



Te Ope Whakaora

A Fair Day's Wages for a Fair Day's Work?

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The detrimental impact of non-consensual exploitation

Every exploitative relationship begins with an initial inequality that makes the taking advantage possible. In exploitative relationships the rich get richer and the poor fall further behind. Robert Mayer

Preamble

The dominant discourse when discussing people trafficking tends to centre on sexual exploitation/prostitution, whilst images of everyday goods and services, fishermen and restaurant workers simply don't conform to the public picture and perception of trafficking.

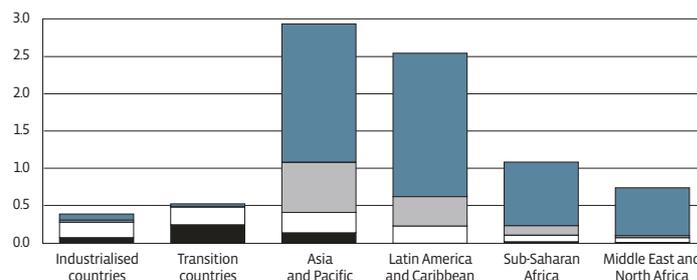
'The impact of under-aged sexual exploitation is often sold as the story of human trafficking. Media portrayals of young women who have been sex trafficked is very widespread. Regrettably these reports, documentaries, and photographs, while altruistic in nature and often interesting, do help reinforce a one dimensional perception of trafficking that potentially ignores a broader population of trafficked persons.'²

In 2011 the International Organisation for Migration (IOM) annual report showed the number of people assisted by IOM during the year with 53 per cent of those aided having been caught up in labour exploitation.³ By contrast, 27 per cent of those identified were victims of sexual exploitation.

The report goes on to say that, 'labour trafficking is a feature of many economic sectors, particularly those requiring manual labour such as agriculture, construction, domestic work, fisheries and mining. In many cases this exploitation takes place under the guise of legal contractual work, only for the conditions of work to be considerable different than the migrant was initially promised.'

The following graph from the International Labour Organisation (ILO) highlights the prevalence of labour exploitation globally. Such exploitation demands further attention through research and analysis. New Zealand urgently needs to embark on a similar research project which will help reframe and guide constructive conversation.

Figure 2: ILO Estimates on Minimum Incidence of Forced Labour per 1,000 Inhabitants (1995-2004)



Source: ILO (2005)

In their 2008 report the United Nations Office on Drugs and Crime (UNODC) emphasise the importance of research into the trafficking and exploitation of people as being 'vital to ensuring adequate prevention, protection and assistance.' Furthermore, 'on-going research is necessary in several key areas, notably on the characteristics of trafficked persons and the conditions of vulnerability; on the techniques of the traffickers; on the scope of the problem, including numbers of trafficked persons; and to monitor, evaluate and assess the impact of prevention and rehabilitation efforts in order to ensure funded programmes are in fact effective.'⁴

How is forced labour defined?

Forced labour—sometimes referred to as labour trafficking—encompasses the range of activities involved (recruiting, harbouring, transporting, providing, or obtaining) when a person uses force or physical threats, psychological coercion, abuse of the legal process, deception, or other coercive means, to compel someone to work.

→ This paper does not necessarily represent the official views of The Salvation Army.

Once a person's labour is exploited by such means, the previous consent or effort to obtain employment with the trafficker becomes irrelevant. Migrants are particularly vulnerable to this form of human trafficking, but individuals also may be forced into labour in their own countries. Female victims of forced or bonded labour, especially women and girls in domestic servitude, may be sexually exploited as well.⁵

According to new ILO estimates, three out of every 1,000 people worldwide are trapped in jobs into which they were coerced or deceived and that they cannot leave.⁶

Forced labour is not defined by the nature of the work being carried out (whether legal or illegal under national law) but rather by the nature of the relationship between the person performing the work and the person demanding the work. Such work might be openly abusive (workers confined to premises or armed guards) or include coercive tactics such as holding on to identity documents or threatening to report them to the authorities. Accordingly, uncovering incidences of forced labour presents significant challenges in terms of data collection and law enforcement.⁷

Immigration New Zealand acknowledges the challenges inherent in the reluctance of migrants to report abusive employment situations. Such reluctance is magnified if the worker is working in breach of their visa requirements leaving them in an extremely vulnerable position.⁸

New Zealand has existing laws to protect migrant workers⁹ and is presently strengthening these to reflect the gravity of the crime and the government's commitment to tackling such criminal activity. However, the challenge of identifying possible criminal action, and the victims of such illegal activity, remains.

Slave labour or labour exploitation, is there a difference? And does it matter?

The recent tragic events at the Rana Plaza Bangladesh served to take the global lid off of the mass production of cheap clothing, and brought the spotlight on the plight of many low income earners in developing countries who are employed to bulk-produce the clothing and goods that end up in western chain stores and shopping malls.

Yet emotively portraying such abusive labour practices as slavery or trafficking may ultimately end up doing those caught up in such abuse, more harm than good. While there is little doubt the above working conditions are extremely exploitative, it cannot be overlooked that for the millions of people involved in these industries, such employment does contribute to lifting them out of abject poverty.

Faustina Pereira, director of human rights and legal aid services for BRAC, a Bangladesh NGO, referred back to the early 1990s when US Senator Tom Harkin proposed the Child Labour Deterrence Act 1993.¹⁰ The Act called for a complete ban on importing goods that used child labour within any stage of production. Ms Pereira commented, 'the intent and spirit of this bill was noble but its impact was devastating on countless families in Bangladesh who had relied on the contribution of their children for basic subsistence. Overnight we saw millions of families fall into further destitution as garment factory owners terminated wholesale from their factories workers who were under 18 years old.'

Kevin Bales, an anti-trafficking activist and co-founder of Free the Slaves, is concerned by the potential impact that mislabelling paid workers as 'slaves' could have on global anti-slavery efforts.

'What we are seeing in Bangladesh and elsewhere is the result of a continuum of exploitation, ranging from breach of labour standards such as unpaid overtime and non-payment of minimum wages, through to unsafe and abusive working conditions to—at the very bottom of the scale—forced labour and slavery,' he says.

'We have to come to the point where all forms of labour abuses and exploitation are considered unacceptable, but pushing a whole labour force into the "slavery" box isn't going to help. At worst, it's going to undermine the efforts to reform labour standards and also dilute the reality of life as a person trapped in the worst forms of modern-day slavery, where you have no option, no chance of walking away.'¹¹

Hi-ho Hi-ho and off to work we go!

Many of us will remember the delightful portrayal of the seven dwarfs in Snow White and the Seven Dwarfs, who marched enthusiastically off to work each day, returning in the evening tired but happy. In a 2008 Human Rights Commission report stated that, 'work is arguably the single most important element in the integration of immigrants to New Zealand. Work is about income, about individual fulfilment, about identity and about social inclusion and cohesion. Many migrants though find it hard to access decent employment.'¹²

New Zealand is founded on immigration and has directly benefitted over the years from the influx of workers to help fill vacancies and help seal the employment gap. Furthermore, money transfers back to a migrant's homeland to support family (which far exceed the amount given through official development aid) are helping to advance the development of poorer countries. The World Bank reports, 'remittance flows to developing countries have more than quadrupled since 2000. Global remittances, including those to high-income countries, are estimated to have reached \$529 billion in 2012, compared to \$132 billion in 2000.'¹³

While it is recognised that both the country of departure and the destination country benefit from migration flows, there is real concern for some migrants arriving into New Zealand who experience extreme hardship and are vulnerable to abusive labour practises.

Significant media attention and a recent announcement from the NZ government have brought public attention to the reality that New Zealand is not immune to exploitative labour practices and possible incidences akin to people trafficking. While it is important to effectively address the immediate—identifying and calling to legal account the exploiters, as well as ensuring those who are being exploited promptly receive appropriate care and the opportunity for redress—it is equally important that the causal factors behind migrants continuing to take risks leaving their homeland in search of work, are examined and addressed.

Concluding comments

Finally it is essential to remember that first and foremost all forms of exploitation are a violation of human rights. Therefore it is imperative that any action taken to remedy the situation upholds those rights with the recognition that a ‘one size fits all’ approach may not fit each individual person’s circumstances. Moreover, while ideally monetary compensation will feature when considering restitution, it is by no means the only appropriate response.

Often the focus when examining disadvantage tends to be monetary, yet dimensions of wellbeing are far wider. Amartya Sen offered a more holistic definition when he described wellbeing as the freedom of individuals to live a life that allows them to fulfil their capacities, to have sufficient available resources to be able to enjoy a healthy life, to have access to knowledge and the freedom to interact socially, and contribute expression and thought.

When examining restitution from the viewpoint of Sen’s prescription of wellbeing,¹⁴ then simply sending a person who has been exploited back to their original state would be tantamount to placing them back in an ‘imprisonment’ of a different kind. In as much as many who have become trapped in exploitative conditions have, in the first instance, taken significant risks to seek a perceived better life away from their own country.

Coomaraswamy commented that, ‘traffickers swim in the stream of migration.’¹⁵ While exploitation and trafficking are very much issues of human rights abuse, both crimes involve the movement of people—in many cases labour exploitation and people trafficking begin after the movement of a person from one place to another. How then do we begin to address the complexity of issues that cause people to uproot from their home? For me it has become a question of connecting up the dots—

dots which may significantly contribute to the growth in the exploitation of people, such as absolute financial deprivation, gender discrimination, an uneven trading field, globalisation and consumerism.

First and foremost though, our agenda going forward must stem from, and include, those who can speak of their experiences and who will provide us with valuable insight: for rather than simply viewing a person found in a situation of extreme abuse as a victim to be rescued, maybe we are well overdue to change the viewing lens to see the migrant worker as a person simply wanting a ‘fair day’s wages for a fair day’s work.’

Chris Frazer

25 July 2013

- 1 The motto associated with the English working class labour movement originated from 18312 <http://publichouse.sg/categories/community/item/725-more-than-just-sex-trafficking3> http://www.iom.int/files/live/sites/iom/files/What-We-Do/docs/Annual_Report_2011_Counter_Trafficking.pdf
- 2 <http://publichouse.sg/categories/community/item/725-more-than-just-sex-trafficking>
- 3 http://www.iom.int/files/live/sites/iom/files/What-We-Do/docs/Annual_Report_2011_Counter_Trafficking.pdf
- 4 http://www.unodc.org/documents/human-trafficking/An_Introduction_to_Human_Trafficking_-_Background_Paper.pdf
- 5 <http://www.ilo.org/global/topics/forced-labour/lang-en/index.htm>
- 6 http://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_181961/lang-en/index.htm
- 7 http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_182004.pdf
- 8 <http://www.immigration.govt.nz/migrant/general/generalinformation/migrantexploitation/infocoradvocates.htm>
- 9 The Immigration Act 2009 makes it an offence for an employer to exploit a person who is an unlawful employee. An ‘unlawful employee’ means a person who the employer knows is not entitled under the Immigration Act to work for them. Exploitation by an employer includes serious breaches of the Holidays Act 2003, the Minimum Wage Act 1983, or the Wages Protection Act 1983. An employer also commits a crime if they stop an unlawful employee from leaving the employer, leaving New Zealand, finding out about workers’ rights under New Zealand law, or telling anyone about his or her work conditions.
- 10 Signs of exploitation at work include: taking or keeping a person’s passport, any other travel or identity document, or travel tickets, stopping someone from using a telephone, leaving the workplace, or leaving the workplace on their own. The penalty for exploitation is imprisonment for a term not exceeding seven years, a fine not exceeding \$100,000, or both.
- 11 <http://www.guardian.co.uk/global-development/poverty-matters/2013/may/16/bangladesh-garment-workers-exploitation-slavery>
- 12 Ibid.
- 13 Human Rights Commission, ‘Brain Gain, migrant workers in New Zealand, 2008, Wellington, NZ
- 14 <http://www.worldbank.org/en/news/press-release/2013/04/19/world-bank-launches-initiative-on-migration-releases-new-projections-on-remittance-flows>
- 15 https://en.wikipedia.org/wiki/Capability_approach
- 16 Coomaraswamy, R, United Nations Addendum Report to the Human Rights Commission regarding Mission to Bangladesh, Nepal and India on the issue of women and children, 2001