

Inquiry into the impact of technological and other change on the future of work and workers in NSW

United Workers Union post-hearing responses

18 June 2021

In reference to Mr Shoebridge's comments regarding Coles' evidence, UWU makes the following response:

"The issue of site closure due to automation was central to the Smeaton Grange dispute and subsequent lock-out. Many of the bargaining claims related to redundancy, re-skilling, and redeployment provisions. Workers made it very clear they wanted the right to be re-deployed or re-skilled to work in future semi-automated warehouses and/or industries. Coles refused to redeploy the Smeaton Grange workers to their new site without loss of pay or conditions. Coles is one of Australia's largest private sector employers. As such, Coles' handling of automation and job loss is an important matter of public interest."

In reference to the question concerning worker exploitation on NSW blueberry farms, UWU makes the following response (please see next page):

Worker exploitation in the NSW blueberry industry

The blueberry industry in Northern NSW has grown rapidly in the last two decades as the region has transformed itself from primarily a banana growing region to Australia's main blueberry growing region. Over 80 percent of the nation's blueberries are now grown on the Northern NSW coast.

Apart from a small number of larger growers, most of the 180 operators in the industry are small and medium sized growers. Each year, thousands of workers are engaged during the harvest season, mostly through labour hire contractors and subcontractors. They are overwhelmingly paid through piece rate arrangements that often result in workers receiving less than the federal minimum wage.

The exploitative conditions that arise from these employment models are well documented in the news media and other reports and are confirmed by the experience of UWU members who work, or have worked, on blueberry farms in the region.

The largest cohorts of workers employed by the growers in the Coffs Harbour region are:

- Undocumented workers from Malaysia, the Punjab region of India, and the Pacific Islands;
- Working Holiday Makers (backpackers);
- Pacific Islanders participating in the SWP;
- Permanent migrant workers from the local community.

Along with Bundaberg, QLD, Griffith, NSW, and the Sunraysia region on the VIC/NSW border, the Coffs Harbour region is a key destination for undocumented workers on the seasonal harvest trail.

As in these other regions, contracting arrangements in the blueberry industry are often highly informal, particularly among small and medium sized growers. A labour hire contractor will negotiate a price with a farmer to harvest a certain number of blocks of blueberries. The contractor will then bring in sub-contractors who employ workers through cash-in-hand piece rate arrangements, and do not make superannuation payments or tax deductions. Workers, at the bottom of this supply chain, rarely know the name of the farm they ultimately work for.

The sub-contractors are often undocumented workers themselves, and facilitate recruitment, housing and transport on behalf of the head contractors. Workers must live in the sub-contractor's accommodation and use their transportation if they wish to work for the sub-contractor.

UWU members who work or have worked in the industry report the following exploitative practices are commonplace:

- **Unfair piece rate arrangements that result in low pay.** It is common for workers to make as little as \$50 - \$100 for working a full day in the industry. Piece rates are set

through negotiation between the grower and the contractor or sub-contractor and offered on a take-it-or-leave-it basis to workers. As casual labour hire workers - often not formally engaged - workers have very little power to negotiate piece rates that would enable them to earn a compliant rate of pay, particularly if they are undocumented.

- **Unsafe working conditions.** Workers have reported being subjected to poor OHS practices, including being exposed to chemicals that cause skin irritation, as well as working in dangerous slippery conditions on steep hillsides. Workers often do not know the names of the farms they are working on, or who is responsible for providing a safe workplace.
- **Poor quality, overpriced accommodation.** Sub-contractors routinely force prospective workers to live in their accommodation as a condition of employment. This coercive arrangement often results in workers being forced to pay \$100-\$150 per week to live in crowded, poor quality accommodation.

NSW does not have in place the labour hire licensing regime, unlike Victoria, Queensland and South Australia. As a result, there is less scrutiny on contractors and subcontractors, the cost of non-compliance with the law is very low, and unscrupulous practices have become endemic.

In order to address the root causes of exploitation in the NSW blueberry industry, and the horticulture industry more broadly, the UWW recommends:

- The Federal Government undertake a **visa regularisation** process, as recommended by the National Agricultural Labour Advisory Committee, which would enable undocumented workers to apply for a substantive visa and remain working in the industry. Visa regularisation would significantly diminish the power of contractors and subcontractors in the industry who exploit undocumented workers' vulnerable visa status, and lift the prevailing employment standards in the industry.
- The introduction of a **minimum wage floor** in the Horticulture Award, which would ensure that all workers earn at least the minimum wage if engaged under piece rate arrangements.
- The introduction of a **labour hire licensing scheme** that covers NSW and is based on the best practice arrangements in the Victorian and Queensland schemes. It is important to note that given the prevalence of undocumented workers in the horticulture industry, in order for a licensing regime to have its intended effect, it is critical that it is introduced in conjunction with a visa regularisation process.