

18 January 2024

TIP Questionnaire 2024 – NZ Civil Society

About Tearfund

Tearfund is a faith-based international development organisation that works to alleviate poverty among the world's most vulnerable communities. Tearfund has a 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 - Aotearoa 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 also been involved in advocating for the awareness of Modern Slavery in the fashion industry, which remains one of the top five industries at risk of modern slavery.¹

1. Overall TIP Trends

A New Zealand general election was held in October 2023, resulting in a new coalition government and considerable changes in policy direction across most government departments. The full impact of these changes is still to be seen. Tearfund will continue to monitor these changes and the potential impact on the work already underway and the possible changes to the policies implemented by the previous government. Therefore, please note that most references to the government within this response are in reference to the Labour led government that was in power for most of the reporting period.

New Zealand's continued ranking in Tier 2 is a warning sign that our government needs to do significantly more to protect survivors, prosecute offenders, and prevent trafficking.

The government has taken positive steps forward over the last year. They have initiated more trafficking investigations, launched a new public resource outlining signs of trafficking and how to report potential offences and there has been increased government attention towards modern slavery and worker exploitation in supply chain. In July 2023, after considerable advocacy work by Tearfund and several other organisations, the Government announced it would begin drafting modern slavery legislation.

The law as proposed will require all businesses that operate in Aotearoa and have an annual revenue of \$20 million or more, to publicly report on the risks related to modern slavery in their operations and supply chains, and any actions they are taking to address these risks.

This means that nearly 4000 Aotearoa businesses will be required to publish a modern slavery statement annually. If businesses do not submit this statement, or publish false information, they will face financial penalties and risk their names being made public.

At this stage it is unclear if the new coalition government will proceed with this work in the form in which it was announced. Tearfund will continue to advocate that modern slavery legislation to be introduced as a matter of urgency.

¹ Tearfund, Aotearoa 2021 Ethical Fashion Guide

Worker exploitation continues to be a major issue in Aotearoa. In 2023 the government became aware of over 100 people, mainly Indian and Bangladeshi migrants living in crowded housing, waiting months for promised work. These people had paid tens of thousands of dollars for a job offer in Aotearoa. They'd mainly signed contracts with several labour-hire companies (companies that recruit workers and then hire them out). All arrived through the Accredited Employment Work Visa scheme. Yet months on from their arrival, most are still waiting for their promised work and pay, and in the meantime, they've been living in properties not fit to house so many people. As a result, in August 2023, the Ministry of Business, Innovation and Employment announced an investigation into the exploitation of these Indian and Bangladeshi migrants.

Most recently, in December 2023 a joint operation between police and Immigration New Zealand (Operation Wentworth) uncovered at least 100 migrants at the centre of suspected migrant exploitation and human trafficking. A man was arrested but police 'highly suspect' there may be more victims and more potential perpetrators identified as the investigation continues.

Further comment on the modern slavery legislation and the review can be found below in the answers to questions (2) and (3).

2. The NZ Government's Anti-TIP efforts – Accomplishments

One of the most significant accomplishments this reporting period was the announcement of the drafting of a Modern Slavery Bill. This is a positive step forward in Aotearoa's ability to counter worker exploitation in supply chains. Compared to international legislation, the revenue threshold for inclusion in this law is lower than most, which means not only will large businesses be required to report, but medium-sized ones too. We know Aotearoa's market largely consists of small and medium businesses, and so this is a step in a really great direction.

Learnings from international legislation point to the need for financial penalties so that businesses are motivated to comply. The penalty for non-compliance with Australia's Modern Slavery Act is the potential of a business' name being made public. However, [an analysis](#) of 102 of the companies included in Australia's Modern Slavery Act found 77% failed to fully address the mandatory reporting criteria, suggesting that this penalty is not enough. Therefore, we're encouraged by the stronger penalty approach that Aotearoa is taking.

Further, by making the register public, everyone can access these businesses' modern slavery statements. This will enable us to have greater transparency about the goods and services we consume and to hold those that are not taking significant steps to account.

Also positive was the Minister of Immigration calling for a review of how the Accredited Employer Work Visa scheme is being operated. This work visa scheme was introduced in 2022 and restricted workers to a single employer, meaning if a worker wants to seek alternative work, they must apply for a new visa or change the conditions on their current visa. Concerns were identified as to how the scheme is being administered by Immigration Aotearoa, potentially resulting in opportunities for misuse and exploitation by third parties. The Ministry is investigating over 160 accredited employers following complaints of worker exploitation and breaches of the scheme. The result of the review are to be made public in 2024.

3. The NZ Government's Anti-TIP efforts – Challenges

While we have seen positive steps taken by the previous government to address worker exploitation and to combat human trafficking. Tearfund NZ believes more can be done, particularly in the areas of modern slavery in supply chains and child sex trafficking.

The proposed modern slavery legislation, while welcome, is missing a crucial element. Whilst companies will have to disclose their modern slavery risks and actions taken to address these, they're not required to take action to reduce the risk of slavery in their supply chain. Tearfund NZ

continues to advocate for the inclusion of due diligence within the legislation. This would ensure that businesses would also be required to take action to address and reduce the risks of slavery in their supply chains. We believe in order to make a significant impact on stopping slavery in international supply chains and help to address worker exploitation in Aotearoa any legislation must combine public reporting and due diligence.

The New Zealand government has committed to addressing due diligence sometime in the future, it hasn't given a clear timeframe. As this legislation gets drafted and goes through Parliamentary processes, Tearfund will continue to advocate for robust legislation that includes due diligence. Both reporting and due diligence are needed if New Zealand's legislation is to make a meaningful difference. Tearfund is not alone in calling for the inclusion of due diligence. In fact, 94% of those that made a submission on the government's proposed law in 2022 agreed large businesses should be required to undertake due diligence to prevent and mitigate modern slavery in their international operations and supply chains.

Temporary migrant workers have been identified by the [Global Slavery Index](#) as communities that are amongst the most at risk of being coerced and deceived into situations of slavery. This creates a significant power dynamic between employee and employer that has the potential to be exploited. Our Accredited Employer Work Visa Scheme is complex and while we welcome the review, the Terms of Reference for the review are narrow and do not include the appropriateness of the policy setting. We believe our government needs to consider the immigration policy itself— not just how it's being implemented. We await the result of the review with interest and the hope that any recommendations for changes will be taken seriously and implemented without delay.

Tearfund alongside the New Zealand Human Trafficking Research Coalition (HTRC)² has, for some time, been advocating for amendments to be made to the Crimes Act 1961 to better protect children in Aotearoa and align with the international definition of child trafficking. The issues with the Crimes Act provisions have been identified in previous TIP reports but steps have still not been taken by the government to address these concerns. Specifically, the HTRC recommends the government should:

- Amend section 98B of the Crimes Act 1961 to align with the Palermo protocol and clarify that a means by which trafficking in persons can be achieved also includes “abuse of power” or “abuse of a position of vulnerability”;
- Amend section 98D to include “the giving or receiving of payments or benefits”;
- Amend section 98D to be consistent with the Palermo protocol and clarify that the consent of the victim is irrelevant if the situation has involved coercion or deception; and
- Broaden the kinds of ‘exploitation’ to which section 98AA of the Crimes Act applies, to reflect the scope of that word as defined in section 98D of the Crimes Act, or to better reflect Article 3(a) of the Palermo Protocol.

Tearfund and the HTRC will continue to campaign for these reforms so that Aotearoa's legislation is robust, fit for purpose and in line with international standards. If Aotearoa is to significantly address the slavery and exploitation that occurs here, we need to amend our law on child trafficking, implement strong modern slavery legislation and review our current immigration policy with human rights in mind.

² The Human Trafficking Research Coalition is a network of New Zealand NGO's with a focus on modern slavery. The Coalition is made up of Tearfund NZ, World Vision, Hagar New Zealand, ECPAT and The Prescha Initiative

4. Vulnerability to Trafficking

The majority of victims and survivors of exploitation or slavery in Aotearoa in reported cases are migrant workers. Multiple groups, however, are at risk of sex trafficking and forced labour within Aotearoa. Data collection from statutory services has been woefully inadequate making it hard to grasp the scale of the issue. Communities and individuals at increased risk of exploitation or who have survived exploitative situations have an increasing need for their voices to be heard, their experiences validated and for research to be undertaken to identify and improve available services and support. It is concerning that the true number of victims of exploitation in Aotearoa is not known due to the reluctance of victims to come forward or those who leave Aotearoa after surviving exploitation without reporting it.

There is a lack of data and research to fully identify which groups are the most vulnerable and significant underreporting has a problematic impact on our ability to identify and provide support for the groups most at risk in Aotearoa. Communities such as migrant workers, children and members of the refugee community are at risk of becoming victims of exploitative practices in Aotearoa, and exploitation exists across all industries.

This growing number of communities are further impacted by a lack of understanding and awareness of these practices among the general public. Tearfund's work and our work alongside the HTRC has for this reporting year been predominantly focused on migrant workers from a range of ethnic groups and to children. Our concerns regarding these groups and the challenges faced by the government in addresses their vulnerability to trafficking or exploitation are detailed in our response to question 3.

5. Prevention

For this reporting period Tearfund has continued to educate, campaign and advocate to increase awareness and action to prevent modern slavery, worker exploitation and any form of human trafficking

This has been actioned in a number of ways:

- Tearfund NZ led a public video campaign with World Vision to highlight the need for government action and to call for the immediate introduction of modern slavery legislation. This campaign launched in July 2023 and a few weeks later the government finally announced it would begin drafting legislation to be introduced to parliament in 2024.
- We have been active in the media through interviews and commenting on matters to do with modern slavery, trafficking and worker exploitation in Aotearoa.
- Tearfund continues to bring awareness to educate its supporters and the wider public on the devastating reality of these issues and to call for support to make real and impactful change through communications with supporters and blog posts on our website.
- The Ministry of Justice invited Tearfund to participate in the review of Aotearoa's implementation of the United Nations Convention against Transnational Organised Crime. Tearfund was identified as a key stakeholder with an interest in this process as it relates to Aotearoa's criminalisation of trafficking in persons. Tearfund made a submission to the review and awaits the outcome with interest.
- Tearfund as part of the HTRC has prepared a research proposal to examine what pathways to services and support are available to migrant workers who are subject to exploitation in Aotearoa and how can they be improved upon. The HTRC are yet to obtain funding to conduct the research but will continue to seek avenues to enable this vital research to be undertaken.
- Through our international partner organisations, we help protect vulnerable people from trafficking and worker exploitation by running empowerment and education programmes.

6. Protection and Assistance to Survivors

As an international organisation Tearfund NZ do not directly support victim/survivors in Aotearoa however we do support our international partner organisations to do exactly that.

Tearfund take a comprehensive approach to dealing with modern slavery by using the “five Ps’ approach: prevention, prosecution, protection, policy and partnership. Through our partner organisations, we:

- Assist police investigations into the criminal networks behind trafficking and slavery.
- Work with local law enforcement to prosecute traffickers, preventing more people from becoming enslaved
- Give survivors a safe place to heal, recover and restore their dignity through rehabilitation and supported reintegration.

Within Aotearoa, Tearfund NZ has considerable concerns regarding the protections and assistance available to victims/survivors of modern slavery, trafficking and exploitation in Aotearoa. There are an estimated 3000 victims of modern slavery and many thousands more victims of migrant worker exploitation. The Plan of Action Against Forced Labour, People, Trafficking and Slavery (March 2021) is still the main government road map in this area. While elements of the Plan are positive, it has failed to set out a roadmap for victims regarding access to appropriate services and information on their legal rights. The Plan of Action is not accessible or user-friendly. It is difficult for a victim of exploitation or trafficking to know where to go and it is this community need for better and more accessible information that the government must address as a matter of urgency.

We are concerned that there is not a more victim-centric approach across government departments and the agencies that seek to identify, assist and support survivors. As identified by the HTRC in its research proposal, there is a current gap in the services available to victims of migrant worker exploitation and slavery (“victims”) in Aotearoa. It is unclear what suitable services and support are available for victims that need urgent and longer-term assistance and care. It is also unclear how victims access this. There is a need for robust research to identify and strengthen mechanisms that protect and assist victims of migrant worker exploitation and slavery.

Any support to victims of exploitation and slavery should take place through partnership with NGOs and relevant ethnic communities which is not yet happening consistently or in line with best practice. The government must prioritise, in partnership with relevant organisations, hearing the voices from the community of victims and survivors of exploitation and slavery which have gone unheard to better facilitate, support, inform and advocate on behalf of the communities impacted by modern slavery.

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