

We need to hear the stories of exploited unlawful migrant workers, not just deport them

Written by The Conversation



There is no transparency in how the Australian Border Force operates when it comes to deporting illegal migrant workers. AAP/Julian Smith

Migration status – even for those with the right to work in Australia – is often used as leverage to exploit workers. This is evident from my [ongoing research](#) , [other research](#) and [government inquiries](#)

So, if the

[Migrant Workers Taskforce](#)'s

commitment to stamp out exploitation is genuine, then the first step must be to remove this leverage.

As such, Australia needs to empower migrant workers to report abuse, and more effectively punish employers that do the wrong thing. The taskforce has [stated](#) :

For any temporary visa holder who has no work entitlement attached to their visa, the Department of Immigration and Border Protection will make no commitment other than to consider the case on its merits.

A case-by-case commitment to consider whether or not someone will be deported when they report exploitation, if they came to Australia without the right to work as part of their visa conditions and/or if they have overstayed their visa, is as good as no commitment. It provides no certainty, and therefore ensures unlawful workers remain unprotected.

Expecting workers to tell Department of Immigration and Fair Work officials about their situation is based on an assumption that this is in their interest.

My [interview-based research](#) with workers, employers, contractors and other stakeholders is examining issues related to unlawful migrant labour across different industries in Victoria and New South Wales. Workers and those who support them – who are often people who have also worked unlawfully at some stage – repeatedly tell me that the familial and community

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entanglement of unlawful workers with contractors is one of the many reasons that it is rarely in the worker's interest to report exploitation.

There is also a strong desire to work. This means people accept substandard work and other conditions (such as accommodation) because their primary goal is earning money. If they complain, they will easily be replaced.

In the absence of any guarantee of not being deported and no guarantee that remuneration or compensation can be sought, reporting exploitation offers very little to this group of workers.

What do we know about the problem?

The taskforce's recent [progress update](#) provides some good signs. These include new protections for those who have work rights but breach them. This was the case for [many of the 7-Eleven workers](#) who had student visas but worked more hours than these allowed, and so were in breach of their visa conditions.

As the taskforce progresses, the challenge will be to tackle the difficult and complex terrain of improving employment conditions, managing the overlap of exploitation and unlawful migration status, while also recognising the challenges for employers in different industries and developing enduring and impactful solutions.

What we do know is:

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It has previously [been estimated](#) that "the total numbers of non-citizens working in Australia when they do not have permission ... must be in the order of 50,000 [and up to approximately] 100,000 non-citizens".

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We identify very few of these workers. In 2015-16 the number of unlawful non-citizens identified

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[was 15,145](#)

and the number of unlawful non-citizen workers was 1,970. There is no publicly available data on whether any of these people were also identified as potentially exploited workers.

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Part of the ABF's compliance role is to identify, detain and deport unlawful migrant workers. When these operations take place, the ABF [often publicises them](#) and/or [the media report](#) them.

[Researchers](#) and [civil society](#) have consistently raised concerns that unlawful workers who have been exploited are being deported because of their migration status without their exploitation being recognised.

In 2015-16, the Australian Federal Police received [75 referrals](#) related to workplace exploitation that were suspected to amount to human trafficking or a related offence under Commonwealth law. Of these, 39 related to sexual exploitation; the rest related to other forms of labour exploitation.

However, identifying how many of these referrals came from the ABF is difficult, as these data are not published. Critically, this is only a fraction of the number of unlawful non-citizens identified as working unlawfully. And there is no reporting on whether other potential cases of exploitation are ever referred to the Fair Work Ombudsman if they do not meet the standard of a potential human trafficking case.

Finally, in this area it is often claimed that illegal workers are taking the jobs and the livelihoods of Australians. Most recently, this claim was made by the assistant immigration minister and now employment minister, Michaelia Cash. She [argued that](#) that unlawful workers are:

... taking much-needed jobs that should be going to Australians.

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The reality is that some sectors of key industries [rely on](#) low-paid and, in some instances, unlawful migrant workers. In my research I am being told consistently that, for some industries, this group of workers is the most reliable and efficient – and if there was a way to make them lawful the industry would continue to hire them.

If our commitment is to ensuring the integrity of the workforce and of our employment system, we must begin with protecting anyone who is working in Australia and recognising the challenges of specific industries. The introduction of [a bill](#) goes one step towards protection, but it fails to tackle the unequal treatment of those without the right to work in Australia.

Exploitation is not tackled by protecting only some of those who are exploited.

Marie Segrave receives funding from the Australian Research Council.

Read more <http://theconversation.com/we-need-to-hear-the-stories-of-exploited-unlawful-migrant-workers-not-just-deport-them-73348>