

Modern Slavery Legislation:

Tearfund NZ

January 2024

“Modern slavery leaves us all of us – all of us – immensely worse off.

But equally, that of course means that anti-slavery can actually make us all better off. Investing in anti-slavery may not only reduce slavery but increase productivity, reduce poverty, reduce inequality, improve governance, improve the fiscal position, protect capital markets, reduce corruption and even help the environment.

So, for all these reasons, anti-slavery isn't just the right thing to do, it's smart public policy.”

Dr James Cokayne, New South Wales, Anti-Slavery Commissioner

About Tearfund

Tearfund New Zealand is a faith-based international development organisation that works to alleviate poverty among the world's most vulnerable communities. Tearfund has deep compassion for the oppressed and a strong desire to see justice done on behalf of those trapped in modern-day slavery. We believe the exploitation of poor and vulnerable people is a gross injustice that must be addressed.

Tearfund works towards the eradication of modern slavery through advocacy and campaigning in New Zealand as well as on-the-ground programmes in Fiji, Solomon Islands, Thailand and Nepal. Our partner organisations in these countries know the devastating impact modern slavery has on individuals, families and communities. Their work is multi-faceted and encompasses the areas of prevention through education, supporting those at risk with livelihood and agriculture training, providing survivor support and aftercare and engaging in policy development and prosecution work.

Tearfund has sought to advocate for the awareness, and eradication of modern slavery practices within New Zealand and believes that the implementation of modern slavery legislation will play a significant role in mitigating modern slavery from Aotearoa.

Key Findings

- Evidence suggests a large proportion of New Zealand goods are at **risk** of being produced in supply chains involving modern slavery practices. The New Zealand Government must consider the potential **benefits** to economic growth, trade relations and its international reputation from the introduction of modern slavery legislation.
- During 2021-2022, the Modern Slavery Act Petition, open letter, and consultation feedback from organisations and individuals provide evidence of a **strong public desire** and significant support from the business community to implement modern slavery legislation.

- Tearfund strongly recommends that the new Coalition Government **fulfil the promises** made by the previous government to the New Zealand public to introduce modern slavery legislation as a matter of urgency.

Background

The New Zealand Plan of Action Against Forced Labour, People Trafficking and Slavery (the Action Plan) launched in March 2021. The Action Plan included an action to “consider introducing legislation requiring businesses to report publicly on transparency in supply chains, to help eliminate practices of modern slavery.”¹ In June 2021 Trade Aid and World Vision, supported by Tearfund presented a Modern Slavery Act Petition that collected over 37,000 signatures, as well as an open letter containing 85 company signatures, to minister Michael Wood on behalf of the government. Both instruments called upon the government to implement legislation against modern slavery within New Zealand.² A modern slavery legislation draft was proposed in July 2021,³ with a public consultation following. In September 2022, a summary of the feedback received from the 5,614 NGO submissions, and the 430 individual responses was published.⁴ Then, after a considerable period of inaction, the previous government announced in July 2023, that it will draft legislation to address modern slavery in supply chains, beginning with a disclosure law and committing to incorporating due diligence and ‘take action’ duties at a later stage.

Tearfund are urging the Coalition Government to honour the commitment made by the previous cabinet to introduce legislation without delay. The Government must recognise the considerable public and business support for legislation and act now.

Why is Legislation Important?

Modern slavery is a transnational issue with an estimated 27.6 million people employed within forced labour practices. It is embedded into New Zealand supply chains.⁵ An estimated \$7.9 billion products imported into New Zealand in 2022 were at risk of being made with modern slavery - including clothing, footwear, toys, electronics, bananas, coffee, tobacco and furniture.⁶ Research from January 2023 demonstrated that the New Zealand public remains in favour of the legislation, with 81% of New Zealanders supporting new laws requiring businesses to verify the absence of modern slavery in their supply chains.⁷

With no requirements for companies to have transparent and traceable supply chains, it is extremely difficult for Kiwis to avoid buying risky goods. Businesses that make the effort to prevent slavery in their supply chains face stiff competition from businesses that do not take these steps. With robust modern slavery legislation, people will have more assurance that the products they are purchasing are slavery-free.

The Case for Modern Slavery Legislation

1. Business Support

Modern slavery is one of the fastest growing criminal activities in the world, a phenomenon that has been said to be driven by the same forces that drive the globalisation of markets.⁸ It is often referred to as a system failure that results in the human rights of millions of individuals being violated. The business community rallied around the open letter to government in 2021 and showed their desire for modern slavery legislation to be introduced.

Rather than just being a compliance issue, the benefits of acting ethically and identifying and addressing human rights risks are a business opportunity. Research has shown that there are real benefits beyond just ‘doing the right thing,’ including attracting and retaining talent and demonstrating to the public and other companies that businesses care about their social impact credentials. Business transparency and supply chain due diligence enables end purchasers to have confidence in a business and can help shift consumption patterns towards more ethical producers.⁹

The 2022 annual implementation report of the Action Plan stated that New Zealand will be undertaking work to develop and adopt an additional National Action Plan specifically focused on the implementation of the UN Guiding Principles on Business and Human Rights (the global standard for preventing and addressing the adverse human rights impacts linked to business activities.)¹⁰ Globally, the bar of business ethics is being raised. Unintended negative externalities from business operations, like modern slavery, are increasingly being put under the microscope and business is being held accountable. Evidence from major businesses given to the UK Joint Committee on their Draft Modern Slavery Bill found that “ethical supply chains were absolutely more profitable...and a good reputation more than pays for itself in the long run.” Companies also stated that the introduction of “legislation could serve to level the playing field and raise the standard of companies that failed to tackle modern slavery in their supply chains voluntarily.”¹¹

International evidence shows that businesses are increasingly seeing the benefit of following best practice. Following the UK launch of a modern slavery statement registry, uptake has been exceptional with a great number of statements submitted on a voluntary basis, demonstrating organisations commitment to transparency.¹² New Zealand has the opportunity to work closely with businesses to encourage best practice, learn from international evidence and get on board with this global trend before we are left behind which would be to the detriment of our global reputation. Demonstrating its commitment to drafting modern slavery legislation will enable the New Zealand government to establish itself as an international leader in fair and equitable business and labour practices.

2. Economic Benefits

Research has continually found that modern slavery negatively impacts economic growth and sustainable development.¹³ Modern slavery generates significant losses to the wider economy, through unpaid taxes, workers being removed from a productive economy and workers entering New Zealand but not participating or contributing to the economy of wider society.¹⁴ A report on the economic costs of modern slavery for the UK Government, breaks down the financial costs associated with modern slavery into three categories: the amount spent on protective and preventative measures, the financial cost of the physical and emotional harms, lost time and output, health and victim services and law enforcement costs.¹⁵ The report found that when estimating the overall costs to society of modern slavery, including costs of victim services, health services and law enforcement the estimated total is between £3.3bn and £4.3bn.¹⁶

While in contrast the introduction of modern slavery legislation has been estimated to have significant financial benefits to governments. The UK impact assessment report on the Modern Slavery Bill estimated that the Bill would only have to prevent 12 cases of slavery or trafficking over 10 years to breakeven: “given the very small change in modern slavery required to achieve break even, the Government’s overall expectation is that the benefits from the measures [in the Bill] will substantially outweigh the costs.”¹⁷ Research in Australia also found that “for every \$1 spent on preventing child sexual exploitation...just one part of modern slavery, there’s estimated to be a \$16.75 return.”¹⁸

The Coalition Government is a government that has committed to delivering widespread economic benefits to Kiwi's. The preamble to the coalition agreements state that "the Coalition Governments priorities include rebuilding the economy [and] the Coalition Government policies have as a key objective restoring New Zealand's former reputation as being a world economic and social leader."¹⁹ The economic benefits that will follow the implementation of modern slavery legislation will help this government deliver on its promise to New Zealanders and is clearly aligned with this government's priorities. Tearfund urges the New Zealand government to consider the wider economic benefits that could follow the implementation of modern slavery legislation.

3. Trade Relations

New Zealand is a major exporter with approximately 70% of its production destined for international markets. It has an established focus on negotiating trade agreements that integrate human rights and labour standards. Introducing modern slavery legislation is an excellent way for New Zealand to further develop its international reputation as a fair and just society that seeks to promote a better standard of living and raise labour standards and the recognition of human rights.

Existing trade agreements such as the *Comprehensive and Progressive Agreement for Trans-Pacific Partnership*, the *Korea-New Zealand Free Trade Agreement* and the *NZ-Malaysia Free Trade Agreement* all include objectives to raise, promote and enforce labour standards. Most recently the *New Zealand-United Kingdom Free Trade Agreement* that entered into force on 31 May 2023 affirmed the importance of coherent trade and labour policies and includes direct measures to guard against modern slavery practices. As well as this, the *New Zealand and European Union Free Trade Agreement*²⁰ includes ambitious provisions to promote trade and sustainable development outcomes, labour rights and mentions possible breaches of fundamental ILO labour rights.

Furthermore, in April 2021, New Zealand joined the United States, the United Kingdom and Canada to express concern about forced and compulsory labour and call on the ILO to identify ways to bring attention to, and address, serious and persistent labour rights deficits around the world.²¹ The introduction of modern slavery legislation as a means to protect and uphold labour rights will show its commitment to this agreement.

In short, New Zealand has already made significant commitments to take action on modern slavery and exploitation through these trade agreements. We have obligations that we must fulfil. Introducing robust modern slavery legislation is a necessary action for the government to take in meeting these international obligations. Leading the way with modern slavery legislation will continue to demonstrate its focus on best practice, robust labour rights and social well-being.

4. International Standing

New Zealand enjoys a high reputation regarding its respect for human rights and the rule of law. Offences of modern slavery are of international concern. New Zealand must play its part to ensure these crimes are effectively suppressed – both in New Zealand and abroad.²² The international standing and reputation of New Zealand is in danger of being damaged by continued inaction on modern slavery legislation. The government must introduce modern slavery legislation as a matter of urgency.

Increasingly in the court of public opinion, ethical consumerism reigns supreme, the public is increasingly concerned about the businesses and the suppliers they choose to engage. New Zealand is already lagging significantly behind its international partners which introduced similar legislation several years ago and are already in the process of reviewing and improving the legislation. Legislative change would

demonstrate the government is attuned to the global context of supply chains and the implications to New Zealand's international reputation of not acting. The message is clear: catch up or be left further behind.²³

Another damaging factor to New Zealand's international reputation is its continued ranking on the Tier 2 list of the Trafficking in Persons Report (TIP Report). The 2023 report found that 'the Government of New Zealand does not fully meet the minimum standards for the elimination of trafficking'.²⁴ The TIP Report ranks governments around the world into four tiers based on their effort to recognise and eliminate human trafficking. New Zealand consistently ranked in Tier 1 alongside several other countries, including Australia, the UK and the USA. But in 2021, our country's rank was downgraded to Tier 2, this is a significant blow to New Zealand's reputation and an important warning sign that our government needs to do significantly more to protect survivors, prosecute offenders, and prevent trafficking.²⁵

5. Learning from Other Jurisdictions

Our inaction to date does provide an opportunity to learn from the experience of other jurisdictions to ensure any legislation introduced adequately addresses the diverse forms of exploitation that can constitute modern slavery and include stronger implementation measures, penalties and greater oversight. Several jurisdictions with modern slavery legislation already in place are now considering recommendations for the laws to be strengthened and for due diligence to be included. Australia, Europe and the UK are drafting or strengthening their Modern Slavery Acts, while the EU is proposing mandatory supply chain investigations.

A highly anticipated independent review of Australia's Modern Slavery Act published in May 2023 has found it has not brought "meaningful change" to the lives of people living in conditions of modern slavery since its passage more than four years ago. The final report makes 30 recommendations which, if implemented, would mean thousands more businesses need to take stronger action to prevent the goods and services they sell being made with slavery.²⁶

It is vital that the New Zealand government consider these key learnings and the importance of maintaining its international reputation. Tearfund will continue to advocate for strong and robust modern slavery legislation in New Zealand that builds upon the recommendations already made through the consultation process and that draws on learning from overseas.

What Action Is Required

Tearfund have three recommendations regarding the essential elements of this legislation for it to meet its stated goals. We want to see legislation that;

1. Applies to international and domestic supply chains operating in Aotearoa New Zealand, to all entities of all sizes (small, medium and large businesses) and private and public sectors.
2. Provides for action, not just words. We support a due diligence law that requires entities to identify risks and cases of modern slavery and exploitation and take action to address what they find. From there, they should publicly report on those actions and the impacts they've had.
3. Includes penalties for non-compliance with the law. This will set the law up from the onset to create positive change and help create a level playing field for businesses.

Conclusion

The economic and social benefits of introducing modern slavery legislation are clear and action must be taken. Tearfund will continue to advocate for strong and robust modern slavery legislation in New Zealand that builds upon the recommendations already made through the original consultation process and that draws on learning from overseas. We urge the New Zealand government to consider the wider implications of continuing to delay the introduction of this vital and lifesaving legislation as a matter of the utmost urgency.