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Committee Secretary  
Joint Standing Committee on Migration  
Department of House of Representatives  
PO Box 6021  
Parliament House  
CANBERRA ACT 2600  
AUSTRALIA

**Subject: Inquiry into eligibility requirements and monitoring, enforcement and reporting arrangements for temporary business visas**

Dear Secretary,

Please accept our submission to the above Inquiry. We are sociologists specialising in migration and migrant settlement. We have been funded by the Australian Research Council to undertake a three year (2006-2008) in-depth qualitative study into the experiences of Temporary Skilled Migrants from India currently in Australia on 457 Visas. The study involves interviews with 457 holders from a range of occupations, particularly blue collar workers, hospitality and health workers, and those in the IT sector. The study involves in-depth individual interviews with approximately 40 visa holders. We believe this is the only qualitative study of this depth to explore the day to day experiences of 457 holders and therefore trust that the Inquiry will find our research useful.

We attach three documents:

1. A paper prepared for a workshop on the experiences of IT, Blue Collar and hospitality workers from India on 457 Visas. The paper addresses the following issues:

- o Motivations to migrate
- o Means of migration, accessing employment and securing 457 visas
- o Settlement experiences while in Australia
- o Work conditions and experiences
- o Instances of exploitation

2. A PowerPoint presentation which accompanies this paper.

3. A short list of key recommendations stemming from our study identifying areas where procedures and monitoring can be improved.

We would be happy to elaborate on the materials provided here should the Committee wish our present at the Inquiry. We understand that the Sydney based hearings are now complete, but we would be happy to travel to Canberra if required.

We can be contacted on (02) 9850-4426 or by email: [Selvaraj.velayutham@mq.edu.au](mailto:Selvaraj.velayutham@mq.edu.au) and [Amanda.wise@mq.edu.au](mailto:Amanda.wise@mq.edu.au)

Yours faithfully,

*Selvaraj Velayutham*

Dr Selvaraj Velayutham (Postdoctoral Research Fellow) & Dr Amanda Wise (Senior Research Fellow)  
**Centre for Research on Social Inclusion**

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**From:** Selvaraj Velayutham [Selvaraj.Velayutham@scmp.mq.edu.au]  
**Sent:** Monday, 21 May 2007 13:25  
**To:** Committee, Migration (REPS)  
**Subject:** Privacy declaration - Macquarie university submission

To the Joint Standing Committee on Migration,

Re: Inquiry into eligibility requirements and monitoring, enforcement and reporting arrangements for temporary business visas

We would like to inform the committee that in accordance to the Macquarie University's human ethics research guidelines, the names of temporary skilled migrants in our study have been changed to protect their identities and maintain anonymity. The names appearing in our submission to the Inquiry are just pseudonyms.

Submission by : Dr Selvaraj Velayutham and Dr Amanda Wise Centre for Research on Social Inclusion, Macquarie University

Yours sincerely,  
Selvaraj Velayutham and Amanda Wise

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# Temporary Skilled Migration of Indians to Australia on 457 Visas

Dr Amanda Wise & Dr Selvaraj Velayutham

Centre for Research on Social Inclusion, Macquarie University

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Since the mid-1990s temporary skilled migration has overtaken permanent migration to Australia (McDonald, Khoo and Kippen 2003). In 2005, Indians became the second largest migrant group under the skilled migration category after Britain and New Zealand. Between 2004-2005 out of 9,414 Indians, 7244 qualified as skilled migrants. Obviously, this figure is rising steadily. During that period, skilled migration visas issued to citizens of India covered a range of occupations in demand. In addition to IT professions, the top 10 occupations in demand filled by migrants from India were: Accountants, toolmakers, metal machinists, refrigeration and air-conditioning mechanics, fitters, nurses, cooks, civil engineers, hairdressers and motor mechanics. By December of 2006 there were 6887 Indians in Australia on 457 Visas, the majority of whom were based in Sydney and Melbourne.

Temporary Skilled migration in Australia has primarily been studied quantitatively. We felt that the field would benefit from an in-depth qualitative study able to capture the lived complexities and nuances of the temporary migration experience, motivations for settlement or non-settlement and engagement with Australia, from the perspective of the migrant.

We have been funded by the Australian Research Council to undertake a three year (2006-2008) in-depth qualitative study into the experiences of Temporary Skilled Migrants from India currently in Australia on 457 Visas. The study involves interviews with 457 holders from a range of occupations, particularly blue collar workers, hospitality and health workers, and those in the IT sector. The study involves in-depth individual interviews with approximately 40 visa holders. We believe this is the only qualitative study of this depth to explore the day to day experiences of 457 holders and therefore trust that the Inquiry will find our research useful.

Focused on 457 holders from India our study has number of research questions, of which the most relevant to the Inquiry are:

**1. Motivations to migrate**

We investigate the contexts, circumstances and motivation for migration amongst our target group; and the hopes and aspirations of these temporary skilled migrants.

**2. Means of migration, accessing employment and securing 457 visas**

The study explores the informal (through social and kin networks) strategies employed for securing mobility; as well as the role played by labour hire firms, and agents specialising in recruiting and placing 457s. A particular focus is on the characteristics of these agents, and the extent to which demands for large payments are made by them to the 457 holder for placement into employment and securing their visa.

**3. Work conditions and experiences**

This part of the study explores the range of work conditions and work place experiences of 457 holders. We compare how the experiences of different occupational groups vary, especially the differences between IT, Blue Collar, and Hospitality workers. Following anecdotal reports of vulnerable 457 holders, we also set out to investigate instances of exploitation, either by agents, labor hire firms or the employer.

**4. Settlement Issues**

Here the study explores the particular settlement experiences of 457 holders, particularly those on long-term contracts. We explore relationships with colleagues in the workplace, the experiences of spouses of 457 holders, living conditions, knowledge of Australia and Australian society, and experiences integrating into the mainstream and also Indian community.

## Preliminary findings on IT Workers

### 1. Motivations to Migrate

The IT sector informants in the study are generally mobile and well networked with one another transnationally. For instance, Vijay comes from Palakkad district in Kerala but grew up in New Delhi and had worked in Mumbai, Bangalore, Chennai, Japan, and Singapore in the IT sector. Through a former work colleague in Chennai, he found out about the position in Sydney. He arrived with his wife and 8 months old daughter in November 2005. He works for a Sydney based Indian IT company which basically subcontracts IT workers to various Australian businesses. Vijay works in Canon Australia in the IT department.

Similarly, another informant, Naresh from Andhra Pradesh also had work experience in places such as Mumbai, New Delhi, Chicago, Jakarta and Singapore before he came to Australia in early 2005. Again, he found out about his present job with Macquarie Bank through a former work colleague in New Delhi. These networks put the already mobile, middle class, urban Indians in a strong position to seek employment outside of India. However, Australia is not at the top of the list. As Vijay said:

*"most of my peers have ventured overseas. In terms of attractive locations, the US is the number one destination, followed by Europe, particularly English speaking countries and then comes Japan.. Australia is not very attractive. One thing is because of the perception that the taxes are very high... potential for saving is not as good as the US or Europe. Money is the main motivator".*

### 2. Means of Migration

- The primary means of migration is through professional agents operating multi-nationally. These are mostly labour hire firms, but are also often Indian firms such as Satyam with bases in many in countries, including Australia. These 457 IT Workers are effectively employees of Indian firms with an Australian base. They operate as labour hire firms, contracting out IT workers out to Australian client companies. This means there is no direct link of employment with the company were the IT worker is based.

### 3. Work Conditions & Experiences

The working conditions for IT workers are generally good, however there are a few issues that have emerged in the study so far.

- Uncertain length of tenure: This makes it hard for these workers to settle.
- Employed by Indian multinational based locally then sent to client companies on contract. Main base is the client organisation. There are a number of implications:
  - Relationships with colleagues are minimal. Employees of the client company do not wish to 'invest time' in establishing friendships with these workers.
  - Horizontal movement (from job to similar job) rather than vertical promotion, meaning career trajectory often stalls.
  - They are seen by their client company simply as consultants. There is little investment in their development as employees in the company or concern for their wellbeing.

- Nor does their Indian (Australia based labour hire firm) employing company invest in any development of these workers.
- Many feel their career progression stalls.
- Many feel as though they are in a bubble, caught between the two companies

#### 4. Settlement Experiences

It is commonly assumed that Indians are well educated and highly motivated migrants. Given their English language proficiency, and social skills, they are also generally considered to be 'good migrants' who fit into Australian society with relative ease and are less 'needy' compared to other migrant groups when it comes to social and community services. However this study has found 457 holders from India from all occupation groups have a number of under-recognised settlement issues, which we address here. A lack of support and social isolation prevails, and many have few links outside the workplace with either the mainstream Australian community or the Indian community itself. Most rely on a small group of friends also on 457 visas.

Quite remarkably all the informants indicated that when they arrived in Australia, they were not received by the representatives of the agents or employer. There was no arrival party or induction package. No assistance provided except for temporary accommodation.

*Naresh said , "Other than cricket, I didn't know anything about this place...when I arrived in Sydney, my friend came to receive me...not from the company...they don't receive...you have to come on your own, even if you don't know anybody here...they'll book you a hotel...that was it. Since my friend was there it was easy for me...without him, it would have been very difficult"*

Many expressed feelings of severe social isolation, they did not know any of their neighbours, and had no contact with work colleagues outside work. As a result, they tend to gravitate towards Indian community events and functions. Their primary source of community information was through local ethnic community media.

*Vijay said, "it has been difficult, in my current workplace, most of them are Australians (Caucasians)"...we seem to have different interests... nothing in common... as far as the professional interaction is concerned that's fine but nothing social"*

Vijay's wife Roopa speaking about her neighbours said:

*"any get togethers we have are with other Indian friends and circles we met here... we don't even know our neighbours. We don't even know who's staying next door. At times, we really wonder, what to do if we had an emergency....we hardly even know. I think they are Chinese... next door...we say hi that's it, don't even know their names..."*

Unlike other professional migrants or those who arrive under the humanitarian program who are in some ways cared for in terms of being accommodated, introduced to resources and settlement services, and so on, those who are in the middle – such as 457 temporary skilled migrants – find they must fend for themselves. It is also interesting to note that neither the Australian company they work for nor their agent company is willing to take responsibility for the migrants well-being throughout their stay.

### **Spouse's situation**

There are also some significant issues emerging for the spouses of 457 Visa holders in Australia. Despite being highly skilled and educated themselves, many of these (mostly women) find it difficult to find work and suffer a high level of social isolation. For example, Vijay's wife Roopa holds a Masters in Business Administration and has 3 years working experience in marketing and customers service. She says,

*"that's not working here at all....for the last about 8 months ..I have been applying for so many jobs....out of that I have just been called for 2 interviews....I would have at least applied til today for 60-70 jobs...just 2 interviews, the rest were rejected. There was one incident ..it was so unfair. I have full working rights [as a spouse] on 457 visa. I mean there was a one day job at Franklin (supermarket) for which I enthusiastically applied. And they wrote back saying that I did not have working rights. I told them I do have working rights and they could cross-check with the Department of immigration and they replied saying they didn't have the time to check such matters..."*

All of the wives of those interviewed so far have had tertiary qualifications and work experience but have not been able to find employment. This in the long run may significantly influence whether these couples apply for permanent residency in Australia or return to India where the opportunities are greater.

## Preliminary Findings on Blue Collar Workers

There are a number of strong findings that have emerged in this part of the study so far. They are as follows:

### 1. Motivations to migrate

- Key is the possibility of earning more money than they could in India or Singapore. Transnational work practices allow an upward social mobility denied to them in the Indian context.
- Migration in their *popular imaginary* (in the village or Chennai) represents the possibility of opportunity beyond what they have in India. Working overseas is deeply embedded in the social psyche, and in Indian history. It is also encouraged by the Indian state.
- Although it wasn't an initial motivation, now they are here many are hoping to obtain Permanent Residence in Australia
- They knew little about Australia before they came, other than 'it's a beautiful country, nice people and the salaries would be higher'.

### *The influence of family and village background*

- Most have cousins or siblings overseas: Gulf States such as Kuwait, Dubai, Saudi Arabia, and places such as UK, and most commonly, Singapore.
- Families encourage them to go. They have family responsibilities, such as helping parents financially, financing the education of younger siblings, paying the dowry of sisters, paying back debts.

### 2. Means of Migration

- Blue collar workers come mostly through agents whom they pay, very often quite substantial sums.
- A very common pathway is through Singapore. There are a number of aggressive agents based there (small businesses, often Chinese, sometimes Indian) targeting foreign workers. They post flyers in workers accommodation to recruit potential candidates for the 457 program.
- Singaporean agents typically charge around S\$12,000. S\$6000 must be paid by the employee up front, the balance is deducted from their wages once in Australia. On top of this they must pay the Australian Immigration Visa charge plus their airfare. This adds up to around \$16 or 17,000 AUD.
- This is in a context where these workers earn about \$700 to 800 Singapore dollars per month.
- They are usually forced to borrow from friends and family member's savings to pay the deposit up front. Once in Australia, they have the dual burden of the deductions from their pay to repay agents fees, sometimes accommodation, and also paying back these substantial loans to friends and family.
- In terms of borrowing from friends, the usual practice is to provide some form of collateral – typically some property or a car back in India. The loans are then required to be paid back with interest.

- There are also a number of cases of employers (usually small business such as restaurants) going direct to villages in India to recruit.
- Further payments are demanded by agents for renewal of visa beyond the initial term.
- There are also a number of Australian based agents specializing in recruiting and placing 457 visa workers– particularly those from 'co-ethnic background' aggressively recruiting and charging similarly high fees.

### 3. Work conditions

- Agents in Singapore appear to be consistently misrepresenting the conditions of employment to the employee before leaving, and these conditions typically change (to a much less generous set of conditions) once in Australia.

#### CASE STUDY: BLUE COLLAR WORKERS

- A group of workers were asked by the agent in Singapore to sign what they thought is a fair contract with a salary of \$40,000 for a 40 hour per week job. The letter of offer was for four years and had the usual standard conditions around sick leave an annual leave and so on.
- When they arrived in Australia they were presented (by the Indian HR manager) with a new AWA and given 24 hours to sign or face termination. The new AWA required they work 11 to 18 hours per day (overtime without penalty rates), accept termination without notice, and leave Australia if terminated by the company. On refusing to sign, their passports were confiscated.
- They were promised that the employer would provide training and a local licence to operate specific equipment. On arrival, they found they had to pay for their own training and licences which added up to quite a substantial sum.
- They also found there was no other induction or safety training once they commenced employment.
- In Singapore they were promised accommodation. Once here they found themselves in a room at the back of the factory, with bunks which housed 5 men, a kitchen and bathroom. They were each charged \$100 per week for this room, which was deducted from their salary (on top of repayments to the agent)
- There were ongoing abuses, including:
  - Sick leave deducted from annual leave, despite medical certificates
  - Long hours without paid overtime: working 9 hours onsite, then travelling an hour back to factory where they were expected to work several more hours on the factory floor.
  - Safety breaches – being forced to work in unsafe conditions
  - Required to do jobs they weren't trained to do
- They were initially sacked for joining the union (later re-instated once the union intervened)
- They have been told by the employer that overseas workers don't have same rules of pay and employment as local workers. They continue to be under the impression that there are special conditions for 457 workers. Employers are believed as in places such as Singapore, its is legal (indeed typical) for foreign labour to receive lower salaries and conditions than locals.



### ***Co-ethnic exploitation***

- A pattern of what we have termed "co-ethnic exploitation" and mistreatment has emerged very strongly. This typically involves an employer, manager and/or agent of co-ethnic background leading the exploitative practices. (eg: Indian employer or agent exploiting Indian workers)
- The mistreatment is justified by these co-ethnics on the basis that 'this is what these workers are used to' in their own country.
- Cultural attitudes, caste and class relations get transnationalised: ie, the co-ethnics doing the exploiting measure what constitutes appropriate pay, treatment and conditions, not by Australian standards, but by the standards of the homeland, or sometimes a third country where their co-ethnic workers have often spent time (such as Singapore).
- These attitudes are further exacerbated by intra-cultural prejudices around servitude, urban vs rural hierarchies which are used to justify the exploitative behaviour.
- The worst offenders among 'co-ethnic' employers are typically small businesses.
- The employers have the advantage of being fully aware of the background situation and vulnerability of these workers and therefore know where to exploit their trust and how far they can 'push' the exploitation.
- The exploitation of trust comes into play at two levels:
  - One at the level of kinship. Many of the workers were recruited through kinship or village based networks. This is especially so in the restaurant industry. These connections are played upon to attract the workers in the first instance, but subsequently there is a level of fear (sometimes threats to harm family) or simply shame (workers embarrassed to speak out for fear of upsetting family at home).
  - At another level, trust is also significant in terms of ethnicity, drawing on discourses of ethnic solidarity and trust 'of your own kind'. Also co-ethnics who speak the workers' mother-tongue are trusted over others.

### **Vulnerability – aggravated by:**

The ability of these workers to seek redress, alternative employment, or demand better pay and conditions is significantly limited by a number of factors. This places them in a position exceptionally vulnerable to exploitation. The aggravating factors include:

- Their contracts state (or what their employers tell them the contract means) that they cannot seek alternative employment, and if they do, their visa will cease and they will have to leave the country.
- It is very difficult to source new work, and these workers have to do so within 28 days or the leave country. There is a possibility of a bridging visa of 2-3 months but it remains a fact that it is difficult to find job in that time.
- Moreover, they have no income (and large debts and little savings) between employment situations. Many feel quite trapped by this.

- Unlike professionals such as the IT workers, there are no readily accessible recruitment agents or labour hire firms to source alternative employment. There are employment agencies here in Australia to help re-place these 457 workers, however they typically charge around \$3500 which most blue collar 457s are unable to afford. (Indians and Chinese agents in Sydney.)
- Many employers instil in them the fear that they will lose their visa. Because of this fear of losing their visa most won't speak out and are reluctant to join unions.
- This group of workers are not especially fluent in English so find it difficult to understand the terms of their Visa, and their AWAs, and rely on the (often untruthful) interpretation of the employer. Even where they are fluent in English, for many the language, expression and terminology in the materials provided by DIAC is too complex.
- Less educated and less knowledge of Australia and its systems.
- They don't have the network of co-migrants (as in Singapore) to draw on to find out information that would help. IT workers, for example have a stronger network in this way.
- Many have experience working in India and Singapore already so their expectations are low in terms what their rights as foreign workers are here.
- Family and kinship links also exacerbate their vulnerability. Many report feeling trapped:
  - The direct recruitment from India often occurs via family links and 'trust networks'. It is confronting to complain about mistreatment in such contexts.
  - Many have borrowed money from friends and family at home to pay agents fees and airfares. Losing job and visa means being sent back, still in debt. This is not only a financial issue, but an emotional one as well. It is deeply shameful to return to India having 'failed' in this way.
  - Many have significant financial responsibilities to assist family back home. Where the family pay the agents and passage fees, there is an obligation on the part of the migrant worker to remit money home to assist with things such as dowry for younger sisters (sometimes up to \$30,000 AUD), education fees for siblings, and living costs for parents. There is a great deal of guilt in being unable to fulfil these obligations, and this shame is exacerbated in the village context where its not just shame in the eyes of family, but in the eyes of a whole community.

## Preliminary Findings: Hospitality Workers

We have conducted a small number of interviews with Hospitality workers so far. More interviews are planned in coming months. The following list is indicative of the issues to emerge through the interviews conducted so far.

- 457 Visa employees are frequently asked to sign two different work contracts – one in India prior to departure and an amended one upon arrival which typically has far less favourable conditions.
- 457 Employees are subjected to physical and psychological intimidation
- Abuse and exploitation mostly go unreported. This is due to a number of factors, including poor English and education, and fears of losing employment and visa. There is also a lack of awareness of the correct pay and conditions and little knowledge about how to seek redress.
- Termination of employment (and visa) is a major aggravating factor – it is used by the employer as a *bargaining chip to force poor work and living conditions upon the employees.*
- Early termination of employment and visa is also regularly used to pre-empt a disgruntled employee from reporting the employer.
- Employees normally work long hours – typically 15 or more hours, and are paid minimum wages, without overtime. In some cases no wages are have been paid.
- Regular occurrence of employer sending the 457 employee to India to purchase specialist kitchen equipment for new restaurant set up. These trips can be for weeks or sometimes several months. The employees are sometimes required to purchase the equipment from own funds and rarely provided a salary while on these trips.

For illustrative purposes, the following are case studies deriving from our study of two restaurant workers.

### **CASE STUDY ONE: MR LAL**

Mr Lal, in his mid 40s, was recruited through an agent in India to work as a cook and sweet-maker in a Sydney Indian restaurant. His employer sponsored his application for a 457 visa. Prior to obtaining the visa, Mr Lal was offered the position with the following terms, and he signed what he thought was a binding contract before leaving India.

1. Minimum of 5 years employment
2. Remuneration of Rs. 100,000 per month (about \$A 3,000)
3. Proper accommodation and timely payment of salary
4. Provision of minimum conditions of living
5. Eight hours a day and six working days a week
6. The employer to bear all the expenses in respect of relocation and air travel.

Mr Lal arrived in Sydney in March 2006. However, he had to bear all the expenses for his travel to Sydney (on the promise that this would be reimbursed on arrival). Once in Sydney his working and living conditions were significantly different to those stated in his original contract. The conditions he found himself working under were:

1. Was working an average of 17-18 hours a day continuously and 7 days a week.
2. He was not paid throughout the duration of his employment
3. The employer did not help Mr Lal set up a bank account or tax file number.
4. He was forced to sleep on a dirty carpet in a closed shop nearby without toilet facilities.
5. He made two trips to India (24th March & 4th June 2006) on the request of (and funded by) the restaurant owner in order to purchase food making equipment. He was required to spend his own funds to purchase this equipment (cost) but on return to Sydney was never compensated, nor was he paid a salary during his time in away.

Upon returning from the first India visit, Mr Lal's work and living conditions did not change. When he asked for compensation for his India trip, the owner threatened to kill him and harm his family in India. When Mr Lal was sent away on the second trip to purchase the equipment, the employer terminated his employment and reported it to the Department of Immigration and Multicultural Affairs who subsequently cancelled his 457 visa on the grounds that he is no longer employed. This meant that he was unable to return to Australia from what he thought was a temporary trip.

Mr Lal comes from a small town in India. He is not particularly fluent in English nor is he familiar with the conditions stipulated on the 457 visa class. He appealed to the Department to have his Visa re-instated, but this appeal was not upheld on the basis that it was no longer valid as he no longer had valid employment in Australia. Nor did the department offer any assistance in recovering unpaid wages and other money's owed. Back in India, he is not in a position to be able to seek redress through legal or union channels.

Although the Department of Immigration investigated his case the word of his employer appeared to be taken at face value. Co-workers who may have acted as witnesses were pressured (via threats of harm to family back in India, and the threat of losing their own 457 Visas) to speak instead in favour of the employer's version of events. As Mr Lal's English was not terribly good and he was by that time back in India without access to legal advice or other support for his case it was difficult for him to seek recourse.

He had sold his business in his home town in India and his family assets (his wife's jewellery) to obtain funds to secure this job. With his 457 visa now cancelled, he is unable to return to Australia, he reports that he is now virtually destitute as a result of the experience. He faces a desperate situation of poverty and debt back in India with no source of income.

## CASE STUDY TWO: MR SATESH

Mr Satesh, in his late 40s, was recruited in India in 1999 to come to work in Sydney on the 457 visa. He worked for 3 years in an Indian restaurant as a head-chef and sweet-maker. During this period Mr Satesh had a satisfactory work experience. In 2002, his employment contract ended and his employer allowed him to seek another job.

Thinking it would be a good opportunity to move his career forward, Mr Satesh then accepted an offer from a new employer in 2002 (another Indian restaurant) who was willing to sponsor him for a new 457 Visa. Immediately after the visa was granted, his new employer dispatched Mr Satesh to India to purchase specialist kitchen equipment to set up a new restaurant. While in India between November 2002 and March 2003, Mr Satesh received no remuneration or support from the employer, despite being required to remain there to purchase the equipment. The employer promised that he would be paid on his return to Australia, however no payment was forthcoming.

Upon his return to Sydney he continued to be underpaid. He worked between 15-18 hours a day, 7 days a week) for more than 18 months. He typically started work around 7am and worked through till after 10pm without meal breaks of any kind. He was required to eat lunch while continuing to work. During busy periods such as Deepavali Festival he was required to work even longer hours from 7am till 1 or 2am.

For these hours he was paid a standard wage of \$550 per week over this period. Despite the long hours his weekly pay slip showed he only worked 40 hours. He was paid no overtime or penalty rates for public holidays. Nor was he allowed to take or was compensated for unused annual leave. He was accommodated above the restaurant in a small bedroom (which was also used by the restaurant as a storeroom) with another co-worker, for which he was required to pay \$60 per week in rent. In addition:

- Mr Satesh spoke very little English and had no understanding of his work rights and entitlements.
- He accepted his poor work conditions and low pay because he had no choice - he had left his job in India and was supporting his family - and couldn't see himself returning to India to start a career all over again.
- He had no one to turn to for advice, and his long hours in the restaurant 7 days per week meant seeking help was all but impossible.
- He is qualified chef and had worked for a number of years in 5 star hotels in India as a head chef, yet was only paid a minimum wage (\$32,000 pa) in Sydney and enjoyed no other entitlements.
- He was not provided with a formal contract of employment, only a letter of job offer stating that he would be accommodated, and paid at the award wage and due entitlements as stipulated under the award.

## **Recommendations for the inquiry into eligibility requirements and monitoring, enforcement and reporting arrangements for temporary business Visas**

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**Terms of Reference:** *Inquire into the adequacy of the current eligibility requirements (including English language proficiency) and the effectiveness of monitoring, enforcement and reporting arrangements for temporary business Visas, particularly Temporary Business (Long Stay) 457 Visas and Labour Agreements; and; Identify areas where procedures can be improved.*

Based on the findings from our study on the experiences of 457 Visa holders from India, our recommendations are as follows:

1. **Plain language information kit and orientation** on arrival in Australia. This information should include:
  - Plain language information on 457 Visa rules, employment rights, and minimum pay and conditions.
  - Information on 457 spouse Visa and its entitlements.
  - Information on what to do if the worker feels their entitlements are not being met by their employer.
  - Contact information for relevant ethnic organisations, unions and other services which can provide advice and referrals.
  - Information on their rights if the Visa is revoked by the department or the employer prematurely ends their employment.
  - Information on how to seek out further employment should their employment prematurely end.
  - Orientation information on Australian society, such as transport, finding and securing accommodation, average rental rates and so forth.
  - Information on what to do if injured and what rights the worker has.
  - Information on AWAs and minimum conditions.
  - Advice on keeping documentation as proof in case of dispute with employer. Information such as a diary of actual hours and dates worked, actual pay, letter of offer of employment including salary and conditions, expenses incurred as a result of employment and so on.
2. The department develop a **proforma standardised 457 work contract** for each industry. This should be completed by the employer and submitted along with the Visa application. The Department should monitor whether this contract was subsequently implemented.
3. **Monitoring to ensure the Visa holders are receiving salary at award rate.** This could occur in liaison with the ATO. However further monitoring of some kind is required to ensure overtime and other entitlements are paid where due.
4. In certain industries, **pay, conditions and hours should also be monitored and the contract checked** to ensure it meets minimum standards. Care needs to be taken to check the 'reality' behind the contract as in many instances the AWA terms are fair, but what occurs in reality is underpayment and long unpaid hours.

5. We recommend a **ban on agents charging** potential 457 holders exorbitant fees to secure employment and a Visa. If possible, it should be a requirement that the employer meets these costs.
6. We recommend the establishment of an **online database of job opportunities** for 457s. Such a job search facility should be free, or at minimum cost to the employer. This would undermine the market for unethical recruiting agents here and overseas. It would also assist 457 workers to secure a new employer should their current employ prematurely cease or their find themselves in a situation of exploitation.
7. **Extend the duration of the bridging Visa** to 6 months for 457 holders who have left their employment due to exploitative treatment by their employer. This would enable the Visa holder enough time to search for alternative employment with an employer willing to sponsor them.
8. Many workers are reluctant to leave an exploitative work situation without alternative means of financial support. In such situations we recommend that the **bridging Visa allow the Visa holder to hold any form of employment** (un-sponsored) until the Visa ends or they secure a 457 sponsored position. This would ensure exploited workers have access to an income until they secure a new sponsor.
9. Where a 457 employee ceases employment due to a situation of severe exploitation, we suggest the government consider a **visa with conditions similar to the support provisions available to victims of human trafficking** (such as sex workers). Victims might receive intensive support such as temporary accommodation, access to Medicare and medical services, counselling and legal services.
10. That the department ensure **thorough investigation** where reports of abuse occur and that the employer's version of events is closely scrutinised. Investigating officers should also be made aware that often the only witnesses to situations of exploitation are co-workers in a similarly vulnerable position or those working illegally. There is a high likelihood that pressure will be exerted upon them to speak in the employer's favour.
11. We suggest the department consider funding a **part-time support worker** in ethnic community organisations in each state for key ethnic groups identified as having problems with 457 Visa holders.
12. The department should consider mechanisms to ensure that where **accommodation** is provided by the employer:
  - That the employees are not forced to take up the offer of accommodation.
  - That the employee is made aware that there are alternative accommodation possibilities on the private rental market.
  - That the accommodation is charged at fair market rents.
  - That the accommodation is adequate, not overcrowded, and has cooking and bathroom facilities.
  - Workers cannot be forced to share a room.
  - That employer provided accommodation is monitored.
  - That accommodation actually provided is of the standard promised to the 457 employee on accepting the position before arriving in Australia.
  - That the employee's salary should not be reduced where accommodation provided.
13. That the department establish an **anonymous hotline** for reporting situations of abuse of 457 holders. This should be widely promoted to 457 holders with a particular focus on problem industries. Such schemes have had success in places such as Singapore.
14. Consideration should be given to **publicly naming** companies found guilty of serious exploitation of 457 holders.