

REPORT ON PROCEEDINGS BEFORE

MODERN SLAVERY COMMITTEE

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

CORRECTED

At Macquarie Room, Parliament House, Sydney on Wednesday 30 April 2025

The Committee met at 10:20.

PRESENT

Dr Joe McGirr (Chair)

Legislative Council

The Hon. Greg Donnelly
The Hon. Dr Sarah Kaine
The Hon. Aileen MacDonald

Legislative Assembly

Ms Jenny Leong (Deputy Chair)

PRESENT VIA VIDEOCAMERA

Legislative Council

Legislative Assembly

Mrs Tina Ayyad

CORRECTED

The CHAIR: Welcome to the first hearing of the Committee's inquiry into modern slavery risks faced by temporary migrant workers in rural and regional New South Wales. I acknowledge the Gadigal people of the Eora nation, the traditional custodians of the lands on which we are meeting today. I pay my respects to Elders past and present, and celebrate the diversity of Aboriginal peoples and their ongoing cultures and connections to the lands and waters of New South Wales. I also acknowledge and pay my respect to any Aboriginal and Torres Strait Islander people joining us today. My name is Dr Joe McGirr. I am Chair of the Committee.

I ask everyone in the room to turn their mobile phones to silent. Parliamentary privilege applies to witnesses in relation to the evidence they give today. However, it does not apply to what witnesses say outside of the hearing. I urge witnesses to be careful about making comments to the media or to others after completing their evidence. In addition, the Legislative Council has adopted rules to provide procedural fairness for inquiry participants. I encourage Committee members and witnesses to be mindful of these procedures.

CORRECTED

Dr JAMES COCKAYNE, NSW Anti-slavery Commissioner, affirmed and examined

Ms SOPHIA KAGAN, Principal Policy Adviser, Labour Migration, Office of the NSW Anti-slavery Commissioner, before the Committee via videoconference, affirmed and examined

The CHAIR: Welcome to you both and thank you very much for appearing today. We will take turns to ask questions, but would you like to begin by making a short statement?

JAMES COCKAYNE: Chair and Committee members, thank you for the opportunity to provide evidence to this very important inquiry and for all of the work that you've put in to standing up this inquiry and moving it forward so efficiently. I acknowledge that we meet on the country of the Gadigal people of the Eora nation. I acknowledge that First Nations Elders, past and present, and indeed First Nations peoples, have been the survivors of practices that today would constitute modern slavery offences and continue to live with its legacies.

Over the last two decades, temporary migrant workers have become an essential part of the economy and life of rural and regional New South Wales. Temporary migrant workers contribute significantly to industries such as agriculture, horticulture, meat processing and food production. There are currently around 300,000 temporary migrant workers in New South Wales. Many of these workers flourish. Migration programs, when well-structured and regulated, can be beneficial for both workers and employers, and indeed host communities. Some, alas, do not flourish. Coming in this morning I noticed the sign outside in the lobby indicating that the New South Wales Parliament is twinned with the Parliament of Solomon Islands. My mind went to the PALM worker from the Solomon Islands who tragically died in a hit-and-run accident on Monday morning, just over 48 hours ago. My mind also went to Tuota Kirition from Kiribati, a PALM worker who died in a meat processing facility near Wagga last month and whose very moving memorial service I had the privilege of attending.

Some of this work is difficult and dangerous. People are far from home and vulnerable. Those vulnerabilities place them at risk of injury or death, but also of exploitation when institutional safeguards and supports fail. What I've seen through my meetings with literally hundreds of temporary migrant workers in the State during the course of more than 12 rural and regional visits over the last two years is that, too often, those safeguards fail. Our regulatory systems, including our justice system, are failing to appreciate modern slavery risks, which often are not in the workplace but in their recruitment, in their mismanagement by a labour-hire contractor, in their mandated place of accommodation or, sadly, the risks to their safety that arise through the criminal justice system's failure to understand their situation, leaving them open to re-traumatisation or even re-trafficking.

Shockingly, around 43 per cent of all valid inquiries to the support and assistance helpline 1800 FREEDOM, which I'm required to run under the Act, during the period to February 2025 have involved rural and regional temporary migrant workers in New South Wales. Chair, I think these realities make more sense through concrete examples, so I hope you'll allow me to briefly set the scene with three illustrative examples, all based on real people that have come through that helpline for support and assistance over the last two years.

First, I'll start with the story of someone I'll call Malita. This is based on the situation of someone who contacted our office just last week. She'd come to Australia from a Pacific island earlier this year on a visa under the Pacific Australia Labour Mobility scheme. She was recruited through a labour hire agency to work in machinery repair in agriculture in rural New South Wales. Soon after she arrived, she realised that the labour hire agency wasn't giving her payslips and was charging her huge amounts for transport to and from the worksite, and for access to kitchen and laundry facilities.

She quickly realised that she'd never be able to pay off the debt she owed the labour hire agency for her flights to Australia and her recruitment. She felt like a rat on a wheel. What was worse, she felt unsafe in her mandated isolated accommodation, which she was forced to share with 10 men from the same country. When she complained to her nominated supervisor from the labour hire agency, she was told that she was being reallocated and wouldn't use her machine-related skills for which she was hired, or even be going to the worksite; she'd be staying at the accommodation and cooking and cleaning for all the men. Soon after that she was allegedly sexually assaulted by that same supervisor and threatened with deportation if she told anyone.

Malita ran away for her own safety—or, as the PALM scheme describes it, disengaged from the program. Many people who do this end up destitute because they lose access to health care, accommodation, income and may be in breach of their visa status. So she contacted the PALM scheme and they told her that she could move to a new job, but with the same employer, and they gave her no information about her rights as a possible victim of crime or modern slavery. As you will no doubt hear from many other witnesses, and as the extensive submissions to the inquiry already made clear, it's often local communities that have to step in and help people in this precarious situation, and it's local service providers that are dealing with the consequences of systems failure

CORRECTED

in our management of these temporary work schemes. Indeed, that's how Malita came to find her way to my office through a referral from a local community group.

Her case encapsulates so many of the modern slavery risk factors faced by temporary migrant workers in rural and regional New South Wales: risks of deceptive recruiting; indicators of forced labour identified by the ILO such as wage theft, bullying and harassment, discrimination, intimidation and threats, isolation and sexual violence. These risks fall particularly on women like Malita, who are vulnerable to abuse and exploitation. In the Riverina, local health actors have reported to me seeing a pattern of female disengaged PALM workers presenting with unplanned pregnancies and without having received suitable antenatal care. Recently in that region, I was told that there is growing public health concern caused by rising levels of sexually transmitted infections in that population.

Second, let me tell you about a person I will call David. David came to Australia on a student visa sponsored by a compatriot. When he arrived, he was trafficked into debt bondage and possibly servitude in a light industrial job on the Mid North Coast of New South Wales. He was forced to live in a factory setting and kept almost entirely isolated from the outside world. His perpetrator bullied him into complete submission and took control of the university email account he'd been provided and his visa situation. Fortunately, a co-worker recognised David's plight and contacted my office through 1800 FREEDOM. We were able to secure the university's support to address the enrolment and visa complications that resulted from David's situation. We referred him to expert legal advice, and through other referrals were able to secure support, including from the Federal Government's Support for Trafficked People Program, and the local community.

Today, happily, David has returned to his studies, found a new vocation and even recently signed a lease. He has taken back control and agency over his life and, frankly, he's like a new man compared to when I first met him a year or so back. Critical to that recovery has been the fact that he got to choose when to approach police. It wasn't the first thing he did. His basic needs were attended to first and he has recovered a sense of agency and control in his own life. He now has the confidence and resilience to do so and will be a much more convincing witness when he deals with police than he would have if he'd presented to them before his basic needs were met. Again, local support was critical to this. David was lucky that the community he happened to be trafficked into rallied around him and provided supports voluntarily without State or Federal government involvement or support.

In some cases, my office also assists, as it did here; in others, survivors such as the survivor-led Survivor Connections group play this key role. This shows what success can look like when the system works, but it shouldn't be down to the luck of where someone happens to be enslaved. All people in New South Wales, regardless of their visa status and regardless of their location, have a human right to be free from slavery.

Finally, Chair, let me briefly conclude with a troubling case from February 2025. In this case, which is on the public record, seven Vietnamese migrant workers were convicted in Lismore after they were arrested at an illegal cannabis production site. Several things are troubling about this case. All seven defendants showed signs of having been victims of multiple modern slavery offences. The judge, in his sentencing remarks, used the word "imprisonment" to describe their situation. It seems that at least one of the defence lawyers raised with the prosecutor the possibility that these were victims of modern slavery, and yet no-one pled duress or necessity. Their status as possible victims of modern slavery doesn't appear to have been factored into the proceedings, nor were they informed about possible supports from my office or federally, and there are—very sadly—distinct signs that, almost immediately upon release from custody, they may have been re-trafficked.

What makes this all especially troubling is that just a month before this matter was heard, the New South Wales Judicial Commission issued a new resource, *Modern slavery: A guide for NSW judicial officers*, which includes a four-page discussion of Australia's commitment to the international human rights norm known as the "non-punishment principle". We do not prosecute victims of modern slavery for the conduct they undertook involuntarily while enslaved. We're so proud of our nominal support for this principle as a country that we promote it internationally, encouraging our ASEAN neighbours to sign up to a treaty that enshrines that as law. I'm concerned that this commitment to the non-punishment principle may have been overlooked in these cases affecting temporary migrant workers in rural and regional New South Wales, and I've recently written to the Attorney General to raise my concerns and ask him to look into the matter.

But I raise it here before this inquiry, Chair, because I think it's indicative of a broader possible pattern here in New South Wales—a failure by actors within the criminal justice system to recognise modern slavery, to know how to respond, and to factor it into police, prosecutorial and, indeed, judicial decision-making. To me, this is hard evidence of how the failure to train frontline workers and key criminal justice actors has created and is creating the conditions that put temporary migrant workers in rural and regional New South Wales at risk of modern slavery, and makes them very reluctant to come forward and report their abuse. With your indulgence,

CORRECTED

Chair, I'll now pass to my principal policy adviser on labour migration, Sophia Kagan, to speak briefly further to our findings and recommendations.

SOPHIA KAGAN: Chair and Committee members, thank you very much for the opportunity to present to you. I'm joining you from the country of the Bunurong people of the south-east Kulin nation. I pay my respects to Elders past and present. As the commissioner said, our economy simply couldn't function without temporary migrant workers. They are essential to the fruit we eat for breakfast and the steak we have for dinner. They work as aged carers for our elderly loved ones, clean the buildings we work in and staff the hotels where we holiday. Very rough estimates might put the figure at around 90,000 across the State, including farm workers, working holiday-makers and temporary skilled migrants. But add to that more than 200,000 international students, many of whom work part-time, and an unknown number of migrant workers in irregular status, and we're talking about a sizeable proportion of the labour market.

As James said, while for the most part our systems to protect migrant workers work well, it's clear that there is a significant minority of temporary migrant workers that are at risk of exploitation and of modern slavery. While I don't want to speak at length to the findings—these are covered in our report to Parliament and our submission to this inquiry—I will simply give a very brief overview. While not all poor working and living conditions will meet the threshold of modern slavery, the interaction of certain factors like immigration status, recruitment practices, language barriers, debt arrangements and geographic isolation can result in situations particularly of forced labour, deceptive recruitment, debt bondage and, in some cases, servitude or sexual exploitation.

One of the key structural issues contributing to this is the mismatch between how Australia's workplace relations system is designed and how temporary migrant work functions in practice. Employment law was largely developed for a permanent, locally based workforce but, in contrast, temporary migrant workers often experience overlapping areas of risk that are not covered by industrial frameworks, like employer-arranged accommodation and transport, recruitment fee repayment obligations or a lack of essential services. Enforcement and oversight mechanisms also fall short, as you will have seen from these illustrative case studies. While Federal authorities might manage migration compliance and State bodies regulate workplace health and safety, there are gaps between these mandates, and some aspects, like the regulation of labour hire, are weak or simply missing.

There is a further gap in terms of access to remedy. Exploited temporary migrant workers often can't access social services, legal support or workplace entitlements. This is particularly acute for people who fall out of visa status and might not be eligible for the Support for Trafficked People Program unless they cooperate with a criminal investigation. In short, these risks are not hypothetical. They're systemic, well documented, predictable and, therefore, avoidable. Ensuring fair treatment of temporary migrant workers is not merely a moral obligation. It's really a necessity to the sustainability of our key industries, the integrity of our labour market and also our relations with other countries. But it's also essential that local government organisations and regional communities that are finding themselves responsible for supporting vulnerable migrants have the support and resources to be able to do so.

Our report and submission includes detailed recommendations. In brief, these include introducing mandatory anti-slavery training for frontline government workers, including frontline police and prosecutors so that they have the tools and training to identify and respond to modern slavery, particularly forced labour; expanding interpretation, legal and social support services through, for example, regional migration hubs operating with the new migrant worker centre; better coordination between local, State and Federal authorities; more proactive and coordinated detection and investigation by State authorities, including police, and enhanced data sharing between Federal and State agencies as well as local government; an urgent prioritisation of labour hire regulation with concrete action by the end of the year; and advocating for specific visa reforms that reduce workers' dependence on their employers. I'll stop there. Of course, the commissioner and I are very happy to respond to any questions. Thank you again for your time.

The CHAIR: I begin by thanking you for your submission, which is very comprehensive. I don't propose to go over the material that you've provided us in that submission, which is, as I say, very comprehensive, and you have made those recommendations. Thank you very much for the case studies that you described this morning. They really illustrate in a concrete way the situation that we're dealing with here. We'll have a number of questions, and I'll have the first question. You have mentioned and we've talked before about the necessity for training for frontline services. However, your evidence, Commissioner, highlights the need for that training to go beyond what I would regard as, say, health or education services into the criminal justice system and indeed into the court system. That also raises for me the concern around people who may be working without coming in on any sort of visa status. We tend to think of this as people on the PALM scheme or temporary student visas, but it seems to me that there is the potential for people to be here completely undocumented. Ultimately, that raises a question in relation to the possibility of organised crime. My question to you is about the training. Could you reflect further

CORRECTED

on the necessity for training for people in the criminal justice system, how that might relate to people at risk who are undocumented within the country, and the operation at an extreme level of organised crime?

JAMES COCKAYNE: Yes, certainly, Chair. I might begin and if Ms Kagan wants to elaborate I'm sure she will do so. Section 19 (3) (a) of the Modern Slavery Act requires me to report annually to Parliament on the steps taken by New South Wales government to provide mandatory training for frontline agencies. I've begun to do that in my annual reporting and will do so again in the next annual report. In last year's annual report it became apparent through our conversations with government agencies that there is only one place across government where there is mandatory training for frontline workers, and that is if you're becoming a new detective in the NSW Police Force.

The NSW Police Force has taken a number of important steps to improve access on a voluntary basis to training for New South Wales police officers, but this has not yet been rolled out at scale across frontline police officers across the State nor, indeed, am I aware of any training having been undertaken by other actors in the criminal justice system. Section 19 (3) (a) seems to set an expectation that government will provide mandatory training for frontline workers. I look forward to working with the New South Wales Government and its various agencies to ensure that that expectation established by Parliament is met in due course, given available resources. But I think what we're discussing here is really about the urgency of doing that.

Chair, you rightly highlight that that is particularly acute in relation to the sub-cohort of temporary migrant workers that have perhaps overstayed a visa, are disengaged from a formal work program and might otherwise be here illegally. There is no official estimate of the size of that cohort, but privately officials in Canberra will not contest a number in the low six figures across Australia. That's not necessarily New South Wales. That's across Australia. But that suggests that we may have 100,000 people or more operating off the grid in Australia, lacking human rights protections, lacking access to Medicare, potentially carrying or being subjected to disease or, indeed, injury that will in time place a burden on public health systems.

It's clear that there is a need to grapple with that reality as we seek to, as Ms Kagan put it, protect the integrity of the labour market. There are also some signs in certain parts of rural and regional New South Wales that there is a deliberate strategy by certain organised crime groups to target that population as a source of what the famous anti-slavery scholar Kevin Bales described as disposable people. That's really what we're talking about here—a strategy of exploitation that treats people as disposable business inputs. That is not an outcome we should be comfortable with. If that requires training of specialised investigation expertise or, indeed, the formation of dedicated units to develop the capabilities to effectively explore those links over time, then that is something I hope the Government will contemplate.

Ms JENNY LEONG: Thank you, Dr Cockayne and Ms Kagan, for your opening submissions and the written submission you provided to the Committee. Ms Kagan, you talked about the gaps that exist between Federal visa requirements and then work health and safety laws at a State level. I wonder if you could go into a little bit more detail about what some of those gaps would be and what immediate actions the Government could take in relation to those gaps at a State level as well as potentially moving forward, recognising the stalled progress around regulating labour hire companies and what the New South Wales Government could be doing and what jurisdictions we could be looking to to strengthen that in the interim, given the failure of that national process to exist.

SOPHIA KAGAN: Thank you very much for that excellent question. Indeed, while migration policy is Federal, labour conditions, workplace health and safety, housing, policing, local regulation—all of this falls squarely within the New South Wales remit. Because workers live and work here, State institutions that provide health and housing and emergency services obviously have an important mandate and role to play.

For example, as we mention in our submission, local councils might have a mandate to inspect the accommodation of temporary migrant workers. At the moment this doesn't fall, for example, within the mandate of the Fair Work Ombudsman except where unfair deductions in terms of accommodation are at play. This sort of coordinated Federal and State approach is really critical to close these kinds of regulatory gaps, because modern slavery, as the commissioner already mentioned, might arise not necessarily in the context of the workplace but also in terms of living conditions, transportation and other forms of coercion and dependence.

In fact, there are already potentially some pilots that are underway. We've read the testimony of the Department of Employment and Workplace Relations spokesperson in a recent budget estimates hearing that there is apparently a pilot with Latrobe Council in Tasmania for some kind of council oversight in terms of the accommodation of Pacific island workers, so there is an opportunity for this kind of co-regulatory approach that we speak of in our submission. In terms of labour hire licensing, perhaps I'll make a very brief observation and then pass to the commissioner. In essence, while a national scheme would certainly be the preferred option, as

CORRECTED

you mentioned, Deputy Chair, the development of it is now uncertain. It may take time and, in the meantime, New South Wales remains exposed to serious risks. That really underscores the need for urgent action.

There are certainly good practices in other jurisdictions, including in Victoria and perhaps in Queensland as well. There is potential to learn from some of these examples—including from international experience as well, such as in the United Kingdom—to take some of the best elements of some of these schemes and incorporate them into a State-based system that is interoperable and adaptable and could potentially be harmonised later down the track, if and when a national model is adopted. But in the meantime, workers need that support in New South Wales now, and so it is a very time-sensitive recommendation. Commissioner, perhaps I will cede to you to add to that.

JAMES COCKAYNE: I don't think there's much for me to add. What I would simply underline or underscore is the urgency of having something in place to regulate labour hire companies in New South Wales. There are signs—and I would put this at above merely anecdotal signs—that labour hire companies recognise the regulatory gaps in New South Wales and exploit them. In other words, there's a race to the bottom happening in New South Wales, and that places the integrity of the labour market and, indeed, the sustainability of key industries at risk. There has been an understandable effort to reach a coordinated national unitary response. If, indeed, that process has not succeeded, it's urgent that the New South Wales Government consider, at a very minimum, laying out its own expectations for a cooperative approach or, ideally, moving rapidly to put in place effective regulation here in New South Wales.

Ms JENNY LEONG: What support and information services exist, if any, in some of the home countries where particularly PALM workers in the Pacific, for example, may be seeing these visas being sold to the community as a way out of poverty and as an opportunity? With the need for clear information and capacity building in the home countries, are you aware of services, support and information that exists either before, during or after? I presume that those workers here are going to be in regular contact with their family and their networks in their home countries, particularly in situations where the language barriers are high.

JAMES COCKAYNE: That's an excellent question, Deputy Chair, and something that I would encourage the Committee perhaps to pursue with the department of foreign affairs, which is responsible for that aspect of the PALM program. I would note that if the program and related temporary work schemes are sold as a source of prosperity and development for households, individuals and communities, that is in part because, in fact, they do play that role in many situations. That is not to overlook the downside risks that we're focused on here today. They do clearly make a positive contribution to many communities.

The process of recruitment in country varies significantly from country to country and depends, for example, on whether that recruiting is undertaken by private sector actors or by local public actors, perhaps with informal family or wantok obligations. In some cases, State actors are heavily involved, and there's no doubt that that can both, if well run, increase efficiency and, if poorly run, increase the opportunity for corruption and indeed for the prevalence of debt bondage or the reliance on payment of off-book recruitment fees that place migrant workers at greater risk. Questions of how pre-departure recruitment and information sharing work are very important ones, possibly best addressed by the department of foreign affairs.

The Hon. Dr SARAH KAINE: Thank you, Ms Kagan and Commissioner, for appearing today and all of the work that you do. I'm very interested in questions that have already been asked and your answers, and I appreciate my fellow Committee members for asking them. Commissioner, you spoke about if not a New South Wales Government commitment then, in the Act, an expectation that there would be training of all frontline workers. Forgive me for not knowing the Act well enough, but is there a sense of where and who would undertake that and who would be responsible for driving that? My concern, in reading these submissions and in listening to you, is the amorphous nature of where regulation sits, who owns it, what the appropriate enforcement agency is and all of those interjurisdictional issues that even occur in New South Wales between different policy areas. Is there actually a sign of who should be doing that, or do you had thoughts on that?

JAMES COCKAYNE: Yes, we have thoughts which we're exploring currently with New South Wales Government. The key thought that I can usefully share with the Committee is that it stands to reason that a risk-based approach would underpin the allocation of limited resources across government to this work. Resources are by no means open-ended for this kind of work, so it makes sense that government would undertake some kind of risk analysis to understand which workers are most likely to come into contact with which types of cases and, therefore, where training should be focused in the first instance. Clearly, as emerged in the earlier conversation with the Chair, there's a particular need to think about the role of criminal justice actors. My office has independently commenced an initiative called It's Healthy to Fight Modern Slavery, which works with both public and private sector actors in the healthcare sector to help them have access to improved identification, analytical and referral tools.

CORRECTED

But there will be other things that need to be done too. Beyond the realm of New South Wales Government, we are currently developing pilot training with local councils. We'll be travelling to a council in the Mid North Coast in about a month's time to train librarians, rangers, building inspectors and sanitation officials, all of whom do, as a matter of practice, in other parts of the State, come into contact fairly regularly with people suffering modern slavery. There are real opportunities here to think creatively. The expectations set by section 19 (3) (a) of the Act don't necessarily speak to mandatory training for all frontline workers but rather agencies. I think that's an open door, in terms of legislative interpretation, to thinking about a risk-based approach at the entity level, and I'm pleased to have an ongoing conversation with the Government on these issues. I also hope that departmental secretaries will recognise their important leadership role to play here in coming months.

The Hon. Dr SARAH KAINE: I appreciate that. I had written down, while I was listening, "risk matrix" and how we do this, but I was thinking more also in terms of any kind of proactive enforcement. Ms Kagan very eloquently spoke about all of the known vulnerabilities. We know that there's a list of vulnerable characteristics for some workers that mean they're more likely to be victims of modern slavery practices. I still struggle with where we sit that. We shouldn't be just waiting for a complaint. We know where these risks are. We know very clearly the types of workers who are vulnerable. We should be doing something proactive in terms of compliance and enforcement. I know we talk about this a bit but where should that sit, again, with the jurisdictional issues? I know you guys work on this, so any thoughts again there?

JAMES COCKAYNE: I think it connects back to the question from the Deputy Chair and Ms Kagan's comments about the fact that modern slavery as an issue has traditionally been treated as a Federal matter, and therefore the State agencies that may be relevant haven't been involved. The recognition that contemporary work arrangements colour a little bit outside the lines of traditional workplace and industrial relations systems and regulation is still arriving at the State level, if I can put it that way. So, to my mind, the natural place for this is probably somewhere in the industrial relations or workplace health and safety parts of government.

We have a newly independent SafeWork agency in this State—or what will be stood up as an agency. Clearly that will have a key role to play in thinking about detection—if not investigation—of these matters, and proactive strategy. I think there's an opportunity here for the New South Wales Government to continue to show the leadership that this Parliament and governments of several stripes have shown over the last decade in thinking through how to integrate those existing capabilities with the realities of vulnerability to modern slavery in rural and regional New South Wales.

The Hon. AILEEN MacDONALD: You noted in your report that 43 per cent of calls to 1800 FREEDOM involved temporary migrant workers. Has your office been able to, say, analyse trends in those calls—for example, industries, location, employers? If so, are repeat offenders being escalated to regulators?

JAMES COCKAYNE: There's a lot to unpack there, Mrs MacDonald. Let me begin by saying that the 43 per cent figure is for the 12 months to February 2025. Over that period and subsequently, our support and assistance practice—the hotline 1800 FREEDOM—has evolved quite significantly. We have steadily climbing numbers reporting to us. At the moment it averages about four actual cases of modern slavery in New South Wales—three to four—presenting each week. We have three people in my team, myself included, who each work part time on these issues. On average, someone who presents to 1800 FREEDOM is on our books for three months. In some cases they're on our books for over a year while we execute my statutory function of providing support and assistance.

That is not direct case management or direct service provision; it's really about needs analysis and then referrals and accompaniment to make sure that the referrals stick. So it's a pretty limited service but, even with that, we are incredibly thinly stretched, even as the numbers climb. We do not, for example, have funding for a case management system to manage that work. We are in the process of acquiring such a system through available resources, but our applications to government for dedicated funding for that kind of software have not been successful to date. We have undertaken some analysis that does allow us to begin to see certain patterns, but not to the level of granularity—and indeed, the sample size is not to the level, I would suggest—that would allow us to begin proactively referring perpetrators.

We are not an investigative agency. Our focus is on the needs of the victim, rather than investigating who the perpetrator might be. The one thing I would say is that we do see a growing number of survivors returning to us for support and assistance for a second, third and, I think in one case, fifth time. That's a positive sign. That means that they're beginning to trust the service and how we can help them, but it's also a sign of continuing need in the system for that kind of support and the need to adequately resource this work going forward.

The Hon. AILEEN MacDONALD: On that, you recommended expanding the commissioner's investigatory powers. Can you clarify that? Is that because you're currently constrained by legislation or resourcing? It's probably both. How does that affect you being able to proactively intervene?

CORRECTED

JAMES COCKAYNE: The simple answer is that we rely on information we receive, and that limits our ability to develop a brief that's adequate for existing investigative authorities to action proactive investigation. We will take that information to law enforcement or other regulatory authorities, and frequently it is below the threshold or not to a standard that allows them to allocate resources for investigation, or that where they look at the brief and their conclusion is different from ours in terms of the indicators upon slavery, and that then goes back to the training in question.

We have consistently advocated over the last year for Parliament and government to consider whether very limited investigative capability for my office, more by way of proactive fact finding through, for example, the ability to seek information from private sector actors, would put us in a better position to equip the formal investigative and law enforcement authorities with stronger briefs, allowing them to take an intelligence-led, proactive approach to investigations. There's no question that any statutory change in that regard would have to be matched with appropriate resourcing, or it would actually serve simply to spread the Vegemite in my office even thinner than it's already spread.

The CHAIR: I'm just going to run a couple of minutes over time to allow you to ask a question, Mr Donnelly.

The Hon. GREG DONNELLY: Thank you. That's very generous, Chair. My question is directed to you, Commissioner, and it's with the caveat that from past dealings with you and discussions about this issue, an understanding that I developed—perhaps others—is about the challenge for a person who finds themselves in such a situation dealing with law enforcement agencies in a formal sense, be it those associated with migration issues, immigration issues, Border Force, for example, the respective police force within the jurisdiction and, of course, the Australian Federal Police. There is this issue of tepidity and anxiety about going to these respective agencies, either directly or indirectly. Having said this, if you think about New South Wales, the one place you'll find in not all but most towns—certainly maybe not villages but towns and cities—is a police station. In terms of knowing what's going on on the ground within that community, we can be pretty sure, I believe, that the police force has pretty good eyes and ears on the ground.

With respect to these matters that we're discussing, and that have been covered in detail—and it's a very, very powerful submission covering a number of matters, and thank you for all the citations as well—the police are aware, at least probably, if not by second-hand information or firsthand information, of matters occurring which cut across these issues. I'm wondering this: Have you been engaging or been considering engaging directly with the NSW Police Force at the commissioner level to talk about or start to engage about, through the local area commands, how there may be the opportunity to, in a careful way, draw together information up to identify issues which then maybe, at the very least, provides yourself or the commission with more rapid information or transferable information about matters that would enable you to perhaps do more—not that you're not doing a lot now—and indeed then further connections that may then be required to be made, for example, with agencies but also this issue with particularly the Commonwealth agencies? I welcome your comments.

JAMES COCKAYNE: I'm well aware, Chair, that you're kindly indulging us by running over. I'll try to keep my response very brief. Thank you for an excellent question. My experience dealing with New South Wales police actors on the ground across the State strongly accords with your sense, your analysis there, Mr Donnelly. They are aware, on the ground, of patterns of behaviour that are suggestive of modern slavery. Historically, New South Wales police have not been trained or sensitised to or made aware of the fact that those patterns of conduct constitute modern slavery offences under Federal law.

They have not felt responsible for investigating those matters because, indeed, for the last few years there has been a national policing protocol that indicates that their responsibility in that circumstance is to refer to the Australian Federal Police. If you are a police officer dealing with the endless array of issues in your local community that you have to deal with and you are given the signal that this is not something you should prioritise, then you will not prioritise it. That information that is in the system is therefore not effectively captured and fed up to allow a proactive, intelligence-based approach to policing. Yet, to come back to the Chair's original question, we do have growing signs of connections between this vulnerable cohort and organised crime in New South Wales. So an intelligence-based, proactive approach to policing is, I believe, prudent.

For that to happen, there has to be a signal from leadership of the need to devote some resources to that internal drawing up of information and its transformation into actionable intelligence. There has to be a move from a reactive posture, which is absolutely the posture we've had in the criminal justice system to date in New South Wales because this has been seen as a Federal matter, to a proactive posture and a recognition that effective policing of these offences is an important matter of public policy to protect local communities, to protect the integrity of the labour market and, frankly, I would say, to ensure that all people living in New South Wales enjoy their human right to be free from slavery.

CORRECTED

The CHAIR: Thank you, Commissioner, and thank you, Ms Kagan, for your evidence. I don't think we've had any questions on notice, but the secretariat will contact you in relation to any other follow-up matters.

(The witnesses withdrew.)

(Short adjournment)

CORRECTED

Ms YUVASHRI HARISH, Coordinator, Employment Rights Legal Service, affirmed and examined

Ms TESS DEEGAN, Acting Principal Solicitor, Kingsford Legal Centre, affirmed and examined

Mr SEAN STIMSON, Senior Solicitor, International Student Legal Service NSW, Redfern Legal Centre, affirmed and examined

Ms PETA ZOUBAKIN, Law Graduate, International Student Legal Service NSW, Redfern Legal Centre, affirmed and examined

Ms SERI FELDMAN-GUBBAY, Senior Solicitor, Employment Practice, Redfern Legal Centre, affirmed and examined

Ms ISOBEL McGARITY, Supervising Senior Solicitor, Refugee Advice and Casework Service, affirmed and examined

Ms MURSAL RAHIMI, Solicitor, Refugee Advice and Casework Service, affirmed and examined

The CHAIR: Welcome back to the next session of the inquiry into temporary migrant workers in rural and regional New South Wales and the risks they face in regard to modern slavery. There is an opportunity for each of your organisations to make a short opening statement. I just ask you to restrict that to three minutes. You're able to table anything beyond that. Would anyone like to make an opening statement? We might start with the Employment Rights Legal Service. I think you're connected to the Kingsford Legal Centre.

TESS DEEGAN: Yes. Thank you, Chair and Committee, for this opportunity to contribute to the inquiry. The Employment Rights Legal Service, ERLS, is a joint initiative of three community legal centres—Inner City Legal Centre, Kingsford Legal Centre and Redfern Legal Centre. We provide free employment law advice to workers facing disadvantage across New South Wales. Our service operates across the State and provides crucial access to employment law expertise in regional, rural and remote areas of the State, which are often not covered by other legal services. We prioritise groups including temporary migrant workers, Aboriginal and Torres Strait Islander workers, and women. ERLS provides legal advice to rural, regional and remote areas, largely by telephone. We also provide casework and representation services in relation to wage theft, dismissals, discrimination and sexual harassment.

We're both just going to make a short statement to highlight the key points from our submission. ERLS has worked with clients in New South Wales who have been significantly underpaid for their work; relied on their employers for their visa, their housing and their income, making it incredibly difficult for them to make complaints; been forced to work 50-hour-plus weeks and have slept at the workplace; been injured on the job and instructed by their bosses not to make workers compensation or SafeWork complaints; and put up with ongoing sexual harassment from their boss in order to maintain their sponsored visa in Australia. These are just examples of the issues that we see.

Often these experiences are severe to a degree that they could be considered modern slavery under the Act due to the use of coercion, threat or deception by employers, which creates an environment where employees feel that they could not cease the employment, and also because other personal aspects of the workers' lives are controlled by way of the employment or by the employer, notably, accommodation, transport and access to medical services. This is particularly acute in rural, regional and remote areas where there are limited options for all of those services.

Our clients vary in terms of age, gender, racial or ethnic group, disability and language—and even in the kinds of work they're performing—but there are similarities in what they tell us about the rising incidence in agriculture, horticulture and meat processing industries, the conditions of exploitation, their fear around reporting and their lack of access to and knowledge of services and mechanisms that would assist them.

YUVASHRI HARISH: We advise many workers in rural and regional areas who have been given wrong information about their rights. Once workers do start to realise that they're being treated unlawfully, it is very hard for them to find free and accessible advice. Significant parts of the State have no generalist community legal centre funded to service them. ERLS is a small service responding to constantly high demand for advice and assistance. Workers in regional areas and rural areas who are at risk of exploitation and modern slavery face many other systemic barriers to enforcing their rights, including complex legal systems that require a high level of legal and English language literacy to engage with, and backlogs in courts, meaning that a recovery, for example, of an underpayment, can take one to two years, by which time a worker's visa may have expired.

Broadly speaking, the recommendations in our submission are targeted at improving the access of these workers to protections under Australian law. These include targeted campaigns with the intention of providing

CORRECTED

direct, accessible and in-language resources, outreach and education to temporary migrant workers about workplace rights and exploitation, not only by regulatory bodies, but also by services that regularly interact with and assist these workers; more deliberate and frequent investigation and monitoring of noncompliant businesses in these areas by regulatory bodies; and the implementation of a regulatory scheme for labour hire companies, where we see a growing source of this kind of exploitation.

Finally, we recommend increased funding for services that assist workers, and that the New South Wales Government lobby the Federal Government and request that it expand the current list of accredited third parties for the Strengthening Reporting Protections and Workplace Justice visa pilots so that temporary migrant workers can benefit from these existing mechanisms that are designed to combat modern slavery and workplace exploitation to their fullest extent.

The CHAIR: Redfern Legal Centre, would you like to make a brief statement?

SEAN STIMSON: There are two practice areas here today, Chair. If it's possible, could each of those practice areas make a very small submission?

The CHAIR: How about two minutes each?

SEAN STIMSON: That would be perfect. Thank you very much.

SERI FELDMAN-GUBBAY: Thank you for the opportunity to speak to our submission and provide evidence today. Redfern Legal Centre is a not-for-profit community legal centre that provides access to justice for workers in New South Wales. The international student legal service and employment law practice both provide statewide legal services to assist international students, migrants and other vulnerable workers. We both adopt a culturally informed, trauma-sensitive approach, and we recognise the diverse pressures faced by migrant workers in New South Wales. Our submission is based on our experience advising exploited migrant workers. Unlawful employer conduct continues to evade accountability. That's primarily due, in our experience, to barriers which deter migrant workers from reporting abuses or asserting their rights, and the lack of awareness of minimum employment standards and entitlements across migrant cohorts.

Migrant workers face particular hurdles in reporting workplace exploitation and taking steps to assert their rights. These workers hold fears of visa cancellation or negative repercussions on future residency prospects, as well as fears relating to accommodation and safety because of the broader control these employers often have over their lives. Migrant workers in rural and regional Australia, and in New South Wales specifically, face practical impediments to addressing exploitation. This is due to the lack of services in rural and regional areas, which therefore limits access to legal information and support, especially when that is accompanied by language barriers and social isolation.

While both State and Commonwealth workplace laws are designed to protect all workers, the enforcement and monitoring of workplace laws in rural and regional areas is a distinct challenge to be overcome. In our experience in the employment law practice, the main issues that our migrant worker cohorts face are sham contracting, significant underpayment and work health and safety issues. Additionally, we've observed a troubling rise in the incidence of forced labour, deceptive recruitment, gender-based violence, sexual servitude and labour trafficking among international students and other migrant workers whose entry into Australia is predicated on promises of quality education and employment opportunities.

The CHAIR: Mr Stimson?

SEAN STIMSON: Echoing that of my colleague, I'd like to put a little bit of a focus on that of international students. There are a growing number of international students living and studying in regional and rural New South Wales. These students face distinct and often compounding risks, including social isolation, limited access to legal and support services, and a lack of established community networks. With migrant policies actively encouraging more students to study in regional Australia, it is critical that service frameworks evolve to meet this need. What is particularly striking is that, although international students in regional New South Wales make up only 1 per cent of international students enrolled in the State, they accounted for 7 per cent of all international students, RLC advised, during the period of 2018 through to 2023. The level of overrepresentation with our client numbers is a clear indication that the legal needs of international students in regional areas is significantly higher than the numbers alone would suggest. I will end it there. I think my colleague added everything else.

The CHAIR: Finally, the Refugee Advice and Casework Service?

ISOBEL McGARITY: I would like to begin by acknowledging the traditional owners of the land on which we meet today, the Gadigal people. We pay our respects to them and note the importance of such acknowledgements, as well as other practices like welcome to country. We also acknowledge that Aboriginal and

CORRECTED

Torres Strait Islander peoples are survivors of forms of modern slavery that were perpetrated in this country. I'd also like to acknowledge all survivors of exploitation and modern slavery, including those here today, those listening in and those contributing to the work of the Committee. Your resilience and expertise is key in our law reform in this area.

My name is Isobel McGarity. I'm a supervising senior solicitor. I'm joined by Mursal Rahimi, our policy and casework service solicitor. We thank the Committee for the opportunity to provide evidence with respect to the inquiry. It's an important opportunity for the New South Wales Government to hear about and deconstruct barriers that make RACS's clients particularly vulnerable to modern slavery. We provide free, critical legal advice and representation to financially disadvantaged and vulnerable people seeking asylum in Australia, including in regional New South Wales. We advocate for systemic law reform and policy that treats refugees with dignity, respect and justice, and we make complaints about serious human rights breaches to Australian bodies and also to the UN.

Our services include supporting people to apply for protection visas, reapply for temporary visas, apply for work rights and permission to travel, apply for family reunion, lodge appeals and complaints, and assist with access to citizenship and challenge government decisions relating to detention. It's in this context that we frequently hear from our clients about experiences of exploitation in Australia or on the way to Australia, which can intersect with their claims for protection. It can hamper their ability to engage with the refugee status determination process. Often these experiences are amplified or borne out of systemic issues within the immigration framework.

We're grateful to our client Gaby, which is not her real name, who provided consent for us to provide a de-identified case study of her experiences in Australia. That was included in our written submission at page 8. This case study illustrates the complexities of the visa system faced by people seeking asylum in Australia and how that system can contribute to their exploitation. Like Gaby, many of RACS's clients are subject to a greater risk of modern slavery, owing to the restrictive nature of their visas, the significant power imbalances with their employers, and an unfamiliarity with their rights and how they may be able to enforce them in Australia. Our clients often also cannot self-identify experiences of criminal exploitation, including modern slavery, and also report difficulties engaging with New South Wales police, who sometimes also do not identify indicators of modern slavery. This is exacerbated by additional barriers, such as being able to access tailored support services, culturally competent frontline assistance, specialised counselling support and access to communications in rural settings.

Despite migrants and people seeking asylum being overrepresented in statistics concerning modern slavery, reforms to the immigration framework remain a significant blind spot in government plans to address the factors that give rise to modern slavery. While we acknowledge that making changes to the immigration framework is outside of the powers of this Committee, it's our submission that there is a role for the States to play in working with the Federal Government to recognise and address systems abuse, including that of the immigration framework. This is acknowledged by the terms of reference for this inquiry, which rightfully emphasises the importance of inquiring into visa settings and the importance of interjurisdictional cooperation and communication. Refugees and people seeking asylum in Australia should not be siloed from the issue of modern slavery.

In summary, our written submission makes the following recommendations: firstly, to ensure that all temporary visas held by people seeking asylum, regardless of where they are in that process, provide the right to work, the right to study and the right to access health care. We recommend that government employs a rights-based approach to ensure that those exercising statutory duties under the Migration Act and its regulations can identify modern slavery risks or occurrences and respond effectively to survivor needs, including protection needs. We recommend that visa holders be able to change employers without risking a breach of their visa conditions and allowing for the voluntary cancellation of visas in compelling and compassionate circumstances without negative consequences for the visa holder.

We call for the production, amplification and to mandate training and guidance, including in consultation with people with lived experience, including refugees, to be undertaken by immigration decision-makers, workers within the judicial system, and frontline services including police and interpreting services with an emphasis on trauma-informed work. Finally, we call for the sustainable funding of services that lower the risk of exploitation, including legal services like those here today, as well as financial support, accommodation support and free psychological and medical services. This support should be both sustainable but also available regardless of the visa status of the person.

The CHAIR: We do have limited time so we'll proceed to questions. All of you have highlighted the barriers that exist to people reporting and being aware of and accessing services. I'm sure my colleagues on the

CORRECTED

Committee will explore those. I'm just interested, given your own particular expertise—each of you clearly act for clients who are in this situation. Once someone comes to your attention, how easy or otherwise is it for them to get redress of their grievances? That's to any of the organisations. I accept there are barriers to people coming to you and reporting. I accept the issues with lack of services, but I'm just interested in the process, once they get to you, about getting redress—how easy or otherwise and how does that interact with the visa system. I might start with ERLS, if that's okay.

YUVASHRI HARISH: Yes, thank you, Chair. I suppose in ERLS' experience—this is probably a shoddy answer, but I think it does very much depend on the situation that a client is presenting to us with. Some matters—I suppose that it might be easier to get redress than others. But I think a couple of things that affect whether or not it is easy or difficult would depend on, I suppose, one, overcoming a client's fear. They tend to very much—they may not know the particulars of the systems that they're operating within. They may not know which conditions apply to their visa. They may not understand what is a breach, what is not a breach. Even we're not always qualified to make that call for them. But they understand, "If I breach my visa or if I've done something wrong, I could be kicked out of the country." That is something that I often hear from clients in this particular situation.

Even having to overcome that barrier to have that conversation with them and get them to a position where they even feel comfortable to begin some sort of process—even if it's as much as us sending a letter for them, they're often terrified of even that very initial what you would even consider passive action. All we've done is put our name on a letterhead and sent something that's not even that stern or threatening or whatever you want to call it. It's just laying out the situation as we've been told. They don't even want to do that, let alone consider taking something to court or to a tribunal. Like I said, I think certain types of matters can be easier. I think the fear is continuous but I think wage theft, underpayment matters can be somewhat less emotional because you're dependent on the numbers themselves. The numbers either show that something's gone wrong or something's gone right. People are more willing to accept that and consider pursuing that compared to—take the comparison of a person or a woman who's experiencing sexual harassment or some sort of violence or discrimination in the workplace. They're less likely, even if we were to combat their fear.

The CHAIR: Just to explain it a little bit further, I understand there's a fear about coming forward and real concern about losing visa status and so on, as you said, to the point where they won't even let you send a letter. But I'm presuming that you do have avenues that you can pursue that don't compromise their visa status. Is that correct? That's what I'm just seeking clarification on.

SEAN STIMSON: I think in some instances, absolutely, that would be the case. As our starting point as an organisation, we unpack the legal issues that they have. Some of those may have implications, and we would certainly look at addressing those as well. What we will try to do, as Dr Cockayne mentioned in the earlier session, is we try to look at it from a holistic approach and provide a solution to every single legal problem that they have. If we look at an international student that perhaps is enrolled with an education provider on the Mid Coast, as an example, we would look at their legal issues one by one and look at the most appropriate first steps. Some of those may well have an implication on the visa, and we always have that in the background—ensuring that their status remains legal and lawful—and then we'll look at addressing all of those other components.

SERI FELDMAN-GUBBAY: I'll just add to that and say that when someone comes to us with an issue, we'd provide advice in the first instance, if we have capacity. Depending on what's required and then our capacity, we might represent that client or assist them in the background by ghostwriting their court applications or letters of demand. A big issue that migrant workers often have—and it's not because of their inability or lack of trying—is actually enforcing judgements when they have taken all of the steps. They often will go through the whole underpayment process, get a judgement that's in their favour, but it's an unscrupulous employer who doesn't listen to the court and just doesn't pay, and then there's an enforcement procedure that can be quite tricky. In some instances, employers will also go into voluntary administration to then avoid any sort of enforcement action.

In terms of visas and how that interacts with employment rights and being able to access or assert those rights, there's a new Federal pilot, the Workplace Justice visa pilot, that's been brought in. It's been in operation since September. Redfern Legal Centre is the only non-union accredited third party in New South Wales. What that means is, for people who aren't members of a union—and temporary migrant workers generally aren't members of unions—we are the only people that can provide certification that they've been subjected to a workplace exploitation claim.

That would then enable them to obtain either a new visa, so a Workplace Justice visa, for either six or 12 months or a guarantee against visa cancellation if the breach of their visa condition is related to the workplace exploitation—for example, an international student who has a working condition that they can't work more than 48 hours in a fortnight, but they're being paid below minimum wage, so they work more than that amount so that they can eat, and then there's a fear of enforcing that underpayment claim or enforcing those rights but then losing

CORRECTED

their visa. This allows them to get a guarantee from the Department of Home Affairs that their visa won't be cancelled, so they can enforce those rights.

The CHAIR: You made that point in the submission that you're the only non-union third party that can facilitate that and, of course, you're based in the city.

SERI FELDMAN-GUBBAY: Yes. We provide a statewide service. In the last three months we've received 25 unique inquiries for assistance with that, and we always prioritise assisting those people, who are always people on temporary visas.

The CHAIR: How do people know about your service statewide?

SERI FELDMAN-GUBBAY: To be honest, on the Department of Home Affairs website, when they look up a Workplace Justice visa, there's a list of accredited third parties. It's unions and then us and then a couple of centres in Victoria. There are some States that don't even have non-union-accredited third parties. We don't receive any funding to do that work, but we think that it's very important and it sits within our wheelhouse of expertise.

Ms JENNY LEONG: I'm guessing that we'll all have supplementary questions because there are a lot of you and there is a lot to cover. If we do have a chance, I would like to go back to the visa pilot that you were just talking about. But before that, I'm keen to know what your thoughts are around what it would look like to implement the non-punishment principle in the context of the State Government, particularly the risks that people would have around coming to you for support, but then the risk that would be in place if their visa or their accommodation or indeed other requirements were linked to their workplace conditions. What I'm really conscious of is that, while it's all well and good to say that the State Government should advocate for changes to the Federal visa system—and absolutely we should be recommending that—I think there's a lot that the State Government could be doing. I wonder what, at a State level, it would look like to be able to say that when people are coming to you, the reassurance is there at a State level that they will be protected or supported in certain ways while they're going through these legal challenges.

ISOBEL McGARITY: I might open on that one. One thing to note is when we are providing advice to people, one of the first things we do is that incidental counsellor or incidental social worker role. Before somebody can receive legal advice, we need to connect them with stable housing, with a financial service or with counselling so they can actually engage in their legal matter. Those things States can absolutely assist with. Too often, particularly with emergency accommodation, we find that our clients who don't have a visa or who are on temporary visas don't have access to housing services whatsoever, and that is a huge barrier to anything that follows on from that. Another thing to note is the difficulties that our clients who've experienced modern slavery have with respect to seeking victim services assistance for crimes that may have been perpetrated against them. I know there has been a review of the victim services Act and perhaps a suggestion from Government that another commissioner role would assist with that. But I think some of the recommendations about that review, which really go back to injecting more funding into that scheme to allow it to do what it's supposed to do, which is to support victim-survivors, would also be key.

TESS DEEGAN: If I could add to that, I would echo the comments made by Ms McGarity about the victims support scheme. That is one way for victims of modern slavery to access support, but any expansion of that category of workers who could access that would be welcome, and review and enforcement of that scheme as a whole and the way that it works would be something we would support. We do see people who are made homeless by the dismissal and then the ensuing loss of the lease or loose arrangement they had with their employer to reside onsite at the workplace. Access to emergency housing services in those situations would be key, and I think it's very hard for people on visas to access those sorts of supports.

ISOBEL McGARITY: To add something else, something I think we've all mentioned in our submissions is training for frontline workers, including New South Wales police. I know that in the Government response to this Committee's review of the Modern Slavery Act there was reference to some non-mandatory training. But we really think that it should be mandated. Often our clients do say to us that they've reported certain experiences to police and nothing happened, and that might be a misidentification issue. The other big thing is interpreting services. Again, this needs to be better funded. Interpreters should be trauma informed and have free training available to them around that, because key in accessing justice is our clients being able to communicate and feeling safe to do so. Cultural competency training is key as well.

The Hon. GREG DONNELLY: To all of you, thank you so much, and thank you to your organisations for all the outstanding work you do in this area. I'll bowl the questions up and then, perhaps through the Chair, work out who would like to answer them in what order. The first one is the issue and degree of the prevalence of organised crime involved in the exploitation of vulnerable workers in this area in New South Wales. There's

CORRECTED

anecdotal and hearsay evidence of that, but I'm just wondering if you yourselves in the work that you do can validate if that's the case and perhaps elucidate it with your knowledge—with particularity if you wish, or if you say it's best done through a supplementary question. I'm just trying to get a sense of that driver in this whole area of exploitation.

YUVASHRI HARISH: I suppose in my experience through ERLS as well as—Inner City Legal Centre also does the sex work legal service. That is also a statewide service that we do. I think organised crime—or suspicions of it—tends to pop up here and there, particularly with sex work. Whether you consider that consensual or non-consensual sex work in—I'd say all over New South Wales, with probably a bit of a focus in Sydney, but I wouldn't be surprised if that was the case in regional New South Wales, mostly because these workers often have no idea who is the owner of that particular premises, that brothel or whatever the building or the organisation might be. They're faceless—often men.

There are threats made very easily to their livelihood, to their safety. Leading into the area that ERLS practises in, being employment issues, it makes it quite difficult to then pursue anything because we don't know who owns the business. We don't know how we would go about pursuing anything. There are mechanisms for that in a safe and appropriate manner for those workers because they're already somewhat at risk in their jobs, but we don't want to make it worse. That's anecdotally what I hear in ERLS and the sex work legal service.

SEAN STIMSON: I would echo that. I think, anecdotally, what we're seeing with some of our clients is more around not just the work aspect of it but also around the tenancy. Quite often there is a tenancy component that's attached to it. There are some concerns as to whether or not they're able to leave a particular property. They don't know who to bring claims against. Quite often the person in control is controlling wages as well. There are certainly significant concerns beyond just the financial or the employment aspect. There are other aspects that they're unable to navigate because of not knowing who the other parties are.

ISOBEL McGARITY: I will add something as well. Again, anecdotally we've observed, in some cases where a person may have been criminally trafficked to Australia, migration agents working in tandem with those networks. I'd say that unscrupulous or poor advice from migration agents is another factor that often disempowers and perpetuates harm against, particularly, people seeking asylum.

The Hon. GREG DONNELLY: On the issue of data collection and how that might be done better—and that's of course no reflection on the work that you're doing because you're dealing on the cutting edge of assisting and looking after and supporting individuals. But, in terms of your own organisations—and forgive me, I haven't had a chance to go back and interrogate your website and look at annual reports or what have you. In terms of your data collection and then the pushing of that out to civil society so it can better see what you're actually doing, is that being done? That's the first question. The second question is do you think that there is some merit in trying to develop across the State, perhaps through organisations like yourself, a common platform for collecting or at least placing—and, minimising the work associated with this—basic data that can be used, perhaps by the modern slavery commissioner, parliamentarians, this Committee or whatever the case may be?

SEAN STIMSON: If we look at the International Student Legal Service, it was established in 2011. Since 2011 we've collected all of the data in relation to our clients, so we can say with reasonable confidence as to what we're actually seeing.

The Hon. GREG DONNELLY: Is that published?

SEAN STIMSON: It is. It would be contained within some of our annual reporting requirements. What we're able to see is that there are three big issues that have been in place since 2011, and it probably wouldn't come as any surprise to anyone in this room. The three major issues are employment, tenancy issues and disputes with education providers, and quite often they're interrelated—one will be the cause of another—and they represent around about 72 per cent of the total advices we give on a yearly basis. They change in hierarchy, but they're all sitting in the 20, 22, 25 percentiles. As I say, they shift from year to year, but we certainly know that at least a quarter of our clients are requiring advice on employment-based issues in any one year.

YUVASHRI HARISH: If I could quickly add something as well, community legal centres generally do have an obligation to report in terms of numbers but as well as demographic data and things like that as well. In particular, the Employment Rights Legal Service recently did an evaluation that is published on each of our individual centres' websites as well. Of that, I can tell you that we've roughly advised about a thousand people a year since we started in 2001. Sorry, I shouldn't say advised but have provided some form of service. In respect of that, we've covered about 82 per cent of LGAs in New South Wales, and around 20 per cent to 30 per cent of our clients tend to be on temporary visas as well. We're all reporting. I don't think that data is public. But our annual reports would definitely factor some snapshot of that, and the Employment Rights Legal Service definitely has something a little bit more comprehensive available now for the last couple of years.

CORRECTED

The Hon. GREG DONNELLY: Just a quick apology; I misspoke. The modern Anti-slavery Commissioner down the back, I referred to him as the modern slavery commissioner. I misspoke.

The CHAIR: Anti-slavery Commissioner.

The Hon. GREG DONNELLY: It's the Anti-slavery Commissioner, so I apologise.

The Hon. AILEEN MacDONALD: Much of the public debate tends to frame exploitation as individual bad employer sort of behaviour, but your submissions suggest broader systems failure. I was wondering if you could point to any regulatory or institutional settings in New South Wales that are actively enabling or tolerating this exploitation, whether it's through omission, lack of coordination or policy blind spots. I've been broad because all of your submissions talk to that.

SERI FELDMAN-GUBBAY: I'll start off. I think that a really important piece that's missing in New South Wales is regulation for labour hire providers. That exists in other States in Australia. What we see is that there's often confusion about who migrant workers are actually working for, and it's this sort of elaborate labour hire situation. It's quite easy for labour hire organisations to evade any sort of responsibility and to be knowingly placing these workers in exploitative or unlawful situations.

Something else we spoke about in our submission is that the Modern Slavery Act ought to be amended to include penalty provisions for entities, and also we would like to see it amended to allow victims of modern slavery to bring civil claims against perpetrators to obtain compensation and penalties, and so not necessarily having to go through the Federal underpayment process and get civil penalties in that route but also allowing them in the State system to effectively do that. The other one is to amend the Residential Tenancies Act to ensure protections for tenants in situations where the landlord and employer are the same or related entities. I think those are some quite tangible things that the New South Wales Government could do.

ISOBEL McGARITY: One thing we've observed—and this is particularly where there's an intersection between, say, domestic violence and forms of modern slavery, such as domestic servitude—in cases particularly where the victim-survivor may not speak English and may find it difficult to engage with law enforcement, in many cases we find that, unfortunately, victim-survivors are not able to get the assistance of police. They might be misidentified as perpetrators of violence themselves. I'd say in settings like that, we do see systems abuse by perpetrators as well.

YUVASHRI HARISH: Following on from Ms McGarity's comment as well, particularly in the area of sex workers—for example, there is a section in the Crimes Act. The particular section number is failing me, but it provides that if you fraudulently induce someone's consent for sexual intercourse or sexual acts by promise of payment, for example, and then you fail to pay that person, that can vitiate consent. In our experience, we've seen a number of sex workers who have reported such situations to the police. They've either not been taken seriously—it's very clearly written in the Crimes Act that that is a form of sexual assault. Yet a lot of sex workers do feel that they've gone to police, reported it, and it's not been treated with the severity that it deserves because there is that sort of payment or transactional part of it. This could apply equally to an individual, but it could also apply to a business, an organisation or a premises in that kind of context. So, yes, echoing that we do see systems abuse through that as well, where the law is quite clear.

The Hon. AILEEN MacDONALD: On the flip side of that, then, in terms of regional New South Wales—and you've highlighted the lack of services in regional New South Wales—is there also a credibility gap in the sense that migrant workers may not trust government agencies, even if the services are available? What do you think New South Wales needs to do to build that trust with these communities?

TESS DEEGAN: I think there are numerous recommendations in our report that go to this question of how to better build relationships and build trust with communities and people from other countries—as has already been mentioned, the use of or support by interpreting services, more readily available information and access to information online and that sort of thing. As well, there can be a real power in finding people in regional communities that act as a sort of hub that are the go-to person for people from different communities, who can provide those essential links to services like ours—to housing services, to vouchers for your bills, to food packages. Wherever we can support community groups that are doing that work, we should.

ISOBEL McGARITY: To add to that as well, funding for legal services to go out to regions and to communities. For example, RACS went to Bathurst just before Easter and presented to both potential protection visa applicants but also community workers. One of those community workers wasn't aware of our work. That's another example where funding to legal services can be really helpful.

CORRECTED

PETA ZOUBAKIN: We've also been working with NSW Health in a partnership with Redfern Legal Centre for medical professionals to recognise the signs of modern slavery. That's a way we can communicate with potential victims to come forward to report.

SEAN STIMSON: Picking up on my colleague's point, it seems to be that there's a lot of trust with the health professionals. Certainly through that program we're seeing that we're able to assist clients a lot earlier. Now there is a dedicated referral pathway not just to our organisations but to other organisations. There seems to be a lot of trust there, even though it's government. But I totally agree that there is some pushback with other government organisations. I think the fear is that as soon as they report, then visas are in jeopardy.

SERI FELDMAN-GUBBAY: Can I just quickly add that I think making it as easy as possible for migrant workers to report issues when they have them to the relevant authority—the "speak up" system on the SafeWork NSW website is only available in English. You can't even use an external translating function. That's a really practical impediment to migrant workers making such complaints.

The CHAIR: I know Ms Ayyad has a question, so I'm going to come to her next. I just want to pick up on the point about the partnership between the Redfern Legal Centre and NSW Health. Could you take it as a supplementary question to provide us with some detail on where that work is up to? That's emerging as a key issue for us, and I'm interested in that work.

SEAN STIMSON: Yes. I'm happy to do so.

Mrs TINA AYYAD: My question is a follow-up to the supplementary question the Chair just asked. ERLS is doing some amazing work in the area. I'm just interested to know how you envision temporary migrant workers' knowledge of their rights and support services be achieved. I know that some have been outlined in the submission but, essentially, would they include systems which would be established to ensure migrant workers can report abuses confidentially and safely without jeopardising visa status or facing retaliation? At the moment the model is extremely reactive rather than proactive. How do we use these information sessions or raising awareness to move it to a more proactive model than a reactive model? Would this be done in collaboration with SafeWork NSW and the Fair Work Ombudsman or any Federal bodies?

YUVASHRI HARISH: To answer the latter part of your question, I think these kinds of information sessions—how we would talk about it is outreach—would be done in conjunction with Federal bodies. At the end of the day, we know that they're the regulatory body. They're often useful, and they're the people. In a certain way I accept that a lot of people on temporary migrant visas have some distrust or concern about raising these things directly with the government. But, at the end of the day, it is the government, and at least anecdotally we know that people on these visas, or generally people in general, do respect authority, and I think that they appreciate having those bodies there.

It's the feeling that they're not there or the perception that "I can't have these frank conversations" for a wide variety of reasons, or "my language isn't supported" or whatever it might be. They don't feel like they can. Going off some of the points that were made earlier, I think we envisaged them very much being like a holistic community effort. It's not just our service. Each of our individual services coming to a place—the Riverina, or whatever it might be—and having, for example, an employment law-focused outreach. We would want everyone to be there. I cannot stress the importance of community workers and community groups in that conversation, especially because often they are the ones who speak the language.

They are the ones who understand the cultural intricacies of what the issues are that are facing those particular cohorts of workers. They provide the kind of service that we often cannot just because of a lack of resources. For example, ERLS works with a community worker on the northern beaches who deals quite closely with the Tibetan community in the northern beaches. He's been instrumental in not only bringing access to those workers to our service, but also helps them fill out documentation, helps them fill out forms, helps them scan, helps them interpret. Often you would think that they're just silly admin things, but they are really integral to any kind of redress that a worker might be seeking in these kinds of situations. I think everyone needs to be part of that conversation. It's not just us, it's not just the government; it's community. They're often the ones who have that lived experience to be able to help part of that conversation.

The CHAIR: Any other comments?

TESS DEEGAN: Could I pick up on one of the points made in the question, which is about making confidential reports. I think that operates completely differently in regional settings than it does in the city. If you're in a small town and you make a report, it's very hard to disguise where that came from. It's a real issue that we see for people, and I think that's important to think about in terms of creating systems that are proactive rather than relying on individuals to bring the complaint themselves, which is how our legal system mostly operates, especially in those areas where coming forward is going to expose your identity.

CORRECTED

Mrs TINA AYYAD: I have one more question on that last comment. What would the proactive model of inspections targeting temporary migrant workers look like across rural and regional New South Wales?

SERI FELDMAN-GUBBAY: I think that would look like SafeWork NSW doing more routine inspections of workplaces. Something else that Redfern Legal Centre discussed in its submissions was the idea of possibly a Fair Work certification program whereby employers can voluntarily sign up to conduct periodic reporting to a relevant authority in New South Wales. In exchange for that, they get placed on a register of fair employers so that migrant workers know who to go to and have more agency in picking which employer to work for. We think that would be a more proactive approach, as opposed to reactive, and it would incentivise employers to comply with these laws.

The Hon. Dr SARAH KAINE: Thank you all very much for your submissions, for appearing and for the work that you do every day. I have a question which was raised after having a look at Redfern Legal Centre's submission. I think it's a general question as well. In particular, you suggest an amendment to the Residential Tenancies Act. I want to ask two things to get a bit more about that in particular. But, for me, when we're talking about this, it's a bit of a jurisdictional soup as to who's doing what and where, which enforcement agency and how we do it. I'm really keen to get to the nuts and bolts of what New South Wales-specific and very targeted things can be done, quite simply. I know there's a lot to be done, but it's also really helpful to have things like that pointed out, which are "Amend this bit", "Look at this Act" or "That's your responsibility and doesn't require you convening the whole of the Commonwealth." The question is about that specific recommendation. But, to the rest of you, have you got anything else really specific that I could take away and lobby for that would have some concrete results?

ISOBEL McGARITY: Perhaps psychological services for victim-survivors of forms of modern slavery. STARTTS in New South Wales provides our clients at RACS with trauma-informed counselling. But having something really specific for other experiences of exploitation, including in Australia, would be a really practical and really helpful step for survivors.

SERI FELDMAN-GUBBAY: With the Residential Tenancies Act and that recommendation, I am not a tenancy lawyer, but I did speak with my tenancy solicitors—the colleagues that I work with. They said that in some situations where there is accommodation attached to employment, the status of that arrangement is not clear. Oftentimes if a person who is an employee but otherwise might be a tenant is told to leave the residence, and they do after their employment ends, then they might be, without intending to, giving up rights that they might otherwise have had as a tenant because they have themselves elected to leave. Currently there isn't any clarity in the Act that if there is accommodation being provided by the same or a related party—that is, the employer and the landlord—there isn't clarification that that is a tenant relationship or a tenancy situation. That would give people more clarity and rights in those situations.

The CHAIR: Any other specifics? I've picked up so far that there's a specific area around third parties assisting people in the Workplace Justice visa program that are non-union related, and you've made a suggestion around accreditation systems, I think.

The Hon. Dr SARAH KAINE: That was federally, though.

The CHAIR: True.

Ms JENNY LEONG: So training and access to crisis accommodation.

The CHAIR: And more inspections by SafeWork NSW.

The Hon. Dr SARAH KAINE: I was asking for more specifics. Of course, funding for everything—of course, we'll take that as a given—but whether there are specific legislative interventions, changes or tweaks that actually do potentially have that kind of—

ISOBEL McGARITY: The victims services Act as well.

The CHAIR: I thank everybody for attending, for your evidence today, for your submissions and for the work you do. There was one question on notice from me, and there may be supplementary questions. I assume that you'll be happy to respond to those. The secretariat will be in touch.

(The witnesses withdrew.)

CORRECTED

Associate Professor LAURIE BERG, Co-Director, Migrant Justice Institute, and Associate Professor, Faculty of Law, University of Technology Sydney, affirmed and examined

Professor JENNIFER BURN, AM, Director, Anti-Slavery Australia, affirmed and examined

Ms CHLOE SAKER, Lawyer, Anti-Slavery Australia, affirmed and examined

Mr ISMAIL IBRAHIM, A/G NSW State Director, Australian Red Cross, affirmed and examined

Ms LINA GARCIA-DAZA, Senior Manager, Migration Support Program, Australian Red Cross, sworn and examined

Ms JESSI CLAUDIANOS, Director, Migration Support Program National Operations, Australian Red Cross, before the Committee via videoconference, affirmed and examined

Ms CAROLYN KITTO, OAM, Co-Director, Be Slavery Free, before the Committee via videoconference, sworn and examined

Mr FUZZ KITTO, Co-Director, Be Slavery Free, before the Committee via videoconference, sworn and examined

The CHAIR: Welcome to the next session. We have a number of witnesses, both in the room with us and online. We have the opportunity for each organisation to make a brief opening statement of two to three minutes. If you have opening statements that are longer than that, we're very happy for you to submit the statement in full but, for the purpose of the hearing, it would be great to hear a brief opening statement from each of the organisations. I might start with the Australian Red Cross.

ISMAIL IBRAHIM: Thank you very much, Mr Chair. Good afternoon. I acknowledge the lands of the Gadigal people of the Eora nation and pay my respects to Elders, past and present. Australian Red Cross welcomes the opportunity to provide evidence today and recognises the inquiry as an important mechanism to identify and address the risks faced by temporary migrants in rural and regional New South Wales. Since 2009 Australian Red Cross has been delivering the Federal Government funded Support for Trafficked People Program. In that time, we have provided individual casework support to 844 people who have experienced modern slavery. Thirty-nine per cent of referrals have been in New South Wales and forced labour has been the most common type of exploitation experienced by people in regional and rural New South Wales.

With your permission, I would like to highlight three points. First, strengthening coordination and collaboration between State and Commonwealth agencies and services will improve our ability to meet people's protection, safety and wellbeing needs. Currently there is no statutory guidance that clearly articulates roles and responsibilities of State and Federal agencies and service providers, those who are involved in the identification and support of people who have experienced modern slavery in Australia. For example, for the Support for Trafficked People Program, the current operational guidance excludes key State actors such as the State police, housing and child protection agencies and the NSW Anti-slavery Commissioner, resulting in an inconsistent response.

Second, temporary migrant workers in rural and regional New South Wales face significant barriers to accessing support and remedies, either because of their visa status or lack of appropriate and suitable services. Regional and rural communities, local councils and often under-resourced frontline services then face the challenge and the cost of providing information, protection and support to those temporary migrant workers in need. Australian Red Cross regional staff in the Western Riverina region, particularly Griffith and Leeton, have assisted several migrant workers facing homelessness, food insecurity and serious health issues. Some of these workers told us they had disengaged from the PALM scheme or left their workplaces because they had been taken advantage of or exploited by employers and labour hire companies. People have reported being forced to work excessive hours, paid well below the minimum wage and threatened by the agent that they could be arrested and deported.

The absence of a safety net and ongoing support, including legal and immigration advice to better understand their options and make informed decisions, leaves migrant workers at risk of experiencing further exploitation and destitution. Lastly, I'd like to emphasise the need for increased efforts to equip frontline responders to proactively screen for modern slavery indicators and provide safe responses, particularly in regional areas and in high-risk industries. Australian Red Cross, as an auxiliary to the public authorities in the humanitarian field, stands ready to support the Committee in strengthening the New South Wales Government's response to modern slavery and welcomes the opportunity to provide evidence today.

CORRECTED

FUZZ KITTO: Firstly, we want to say that we believe that foreign workers are a very important part of the way that Australia relates to its neighbours but also, in all of our years in working in international development, this is one of the best schemes and the best ways that we have seen money getting into families, into local communities. So often, when it's government to government, it goes up through the system and down through the system, and we know that there is often very little that actually gets to the local areas. With foreign workers, we know that this goes directly to the families when it works well and when there are good systems, which makes sure or gives certainty that that's happening.

As William Swing, who was a past ambassador and the head of the International Organization for Migration, said, we are still getting used to this as a phenomenon, and it's a phenomenon that's not going to go away. The problem is we do not have the language even to talk about it. If we have someone who comes from a developing country to a more developed country, we call them a foreign worker. When a person goes from a developed country into an underdeveloped country, we call them an expat. So we've not even got the language to talk about it. They are both the same; they are both foreign workers.

This is a phenomenon which we think is something we need to adapt to, get ready for and have the systems available that allow justice to happen within that. We think that local councils and the State and Federal level all have a play. But particularly local councils are important and, therefore, in our recommendations, we say we think that local councils need to have a registry of workers who are coming into their area when it happens, and for the State Government to support the local councils in regard to this as well. That's our opening statement. We wanted to lay that out first. We've done research into the accommodation area across seasonal workers in horticulture and abattoirs and, on the ground, were able to gain some very important insights into this whole area.

JENNIFER BURN: Anti-Slavery Australia at UTS is situated on the unceded lands of the Gadigal people. We pay respect to Elders, both past and present, and extend that respect to all First Nations people here today. Thank you very much for the opportunity to appear before you today. We are a specialist legal and research centre. We represent over 400 victim-survivors who are at risk of or who have experienced modern slavery, and we honour their strength and partnership.

Modern slavery involves unlawful control over people—control that is linked to powers attaching to the right of ownership—or the exercise of conduct such as coercion, threat or deception that can be used to compel compliance. Although workplace exploitation and modern slavery are legally distinct concepts, the boundary between the two can be difficult to define and exploitation can lead to modern slavery. In our experience, exploitation is not linked to any specific visa type. The serious challenges faced by temporary migrant workers can occur among individuals holding any type of visa across New South Wales and, indeed, Australia. The challenges are heightened in regional and remote areas. My colleague Chloe could speak to a specific case highlighting some of these issues. Wage theft, coercion, intimidation, substandard accommodation, visa restrictions and barriers to justice are commonly experienced by vulnerable temporary workers. They face heightened risks due to visa dependence, inadequate oversight, and geographic and social isolation.

We've also identified a number of concerns and barriers that deter workers from seeking help, and this highlights the need to shift the burden of reporting from workers to employers. We recommend that more needs to be done in New South Wales, including to build awareness around current legislative frameworks. Employers and employees do not appear to know what the law is and what available protections are already provided for. Our clients have spoken about the lack of pre-departure information and advice about ongoing support, including how to make complaints or raise concerns. There's an urgent need to improve access to support for exploited workers, and this includes access to culturally appropriate services, particularly in rural and regional areas. And as an example of the barriers that impede access to justice, in our practice, we use TIS, the translating and interpreting service. We have a number of clients from Papua New Guinea, and yet we've been advised that there are only two interpreters in the whole of Australia who are qualified to interpret in Tok Pisin or Pidgin. This is a real barrier that can make it so difficult to obtain instructions. It can make it difficult for people to reach out for help.

As has been addressed by others today, we do see the need for mandatory training for frontline responders, including the New South Wales police and the DPP, on identifying indicators of modern slavery, understanding referral pathways and, of course, trauma-informed practice. We do, at Anti-Slavery Australia, have considerable experience in developing training for government and non-government sectors, and we're currently completing a training module on forced marriage for the New South Wales Department of Communities and Justice.

There's an opportunity for New South Wales to work with the Federal Government to evaluate visa policies, and we've heard others speak about that today. But we're particularly concerned about migration regulations that bind workers to a single employer, and we want to make it easier for vulnerable workers to move between different visa streams. We commend the Federal Government on the introduction of the two pilot

CORRECTED

programs, the Workplace Justice visa and Strengthening Reporting Protections visa. We'd ask the Committee to advocate to support the continuation of these programs because they are critical. We'd like to expand their eligibility criteria because, at the moment, there are barriers that can make it difficult for vulnerable workers who have been exploited to access the migrant justice visa program.

Additionally, and finally, it has been our longstanding position that Australia should establish a national compensation scheme for survivors of modern slavery. There is some access to recognition, including financial payments through the New South Wales Victims Rights and Support Act. However, we recommend that the Committee support the program to establish a national scheme, as this would benefit victim-survivors of modern slavery in New South Wales. We could address that more fully after the hearing, perhaps. We want to thank you for the opportunity to speak. Again, we extend our sincere gratitude and respect to survivors of modern slavery whose experiences must remain at the centre of our collective work.

The CHAIR: Thank you. I'm going to go to Professor Berg from the Migrant Justice Institute. I realise that you flagged that Ms Saker might have a case study, and I'll come back to that later.

LAURIE BERG: Thank you very much for the opportunity to give evidence today. I'd also like to start by acknowledging the Gadigal people of the Eora nation and pay my respects to their Elders, past and present. Our submission provides unpublished research findings from two studies that we conducted last year. The first was a national survey of over 10,500 migrants who are working in Australia on a temporary visa, and they were reporting on experiences of modern slavery indicators, among other things. The second study included a national survey of 370 PALM workers, which was focusing on access to grievance processes. I thought I'd very briefly set out our findings from those studies and outline the recommendations that we've made.

First of all, findings from the National Temporary Migrant Work Survey—and we've provided findings for participants who were in regional and rural New South Wales—confirm that serious labour exploitation persists among migrant workers in a range of industries in regional and rural New South Wales, and the overwhelming majority of this goes unreported. One in five respondents in regional New South Wales reported experiencing at least one of the particularly serious and potentially criminal modern slavery indicators while they were working in Australia. That was particularly prevalent in farm work but also occurred in hospitality, petrol stations and retail, in particular.

One in 10 said that they were made to work in unsafe conditions—for example, without adequate safety equipment or training, or needing to take safety risks to complete the work in time. Over a quarter of migrant workers in rural New South Wales had been physically injured at some point at work in Australia. One in four migrant workers in rural New South Wales were required to live in accommodation provided by their employer, and 90 per cent of those experienced at least one indicator of exploitation or lack of safety in their housing.

The vast majority of migrant workers who experience modern slavery indicators feel powerless to seek help or report it. Among the respondents in our survey who had experienced at least one modern slavery indicator, one in four felt that they couldn't leave the job or complain about the experience. Two-thirds didn't contact anyone for help or report the experiences other than to a friend or family. Only two respondents contacted the Fair Work Ombudsman, and no-one contacted SafeWork NSW. We make a range of recommendations for the New South Wales Government in relation to this, including reducing barriers for migrant workers to report misconduct; engaging with the Federal Minister for Home Affairs in relation to the visa protections pilot, which I note has already been raised but I'd be happy to say more about that; working with SafeWork NSW to better understand migrant workers' experiences and engage in proactive monitoring; considering the use of New South Wales licensing regimes to drive employer compliance with their legal obligations, including under Federal laws; and specifically prohibiting employers from requiring any worker to live in accommodation, along with mandatory standards for employers who do voluntarily provide accommodation.

I'll turn very briefly to our second survey of PALM workers. These findings suggest that the PALM scheme is not providing PALM workers with effective mechanisms for raising concerns. Over four in five PALM workers who participated in our survey said that they would like to change their employer or might wish to if labour mobility were permitted in the scheme. But only about a third of these PALM workers said that they would ever tell anyone other than a friend or co-worker about problems at work. For a third of the workers who said that they want to change employer, that was due to safety concerns. These workers stay silent, we have found, primarily out of fear of employer retaliation. They fear job loss, employer retaliation against co-workers, and retaliation in the form of receiving less or worse work. In addition, 98 per cent said that they wanted to return to Australia to participate in the scheme in the future, which strongly motivates them to withhold complaints or concerns about their current job as well.

Our recommendations for the New South Wales Government in relation to these workers include engaging with the Federal Government to introduce supported portability to enable PALM workers to move between

CORRECTED

employers; developing more structured frameworks for collaboration between the local, State and Federal governments to better assist PALM workers; increasing the provision of place-based individual assistance, advocacy and proactive monitoring, especially by trusted parties; identifying individuals and networks that are effectively providing support to PALM workers already, especially in specific regional locations, and increasing their capacity to do so for more workers and more comprehensively; enabling those organisations to advocate for workers with the Federal department of employment as well; and, finally, exploring additional options for worker direct engagement that aren't necessarily reliant on their team leader—for instance, by unions or newly worker-elected migrant committees at non-unionised workplaces and through community connections. Thank you again for the opportunity to speak today.

The CHAIR: I pick up on the case study that was mentioned that I think Ms Saker wishes to speak to. Would you like to elucidate on that?

CHLOE SAKER: Thank you for the opportunity to flesh out this case study in more detail. This is a case study that is in our written submission. The reason we've included it and wanted to discuss it with you is because we think the issues that this particular client faced under the PALM scheme, after disengaging from the scheme and is continuing to face even now after accessing support from us is very demonstrative of the systemic issues that we think are affecting this whole cohort of temporary migrant workers in regional areas in New South Wales. I'll refer to this client as "A". Essentially he was recruited under the PALM scheme from Papua New Guinea to undertake farm work and horticultural work in Australia, including New South Wales, as well as a number of other States.

He experienced exploitative and unfair working conditions by his employer and his visa sponsor once he arrived in Australia. We consider what he experienced initially as a form of deceptive recruitment, because what he was told when he first signed up in his home country about what to expect about what he would be paid was vastly different to his experience when he did arrive in Australia and commenced his employment. Wage theft was a big issue for him. He experienced large underpayments due to multiple deductions, sometimes double deductions, being applied to his pay for his visa, for transport, accommodation, flights—a whole range of things—which he simply was never really able to pay back for whatever reason.

His visa was withheld from him for the entire duration of his employment. This was despite repeated requests to be given a copy of that visa grant; that was consistently withheld. He was made to live in accommodation that he described as a shed. It was cramped. It was unsanitary. He was living with five to six other men. He described sometimes not being able to breathe properly due to the cramped conditions and him and the men contracting illness because of how unsanitary the accommodation was. Threats of deportation were made if complaints were made about the conditions. His phone use was also monitored. He tried to complain, so he did try to speak out about his concerns, but he says he was always dismissed because of his limited English. He wasn't able to understand what they were telling him, and he never felt he was taken seriously because of that.

He was in a remote area with no access to supports at the time. He didn't even know what his rights were under his visa because he never had a copy of that visa. By the time "A" actually connected with Anti-Slavery Australia, we identified that his pathways were very limited in terms of his visa. He's currently stuck on a temporary visa with no work rights, and he's unfortunately not eligible for the Workplace Justice visa. That's what we think is a pitfall of the pilot to date, because of the narrow eligibility criteria of the visa. You do have to be on a substantive visa with work rights in order to be eligible. There's a small time window as well. That visa needs to be either expiring in 28 days or expired 28 days prior to applying for the visa. That's a very narrow window of time, which unfortunately meant that "A" was out of time.

It takes time to actually connect to a service, when you're in a rural area, to obtain legal advice and then to obtain the certification. By the time you get to that, it's very difficult to actually apply within that window of time that you have. So he's not eligible for that, and he continues to be reliant on community services and charity supports just to get by. He's also unable to re-engage onto the PALM scheme. He instructs that he wishes to work. He wishes to continue accessing opportunities that he can in Australia, but he unfortunately cannot reintegrate because it's not possible for him to reapply for another PALM visa due to his situation. So he can't even get back onto a pathway that will enable him to work and provide for himself.

Jennifer mentioned the lack of Tok Pisin interpreters has actually been a real issue in advising this client properly because, through TIS, there are only two who are available in the whole country. Even trying to give a client advice and making sure he understands that advice has been really difficult. What this client has faced is illustrative of a number of systemic issues which are faced across the board by temporary migrant workers in New South Wales.

CORRECTED

Ms JENNY LEONG: Can I just follow up on that—and maybe we'll put some supplementaries in around understanding the absence of translators—is that a lack of resourcing? Is it a lack of accredited translators? It's, presumably, not a lack of people who speak those languages in the country.

CHLOE SAKER: I'm not sure exactly. We use TIS, which is the national translating service. For whatever reason, there seems to be only two accredited translators who are able to provide those services that we need. It may just be a gap.

Ms JENNY LEONG: So it's something that we should look into in more detail with other as well.

CHLOE SAKER: Yes.

Ms JENNY LEONG: Just in relation to my question—Ms Garcia-Daza, I'm not sure if this is you or one of your colleagues from the Red Cross—taking a step back from what we're focused on in this inquiry, I have two bigger concerns. The first is that potentially the focus on the risks to temporary migrant workers of modern slavery practices in regional and remote areas may be in part because there are physical infrastructure buildings, whether they be agricultural or horticultural farms, or large machinery or indeed meat processing plants or other things that are visible, whereas those that are less visible—for example, the workplaces of domestic workers, aged care workers and those in the hospitality industry—are actually just harder to capture and see.

I'm keen to unpack a little bit whether or not the focus on this is because this is where the prevalence is in these sectors, or whether they are easier to find because we know there are these sites that then have inappropriate sheds for accommodation and those kinds of things, but you're not going to find individual domestic workers or aged care workers in similar places. The other part of that is to then go to this idea of how much this is a regional and rural issue because of the isolation, or how much this happens to have been the focus because of the focus in relation to particularly the PALM workers, the focus on where people are located and the reports that have been taken. Sorry, there's a lot in there. I'm really happy to get other people's thoughts. But I worry that we're in a situation where, because we have a really powerful report from the Anti-slavery Commissioner in relation to this, then this becomes the focus and then we do this work. It's not in any way discrediting that critical work, but I don't want us in that process to be missing entire sectors and other areas.

LINA GARCIA-DAZA: Thank you so much for your questions. Definitely I think that what we have seen is that the numbers are particularly high in particular regions of Australia, including the Riverina region, as you well pointed out. However, it's not exclusive to the Riverina region, as you pointed out as well. One of the challenges that we see is that people move across regions and exploitation moves with them. That is a particular challenge that we encounter. One of the things that clients have mentioned to us is that because of the visa challenges that we were discussing before, or also because of the lack of work rights, going to the regional areas is actually a better option for them because they are less likely to be identified as doing something outside of their visas.

This is less likely to happen in other sectors, such as aged care or cleaning, where it is a little bit more regulated and, particularly in aged care, cash in hand is less of a thing. That is very evident in rural areas and in the agriculture sector. I would like to take this opportunity to say that despite I was mentioning that in the Riverina region it is quite evident, I think that the numbers are still very low in terms of the people that have been identified as experiencing modern slavery. Let me just stress this point out a little bit more. From the 103 referrals that we have in New South Wales at the moment, only 23 per cent of people are living in remote and rural areas. We know that the lack of identification continues to be an issue. The reason why is mainly because of fear of authorities and fear of reprisals, so people decide not to report.

The second thing is that frontline responders are not necessarily well equipped to identify indicators of modern slavery and provide avenues of support. The third thing is that we only support people that are referred to us. The 23 per cent of people that have been referred to us from rural and regional areas, the majority of them, except a very low number—less than five—have been referred by the Australian Federal Police. That is an interesting thing because what we see in the regions is a great fear of authorities, but the majority of the people that have been referred to the program have actually been referred by the Australian Federal Police. The last thing is that people particularly in regional and rural areas do not know about their work rights. Because of this, they don't necessarily know that the situation they are experiencing is a reportable act and is a crime or could be a crime in Australia.

Ms JENNY LEONG: Did anyone else want to add to that?

LAURIE BERG: I'd like to just add briefly that I think there is a natural tendency to focus on farm work, because obviously there are various risks of exploitation there, and also PALM workers, because those workers are, in many ways, especially vulnerable to abuse. But I just want to point out that when we surveyed migrants across the board in regional New South Wales, we found serious levels of experience of modern slavery indicators

CORRECTED

not just in farm work but in petrol stations and hospitality as well, including quite alarming rates of passport confiscation, being threatened about being reported to immigration or not being paid at all for work that was done. Our findings suggest that we do need to look beyond the PALM scheme and beyond farm work if we're really, truly serious about addressing exploitation and modern slavery.

The CHAIR: Mr Kitto, did you want to make a comment?

FUZZ KITTO: One of the things that we discovered when we were interviewing out in regional areas was that in regional areas it is not just those coming on the PALM scheme et cetera; there are also backpackers. I think that needs to be recognised as well. We picked up certain vulnerabilities with that. The thing that happens in horticulture, which we saw as an absolute bonus, is that often they come as groups, particularly church groups from the Pacific, and they come with a leader. That has been a very, very good model because there's always an interpreter there. Interpretation is a very difficult one, particularly in countries like Papua New Guinea.

You may be aware that 76 per cent of the world's languages are in Papua New Guinea, so there's a great difficulty with local interpreters from that, of course. Pidgin is far more real. But, certainly, in the regional areas we were looking at cheaper labour. Consequently, that's why I think we have so many there, and that's much needed. It's a win-win. We need those people because so many Australians do not want to work in those hard conditions for that amount of pay. Therefore we need to have these systems that give protection to the workers when they come to those areas, and they're often isolated areas. We have seen on farms accommodation for seasonal workers which is very adequate and which is not adequate—and certainly the interpretation of the laws, which are so rarely known, as Professor Burn said.

One of the things we do need to do is education of local communities—not just the employers but the local communities—to be able to pick up, because a lot of the violations we've picked up came through religious groups. They go to church, they go to mosque, they go to temple, and those people are trusted people in the community. I think there is a real need to take into account the civil societies in the local communities that can give incredible support in this area.

Ms JENNY LEONG: Did you want to come in on that, Professor Burn?

JENNIFER BURN: Just to note that exploitation of temporary visa holders is widespread across categories. We could provide in a supplementary some further information about exploitation of women holding temporary partner visas. There's a considerable body of research on that. I would be very happy to do that.

Ms JENNY LEONG: I would appreciate that.

The Hon. Dr SARAH KAINE: Thank you all very much for appearing and for your submissions and for the work you do in this area and your advocacy. I have two questions. One is quite specific and the second one is a bit more general. I'm afraid they both target Associate Professor Berg and Professor Burn. I hope they forgive me for that. Associate Professor Berg, you spoke about something I'm interested in, which is how we leverage different kinds of regulation—and I've been interested in this for a very long time—that weren't initially envisaged to be part of workplace regulation to assist in better outcomes for workers. I wonder if you could give us some examples and suggestions as to where we could be looking and where you think the most fruitful points of leverage might be.

LAURIE BERG: Thank you very much, Dr Kaine. I think that we've seen, in comparative research that we've conducted of foreign jurisdictions, that there are some really promising initiatives where local or State governments have stepped in, in the absence of Federal regulation or enforcement, to leverage compliance. For example, in the US in the county of Santa Clara, there is what they call a permit enforcement program that allows the county to basically suspend or revoke a business licence or a food health permit for a restaurant, if that restaurant employer has not complied with a court judgement announced and there's an outstanding court judgement for unpaid wages or other things. I think that there are examples of licensing schemes or operational accreditation that is within the purview of a State Government or local government that could be used to leverage compliance with workplace responsibilities or immigration responsibilities which naturally sit within the Federal Government. I'm afraid I can't give any specific examples of where to look at this point, but I think that that would be a really fruitful study.

The Hon. Dr SARAH KAINE: I appreciate that. Perhaps a mapping exercise might be something we consider in our recommendation. To both you and Professor Burn, you have both been doing research in these areas for a very long time. I wondered if there's anything you can identify that has changed over that time. Is there anything that we're seeing now that is different to, say, five years ago or 10 years ago? I'm interested to see whether things have deteriorated in particular ways.

CORRECTED

JENNIFER BURN: Dr Kaine, it's really hard to know where to start. There have been significant advances over 10 years, even 15 years. Many of those advances reflect sustained advocacy. They include amendments to visa frameworks, for example. But it's clear that we are becoming aware of more and more forms of modern slavery and exploitation, and the perception of what modern slavery is has changed over time. That is really evidenced by research and a growing awareness. For example, five years ago there was no recognition of orphanage trafficking. Thanks to the research of Dr Kate van Doore, we now see that orphanage trafficking is recognised as a particular form of trafficking. In fact, there has now been a global response to that. Recognition of exploitation of women in domestic relationships and recognising that they may experience not only family and domestic violence but also modern slavery, I think, is a new awareness. That can partly be demonstrated by a very recent conviction in Victoria. That's the first slavery conviction of a woman enslaved in a domestic relationship in a home.

The forms of slavery and trafficking continue to evolve. There is an increasing awareness, perhaps, of some of the forms. But more broadly, it's clear from all the evidence that we've heard today that throughout New South Wales there is generally a very low awareness of modern slavery itself, and much more needs to be done to increase that awareness in all groups, including visa holders, ensuring that there is appropriate information provided to them in an appropriate language before they leave their home country, information about how to seek support and make complaints once in Australia, more information to employers setting out their obligations under agreements and legislation, and enforcement of those agreements, for example.

I think that Fuzz Kitto mentioned backpackers as a vulnerable group. We also know that international students can be vulnerable to exploitation and other groups as well. For each group, there will be a need for in-depth research to find out what kind of awareness raising is appropriate for that group and then to invest in that whole series of activities to ensure that we have a more robust visa system and a more robust system of support. Those are just some preliminary comments. I think more will occur to me as soon as I walk out of the door, but perhaps I can follow up.

LAURIE BERG: I feel the same way, Professor Burn. As a result of sustained advocacy and reforms by various governments in this place, I think there have been advances. It's a little bit hard to know as well, because obviously reporting is so low of exploitation in general and modern slavery, so it is a little bit anecdotal. I guess I should say as well that we will be reporting on the survey that we conducted last year and will make an effort to look at how those results compare to previous research that we've done. I'll be in a much better position to answer your question when we do that.

But in the meantime, I feel anecdotally it would seem that there is probably increased knowledge of people's rights at work among some groups of migrant workers in Australia. For instance, there appears to be better knowledge of the absolute minimum wage or the presence of the Fair Work Ombudsman. But I think that there has been less increased knowledge in other areas, especially migrants' sense of culpability and that they actually mistakenly feel that they've done something wrong by accepting an underpayment knowingly, accepting less than the minimum wage or accepting wages in cash. These things are not illegal and do not reflect badly on them at all. And yet, I think there is a perception that it might cause them to lose their visa.

I think that also in terms of types of exploitation, employers might be turning more to use of accommodation and schemes to deduct from wages rather than just simple straightforward underpayment. I guess in terms of the sorts of advances that will make a real difference, I would agree with the others who've mentioned visa reforms. I do think the Workplace Justice visa will make a big difference, and I understand that you've spoken about this in other sessions. But I would just point out, as I think you know, that the pathways to accessing that Workplace Justice visa to be able to stay to make a claim or get sort of inoculation from visa cancellation if you've breached your visa are currently either through the Fair Work Ombudsman or through a trusted third party, which currently in New South Wales are a number of unions and then a single legal service, the Redfern Legal Centre.

In addition to some of the limitations and scope of the scheme which need to be addressed, I think that the New South Wales Government would achieve a lot by working with the Federal Minister for Home Affairs to ensure that urgently more organisations that have actually sought accreditation but have been refused currently without explanation are urgently accredited and involved in the scheme, including many of the organisations appearing today.

The CHAIR: Professor Burn, you want to say something. We have some other questions to get through and we are running out of time but briefly.

JENNIFER BURN: I'll make it really fast because I would be remiss to not say that there have been major advances, and one is probably sitting right behind me in that New South Wales now does have a Modern Slavery Act, we have a Modern Slavery Committee and we have a commissioner. These are really significant advances that I think will promote the New South Wales response to modern slavery initiatives.

CORRECTED

The Hon. AILEEN MacDONALD: This is a general question to anyone. In most of your submissions, you've pointed out that traditional enforcement mechanisms such as inspections, audits and ombudsman pathways are failing to detect or disrupt exploitation. What new methods of worker visibility or voice do you believe the New South Wales Government should fund or perhaps legislate for to surface abuse in real time and ensure workers are safe to speak up?

LAURIE BERG: I think that there are just a range of, as others have said, community networks, individuals who are already—often in their free time—providing assistance. I think it is very clear from the experience of all of the people appearing today and from research that migrant workers are far more comfortable speaking to someone that they know who may have some connection to their community or a connection to where they are rather than government agencies—although, obviously, they still respect the authority of the agencies. I think investing in place-based and community networks would certainly increase reporting.

FUZZ KITTO: This is one of the areas that we have really struggled with, not just in New South Wales or Australia but around the world. Four NGOs around the world from that experience have developed a tool called Million Makers, which is direct worker voice. One of the big questions in direct worker voice is who owns the data. It's one of the big ethical questions. We believe that the workers own the data, if they give us the data—and we pay them for that. We've done this already in north-west New South Wales in vineyards, where we had 100 per cent of the workers engage. We are doing it at the moment with Tesco in the United Kingdom—their seasonal workers. They're about to do it in Spain as well, where they import huge amounts of fresh produce—and migrant workers there. What Million Makers does is it works on a smartphone and we are getting at the moment, on average, 70 per cent to 100 per cent of the workers. It's all based on the ILO, the indicators of forced labour. We're getting incredible data to be able to get an assessment. It always is in first language of the worker. That's a tool that we've developed. As the member asked about that—what's available. This is one of the things that we think has been one of the most helpful things in regard to that.

JESSI CLAUDIANOS: We also feel that the development of statutory operating protocols is essential and also that the support and assistance for victims and survivors can't be just seen as a Federal issue. The support heavily relies on services available at a local level and roles that key agencies play in the safety, support and protection of victims and survivors. However, there is no statutory guidance for government or non-government actors—including key State and Territory actors such as State and Territory police, child protection agencies—involved in the identification, protection and support of people who have experienced modern slavery in Australia.

Adding to that as well, we also recognise the need for additional education and awareness and training for frontline workers. We acknowledge the steps and support taken so far by Federal and New South Wales agencies to train and build on the capacity of frontline workers. However, Australian Red Cross' experience consistently highlights that frontline workers do not yet know how to identify the risks of modern slavery and the indicators of severe exploitation or where to refer people for support, including referral pathways for the additional referral for trafficked people program as well. People with lived experience also highlight the need for us to increase the cultural responsiveness and cultural awareness of frontline workers, and training and guidelines.

LINA GARCIA-DAZA: On top of what my colleague Jessi was mentioning, with the Work Right Hub, an online information-sharing platform that Red Cross has that has been funded by the Attorney General's department, we have identified that information can be delivered to migrant workers in multiple ways and at multiple points in time. It is wrong to assume that people only absorb information in pre-departure times. In fact, in pre-departure times, it is very unlikely that people are thinking about potential situations of exploitation.

They might be likely to absorb information about where to seek general information, community supports, churches or religious supports, or any other type of basic information, including supermarkets, how to get transport and all these things. But when we use these types of platforms to actually provide that basic information, also with information on "If you ever experience any type of exploitation, help is available and these are the avenues of support", that seems to be a lot more effective. This is what workers have told us when we have consulted them in the development of the Work Right Hub.

The other thing that I will point out is I would like to highlight and welcome the initiatives that the NSW Anti-slavery Commissioner and other stakeholders have also recommended about the potential establishment of regional migrant hubs. The reason why we mention this is because evidence in the support that we have provided to people subjected to exploitation in regional and rural areas is that when there is no safety net available for them, they are ongoingly exposed to exploitation.

When we talk about a safety net, we are not only talking about a way of covering their very immediate needs but thinking about how we can cover the ongoing needs that change over time. That includes legal advice, that includes community advice and that includes, of course, the provision of very basic needs. But that also includes more ongoing and not necessarily ad hoc and one-off interventions because, despite the multiple efforts

CORRECTED

of their organisations on the ground, when we talk about one-off interventions, the need is still there. When the need is still there, the risk of exploitation will continue.

The CHAIR: I just want to touch on one area before we close today. Professor Burns, you alluded to a growing awareness of the place of partners on temporary visas. One issue that's been a consistent theme of the submissions has been gender-based violence and the additional burdens that women suffer. I would like to hear a reflection on that from each organisation, because I think it may need initiatives of its own, particularly in regard to the health sector, for example. I'll just open that up for commentary. I appreciate time is a bit limited, but I do think it's important to touch on that.

JENNIFER BURN: Globally and in Australia, most victim-survivors of modern slavery are women. In our experience at Anti-Slavery Australia, most of our clients are women and many have experienced forms of gender-based violence. That can be violence in the home or in a workplace or in other circumstances. One of the things that's really important to note is the issue that I mentioned before: that there's a lack of awareness of the intersectionality between family and domestic violence and modern slavery. Within New South Wales, for example, there could be a lot more done within the family and domestic violence sector to raise awareness around the intersections of these gender-based forms of abuse. I'm very happy to provide more information about this, Chair. While I'm here, to follow up earlier, Deputy Chair, we could provide some more information about the non-punishment principle.

Ms JENNY LEONG: Thank you. I'd really appreciate that.

The CHAIR: It would be good to have some more information on the work rights app as well, so I just flag that. Would anyone else like to make some observations in relation to gender-based violence and women? Professor Burn, you look like you want to.

JENNIFER BURN: We all say that there needs to be more done to raise awareness, but it's an issue that is very hard to pin down. What kind of awareness should be raised? How do you evaluate it and so on? In a project from Anti-Slavery Australia funded by DSS, we conducted an evaluation of a project that ran from 2020 to 2024 that developed an evidence base around awareness raising. I can provide that to the Committee in printed form, or I could send it electronically later if that would assist.

The CHAIR: Sending it electronically later would be great.

LINA GARCIA-DAZA: I would add to what Professor Burn was saying. Some forms of modern slavery, such as forced marriage and servitude in family and domestic settings, can involve victim-survivors who experience abuse and exploitation by their partners or family members, resulting in physical, sexual and psychological harm. Australian Red Cross has supported a significant number of people that have been experiencing domestic servitude, exit trafficking and forced marriage. To the question that was asked before, what has changed? In fact, one of the things that we have seen in New South Wales in particular is an increased number of referrals for exit trafficking. Before, we used not to see a lot of referrals for exit trafficking, but that has significantly increased in the last couple of years. It is exactly the same as deceptive recruitment. Previously, we were not seeing a lot of referrals for deceptive recruitment, and now that is one of the highest number of referrals that we receive. We would be very happy to provide additional information of the changes and trends of referrals in the last couple of years in New South Wales, if that's helpful.

The CHAIR: Exit trafficking refers to—

LINA GARCIA-DAZA: Exit trafficking refers to being coerced, forced or threatened to leave Australia against their will. It's usually people that identified themselves as victims or survivors overseas. They are willing but not able to come back because either their passport has been confiscated or they have been left in a place where they don't speak English or they are absolutely isolated, without money or any financial means to come back to Australia.

The CHAIR: The additional information on that would be welcome. I'm going to call that session to an end. I wish to, once again, thank all the witnesses. Sorry, Mr Kitto, you put your hand up.

FUZZ KITTO: Very quickly, on the gender-based violence, you do need to understand that it's different sector by sector. That is really important to understand. In the horticultural industries et cetera it is mainly males—almost exclusively males. It is more in health care and domestic servitude that that comes in. Just quickly, I'm a little bit disappointed we didn't get a chance to be asked any questions on the role of registering labour agents, which we think is one of the biggest issues and most important things for the Government to look at.

The CHAIR: That has been clearly identified earlier today. I think it's identified, in fact, as an urgent issue. I thank all of the witnesses for coming today and providing their evidence and for the submissions. The

CORRECTED

secretariat will contact you in relation to questions on notice and we've clearly flagged that there may be some supplementary questions. I hope you'll be happy to answer those. Once again, thank you.

(The witnesses withdrew.)

(Luncheon adjournment)

CORRECTED

Mr CHRIS EVANS, Australian Anti-Slavery Commissioner, affirmed and examined

Ms LAURA McMANUS, Director of Strategy and Business Engagement, Office of the Australian Anti-Slavery Commissioner, affirmed and examined

The CHAIR: Good afternoon and welcome back to the after-lunch session of the Modern Slavery Committee's inquiry into the temporary migrant workforce in rural and regional New South Wales. It gives me great pleasure to welcome our witnesses for the first session this afternoon. Good afternoon and welcome to you. We'll have a number of questions for you, and thank you very much for your submission, but would you like to start by making a short statement?

CHRIS EVANS: Thank you, Mr Chairman. It will be short; I know how this works. We really appreciate the opportunity to appear before the Committee. As I say, Laura McManus is with me. I partly brought her along because she's got a lot of experience working in business and supply chains in Australia, which is obviously very well connected to your terms of reference, so she's got a level of expertise. She's also a New South Wales resident, so she's more attuned to the local situation than me. I'm a West Australian, so I don't profess to have any great particular knowledge of the New South Wales environment other than broadly.

The submission, I think, reflects the fact that we're really pleased that you're taking an interest in these issues. I know that many of the levers involved in this debate are Commonwealth ones and involve a Commonwealth response, but we're very firmly of the view that there's a strong role for States and State instrumentalities to be involved in the fight against modern slavery. Currently they are not connected in the way they should be. The national action plan doesn't provide a role for State authorities. The reality is that the first contact—someone who may be in serious exploitation or in modern slavery will have had a contact with a nurse, with a policeman, with a teacher, with somebody employed by the State government, more likely than not, before it becomes known to us that they are living in this condition. So the State authorities are really important. The training and the understanding of the issue is really important among that cohort.

I just mentioned to someone—I did the figures the other day but, in terms of the police force, the AFP or the Australian Federal Police has got about 3,500 police force members. Obviously they've got specialists as part of that, but there are 65,000 police, otherwise, in Australia. So, if you think about it, who's more likely to come into a situation where they might stumble upon a victim or be called to an event where there might be victims at the premises? It's much more likely that it'd be State police. And, as you know, the States employ public hospitals. So someone going into an emergency ward et cetera, the relevant authorities are largely State government authorities in terms of that identification. I guess that's our major point that I'd like to stress. We obviously want to talk about that better cooperation. The training of first responders is really important to be able to pick the signs and to know how to deal with that.

Obviously the other thing we're very keen to see happen is labour hire licensing provisions in New South Wales. I've been briefed by both the Victorian and Queensland authorities in the last couple of months, and both of them argued that, as a result of their activities, dodgy providers had moved to New South Wales, particularly so in Queensland. They've tracked people moving because they were refused registration or were brought to attention for unethical practice, and sometimes criminal practice. They've jumped the border basically, because they don't have those restrictions in New South Wales. It's a real issue for New South Wales, if you like. You're in the pincer between two regimes with some reasonable regulation, and you're the alternative. There's a real need, if the national regulation doesn't go ahead promptly, for the New South Wales Parliament to think about moving on that. Anyway, I'll stop there and am happy to respond to questions.

The CHAIR: Ms McManus, would you like to make any comments?

LAURA McMANUS: No, that's fine. Thank you.

The CHAIR: I realise, Mr Evans, you're new to the role, and congratulations on being in the role and establishing your office. It is a really important role, particularly in terms of getting a much better collaboration between Commonwealth and State regimes, as I think you've alluded to in your address. That might be something that we wish to pursue. Just to pick up on your issue around the police as an example of that need for better collaboration, we heard this morning—and correct me if I've got this wrong—that, really, the issue for prosecution of instances of this does rest with the Australian Federal Police.

As a result of that, New South Wales police, who may well have good local intelligence—as we heard this morning, there are police stations in many rural communities, and their policemen, by the nature of their work, are well-connected to those communities but they're busy. They've got a range of issues to deal with. It seems that this probably isn't seen as something that's in their bailiwick directly, let me put it that way, and it's seen as a Federal issue. How can we change that? Is it a question of raising awareness and providing clearer pathways for

CORRECTED

referral to the Australian Federal Police? Or is it something to do with local police having more of a role in this regard? Are you able to offer one area where we could work on getting some better cooperation? I'm interested in your reflections on that.

CHRIS EVANS: That's a very valid observation. Effectively most countries, when they start with their response to modern slavery, have done it on a national level and look for a national response, particularly so in Australia, because the crimes are crimes under the Federal legislation, so the leadership has come from the Federal Parliament in that regard. As countries' responses have matured, they've tended to move to a more regional and local level, engaging the community effectively, because this is a problem for people living in our community. While it's necessary for Federal legislation, the Federal response and AFP response, the reality is, as you've said, the local police person in a regional town will have a much better idea of what's going on, a much better feel for who's in the town, what's happening, who's moving in and out. All of that sort of local knowledge is really important. Then understanding the issues involved in modern slavery, understanding the signs, being able to detect potential risks to people is really critical.

If you like, we need now to start moving down the pyramid to engage both civil society and State public servants, and other organisations in that community response. I think your observations are well made about finding ways to train and educate, but also to build connections between the Commonwealth agencies and the State agencies, and also to build connections between the various State agencies. Is there a coordinated response in New South Wales in terms of the State Government? Is there cooperation between the health system and the police system on the issues of modern slavery? I don't know, but that's the sort of thing, where there are great opportunities to develop those networks and develop the understanding and the identification.

The CHAIR: As a matter of process for me, if this Committee were to identify this as a significant issue—say, the relationship between local and Federal police—is that something we would seek your assistance with the Commonwealth, or would there be another way to approach the Commonwealth on that? What would be the most effective way to engage the Commonwealth Government on building those relationships, and perhaps those referral pathways?

CHRIS EVANS: I should say there is a protocol that exists between the State police forces and the Federal Police—I haven't been able to obtain a copy of that yet—so there is a formal mechanism of connection in the police forces. I'm not sure about anything wider than that, but I think it is certainly something that would be worthwhile either the State Attorney General or you raising with the Federal Attorney-General—obviously after the election, whoever that is—because I think there could be more done. I think an initiative like that would be valuable.

Ms JENNY LEONG: Thank you to you both for being here with us today. I'm interested to know, given your awareness nationally, but then also the intersection particularly with visas as a big issue and looking at the specific Pacific countries, particularly, where people are coming from that are at risk of modern slavery and, indeed, captured under the scope of this inquiry, are you aware of the extent to which there are supports, information services, things that exist in the workers' home countries? It would be great to know what kind of support we provide, formally or informally, to those existing systems, and how we can better resource and support that. A lot of the issues that have been raised with us have been around issues of isolation, language barriers and cultural barriers. Obviously in most cases people are going to be able to stay connected to home countries pre, post and during.

CHRIS EVANS: Yes. First of all, I had better make a declaration of interest. I started the first trial of the PALM scheme when I was Minister, so I've got some ownership and investment in it, if you like, and I'd like to be clear about that. I think there is work being done. As soon as I took up this position I engaged with the relevant departments and the relevant ministerial offices on these issues because I was concerned about some of the publicity and concerns being raised around the program. I've done quite a bit of work because, as you know, the program has grown quite quickly and has diversified from seasonal work into a whole range of other areas, so it's getting much more complex. Now there are plans to bring families from the scheme as well. I think there's a complexity developing here that perhaps the original scheme didn't provide for. Certainly one of the issues that the Department of Employment is dealing with now is trying to do more on the preparation of people coming out. I think it varies from country to country. Luckily, I have somebody with me who has just done a Churchill scholarship on this very topic.

LAURA McMANUS: Thank you for the question. Perhaps I shall submit my report as additional evidence; that might help.

Ms JENNY LEONG: Please do.

CORRECTED

LAURA McMANUS: As Chris alluded, about a year ago, I completed my Churchill Fellowship research on what we would call the recruitment practices in sending countries, so labour migration corridors. Certainly the public policy response in Australia has focused on, at least from my previous experience, the perspective of workers once they're in Australia. But when you're certainly looking at patterns of exploitation or the risk around the recruitment process, it often starts in what we would call the sending or home country. That was the particular focus of my research. I can speak to that and certainly don't profess it was an academic study. I spent about four weeks across four different Pacific countries that participate in the PALM scheme program, being Tonga, Vanuatu, Samoa and Fiji.

As Chris mentioned, the experience of the recruitment processes in all of those countries was actually far more different than I had anticipated prior to heading out on my study. It was maybe a naive observation to make, but I think it speaks to then when we're trying to make policy back in Australia, be it for business or for farmers or growers. You can certainly understand some of the challenges that they encounter upon receiving workers to their farms, because their experience of getting to Australia is also quite diverse.

There are a number of programs already in place, as you would well be aware, around pre-departure training, for example. But my experience of that is that they do vary in quality and content across the different sending countries as well. Certainly there is effort from DFAT—who I believe takes carriage of this program in the sending countries—more recently to also constantly review and evaluate the programs. It's putting extra emphasis particularly around cultural awareness training prior to workers coming out to Australia, which I think will add a lot of value and, equally, for farmers and also for those on the receiving side here in Australia as well, to also have that equal cultural awareness training. There's quite a bit going on in that space. Certainly, if you speak to DFAT or others in the industry as part of this process, they can build on that.

Ms JENNY LEONG: Obviously there's a level of enthusiasm probably as this being seen as very much an opportunity to be lifted out of poverty and have a new opportunity to be able to work in another country. I'd imagine the pre-process and the recruitment is quite enthusiastic. I wonder what—either formal or informal—exit interviews or pathways out are done when people are off-boarded, to share the intelligence, information or experiences of people. My concern is that often the enthusiasm to recruit people and the enthusiasm to take up an opportunity may not be the best time to actually address some of the risks that are there. But I would imagine there is a lot of informal knowledge that exists amongst these workers as to where are the safe spaces, what are the risks and where are the challenges.

LAURA McMANUS: Again, speaking anecdotally from my recent experience, certainly, like in any migrant communities or labour migration corridors, I think there are multiple channels in the ways that people receive information—the informal channels among the workers themselves being one of the main avenues. I think there are all sorts of both positive and negative experiences shared in those channels. Some of the more technical observations I was making as part of the research, or that I was looking more specifically at, were the types of formal information that people receive during what we would call the recruitment process. It's worth noting that the recruitment processes themselves also vary from country to country. In some instances, the Government might lead on the recruitment; in other instances, there might be private recruitment agencies as well. Whilst I think there's an attempt at consistency of information, I think how people are recruited also impacts the types of information they receive.

Certainly, there has been a focus on timeliness. As you say, when people receive the information, because you've already bought into the fact that you'll be travelling to Australia, you'll receive your information sheet the day before you get on your flight. You've really already committed yourself and your family to that process. Certainly the stakeholders I was speaking with during my time, including government representatives or employment agencies and civil society, were all very well aware of these matters, and they're taking those into consideration. I think it depends. We even have employers in Australia that go over and do direct hire. They're able to offer more detailed information to workers about the type of work that they'll look to experience—which, again, helps equip people far more, perhaps, than if the employer is not there hiring directly. Yes, it's a very varied experience. That was my observation.

The Hon. Dr SARAH KAINE: Thank you both very much for appearing today. I want to ask a bit about the labour hire licensing regulation. I note in your submission that you talk about the potential for a national scheme based on the Victorian model. I just wonder, given we're bordered by two different systems, what particular aspects of the Victorian model—if that's something you can answer, or you can take it on notice—were more attractive?

CHRIS EVANS: I think it's fair to say that the Victorian model is resourced much more strongly; therefore, they have a much larger range of activities that they're able to participate in. The Queensland operation is not of nearly the same size, so they're perhaps less able to do a range of activities that Victorians do. But it was

CORRECTED

regarded by most people as being the superior model. Having said that, my recent experience in Queensland—it seemed to me that there were some advantages in the Queensland model in the sense that they have a bit more discretion about registering people.

One of the weaknesses of the Victorian system is, basically, if you front up and apply to be registered, it's pretty hard for them to refuse you. You don't have to be a citizen; you can be on a temporary visa. And you don't have to provide information about financial means et cetera. To be honest, I was quite shocked about how easy it is still to register as a labour hire firm. I think Queensland have had better success, from what I've seen. And I'll be careful here because this is a bit anecdotal. But they have a bit more discretion about knocking people out at the application stage, which I think is a great strength because what the Victorians seem to be doing a bit of is having to chase their tail by having to let people into the system who they would rather not let in and then having to do the enforcement, if you like, and deal with the problem.

As I say, I am probably talking a bit out of school. I think there are benefits in all. But the reality is if we get to a point where the Federal Parliament or this Parliament is legislating, I think you'll be able to benefit from both those experiences and evidence to get it right. As you know, usually with legislation you don't get it right the first time, but you get some experience of how it's working. I think there are some things from both schemes that are worth having a look at.

The Hon. Dr SARAH KAINE: Would it be your intention to offer some commentary or advice when that's happening or through the process? Certainly, in New South Wales it's something that we would welcome. I don't want to speak on behalf of the Minister, but I am the Government rep here. It would be something that we would welcome so that we are consistent with the work that you're doing and also in Federal. Would you be offering advice?

CHRIS EVANS: Certainly. To be frank, we support having a national scheme because of this potential for movement across borders et cetera. I think most of the States signed up to that concept since there has been a little bit of ebbing and flowing going on. But the onus is now on the Federal Government to proceed with the national labour hire authority. My position would be that, if they're not going to proceed, then I'd be encouraging New South Wales to take the State option, if that was all that was available, as being better than not proceeding. There's enough experience overseas and in Victoria and Queensland to say they're a necessary part of our tool as an anti-exploitation measure. Other authorities would say to you that the unethical labour hire firms have a very close connection with organised crime, money laundering and other activities. I'm not saying all of them, but those connections are drawn quite strongly. This is not just a question of a bit of shoddy workmanship; this is planned exploitation.

The Hon. AILEEN MacDONALD: In your submission, you indicated that for every one victim that is detected or identified, four remain unidentified. I was just wondering, what is known about the extent of under-reporting and what can we do about it in rural New South Wales to improve the detection and data sharing?

LAURA McMANUS: Sorry, may you repeat the last part of your question?

The Hon. AILEEN MacDONALD: I was wondering what we can do in New South Wales to improve detection, perhaps with data sharing.

LAURA McMANUS: I believe the stat that you referenced that was in our report was from the Australian Institute of Criminology and one of their pieces of work here. Like any crime, particularly a crime that's hidden, detection is actually key to all of the next steps in terms of what might be considered here in New South Wales as some of the options to increase detection. Certainly, we pointed to earlier—and I believe you've heard throughout the day as well—the role of different what you might call first responders or different responders having the right tools available, particularly in what we might call, if we narrow to the private sector, particularly forced labour indicators.

The International Labour Organization has identified 11 indicators of forced labour. I'm not sure where that sits in the regime of police training, but there are options available in terms of the types of tools and indicators that business actually are already using in their own processes themselves to identify risk in their supply chain—so having the right awareness and tools around what to look out for. Our colleagues often also talk about the victimology—how victims might present and show up—and certainly there could be a lot of awareness and understanding around the types of experiences of migrant workers themselves and how they then present to police or law enforcement.

Certainly, again, drawing on our business background and my experience of how I see, certainly, companies looking at this in their supply chain, having trusted channels for workers to raise issue is nearly the unlock here. It's often referred to as a grievance mechanism. The voluntary principles that business sign up to, called the United Nations Guiding Principles on Business and Human Rights, actually outline eight principles that

CORRECTED

they've defined as what you might look for in an effective grievance mechanism. Certainly I know States and the Government have different mechanisms available to them, but I think some of the principles cross-pollinate. Is whatever mechanism being made available to workers legitimate? Is it accessible in a language that they can understand? Is it trustworthy? Is it time efficient? People often want quick resolutions. And also does it take into account what the person, the victim themselves, wants as resolution?

In previous cases that I might have encountered, people might not want to pursue a criminal justice response but actually they just want their unpaid super and their unpaid wages back, and they want to be employed on the right employment level. I think taking into consideration what those experiencing the violation want for their own remedy is a really important consideration as well.

The Hon. AILEEN MacDONALD: In your opening statement, you mentioned that it's the local police officer that's going to be best placed to know where there might be modern slavery. I was just wondering how critical then is training for, as you say, first responders—so local councils, GPs, housing services and police—and is there a jurisdiction that is doing this particularly well?

CHRIS EVANS: There are certainly some better examples around. I think the UK has certainly made a lot of progress in the last few years in terms of identification, and that's part because the Modern Slavery Act came in in the UK. But they had some terrible cases of forced labour—really, really shocking cases—and so there became a greater public awareness and greater interest. Like us, they have devolved police forces through the various counties et cetera, but they have worked hard at improving their understanding and ability to identify in the UK, and so they're getting much higher levels of reporting than they once did because the person knows what they're looking for. It's as fundamental as that. A lot of people who end up being identified have previously gone to a hospital emergency or to a GP. They get sick. They have an accident. There are those first responders who would be able to refer a complaint or an observation to authorities. It's a really vital piece of addressing the problem. As I say, it's more of a bottom-up response as well. It can't all be top-down.

The Hon. AILEEN MacDONALD: Say it's detected. What changes then are needed to ensure that victim-survivors can access services regardless of the status of their visas?

CHRIS EVANS: That's obviously one of the critical issues in these debates. I'm conscious that we're in the caretaker period and I'm a Commonwealth official, but I think the reality is there has been some progress in the last year or so on these issues, and the justice visa, which provides for people to be able to stay while they seek resolution of their unfair treatment in the workplace, is, I think, a really good step forward. It's only a pilot at this stage, but I think if that proves to be successful—and we're getting a lot of feedback; there's a great demand for it—then that's a model that may well be able to be used more broadly for dealing with people who are vulnerable to a concern about their status. I think the early signs of that are encouraging. But, as always, there's a problem about having enough resources to support those people while they're in the system. Resources is an argument that always comes up when you're talking about these matters.

The CHAIR: When the PALM scheme was originally set up, was there a grievance mechanism associated with that? Connected to that, what was the mechanism for community support in Australia with that? My understanding was there is a Community Connections group that has been tendered out to an organisation, but I don't get a sense, in the instances that have come to the Anti-slavery Commissioner in New South Wales or that we've seen in reports, that whatever that mechanism was has been very important at all really, and that it has actually relied on local communities to identify and support people at risk. When the PALM scheme was set up, can you recall what the grievance mechanisms were for people who came over and also what mechanisms were in place to provide support for people who were on the scheme? Have they evolved? I'm asking you partly because you were involved at the start of it but also partly because both of those are critical to a response to prevent exploitation.

CHRIS EVANS: It's an important issue. What I would say is that when it started 200 people came out for seasonal work. So it was a much smaller scheme. It was run by the Commonwealth Government—a large involvement from the sending countries, diplomatic representatives here et cetera. Most people from employer organisations will tell you it's the most regulated labour scheme in Australia, and that's true. I know a lot of accusations are made and there are instances of mistreatment et cetera, but there's more regulation, more support than virtually any other labour scheme.

If you compare the Working Holiday Maker versus the PALM scheme, it's just chalk and cheese in terms of there's no protection for working holiday makers essentially. It was a smaller scheme. There was more direct support. The places of employment were well known to the—it was just a different scale. There have been a lot of changes over the years. I couldn't map them for you. But the scheme grew. Some of the regulation changed. Some of it got a bit lax. Labour hire companies played a larger role. There's a whole development that—there are people more expert than me to take you through that. But certainly the Community Connections program was an

CORRECTED

important initiative to help do that. At the time, I was involved a little bit with the Salvation Army and that was about starting to provide those sorts of community supports.

What I would say is one of the things that we found in Australia that was different to the New Zealand scheme—and we based this model, this scheme on the New Zealand experience—was that there was much more of a diaspora of Pacific islander communities in New Zealand to support those coming on the scheme. What we found is, when people went to north Queensland to work on an agricultural venture—north Queensland is a long way from anywhere—they were a long way from any sense of community or church or connections. I think we have faced more challenges because of that. The diaspora in Australia has grown in recent years, which, to be honest, has been helpful. In my own rugby club in Western Australia, there are stronger connections now with communities. But it also has put a lot of pressure on some of those communities as well to support workers who get into some difficulties for whatever reason.

The CHAIR: That's actually a very helpful explanation of what has emerged and provides some gaps. You did compare it to the Working Holiday Maker scheme and compared the perhaps lack of regulation in that. We've heard earlier today that working holiday makers themselves could well be subjected to exploitation and even instances of modern slavery. I'm just wondering whether you had any views on a need to increase regulation in relation to protecting working holiday makers.

CHRIS EVANS: Look, I think it's a real issue, the lack of protection for working holiday-makers. As I say, there's a lot of focus on the PALM scheme. There are issues and they are being addressed, but it's also been very successful. People are getting income that they take back and invest in their communities et cetera, so I would like to have a bit of balance about this. One of the things that I do try to stress to people is that a large part of the issues that have been associated with the PALM scheme, and accusations and claims made, is actually about the workforce who have disengaged from the scheme, because they are the most vulnerable, and often people don't make that distinction.

Sometimes they've disengaged for good reason; sometimes they've disengaged for self-interest purposes. One of the things I always learnt in immigration was that people act in their own best interest, and there are opportunities in Australia for undocumented workers to get higher pay and better conditions working in other sectors, so some of it has been driven by that. Some of it has been driven by mistreatment. Some of it has been driven by misunderstanding. But in any event, there's a large group of disengaged workers, who are the most vulnerable. They're the ones you'll find working largely for unethical labour hire companies et cetera, because they run out of options and they can only get a job with someone who doesn't check their visa status. I just wanted to make that point because I think it gets lost a bit in the debate.

The history of the working holiday visa is that the incentive to do work in regional Australia in order to apply for a further visa has been a mechanism to get a workforce into the regions, and it's been effective in that regard. But it also has meant that those people who are very much committed to getting another visa extension are very exploitable, if you like, because they basically say, "I'll tough it out for the three or four months I've got to do in order to get the visa for the next year". But as a result, they are very vulnerable to exploitation. There are numerous instances and documentation around that exploitation.

The other observation I'd make is that, under pressure for good diplomatic relations with foreign countries, the scheme has also been extended. It's been extended further and further to countries who perhaps have lower standards of living and lower wage rates than Australia. That creates a different dynamic to your traditional view of a German or English backpacker coming out for a summer holiday in Sydney and doing a bit of work to get the second visa. They're people who are coming to access the labour market and are also quite vulnerable.

The Hon. Dr SARAH KAINE: I want to explore a bit further. One of the questions that I've asked various witnesses today—you mentioned it in your introduction. Of course, we are just a smaller jurisdiction and many of the issues are Federal. We do have the types of agencies you spoke about—police, health et cetera. But I wondered if either of you have come across examples where levers which perhaps aren't traditionally seen as being about workplace regulation—and I always look at those because of my background in IR—might be used in a way that assists with enforcement or compliance with modern slavery regulation or workplace regulations. I wondered if you had or knew of any examples where this had occurred.

CHRIS EVANS: I'm happy to take that on notice if you like.

The Hon. Dr SARAH KAINE: That'd be great.

CHRIS EVANS: Certainly I know in America, in the United States, there have actually been quite interesting local responses and also the use of other laws to prosecute. If they can't, basically, manage to get a prosecution on a modern slavery offence or a trafficking offence in America, they find some other way of local

CORRECTED

authorities being able to deal with the issue, if you like, and put someone out of business because of that exploitation. One of my teams actually got a lot of experience in that, so I'm happy to maybe take that on notice.

The Hon. Dr SARAH KAINE: That'd be perfect. Thank you.

LAURA McMANUS: I might be able to build on that with a quite different example, again with more of a private sector background. Certainly, when it comes to the issue of migrant workers in supply chains and some quite interesting models from abroad that are in the forthcoming Churchill Fellowship report that you will receive after the fact, there are different models around how you might use market mechanisms, along with workers on farms examples from Florida that are now being piloted in the UK. They are just different forms of models. I'm certainly not speaking for business now, but I think business also welcomes being at the table. They don't want modern slavery in their supply chain as much as the Government doesn't want it in their State. So there is engaging with industry, particularly around labour hire. I think business also sits on quite a lot of information. They're out there, doing their supply chain audits. They're engaging with suppliers. There is an opportunity there on how that information is perhaps better shared, or there are just different sources of information that, to your question, might be a different or innovative way to think about the problem.

The Hon. Dr SARAH KAINE: Without a spoiler alert, are we talking about contractual mechanisms down the supply chain?

LAURA McMANUS: There are contractual mechanisms, but contractual mechanisms are only as effective as they're enforced. My personal preference and approach is more around supplier engagement, partnership and understanding. Bridging two of the conversations before around grievance mechanisms and what a good response looks like, certainly we've referenced in our report the concept of place-based responses. You can't boil the ocean. Maybe New South Wales doesn't need to do everything across the State, but we would know and certainly have access to information about where there are hotspots, where there are certain regional regions more at risk or where there's a higher concentration of migrant workers. Thinking about innovative groups and ways of bringing different communities, government, the private sector and industry together in those locations more specifically might be a different way for us to think about the problem.

The Hon. AILEEN MacDONALD: I have a broad question. What would a well-coordinated cross-government strategy look like in practice?

CHRIS EVANS: How long have you got?

The Hon. AILEEN MacDONALD: Maybe take it on notice.

CHRIS EVANS: No, that would be a very big piece of homework. I think I made the point earlier. I think we need to engage the States much more meaningfully. We need to engage from a community level much more meaningfully. As I say, we've started with a top-down national response—the big national institutions and laws. But I'm sure the other members of Parliament from regional seats would have a much better feel for what's going on than the AFP or I would. I mean no criticism of the AFP, but unless they had been alerted to a problem, they wouldn't have responded. I was in a regional centre in Victoria the other day, having a look at that and some of the PALM issues, and somebody said, "See that woman over there? She's the one who's running the rackets regarding a particular racket that was occurring with PALM." They know. It was in the middle of the main street. They know who's running these operations because it's local knowledge. Tapping into that is a real part of the answer and a bit more of a bottom-up engagement, because these are problems in our community. Many of those people go to church; they shop. They're living lives—not necessarily a normal life, but they have contact with other people in our communities.

The CHAIR: That's certainly a theme that has emerged today, about the importance of that community knowledge and response. It's certainly a big feature of what has raised this issue with the Anti-slavery Commissioner here. But what I'm now picking up is that that's probably a mechanism for allowing people to raise issues in a safe environment with people who have some understanding of their cultural background. We probably need to think about how we formalise and resource those structures within communities, and then link them to the different service providers so that the bottom-up knowledge meets the top-down policy setting. I think we might leave it there. Once again, thank you very much for coming today and providing evidence. The secretariat will contact you in relation to questions on notice, and there may be supplementary questions. I hope that you would be happy to answer those as well. Thank you very much for coming today and appearing before the Committee.

(The witnesses withdrew.)

CORRECTED

Professor TOMOYA OBOKATA, UN Special Rapporteur on Contemporary Forms of Slavery, before the Committee via videoconference, affirmed and examined

The CHAIR: Good afternoon, Professor Obokata. It's lovely to see you again. I had the pleasure of meeting you when you visited Wagga Wagga and Leeton. Thank you very much for your visit and for your reports. We've got the members of the Committee here. Professor Obokata, would you like to make a brief opening statement before we begin a set of questions?

TOMOYA OBOKATA: First and foremost, thank you very much for this opportunity to provide testimony in front of your Committee. I am the current UN Special Rapporteur on contemporary forms of slavery. As you are very much aware, I visited Australia officially in November last year for two weeks. The purpose of my visit was to understand the nature and extent of contemporary forms of slavery—which include issues such as forced and child labour, forced and child marriage, human trafficking, sexual slavery, and so on—in a country, and analyse the efforts of Australia, both at the Federal and territorial or State level, in combating these practices.

Over the course of my visit, I met over 500 stakeholders, including the Federal government and territorial and State authorities, Australian Human Rights Commission, Anti-slavery Commissioner for New South Wales as well as the Modern Slavery Committee, civil society and community-based organisations, workers' organisations, as well as survivors of contemporary forms of slavery, and workers. In terms of locations that I visited in addition to Canberra, I visited Sydney and Wagga Wagga—as you highlighted—the Riverina region, Melbourne and Brisbane. For those regions that I could not visit, I held virtual consultations with some State and territorial authorities and other stakeholders before, during and after my visit. I appreciate the focus of this hearing. The treatment of temporary migrant workers was a major issue that I examined, so I'm very happy to expand on that as we proceed with the hearing. Thank you very much, sir.

The CHAIR: Thank you, Professor Obokata. I might pick up on that point because, as you point out, the inquiry is around temporary migrant workers. A section of your final report deals with this issue and what you found when you did visit. I know you met with a range of community groups in the Riverina. Could you expand on what you found in relation to temporary migrant workers? You have included this in your report, and I acknowledge that, but it would be good to have your own spoken reflections on this, and also how it compares with situations in other comparable jurisdictions or other parts of the world and some reflections of what we might do about it. It's a broad subject, but perhaps you could just start with that.

TOMOYA OBOKATA: It is wrong to suggest that the vast majority of the workers are exploited in Australia, wherever they are. I do appreciate the Federal Government has various mechanisms in place to protect the rights of workers. From what I have seen and what I've heard, based on information I received, I have discovered patterns of exploitation, sometimes quite severe, particularly in the rural areas. These exploitative practices include, for example, deceptive recruitment, underpayment, withholding of wages, unilateral changes or termination of contracts, excessive deductions, unreasonable target requirements, racial discrimination, hazardous working conditions, harassment, threats or even violence, including sexual and gender-based violence, as well as dismissal due to pregnancy. These are the working conditions. I've also received information in terms of living conditions, which raises concerns, as in many of these schemes employers are directly responsible for providing accommodation. According to the information I received, including speaking to workers, those conditions or standards are often quite bad. These are some of the information that I have received during my visit.

The key issue with this arrangement that you have in Australia is actually comparable to other jurisdictions, including Canada—the country I also visited—and many others who recruit temporary migrant workers. That is the closed nature of these programs, whereby workers are not able to change their employers at their own will. Even if they are, perhaps, exploited one way or another, many have no choice but to stay with the employer, because if they leave, they may lose their status and become undocumented and would be subjected to law enforcement action. This is a very serious and ongoing fear among the workers. That also applies in the Australian context. I'd like to stop there. If you have any additional questions, I'll be very happy to expand.

The CHAIR: Are you saying that the closed nature of that scheme, with the limits on visa portability, is a key factor that you found in other jurisdictions? You mentioned Canada.

TOMOYA OBOKATA: Yes, that's right. In the Middle Eastern region, they also have a system called kafala system where workers are tied to a single employer, and they lose status. So, yes, this is not uncommon. This is a common practice in various parts of the world—including in my country, Japan—for temporary migrant workers. That seems to be the key issue, because that creates a power imbalance between employers and employees.

CORRECTED

Ms JENNY LEONG: Thank you so much, Professor Obokata; it's lovely to see you again. Can we just stay on that topic but add into it the other concern that we've heard. Many of these employers are also then providing accommodation, so the employment is also linked to accommodation and housing. Do you want to expand on the risks with that, but also what you see that jurisdictions could do in providing access to alternative accommodation and situations where there are risks of contemporary or modern forms of slavery?

TOMOYA OBOKATA: Yes. Accommodation also in various cases raised concern from my point of view because there are conditions such as overcrowding, lack of heating and substandard conditions at the cooking facilities and things like that, and sometimes gender insensitive arrangements may seem to be in place. Also, accommodation attached to the employers—again, not every instance is quite bad or violates the international human rights standard. But that in itself, in my view, can be the form of exercise of control over workers. By confining workers in their own work premises, that can be taken as employers exercising additional control over them, and that sometimes in many cases workers may feel that they are trapped. They have nowhere to escape.

If they leave the accommodations and so on, there may be retaliation if they go for shopping without getting authorisation, and so on, so that may lead to retaliation. Workers are naturally fearful of these things because they would like to stay and work. But if they are being threatened with dismissal, then they have no choice but to comply. If they raise complaints about living conditions, I think that also raises an issue. What you could do, perhaps, is to work with the local housing providers and maybe come up with an arrangement where workers can live not outside, somewhere nearby, in a private accommodation, where they may have extra control and monitoring by the local authorities. I think that may be a step that New South Wales could potentially take.

Ms JENNY LEONG: Professor Obokata, in the context of the international frameworks that exist around the principles that can prevent contemporary forms or modern forms of slavery, could you talk a little bit about the non-punishment principle? There are obviously issues in relation to visas that intersect with people then disengaging from their employment being in breach of their visa situation, or indeed being exploited, but knowing full well that they are going outside of the conditions of their visa in their work. Fearing the reporting of that, could you provide some context on that framework for the Committee?

TOMOYA OBOKATA: Yes. Thank you very much for that question. The principle of punishment is extremely important for issues within my mandate, contemporary forms of slavery, because, as you highlighted, many workers may end up breaching, for example, national labour, immigration and other laws and regulations and then are subjected to law enforcement action, arrest, detention and criminal prosecution. I do believe that is certainly a wrong approach for any government to take. If they have been victimised in contemporary forms of slavery, they should be regarded as victims and not criminals, and it is extremely important that authorities do not apply particularly immigration laws and regulations for being undocumented, because that also prevents them from approaching the authorities.

They are very much aware that if they have broken the law, they will be arrested, and therefore they remain hidden, and all of these exploitations and abuse remain unreported. In my view, this punishment and fear of prosecution continues a vicious cycle of exploitation and abuse. I urge the Federal Government, particularly, which is in charge of immigration regulations, not to enforce immigration laws for victims of contemporary forms of slavery.

The Hon. Dr SARAH KAINE: Professor, I want to ask about international frameworks but a bit differently. One of your selected recommendations was the ratification of a number of relevant international instruments. I must confess I didn't understand there were a number that we haven't ratified. Could you give an overview of how ratification might fill some of the gaps that you've identified?

TOMOYA OBOKATA: I urge all states to ratify key instruments. In this case, the most important one in my mind for Australia is the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. That's the human rights instrument which is not universally ratified as yet. Oftentimes many destination countries, including Australia, have chosen not to ratify it. That instrument, along with others—for example, ILO standards—sets out clear obligations for states to take both documented and undocumented migrant workers. Ratifying this and other treaties would legally bind Australia to provide additional protections, and I think that is quite important. That also comes with regular monitoring by independent bodies such as a committee of experts, with a view to encouraging Australia to fulfil its obligations. That's our basis for recommending to Australia that it ratifies that particular migrant workers convention along with others like, for example, the Migrant Workers (Supplementary Provisions) Convention of the ILO and so on.

The Hon. AILEEN MacDONALD: Professor, given what you have observed across different jurisdictions, what are the legal, social or even reputational consequences when a country such as Australia or, indeed, the State of New South Wales continues to rely on temporary migrant labour while failing to provide adequate protection against exploitation and modern slavery?

CORRECTED

TOMOYA OBOKATA: I think it sends a very grim picture worldwide. In saying that, Australia has been at the forefront, I would say, especially at the international level, of tackling human trafficking and contemporary forms of slavery. I very much appreciate the Federal Government's efforts in that regard, working with other partners across the globe. I'd like to commend the Government for that. But what happens back home? If you look at the nature and extent of exploitation in New South Wales and elsewhere for migrant workers, I'm very saddened that this is happening.

Certainly, it is up to the Federal Government, first and foremost, to revise the current program to ensure the rights of temporary migrant workers. Particularly the PALM scheme has been raised as a serious concern because of its particular nature: the inability to change employers, access to benefits are restricted, and also the pathways to permanent residency, for example, are restricted and so on. Even within the various schemes there seem to be discriminatory practices. All of that I think needs to stop. Australia has the opportunity to change that and be the world-leading country. As I said, similar schemes do exist in various parts of the world. I do hope that Australia can take that step to be the leader in this regard.

The CHAIR: Professor Obokata, I've just got a couple more points to raise with you. You did make a point in the report that the inspection regimes that are currently operating in Australia need some urgent attention. That is how I think you worded it. We have become aware of difficulties with inspecting and also difficulties with the relevant agencies at Federal level obtaining information. That has emerged. I'm just wondering if you had any thoughts on a good way of approaching inspection regimes, or good principles that inform them, based on what you may have seen elsewhere.

TOMOYA OBOKATA: The problem with the labour inspection is an issue in every single country, not just limited to Australia. But I have observed that there is scope for improvement. I appreciate, for example, that the Department of Employment and Workplace Relations as well as the office of the Fair Work Ombudsman are doing many good things—for example, unannounced visits and intelligence gathering. I'd like to commend them for that. But in looking at various jurisdictions, for example, increasingly, civil society, trade unions and local actors can also play a part in cooperating with all of these Federal agencies. I know that it's very resource intensive and it is impossible to inspect a premise every single day and for an extended period of time, so why not have that cooperation among various actors, particularly trade unions workers' organisations? They can also help the authorities to inspect premises and negotiate various things with employers. In terms of inspections, I think a multi-stakeholder approach seems to work well in various contexts.

The CHAIR: To expand on that and that co-regulatory approach, we've had some evidence in another inquiry we had in relation to ethical clothing responsibilities where a co-regulatory approach that was developed a couple of decades ago was of enormous value. In that particular instance, the unions were able to develop relationships of trust with workers that meant that they could provide information from the ground up. In this instance, your suggestion of unions is important, but I just add in that I suspect, in rural areas where we don't have a strong union workforce often, it may well be community groups or local government that may be the co-regulator. Have you got any reflections on that?

TOMOYA OBOKATA: Yes, I don't see why local authorities can't also take part in inspections, if it's possible. I think collaborative approaches can work. It may not necessarily be the case. As you highlighted, rural areas are very difficult for union representation and so on. But there are civil society groups who deeply care about these issues and they would be more than happy to assist workers. In addition to inspections, I think that the reporting mechanism should also improve where there are no regular inspections. I think it's extremely important that local authorities and Federal governments provide the avenue for reporting anonymously so that authorities can respond quickly. That's another aspect. In addition to inspections, I think the reporting and identification referral mechanisms could be enhanced in Australia.

The CHAIR: I think we've heard evidence today about the need for resources to be in different languages and to be accessible as well.

TOMOYA OBOKATA: That's right.

The CHAIR: But it seems to me that community groups will have a quite strong role, because of their trust and their face-to-face connections, in linking people to that. I think that will be quite important. I've just got another area to explore. You make a comment about the pre-departure information and, when people come from different countries, the information they receive prior to arriving in Australia. We just had evidence that that can be pretty variable and it's not often in control of firms in Australia or the ultimate employer in Australia. I'm just wondering whether you've seen examples of good practice in regard to that or good evidence of good practice in relation to preparing people and providing them with the right information before they sign up. What we heard was that people often hear word of this, they sense an opportunity, they hear all the good things, they sign up and then they find out what's involved in it. Whereas it would probably be better if, along with that enthusiasm, before

CORRECTED

they signed up, they were actually provided with some information about where they were working, visa conditions and so on. Have you seen any examples of good practice in regard to pre-departure preparation?

TOMOYA OBOKATA: Are you asking in Australia?

The CHAIR: Australia or perhaps other countries where you've visited or had exposure, whether you can point to any regimes that have been able to ensure that before people arrive and actually before they even sign up, they've actually got good information about what they're signing up for.

TOMOYA OBOKATA: I think providing accurate information has always been an issue, not just in Australia. In other countries I visited, oftentimes before they migrate, they do not receive sufficient information. The pre-departure briefing primarily is a responsibility for the sending countries. I would hope that wherever they come from, that local and Federal governments in those countries would facilitate orientation and things like that. In a country like Sri Lanka, where I visited, they do have a dedicated department for migrant workers and they do provide pre-departure information sessions, and accurately. Again, something like this is maybe beyond the control of Australia, but the Australian Federal Government could work with these sending countries more to ensure that the quality of information is good. Also the involvement of local actors in Australia, if they can be more involved in pre-departure briefing, for example.

I also heard from various stakeholders at the local level in Riverina and others that they wish they could take part more and also workers themselves, if they have an opportunity, to speak at these events. I think that may make sense. I do appreciate that in Australia you have this country liaison officer for the PALM scheme and so on, and I think that's a good initiative to me because I haven't heard of that in any other countries. The role of country liaison officer may become a lot more important in providing that information beforehand as well as after they arrive, post-departure. But I think the involvement of civil society workers organisations would be an important step.

The CHAIR: Can I just clarify, did you say it's usually the responsibility of the sending country to ensure that the people who sign up have received appropriate information?

TOMOYA OBOKATA: I suppose if it's a pre-departure then I think if they are coming from there, my expectation is that the authorities—because those governments have an agreement, a memorandum of understanding. They're equally responsible for providing accurate information in those countries. Yes, I do believe that. But then Australia could kind of make sure that the information that they are imparting is accurate and up to date and not disruptive.

The CHAIR: And so the country liaison officers sound as though they may be an initiative that we should get some more information on, because that sounds like something good that we're doing in Australia. You referred to Sri Lanka having a department that was actually responsible for migrant workers. Did they provide standardised information to sending countries, or were they responsible for providing information to their workers who were going overseas?

TOMOYA OBOKATA: My apologies. It is a case of the department providing information to workers who are migrating abroad. I'm sure some of the PALM countries may have similar arrangements in place. I think governments in sending countries should do more in providing that. But Australia could work and actors here at the local level could also. Quite frankly, I think some of the stakeholders I met at a local level said they are willing to work with the Federal Government to provide that information before they arrive. Why not collaborate and cooperate? This is where the multi-stakeholder approach can work quite well.

Ms JENNY LEONG: Chair, if I may, just in relation to that, when we were in Kenya, one of the things that was raised with me talking to one of the survivor-led organisations there is that they had talked about the fact that they believed that there was a strong role, given the connection between domestic workers that were going over to the Middle East—that they had thought that the capacity to boost the sending countries' consulate presence in the receiving countries' areas would be one way to increase that. The other thing to consider is what is the capacity building and strength building of the consular representatives of the sending countries in New South Wales and how we increase resources in country for those communities and, indeed, those governments.

The CHAIR: Professor Obokata, we may have finished our questions. Are there any final remarks you'd like to make?

TOMOYA OBOKATA: Just to follow up on my visit, I'm about to finalise my report to that country visit and that will be submitted to the Human Rights Council in September. The full report should be available somewhere around late August, beginning of September. Then I'd be very happy to get in touch. As soon as that report is published, I'll be in touch with you and your Committee so that you can take a look at it. Obviously the migrant worker is just one aspect. I also dealt with other issues like asylum seekers and Indigenous populations,

CORRECTED

and persons with disabilities and things like that. But there's a good section on temporary migrant workers and hopefully you find that quite informative.

The CHAIR: Thank you, Professor Obokata. Obviously we've focused on temporary migrant workers in this inquiry today, but the Modern Slavery Committee will be interested in your broader report so we look forward to that. I also want to thank you for your presentation at Parliament, which was well received and I think did a lot to lift the profile of this issue in our legislative community. Thank you again for participating in that. I wish you all the best and thank you for appearing before our Committee today.

TOMOYA OBOKATA: Thank you very much. Just one last thing. If there's anything I could do to support the Committee's work and beyond, please feel free to get in touch. I think it would be wonderful to continue a dialogue into the future. My visit is not the end, but hopefully this will be the beginning of a good cooperative relationship. I very much look forward to working with your Committee. Thank you once again for inviting me.

The CHAIR: Thank you, Professor Obokata. We appreciate that very much. We will end the hearing. I thank everybody for participating.

(The witness withdrew.)

The Committee adjourned at 15:35.