

Submission
No 9

**INQUIRY INTO MODERN SLAVERY RISKS FACED BY
TEMPORARY MIGRANT WORKERS IN RURAL AND
REGIONAL NEW SOUTH WALES**

Organisation: Refugee Advice and Casework Service

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RACS

REFUGEE ADVICE & CASEWORK SERVICE

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Inquiry into Modern Slavery risks faced by temporary migrant workers in regional and rural New South Wales

Modern Slavery Committee

31 January 2025

Acknowledgment of Country

*We acknowledge the Traditional Owners,
Custodians and Elders of the Gadigal People of
the Eora Nation, past, present, and future, on
whose traditional land we work.*

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Introduction

The Refugee Advice and Casework Service (**RACS**) provides critical free legal advice, assistance and representation to financially disadvantaged and vulnerable people seeking asylum in Australia. We advocate for systemic law reform and policy that treats refugees with justice, dignity and respect, and we make complaints about serious human rights violations to Australian and United Nations bodies.

RACS acts for and assists refugees, people seeking asylum, people that are stateless or displaced, in the community, in immigration detention centres, alternative places of detention and community detention. Our services include supporting people to apply for protection visas, re-apply for temporary visas, apply for work rights and permission to travel, apply for family reunion, lodge appeals and complaints, assist with access to citizenship and challenging government decisions to detain a person.

RACS welcomes this opportunity to respond to the Committee's inquiry on modern slavery risks faced by temporary migrant workers in rural and regional New South Wales. Our submission shares insights from our experience in supporting people seeking asylum, who may also be temporary migrant workers, who are navigating complex legal frameworks. Many are subject to a greater risk of modern slavery owing to the restrictive nature of the visas they hold, significant power imbalances with their employers and an unfamiliarity with their rights and how they may be able to enforce them in Australia. We seek to advocate for mechanisms that can reduce the risk of modern slavery related harms and ensure that those who require safety in Australia may pursue their protection expeditiously and safely.

We would like to extend our gratitude to the following contributors to this submission:

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Exploitative practices and modern slavery in New South Wales

Risks in regional and rural areas

Research indicates that more than half of modern slavery survivors in Australia are migrants.¹ It is our observation that Australia's temporary visa system contributes to insecurity which might be exploited by perpetrators of modern slavery.² This risk of exploitation is magnified for refugees, people seeking asylum and the stateless who (by virtue of their experience of persecution, resettlement or attempts to seek asylum) may also experience the following challenges in addressing or reporting modern slavery:

- An inability to safely return to their home country and thus a heightened vulnerability in the immigration framework;
- The mental health impacts from experiences of trauma born out of a refugee background;
- A fear or distrust of authority where acts of persecution were perpetrated by authorities in the person's home country or where there was a failure to provide adequate state protection from harm;
- Increased stigma and politicisation;
- Cultural and social differences;
- Physical health and disability status;
- Lack of access to resources or accessible information;
- Financial and housing insecurity; and
- Lack of access to support.

RACS works with visa applicants across NSW, and makes the following observations based on our engagement with communities across the state.

Firstly, those in regional and rural areas face additional barriers to those listed above with respect to being able to access support services, and particularly support services that are tailored to the needs of migrant workers or people seeking asylum. In recognition of this, RACS is seeking to deliver a number of in-person community legal education

¹ Australian Red Cross, *Snapshot*, available at: <<https://www.redcross.org.au/globalassets/cms/migration-support/support-for-trafficked-people/support-for-trafficked-people-data-snapshot-2009-2019.pdf>>.

² Australian Red Cross, *Snapshot*, available at: <<https://www.redcross.org.au/globalassets/cms/migration-support/support-for-trafficked-people/support-for-trafficked-people-data-snapshot-2009-2019.pdf>>.

sessions in regional and rural NSW in 2025 to provide information about our services to communities outside of Sydney. In our experience, we often encounter people who may have had an experience of modern slavery or trafficking that may give rise to claims for protection. Many of our clients find it difficult to self-identify and self-report experiences of exploitation, and many report that they were not aware that their experience of exploitation, and fear of harm in their home country, could make them eligible for a protection visa.

RACS also observes practical barriers to accessing assistance for survivors of forms of modern slavery in regional NSW. Examples of this include more limited access to internet, computer and telephone services. Currently, for example, RACS has a client who has experienced domestic servitude and other complex forms of family violence who is housed in a women's refuge in regional NSW. Due to limitations with the mobile network where she is living, calls for legal advice and assistance with her allocated RACS lawyer need to be pre-arranged via the office landline managed by the women's refuge service.

Other examples of barriers faced by our clients in rural NSW include a lack of specialised counselling services in the regions, to address the specific needs of survivors and refugees, and a lack of emergency accommodation (particularly for temporary visa holders) and multicultural casework services.

Additionally, in regional areas, smaller communities and less anonymity have at times been reported by our clients as barriers to seeking help, including with respect to support services, front line workers, educative institutions and Police. Our clients have also reported experiences of racism, or a lack of cultural competency in service delivery, which makes seeking assistance more difficult.

The Department of Home Affairs often requires visa applicants to travel long distances for administrative purposes. Currently, even in Canberra, the nation's capital, there is no capacity for applicants for protection visas to provide biometric information for the purposes of an applicant for protection. Recently, RACS has encountered several cases where vulnerable visa applicants have been required to travel long distances to Sydney in circumstances that could potentially endanger their personal health and safety. This indicates that more consideration of the needs of visa applicants outside of Australia's biggest cities is required by Government.

Our submission further reflects on the Pacific Australia Labour Mobility (PALM) scheme, as a large number of the people advised by RACS that are experiencing modern slavery related risks are participants of or have participated in this scheme.

Pacific Australia Labour Mobility (PALM) Scheme

Since the 19th century, Australia has employed labour forces from the Pacific Islands through various visa schemes.³ Research indicates that historically, approximately 55,000 Pacific Islanders have been subjected to various forms of exploitation and slavery like conditions in Australia.⁴

This labour scheme has been developed over time, leading to the introduction of the Pacific Australia Labour Mobility (PALM) in 2021. This scheme allows Australian businesses to invite workers from nine Pacific Islands including Tonga, Fiji, Solomon Islands, Nauru, Kiribati, Samoa, Tuvalu, Papua New Guinea and Vanuatu.⁵ Many of the temporary migrant workers employed under this scheme work in industries including agriculture, construction, domestic work, cleaning, hospitality and food services.⁶ While efforts were made to augment the current PALM scheme to prevent the exploitation that took place in the past, it still contains significant systemic issues that affect the safety and wellbeing of temporary migrant workers in Australia under this visa.⁷

The Fair Work Ombudsman (FWO) investigated the operations of meat processing and horticultural companies that hire workers under the PALM stream and found issues including underpayment and long working hours.⁸ 70% of the 638 companies investigated between 2018 and 2020 were found in breach of Australia's workplace laws.⁹ The United Workers Union (UWU) conducted a survey across migrant workers and found that 63% were underpaid, 32% reported unsafe working environments, 33% were threatened by their employers and 25% were punished or fired for raising concerns.¹⁰

For migrant workers under the PALM stream, various systematic vulnerabilities are exacerbated by the rigidity of being tied to a single employer in the agriculture, horticulture, and meat processing industries.¹¹ Wage theft, excessive deductions, poor accommodation, and dangerous working conditions persist due to limited oversight and inadequate legal enforcement by the Australian government against violators.¹² The PALM visa conditions prevent changing employers, creating an exploitative cycle where

³ Lindy Kanan and Judy Putt, "Safety and Wellbeing in Australia's Pacific Labour Mobility Scheme Research Report" (Canberra, ACT: Dept. of Pacific Affairs, Coral Bell School of Asia Pacific Affairs, The Australian National University, October 31, 2023), <https://openresearch-repository.anu.edu.au/items/11dfb269-bc9a-4fa2-a975-65c976d966ad>

⁴ Ibid

⁵ Ibid

⁶ Ibid.

⁷ Ibid

⁸ NSW Anti-slavery Commissioner, "Be Our Guests: Addressing Urgent Modern Slavery Risks for Temporary Migrant Workers in Rural and Regional New South Wales - Report under Section 19(4) of the Modern Slavery Act 2018 (NSW)" (NSW Anti-slavery Commissioner, September 2024), <https://www.parliament.nsw.gov.au/tp/files/189374/Be%20Our%20Guests%20-%20Report%20to%20Parliament%20-%20FINAL%20PDF.pdf>.

⁹ Ibid

¹⁰ Ibid

¹¹ Ibid

¹² Ibid

workers are unsupported, have restricted mobility, are vulnerable to gender-based violence, and have minimal access to healthcare services. To address these issues, reform is necessary to provide flexible employment options and improved access to healthcare services, which would act to mitigate risks of exploitation and modern slavery.¹³

An article published by ABC News exemplifies the concerning conditions temporary workers are exposed to due to the restrictive nature of the PALM scheme. Ezekiel, a migrant worker from Papua New Guinea, worked picking fruit in Tasmania for up to seven days a week and was left with only \$200–\$300 after paying for shared bunk-bed accommodation and transportation costs.¹⁴ Ezekiel had to support his mother and two young children back in Papua New Guinea with the minimal money he could save.¹⁵ After leaving the PALM scheme due to mistreatment, Ezekiel was unlawful and had to endure severe hardships, including sleeping rough. Ezekiel had limited options available to him and felt forced to work for employers who either did not pay him or threatened to deport him.¹⁶ Ezekiel's story highlights how the PALM scheme condition that requires a participant to remain with their sponsoring employer couple with the lack of oversight push workers into exploitative conditions with no recourse. Their survival often depends on community workers and charities for food, clothing, and temporary shelter,¹⁷ while the government offers little in terms of long-term solutions.

Preventing workers from freely changing employers breeds the conditions for power imbalances that may be exploited, heightening the risk of modern slavery for temporary migrant workers. Sophia Kagan, the Principal Policy Advisor within the Office of the NSW Anti-slavery Commissioner emphasised the need for reforms that integrate the concept of an 'exit' allowing workers to leave exploitative positions without fearing retaliation or visa loss.¹⁸

RACS has also observed that many PALM visa holders also experience separation, often extended separation, from immediate family, which places individuals at greater risk of psychological harm. While a pilot has been approved to address this, RACS recommends that future labour visa frameworks consider the importance of the family unit from conception.

¹³ Ibid

¹⁴ Adele Ferguson, "Modern Slavery Report Uncovers Dark Side to PALM Visa Scheme Leaving Vulnerable Workers Homeless and Destitute," *ABC News*, September 23, 2024, <https://www.abc.net.au/news/2024-09-23/palm-visa-scheme-exploitation-modern-slavery/104382194>

¹⁵ Ibid

¹⁶ Ibid

¹⁷ Ibid

¹⁸ Sophia Kagan, "The Real Risks of Exploitation for Pacific Workers in Australia," *Lowy Institute*, September 12, 2024, <https://www.lowyinstitute.org/the-interpretor/real-risks-exploitation-pacific-workers-australia>

Immigration framework

Once in Australia, participants of the PALM scheme, as well as other temporary visa holders, may apply for protection. RACS has advised and supported PALM visa holders that require safety in Australia due to a risk of persecution in their country of origin owing to reasons including, but not limited to, their sexuality, gender, political opinion and/or membership of a particular group. In our experience, many of these claims are extremely strong and meritorious.

An applicant for a protection visa would typically be issued a bridging visa in association with their application. Whether or not someone is granted the right to work on this visa is dependent on a number of conditions, including what visa they held (if any) at the time of their application for protection. If an applicant holds a substantive visa when they lodge a protection visa application, they are granted a bridging visa A. This bridging visa A would generally give them the right to work and access healthcare, however it would not come into effect until their substantive visa (for example, a PALM visa, student visa, or some other temporary work visa) expires. There is no clear pathway to bring forward the expiry of many temporary visas, and this often causes considerable distress for our clients who remain subject to the restrictions of the substantive visa. In this way, the immigration framework can have the effect of continuing to trap visa holders in exploitative working conditions, without the freedom to choose their own employers and without the necessary supports to remove themselves from unsafe working conditions.

Case study: voluntary visa cancellation for Gaby

Gaby arrived in Australia under the PALM scheme in 2023. Gaby's PALM visa was granted for a period up to 2027. Initially, Gaby hoped that she would be able to experience a work environment that was more accepting of her identity as a transgender woman in Australia.

Gaby began working in rural NSW, but experienced significant harassment. Gaby described her workplace as being dominated by male workers who mocked her and sexually harassed her on more than one occasion for being transgender. Gaby's mental health deteriorated and she increasingly felt unsafe at her work. However, she was afraid of reporting the harassment to the police as a temporary visa holder. Gaby was also scared that reporting the harassment to her employer would impact her contract and put her at risk of being deported to her country of origin where she feared harm. She researched how to apply for a protection visa, left her workplace and contacted RACS for assistance. Gaby cites that leaving her work environment was critical for her safety.

RACS assisted Gaby to apply for a protection visa in July 2024. Gaby was granted a bridging visa A shortly afterwards which gave her the right to work and study. However, since her PALM visa remained valid until 2027, the bridging visa A was not in effect, and she could not seek alternative employment. Her only option for employment was her former workplace where she faced harassment.

To mitigate this situation, RACS supported Gaby with requesting a voluntary cancellation of her PALM visa in 2024. This request was refused by the Department of Home Affairs who stated that there were no provisions for onshore visa holders to voluntarily cancel their visas.

RACS continued to advocate for Gaby and escalated her request for voluntary cancellation of her PALM visa. In September 2024, Gaby's PALM visa was cancelled but this also had the effect at law of cancelling her bridging visa A as well. Gaby was now an unlawful non-citizen.

To regularise Gaby's visa status, RACS assisted her to apply for a bridging visa E. This is another kind of bridging visa she can hold while she awaits a determination on her protection visa application. However, this visa does not allow her to work, study or access Medicare. Gaby also lost access to the crucial gender affirming health care she was receiving through Medicare. RACS assisted Gaby with applying for the right to work. This can be a difficult process, as the legal criteria is narrow. RACS assisted Gaby with gathering evidence and submitting a statement to explain her situation. She was finally granted the right to work in October 2024, months after leaving her unsafe workplace and seeking cancellation of her visa.

* Names and other personal identifiers have been changed in case studies in order to protect confidentiality.

Gaby's story encapsulates the intricacies of navigating the immigration framework that can trap people in conditions that heighten their risk of exploitation and modern slavery. It further demonstrates the needlessly challenging bureaucratic processes required to remove people from such conditions. For several months, Gaby was left not only without the freedom to work in a safe workplace of her choosing, but the ability to work at all.

In RACS's experience, not being able to work can have disastrous financial impacts for people seeking asylum. It can plunge people into poverty, homelessness, destitution and exacerbates their risk of exploitation and modern slavery.

An applicant's eligibility to access Medicare is tied to their right to work on a temporary visa. Meaning, applicants who hold a bridging visa C or E without work rights are also barred from accessing health services. Clients of RACS in this situation have frequently communicated the serious financial, mental, social and health related impacts of this.

Similarly, there is a lack of financial support for people seeking asylum, with civil society welfare providers stretched by the significant need for assistance in the community.

In these circumstances, people seeking asylum are particularly vulnerable to unstable or precarious work situations in which an employer may use a person's inability to legally work as a threat to prevent the person from leaving work, from accessing wages or acceptable work conditions, and from seeking justice after an experience of criminal exploitation.

To eradicate modern slavery, its root causes must be addressed. This includes poverty, precarious and insecure visa status resulting from delays or failures in the asylum-seeking process, and the right to work.

The restoration of the right to work on all temporary visas held by people seeking asylum (irrespective of which part of the application process they are at) is a simple step that can be taken to prevent the disproportionate risk of modern slavery experienced by refugees, people seeking asylum and the stateless. RACS recently made submissions about this point in particular to the Special Rapporteur on Modern Slavery during his in-country visit to Australia. The Special Rapporteur reported on this point in his end-of-mission statement.¹⁹

Government-funded services would also assist to lower the risk of modern slavery faced by people seeking asylum and provide remedy for survivors. This could take the form of properly funded free, legal information and assistance, social support and safe housing, free counselling and psychological services, and a national compensation scheme for survivors of modern slavery.

Recommendations

Recommendation 1:

Provide training for frontline responders (including police, education services, healthcare, judicial system and social services) on cultural competency and the identification of indicators of exploitation. This training would increase access to justice for survivors and help prevent the exploitation of temporary visa holders in regional NSW.

Recommendation 2:

Fund services for people seeking asylum, including legal assistance, financial support, housing assistance and free psychological and medical services; and provide access to

¹⁹ United Nations Special Rapporteur on contemporary forms of slavery, including its causes and consequences, End of Mission Visit to Australia, 27 November 2024, <https://www.ohchr.org/sites/default/files/documents/issues/slavery/sr/statements/2024-11-27-eom-australia-sr-slavery-en.pdf>

appropriate remedies for survivors of modern slavery including via a compensation scheme accessible to people seeking asylum. This funding should specifically consider the needs of people outside of capital cities, and should include opportunities for in-person outreach services and the funded-delivery of legal education in a way that is accessible.

Recommendation 3:

Visa holders should be able to change employers without risking a breach of their visa conditions. Offering flexible options around employment and labour mobility can empower temporary migrant workers with the ability to freely choose to stay or leave a workplace, with the knowledge they can seek alternative employment and supports. This can help correct the power imbalances that may be abused by employers to exploit temporary migrant workers. Labour schemes should consider work place mobility and oversight, family reunification, and education about worker's rights and how to access free and confidential help.

Recommendation 4:

The NSW Government should advocate to the Federal Government to improve the immigration framework to ensure the right to work and study for all people seeking asylum, including those seeking review of refusals of protection obligations including through ministerial intervention processes.