

Oral for the Immigration Amendment Bill (No. 2)

12.15pm by Teleconference to the Transport and Industrial Relations Committee

Commerce Select Committee. Present: Chairman **David Bennett**, National, Hamilton East; Deputy-Chair **Mike Sabin**, National, Northland; **Chris Auchinvole**, National, List; **Carol Beaumont**, Labour, List; **Cam Calder**, National, List; **Darien Fenton**, Labour, List; **Andrew Little**, Labour, List; **Simon O'Connor**, National, Tamaki; **Denise Roche**, Green, List.

Good afternoon. I am Vicky Mee, Vice-President Issues of Business and Professional Women NZ and I speak on behalf of our members who have a long history of advocating for the economic protection, safety, health and well-being of women in the workplace. We have a great concern for the most vulnerable workers in our society and migrant women fall into that category.

We congratulate the select committee for the focus on tougher penalties for employers who exploit migrant workers and for the protection given to workers with a temporary entry class visa. They go a long way towards redressing the balance between employer and migrant worker.

Overall, we are concerned that our immigration legislation and policy framework is piecemeal and needs reassessing to ensure that we are offering real protection of migrant's rights and balancing this with mechanisms that assist migrants to integrate into New Zealand society. The Auditor General's report in December last year on Immigration New Zealand highlighted failures in the settlement area and we at BPW NZ are very aware of issues around the "Partner" status of many migrants.

BPW is also concerned that New Zealand has not ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families. We recommend that the Government ratify this convention which underpins our responsibilities to migrants and their families.

Migrants are vital to a prosperous and growing New Zealand and we look forward to further work in this area to ensure that people who come here can utilise their skills well and contribute as members of our society.

However the Bill today is about **work.** And to quote Dr Judy Mc Gregor, former Equal Employment Opportunities Commissioner: “Work is arguably the single most important element in the integration of immigrants to New Zealand. Work is about income, about individual fulfilment, about identity and about social inclusion and cohesion. “

And the question is: does the Bill today take us along the road to that goal? It was certainly foreshadowed as doing that in the response to the NZ National UPR Report of June 2013. This is the report which the NZ delegation led by the Minister of Justice, Judith Collins, presented on the 27th January in Geneva. We quote the wording of clause 70 in clause 6.2 of our written submission and I want to return to the claims that bothered us there:

First that the changes would “preserve the immigration status of victims of exploitation who come forward with complaints”

and

Second that “unlawful, exploitative behaviour will not be tolerated in New Zealand”

Taking the first concern:

If a migrant worker is in an exploitative situation and complains the current response is certainly to keep their immigration status preserved by providing a visitor’s visa while the complaint is investigated. **But** this rules out the means of earning a living and surviving. Migrants know this! They tell each other! Why would anyone be encouraged to complain if it meant they either have to go on the black market for a job and get into an even worse exploitative situation or end up going back to their home country? This is a huge barrier and it means many of our migrant workers are continuing to work under poor conditions because they see that as preferable to the alternative of complaining and being unable to earn a living! We need to change this!

Our recommendation is that an Open visa be provided when investigation into employment matters is under way and this will allow a migrant to seek alternative

work. We believe this is the least New Zealand can do to rectify matters given that we failed in protecting them from exploitation in the first place.

The experience of a young Asian woman migrant typifies the situation. Fear of the consequences combined with a lack of knowledge of New Zealand's employment law and a poor grasp of English made her continue working under unacceptable conditions. She was paid cash and at first thought it "normal and reasonable" to work for nine dollars an hour. Later when she understood that this breached employment law she was bullied and threatened by her employer and did not complain because of fear of losing her income source.

For women, there can be the added cultural barrier of reporting sexual exploitation and the mechanism for handling this sensitively needs further work. Shyness, confusion and language barriers work against employers being reported. Often no-one is told and if the situation is bad the women, like one I know, will leave the job and then try and get work on the underground market. The fear and the embarrassment work against exploitation being reported and dealt with.

There are many stories like this.

So, if migrants are not complaining what are we as New Zealanders doing to monitor and ensure good working conditions prevail?

And this bring us to our **second main concern**: the lack of resources to ensure that "unlawful, exploitative behaviour will not be tolerated in New Zealand". If New Zealand is to make claims like this we need to ensure that we fund the means of doing this.

All anecdotal evidence we have heard is of large workloads for Labour inspectors and few opportunities to conduct random checks in areas where exploitation of migrant workers is likely to happen or where it has been reported by the community. If Immigration New Zealand and the Labour inspectorate, as agencies within the Ministry of Business, Innovation and Employment are working together to address migrant exploitation they need to be pro-active and check rather than waiting for

complaints from migrants to come forward because this will not happen until success stories roll out. And this means that as an interim measure increased funding of these programmes need to happen.

We do not recommend increasing visa fees for some visitors and migrants to fund programmes as this is inconsistent with wider objectives for economic growth. We believe that Immigration New Zealand audits should be paid by third parties, such as employers and training providers training providers, who are suspected of breaching their immigration and/or employment relations obligations. We also believe that New Zealand taxation should subsidise such services as they are in the best interests of the country.

If these two concerns of providing open visas and funding inspectorates were met we believe the Government would gradually come into a strong position to encourage migrants to complain. We are aware that policy change is happening at the Immigration Ministry and this coupled with the enactment of this Bill provides an opportunity for promotion of good news stories about successful outcomes for migrants who complain.

So, in conclusion

BPW is grateful for the work that has been undertaken to improve the current situation but we would like to be able to say hand on heart that we endorse NZ's response on the UPR cycle. So we recommend that

- 1) open visas be provided for migrants during complaint proceedings to allow them to not only preserve their immigration status but also their income status
- 2) that adequate resources for protection and monitoring of inspectorates be made and that this may well involve considerably more expense in the first three years until a climate of confidence is built in the migrant community which encourages them to report exploitation themselves.

We also recommend that Immigration New Zealand publicise through all media types the good news stories about migrants who have had complaints successfully handled.

Removing the climate of threat, bullying and fear built up by some exploitative employers is vital to building a strong workforce and a resilient and diverse society.

Questions asked:

1) Asking about how often migrants did not ring to complain either through the Labour Department or the Crimestoppers 0800 number. Replied that I had checked through a number of sources and they all confirmed that fear stopped many migrants, particularly women, from complaining. Also added that the cultural issues around reporting sexual harassment were huge for many women and therefore they would quit work and often end up financially distressed rather than report the issue.

2) Question about funding and whether it should be users pays by way of visa fees. I re-iterated the need for MAJOR funding increase for two to three years to ensure the inspectorate fully funded, pro-active checking was done and migrant confidence was built up. Because it was in the best interests of the country to help integrate migrants and protect their rights I said that it was reasonable for taxation to subsidise this in the interim. Quite a long discussion then between themselves on funding and how it would be allocated over the years. Because of poor sound quality I did not hear it all.

3) Thanked me for BPW's contribution