



Te Ope Whakāora

SOCIAL POLICY AND
PARLIAMENTARY UNIT

Working for the eradication of poverty in NZ

Immigration Amendment Bill (No 2)
Transport and Industrial Relations Select Committee

The Salvation Army (New Zealand, Fiji and Tonga) Submission:

1. Background:

- 1.1 The Salvation Army has been present in New Zealand since 1883. Geographically spread throughout New Zealand, The Salvation Army, through its wide ranging community ministries and local corps (churches) embraces and welcomes all people, cultures and backgrounds. Indeed The Salvation Army rejoices in the richness of cultural diversity which is present within Aotearoa New Zealand today. This country is founded upon, and has been developed by its early arrivals and subsequent decades of settlers who now call New Zealand home.
- 1.2 The demographics of this country are primarily one of migration without which this nation would not have developed into the land we know and are proud to call home. 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. Indeed migrant workers are seen as increasingly important in a number of sectors as they are able to fill labour and skill shortages.
- 1.3 Furthermore, money transfers back to a migrant's home-land 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 2000.¹ Given these realities it is important that the continuing exploitation of migrant workers in New Zealand is promptly and effectively addressed.
- 1.4 The Salvation Army is aware of the historical reality of migrant labour abuse within New Zealand and more recently through its leadership of three people trafficking conferences in 2009, 2011 and 2013 where the subject of labour exploitation has been a key issue of concern raised on each occasion. For example, in 2009 the Nurses Union presented their research into the exploitation of nurses from the Philippines, who were being recruited by unscrupulous labour brokers, proffering misleading information and charging

¹<http://www.worldbank.org/en/news/press-release/2013/04/19/world-bank-launches-initiative-on-migration-releases-new-projections-on-remittance-flows>

exorbitant fees for jobs in New Zealand that failed to materialise with the new arrivals finding themselves in desperate circumstances with no hope of the employment they had been promised.

- 1.5 Then in 2011 and 2013 significant conference time and attention was given to the issue of labour exploitation /possible trafficking on board foreign chartered fishing vessels as well as the hiddenness of exploitation within many of the goods and services we take for granted in our daily lives.
- 1.6 Now in 2014 The Salvation Army is organising the 4th Trafficking and Labour Exploitation Conference to be held in June, this time in partnership with Immigration NZ and the NZ Police. The conference title being Prevent People Trafficking *Exploitation, everyone deserves a fair go*. It is from this backdrop of past and present understanding of the multiple peoples of this land, coupled with the knowledge of its own migratory origins as an early settler that The Salvation Army wishes to respectfully comment on the proposed Immigration Amendment Bill (No 2).
- 1.7 This submission has been approved by Commissioner Robert Donaldson, the Territorial Commander of The Salvation Army (New Zealand, Fiji & Tonga Territory).

2. The Universal Declaration of Human Rights:²

- 2.1 Article 23 of The Universal Declaration of Human Rights states that, *Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment. Everyone, without any discrimination, has the right to equal pay for equal work. Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection. Everyone has the right to form and to join trade unions for the protection of his interests.*
- 2.2 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'*.³
- 2.3 The Salvation Army, through considerable knowledge and experience working at the grass roots level both globally and nationally strongly supports a person's right to just and favourable working conditions and is fully aware such labour protection not only serves to lift a person /family out of poverty and deprivation, but certainly goes a long way in lifting an entire community to an improved level of living. Both Article 23 as well as the 2008 report serves as a benchmark to be attained for the proposed changes to Immigration law as it relates to migrant labour.

² <http://www.un.org/en/documents/udhr/>

³ Human Rights Commission, 'Brain Gain, migrant workers in New Zealand, 2008, Wellington, NZ

3. Overview of The Salvation Army's perspective:

- 3.1 The Salvation Army sees in its programmes migrant workers entering New Zealand on a temporary work permit to engage in employment within a specific work place that are immediately placed in a position of vulnerability when the conditions for which they were employed are markedly different than what the migrant was led to expect. Our experience suggests migrant workers speaking up against abusive workplace practices are at risk of losing their employment and therefore are of imminent threat of forfeiting their right to remain in the country.
- 3.2 At the 2011 conference Jennifer Burns⁴ in her presentation on labour trafficking and exploitation spoke in detail of the threats and intimidation used to effectively silence those being abused pointing out that while historically chains may have been used to ensure slaves remained, today, "it is a prison with no walls, in which the tactics used are more underhanded and involve psychological coercion, often coupled with threatened or actual physical violence and sexual assault, social/linguistic isolation or creation of fear of exposure, distrust of law enforcement and authority.

4. Specific responses to clauses within the Bill:

- 4.1 The Salvation Army strongly supports the intention of this Bill, in particular as it relates to proposed measures to protect vulnerable migrant workers from exploitation. We agree with the Minister's comments at the first reading⁵ when he stated that "although changes to the law are important elements in improving protection for migrant workers, the most important factor in achieving that is for exploited workers themselves to speak up", and therein lies the challenge for it is the Salvation Army's experience that persons in a position of extreme vulnerability are less likely to seek help from those perceived to be in positions of authority.
- 4.2 To this end The Salvation Army encourages the Select Committee to consider recommending a multi-agency response to this growing criminal activity. Labour exploitation occurs, and thrives hidden within our communities. For an effective response it will require both legislative change and enforcement. These changes should happen alongside partnerships with key non-government organisations, for it is these organisations that work at the grass roots and are more likely to come into contact with those being exploited.
- 4.3 For the purposes of this submission The Salvation Army responds specifically to the two amendments aimed at offering greater protection and detection and deterrent of exploitative working conditions involving migrant workers, namely,

⁴ Jennifer Burn, Director UTS Anti-Slavery, Australia, Associate Professor, Faculty of Law, University of Technology, Sydney , presenter at the People Trafficking conference, Lower Hutt 2011

⁵ The Hon Michael Woodhouse, Minister for Immigration, Immigration Amendment Bill (no 2) first reading, 19 November 2013

- 4.3.1 *Part 1, sub part 6, section 161 amended (Deportation of residence class visa holder convicted of criminal offence)*
Part 2, sections 351, amended (Exploitation of persons not legally entitled to work) and 355 amended (Penalties: general)
Part 1, sub part 6, section 161: amended (Deportation of residence class visa holder convicted of criminal offence).

The Salvation Army supports this amendment and believes it will send a strong message to employers that abuse and exploitation of migrant workers will not be tolerated in this country.

Furthermore we contend including short term migrant workers with work visas as well as those working illegally ensures consistency and fairness. The Salvation Army raises the question though as to why the 10 year cut off in relation to possible deportation of a person convicted of exploiting a migrant worker/s? We submit this issue should be discussed further, particularly at the oral submission stage.

- 4.3.2 *Part 2, sections 351, amended (exploitation of persons not legally entitled to work) and 355 amended (penalties: general).*

The Salvation Army supports these amendments. Any changes to existing law can only further strengthen effective responses in order to combat what appears to be a growing crime which is not only harming vulnerable migrants seeking fair wages, but also threatens this country's international reputation and integrity.

However the Salvation Army is aware of how resource extensive such amendments will entail in order for such changes to be effectively implemented. The Salvation Army notes the Minister for Immigration's reference to a "package of actions that this government is taking to address the exploitation of migrants which will be developed around the amendments⁶", and believes these should be outlined in detail as this bill progresses.

5. Conclusion:

While reiterating the Salvation Army's strong support for the overall intent and purpose of this Bill, the Salvation Army agrees with Dennis Maga (Union Network of Migrants) when he said that whilst the changes were a step in the right Direction, they don't address one of the biggest barriers to workers speaking out that being the fear of losing their work visa as it is tied to their workplace. In the 2009 conference the comment was made that "it takes a network to defeat a network", The Salvation Army agrees and concludes its written submission with one of the key action points raised at the end of this conference, namely ,
"Collaboration is very important between nongovernment organisations, international organisations and governments due to the fragmented approach to

⁶ The Hon Michael Woodhouse, Minister for Immigration, Immigration Amendment Bill (no 2) first reading, 19 November 2013

date to achieve joint action and shared resources-strengths need to be identified and work together with clear goals and knowing how to achieve those goals.”⁷

For further information or comment, please contact:

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⁷ Pacific Trafficking in persons Forum, September 2009, Wellington NZ