

All employer-assisted migrant workers must have a pathway to residency

(Submission by Unite Union in March 2019 to the Labour-led government's review of migrant labour policies)

We are a union of 7000 financial members. We estimate that up to one-quarter of our members could be on a temporary work visa. We cover workers in fast food, hospitality, hotels, call centres and security. We also have members in English Language Schools.



Unite Union believes it is necessary to review the entire system of employer-assisted temporary work visas with a view towards its elimination.

Bonded temporary labour always results in exploitation, and always depresses wages for permanent residents.

Permanent residency shouldn't be based on elitist criteria so we have doctors driving taxis while the Chinese construction workers we desperately need have no chance of staying beyond a certain period.

All current temporary work visa holders, especially those under the current Essential Skills category, should have the right to change employer and gain permanent residency eventually if they desire to.

No employer should have the right to apply for an employer-assisted temporary work visa in the future.

The vulnerable, precarious status of temporary visa workers under the essential skills system has been used to undermine the wages and conditions of workers in this country. This was true, for example, in the fast food industry when managers were able to transition to permanent residency.

This can only be prevented if all workers have full legal rights as workers, including the right to change their jobs.

Three year limit on lower-skilled visa categories

The current discussion document asks for comment on the system carried over from the last government requiring lower-skilled workers to leave after three years.

The new proposal will allow partners to come if they have an employer-assisted temporary work visa as well rather than as of right as before. The proposal also restores the right to bring their children.

The maintenance of a three-year limit will probably lead to people only coming if they are so poor and desperate that even three years would seem to be worthwhile. But creating a system of indentured labour

where businesses are recycling people every three years is just extraordinarily inhumane. The probability that workers brought here will be exploited mercilessly because they are so desperately vulnerable should be obvious.

On one level, this new proposal can seem more humane. It will allow two people to make money for the three years they are allowed here and not break up families. But it is still unfair to throw them out after three years when they want to stay and their skills are still needed.

They will have invested in creating homes in this country. Their kids will be going to school and made new friends and learned a new language. Just when people begin to get good at the jobs they have, form friendships and relationships, they are told they must leave. What is the purpose or sense in replacing them with another short term visa holder who must start from scratch to learn the job and come up to speed?

Temporary work visa holders should be able to renew their visas. But the longer they stay the crueller it becomes to keep them from ever being able to transition to permanent residence.

If a system of temporary visas is maintained then a three year limit should be maintained – for remaining temporary. If an employer wants to renew their visa, that should be seen as a qualification for permanent residence, not a chance to throw them out. We support being able to renew their visas – even if on a temporary basis. But our preference is that the desire for the employer and the employee to renew the temporary visa should be enough evidence of the need for the position to be filled permanently and the worker doing the job should have the right to transition to permanent residence as quickly as possible if they so desire.

The current system of having a three-year limit will most likely lead to a major drop in numbers coming from some countries we currently get people from either as students or on temporary work visas. There will probably be an increase in those who do come being from other countries where the aspiring migrant worker is so desperate they will be wide open to even worse abuse and exploitation when they get here than currently happens.

It will also create enormous incentives to game the system by any

means necessary once they are here. The policy will see a jump in the number of people inflating their salaries by refunding the boss in some way to pretend they are an “executive chef” or whatever and now have the salary or skills for a job leading to permanent residency.

Canada has just abandoned a similar system for those reasons. They had one based on being able to work four years and then leaving for four years. A parliamentary inquiry recommended that it be abandoned in late 2016. The parliamentary report also recommended eliminating employer specific visas and offering a pathway to residency for less skilled workers. (See Parliamentary Committee Recommends 21 Changes to Temporary Foreign Worker Program <https://www.cicnews.com/2016/09/parliamentary-committee-recommends-21-changes-to-temporary-foreign-worker-program-098523.html#gs.nS4CpEiq>)

Adopting the worst features of a failed Canadian programme is not a way forward.

Need for an amnesty for those brought here under false pretences

There are probably at least a few tens of thousands of workers and students in this country have been brought here under false pretences.

Many who came as students have been conned into paying thousands of dollars towards courses that they hoped would open the door to jobs and the chance for permanent residence.

The promises have proved to be nothing more than a fraud for most. But it is a fraud perpetrated by the government, seemingly as a way to subsidise tertiary education and reduce the government’s need to fund that sector properly.

These students and workers have often had the rules changed on them after they arrived. Many have studied and worked here for up to a decade and made New Zealand their home.

Changes under previous National Government

In October 2016, the previous government announced their goal was to reduce the overall permanent residence number from 100,000 over two

years to 95,000. To achieve that 5% reduction they added 20 points to the skilled work visa number required, increased the English Language requirement, and stopped new parental visas for two years

It is actually difficult to change this permanent residence number much from year to year. It is made up of skilled workers who qualify – as well as refugees, family reunification, parents, investors, Pacific quota, Samoan quota, and a dozen more categories. It is certainly difficult to reduce it significantly without impacting on the key variable which is the skilled worker category.

To achieve the 5% overall reduction the changes did eliminate significant categories of semi-skilled workers who were able to access residency in the past in these roles. We will leave aside the value judgements being made around the skill of a low-paid nurse aid in aged care versus a high paid advertising executive.

The additional requirement that all jobs must meet the new then \$49,000 (now adjusted to \$52,000) income threshold to qualify for permanent residence lead to an additional significant barrier for those who have come under the old rules. Most workers in many of the categories currently using large numbers of migrant workers would never get paid \$49,000. The result was that most current essential skills visa holders in jobs in New Zealand can't ever qualify for permanent residence.

The changes made resulted in thousands of workers who are here as chefs, nurse aids, hospitality and retail workers being stopped from ever getting the chance to access permanent residence. For example, it eliminated 90% of the people working here as chefs from being able to access permanent residence.

However, if chefs and other less skilled workers can no longer have the possibility of transitioning to permanent residence there will inevitably be a collapse in the number of these people coming to New Zealand and an exodus of many already here.

It was probably the impact of these changes that brought about the absurd situation where there was a significant drop in the numbers qualifying for permanent residency under the skilled workers' category in 2018.

According to a Radio NZ report: “Overall new resident numbers fell from 47,684 to 37,948 in the last financial year and almost three-quarters of the change was down to a decrease in skilled immigrants.” They also reported that “While resident numbers fell, temporary work visas were on the rise, up 4000 to more than 230,000.”

That was an extraordinary result from a National government claiming to be a friend of migrants in the build-up to the last election. (Newshub reported on March 13 that the current Minister of Immigration ordered a reduction of residence visas by 600 a month. If that is true he deserves to be sacked. The inevitable misery imposed on thousands of families legally in the country who should be able to access residency will be simply awful.)

Thousands of skilled and semi-skilled workers who would have qualified before having the rules changed on them after they had come to work in New Zealand have now missed out on any chance of residency.

Extend the National government’s proposed partial amnesty

In the previous government’s plan, they had a proposal for what they had called an “amnesty” for a group of workers on in the South Island as a one-off pathway to residency for around 4,000 temporary migrant workers and their families.

In the words of the then Immigration Minister Michael Woodhouse:”

“Many of these migrants are already well settled in New Zealand and make a valuable contribution to their communities.

“It will also enable employers to retain an experienced workforce that has helped meet genuine regional labour market needs.

“My National colleagues in the South Island have advocated strongly on behalf their constituents throughout the development of this policy, so I’m pleased the Government has been able to deliver on our commitment to enable this cohort of migrant workers to remain in their communities.”

It is obvious that many of these workers will be working on dairy farms

run by friends of the National Party who have lobbied their MP's to keep these workers in the country. But it a sensible and fair proposal but it does not go far enough.

Unite believes that we could go even further in our humanitarianism. We believe that as a country we can and should be more generous to the group of people who have come under the old rules and hoped to be able to transition to permanent residence. At the very least, the "amnesty" being allowed for South Island dairy farm workers from the requirement to meet the new points or income thresholds for permanent residence should be extended to the whole country and not restricted to the dairy industry. The situation in aged care is just as desperate for example.

How this is done is a practical matter. The following are some suggestions.

Create a register of those here who want permanent residency

We should do a register of those who are here studying and working who would like to be able to apply for permanent residence. Employers who already have staff working in essential skills categories will be offered the chance to offer permanent ongoing employment. Employers should be banned from employing anyone on a temporary visa until the existing pool of those who are here have been employed permanently and gained residency. Workers being offered permanent work would immediately become eligible for permanent residency.

Nearly all the problems associated with the abuse and exploitation of migrant workers could be fixed by improving their legal status as permanent residence applicants.

We have 150,000 workers here at any one time on a temporary work visa. We have 100,000 fee-paying students. The government issues nearly a quarter of a million temporary work and student visas a year. It is obvious the New Zealand economy needs more labour than can currently be provided by its existing permanent resident population.

This problem can't be fixed by having a massive "temporary" population that is in fact a permanent part of the workforce and that is weakly protected and prone to becoming super-exploited migrant labour.

Registry of approved employers needed

It is correct for the government to insist that employers and industries that want to import migrant labour need to be registered and approved in some way, even if that labour has the right to change “approved” employer and achieve permanent residency over time.

Training programmes needed

These employers need to have a plan to train and develop skills in this country to meet their needs.

As a country, we should aim to eliminate the 4% unemployment level as being seen as “normal” or, even worse, as necessary for some reason. Employers should be forced to employ people they would not look at in normal times. This should include young people who have never had a job, adults who have been forced out of the job market for prolonged periods, former prisoners and so on. These people should be given a wraparound programme of work, study, apprenticeships and training that aims for everyone to have work who needs it.

Employers and industries that want to import labour should be required to enter a strategic plan with the unions, government and local councils for the education and training services that will be needed to achieve these goals.

As part of the strategic plans for their regions and industries, there should be targets for employing and training Kiwis who are permanent residents alongside any labour brought in from abroad.

Fair pay agreements needed

There should be a parallel fair pay agreement in these industries that starts all wages at the living wage. This is also a sign of the proof that is needed to show that the market in this sector or region is so short of labour that the employer is willing to pay above the minimum wage to attract labour. It needs to be an industry-wide agreement so all employer have to pay the same rates so as not to give a competitive advantage to poor employers unwilling to pay a living wage.

What is the real problem we have?

Over this last few years, there has been a surge in net arrival numbers for the category of people who tick a box saying they are going to stay for a year or longer versus those who say they are going to leave for a year or longer. This is not a particularly scientific number as it measured people's intentions on a form when they arrived, but it did give a picture of population flows. It had recorded a net gain of over 70,000 a year for the year ended December 2017.

It appears this was so unscientific it amounted to little more than a guesstimate. By using records of people's actual movements rather than simply their intentions, the actual number looks like it was at least 10 to 20,000 less than that. The official number now for November year 2018 is a net gain of 43,400. That new measure probably peaked at 53,800 in the 2016 November year.

Parties that want to reduce the number of permanent and long-term (PLT) net arrivals to New Zealand from the current number can also support this humanitarian policy being proposed towards those already here. No one would actually notice if 20,000 or 40,000 people actually living and working here happily was given the chance of permanent residence. It wouldn't necessarily make any difference to the PLT number if future admissions were adjusted down as a consequence.

New Zealand usually loses a portion of its residents each year. This has averaged around 20,000 net loss since the mid-1980s. Non-New Zealand residents averaged a net gain of 30,000. The overall net gain each year for most of the past several decades was around 10,000 – modest number by any measure.

There have been three main drivers of the increase in net PLT arrivals over departures in recent years. One was a relatively sudden swing around from average net losses of New Zealanders of around 20-30,000 a year over several decades. However, New Zealand resident movements rose to a net loss of around 40,000 in 2012 and then dropped to near zero in 2016.

Second, was the government's desire to boost the so-called export education sector which they did by loosening entry restrictions and allowing the students greater work rights once here. 2012 to 2016 saw

student visas grow from 60,000 to 80,000 a year.

Third, was an expansion of temporary work visas for relatively unskilled work. The temporary work visa numbers went from 120,000 to 170,000 over the same period.

It has little to do with the intake of permanent residents which has been in the 40-50,000 category for over 15 years. This was true also during the period when New Zealand First leader Winston Peters was in government from 1999-2008 despite his reputation for being less friendly to immigration.

The failure to distinguish between those being admitted as permanent residents, those who come as students or temporary workers and those who come and go on a permanent or long-term basis, has been one of the means that anti-immigrant sentiment is promoted.

The growth the PLT net arrivals has been used by politicians to blame “immigrants” for social problems that exist in society.

What the surge in PLT net arrivals was a sign of was the fact the government actually had no overall plan for the country. They appeared to simply want to let the market work whatever miracles it could without consequences being considered. The education sector wants students – let them come. Bosses want cheap labour – let it come. Tourism wants a boost – relax visa controls. The economy needs a boost – remove all controls on foreign capital.

This surge in net gains has coincided with a property boom in Auckland in particular. Transport also seems almost permanently gridlocked in Auckland as well. It is easy to blame “uncontrolled” migration as at least in part causing these problems.

The fundamental cause of these problems is that property is simply a speculators playground and public transport has been starved of meaningful funding (except for an addiction to motorways) for decades.

Migrants are not to blame for either situation. The previous government simply refused to “plan” for the future of Auckland because any form of planning is an example of socialism. They waited for “the market” to perform its miracles. But the market produces property bubbles and

motorways for trucks and cars, not public housing and public transport which is what was needed in massive quantities.

Total PLT gain is only around 1.0% of the total population. Problems accessing health, education, housing, jobs or the transport gridlock in Auckland are signs of much deeper failures in the economic system and government policy over the decades. By pointing the finger of blame on the migrant, the failures of the capitalist system to deliver decent housing, jobs, health care and public transport can be ignored.

Once a country starts down this road, however, it becomes addicted to the fix. Most tertiary institutions and many secondary schools simply could not function without the fix of overseas students and their money. Many minimum wage industries couldn't function with the fix of cheap and vulnerable labour from overseas.

New Zealand has been able to use a privileged position internationally to attract students to study and work in this country. We are a developed, English-speaking country that has had a net migration loss of its own residents over several decades.

New Zealand has used the fact that we usually lose one percent of the population each year to Australia and elsewhere to have a category of visas that allowed permanent residence after studying and working in New Zealand.

The hope of eventually getting permanent residence was critical to the operation of the system.

Around 20% of those who start as students or on a temporary work visa managed to obtain permanent residence eventually. Points were awarded for studying here and getting job offers. Almost half of the skilled worker category of around 20,000 a year who transition to permanent residency were former students. The percentage of former students qualifying was increasing as a percentage of the total while the skill level was declining.

The desperation of many to achieve that goal allowed employers and shoddy educational institutions to take advantage of them.

That is what makes it a system of exploitation. The export education

and temporary work visa system needed the possibility of permanent residence for some to make the system of exploitation work.

The government should abandon the institutionalisation an endless cycle of three-year permits that force people to leave for at least a year at the end of each cycle. This is just nuts. Just when people begin to get good at the jobs they have, form friendships and relationships, they are told they must leave. That is a form of indentured servitude. But it is not a solution to just extend that time by another three years, as proposed by the Council of Trade Unions, without their being a pathway to residency.

The scandals and horrors we have seen in workplaces and private training establishments over recent years will continue.

The number of permanent residence numbers could be increased significantly and still bring down the net PLT flows if that is considered necessary.

Full legal rights for “temporary” workers

As a first step, all “temporary” workers who are in New Zealand should have full legal rights – including the right to change jobs.

Whatever the number that is being allocated for permanent residence each year, priority should be given to those who are here working and studying and include all levels of skills that are required in the country.

Giving them the status of permanent residents will mean they can also stand up and fight for their rights. It is their deliberate employment in a status as dependent workers that allows the abusive forms of exploitation that is too often reported in the media to happen.

The government appears to be adopting a policy that simply sees these workers as labour input digits, not human beings.

It is time to do abandon the permanent use of “temporary” labour that lacks the full rights that those with permanent residence have.