



NATIONAL
AUSTRALIAN
SOUTH SEA
ISLANDERS
ASSOCIATION

SUBMISSION TO THE
MODERN SLAVERY ACT INQUIRY

"I am a descendant from the island of Tongoa, Vanuatu.

My chiefly bloodlines stem from Chief Tom Tiplomata who is 99 years of age.

I worked in the cane fields and lived in a town camp as did my parents and grandparents.

My ancestors were transported on ships to work in Australia.

As we consider the future today, we need to tell the truth about the past.

We need recognition of historical slavery of indigenous people and island people.

Without that recognition the attitudes that brought my ancestors to Australia and kept them in servitude will continue today.

Truth is a political matter.

The bodies of 15,000 Kanaks litter this country in unmarked graves - someone's child unmourned. Who were their parents?" It is ironic that black sugar slaves were deported from a black nation controlled by white immigrants.

Founding member of Australian South Sea Islanders-Port Jackson board member and former Aboriginal and Torres Strait Island Commissioner; raised on the town camp Plantation Creek of Ayr, far north Queensland.

Shireen Malamoo (Aboriginal / Kanak)

'Australian South Sea Islander' (ASSI) is the specific title of our community demographic legislated under 1994 Commonwealth recognition for the descendants of South Sea Islanders (SSI) Blackbirded to Australia in the 1800s.



Committee Secretary
Joint Standing Committee on Foreign Affairs, Defence and Trade
PO Box 6021
Parliament House
Canberra ACT 2600

10 June 2017

Statement in support of a Modern Slavery Act for Australia

Dear Members of the Foreign Affairs and Aid Sub-Committee,

We thank you for the opportunity to make a submission to your inquiry into a Modern Slavery Act for Australia.

We take this opportunity to ask the Australian Parliament to remember Australia's relationship with slavery, through the practice of Blackbirding. Between 1840 and 1950 the Pacific labour trade moved 1.5 million Indigenous and Asian individuals around the Pacific, with 62,000 of these contracts binding Pacific Islanders to work in Australia between 1847 and 1906. Many thousands died from common diseases during the first months of arrival. An astounding 15,000 of these mainly young men died before their prime.

When the White Australia Policy was introduced after Federation, there were 10,000 Melanesian immigrants in Australia; more than half were deported up to 1908. In many cases they were displaced from their home islands and returned to mission and government stations. Today about 50,000 people identify as Australian South Sea Islanders, or of dual Australian-South Sea Islander heritage.

The Australian South Sea Islander Association tries to reconnect displaced ASSI families here in Australia and the Pacific. We have a strong kinship with Indigenous Australians because South Sea Islanders intermarried with indigenous Australian in Torres Strait and on the east coast mainland. Some were also absorbed under the *Aboriginal Protection Acts* and placed on the same reserves and missions.

Our Association works without government support. Our network is currently handling cases of modern slavery in Australia where our people from the Pacific are again being coerced, tricked and exploited under policies and contracts relating to agricultural labour that see their human rights abused all over again.

The effects of past slavery in our young history haunt the minds, hearts and soul of our people. We urge the Committee and the Australian Parliament, as you move forward, research and reflect to learn from our past. We look forward to working with you, to combat modern-day slavery.

(Waskam) Emelda Davis
President Australian South Sea Islanders Port Jackson (ASSIPJ)
Masters of Arts (Research) candidate UTS-FASS: ARC Scholarship recipient
www.assipj.com.au email: assi.pj@gmail.com Mobile: 0416300946

PREAMBLE

The purpose of our submission is firstly to highlight the historical practice of Blackbirding of some 62,000 Melanesian labourers who were brought to Australia via forced migration, kidnapping and coercion, firstly to NSW in 1847 with the majority imported into Queensland between 1863 and 1901. This Pacific labour importation began only a few decades after slavery was made illegal in the British Empire in the 1930s. Legally it was cloaked as indenture, which was a new form of slavery used to bind Pacific Islanders into settler colonies.

Secondly we would like to point to the modern day equivalents of Blackbirding that we are aware of in Australia.

It is important for us as descendants to take the opportunity your Inquiry presents to highlight this pinnacle period of a shared history, which is still unknown to the majority of Australians today.

As the Federal Member for Hinkler Keith Pitt noted in the Australian Parliament on 1 September 2014, in a Private Members debate which expressed regret on the treatment of South Sea Islanders and their descendants:

“Most Australians have no idea that, even some 30 years after the Emancipation Proclamation in the United States, slavery was still rife in this country. Between 1863 and the early 1900s, South Sea islanders as young as 12 were ripped from their communities to work on Australian farms.”

Mr Pitt also went on to note:

“The practice of Blackbirding was at one point rebranded indentured labour, to circumvent the slavery laws of Britain.”

We would like to also place on the public record the continuing effects that Blackbirding has had on our community.

The impact of Blackbirding lives on in the hearts and minds of descendants of the trade, and this is something we want more Australians to understand.

The Australian South Sea Islander Association exists to create a greater understanding, both within our own community and more broadly, about how our people still exist today, and our journey as we were integrated via sugar plantations and farms, pastoral properties, and in Torres Strait.

Our communities through our national representative organisation have an important story to tell that we hope can help heal the generational suffering caused by the deceitful policies of the past.

Revisiting and learning from mistakes of the past will assist us greatly in progression towards a brighter future and we hope it will assist other vulnerable communities in particular.

Regrettably, our members have observed new manifestations of exploitation that exist in the current treatment of seasonal workers in Australia, including workers from the very same countries our forebears were taken from.

WHO WE ARE

ASSIPJ works collaboratively across many government, community and educational platforms supported by prominent community figures such as our patron Mrs. Bonita Mabo AO, founding board member and former ATSIC Commissioner Ms. Shireen Malamoo, and award-winning historian Emeritus Professor Clive Moore of the University of Queensland who has researched in ASSI and Pacific Island history for forty years.

Our national representatives continue the important work of one of Australia's most celebrated Australians Aboriginal rights activist and descendant of slavery, Mrs. Faith Bandler AC (1917-2015).

Full details of our Board and Historical Advisory team are published on our website:

<http://www.assipj.com.au/assipj-board/>

<http://www.assipj.com.au/assi-historical-advisory-panel/>

Much work has been done to date to develop a national representative body. We have hosted seven national capacity building conferences resulting in the establishment of a national roundtable working group, and the adoption of a widely consulted national constitution drafted pro-bono by Gilbert & Tobin lawyers, Sydney.

The most recent draft of the constitution is published on our website:

<http://www.assipj.com.au/national-australian-south-sea-islanders-association-constitution/>

BLACKBIRDING – AN OVERVIEW

The 'indentured labour trade' or Blackbirding of Pacific Islanders to Australia took place between the years 1847 and 1908. The original Pacific Islander immigrants were called Kanakas or Kanaks. Another term used was South Sea Islanders. The term Australian South Sea Islanders (ASSI) has been adopted by the present-day descendants.

Eighty islands of Vanuatu, Solomon Islands, east Papua New Guinea, Tuvalu, Kiribati and Fiji were affected, seeing some islands almost entirely stripped of their male populations to work primarily in the sugar, maritime and pastoral industries. Only five per cent of those taken were women.

The result of this atrocity was that some 15,000 people – around 30 per cent of those traded - died from exposure to common disease in the first six to twelve months of their indenture. Despite authorities knowing about the high mortality rate, the trade was allowed to continue for more than sixty years.

In the early 1860s, some Pacific Islanders were involved in fishing and pearling industries of the Torres Strait Islands. Other Pacific Islander missionaries arrived with the London Missionary Society to introduce Christianity at Erub (Darnley Island) in the Torres Strait in 1871, an event that is marked today in the Torres Strait in annual 'Coming of the light' observances on 1 July.

The first documented case of large-scale indentured labour from the Pacific actually dates back to 1847, when NSW entrepreneur and politician Benjamin Boyd illegally trafficked 65 labourers from New Caledonia and Vanuatu to Eden in NSW, to support his whaling and pastoral activities. The case was a humanitarian disaster, with the Islanders who survived having to walk back to Sydney to seek return passage.

Right from the 1860s in Queensland, there were constant allegations that slavery was occurring, and that even when there was some Islander knowledge of the indenture experience it was always exploitative and very poorly paid. There are many reports of atrocities. Australian authorities finally moved to close down the Blackbirding trade in 1901. Legislation enacted as part of the introduction of the White Australia Policy, the *Pacific Island Labourers Act* of 1901, led to the mass deportation of people, families and children, who were sent back to their disconnected and in some cases unknown islands of origin between 1904 and 1908.

The small community that remained in Queensland and northern New South Wales in the twentieth century was marginalized, living on the outskirts of White society.

Through the continued advocacy and research work of ASSI descendants, a number of unmarked sites across Queensland and NSW have been identified as the resting place for ancestors who died in the sugar cane fields.

GOVERNMENT RECOGNITION

In 1992, a Human Rights and Equal Opportunity Commission Report '*The Call for Recognition: a report on the situation of Australian South Sea Islanders*' found that Australian South Sea Islanders (ASSIs) suffer the same disadvantages as Indigenous Australians.

In 1994, the Commonwealth recognised Australian South Sea Islanders as a 'distinct cultural group' that value their heritage, custom and culture.

<https://www.humanrights.gov.au/erace-archives-australian-south-sea-islanders>

Through ASSI community lobbying, today Australian South Sea Islanders are classified as a distinct Australian cultural group in the ABS Australian Standard Classification of Cultural and Ethnic Groups, with the grouping of Australian Peoples. In the 2016 Census, the Australian Bureau of Statistics agreed to prominent positioning of the ASSI option under Question 18 on ancestry.

<http://www.assipj.com.au/inclusion-of-australian-south-sea-islanders-on-pg18-for-the-2016-census-form/>

This statistical inclusion, which now extends to Centrelink and some other government forms, and to hospital admission forms, is the beginning of recognition of our status and continued presence in Australia.

Twenty years on from the 1994 recognition, on 1 September 2014 the Federal Parliament debated a 'Motion of Regret' acknowledging that Australian had a Slave Trade. The motion was moved by the Member for Dawson George Christensen, who at that time was the National Party Deputy Whip.

<http://www.assipj.com.au/southsea/wp-content/uploads/APENDIX-A-ASSI.PJ-Muritus-.pdf>

On 15 August 2013, the NSW Parliament, through a motion by the Member for Sydney Alex Greenwich, recognised the historic and current-day conditions of Australian South Sea Islanders, and requested the Government to liaise with the National Body for Australian South Sea Islanders in preparing a demographic, social and economic community profile.

http://23.101.218.132/Prod/parlment/hansart.nsf/V3Key/LA20130815005?open&refNavID=HA8_1

Today various government programs and services cater for a contemporary Pacific communities and Indigenous Australian communities, but there is no specific policy that caters for the ASSI community demographics wellbeing and social stability.

TERMS OF REFERENCE 3

The nature and extent of modern slavery (including slavery, forced labour and wage exploitation, involuntary servitude, debt bondage, human trafficking, forced marriage and other slavery-like exploitation) both in Australia and globally; The prevalence of modern slavery in the domestic and global supply chains of companies, businesses and organisations operating in Australia

The Seasonal Work Programme

ASSI members have expressed concern at the prevalence of exploitation that exists in the Seasonal Worker Programme. Horticulture and farm work are sectors with high risk factors for modern slavery.

Anthony Forsyth's Victorian Inquiry into the Labour Hire Industry and Insecure Work reported deep concern at the overwhelming evidence of farm worker exploitation.¹

"Dean Wickham, of the Sunraysia Mallee Ethnic Community Council (Sunraysia ECC) told the Inquiry that: [w]e have got people who want to take charge of their lives who are being asked to work within an industry that is being controlled by layers and layers of people, so the farmer down to the main contractor, the subcontractor, and I am not sure how anyone makes any money by the time the dollar value gets to the actual person doing the work.

"Mr Wickham and another confidential group of witnesses told the Inquiry that workers from the Pacific Islands, who are part of the Seasonal Worker Programme (SWP), working in the horticultural industry near Robinvale, were treated poorly with untreated boils on their legs because of poor diet and poor food practices by the host (yet the workers were still expected to go to work).

One group of workers from Fiji was threatened with jail for walking off the job.²"

"The Sunraysia ECC described having some issues with exploitation of workers engaged through the SWP.

It has intervened on behalf of workers from the PNG, Solomon Islands and Fijian communities in respect of working conditions. It described a situation it was dealing with at the time of the Inquiry's Mildura hearing, with people who were working with food being improperly stored on site; no adequate access to fresh water on site; and having to get up at four in the morning to travel to where they were working.

The host employer exercised significant control over the workers, and they were unable to speak to others in the community.

Mr Wickham described 10 people walking off the program in the previous three weeks, so they were now facing visa condition breaches.

¹ <http://theconversation.com/labour-hire-plight-of-insecure-workers-to-be-put-under-the-spotlight-50463>

² pg 157 https://economicdevelopment.vic.gov.au/_data/assets/pdf_file/0016/1390111/IRV-Inquiry-Final-Report-pdf

There was a media report in March 2016 of exploitation of Fijian SWP workers who were paid less than \$10 per week by a labour hire agency that sponsored their visas. The workers were required to either return to work for the agency, or return to Fiji³.”

The Seasonal Worker Programme appears to have little oversight, independent auditing or enforcement of employer obligations.

We believe history is repeating with vulnerable workers from Pacific Nations with many cases of workers being underpaid and treated poorly.

Here is a sample of media reports relating to the harsh treatment of Pacific Nations workers which in other developed countries with Modern Slavery laws would have been investigated for crimes of forced labour, deceptive recruitment and servitude.

‘Fijian seasonal workers told to return to work for contractor accused of exploitation or go home’, ABC News, 27 March 2016, at: <http://www.abc.net.au/news/2016-03-27/seasonal-workers-to-return-contractor-accused-of-exploitation/7270902>

Case Study 1. Maroochy Sunshine

In March 2016, the Fair Work Ombudsman took action in the Brisbane Federal Circuit Court against the recruitment agency, Maroochi Sunshine, for grossly underpaying 22 Seasonal Worker Program fruit pickers from Vanuatu.

It was alleged that the owner of two labour hire firms, who according to subsequent media reports had cultivated a network of farmers in need of labourers, went to Vanuatu to promote the Seasonal Worker Program and recruit workers.

The court found that the owner, Mr. Emmanuel Bani, had recruited the workers under false promises and owed the workers nearly \$78,000 for seven weeks of work in 2014.

In breach of the contract, Maroochi only provided sporadic periods of work; half of the workers were paid a total of \$1100 (between \$50 and \$150 each) by some of the farmers they worked for. The other half of the workers never received a wage for their work.

Annual entitlements were underpaid and a Notice to Produce employment documents was ignored by Bani.

³ Pg 303 https://economicdevelopment.vic.gov.au/_data/assets/pdf_file/0016/1390111/IRV-Inquiry-Final-Report-.pdf

Mr. Bani failed to appear in Court and was found guilty of violating employment laws by default. The court then adjourned the matter until June 2016 when it was going to decide on the penalty to impose on Mr. Bani and his company.

In March 2017, the Federal Circuit Court Justice Michael Jarratt ordered Bani and his firm pay the workers almost \$80,000 in outstanding wages, and issued a \$227,300 fine to Bani.

Justice Jarratt struggled to imagine a "more egregious" case of worker exploitation.

"This case concerns the serious exploitation of vulnerable foreign workers lured to Australia by false promises. Employees were at times deprived of the appropriate basic living standards expected in Australia."

One worker described how he and another man worked for months to save up the \$1500 recruitment fee to ensure Bani sponsored them, in addition to airfares and other expenses. He also described times where the only food he had was the tomatoes he was picking.

The court heard that when the workers questioned their conditions, Bani threatened to report them to the police and have them deported.

According to Acting Fair Work Ombudsman, Michael Campbell, "the workers spent much of their time in remote and isolated transient accommodation, sometimes sleeping in a bus on the side of the road or on chairs in a bedroom."

Media reports suggested workers may remain under threat even after returning to Vanuatu. Reports also indicated that one of Bani's companies is still running a website which "spruiks its ability to supply contract farm labour at 'minimum costs, maximum rewards.'"

S. Locke, ABC Rural, 'Government Crackdown on Seasonal Worker Exploitation', 9 February 2016, http://www.abc.net.au/?WT.z_navMenu=abcNavLogo&WT.z_srcSite=local&WT.z_link=ABC%20Home.

D. Sparkes, ABC Rural, 'Labour-Hire Company Faces Court over Allegations of Exploiting Pacific Island Workers in 416 Visa Program', 14 January 2016, <http://www.abc.net.au/news/2016-01-13/labor-hire-company-faces-allegations-of-416-visa-breaches/7086100>.

R. Narayan, 'Queensland Labour-Hire Company Maroochi Sunshine Ripped Off Vanuatu Workers, Court Finds', 15 March 2016, <http://www.loopvanuatu.com/content/queensland-labour-hire-company-maroochy-sunshine-ripped-vanuatu-workers-court-finds>.

In a recent case, a group of workers signed affidavits alleging that their employer, labour hire firm MADEC, which is Australia's largest user of the Seasonal Workers Program, had pressured workers to quit the National Union of Workers. If they did not, they would be denied future employment, and workers from Vanuatu would not be recruited via the Seasonal Workers Program. <http://www.smh.com.au/business/seasonal-workers-warned-if-they-join-a-union-theyll-get-no-work-20170309-guujgv.html>.

In another recent case, workers had nothing to eat but the fruit they were picking and slept in a bus on the side of the road. <http://www.smh.com.au/national/investigations/slavery-claims-as-seasonal-workers-from-vanuatu-paid-nothing-for-months-work-20170327-gv7k99.html>.

ASSI recommends seven key elements for a Modern Slavery Act for Australia.

1. Appointment of an Independent Anti-Slavery Commissioner

The appointment of an Independent Anti-Slavery Commissioner to lead Australia's fight against modern slavery, with powers and responsibilities similar to the appointed UK Anti-Slavery Commissioner (currently Kevin Hyland).

Independent oversight is vital to the success of any efforts to tackle the multifaceted crime of modern slavery which requires a response from a vast range of stakeholders across the public, private and community sectors.

2. Modern Slavery Statements

At a minimum, legislation that requires all large organisations doing business in Australia to publish an annual 'Modern Slavery Statement' reporting on steps taken to eradicate modern slavery within their organisations and supply chains. Large businesses have the power to influence change within supply chain networks, to drive up standards and remove the profitability of modern slavery.

3. The creation and maintenance of a free publicly-accessible central repository for all Modern Slavery Statements

A repository is needed to ensure laws are effective in bringing change. The repository was an identified gap in the UK framework that has since been remedied. A public repository, and reports generated from it, can be used to measure the progress of organisations, improve public accountability and review social impact.

4. Victim Care

ASSI believe in cases where modern slavery, wage theft, abuse and suffering at the hands of Australian employers has occurred, then the workers should receive Government compensation as part of the SWP.

5. Support from Prime Minister and Cabinet

To establish an ASSI national office with annual funding for staffing in order to work in collaboration with government and supportive agencies in drafting specific policies that cater to the waylaid community development and social justice.

6. ASSI Recognition Day 25th August

A special day that is supported on the national calendar, as is NAIDOC Day, that remembers the Commonwealth 1994 Recognition and the contribution of our South Sea Islander ancestors and their descendants today.

7. Community Liaison Officers

Families of workers and community leaders participating as source countries in the Seasonal Work Program have for many years been calling for Community Liaison Officers. The officers would speak community languages, be located in Australia to check and independently assess the wellbeing of the workers. The officers would also check the worker's pay, superannuation, health insurance and be able to assist with illness and workplace injuries.



The map attempts to illustrate the movement of over 800 shipping routes from the Pacific Islands to Australia and Fiji. Australia's first Pacific Islander immigrants arrived in Sydney NSW in the 1790's as crews of trading and whaling ships. The first 65 Melanesian's were Blackbirded to Eden southern NSW in 1847 to work in whaling and pastoral industries followed by an additional 52 (Eden) then an influx to Queensland of some 62,000 men and some women between 1863-1908 via indentured labour contracts, seeing forced migration, kidnapping and coercion from the 80 islands of Vanuatu and Solomon Islands.

