



Report to the ILO Committee of Experts on the Application of Conventions and Recommendations 2021

Submission by the Australian Council of Trade Unions

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ACTU
australian council of trade unions

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Introductory remarks

1. Since its formation in 1927, the Australian Council of Trade Unions (ACTU) has been the sole peak trade union body in Australia. The ACTU consists of affiliated unions and State and regional trades and labour councils. There are currently 43 ACTU affiliates. They have approximately 2 million members who are engaged across a broad spectrum of industries and occupations in the public and private sector.
2. The ACTU welcomes this opportunity to submit comments to the ILO's Committee of Experts on the Application of Conventions and Recommendations (CEACR) on Australia's compliance with the relevant Conventions. The ACTU recognises the critical importance of ILO Conventions and international scrutiny in ensuring that all workers have access to decent work.
3. In this report we offer comments in relation to the following Conventions: C29 (Forced Labour) and C122 (Employment Policy Convention), and we refrain from commenting on C10 (Minimum Age [Agriculture]); C105 (Abolition of Forced Labour Convention); C123 (Minimum Age [Underground Work] Convention); and C182 (Worst Forms of Child Labour Convention).
4. The Liberal/National Government which has been in power in Australia since 2013, presently under the Prime Ministership of Scott Morrison (previously Malcolm Turnbull and Tony Abbott), has overseen a period of increasingly insecure work, wage stagnation, underemployment, and industrial relations reforms that attempt to limit freedom of association and the right to collective bargaining. The COVID-19 pandemic has only exacerbated these trends.
5. In our last report commenting on C29 and C122, submitted to CEACR in 2017, we noted the impact of these factors on forced labour and employment policy. Regrettably, as we will outline in this report, the Australian Government still has not taken the necessary measures in law and practice to fully implement these Conventions.

Submission authorised by:



Michele O'Neil
President
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C29: Forced Labour Convention

6. While the Australian Government has expressed a strong stance against forced labour and other forms of modern slavery through the recent adoption of the *Modern Slavery Act 2018* and the *National Action Plan to Combat Modern Slavery 2020-25*, meaningful Government action to regulate business conduct and protect workers' rights is required to effectively implement C29.
7. The ACTU notes that the Australian Government has yet to ratify the ILO Protocol of 2014 to the Forced Labour Convention (P29) and calls on the Australian Government to ratify and effectively implement P29 as a matter of priority.
8. The Global Slavery Index estimates that on any given day in 2016, there were 15,000 people living in conditions of modern slavery in Australia.¹ The scale of forced labour in Australia is difficult to determine due to its hidden and complex nature. ACTU affiliate unions have daily experience of dealing with labour exploitation, including extreme examples of exploitation and forced labour, with some of the most vulnerable workers. Examples of exploitation include widespread wage theft, unlawful deductions, sexual harassment and assault, sham contracting, substandard accommodation and a variety of other slavery-like practices.
9. Although the *Criminal Code Act 1995* criminalises forced labour, this has done little in practice to actually prevent it. The Australian Parliamentary Joint Standing Committee on Foreign Affairs, Defence and Trade noted the connection between labour exploitation and forced labour in the inquiry into establishing a Modern Slavery Act:

The Committee agrees that addressing labour exploitation is an integral part of Australia's response to combatting modern slavery. While there is an important distinction between labour exploitation and the more serious crimes of forced labour and slavery, the Committee recognises that these crimes exist on the same spectrum of exploitation.²
10. As such, the ACTU believes that the issue of forced labour cannot be addressed without addressing labour exploitation. Addressing both issues require a range of reforms to law and practice in Australia, which we detail at points 29 - 30.
11. Fundamentally, the ACTU believes that unionisation is key to tackling forced labour. The Australian Government must ensure effective implementation of C87 and C98 in order to effectively implement C29. Unions must be empowered to enter workplaces, freely speak with workers, and investigate suspected labour exploitation. Workers must feel secure to

¹ Walk Free Global Slavery Index, Australia, 2018, <https://www.globalslaveryindex.org/2018/findings/country-studies/australia/>

² Parliament of the Commonwealth of Australia, Joint Standing Committee on Foreign Affairs, Defence and Trade, 'Hidden in Plain Sight: an inquiry into establishing a Modern Slavery Act in Australia', 2017, https://parlinfo.aph.gov.au/parlInfo/download/committees/reportjnt/024102/toc_pdf/HiddeninPlainSight.pdf;fileTy pe=application%2Fpdf, p. 279.

join unions and speak out about issues in their workplaces, without fear of reprisal; insecure work and insecure visa status both present enormous barriers to workers being able to speak out about labour exploitation and forced labour.

Migrant workers

12. Forced labour in Australia occurs in high-risk industries, including agriculture, construction, domestic work, meat processing, cleaning, and hospitality.³ These industries employ a high percentage of migrant workers. Migrant workers are particularly vulnerable to forced labour, as the report of the Australian Parliamentary Joint Standing Committee on Foreign Affairs, Defence and Trade inquiry into establishing a Modern Slavery Act in Australia noted:

The Committee...[heard] evidence linking visa conditions, leveraged by unscrupulous employers to exert control, to an increased likelihood of vulnerability to modern slavery offences and exploitation.⁴

13. Prior to the pandemic, there were over 2 million temporary visa holders in Australia, with 1.3 million of these visas having some form of work rights – this equates to around 10% of the total Australian labour force of over 12.4 million.

14. The ACTU has raised concerns in previous reports to the CEACR about serious mistreatment and exploitation of migrant workers in Australia on temporary visas, and has outlined recent case studies of migrant worker exploitation and our recommendations for reform of Australia’s migration system in our submission to the 2020 Inquiry on Temporary Migration by the Parliamentary Select Committee on Temporary Migration.⁵

15. Australia has an underclass of exploited temporary visa holders and a temporary skilled visa system that is currently driven by the interests of business rather than the interests of people. The ACTU advocates that the Australian migration system should preference permanent, rather than temporary, employer-sponsored migration. The current system places migrant workers in situation where they are highly vulnerable to labour exploitation and forced labour.

16. A recent research paper titled ‘A guest-worker state? The declining power and agency of migrant labour in Australia’⁶ finds that since 1996 there has been an unprecedented expansion of temporary labour migration in Australia and migrant workers’ power and agency has been incrementally curtailed, to the extent that Australia’s labour immigration

³ *Ibid.*

⁴ Parliament of the Commonwealth of Australia, Joint Standing Committee on Foreign Affairs, Defence and Trade, ‘Hidden in Plain Sight: an inquiry into establishing a Modern Slavery Act in Australia’, 2017, https://parlinfo.aph.gov.au/parlInfo/download/committees/reportjnt/024102/toc_pdf/HiddeninPlainSight.pdf;fileTy pe=application%2Fpdf, p. 269.

⁵ ACTU submission to Parliamentary Select Committee on Temporary Migration, March 2020, <https://www.aph.gov.au/DocumentStore.ashx?id=3a946521-9793-4c3e-b3ad-670903346575&subId=679760>

⁶ Chris F Wright and Stephen Clibborn, ‘A guest-worker state? The declining power and agency of migrant labour in Australia’, 2020, <https://journals.sagepub.com/doi/10.1177/1035304619897670>

policy resembles a guest-worker regime where migrants' rights are restricted, their capacity to bargain for decent working conditions with their employers is truncated, and their agency to pursue opportunities available to citizens and permanent residents is diminished. The article finds that Australia's temporary visa system is failing to protect temporary migrants at work, creating a permanent class of temporary visa holders who are extremely vulnerable.

17. The ACTU has concerns with a skilled migration program that relies excessively on employer-sponsored migration. At the individual level, employer-sponsored visas where workers are tied to a single employer and dependent on their employer for their ongoing visa status increases the risk of exploitation as workers are less prepared to speak out if they are underpaid, denied entitlements, or otherwise treated poorly.
18. A priority of the ACTU is to ensure that migrant workers who are employed on temporary visas are free from exploitation and have at least the minimum standards of pay and conditions apply, and if this does not happen, that they are able to seek remedy, including accessing the benefits of union membership and representation.

Wage theft

19. Routine underpayments, or 'wage theft' (which includes employers paying below Award rates of pay and not paying Superannuation entitlements) is one form of labour exploitation that is rife in Australia, with migrant workers particularly vulnerable. We highlight wage theft in this submission, however as noted at point 8, there are a range of exploitative practices that are rife in Australia.
20. Research conducted by UnionsNSW has audited job advertisements in foreign languages targeted at temporary migrants for three years in a row, and in 2020⁷ found that 2,189 of the 3000 job adverts analysed (72%) indicated a rate of pay, of which 88% offered rates below the minimum wages contained in the relevant Modern Award. This is up from 77% and 70% in the audits of 2017 and 2018 respectively, indicating a worsening of wage theft that correlates with the COVID-19 pandemic.
21. Migrant worker exploitation and wage theft is also rife in the horticulture industry. A 2021 report⁸ from Unions New South Wales and the Migrant Workers Centre notes that over 40% of Australia's horticulture workforce are on temporary visas. Since the mid-1990s, the Australian Government has used temporary visas to fulfill the workforce shortage during the harvest season.

⁷ Unions NSW, 'Wage Theft: The Shadow Market', 2020, <https://www.unionsnsw.org.au/wp-content/uploads/2020/12/Foreign-Ads-2020-online.pdf>

⁸ Unions NSW and Migrant Workers Centre, 'Working for \$9 a day: wage theft and human rights abuses on Australian farms', 2021, <https://www.unionsnsw.org.au/wp-content/uploads/2021/06/piece-rates-report-2-2.pdf>

22. Piece rates are widely used in the horticulture industry, as a way of circumventing the minimum wage. The report examines the findings of the National Horticulture Industry Piece Rate Survey conducted in 2020-21, where 78% of respondents indicated they were underpaid at some point while working in the industry, with 80% underpaid when receiving a piece rate, compared to 61% underpaid when receiving an hourly rate. Underpayment levels were severe, with some piece rate workers in some instances earning less than \$1 an hour. 15% of piece rate workers earned between \$0-\$7 an hour, 29% earned between \$8-\$10 an hour, 19% between \$12 to \$15 an hour, and 16% earned \$16-\$19 an hour. Only 11% were paid \$20-\$23 an hour (as of 1 July 2021, the national minimum wage in Australia is \$20.33 an hour).

Modern Slavery Act (2018)

23. The Australian Government has taken some steps to introduce regulation to tackle forced labour and other modern slavery practices, however the legislation falls far short of the action required to effectively implement C29.

24. The Commonwealth *Modern Slavery Act 2018* requires entities with a consolidated revenue of at least AUD\$100 million over an annual accounting period to make annual modern slavery statements describing the risk of modern slavery in their operations and supply chains, and the actions taken to address those risks. The reports are published on a public register.

25. The introduction of the Modern Slavery Act is a step forward in encouraging transparency in company supply chains, but it is far from being an effective way to tackle modern slavery and implement the Forced Labour Convention.

26. The Act has some serious weaknesses, including no independent oversight to ensure companies comply with the Act; no penalties for companies failing to report or act on modern slavery in their supply chains and operations; and no requirement for the Commonwealth to withhold government procurement contracts or other benefits or supports to companies who have failed to report or show they are taking action on eliminating modern slavery from their operations and supply chains.

27. The absence of independent oversight and penalties in the Act effectively means the Australian Government has outsourced the compliance and enforcement work to unions, civil society, consumers and investors to pressure companies to do the right thing. The premise of the Act is that companies who do the right thing will be celebrated and rewarded by consumers and investors, while those who do not report or take action on modern slavery will be 'named and shamed'. Additionally, as the Act does not require companies to engage with unions in their supply chains, modern slavery risk assessment and mitigation is likely to be viewed as an exercise in managing the company's risk to be carried out by auditors, rather than as a way to improve the conditions of workers in supply chains and operations to reduce the risk of worker exploitation.

28. A recent report for the Australian Council of Superannuation Investors⁹ has analysed the first modern slavery statements submitted under the Act by 151 of Australia's largest companies against a number of quality indicators and legal compliance indicators, and found that 33% of the companies' statements appeared to be potentially non-compliant with one or more of the requirements of the Act. Additionally, most statements only focused on supply chain risks rather than risks within the companies' operations: 65% of statements did not identify any general modern slavery risk areas/factors relating to companies' operations. These results indicate that companies could be viewing the Modern Slavery Act as a 'box-ticking' exercise, rather than taking meaningful action on modern slavery.
29. The Modern Slavery Act is due to be reviewed in 2022, and the Government should use that opportunity to strengthen the Act in the following ways to ensure the Act can be an effective way of meeting our obligations under C29:
- a. Introduce penalties for companies that fail to report, provide false, incomplete or insufficiently detailed reports, or fail to act on modern slavery in their supply chains;
 - b. Withhold Commonwealth procurement contracts from companies who have failed to report or act on modern slavery in their supply chains;
 - c. Introduce independent oversight of the Act in the form of an Anti-Slavery Commissioner, with inspection powers, to promote compliance;
 - d. Make available on a public register a list of companies required to report under the Act;
 - e. Lower the annual turnover threshold to capture all large Australian businesses;
 - f. Cover public procurement by requiring all Government Departments and levels of Government to report under the Act;
 - g. Require companies to show they have genuinely engaged and consulted with unions in their operations and supply chains regarding improving workers' rights and tackling modern slavery;
 - h. Introduce due diligence requirements for companies ensuring they identify risks of modern slavery, put in place a system to prevent them, and provide an effective remedy when they occur;
 - i. Introduce provisions for the Act to apply extra-territorially so Australian companies operating are required to disclose the risks in their supply chains both domestically and overseas;
 - j. Introduce import bans on products made or suspected to be made using forced labour;
 - k. Amend the Criminal Code Act 1995, which is the legal source for defining forced labour in the Modern Slavery Act 2018, be amended to adequately capture and prohibit forced labour, including forced labour in shipping, fishing, textile, food production, domestic work, and other high-risk sectors.
30. In addition to reforming the *Modern Slavery Act 2018*, reforms to law and practice are required in a number of other areas to tackle forced labour:

⁹ Australian Council of Superannuation Investors, 'Moving from paper to practice: ASX200 reporting under Australia's Modern Slavery Act', July 2021, https://acsi.org.au/wp-content/uploads/2021/07/ACSI_ModernSlavery_July2021.pdf

- a. Reforming industrial laws to uphold Australia's obligations under C87 and C98, as outlined in our 2019 report to CEACR;
- b. Expand union right of entry powers, to enable unions to freely enter workplaces to inspect employee records (including former employees and non-members) to identify wage theft and other breaches, and freely speak with workers to identify and investigate suspected cases of labour exploitation;
- c. Introduce a National Labour Hire Licensing Scheme, replicating the best-practice aspects of the state-level schemes already in existence;
- d. Introduce measures to reduce the incidence of sham contracting, such as reforming the ABN system to stop the misuse of ABNs by unscrupulous employers - limit the situations in which temporary visa holders can obtain an ABN and make certain visa types ineligible or subject to special case by case exemptions determined by a relevant tripartite authority;
- e. Amend Commonwealth Procurement policies so that breaches of the *Fair Work Act* are noted on a public register and disqualify businesses from tendering for Government contracts;
- f. Reform the migration system to stop the exploitation of temporary migrant workers, and shift the emphasis to permanent, independent migration, rather than temporary, employer-sponsored migration;
- g. Lift the Temporary Skilled Migration Income Threshold immediately to a minimum of at least \$77,725, with a view to lifting this rate higher to reflect genuine market-based skilled wages, to close the gap between the salary floor for temporary skilled migrant workers and annual salaries for full-time Australian workers;
- h. Reform the 400 visa series so that employers are not circumventing the TSS (Temporary Skill Shortage) visa rules and regulations surrounding labour market testing, to stop employers exploiting migrant workers;
- i. Reform the Working Holiday Maker Visa so that it operates as a genuine holiday visa with some work rights attached, rather than a visa which in practice allows visa holders to work for the entire duration of their stay in Australia; abandon the second year of the working holiday visa altogether; and ban job ads that advertise only for working holiday visa holders or that use the inducement of a second working holiday visa;
- j. Ensure that temporary visa holders are provided information about their workplace rights and entitlements, including their right to join a union.
- k. Require companies who employ workers on any form of temporary visa, including via a labour hire company, to register on a publicly available registry;
- l. Ensure that the Australian Government only ratifies trade agreements that contain enforceable protections for workers' rights, to protect the rights of migrant workers.

C122: Employment Policy Convention

1. The ACTU is deeply concerned that the Government is ignoring its obligations under Article 1 of C122 to reduce unemployment and underemployment. The Australian Government has altered several key policies which have had detrimental impacts on unemployment and underemployment and it has failed to ensure that secure jobs have formed the backbone of the recovery from COVID-19.
2. The Australian Government has also ignored its obligations under Article 3 by failing to consult with the ACTU, as the representative of workers, concerning employment policies.
3. Unemployment figures for July 2021 show there are 639,200 people unemployed and 1.1 million underemployed.¹⁰ Underutilisation (that is, either unemployment or underemployment) has hit 12.8% and remains stubbornly high.¹¹ The underemployment rate increased over the last month to 8.3% and has been rising for some years, most likely driven by the rising trend of insecure work in Australia.
4. Youth unemployment is at 10.2% and has been in double-digits since the Government was elected in 2013. It has received little effective policy attention from the Government.
5. Australia is clearly still far away from achieving full employment, and far more Government action is needed on this front to effectively implement C122. The ACTU believes the Australian Government must have a vision for generating jobs, incomes, and growth in the aftermath of the COVID-19 pandemic. Reconstruction must address critical failures in the business-led economy that were evident before COVID-19 hit: vast underutilisation of labour, the growing prevalence of insecure and precarious jobs, widening inequality, persistent wage stagnation, and the impact of climate change. The crisis has shown pre-pandemic 'normal' was neither acceptable nor sustainable.
6. Achieving full employment will require enormous investment by Government in health care and broader public service delivery and infrastructure, direct public sector employment, income supports, and developing new high-value industries. Private spending is crippled by shocked confidence, lost incomes, and deep uncertainty about what lies ahead. Only Government has the economic resources, the staying power, and the capacity and authority to plan at a national level to reach full employment. Without the leadership of the Australian Government, and massive and sustained injections of resources and spending power, the economy will stay below its potential output and we will fail to reach the objectives set out in C122.

¹⁰ Australian Bureau of Statistics, Labour Force, July 2021

¹¹ Ibid

Insecure work

7. The ACTU believes that the obligation to pursue, as a major goal, active policies to promote full, productive and freely chosen employment in accordance with article 1 of the Convention requires the Australian Government to take positive steps to address the issue of insecure work.
8. The ACTU has identified insecure work as one of the most pressing issues facing workers in Australia today. Australia has one of the highest rates of non-standard work arrangements in the OECD, such as casual, fixed term, contracting and labour hire arrangements. Millions of workers in Australia are in some form of non-standard, insecure working arrangements (including 2.3 million casuals, over a million so-called 'independent' contracts and over 400,000 fixed term contracts). A remarkable 24% of all employees work on a casual basis.¹²
9. While the ACTU recognises that in rare cases some of these forms of employment have a legitimate purpose, they are increasingly used (and abused) by employers so as to avoid the responsibilities associated with a permanent ongoing employment relationship.
10. The ACTU is concerned that the existing legal framework in Australia has proven incapable of preventing and addressing the rise in insecure work. In particular, it fails to prevent employers from using various types of employment as a means of shifting the risks and costs associated with work from the employer to the worker. At the same time, our laws do not provide pathways for those trapped in insecure work to access more secure, better-quality jobs.
11. Instead, the Australian Government has taken steps to further legitimise insecure work. It legislated in early 2021 to allow an employee to be treated as casual at the election of the employer even though this may not reflect the substance of the working relationship – in fact many if not most casual workers in Australia have been working effectively permanent hours for more than 12 months. As a consequence, some employers will be even more likely to engage casual workers, knowing that by simply applying the casual label at the point of engagement they can shift risk and engage workers on an insecure basis, regardless of whether the work has the other hallmarks of permanent employment.
12. The ACTU is calling for a national target to halve the proportion of insecure jobs in Australia by the end of 2030

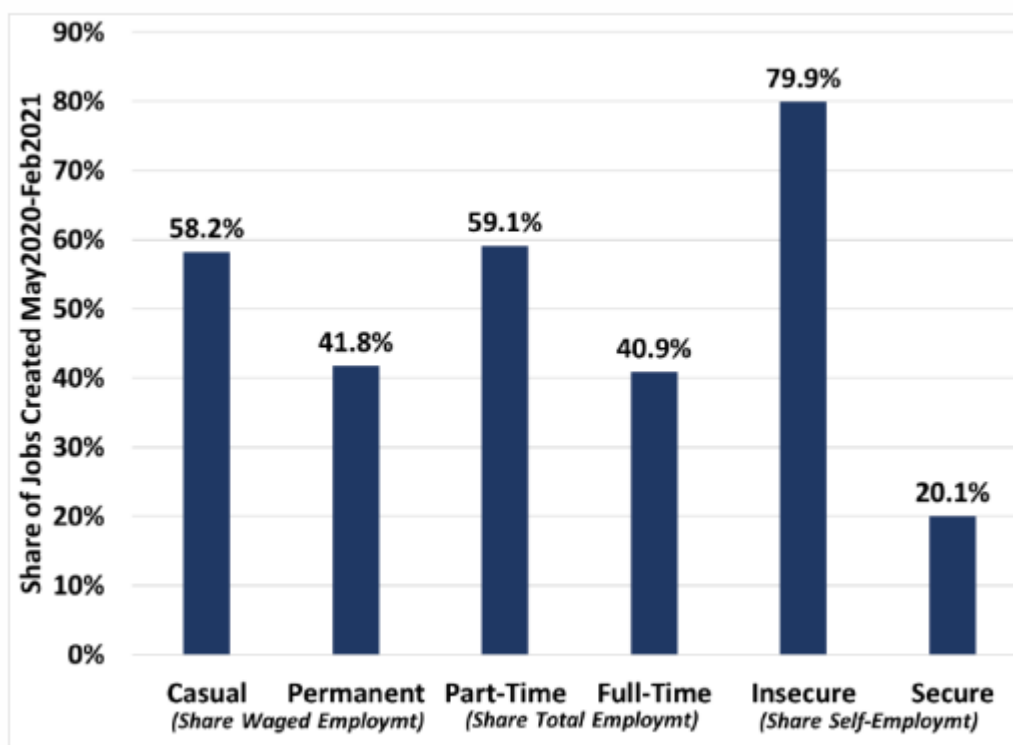
Impact of COVID-19 on the Labour Market

13. The initial impact of the COVID-19 on the labour market was predictable and largely unavoidable. As sections of the economy, and most economic activity in some states, was either halted or significantly curtailed in order to slow the spread of the virus, unemployment spiked – particularly among young people and women.

¹²https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/rp1920/StatisticalSnapshotCasualWorkersAustralia

14. Workers in insecure jobs bore the lion's share of dislocation during the initial stage of the pandemic. But now these insecure forms of employment are roaring back as the economy recovers from the initial downturn. Most of the new jobs that have been created since the trough of the employment recession in May are insecure jobs. Almost 60% of all new jobs created from May through February (most recent data available) are casual positions. An even larger share of new jobs created in this time were part-time positions. Indeed, the share of part-time jobs in total employment, which initially declined during the COVID-19 shutdowns (due to so many part-time workers losing their jobs), came roaring back to set an all-time record high in October, of 32.3%. With the spread of the delta variant of Covid-19 since July 2021 and the subsequent lockdowns to seek to stop its spread, the ACTU anticipates that it will be workers in insecure work that again will be the first to be stood down, let go or fired.
15. Another dimension of the burgeoning insecurity in Australia's post-COVID employment rebound is the high proportion of new self-employment that consists of very marginal, insecure positions. Almost 80% of all self-employed positions created since the employment trough last May consist of individuals who either have no other employees (working on an own-account basis) and/or are not incorporated. These are highly precarious undertakings (including gig economy jobs), in which individuals have no access to normal entitlements and protections (including paid sick leave), and are highly vulnerable to economic shocks and fluctuations

Growth of insecure work in the recovery to February 2021



Source: Calculations from ABS Labour Force Statistics, Table 1, and Labour Force, Detailed, Table EQ04

16. The resurgence of insecure jobs in the aftermath of the pandemic is recreating extreme vulnerability for millions of Australians:
 - a. It is forcing many Australians to piece together a living from multiple insecure jobs: indeed, one-third of all jobs created between the June and December quarters in Australia last year were 'secondary' jobs, meaning that the person filling them was already working in another position³³. And the proportion of those secondary jobs in total employment reached the highest share by end-2020 (7.2% of all jobs) in the history of ABS statistics on this issue. Multiple job-holding is not only stressful and insecure for affected workers; it also poses significant public health risks during a pandemic, because infected workers are more likely to transmit disease in multiple work locations (This is discussed in greater detail in the section below).
 - b. The economic recovery should be an opportunity to strengthen the underlying structure of Australian jobs: moving away from casual and other precarious forms of employment, and supporting the development of better, more stable positions. Instead, the Government is doubling down on its embrace of insecure work as the new normal.

Gaps in Government support during COVID-19

17. As part of its support for workers during the COVID-19 pandemic the Government provided a temporary increase to payments to the unemployed, the JobSeeker payment. Additionally, after much urging from the union movement, the Government provided the JobKeeper wage subsidy to provide to workers whose employment had ceased or been substantially affected by COVID-19. We acknowledge that this support likely saved many workers from losing their job in the early stages of the pandemic.
18. Unfortunately, these programs were not without their faults, reducing their ability to protect workers from unemployment and to assist the unemployed to find work.
19. JobKeeper in particular contained a number of gaps in coverage which left particular classes of worker without support – resulting in widespread job losses among these cohorts.
 - a. Casuals with less than 12 months tenure at their employer
 - i. According to the figures available at the time, this decision locked some 1 million casuals- about 40% of all the casuals in the economy- out of the JobKeeper program with no clear justification. These casuals, like casuals in general, were concentrated in some of the industries hit hardest by the COVID-19 crisis. For example:
 1. 230,000 in Accommodation and Food Services
 2. 155,000 in Retail Trade
 3. 118,000 in Health Care and Social Assistance,
 4. 72,000 in Manufacturing; and
 5. 67,000 in Education and Training.
 - b. Visa Workers
 - i. Roughly three-quarters of a million workers, invited into Australia on working visas, were denied access to the JobKeeper program and left without significant support.
 - c. Workers prevented from accessing the program by the nature of their employer

- i. In addition to casuals and temporary visa workers, hundreds of thousands of workers in Australia were excluded from the JobKeeper program due to the nature of their employer, specifically prevented from accessing the program due to the rules drafted by the Treasurer. These workers included:
 - 1. 194,000 workers employed in local government.
 - 2. Tens of thousands of university workers;
 - 3. Thousands of workers, like those employed at Dnata, employed by companies owned by sovereign entities.
- 20. For JobSeeker the issue was not that cohorts were excluded, but that the Government withdrew support and failed to lift the permanent rate of JobSeeker to an adequate level. JobSeeker was allowed to revert to its previous poverty-level status (with a slight increase of \$4 a day) in early 2021, with recipients asked to subsist on approximately \$44 a day and this is grossly inadequate. The economy had not yet recovered from the pandemic at this point and employment opportunities were still difficult to obtain.
- 21. Further exacerbating the difficulties faced by Australian workers, both employed and unemployed, were the numerous lockdowns still to be experienced by major Australian cities in 2021. The Government's decision to maintain the low rate of JobSeeker during these periods, when employment opportunities became even more scarce, and to refuse to reinstate JobKeeper despite the clear need for support for workers further reinforce their lack of commitment to assisting the unemployed and maintaining the employment of current employees.
- 22. Instead, in the latter stages of the pandemic, the Government has relied on 'disaster payments' which are inferior to JobKeeper in a number of key ways including:
 - a. Lacking a link to employment – meaning that workers become unemployed instead of remaining connected to their employer.
 - b. Limited availability – payments are restricted to Government-defined 'hotspots' which ignores the broader economic impact of lockdowns.
 - c. Difficult to obtain – accessing the payments is administratively difficult with multiple open and closure dates for payments depending on geographic location.

Women's Employment

- 23. Women were over-represented among workers in insecure and low-paid jobs and were shouldering the majority of unpaid domestic and care labour before the pandemic struck. Work predominantly performed by women – including much of the frontline and essential work which kept us safe during the pandemic – is more likely to be low-paid and insecure because of gendered assumptions and discriminatory views about the skills required and the value and complexity of the work.
- 24. Due to the COVID-19 crisis, 21% of the female workforce (or 1.3 million women) has lost work or is experiencing pressures on their capacity to retain paid work. Workers in insecure jobs in customer-facing female-dominated industries like hospitality and retail were most affected by the initial pandemic job losses.

25. Women have experienced worse job losses in the COVID-19 crisis because they hold jobs with less employment security. While the absolute level of women's employment has continued to rise over decades, the availability of secure jobs has not followed suit. 57% of women workers experienced one or more forms of precarity in their work pre-COVID-19 with women more likely to be employed in reduced hours, casual, and temporary positions than men. Women's jobs are characterised by fewer and less predictable hours, and fewer standard entitlements like sick leave, long service leave, holidays and superannuation. Insecure work is also less likely to have access to redundancy entitlements.
26. While women have been stuck on the treadmill of insecure work, full-time permanent work has been harder to obtain. Pre-pandemic, only 43% of employed Australian women worked in a full-time permanent job with entitlements such as paid sick leave. That compares with 57% of men in permanent full-time waged jobs.
27. Women are concentrated in short-hours jobs (which accounts for 46% of all women's jobs), in large part due to work and family life collision. Inadequate supports for working parents (such as access to secure and stable family-friendly work arrangements, affordable quality Early Childhood Education and Care, and adequate paid parental leave) mean many women find part-time work is all they can manage.¹³ Part-time jobs can and should be secure and well-paid with access to pro-rata'ed entitlements. However, about half of all reduced hours jobs are casual, meaning they do not offer paid sick or holiday leave or certainty of working hours: essential for workers with caring demands, and for allowing workers to follow health instructions when required to self-isolate or quarantine.
28. The fact women are disproportionately employed in insecure jobs undermines their economic security, making them more vulnerable to job loss and poverty. Aboriginal and Torres Strait Islander women and migrant workers face a double burden of discrimination and inequity, with less access to secure work and fair pay because of both their race and their gender.
29. The Government has shown little interest in these realities. They have made no meaningful efforts to address the high rate of insecure work for women either prior to the pandemic nor during the current period. As outlined above the Government has in fact excluded many insecure workers from their support payments – a decision which disproportionately affected women.

Community Development Programme

30. Under the Community Development Program (CDP) - a Work for the Dole¹⁴ (WFD) scheme for remote communities mainly targeted at Aboriginal people – job seekers are required to work

¹³ Leaving women behind: The real cost of the Covid recovery' Australian Unions, 2021

¹⁴ "Dole" is an Australian colloquialism for unemployment benefits

for up to 25 hours a week and up to 46 weeks a year in return for their Centrelink unemployment benefit. The stated aim of the programme is to support “*job seekers in remote Australia to build skills... an essential part of the Australian Government’s agenda for increasing employment and breaking the cycle of welfare dependency*”.¹⁵

31. CDP workers are not classified as workers. They receive well below the minimum wage for working for 25 hours a week for non-profit and for-profit businesses. They are not covered by the Fair Work Act, do not have Federal OHS protections or workers compensation and do not have annual leave, sick leave or carer’s leave. Those under the CDP are forced to work up to three times longer than city-based jobseekers to receive welfare payments. CDP workers have 70 times the financial penalties imposed upon them than non-remote dole workers.
32. People lose a day's allowance if they miss CDP activities or are even 5 minutes late. Cultural leave, such as Sorry Business, is not recognised, and the Federal Government has fined the roughly 30,000 CDP participants (the vast majority of whom are Indigenous) more than \$300,000 in the past two years.
33. A Senate inquiry into the CDP has been told that the fines for those who breach the conditions are so extensive that families in some areas are starving.¹⁶
34. This program has failed to produce significant employment outcomes amongst participants.
35. In the 2021 Budget, after nearly 10 years of operation, the Australian Government revealed that the Community Development Program would be replaced. It is not yet clear what the nature of the program that will replaces it will be. The fact that the Government persevered with a racially targeted and discriminatory program for so long clearly communicates their lack of sincerity with regard to meeting their obligations under C122.

Young Job Seekers Policies - Prepare, Train, Hire (PaTH) Internship program

36. The Government has continued with the deeply troubling PaTH ‘internship’ program despite significant community concern about the impact the program will have on vulnerable young job seekers and a complete lack of evidence that the program has been effective at moving young people into work. The program offers up young people as free labour, displacing real, wage-paying jobs, offering them no meaningful qualifications and handing money to employers.

¹⁵ <https://www.pmc.gov.au/indigenous-affairs/employment/community-development-programme-cdp>

¹⁶ Parliament of Australia, *Appropriateness and effectiveness of the objectives, design, implementation and evaluation of the Community Development Program (CDP)*, 14 December 2017. Pp 44

37. This program has been implemented in the context of a lack of government investment in, and attention to, the issue of youth unemployment. Funding for TAFE and apprenticeships remains insufficient. For the same money that is being spent on PaTH, 120,000 young people could complete a Certificate IV, a real qualification that leads to a real job.
38. There are currently at least two job seekers for every vacancy. This figure is significantly worse in many regional and remote areas. Despite this the Government has elected to place young people on the PaTH Scheme who will work for a fraction of the wage of an actual worker. The 'internships' this program creates replace real, entry level jobs that millions of Australians rely on to pay their bills. Interns in the PaTH program will be paid significantly below minimum wage, cost employers nothing in wages and bring in a one-time payment of \$1000 to the employer, meaning that employers will be able to replace minimum wage staff they already have, or were intending to hire, with workers that not only don't cost anything, but which employers are paid to hire.
39. Job seekers are not covered by OH&S Legislation. Like Work for the Dole participants, PaTH 'interns' are not covered by the Occupational Health and Safety Acts in their state or entitled to worker's compensation if something happens to them on the job.
40. With youth unemployment at stubbornly high levels, the programme falls short of the ILO member requirements under C122.

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