

**Submission
No 10**

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

Organisation: Legal Aid NSW
Date Received: 20 February 2025

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Modern Slavery Committee
Parliament of NSW
By email: modern.slavery@parliament.nsw.gov.au

Dear Committee,

Inquiry into modern slavery risks faced by temporary migrant workers in rural and regional NSW

Legal Aid NSW welcomes the opportunity to make a submission to the NSW Parliament's inquiry into the modern slavery risks faced by temporary migrant workers in rural and regional NSW (**Inquiry**).

This submission addresses Inquiry Terms of Reference 1a) (lived experience of temporary migrant workers in rural and regional NSW working in agriculture, horticulture, meat processing and other sectors reliant on migrant labour).

About Legal Aid NSW

Legal Aid NSW is an independent statutory body established under the *Legal Aid Commission Act 1979* (NSW). We provide legal services across NSW through a statewide network of 25 offices. We assist with legal problems through a comprehensive suite of services across criminal, family and civil law. Our services range from legal information, education, advice, minor assistance, dispute resolution and duty services, through to an extensive litigation practice. We work in partnership with private lawyers who receive funding from Legal Aid NSW to represent legally aided clients.

Legal Aid NSW provides advice and representation in employment law. Employment law is one of the most common civil law problems about which clients seek advice from Legal Aid NSW. In the 2023/24 financial year, Legal Aid NSW provided 2,569 employment law advice services. Many of our clients are migrant workers living in regional areas.

Gaps in the evidence

Whilst some clients have come to Legal Aid NSW for legal advice where their circumstances involve aspects of modern slavery, we know from our community engagement activities that the problem of modern slavery is far bigger than our case numbers indicate.

Our community engagement officers hear stories of workers engaged in conditions with aspects of modern slavery but where the workers do not seek out legal assistance because

they distrust 'government' agencies, are concerned about their visa status, or are unaware of the assistance that they could access. Our community engagement officers have heard stories about migrants being paid very low wages, being in 'debt bondage' in relation to a requirement to repay the costs of bringing the worker to Australia, and being threatened with deportation if they complain about their pay or conditions.

Legal Aid NSW supports the submission of the NSW Anti-Slavery Commissioner that the NSW government should consider providing resources for the development of 'Welcome Committees'.¹ This could, at the local level, provide migrants with information about their rights and the legal and other supports available to them in the Australian community.

Case studies

The following case studies outline the lived experience of our clients as temporary migrant workers in rural and regional NSW.

Candra's story^{*2}

Candra came to Australia on a working holiday visa and worked and lived on a farm in Far West NSW. He was permitted to use his employer's car for personal use. Outside of work hours, he was in a car accident in the vehicle owned by the employer. He was injured requiring hospitalisation and the employer's vehicle was damaged in the accident.

After being discharged from hospital, Candra wanted to end his employment and sought to obtain his possessions from his former employer's premises. His former employer would not release his belongings to him, including his passport, until he paid for the damage to the employer's vehicle. The employer also withheld his wages.

Kaustav's story^{*}

Kaustav was employed in a manufacturing role for a company in southern NSW. He understood that the costs associated with him obtaining a visa to come to Australia would be borne by his employer. Upon arriving in Australia, he was told by his employer that the business had spent a lot of money getting him to Australia and that he would have to pay this money back.

Kaustav was frequently required to work long hours without pay, sometimes late into the night. On occasion, he would sleep on the floor of his workplace. He would often need to skip lunch to get through his workload. Whenever he raised concerns about his working hours or conditions, he was told that his alternative to working long hours was to pay back his debt. He was sometimes threatened with physical violence by his employer.

¹ Office of the NSW Anti-Slavery Commissioner, *Be Our Guests: Addressing Urgent Modern Slavery Risks for Temporary Migrant Workers in Rural and Regional New South Wales* (September 2024) 30.

² All case studies in this submission marked with an asterisk have been de-identified.

*Amara's story**

Amara came to Australia from Thailand on a working holiday visa. She was sponsored by her employer to manage a takeaway shop in regional NSW. Her employer also provided her with accommodation. She often worked overtime with little to no breaks and was left to manage the store on her own with little support from her employer. She was also sexually harassed by her employer.

After being hospitalised from exhaustion, Amara complained to her employer about working excessive hours but her hours remained the same. She contacted the Fair Work Ombudsman and discovered that she was being underpaid. Her employer partially remedied the underpayment but did not pay her what she was entitled to under the relevant award.

*PALM Scheme**

Legal Aid has advised several workers employed under the Pacific Australia Labour Mobility (**PALM**) Scheme. All clients advised by Legal Aid NSW were employed by a labour hire company to work for a host rather than directly employed. Our clients were employed in northern NSW in the meat packing industry.

The PALM workers told us that representations were made to them in their home country about their pay and conditions of work in Australia which turned out to be incorrect. Some of our clients said that they signed a contract in their home country and that they were required to sign a less favourable employment contract upon arriving in Australia. They said that the employment agency in their home country facilitating their work in Australia did not provide them with a copy of the first contract that they signed.

Our clients complained about amounts being deducted from their pay for meals, accommodation and health insurance. They also told us about proposals to convert them from full-time employees to daily hire employees.

Jerwin's story

Legal Aid NSW represents the family of a migrant worker who died shortly after arriving in Australia.

In February 2019 Jerwin Royupa, a 21-year old Filipino national, came to Australia under a subclass 407 training visa (**Visa**). The Visa nomination allowed Jerwin to participate in 'workplace-based training for capacity building overseas' with his sponsor in regional NSW.

After only six weeks in Australia, Jerwin died after exiting a moving vehicle driven by his sponsor.

The inquest has so far heard evidence that Jerwin was offered the Visa on the basis that he would be provided professional development training and receive a monthly stipend. It is undisputed that Jerwin did not receive any money from his employer/sponsor while in Australia and had his internet connection restricted.

It is anticipated that the Coroner will make findings on:

- whether Jerwin received any training, including any classroom-based activities as required under the Visa
- whether Jerwin was required to engage in excessive labour, outside the scope of his training, without pay
- whether Jerwin's movement was restricted and monitored, and
- supports and services available for subclass 407 visa trainees in Australia, particularly persons at risk of exploitation.

If you have any questions or would like to discuss this matter further, please contact Bridget Akers, Senior Solicitor, at

Yours sincerely

Monique Hitter
Chief Executive Officer