

Recommendations from the Human Trafficking Research Coalition

Background on the Human Trafficking Research Coalition

In 2013, the Human Trafficking Research Coalition (Coalition) was formed out of concern that there was no evidence-based research regarding human trafficking in New Zealand. Initial members were ECPAT NZ, Hagar NZ, Justice Acts NZ, The Préscha Initiative, Raising Hope and Stand Against Slavery. The Coalition commissioned Dr. Christina Stringer and Dr. Glenn Simmons of the University of Auckland Business School to ascertain the extent of human trafficking in New Zealand because they had previously uncovered slavery on New Zealand's foreign flagged vessels and thus had credibility within this field. Since then, Raising Hope and Justice Acts NZ have concluded operations and Dr. Glenn Simmons withdrew from the research due to other commitments.

While the original purpose of the Coalition was to research the extent of human trafficking in New Zealand, the research took an exploratory journey of its own due to the people who came forward for interview. Consequently, the end result of this research focuses on the issue of worker exploitation, which forms part of the legal definition of human trafficking but does not amount to trafficking in persons per se.

The Coalition acknowledges that issues of labour exploitation and human trafficking are complex, often intertwined and still being defined in New Zealand. s98D of the Crimes Act 1961 regarding Trafficking in Persons was amended in November 2015 and as a result, New Zealand's first human trafficking conviction took place in September 2016.

The Coalition is proud to present empirical research that contributes to New Zealand's understanding of exploitation and human trafficking. The recommendations provided below have been developed independently from the researcher by the Coalition consisting of ECPAT NZ, Hagar NZ, The Préscha Initiative and Stand Against Slavery (see [Appendix 1](#)). The Coalition acknowledges that the recommendations do not cover all issues identified in this report and encourages the New Zealand Government to be proactive in addressing the issues raised.

The Coalition commends this research and recommendations to New Zealand as part of our national and international commitment to ending labour exploitation, human trafficking and slavery.

Structure of Recommendations

The Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organised Crime ("Trafficking Protocol") establishes a three-tiered strategy to combat human trafficking: the prevention of human trafficking; the prosecution of traffickers and the protection of victims. For the prosecution of human trafficking to be effective, prevention and protection objectives must be fully functioning. The Coalition has made broad recommendations under the headings of Prevention, Protection and Prosecution. A brief preamble of each tier is outlined preceding the recommendations.

Prevention

Article 9 of Trafficking Protocol outlines that states have an obligation to prevent and combat human trafficking. It further outlines that states should undertake research into the issue of human trafficking, strengthen legislative, educational, social and cultural measures to discourage the exploitation of people and amend or adopt the necessary legislative measures and establish comprehensive policies and programmes to prevent trafficking in persons. Article 10(2) outlines that law enforcement, immigration and other officials should be trained in identifying victims of human trafficking and prosecuting perpetrators of this crime.

- 1. The New Zealand Government should create and resource a specific human trafficking office, in alignment with international best practice, that actively coordinates an interagency government and civil society response to human trafficking and labour exploitation.**

Commentary:

The priority of combating people trafficking in New Zealand should be held at the very highest level of the New Zealand Government and a designated office that coordinates an inter-agency cross-government response to human trafficking should be implemented to show visibility. This office would have the responsibility of developing tools and guidelines to facilitate human trafficking investigation, coordinating national awareness and anti-trafficking initiatives, being a first port of call for victims who need assistance, coordinating intelligence and developing and maintaining international partnerships. It is imperative that New Zealand's response is jointly shared between government and civil society.

- 2. The New Zealand Government should actively commit to funding further research into vulnerable demographics identified in this report.**

Commentary:

This research has confirmed that there are vulnerable ethnic groups and specific demographics with elevated levels of exploitation. The New Zealand Government should commit to further in-depth research into the vulnerable demographics identified in order to understand and address the specific and unique issues they present. Further research suggestions could also include:

- Expand the current research to continue to build a better picture of the level of exploitation in New Zealand over the next five years;*
- A longitudinal study, from 2013 to 2030 of labour practices, migration movement and reports of exploitation including the New Zealand government's response, monitoring and reporting of this issue;*
- More research into particular visa categories such as working holiday makers, seasonal workers, and post-study work visas which can facilitate the exploitation of people in New Zealand.*

- 3. The New Zealand Government should actively commit to monitoring industrial sectors where labour exploitation is taking place and regularly publish the results of this monitoring in order to measure and quantify this issue.**

Commentary:

This research has confirmed that specific industry sectors within New Zealand have elevated levels of labour exploitation. The New Zealand Government should actively monitor these sectors, set out industry specific guidelines, collect quantifiable data regarding labour practices and publish this annually highlighting best practice where appropriate.

- 4. The private sector should establish a fund to complement government resourcing for continued human trafficking research, policy and law formation, education and frontline training, victim identification and victim support. The governance and management of this fund should be managed by a selected group of people from government and civil society in an intentional, collaborative exercise.**

Commentary:

Combating exploitation in New Zealand requires a collaborative effort from both the public and private sector. As labour exploitation and human trafficking is a human rights offence involving the private sector, it is imperative that the philanthropic and commercial sectors of New Zealand take responsibility in addressing this alongside the New Zealand Government.

- 5. The New Zealand Government should adapt MOU's with other countries (where recruitment agencies are involved with migrant workers) to include; a standard contract between a migrant worker and the recruitment agency, a standard employment contract, a limit set on recruitment fees, ensuring the worker has at least one day off per week,**

ensuring no passports are confiscated, requiring all migrant workers to do an in country induction into New Zealand shortly after arrival.

Commentary:

The research has clearly revealed that recruiters are playing a role in the New Zealand migrant job scene by at times charging exorbitant fees at high interest rates. This leads to indebtedness and vulnerability to exploitation and potential trafficking. Adapting best practice examples and forming MOU's with partner countries could assist in reducing exploitation, abuse and human trafficking.

- 6. The New Zealand Government should establish a New Zealand Labour Code/ red flag system for human trafficking and labour exploitation, with relevant staff trained to identify these and take appropriate action. Red flags would include deception over employment terms and conditions, illegal or excessive placement fees charged to foreign contract workers, unexplained fees and costs, lack of transparency and passport retention.**

Commentary:

This code should be aligned with international best practice examples from the International Labour Organisation and take into account industry specific red flags, where possible.

Protection

The Preamble of the Trafficking Protocol outlines that state parties have an obligation to protect the human rights of victims of human trafficking. Article 6 of the Trafficking Protocol outlines that states should protect victims by providing them with information and services including information regarding court and administrative proceedings, physical, psychological and social recovery services that include medical care, counselling, a safe place to live and employment. The UN Office of Drugs and Crime, International Framework for Action to Implement the Trafficking in Persons Protocol (2009) ("UNDOC Framework") outlines that states should develop and strengthen victim identification procedures and ensure that these procedures have a human-rights based approach to the protection of victims "regardless of their cooperation with law enforcement." The framework also outlines that victims should be referred to the asylum system where appropriate.

- 7. The New Zealand Government should expedite current efforts to update the New Zealand 'Plan of Action to prevent People Trafficking' and provide a deliverable timeframe for completion of this. The update should take place through active participation with appropriate stakeholders in government and civil society.**

Commentary:

The New Zealand Plan of Action to Prevent People Trafficking hasn't been updated since 2009. There have been a lot of developments in law and policy since then and a new Plan of Action should reflect this.

- 8. New Zealand Customs officers, Immigration Officers, Refugee and Protection Officers, Members of the Immigration and Protection Tribunal and all other frontline staff that interact with potential victims of human trafficking should be given mandatory training to assist with victim identification.**

Commentary:

While it is acknowledged that training of some frontline staff currently takes place, this should be rolled out to all frontline staff to assist with identification of victims of human trafficking and labour exploitation.

- 9. A curriculum covering basic New Zealand employment and immigration law should be developed for new migrant workers to New Zealand in conjunction with an organisation, such as the Citizens Advice Bureau, who are often front footing migrant work related issues. The curriculum could form part of an induction course where migrant workers are**

taught about New Zealand law regarding decent work, employment, what to expect in an employment contract, tax requirements and holiday pay, pathways to residency etc.

Commentary:

The report identified worker exploitation often took place when workers did not understand their employment or immigration rights in the context of their employment agreement. A baseline understanding of employment and immigration rights would clarify expectations in employment and empower workers to know when they were being exploited or taken advantage of. It would also act as a deterrent to employers exploiting workers.

Prosecution

Article 5(1) of the Trafficking Protocol states that state parties should adopt legislative and other measures as may be necessary to establish as criminal offences the conduct set forth in the definition of human trafficking. The European Court of Human Rights states that “the spectrum of safeguards set out in national legislation must be adequate to ensure the practical and effective protection of the rights of victims or potential victims of human trafficking.” The UNTOC framework encourages states to strengthen legislation in compliance with the Trafficking Protocol and criminalise crimes related to trafficking in persons, such as corruption, money laundering, obstruction of justice and participation in an organized criminal group. Section V of the Trafficking Protocol states that law enforcement entities should develop intelligence led investigations that do not necessarily rely on the testimony of victims.

10. The New Zealand Government should analyse the two human trafficking prosecutions that have recently taken place in New Zealand (one successful, one unsuccessful) and ascertain whether current New Zealand law allows for effective prosecution to take place within the current legal framework.

Commentary:

New Zealand has had two human trafficking prosecutions take place under the amended Crimes Act with vastly different outcomes. Comparative analysis of the two decisions would be helpful in ascertaining factors that contributed and hindered successful prosecution, especially as the legal definition of human trafficking is being tested for the first time. The focus of this exercise should be on ensuring that human rights based, victim centric procedures take place in prosecution.

11. The New Zealand Government should review the UK Modern Slavery Act 2015 (and other similar, emerging international law) to ascertain whether New Zealand should be implementing similar legislation that makes it unlawful for companies with slavery in their supply chain to operate in New Zealand.

Commentary:

The UK Modern Slavery Act 2015 consolidated slavery and human trafficking offences, set a strong international message that slavery and human trafficking would not be tolerated in the UK and required businesses with an annual turnover of GBP 36 million to report on steps they have taken to ensure slavery and human trafficking are not taking place in their business and supply chain. The New Zealand Government should consider implementing similar legislation which makes it clear that human trafficking and modern slavery attached to any business operations in New Zealand, will not be tolerated.