

Submission Regarding Modern Slavery Risks faced by Temporary Migrant Workers in Rural and Regional New South Wales

28 February 2025

Parliament of New South Wales
modern.slavery@parliament.nsw.gov.au

Contact: **Timothy Roberts**
President, NSW Young Lawyers

Jessica Lighton
Submissions Lead, NSW Young Lawyers

George Stribling
Human Rights Sub-Committee Chair, NSW Young Lawyers

Contributors: Claudia Robinson, George Stribling

The NSW Young Lawyers Human Rights Sub-Committee (Sub-Committee) makes the following submission regarding modern slavery risks faced by temporary migrant workers in rural and regional New South Wales in response to the inquiry established by the Parliament of New South Wales.

NSW Young Lawyers

NSW Young Lawyers is a Committee of the Law Society of New South Wales that represents the Law Society and its members on issues and opportunities arising in relation to young lawyers i.e. those within their first five years of practice or up to 36 years of age. Through its 15 sub-committees, each dedicated to a substantive area of law, NSW Young Lawyers supports practitioners in their professional and career development by giving them the opportunity to expand their knowledge, advance their career and contribute to the profession and community.

NSW Young Lawyers Human Rights Sub-Committee

The NSW Young Lawyers Human Rights Sub-Committee comprises a group of all those interested in human rights law, including lawyers working in academia, for government, private and the NGO sectors and other areas of practice that intersect with human rights law. The objectives of the Sub-Committee are to raise awareness about human rights issues and provide education to the legal profession and wider community about human rights and their application under both domestic and international law. The Sub-Committee shares a commitment to effectively promoting and protecting human rights and to examining legal avenues for doing so. The Sub-Committee takes a keen interest in providing comment and feedback on legal and policy issues that relate to human rights law and its development and support.

Summary of Recommendations

Having regard to the Terms of Reference for the Review, the Sub-Committee recommends that:

1. Digital infrastructure in rural areas be improved to ensure migrant workers can access online legal services, information and report violations; and

2. Community Legal Centres (**CLCs**) in remote and regional NSW be given funding allocations in order to provide legal assistance and education to temporary migrant workers who are at an increased risk of being subjected to modern slavery conditions.

Structural Factors that Make Temporary Migrant Workers Vulnerable to Exploitation

1. While there are many structural factors that make temporary migrant workers vulnerable to exploitation, this submission will focus on isolation in regional and remote NSW.
2. Isolation is a significant barrier for temporary migrant workers in rural and regional New South Wales, amplifying their vulnerability to exploitation and modern slavery risks. Unlike their metropolitan counterparts, workers in these areas often lack access to essential resources, services, and support mechanisms including legal aid, advocacy groups, and community support organisations, many of which are centralised in metropolitan areas, leaving regional and rural workers with minimal options for practical assistance. Even where these services are accessible online, workers in regional and remote NSW are often limited in their access due to poor mobile coverage and slow or unreliable internet.¹ In 2024 alone, the Telecommunications Industry Ombudsman received over 50,000 complaints from people living in regional, rural and remote Australia regarding faults, poor service quality, poor mobile service coverage and outages.²
3. Isolation (both physical and digital) and poor connectivity compound the challenges faced by temporary migrant workers in rural NSW, making them more vulnerable to exploitation by preventing them from adequately accessing assistance over the phone or internet that would be otherwise readily accessible in metropolitan areas.

¹ Jacqueline Allen, 'Improving access to faster, more reliable connectivity for regional communities' *Digital.NSW* (Web Page, 27 September 2022) <<https://www.digital.nsw.gov.au/article/improving-access-to-faster-more-reliable-connectivity-for-regional-communities>>

² Telecommunications Industry Ombudsman, Submission to the 2024 Regional Telecommunications Review, *Regional Telecommunications Review* (July 2024) Page 4

Adequacy of Monitoring, Compliance and Enforcement of Workplace Laws, including Health and Safety Laws

Background to the Fair Work Act 2009 (Cth)

4. While there are several other applicable workplace, health and safety laws, this submission will focus on the Fair Work Act 2009 (Cth) (the **Act**). The Act serves as a central pillar of Australia's national workplace legislation, ensuring fair and enforceable minimum terms and conditions for all employees. The Act does not make a distinction between Australian employees and migrant workers, ensuring equal treatment in the workforce to all people working in Australia. The Act authorises the Fair Work Ombudsman (**Ombudsman**) to enforce compliance with the Act (by way of the Fair Work Commission, in the first instance), thereby ensuring adherence to the minimum wages, conditions and protections for all employees set out in the Act.³

Effectiveness of Compliance Enforcement

5. Despite the comprehensive framework of the Act, there are significant challenges in ensuring compliance and enforcement for temporary migrant workers. While comprising only 7% of Australia's workforce,⁴ migrant workers are disproportionately affected by non-compliance with the Act. In 2022-2023, the Ombudsman:⁵
 - a. Received 2,795 anonymous reports from visa holders; and
 - b. Recovered \$151,992 for migrant workers with the majority of cases arising in metropolitan areas of Sydney and Melbourne.
6. These figures likely reflect only a small proportion of nationwide non-compliance, as the Ombudsman is restricted in its ability to conduct audits and investigations effectively by

³ Fair Work Act 2009 (Cth), s 682.

⁴ Australian Government Fair Work Ombudsman, 'Investigations and Activities' *Transparency Portal* (Web Page) <<https://www.transparency.gov.au/publications/attorney-general-s/office-of-the-fair-work-ombudsman/office-of-the-fair-work-ombudsman-annual-report-2022-23/part-2---fair-work-ombudsman-performance-report/investigations-and-activities>>

⁵ *Ibid.*

reason of funding and resource limitations. These constraints limit proactive compliance measures on the part of the Ombudsman, particularly in high-risk rural and remote areas.

7. These monitoring and enforcement efforts are often further hampered by the physical remoteness of rural workplaces, which give rise to logistical challenges associated with accessing these areas and conducting timely inspections. CLCs play a crucial role in bridging this gap by providing accessible, free legal support to migrant workers who would otherwise have no viable means of obtaining legal advice or representation. In the Independent Review of the National Legal Assistance Partnership (**NLAP**) Final Report prepared in 2024,⁶ the Reviewer accepted that in remote parts of Australia levels of unmet legal need are significantly higher.⁷
8. By offering remote consultations, outreach services and community education as well as often being situated in remote areas, CLCs help address barriers created by geographic isolation ensuring that migrant workers are not left in a position where they are unable to attain legal advice. Additionally, the NLAP Final Report also recommended that migrants be introduced as a priority group for accessing the services of CLCs in order to ensure issues affecting migrants are given an appropriate level of attention.⁸
9. Strengthening the presence and funding of CLCs is essential to improving legal protections and enforcing workplace rights for migrant workers. Despite playing a critical role in preventing and responding to non-compliance with the Act, CLCs in these remote areas are often underfunded, limiting their ability to address the particular workplace risks to temporary migrant workers in rural areas, including modern slavery risks.
10. **Recommendation 1:** Improve digital infrastructure in rural areas to ensure migrant workers can access online legal services, information and report violations; and
11. **Recommendation 2:** Community Legal Centres in remote and regional NSW be given funding allocations in order to provide legal assistance and education to temporary migrant workers who are at an increased risk of being subjected to modern slavery conditions.

⁶ The purpose of the Independent Review of the National Legal Assistance Partnership was to report on the progress NLAP in achieving its objectives. The NLAP is an agreement between the Commonwealth and various State government to fund legal advice services.

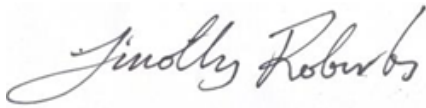
⁷ Independent Review of the National Legal Assistance Partnership: Final Report (Report, March 2024) 40.

⁸ Ibid, 74.

Concluding Comments

NSW Young Lawyers and the Sub-Committee thank you for the opportunity to make this submission. If you have any queries or require further submissions please contact the undersigned at your convenience.

Contact:



Timothy Roberts

President

NSW Young Lawyers

Email: president@younglawyers.com.au

Alternate Contact:



Jessica Lighton

Submissions Lead

NSW Young Lawyers

Email: submissions.YL@lawsociety.com.au

Alternate Contact:



George Stribling

Human Rights Sub-Committee Chair

NSW Young Lawyers

Email: hrcsexecutive@gmail.com