, they noted that Lapaha was the first village to send a contingent of workers for the RSE program, and that community and church leaders saw schemes like RSE as a valuable way to access remittances without the need for permanent migration.³⁸ The community had sent the Lapaha estate holder, the noble Kalaniuvalu and town officials to visit New Zealand and meet with workers under the RSE scheme. Returning workers from the first group of recruits had a number of complaints about aspects of the lack of employer support and community leaders sent the Lapaha workers' criticisms of the program to Tonga's Ministry of Labour, Commerce and Industry, in order to improve its administration.

Example 2: Lolihor Development Council in Vanuatu.

In Vanuatu, the Lolihor area of North Ambrym is one of the more isolated regions of the country, with poor infrastructure; threats to food security for soil conditions affected by local volcanoes; and limited telecommunications and community services. The 12 villages of Lolihor came together in 1993 to form the Lolihor Development Council (LDC) – a forum where community members plan interventions to address community issues such as water supply, peace building, income generation, education and primary health. However, the network only came to life recently with the election of women onto the LDC board in 2006.

The re-invigoration of the LDC was assisted by the opportunity to recruit villagers to work in New Zealand and earn cash under the RSE program. LDC representative John Salong has described the objectives of sending a team of workers from one area, and linking their RSE income to community outcomes:

1. Guarantee that each “buluim” or “house” of Lolihor earns 150,000 vatu per year to cover school fees and primary health for the children of each buluim;
2. Motivate each buluim to work together well;
3. Pool monies earned by each buluim into a micro-credit scheme for women;
4. Cultivate positive character traits in young men including respect, perseverance, ability to listen and follow instructions and principles of non-violence; and
5. Saving of community time and effort in income generation activities and re-investing time and effort saved into building up community life.³⁹

The LDC argues that its engagement with temporary work schemes allows the community to decide “where, when and how to engage with globalisation”, rather than be at the mercy of aid donors or government officials, waiting till they decide when there should be investment in community infrastructure:

We can keep our lands secure while selling our labour for education and health. The LDC will demonstrate that communities in Vanuatu exist not as compartmentalised individuals but as groups. The LDC will prove that problems of urbanisation can be addressed by guaranteeing employment to generate income for groups that form the basic building blocks of our communities in Vanuatu. The LDC will prove that communities will be stronger as collectives choose where, when and how to

³⁸ Interview with Princess Siu'ilikutapu and discussions with officials of Lapaha Town Council, including Mrs Fatai Pale, former clerk of Parliament, Lapaha, Tongatapu, February 2008.

³⁹ John Salong: “Employment guarantee program”, February 2007.

engage with globalisation and where, when and how to defend communities against negative impacts of globalisation.⁴⁰

NZAID has promoted the SSCO placement of ni-Vanuatu workers in Central Otago as a model of community to community linkages, with other stakeholders beyond the employer getting involved:

The project and the hard-working nature of the men has won the praise of New Zealand growers as a good employment option over the more itinerant 'back packers'. But it's not just about the dollars. The community has embraced the workers. Churches and the local soccer club have opened their doors to the visitors. The local Rotary club has been fund raising for equipment for the Lolihor village school. Additional training has been offered – allowing the workers to take home more than just a pay cheque. Seasonal Solutions have arranged evening training courses in areas like computers, plumbing, and two stroke motor maintenance.⁴¹

These two case studies indicate that innovative models that emphasise community engagement and people-to-people exchanges can maximise the positive social and economic outcomes of a seasonal labour scheme and begin to address the social impacts for overseas workers and their families. Targeted use of government grants via the aid budget could supplement investment of remittances in business and development activities.

Recommendation 4: AusAID should be involved in the design and implementation of a seasonal labour scheme in Australia from the start, to ensure that development outcomes in the Pacific are central to its conception.

Recommendation 5: The Australian and NZ governments should investigate the possibility of coordinating development aid and investment programs in areas where seasonal workers are returning and investing in community development projects. To promote more financial literacy and amplify the benefits of remittance transfer, AusAID and NZAID should investigate ways that remittances can be directed into community development initiatives (such as programs that supplement remittances with government development grants, like Mexico's 3 x 1 scheme).

2.4 Problems with support services and pastoral care

The benefits of increased remittances should not overshadow the significant social costs for seasonal workers that come with family separation, impacts on children's welfare and education and extra burdens for the elderly left in the village.⁴²

Pacific community leaders are worried about the ways in which increased amounts of migrant work will affect gender roles in rural villages and the potential impact that departing young workers will have on the traditional gendered allocation of jobs. There are also concerns about the ageing of the population in rural areas, as young people migrate to urban centres or overseas, which impacts on agricultural production and adds burden on already stressed health services (e.g. there are particular impacts on ageing women who haven't worked in the formal sector, have no superannuation and are often reliant on financial support from working children. There is often an added burden of unpaid childcare for older women, as their daughters enter the workforce).

⁴⁰ Ibid.

⁴¹ NZAID: "Programme case studies: Vanuatu seasonal workers in Central Otago – a real development partnership", *Currents*, Issue 6, December 2007.

⁴² For extensive discussion based on interviews and research in Tonga, Fiji and Vanuatu, see Nic Maclellan and Peter Mares: "Labour mobility in the Pacific: creating seasonal work programs in Australia" in Stewart Firth (ed.): *Globalisation, Governance and the Pacific Islands* (Australian National University, Canberra, 2007); and also Mares and Maclellan: "Pacific Seasonal Workers for Australian Horticulture – a Neat Fit?" *Asian and Pacific Migration Journal* (APMJ), Vol 16, No.2, 2007, pp271-288.

A major concern is potential for breaches of labour rights or occupational health and safety rules, as well as social hazards such as substance abuse, HIV-AIDS or sexual harassment. If those issues are to be addressed, governments, employers and community organisations have a responsibility to invest in inspection of workplaces, pre-departure orientation and support services.

The RSE scheme involves a range of measures to address concerns raised by critics of guest worker programs, such as the potential for overstaying, the exploitation of overseas employees or the undercutting of wages and job opportunities for local workers. But based on the first year of the RSE program, limited support services and pastoral care for seasonal workers are the weakest element of the process thus far.

There have already been disputes between seasonal workers and employers in New Zealand, and overseas workers have outlined a series of concerns over:

- poor housing;
- lack of work at down times (which means no income but ongoing expenses for housing and food);
- contracts being set by piece rate (e.g. per bin or per tree) at minimum wage rather than “market rates.”
- the contentious issue of deductions – workers may be told the gross rates of pay, but not fully informed of all deductions by employers to cover housing, transport costs or recouping airfares.

For example, Tongan workers employed by Kerifresh faced working conditions and accommodation inferior to what had been promised. According to seasonal worker Saia ‘Aholelei, Tongan workers were accommodated at Kerikeri’s Aranga Backpackers, with five men in a 12 x 6 foot cabin, and with limited cooking facilities (crowding in the camp kitchen meant the workers cooked their food under a tarp rigged beside their cabin).⁴³

Of the 539 workers recruited from Tonga by February 2008, 19 have been sent home early with their visas withdrawn. Tongan worker Nalesoni Tupou says two groups of about 20 people have also gone home early so far because they were unhappy with work conditions. Some Tongan church leaders have criticised the lack of support services, arguing that seasonal workers need more community and pastoral care. They cite reports of drunkenness due to boredom and isolation, with one Tongan worker facing charges in New Zealand for an alleged sexual assault.

The NZ Tongan Advisory Council also raised concerns over administration of pay levels claiming “unpaid entitlements may already be in the hundreds of thousands of dollars: few if any workers are paid on public holidays or have been paid time and half, paid for the day off, or given a paid day in lieu of they work them.”⁴⁴

Initially, the RSE scheme mandated that any deductions from workers’ pay couldn’t take the hourly rate below the minimum wage (NZ\$11.25 per hour). However after industry lobbying, this provision was later amended to allow employers to deduct for half the airfare below the minimum wage if the full airfare was initially paid by the employer. This highlights the contentious issue of deductions which is common across the horticulture industry – workers may be told the gross rates of pay, but not informed of all deductions by employers to cover housing, transport costs or recouping airfares.

There is also a need to monitor the payment of “market rates”, to ensure that overseas workers are not undercutting the wage levels of local workers. The experience of temporary workers under

⁴³ Simon Collins: “Lured by broken promises”, *Weekend Herald* (NZ) 8 March 2008.

⁴⁴ “Tonga Advisory Council Says Rape Claims Reflects Its Concerns About Labor Program”, Media release, Tonga Advisory Council, 11 December 2007.

Australia's s457 visas shows that the "minimum salary level" (MSL) is often the maximum rather than the minimum rate, and doesn't compare with the levels guaranteed in awards and agreements.

The NZ Department of Labour has encouraged workers to take up issues of concern with their High Commissions and some Pacific countries have appointed liaison officers in New Zealand (for example, Tonga already has two liaison officers for the RSE program, and will soon appoint a third, while Kiribati announced in 2007 that it would appoint a liaison officer and Tuvalu has followed suit⁴⁵).

However, long experience with the Canadian seasonal labour scheme indicates that consular liaison officers can offer at best rudimentary protection and assistance to seasonal workers. In Canada, workers have had difficulty contacting consular officers, who were until recently only located in major cities, rather than in the rural towns where the workers are employed. Also, the consular liaison officers are conscious of not wanting to "rock the boat" by raising problems with a Canadian employer or government officials (given that the employer may then choose to recruit labour from a different country in the subsequent year).⁴⁶ Given the vast distances in Australia, there is little likelihood that an overseas worker in far north Queensland or the South Australian Riverland is going to receive effective assistance from a High Commission in Canberra or even a consulate office in Melbourne or Sydney.

If a seasonal work program is to be established in Australia, this indicates a need for extra government, union and community resources to ensure that labour laws are enforced, and workers are fully advised of their rights and the reality of work and living conditions that they'll face. The NZ Department of Labour is employing six new immigration officers and six labour inspectors dedicated to the RSE scheme, to monitor visas, wages, conditions and housing. Any Australian scheme must boost the capacity of labour, health and safety and union representatives to access worksites across rural and regional Australia, and enforce contractual and legislative requirements, especially at a time when the government is reviewing IR laws and the Howard government's WorkChoices policy, which limited union access to workplaces.

There is a need for labour market testing in rural and regional areas to ensure that local workers are not disadvantaged, and greater transparency by employers and regional development boards about when and where they are recruiting overseas workers.

In February 2008, a forum was held in Wellington to review the progress of the RSE program, attended by NZ employers, the World Bank and officials from New Zealand, Tuvalu, Kiribati, Tonga, Samoa and Vanuatu. While presenting an overall positive account of the scheme, the meeting recognised that there were a number of weaknesses in the pastoral care provided by employers to overseas workers. Kerupi Tavita of the NZ Department of Labour stated:

Some of the lessons that we've learned are, how we see pastoral care, the type of pre-departure information that we give offshore and the type of information that both the employee and the employer require here in New Zealand, to assist in the transition and also about having flexibility in our policy.⁴⁷

NZ Department of Labour official Rachel Riley has highlighted key areas for action:

- "One of the prominent issues that is being addressed surrounds pastoral care for both the workers here in New Zealand and their families back home, who are separated from their husband or father for up to seven months. Significant work has been done to improve the pastoral care provided to

⁴⁵ Interview with Mr. Sione Maumau, Deputy Secretary Ministry of Labour Commerce and Industry, Nuku'alofa, February 2008. See also Taberannang Korauaba: "Don't shield over stayers, Kiribati community warned" Pacific Media Centre, AUT, 8 May 2007.

⁴⁶ For discussion of the Canadian experience, see Peter Mares: "Workers for All Seasons", *The Diplomat*, July-August 2006.

⁴⁷ "Refinements likely to New Zealand's seasonal labour scheme for Pacific workers", Radio New Zealand International, 18 February, 2008.

workers in New Zealand. In particular, local Pacific Island communities have been playing a big role in ensuring workers feel at home.”

- “Although pre-departure training is conducted in workers’ home countries to help prepare them and their families for the separation, there has been a commitment made to improve this training and determine how families can be better supported during the time apart.”
- “Other issues to be addressed include the need for better information to be provided to workers about tax and other pay deductions, as well as for longer-term planning and a higher profile for the RSE policy among both Pacific states and employers.”⁴⁸

However, it was not as if these problems were unforeseen. As the RSE scheme was about to be introduced in April 2007, the Tonga Advisory Council in New Zealand raised a number of concerns about the lack of consultation with local Pasifika communities living in New Zealand. Council chair Melino Maka said that “taking Tongan people from poor rural backgrounds, most of whom are unlikely to have travelled before to New Zealand and putting them into isolated rural settings without church or cultural networks, with alcohol as the default release mechanism and without real support, is a recipe for disaster.”⁴⁹

The Advisory Council argued that the NZ government needed broader consultation with Pacific diaspora communities about issues like pastoral care and community oversight of workers. In a media release at the time the program was starting, the Council argued:

- The Steering Group for the RSE is comprised exclusively of senior New Zealand public servants with no Pacific community representation or representation from Pacific Governments.
- There was no prior dialogue with the Tongan or other Pacific communities in New Zealand despite an acknowledgement of the importance of these groups in the recent Foreign Affairs Select Committee report into the relationship between New Zealand and Tonga. Yet it is these communities who are expected to bear a large part of the pastoral care burden of the scheme.
- There had not been a proper evaluation of the existing Seasonal Work Permit Scheme nor any community consultation about this. This could have provided useful data for the design of the current policy.
- To date, the Government Agencies involved do not seem open to partnerships with not-for-profit and community organisations in providing a range of support to workers. This might include social services and legal advice in areas such as employment, tenancy and consumer law which are known pitfalls for many Pacific peoples.
- The project team do not seem to be aware of problems with a previous Work scheme in the 1970’s.”⁵⁰

The arrival of hundreds of overseas workers into a rural and regional area can create new pressures on accommodation, rental prices and thereby community relations. For example, NZ’s Marlborough region has between 4,000 to 10,000 overseas workers each year, especially in the wine industry. The Marlborough Migrant Centre began work in January 2007 to address major problems for seasonal and migrant workers, including access to housing, shopping and social activities. As noted by Centre co-ordinator Andreja Phillips: “As a worker, you are not just a work unit. With people being very busy, that can be forgotten.”⁵¹

This has important implications for services in regional and rural Australia. Welfare workers have already highlighted potential social tensions in regional centres in Victoria if increased numbers of seasonal labourers compete with young indigenous people for jobs, housing or welfare services. One submission to the 2006 Senate inquiry on Pacific seasonal work from church and welfare groups in Robinvale noted that:

⁴⁸ Rachel Riley: “Seasonal success”, *Pacific Connection*, Issue 15, March – May 2008.

⁴⁹ “Tonga Advisory Council Says Rape Claims Reflects Its Concerns About Labor Program”, Media release, NZ Tonga Advisory Council, 11 December 2007.

⁵⁰ Ibid.

⁵¹ Rebecca Todd: “Foreign workers need welcome – rural towns changing”, *The Press*, 03 April 2008.

There are well documented tensions and violence within the Robinvale community – particularly between Koori and Tongan groups – and these reach flashpoints intermittently. With the introduction of Inducted Labour from the Pacific islands, the potential is there for more of such tension and violence. Increased competition for housing and jobs may tip the balance.⁵²

In discussion with union officials, it is clear that there is a need for a range of interventions to promote opportunities for local indigenous communities as well as incoming seasonal workers in areas of high indigenous unemployment.⁵³ As researcher Peter Mares has noted: “indigenous communities are not always remote from horticultural districts [such as] the cannery town of Shepparton and the surrounding fruit growing region of Victoria’s Goulburn Valley that has a substantial Aboriginal population experiencing high levels of unemployment.”⁵⁴

The recruitment of seasonal workers has often been skewed to select migrants deemed most likely to return to their homeland – that is, workers who are married with children still at home. However, there is a significant trade-off here, since such a selection bias requires the extended separation of a parent from his or her children. The New Zealand experience suggests that the length of time that workers are away from home is an important issue, as there are many issues related to family separation, children’s education etc. This is exacerbated because there can be financial incentives for workers to stay away longer as they can make more money after paying any share of costs for airfare, visas etc.⁵⁵ In an interview, Vanuatu recruiter Dick Eade noted:

We prefer to send workers for three to five months rather than the seven months that New Zealand allows. For them to be away from family for a few months is no great drama, but for longer there are strains. The kids are on the phone saying ‘when are you coming home?’, so there can be difficulties in the village with prolonged absence.⁵⁶

Recommendation 6: Australian policy makers need to investigate innovative solutions to address social problems arising from temporary labour programs, such as creating regional stakeholder groups involving employers, unions, local government officials, church and government welfare groups and relevant representatives from local Pasifika communities. There is also a need to develop greater involvement of Pacific unions and community organisations in pre-departure briefings, support and advice programs etc.

Recommendation 7: Given evidence of alcohol abuse by Pacific workers in New Zealand, there is a need for greater pre-departure information on issues like substance abuse, HIV-AIDS and gambling, along with information on financial budgeting and the costs of transmitting remittances (The Regional Maritime Program of the Secretariat of the Pacific Community has developed social responsibility modules for training seafarers – it would be worth further study to see whether elements of these pre-departure training programs could be adapted for use in pilot programs for seasonal agricultural workers.⁵⁷) Governments and employers need to translate key information into local languages and develop standard contracts.

⁵² Submission to 2006 Senate inquiry by Caroline Martinsson, Robinvale Network House, available at: http://www.aph.gov.au/Senate/committee/eet_ctte/completed_inquiries/2004-07/contract_labour/submissions/sub040.pdf

⁵³ Discussion with Julius Roe, National President, Australian Manufacturing Workers Union (AMWU) and Darcel Russell, Australian Education Union (AEU), ACTU/ACFID workshop on PACER, Melbourne, 19 March 2008.

⁵⁴ For analysis of the potential impact on Aboriginal communities, see Peter Mares: “Objections to Pacific Seasonal Work Programs in rural Australia”, *Public Policy*, Vol.2, No.1, 2007, p73.

⁵⁵ For modelling of potential costs, income and length of stay, see work by Peter Mares in M. Luthria et al (op.cit), pp124-127.

⁵⁶ Interview with Richard Eade from Port Vila, 16 January 2008.

⁵⁷ For a detailed survey on the social impacts of Pacific labour mobility, see Jennifer Dennis: *Pacific Island seafarers – a study of the economic and social implications of seafaring on dependants and communities*, Pacific Seafarers Training Program, Regional Maritime Program, Secretariat of the Pacific Community (SPC, Suva, 2003).

Recommendation 8: Co-ordination of support services for seasonal workers will be assisted by provision of timely and transparent information about which employers are recruiting Pacific workers, to allow interaction with relevant unions, diaspora communities and social welfare organisations. Government ministries and regional development authorities could assist with initiatives like public websites that list which employers are registered for overseas recruitment and where they are recruiting.

2.5 Gearing up for employer registration

When the RSE scheme was announced, it was intended to replace existing schemes that allowed NZ horticulture and viticulture employers to recruit backpackers and other workers from overseas. But the original design of RSE has been amended twice, with Minister for Economic Development David Cunliffe stating that “industry feedback also indicates that despite their best efforts, some employers need more time and assistance to get on-board with the policy.”⁵⁸

Employer groups raised concern that requirements for RSE registration will benefit larger agribusiness corporations more than smaller family farms – in January, CEO of Pipfruit New Zealand Peter Beaven stated that only 50 out of 500 pipfruit orchardists are registered as RSE employers, and smaller operators may lack the resources to administer the policy.⁵⁹ NZ National Coordinator for Seasonal Labour Jeff van Beek has acknowledged that the RSE has more benefits for larger employers who have Human Resources staff while growers with smaller businesses do not have the time to act as recruitment and travel agents.⁶⁰

When RSE was introduced, the existing Approval in Principle (AiP) scheme and the Seasonal Work Permit (SWP) pilot scheme were to be phased out by September 2007. However by that date, there were relatively few employers formally registered with RSE. Therefore, in a major blow to the integrity of the registration system, the government introduced a Transitional RSE (TRSE) scheme to run alongside the RSE scheme proper for two years from 26 November 2007 until 2009.

Under TRSE, anyone in New Zealand on a visitors permit can apply for a Variation of Conditions (VoC) to work anywhere in horticulture and viticulture for four months. Workers can get a TRSE visa to work with any TRSE employer, but only as a one off permit. Then in February 2008, the restriction that workers employed in New Zealand could only work with one employer was removed, so that backpackers and other non-RSE seasonal workers could follow the harvest trail.⁶¹

These changes reduce the extent to which employers have to take responsibility for issues like local recruitment, pastoral care, skills training and workforce development, as part of an industry wide development strategy. NZ unions are concerned that the TRSE is the first foot in the door to water down conditions that have been negotiated in the original RSE package, and that employers will seek further exemptions in coming years.

In its regulatory impact statement on the TRSE, the NZ Department of Labour noted that there are risks in creating the two year transition, which could damage the integrity of the RSE scheme:

The risks are that adopting an onshore work permit policy could cause issues with Pacific countries, in relation to the effort they have put into facilitating supply of RSE workers. TRSE policy could undermine the early take up of RSE policy, undermine the integrity of visitor policy (by attracting

⁵⁸ David Cunliffe MP: “RSE Transitional Policy Arrangements” September 2007. <http://www.beehive.govt.nz/Documents/Files/RSEpackforbeehive%20release.doc>

⁵⁹ Owen Hembry: “Government needs to fix worker shortage before rot sets in”, *New Zealand Herald*, 21 January 2008.
⁶⁰ “Seasonal Employer Policy Won’t Fill Gap: NZ Farmers”, *Radio New Zealand*, 30 December 2007.

⁶¹ “Change to holidaymakers’ law to boost fruit picking”, *New Zealand Herald*, 1 February 2008; Joe Dawson: “Back on the Harvest Trail”, *Hawkes Bay Today*, 1 February 2008.

non-bona fide visitors) and put Recognised Employers who have already organised to recruit from offshore at a cost disadvantage.⁶²

The Department of Labour acknowledged that the horticulture industry was noted for employing illegal workers and cutting corners on wages and conditions, and that some employers would find it difficult to meet the standards required for RSE:

For an industry in which a significant number of employers have an established culture of illegality and poor practice, this represents a very steep learning curve. It is made more challenging by the fact that these changes must occur on an industry-wide basis, to prevent poor employment practices undermining the competitiveness of RSE employers.⁶³

NZ unions have argued that RSE needs to be better integrated into long-term industry policies, to ensure that the “New Zealanders First” principle is upheld. NZCTU has also proposed legislative changes that employers granted approval to recruit workers from overseas should be required to train one NZ worker for every five imported, or to spend a set percentage of the wages bill for migrant workers on training.⁶⁴

Recommendation 9: The recruitment of workers from overseas will only be integrated into a long-term industry development if there is sector wide planning for labour market testing, skills development, training, and improved wages and conditions in an industry based on precarious and physically challenging work with relatively low pay. Any transitional period to a new program must be firmly defined, and this will require ongoing resources from government (national and local) as well as employers for skills development and training, especially in rural, regional and remote areas.

2.6 Skills, training and development outcomes

Seasonal worker programs must complement, rather than undercut, investment in workforce development and skills training. There is significant potential to use the program for capacity building between Australia, New Zealand and Island countries.

Early RSE pilots indicate that only a few employers are seeing the potential for extra skills training (For example the pilot program for ni-Vanuatu workers in central Otago included funding for additional training efforts such as courses in small motor mechanics, budgeting and computer skills). Other training provides benefits for both employers and for Pacific workers returning to their own village farms (e.g. on handling and storage of pesticides). But unless government and development agencies attempt to support skills and training, this component will not be fully realised as many employers are only interested in training that meets their immediate workplace needs.

This creates an opportunity for unions, NGOs and AusAID to integrate training into the recruitment and after-care programs for seasonal workers. Countries like Vanuatu and Solomon Islands have an extensive network of Rural Development and Training Centres, which have received support from Australian NGO volunteer and development agencies, such as APHEDA (Union Aid Abroad) and members of the Australian Council for International Development (ACFID) – the potential to utilise these rural centres for pre-departure and post-return skills training has not been discussed in New Zealand.

⁶² NZ Department of Labour: Regulatory Impact Statement – Recognised seasonal employer policy: transitional arrangements, change to permit type and fee adjustments, on DoL website at <http://www.dol.govt.nz/publications/general/ris-rse.asp>

⁶³ NZ Department of Labour: Regulatory Impact Statement – Recognised seasonal employer policy: transitional arrangements, change to permit type and fee adjustments, on DoL website at <http://www.dol.govt.nz/publications/general/ris-rse.asp>

⁶⁴ Simon Collins: “Lured by broken promises”, *Weekend Herald* (NZ) 8 March 2008.

Skills training is important as the impact of RSE recruitment on domestic agricultural production is a matter of concern to some Pacific leaders. Some grower representatives in the Pacific are concerned about potential loss of skilled workers, as shown in the presentation to Tonga's first National Economic Summit by Tsutomu Nakao, the Chairman of the Tonga Squash Council:

The best workers will be recruited on a permanent basis by New Zealand growers to immigrate with family. Is this the best result for Tonga? Haven't we lost enough talent already in the health, education, civil service and utility sectors? New Zealand has lost a major part of their viable workforce to Australia. Are we (as Tonga and the Pacific) to serve as a feeder nations for the employment requirements of these nations or should we be facilitating the paths of these prospective emigrants to a level of income and quality of life that negates the drive to leave.⁶⁵

In spite of gloomy commentary in AusAID reports like *Pacific 2020*, village agriculture on customary land still plays a vital role in sustainable livelihoods in most Pacific countries – for example in Papua New Guinea, ANU researcher Dr. Mike Bourke has documented how agricultural production of subsistence and locally marketed food and export crops has been on a growth path over recent decades, with almost all the growth occurring on customary land.⁶⁶ The link between rural agriculture development programs and potential skills training is largely undeveloped.

Another political issue raised in New Zealand is how RSE relates to skills training programs for indigenous Maori and for Pacific Islanders already living in New Zealand, who face higher levels of unemployment and underemployment than the pakeha community. Any pilot programs for overseas workers in Australia could equally be applied to remote Aboriginal and Torres Strait Islander communities – a small scale pilot project set up by Cape York Partnerships has had some success in bringing Aborigines from far north Queensland to take up fruit picking jobs in the Murray Valley and this could provide a model for expanding such schemes to other communities.⁶⁷

As relationships between employers and communities strengthen, other opportunities for collaboration may develop, such as support to community projects, additional training opportunities, or even joint ventures.

Recommendation 10: In Australia, there is a need for federal and state governments to work with Aboriginal and Torres Strait Islander organisations to investigate whether seasonal work programs should be designed to engage indigenous Australians in the measures being proposed for Pacific Islander workers.

2.7 Tax rebates and medical care

The protection of workers' entitlements and health and safety is a major concern in precarious industries like horticulture, agriculture and construction, which often operate in areas with low union coverage, limited government regulation and a highly casualised, mobile workforce. Breaches of labour rights and workplace safety under Australia's s457 visas for temporary *skilled* workers⁶⁸

⁶⁵ Tsutomu Nakao: "The Challenges and Opportunities for a Private Sector Led Growth in Agriculture" paper to Kingdom of Tonga National Economic Summit, 18 April 2007.

⁶⁶ Mike Bourke: "Agricultural production and customary land in Papua New Guinea", in Jim Fingleton (Ed): *Privatising land in the Pacific – a defence of customary tenures*, Australia Institute Discussion paper No.80, June 2005, p.6. This research has challenged policy proposals for land titling and privatisation of land under customary tenure recommended by right-wing think tanks like the Centre for Independent Studies.

⁶⁷ For discussion see M. James: "New thinking on indigenous employment" *Australian Prospect*, special report Autumn 2005.

⁶⁸ For examples of industrial accidents, wage rip-offs and illegal deductions under subsection 457 visas, see AMWU: *Temporary skilled migration – a new form of indentured servitude* (AMWU, Sydney, 2006). In April 2008, the Rudd government announced an inquiry into the 457 program by Industrial Relations Commissioner Barbara Deegan, which is due to report in October 2008.

highlight significant challenges for the recruitment of *unskilled* workers from the Pacific, who have little knowledge of their legal or political rights in another country. The lessons of the current inquiry into the 457 program by Commissioner Barbara Deegan need to inform the development of any seasonal work program for the Pacific.

These problems are exacerbated by the weaknesses in labour law across the Pacific, with island nations relying on outdated or inadequate legislation. There is also a question of where employment contracts are signed: for example, under Fiji's Employment Act, signing a contract overseas work while still in Fiji allows provisions of the Act to apply, while signing a contract overseas does not. This has implications if an employee wants the Ministry of Labour to follow up breaches of contract, unpaid or delayed wages, and long-term occupational health problems, as the Ministry can only intervene if there is a valid employment contract.

Administrative complexity can result in migrant workers missing out on their entitlements – for example tax returns or workers compensation – because they do not have the skills to negotiate bureaucratic systems. Similarly, horticultural producers do not have time to deal with complex paperwork at the height of the harvest, so while any scheme must be regulated, it also needs to be user friendly for both workers and employers.

The experience of the first year of RSE program shows that this is an area that needs extensive work. Monitoring workplaces in rural areas presents a range of administrative complexities (e.g. seasonal work is often regarded as a temporary migration issue but immigration officials monitoring potential breaches of visa conditions have no expertise in labour law or occupational health and safety). In spite of efforts to inform workers on accident and health issues, workplace safety is an ongoing problem. One Tongan worker has described the cost of medical insurance as “scandalous” and there has been at least one case where an employer failed to report a workplace accident.⁶⁹

RSE workers should normally get tax rebates when they leave New Zealand, but there have been reports of workers leaving early who did not get their rebate.⁷⁰ Taxation issues have been raised with the NZ Department of Labour and there are ongoing discussions with NZ Inland Revenue over the possibility of a special tax rate for RSE workers.

This is especially important for any Australian scheme – any seasonal labour program will need to take account of taxation agreements (or the lack of them) between Australia and the Pacific. Currently non-residents who perform harvest labour in Australia (working holiday makers) are taxed at a higher rate than resident workers (29% rather than 13%) and do not benefit from the tax free threshold.⁷¹

Overseas workers are not covered by New Zealand's free health care system except for standard accident compensation – by law, the NZ Accident Compensation Corporation (ACC) is the primary provider of cover for injuries that occur in New Zealand, with the ACC claiming “New Zealand is the only country in the world where you're protected with such comprehensive, 24-hour, no fault personal injury coverage.”⁷²

NZ finance and insurance companies have leapt in to seize the market to provide extra insurance coverage: for example, Medical and Health Insurance Brokers Ltd and OrbitProtect Ltd have developed a special policy for seasonal workers, claiming it provides 100 per cent coverage with no excess. Their policy offers premiums at monthly payments of NZ\$50 available through participating employers or a one-off payment covering the number of days worked at a cost of NZ\$1.50 a day. The policies also include travel insurance for relatives in case of death or injury in New Zealand or

⁶⁹ Simon Collins: “Lured by broken promises”, *Weekend Herald* (NZ) 8 March 2008.

⁷⁰ “Labour, housing fail to keep up with burgeoning horticulture”, *Weekend Herald* (NZ) 8 March 2008.

⁷¹ Australian Taxation Office: <http://ato.gov.au/individuals/content.asp?doc=/content/29089.htm>

For a definition of residency rules for tax purposes, see:

<http://www.ato.gov.au/individuals/content.asp?doc=/content/64131.htm>

⁷² ACC: “How you can get help after an injury”, brochure distributed in NZ government information package for RSE workers.

for repatriation to the islands.⁷³

Recommendation 11: Australian tax officials should consider changes to provisions taxing non-residents who perform harvest labour in Australia, as Pacific Islanders performing seasonal work could find themselves in the inequitable position of paying taxes for services which they can never access.

2.8 Overstaying and repatriation

The RSE scheme places financial obligations on employers to cover the costs for repatriating workers if they overstay their visa. NZ apple farmer John Bostock notes:

The responsibility for returning the foreign worker is in the employer's hand, and in fact if a worker fails to return and jumps their visa, I'm liable for a bond of \$3,000 per worker. And that's making a strong incentive for me to find ways to ensure that the workers return on time.⁷⁴

But Pacific governments are concerned that examples of overstaying or substance abuse will damage the reputation of the sending countries and promote a backlash that could end opportunities to send seasonal workers. Government officials are lobbying local islander communities in New Zealand to help enforce the rules, and have supported the rapid return of workers who breach visa conditions.

For example, Vanuatu's pre-departure briefing is focussed on obligations: "the pre-departure seminars will emphasise to workers the importance of compliance and the public consequences of overstaying, displaying a good work ethic and protecting Vanuatu's reputation as a source of seasonal labour."⁷⁵

In 2007 Kiribati's Minister of Labour, Ioteba Redfern, told the NZ Kiribati National Council community association: "Please help them to work hard, and to obey New Zealand laws, and don't take them to night clubs."⁷⁶

Samoa's Prime Minister Tuila'epa Sa'ilele Malielegaoi also issued a "zero tolerance" warning to workers against breaching their visa conditions. Punishment imposed on workers for breaches of visa conditions has involved sanctions that go beyond deportation for the individual worker. The CEO for Cabinet and the Prime Minister's Office in Samoa, Auseugaefa Poloma Komiti, has stated that any worker overstaying their visa will never be accepted for the RSE scheme again, and that family members of the overstaying worker will not be allowed to apply for an RSE visa.⁷⁷

As well as workers leaving on their own decision (including two groups of Tongans who were disappointed by the amount of work on offer), others have been dismissed by employers and repatriated. One employer that has sent workers home is the orchardist "Mr. Apple" in the north island city of Hawkes Bay, which plans to employ over 600 Pacific workers by the end of the 2008 season. One Samoan worker was sent home from the first group of ten working for the company in

⁷³ OrbitProtect Ltd: "Experience NZ Lite Seasonal worker insurance", brochure distributed in NZ government information package for RSE workers.

⁷⁴ "Australia, NZ attitude on Pacific workers differs", Correspondents Report, *ABC Radio*, 15 April 2007.

⁷⁵ MFAT: "Launch of RSE Work Policy, 30 April 2007", Media Pack for journalists

⁷⁶ Taberannang Korauaba: "Don't shield over stayers, Kiribati community warned" Pacific Media Centre, 8 May 2007.

⁷⁷ "Samoa leader angry at worker breaking conditions of seasonal employment scheme", *Radio New Zealand International*, 19 April 2007; "Samoa warns anyone overstaying in New Zealand puts relatives' visas at risk", *Radio New Zealand International*, 12 August 2007.

March 2007 after he stayed with a relative in Auckland instead of residing with the company. Another three Samoan workers were sent home in January 2008 for drinking off-orchard.⁷⁸

In December 2007, the *Taimi o Tonga* newspaper reported that the Tongan government is also taking steps to weed out drinkers from the RSE program, concerned that excessive drinking by some RSE workers was causing “absenteeism, loss of earnings, quarrels, brawls, and one allegation of rape.”⁷⁹

This raises serious questions about the fundamental rights and autonomy of Pacific Island seasonal workers. While not wishing to encourage a culture of drinking, it is surely the case that many a New Zealand fruit picker or European backpacker have spent an evening in the pub after picking fruit without facing dismissal or termination of their employment. Workers’ lawful leisure time activities should not be subject to the discretion of employers or immigration authorities.

New Zealand officials state that the number of people breaching their visa conditions is relatively small, given that nearly 4,000 people have participated in the scheme over the first year. Kerupi Tavita of the NZ Department of Labour says he doesn’t see the actions of the latest group of Samoan workers having any overall influence:

I don’t think that the actions of a minority will actually damage the opportunity for the majority. We need to remember that there is over a thousand Pacific people here under RSE and I don’t think that the behaviour of three will actually have will too much of an influence on the good ones.⁸⁰

However NZ unions are concerned about a lack of standardised disputes procedure, to ensure that workers being sent home are provided natural justice and disputes processes. There is a disparity of power between employer and overseas worker, and in other migrant worker programs there are cases in New Zealand where workers have been sent home after they agitated for better conditions, such as a 2007 case where work permits were revoked for eight Thai workers in Blenheim vineyards after they spoke out about their employer’s work practices.⁸¹

There is a great danger of paternalism from employers and government, where islanders will be restricted in how and when they can use their money, with negative rather than positive incentives.

Instead, there is a need for Australia and New Zealand to work with Pacific governments to develop positive incentives that encourage remittance transfer and legal return.

Recommendation 12: Any seasonal workers program should include a disputes resolution procedure and positive incentives for visa compliance – Australia and New Zealand should work with Pacific governments to develop comprehensive legislation or regulations to assist migrant workers with:

- roll-over of any superannuation or pension rights
- access to tax rebates after leaving the country
- reduced freight costs to bring home goods
- tax benefits for repatriated funds
- maintenance of seniority and leave entitlements for former government workers.

⁷⁸ “Samoan seasonal worker sent home from New Zealand”, *Radio New Zealand International*, 17 April 2007.

⁷⁹ *Matangi Tonga*, 16 December 2007

⁸⁰ “Drinking incidents won’t alter NZ work scheme”, *Radio New Zealand International*, 25 January 2008.

⁸¹ “Bad Employment Practices Expose Wine Industry – CTU” *The Unionist*, No.83, 6 July 2007.

3. Political developments

The potential for increased access to the Australian and New Zealand labour market is particularly important for the Small Island States (SIS) that have limited opportunities for foreign investment, expanded employment or export growth, such as Cook Islands, Kiribati, Nauru, Niue, the Republic of Marshall Islands, Tuvalu and the Republic of Palau. At their 15th Summit in Nadi, Fiji in October 2006, SIS Leaders stated:

In recognising the need to address the increasing economic and social pressures created by unemployment through avenues such as unskilled labour access to developed countries, SIS Leaders asked the Forum Secretariat to develop a proposal that would further investigate the establishment of labour movement schemes including guest worker arrangements for the SIS in both Australia and New Zealand and in other developed countries drawing upon a recently launched World Bank report.⁸²

Kiribati President Anote Tong stated that given the greater vulnerability of small island states, “the idea was that we would explore together possibilities for more unskilled employment into our neighbouring countries. We also touched on the need not only to confine that to unskilled labourers, but also to develop our own labour force so that they can become semi skilled or even skilled as a means of enhancing economic opportunities.”⁸³

Pacific governments are continuing to pressure Australia to open up its labour market. In January 2008, Nauru’s Foreign Minister Kieren Keke asked Canberra to allow Nauruan seasonal workers into Australia to offset job losses resulting from the closure of the ‘Pacific Solution’ asylum seeker detention centre on Nauru, which is being wound down by the Rudd government.

Labor’s Parliamentary Secretary for Development Assistance Bob McMullan has argued that the Australian labour movement has been hesitant to endorse seasonal work programs because the Howard government’s workplace laws did not offer enough protection for vulnerable workers. Australian unions are lobbying for firm commitments on protecting wages and conditions, and integrating a seasonal work program into broader campaigns for “decent work” in Australia, New Zealand and the Pacific. Paul Howes, national secretary of the Australian Workers Union has said that his union would accept a scheme where seasonal workers are paid what an Australian worker in that position would expect and which would allow seasonal workers to be independent from an employer.⁸⁴

Now that New Zealand’s Department of Labour has announced a major evaluation of the RSE scheme, the process will be closely monitored in Canberra, as an ageing population in Australia forces the issue of regional labour mobility onto the agenda. Australian officials travelled to New Zealand in May 2008 to meet their NZ counterparts, as part of a process for developing a Cabinet submission for the Australian government.

In the past, some Australian politicians have stated that granting a seasonal work program should be a trade off in negotiations for the proposed PACER-Plus free trade agreement between Australia, New Zealand and Forum island countries.⁸⁵ In March 2008, NZ Trade Minister Phil Goff openly promoted the RSE scheme as a pilot for Australia, but as leverage for the creation of the PACER-Plus agreement:

⁸² Communiqué, SIS Leaders Retreat, Denarau, Nadi, 25 October 2006.

⁸³ Samantha Magick: “Small Island States Want More Work On Labour Mobility Proposals”, *Pacific Magazine Online*, 23 October 2006.

⁸⁴ “Australian union favours labour access scheme for Pacific islanders”, *Radio New Zealand International*, 22 April 2008.

⁸⁵ For discussion of the issue of reciprocity, see Nic Maclellan and Peter Mares: “Labour mobility in the Pacific: creating seasonal work programs in Australia” in Stewart Firth (ed.): *Globalisation, Governance and the Pacific Islands* (Australian National University, Canberra, 2007).

We can be the guinea pig, where we happily fulfil that role. So far, our experience has been that it's been a win-win situation. It's been good for our Pacific neighbours. It's been good for New Zealand. No serious problems have emerged and I think Australia as a whole will be interested in looking at our experience and seeing whether that is something that might be a possibility in terms of a regional agreement. Certainly it's something that the Pacific nations have been seeking and would be a major inducement for those countries to become part of an integrated economy in the Pacific region.⁸⁶

New Zealand's Ministry of Foreign Affairs and Trade (MFAT) sees RSE as "an excellent example of the benefits of regional integration. It may help stimulate deeper economic integration through the Pacific Plan and the Pacific Agreement on Closer Economic Relations."⁸⁷

In contrast, the NZCTU has stressed that: "if the seasonal labour development plan is a genuine development opportunity, then it should not be linked to discussion around free trade agreements."⁸⁸

The 'temporary movement of natural persons' (known as *Mode 4*) forms part of trade negotiations under the General Agreement in Trade in Services (GATS). However the focus of Mode 4 discussions is on the movement (not migration) of *skilled* workers. Trade negotiators are focussed on the economic impacts of increased labour mobility, in the context of global and regional negotiations for trade advantage. However the experience of New Zealand's seasonal worker program shows that the social, cultural and development impacts in small island states are a central element of the RSE program, which require investment and interventions outside the straight employer / employee relationship.

There are significant dangers in regarding seasonal workers as commodities to be traded between countries, and the heritage of the blackbirding era should be warning enough for policy makers – seasonal labour programs in Australia will only work if they take account of the rights and interests of the workers from the Pacific. The New Zealand experience has raised crucial issues about the need for consultation with unions, churches, welfare and support services and local islander communities in the Pacifica diaspora before any program starts in Australia.

Recommendation 13: Any seasonal worker program in Australia should be developed as an element of migration and development assistance policy, rather than used as a trading chip in proposed negotiations for a regional free trade agreement.

⁸⁶ "NZ pushes Australia to accept migrant workers under FTA" Pacific Beat, *Radio Australia*, 7 March 2008.

⁸⁷ MFAT media statement: <http://www.mfat.govt.nz/downloads/foreign-relations/pacific/views-on-rse.pdf>

⁸⁸ NZ Council of Trade Unions (NZCTU): "Seasonal Labour Plan Must Focus on Development in NZ and the Pacific", media release, 25 October 2006.