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ROTTEN APPLES, MOULDY ORANGES  
AND SOUR GRAPES.  
IS AUSTRALIA'S HORTICULTURE SECTOR  
ROTTEN TO THE CORE AND CAN IT BE  
FIXED?

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## **ROTTEN APPLES, MOULDY ORANGES AND SOUR GRAPES. IS AUSTRALIA'S HORTICULTURE SECTOR ROTTEN TO THE CORE AND CAN IT BE FIXED?**

The images are familiar enough - scenes of idyllic orchards, sun-ripened fruit and glistening vineyards accompanying 'Fresh', 'Green' Australian produce – images dripping with promise. The reputation of the sector which provides our daily produce is, however, becoming increasingly blighted by allegations of worker exploitation and mistreatment, the scale of which has most recently prompted calls for the introduction of a Modern Slavery Act.<sup>1</sup> The worst examples of worker exploitation appear to be committed by the contractors, middlemen and 'fixers' who control large groups of often illegal workers over whom they exercise almost complete control. The current crisis facing the sector now poses great risks to the image of our produce and us as a nation. Conversely however industry has an opportunity to distinguish their brand by projecting a more socially responsible approach. There is no simple fix to this issue, the responses will involve government, industry and consumers to stamp out a problem that threatens to become a scandalous and shameful episode in our nation's history.

In his 2013 campaign, Tony Abbott promised his government would build a world-class "five pillar economy",<sup>2</sup> encompassing manufacturing, agriculture, services, education and mining. The value of our sector should not be underestimated. Agriculture employs more than 1.6 million people.<sup>3</sup> We produce enough food to feed 80 million people, supporting an export market valued at over A\$41 billion per annum.<sup>4</sup> Horticulture is the third largest component of the sector<sup>5</sup> and is valued at \$10 billion with retail sales of at least \$50 billion.<sup>6</sup> The sector is flourishing and is forecast to grow by 8% annually between 2016 and 2020,<sup>7</sup> reaching a gross value exceeding \$10 billion by 2020.<sup>8</sup> Australian horticulture matters, and has long enjoyed a reputation as a sustainable producer of premium safe food. This reputation needs to be protected.

Recently however there has been extensive media coverage of widespread corruption and exploitation of the largely overseas workforce who labour to grow and harvest our produce. In 2015 an explosive episode of an ABC's Four Corners program alleged that there is "conclusive evidence of extreme labour exploitation, slave-like conditions and black market labour gangs have been found on farms and in factories supplying Australia's biggest supermarkets and fast food chains."<sup>9</sup> Since then other programs have taken up the subject and in 2016 a joint 7.30 and Fairfax Media Investigation infiltrated the underworld of illegal workers and labour hire syndicates.<sup>10</sup> The program revealed gross

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<sup>1</sup> Anna Patty. 2017. *Big business backs Labor call for new anti-slavery legislation*. [ONLINE] Available at: <http://www.smh.com.au/business/workplace-relations/big-business-backs-labor-call-for-new-antislavery-legislation-20170604-gwk06v.html>. [Accessed 18 June 2017].

<sup>2</sup> Peter J. Batt. 2017. *Australia's 'five strong pillar economy': agriculture*. [ONLINE] Available at: <http://theconversation.com/australias-five-strong-pillar-economy-agriculture-40388>. [Accessed 18 June 2017].

<sup>3</sup> Ibid

<sup>4</sup> Ibid

<sup>5</sup> Voice of Horticulture, VOH, 2014. Horticulture Industry Facts. *Horticulture Industry Facts*, [Online]. 1, 1. Available at: <http://voiceofhorticulture.org.au/resources/VOH%20Horticulture%20industry%20facts.pdf> [Accessed 18 June 2017].

<sup>6</sup> Ibid

<sup>7</sup> Water, GM, 2016. Industry snapshot: Horticulture. *Our Future, Our Strategic Plan*, [Online]. 2, 3. Available at: [http://www.g-mwater.com.au/downloads/gmw/FSP\\_Workshop\\_2/4322810-v4-INDUSTRY\\_SNAPSHOT\\_-\\_HORTICULTURE.pdf](http://www.g-mwater.com.au/downloads/gmw/FSP_Workshop_2/4322810-v4-INDUSTRY_SNAPSHOT_-_HORTICULTURE.pdf) [Accessed 18 June 2017].

<sup>8</sup> Ibid

<sup>9</sup> Ibid

<sup>10</sup> Nick McKenzie, Richard Baker, Saiful Hasam. 2017. *Fruits of their labour*. [ONLINE] Available at: <http://www.smh.com.au/interactive/2016/fruit-picking-investigation/>. [Accessed 18 June 2017].

underpayment and dismal living conditions for the workers. A secretly recorded conversation revealed that one grower supplying major supermarkets was complicit in the knowledge that their labour supply contractors were using illegal workers and not paying them correctly.

Such is the scale of the problem that the Fair Work Ombudsman initiated a major national investigation, The Harvest Trail Inquiry, and the federal government created the Migrant Worker Taskforce, led by Professor Allan Fels and made up of officials from Australian Border Force and the FWO.<sup>11</sup> Professor Fels stated that, “There is enough evidence to say that it is systemic ... Significant numbers [of migrant workers] are really exploited.”

Spare a thought for the farmer however, it needs to be acknowledged that the challenges for Horticultural supply chains are more unique than other sectors therefore the solutions will need to be targeted and specific. Vast investments and a whole year’s inputs are subject to the vagaries of weather, seasonal variation and conditions during harvest and distribution. Add labour shortages to the mix and the pressures faced by producers are immense. As Australia’s population and exports of food products has increased so has the need for an ever increasing supply of reliable labour.

Introducing measures such as visa restrictions does nothing to alleviate the problem of exploitation, as those working in slave like conditions do so, often because they are already illegal or they fear that their visas will be revoked. Recent government tinkering has created more harm in the short term than solutions with the back packer tax fiasco<sup>12</sup> threatening to harm our tourism sector and causing grave uncertainty for farmers. For many farmers Sponsored Migration Schemes such as subclass 187 are now out of the question.<sup>13</sup> Recent changes to what used to be called the Skilled Occupation List have removed even more positions from an already scant list for horticulture.<sup>14</sup> Nationalist, protectionist sentiment and rhetoric about preserving ‘Australian’ jobs is sending a very negative message to the rest of the world.

More recently the emphasis has been that visa changes are required to protect ‘Australian’ jobs. The current unemployment rate is around 5.7% nationally,<sup>15</sup> in prime horticulture regions this will vary by population and age group most suited to the work. Minister Alan Tudge recently released a list of Australia’s worst suburbs for ‘welfare bludgers’, Mildura, one of Australia’s most recognised horticulture regions was ranked third in the list.<sup>16</sup> But the reality remains that for the most part the jobs available are casual, low skilled, seasonal, manual labour positions.

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<sup>11</sup> Nick McKenzie, Richard Baker. 2017. *Major supermarkets selling the fruit of forbidden labour*. [ONLINE] Available at: <http://www.smh.com.au/national/investigations/major-supermarkets-selling-the-fruit-of-forbidden-labour-20161201-gt1w0l.html>. [Accessed 18 June 2017].

<sup>12</sup> The revised backpacker tax – what employers and seasonal workers need to know about WHM - BDO Australia. 2017. *The revised backpacker tax – what employers and seasonal workers need to know about WHM - BDO Australia*. [ONLINE] Available at: <https://www.bdo.com.au/en-au/insights/articles/tax/whm-tax-workers-employers>. [Accessed 21 June 2017].

<sup>13</sup> Regional Sponsored Migration Scheme visa (subclass 187). 2017. *Regional Sponsored Migration Scheme visa (subclass 187)*. [ONLINE] Available at: <https://www.border.gov.au/Trav/Visa-1/187->. [Accessed 20 June 2017].

<sup>14</sup> List of eligible skilled occupations. 2017. *List of eligible skilled occupations*. [ONLINE] Available at: <http://www.border.gov.au/Trav/Work/Work/Skills-assessment-and-assessing-authorities/skilled-occupations-lists>. [Accessed 19 June 2017].

<sup>15</sup> 6202.0 - Labour Force, Australia, May 2017. 2017. *6202.0 - Labour Force, Australia, May 2017*. [ONLINE] Available at: <http://www.abs.gov.au/ausstats/abs@.nsf/mf/6202.0>. [Accessed 19 June 2017].

<sup>16</sup> Government names welfare 'bludger' hotspots. 2017. *Government names welfare 'bludger' hotspots*. [ONLINE] Available at: <http://www.skynews.com.au/news/politics/federal/2017/06/13/government-names-welfare--bludger--hotspots.html>. [Accessed 15 June 2017].

Given the penetration of Australian supermarkets into our homes and budgets, quoted as being between 70-80%,<sup>17</sup> making them accountable for the practices within the supply chain is an important first step to addressing the issue of exploitation. Supermarkets have been widely accused of pressuring suppliers and dumping compliant growers for cheaper sources. The ABC's production 'Slaving Away'<sup>18</sup> alleged one of Australia's largest potato suppliers lost contracts to supermarkets who opted to go for cheaper competitors using exploited migrant workers. Federal Member for Hinkler Keith Pitt called for supermarkets to stop shirking responsibility by passing accountability back to the suppliers and farmers.<sup>19</sup>

The impetus for reform is gathering, recently laws cracking down on modern-day slavery have passed Federal Parliament.<sup>20</sup> The Crimes Legislation Amendment (Slavery, Slavery-Like Conditions and People Trafficking) Bill 2012 cleared the Senate. However Federal Labor has called for the introduction of a Modern Slavery Act<sup>21</sup> which will impose new requirements on big businesses to report on slavery and human trafficking in their supply chains. Whether a company statement is sufficient remains to be seen and still means that the sanction will be public opinion and customers changing supplier – by any measure this will require very motivated and informed consumers.

Australia is not alone in allegations of exploitation of their horticulture sector. Stories have emerged about heinous conditions for workers in Italy's tomato industry which SPC Ardmona was able to exploit to their advantage.<sup>22</sup> In Australia, it is estimated that eight out of 10 cans of tomato products come from Italy.<sup>23</sup> Using claims about the Italian industry SPC Ardmona was able to mount a very successful campaign after suffering under the high Australian dollar and a flood of cheap imported product. In another example the 'toss a tin in your trolley' call to action and #SPCsunday – set off an avalanche of consumer support which SPC claims saw a 50% increase in sales on SPC fruit.<sup>24</sup> The campaign has had its detractors but there is no denying that the example illustrates the power of consumer sentiment and social media. Fair Trade and "slavery-free" certification may have some impact but risk consumer 'ethics fatigue' and scepticism. Nonetheless just as a company's brand can be damaged by poor publicity it can also be enhanced by positive news.

Informing working holiday makers of their rights and the use of whistle blower hotlines are reasonably cheap and easy ways of putting the spotlight on illegal practices. More information in foreign languages could be provided at the time of visa grant notifications to better educate and warn overseas workers of both their rights and the types of practices that are unlawful.

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<sup>17</sup> Stephen King. 2017. *FactCheck: do Coles and Woolies control 80% of the market?* [ONLINE] Available at: <http://theconversation.com/factcheck-do-coles-and-woolies-control-80-of-the-market-15418>. [Accessed 19 June 2017].

<sup>18</sup> ABC News. 2017. *Labour exploitation, slave-like conditions found on farms supplying biggest supermarkets - ABC News (Australian Broadcasting Corporation)*. [ONLINE] Available at: <http://www.abc.net.au/news/2015-05-04/supermarkets-food-outlets-exploit-black-market-migrant-workers/6441496>. [Accessed 19 June 2017].

<sup>19</sup> Ibid

<sup>20</sup> Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Bill 2012 – Parliament of Australia. 2017. *Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Bill 2012 – Parliament of Australia*. [ONLINE] Available at: [http://www.aph.gov.au/Parliamentary\\_Business/Bills\\_Legislation/Bills\\_Search\\_Results/Result?bld=r4840](http://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bld=r4840). [Accessed 19 June 2017].

<sup>21</sup> Ibid

<sup>22</sup> theaustralian.com.au. 2017. *Nocookies | The Australian*. [ONLINE] Available at: <http://www.theaustralian.com.au/news/inquirer/italian-tomatoes-the-product-of-migrant-slave-labour/news-story/fece485267a1dd13b34a9ac78718208d>. [Accessed 18 June 2017].

<sup>23</sup> Ibid

<sup>24</sup> Ibid

Still none of this gets to the rotten core of the problem, contractors and labour hire firms acting illegally need direct attention. Tightening existing laws and introducing a licencing scheme for labour hire companies is one solution. Protecting the legitimate operators is crucial as they are increasingly struggling to compete against corrupt contractors. Addressing the behaviour of contractors specifically is the responsibility of Fair Work, Immigration and the ATO who need to be far more proactive about unscrupulous operators. Similar issues of tax avoidance and the 'black economy' were addressed in the building industry by the introduction of the ATO's Taxable Payment Reporting requirements.<sup>25</sup> The system is designed to data match information submitted by businesses who engage contractors. The information is then used to detect contractors who have not lodged tax returns, not included all their income or who have provided false ABN numbers. This is a system that is already operating in one industry and may well be useful in addressing the problems of another. Going to the trouble may well be worth it, one recent raid under Taskforce Cadena on a Victorian asparagus farm, in addition to finding 50 illegal workers, also uncovered \$400,000 in cash allegedly waiting to be paid as cash wages.<sup>26</sup> Meanwhile a Sunraysia citrus grower is suspected of running two sets of books to conceal the use of illegal workers.<sup>27</sup>

Making new laws and tightening existing legislation are good ways of initiating a solution to the problem. However it is the middle men who are at the forefront of this issue and need to be ensuring their practices are compliant with legislation, far stricter monitoring needs to occur to protect the gross exploitation and mistreatment of overseas workers who are so critical to the survival of horticulture in Australia. Every one of us has a part in this, every time we purchase and consume fresh produce. Australia needs to bring all of the stakeholder's interests together: government, consumers and growers to prevent the continuing human misery occurring within our midst.

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<sup>25</sup> Australian Government - Australian Taxation Office. 2015. *Taxable payments reporting – building and construction industry*. [ONLINE] Available at: <https://www.ato.gov.au/General/Other-languages/In-detail/Information-in-other-languages/Taxable-payments-reporting---building-and-construction-industry/>. [Accessed 20 June 2017].

<sup>26</sup> Nick McKenzie, Richard Baker. 2017. *Major supermarkets selling the fruit of forbidden labour*. [ONLINE] Available at: <http://www.smh.com.au/national/investigations/major-supermarkets-selling-the-fruit-of-forbidden-labour-20161201-gt1w0l.html>. [Accessed 18 June 2017].

<sup>27</sup> Ibid

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