

# Markets, Migration & the Work of Care



## The Pacific Labour Scheme and Transnational Family Life: Policy Brief

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The new Pacific Labour Scheme is a temporary labour migration scheme for low- and semi-skilled workers. Designed as part of Australia's development program in the Pacific, it will come into effect in July 2018. The scheme's focus on non-seasonal labour in service sectors, and particularly care work, is intended to promote women's labour force participation and gender equality. But it will also have a significant impact on children, families and communities in the sending nations of the Pacific. Australia has a unique opportunity to pioneer a temporary labour migration scheme that acknowledges and addresses the social and personal costs borne by migrants and their families. This policy brief looks at how evidence from international research on temporary labour migration schemes and global care chains can inform the development of a Pacific Labour Scheme that (1) meets Australia's development and gender equality aspirations; (2) embeds our commitment to relevant international conventions; and, (3) supports transnational family life.

### 1. Australia and Pacific Labour Migration

Since 2006 Australia's approach to regional development has included temporary labour migration from Pacific Island Countries (PICs).

Following the UN High-level Dialogue on International Migration and Development, Australia and New Zealand have extended policy support for labour migration schemes involving PICs; New Zealand's Recognised Seasonal Employer (RSE) scheme commenced in April 2007, while Australia introduced a Pacific Seasonal Worker Pilot Scheme (PSWPS) in 2009 followed by a fully-fledged Seasonal Worker Program (SWP) in July 2012.<sup>2</sup> The Australian programs are employer-driven temporary migration schemes for seasonal horticultural workers.<sup>3</sup> Both schemes have been dominated by male workers.<sup>4</sup> Initial PIC workers participating in the PSWPS and SWP were from Kiribati, Papua New Guinea, Tonga and Vanuatu before the program was expanded to include Nauru, Samoa, the Solomon Islands, Tuvalu and Timor Leste.<sup>5</sup> Fiji was invited in 2014 and has had workers participating since 2015.<sup>6</sup> Tonga has had the highest participation in the SWP, with Tongan nationals receiving more than half of all visas granted under the program every year since its inception. Vanuatu is the next largest participant, with numbers increasing rapidly since 2014 and accounting for roughly one quarter of all visas granted as of 2016.<sup>7</sup> In recent years the SWP has expanded in size and scope. In 2015 the cap of 5000 seasonal workers was lifted and new employment opportunities created in agricultural, accommodation and tourist industries, in addition to horticulture.<sup>8</sup>

The SWP is considered by many to be a successful program for workers and employers,<sup>9</sup> although the scheme has faced recent criticism regarding worker exploitation and deaths.<sup>10</sup> The explicit orientation of the SWP as a scheme

to promote PIC development rather than labour supply alone<sup>11</sup> has been championed by a number of observers<sup>12</sup> with many advocating further extension of the scheme.<sup>13</sup> A 2016 report by the Lowy Institute suggests that the economic development delivered through increased PIC labour migration could outstrip the benefits received through Australian Aid<sup>14</sup>, although empirical studies remain inconclusive about the overall developmental effectiveness of the SWP.<sup>15</sup> Employers are benefitting from the SWP too: PIC workers are considered more efficient than the Working Holiday Makers (WHM) that have traditionally met the demand for seasonal labour in horticultural industries, and are likely to be an increasingly important form of labour supply.<sup>16</sup> There has also been growing pressure from employers in other sectors of the economy – especially aged care, childcare and disability care – who see temporary labour migration as part of the solution to current and expected labour shortages.<sup>17</sup>

The overall success of the SWP, industry and demographic trends, together with the Australian Government's focus on gender equality as a key goal for the Australian development program has seen policy shift from the promotion of seasonal to non-seasonal temporary labour migration schemes for PICs. The Pacific Microstates – Northern Australia Worker Pilot Program was announced in 2015 and designed to provide up to 250 two-year<sup>18</sup> placements in non-seasonal industries in Northern Australia for workers from microstate PICs with the lowest migration rates: Kiribati, Nauru and Tuvalu.<sup>19</sup> This pilot program represented the first step towards expanding PIC labour migration into the tourism, hospitality and care sectors.<sup>20</sup> The 'Microstate Pilot Visa' (MPV) was designed to strengthen Australia's developmental support for the Pacific by expanding employment opportunities for women in non-seasonal sectors, while developing skills and increasing remittance flows.<sup>21</sup> The temporary migration of PIC care

workers was integral to this vision.<sup>22</sup> In September 2017 this approach to regional development and labour market challenges in Australia was extended with the announcement of a new Pacific Labour Scheme (PLS). The PLS extends and formalises the MPV scheme in a range of ways and singles out the care sector as the largest of three growth sectors covered by the PLS.<sup>23</sup>

## 2. The Pacific Labour Scheme

The PLS is an employer-sponsored scheme that will commence in July 2018 with an initial intake of 2000 workers from Kiribati, Nauru and Tuvalu, in keeping with the MPVs emphasis on extending developmental benefits of labour migration to the smallest PICs. Under the PLS:

- Employment contracts are targeted within three non-seasonal growth sectors intended to match PIC skill sets: hospitality and tourism, health care and non-seasonal agriculture.
- Australia's labour migration policy has, for the first time, formally and explicitly targeted women workers to be employed in care service work.
- All positions are subject to labour market testing to identify genuine labour market shortages and ensure priority for Australian workers.
- Recruitment will take place via a new Pacific Labour Facility (PLF), intended to allow DFAT to mediate between employers and PIC workers for SWP and PLS recruitment.
- The PLF will also:
  - ✓ Work towards training a 'work ready pool' of applicants;
  - ✓ Promote the PLS among Australian employers;
  - ✓ Provide support services to PIC workers to ease transition into Australia and reintegration upon return; and

- ✓ Monitor the social and economic impact of labour mobility, including the social impact of long-term family separation and the economic costs and benefits accruing to Australia, PICs and workers themselves.<sup>24</sup>

The PLS is Australia's first fully-fledged multi-year temporary labour migration program involving PIC workers. Temporary labour migration schemes have a long history, extending back to European guest worker programs following World War II, and have attracted sustained criticism with regards to the human and labour rights of migrant workers, and development effectiveness for labour-sending countries.<sup>25</sup> Temporary labour migration schemes rarely take into account the social impact of labour migration, especially when parents migrate, and family life become transnational. This is despite a strong and growing evidence base.<sup>26</sup> In the case of the MPV, participating PIC workers are predominantly women – over 80 percent to date<sup>27</sup> – and this gender ratio can be anticipated to continue under the PLS given the scheme's emphasis on the highly feminised care and hospitality sectors. Many of the women involved in the PLS will be mothers and primary caregivers making proper assessment of the social costs of migration a central concern for the PLF.

Australia has a unique opportunity to pioneer a temporary labour migration scheme that acknowledges and addresses the social and personal costs borne by migrants and their families. There is potential to establish best practice policies that identify Australia as a world-leader in promoting mutually-beneficial labour mobility schemes that mitigate potential harms and maximise developmental returns to PICs. The PLS's emphasis on migrant rights and developmental outcomes is welcomed but needs to be extended to take into account the social costs of migration. Specifically, there is room for

meaningful policy innovation at the interface of migrants' working conditions and familial ties. Greater attention should be paid to the emotional and material impacts on children and extended families drawn into caregiving roles, and the psycho-social wellbeing of all parties involved. Australia's existing human rights and development commitments provide a framework for the development of a temporary labour migration scheme that proactively and effectively address these challenges and concerns.

### **3. International Norms and Temporary Labour Migration: A Framework for Best Practice**

This policy brief identifies two international frameworks as guides for policy development of the PLS: the 1989 UN *Convention on the Rights of the Child*<sup>28</sup> (CRC) in relation to the migration of caregiving parents; and, the ILO *Decent Work Agenda*<sup>29</sup> regarding the familial rights and responsibilities of workers and importance of meaningful skill development and transfers for PICs. These international instruments, together with academic research on the impact on families and children who remain in sending countries, provide a strong foundation for the design of a sustainable PLS.

#### ***The Convention on the Rights of the Child and the PLS***<sup>30</sup>

Australia ratified the CRC in 1990, legally committing the government to consider the best interests of children who are directly or indirectly affected by government policies and actions. Temporary labour migration schemes are prominent examples of such policies and need to be considered in light of the CRC. A recent Joint General Comment by the CRC Committee and the UN Committee on Migrants Workers has held that, "In the context of international migration, children may be in a situation of double vulnerability as children and as children affected by migration who ...

remain in their country of origin while one or both parents have migrated to another country”.<sup>31</sup> Primary caregivers, who are also often migrant workers, are fundamental to the realisation of children’s rights, as “these relationships offer children physical and emotional security, as well as consistent care and attention ... In these ways, parents (and other caregivers) are normally the major conduit through which young children are able to realise their rights”.<sup>32</sup>

Numerous discrete rights under the CRC reflect the presumption in human rights law that (save in exceptional circumstances) support for and maintenance of the child-parent relationship is in a child’s best interests. These include the rights of children: to be cared for by their own parents as far as possible (Article 7); to maintain direct and regular contact with their parents if separated (Article 10(2)); and to have their parents assisted by the State in the performance of child-rearing responsibilities arising from their role as caregivers with the primary responsibility for their children’s upbringing and development (Article 18). While the absence of a care-giving parent due to labour migration places a fundamental constraint on the rights of the child, it is possible to establish policies to support the parent-child relationship. These include policies in relation to a family’s pre-migration situation, levels of preparedness for periods of separation, the quality and suitability of alternate attachment figures, a parent’s capacity to make return visits home, and the availability of support and means to maintain child-parent relationships transnationally through specific workplace measures such as time to communicate and carers leave.<sup>33</sup>

### ***The Decent Work Agenda and Transnational Family Life***

The ILO’s decent work agenda has long identified migrant workers, and women migrant workers especially, as a vulnerable population.

Recognition of the social costs of migration have also informed ILO dialogue: “The social costs of labour migration in terms of fractured families and communities are without a doubt at least as significant as those related to the more measurable economic costs. The effects are almost never gender-neutral”.<sup>34</sup>

There is extensive international evidence on the emotional and developmental implications for children who remain at home when their parents migrate for work.<sup>35</sup> Although there is no single model of good parenting, and many migrant parents have devised effective strategies to maintain ties with their children,<sup>36</sup> parental absence can affect the provision of physical and emotional care for children, disrupt education and even contribute to familial breakdown.<sup>37</sup> The 1981 ILO *Convention on Workers with Family Responsibilities*<sup>38</sup> (C156), ratified by Australia in 1990, recognises that workers have both employment and family responsibilities that need to be considered. It calls upon members to “make it an aim of national policy to enable persons with family responsibilities who are engaged or wish to engage in employment to exercise their right to do so without being subject to discrimination and, to the extent possible, without conflict between their employment and family responsibilities” (Article 3).<sup>39</sup>

The decent work agenda and ILO recommendations to address migrant exploitation and labour rights have also directly informed the UN Sustainable Development Goals 2030 (SDGs). SDG 8.8 requires countries: ‘to protect labour rights and promote safe and secure working environments of all workers, including migrant workers, particularly women migrants, and those in precarious employment’.<sup>40</sup> SDGs 8<sup>41</sup> and 10<sup>42</sup> focus on the need for temporary labour migration to be developmentally beneficial for migrant-sending countries, by identifying the need to ensure migrant workers can be appropriately employed during and after migration.<sup>43</sup> While

the Australian Government expects the PLS to facilitate a skills transfer to PICs, issues around the training of skilled care workers, the potential for both 'brain drain' and 'care drain' effects, and employment prospects for care workers upon return and reintegration remain under-developed.<sup>44</sup>

#### 4. The PLS: Policy Challenges and Opportunities

Australia's move towards an extended temporary labour migration scheme raises a number of policy concerns, some of which have been recognised by the PLF framework, for example the PLF's emphasis on extending support to migrants during the crucial pre-departure, acclimatisation and reintegration phases of migration. However, the Australian government has further opportunities to strengthen the gender equality and human development goals of the program through additional support for transnational family life. Given the developmental orientation of the PLS, any additional cost in implementing such measures should be borne as part of Australia's developmental obligation to the Pacific.

##### *Pre-departure & Alternative Care Arrangements*

- **Families accompany workers.** The 'gold standard' for any temporary labour migration scheme is to allow families to accompany workers. The PLS could be brought into alignment with Australia's other temporary work visas by allowing spouses and children to come to Australia with workers. This would entail allowing spouses to work in Australia and would require the government to bear the health and education costs of the migrant workers and accompanying family members.
- **Pre-departure care auditing.** Where familial separation does occur, pre-departure preparation can assist family members who remain behind to plan for

alternative care and support arrangements. Checks to ensure that adequate alternative care arrangements are in place for children of migrant workers can safeguard the wellbeing of children during the period of separation. Families could be assisted by skilled child development professionals (with local cultural knowledge) to develop care plans that specify alternative care arrangements and ensure the availability of support services for migrant families throughout the migration process.

##### *Workplace Policies for Transnational Family Life*

- **Travel for family needs.** Parents and children benefit from frequent contact that enables them to maintain close and supportive relationships. However, migrant workers are unlikely to have sufficient discretionary funds to finance regular home visits themselves. The cost of privately organised travel between Australia and the Pacific is often very high. Government provided annual visits would support transnational family life. Special leave arrangements in workplaces receiving temporary migrants from PICs could also support transnational family connections. Such arrangements could include additional support for emergency travel in the case of verified major family events, e.g. the death of a close relative or the serious illness of a dependent child.
- **Free and easy communication.** The ability to conveniently contact family members is critical for maintaining healthy transnational family ties. Workplace support for scheduled call periods to family and community during times of day that are compatible with families left behind is important. Government support for credit-loaded mobile phones and free wi-fi access would support ease of regular communication.



## Reintegration and Skills Transferability

- **Development aid for healthcare infrastructure.** Australia's aid program could complement the PLS by investing in public care facilities in PICs, with particular attention to early childhood education and care and elderly care. Such support could underpin a broad range of positive outcomes: relieve some of the care obligations of alternative caregivers; provide returning migrants with employment in local care industries and an opportunity to train other local care workers in the skills developed in Australia; train prospective migrants through on-the-job experience so that migrants are skilled and ready to deliver quality care in Australia. Australia has a sizeable aid budget for Nauru, Kiribati and Tuvalu that could be adapted to this purpose.
- **Discouraging repeat migration.** The repeat migration of temporary labour migrants can cause long-term familial separation and concentrates developmental benefits among the few.<sup>45</sup> Successfully reintegrating migrants, preferably by putting their acquired skills to use locally and by training others, could share 'brain gains' and allow other skilled migrants the opportunity to participate in the PLS.

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<sup>2</sup> Bedford et al. 2017

<sup>3</sup> The RSE operates on a considerably larger scale, with roughly twice as many workers, see Bedford et al. 2017

<sup>4</sup> Male workers make up approximately 86 percent of participants as of 2016, see Cardno 2016

<sup>5</sup> Ball 2015

<sup>6</sup> Bedford et al. 2017

<sup>7</sup> Cardno 2016

<sup>8</sup> Bedford et al. 2017

<sup>9</sup> See Ball 2010; Bedford et al. 2017

<sup>10</sup> Doherty 2017; Petrou and Connell 2018

<sup>11</sup> Department of Foreign Affairs and Trade 2017

<sup>12</sup> Berkelmans and Pryke 2016; Joint Standing Committee on Migration 2016; Bedford et al. 2017

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- <sup>13</sup> Connell 2009; Ball 2015
- <sup>14</sup> Berkelmans and Pryke 2016
- <sup>15</sup> See Bailey 2015; Craven 2015
- <sup>16</sup> Australian Bureau of Agricultural and Resource Economics and Sciences 2013
- <sup>17</sup> Brennan et al. 2017
- <sup>18</sup> With an optional third year available
- <sup>19</sup> Australian Government 2015
- <sup>20</sup> Sherrell 2017
- <sup>21</sup> Australian Government 2015
- <sup>22</sup> The Government's 2017 response to the Joint Standing Committee on Migration's inquiry into the SWP rejected *Recommendation 3* (to extend the SWP into aged, child and disability care sectors) in deference to the MPV as a preferred solution to care provisioning, see Australian Government 2017
- <sup>23</sup> Department of Foreign Affairs and Trade 2017c
- <sup>24</sup> Department of Foreign Affairs and Trade 2017b
- <sup>25</sup> Castles 2006
- <sup>26</sup> Battistella and Conaco 1998; Antman 2013
- <sup>27</sup> Sherrell 2017
- <sup>28</sup> UN General Assembly 1989
- <sup>29</sup> ILO 2016
- <sup>30</sup> Analysis of the CRC is the work of Jayasuriya (2018) whose PhD research addresses the obligation of labour-receiving countries to support transnational child-parent relationships in accordance with specific rights and duties under the CRC.
- <sup>31</sup> UN CMW and CRC Committees 2017
- <sup>32</sup> UN CRC Committee 2006
- <sup>33</sup> Jayasuriya 2018
- <sup>34</sup> ILO 2004
- <sup>35</sup> See Battistella and Conaco 1998; Castañeda and Buck 2011; Jayasuriya and Opeskin 2015
- <sup>36</sup> Peng and Wong 2016
- <sup>37</sup> Michel and Badasu 2016; Perez Orozco 2016
- <sup>38</sup> ILO 1981
- <sup>39</sup> Ibid.
- <sup>40</sup> ILO 2016
- <sup>41</sup> Decent Work
- <sup>42</sup> Reduced Inequalities
- <sup>43</sup> ILO 2015
- <sup>44</sup> Curtain et al. 2017
- <sup>45</sup> Wickramasekara 2015