

Submission  
No 27

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

**Organisation:** The Institute for Human Rights and Business

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Making respect for human rights  
part of everyday business

## Submission to the New South Wales Parliament Modern Slavery Committee

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

27<sup>th</sup> February 2025

### **The Institute for Human Rights and Business (IHRB)**

Founded in 2009, IHRB works to shape policy, advance practice, and strengthen accountability in order to make respect for human rights part of everyday business.

Information on IHRB's current activities is available at [www.ihrb.org](http://www.ihrb.org).

IHRB welcomes the opportunity to contribute to the Inquiry into modern slavery risks faced by temporary migrant workers in rural and regional NSW. In this submission, we highlight the issue of responsible recruitment of migrant workers in Australia as one critical factor that must be addressed in confronting modern slavery. The analysis draws on IHRB's work with companies in the Leadership Group for Responsible Recruitment as well as our engagement with leading Australian companies to reform current recruitment practices in supply chains to prevent exploitation of migrant workers.

### **Responsible Recruitment**

A major cause of forced labour in today's global supply chains is the charging of recruitment fees to migrant workers. The practice of workers paying large recruitment fees, often made possible by loans at usurious rates of interest on promises of future earnings that frequently fall short of expectations, leaves many workers in situations of debt bondage – an indicator of forced labour. Recruitment debt also makes workers vulnerable to further exploitation and abuse.

Deceptive recruitment practices are listed as an ILO indicator of Forced Labour<sup>1</sup>. Ending such exploitative recruitment practices for migrant workers in global supply chains has, in recent years, become a higher priority for some businesses, governments, and civil society actors, but remains a systemic challenge.

Flawed recruitment practices also negatively impact development outcomes and realization of the UN Sustainable Development Goals. Workers servicing recruitment debt will inevitably remit less money, which might have been used to support families and communities back home.<sup>2</sup>

## **Recruitment practices in Australia**

Australian companies produce goods for many international brands in agriculture, commodities and other sectors. Like most countries, Australia and its federated states benefit from the contributions of migrant workers to its economy. Addressing skills and labour shortages, and enhancing Australia's productivity, migrant workers and temporary visa holders fill critical roles across key sectors such as healthcare, the care economy, construction, agriculture, horticulture, meat processing, cleaning, retail, and tourism.

Australia's dependency on low-wage temporary migrant workers has grown exponentially over the years, and an estimated 30 per cent of temporary migrants in Australia are based in NSW.<sup>3</sup> This includes Pacific Australia Labour Mobility (PALM) workers and working holiday makers (WHMs).

The NSW Anti-slavery Commissioner has highlighted a number of modern slavery risks for migrant workers, from debt bondage, deceptive recruitment, forced labour and, in extreme cases, servitude, sexual servitude or human trafficking.<sup>4</sup> The high proportion of migrant workers employed, the expansive geography in rural and regional areas, and the high seasonality of the agriculture and horticulture sectors in particular, also present challenges to addressing modern slavery risks. These sectors may rely heavily on labour-hire companies not subject to regulatory schemes in NSW.

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<sup>1</sup>[https://www.ilo.org/sites/default/files/wcmsp5/groups/public/@ed\\_norm/@declaration/documents/publication/wcms\\_203832.pdf](https://www.ilo.org/sites/default/files/wcmsp5/groups/public/@ed_norm/@declaration/documents/publication/wcms_203832.pdf)

<sup>2</sup> <https://www.ihrb.org/resources/realising-rights-and-maximising-benefits-improving-development-outcomes-through-the-responsible-recruitment-of-migrant-workers>

<sup>3</sup> Australian Bureau of Statistics. Temporary visa holders in Australia (2021 Census). Canberra: Australian Bureau of Statistics. <https://www.abs.gov.au/statistics/people/people-and-communities/temporary-visa-holders-australia/latest-release>

<sup>4</sup> 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)

Flawed recruitment practices, including the payment of recruitment fees and associated costs by migrant workers, are a major contributing factor to situations of forced labour and trafficking. Greater scrutiny and analysis of recruitment regulation and enforcement including country assessments, in both countries of origin and destination, will help to draw attention to this systemic challenge and will encourage improved practice globally.

In our engagement with Australian supermarket brands, IHRB also notes a key issue of concern raised was the payment of recruitment fees by migrant workers and ensuing debt bondage in supply chains. Migrant workers (including under the PALM scheme) have borrowed money for recruitment-related costs that trap people in situations of debt bondage, making workers financially and physically dependent on their employers and unable to leave exploitative conditions.<sup>5</sup>

Preventing exploitation during recruitment requires effective oversight and regulation of recruitment practices in Australia, and from the countries of PALM workers and other origin countries such as Taiwan, Indonesia, Viet Nam and South Korea where many WHM workers are directly employed in food production, agriculture and the meat processing sectors. The Gangmaster and Labour Abuse Authority in the UK provides a possible model for some form of licensing (of recruiters) and enforcement regime that might be appropriate.<sup>6</sup>

## **The Employer Pays Principle**

Attention to recruitment practices is increasing globally, and a growing number of companies and governments are working to promote a business model based on the Employer Pays Principle<sup>7</sup> which affirms that No worker should pay for a job. The costs of recruitment should be borne not by the worker but by the employer. IHRB has identified over 400 major companies who now include a prohibition of recruitment fees being paid by workers in their public policies. These companies are identified in the IHRB Responsible Recruitment Register<sup>8</sup>.

The Employer Pays model of recruitment, consistent with ILO Convention 181<sup>9</sup>, allows businesses and workers to benefit from professional and ethical recruitment services

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<sup>5</sup> 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)

<sup>6</sup> <https://www.gla.gov.uk/>

<sup>7</sup> <https://www.ihrb.org/projects/employer-pays-principle>

<sup>8</sup> <https://responsible-recruitment-register.ihrb.org/>

<sup>9</sup> C181 - Private Employment Agencies Convention, 1997 (No. 181)

[https://normlex.ilo.org/dyn/nrmlx\\_en/?p=NORMLEXPUB:12100:0::NO::P12100\\_INSTRUMENT\\_ID:312326](https://normlex.ilo.org/dyn/nrmlx_en/?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312326)

without the payment by workers of fees, costs and other charges. Many organisations are working to develop the Employer Pays Principle and ways it can be implemented across the ASEAN region and other parts of the world. At least seven companies in Australia<sup>10</sup> have partly or fully integrated the Employer Pays Principle into their public policies or code of conducts, sourcing standards or modern slavery statements.

The Employer Pays Principle was also explicitly referenced in the **Principles to Guide Government Action to Prevent Human Trafficking in Global Supply Chains**<sup>11</sup> signed by the Governments of Australia, Canada, New Zealand, UK and USA.

Preventing the charging of recruitment fees to workers does not just protect workers from exploitation, it also ensures a level playing field for business. Companies who recruit ethically are currently disadvantaged in markets where they must compete with those who bear no recruitment costs by charging workers fees. A prohibition on fee charging to workers aligned with the Employer Pays Principle would mean that all companies are able to compete fairly within the law.

## **The Montreal Recommendations on Recruitment**

In 2019 policy makers and recruitment regulators from 30 countries participated in a conference organised by the IOM, hosted in Montreal, Canada. The meeting aimed to identify a common set of practical guidelines to effectively manage the regulation of international recruitment and protection of migrant workers. The resulting 55 recommendations<sup>12</sup> align with international human rights and labour standards and provide a clear roadmap towards effective government oversight, regulation and management of temporary migration for work.

## **Recommendations**

Australia openly promotes human rights values in its Modern Slavery Act and foreign policy. It should continue to lead the global efforts to end forced labour and trafficking. The New South Wales Legislature has played a lead role in developing and promoting best practice, such as the establishment of an Anti-Slavery Commissioner, aligned with those goals. Successful outcomes will require attention being focused on both the supply chains

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<sup>10</sup> <https://responsible-recruitment-register.ihrb.org/>

<sup>11</sup> [https://www.foreignminister.gov.au/minister/marise-payne/media-release/principles-guide-government-action-combat-human-trafficking-global-supply-chains?\\_gl=1\\*1rt2ij\\*\\_ga\\*MTU2MTA2NjY1My4xNzM5NTM0NDly\\*\\_ga\\_8Z18QMQG8V\\*MTczOTUzNDQyMi4xLjAuMTczOTUzNDQyMi42MC4wLjA](https://www.foreignminister.gov.au/minister/marise-payne/media-release/principles-guide-government-action-combat-human-trafficking-global-supply-chains?_gl=1*1rt2ij*_ga*MTU2MTA2NjY1My4xNzM5NTM0NDly*_ga_8Z18QMQG8V*MTczOTUzNDQyMi4xLjAuMTczOTUzNDQyMi42MC4wLjA)

<sup>12</sup> <https://publications.iom.int/system/files/pdf/the-montreal-recommendation.pdf>

of Australian companies abroad and at home. Closer attention on recruitment practices should be a key part of national and regional government efforts to eradicate trafficking. This will require appropriate legislation and enforcement activities aligned with The Montreal Recommendations.

Recruitment is a business cost and should be borne by business. Legislative reforms such as an effective licensing regime for recruiters, are required to ensure that no worker faces the payment of recruitment fees, with legislation consistently and transparently enforced across all sectors. In this way workers are not subject to exploitation whilst law abiding businesses, seeking to do the right thing, are not disadvantaged in the market by having to compete with companies exploiting workers. Strengthening current legislation to address abusive and deceptive recruitment practices will play a significant part in preventing forced labour, labour trafficking, and debt bondage within Australia and abroad. Such measures will help to protect vulnerable workers, particularly women and migrant workers, along with those who may face discrimination due to their temporary visa status.

The NSW Government should continue to ensure that the rights of migrant workers in New South Wales are protected in law and in practice. It should also advocate for the Federal Government to:

- Develop federal legislation that clearly defines responsible recruitment of migrant workers and ensures no recruitment fees and associated costs are paid by workers.
- Review the visa settings and protection requirements for temporary migrant workers in the PALM and the WHM Programmes.
- Align regulatory mechanisms with the Montreal Recommendations on Recruitment.

IHRB would welcome opportunities to supply further details and advise and engage further on efforts to strengthen recruitment practices across Australian businesses. We hope the issue of migrant worker recruitment continues to be a priority for both the Regional and Federal Government in efforts to prevent exploitation and modern slavery.

**For any questions or further information please contact:**

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Institute for Human Rights and Business