

Pacific Trafficking in Persons Forum Report

by
the Social Policy and Parliamentary Unit
of The Salvation Army, New Zealand, Fiji and Tonga
Territory

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Hosted by the Salvation Army's Social Policy and Parliamentary Unit, in
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'Ending human trafficking is not idealistic or naive. It is audacious. And it is people of audacity who change the world.' – Rob Morris

Preamble

Aided by real life stories, forum key note speaker Ruth Dearnley¹ urged participants to become nosy and to gossip. While not normally characteristics we would wish to openly acknowledge or aspire to, the intent of Ruth's message was very clear: the trafficking of people survives and thrives in conditions of silence, ignorance and denial.

Continuing awareness raising and campaigning is essential in ensuring the message maintains an active public profile. Such messages need to be clear, focused and simple. Stop the Traffik's chocolate campaign has gained considerable traction by following such a plan. Singularly committing to targeting one consumable item has seen significant achievement with increasing numbers of 'Traffik free' chocolate bars appearing on supermarket shelves.

It is important to note that traffickers exhibit tremendous commitment in executing their crimes. Ruth gave a graphic description of one young English woman from a middle class background being groomed for five years by her trafficker. It follows, therefore, that any anti-trafficking campaigns/programmes require the same level of dedicated commitment and consistency of approach.

Bringing together a diverse range of people, organisations and cultures, the forum's aim was to unpack and challenge the inconvenient truths that underpin the growing crime of trafficking in persons. By the end of the two days, participants were left in no doubt that neither the Pacific region nor New Zealand is free from the taint of the illegal commodification of people for profit.

The forum was attended by non-government organisations, government departments, law enforcement, researchers, lawyers, human rights activists and grass roots community groups sharing their knowledge, wishing to know more of the issues and

¹ CEO of Stop the Traffik London UK

wanting to become more actively involved. Countries who participated in the two day event included Fiji, Tonga, Australia and New Zealand, along with representatives from the American Embassy.

Projected as follow-on from the 2009 forum, the intended outcomes were very clear—namely to achieve:

1. a greater understanding of the vulnerability factors that underpin trafficking in persons, to the development of more appropriate effective interventions;
2. develop an association of organisations, which could further improve the effectiveness of grass roots community action.

This report provides a detailed summary of the two days, outlines the learning and makes available the transcripts of the final break-out sessions that gave participants the opportunity to shape a way forward beyond the forum.

Appended to this report is the forum programme, which outlines the topics covered in the two days.

'Friends help each other – not just with convenient facts, but sometimes with inconvenient truths. And in the anti-trafficking world, that kind of friendship means honesty about the problems we see'²

Day One: Unwrapping the Inconvenient Truths

Introduction and welcome to the forum: Major Campbell Roberts, Director, The Salvation Army's Social Policy and Parliamentary Unit

Major Roberts opened by acknowledging the global spread of the crime: 'Human trafficking is a crime which affects nearly every part of the world and the Pacific as a region is not free from that crime and its consequences. According to UNODC, victims from at least 127 countries have been identified, and it is estimated that more than 2.4 million people are being exploited by criminals at any given time.'

² Ambassador Luis CdeBaca, U.S. Pacific Command Interagency Symposium on Trafficking in Persons Honolulu, HI, February 18, 2011

He continued by referencing UN Secretary General Ban ki Moon, who said, 'It is slavery in the modern age'. 'Every year thousands of people, mainly women and children, are exploited by criminals who use them for forced labour or the sex trade. No country is immune. Almost all play a part, either as a source of trafficked people, a transit point or a destination.'

Major Roberts outlined four essential tasks he believed to be essential in our continuing fight to end all forms of trafficking in people:

'Firstly it will be important to build partnership and collective actions across the Pacific and in our various countries. To operate with a single country approach will be a little like trying to put out a raging bush fire by trying to keep the fire out of your own back yard. Although such an approach may succeed in the short term, in the end we will be overcome by the fire ravaging the bush and other properties around us. To be effective this forum needs to work in partnership and be involved in joint effective action that will deal to the criminal activity that trafficks human persons.

“It is important that our priorities are based on credible evidence and are indigenous to this region.”

Secondly, together this forum will need to identify the priorities in the task of addressing human trafficking in our region and our various countries. We may have different approaches but we need to agree on those areas of trafficking that deserve priorities. In setting those priorities, we need to listen to what the available data is saying. Then we need to determine the areas in which the best progress can be made in the response to that data. It is important that our priorities are based on credible evidence and are indigenous to this region. We will be less effective if we don't properly undertake credible research in our own region and simply grab the priorities and practices from other parts of the world. Understanding the data and activity of our own Pacific region and then prioritising the action needed is essential.

Thirdly once the priorities are set it is vital to identify who is responsible for what and who will lead certain aspects of the campaign to fight trafficking in persons. If leadership can be given and accepted for key roles and tasks this will minimise wasted effort that is caused by doubling up on action or on the other hand leaving important areas of the fight without resource or leadership. By having some agreement at the end of this forum on the action and who takes the lead will ensure that these two days are not just two days of good talk alone but that they also lead to coordinate and good action.

Lastly in identifying the priorities and the leadership for engagement it's important to identify the tasks and outcomes that we are all working to achieve. A regional plan of action to which people and organisations can commit.

The achievement of these four tasks would give certainty to you all that the time and energy you are committing to this forum will result in action to confront trafficking in persons that will be valuable and lasting for our region'.

Key note speaker: Ruth Dearnley, CEO, Stop the Traffik UK.

Opening her address, Ruth referred to the 'inconvenience' of her flight from London being delayed due to a burst tyre on the plane, which consequently meant she missed her connection to New Zealand from Sydney leading to a day long wait for the next available plane, a total in all of 48 hours travelling. *Inconvenient? Yes, life threatening? No.* Ruth reflected that at no time was she unaware of what was happening, neither did she have to surrender her passport; moreover she knew her final destination and what would be happening for her there. In short, Ruth's journey differed in every way from that of a person who has been trafficked. For as Ruth pointed out trafficking involves,

- Deception
- Lies
- Dreams and abuse of power
- Exploitation and pain

'Freedom is bought at very little cost—don't be too complicated'

Trafficking is global with no country untouched or immune. Ruth emphasised that while forum participants were at various stages of learning about trafficking in people, none of us were experts, but rather, gathered together as avid learners. Such sharing and learning, listening and reflecting will shape future networking and the effectiveness of any campaigning. 'You need a vision and together you work out how to get there—it's all about people, it's all about how you get there.'

Traffickers show enormous resourcefulness and adaptability, as well as absolute commitment to maximising their profits, adapting to the market and creativity in planning their trafficking routes. Right now, traffickers can do far more than those engaged in anti trafficking measures. This needs to change. Remember trafficking is about one thing, it's all about money. 'Trafficking is a new way of trading. Traffickers have a global market with a global demand, they work within communities. To be

effective, we need to understand how systems work. Trafficking happens at the grass roots. We must engage communities around the world or we won't stop it.'

While partnerships are essential, we are only as strong as the grass roots movement. It is also essential that we engage the younger generation in campaigning for change.

Change begins with all of us; however we cannot stand up and talk unless we personally become aware of what we are putting in our shopping trolley.

Stop the Traffik (STT) began its work in 2007 and was to run for a year, but five years down the track STT is now spreading globally. *What is STT currently involved in?*

- primarily the emphasis is, and must be, on prevention; and a vital part of that is constantly and effectively raising awareness
- it is and will remain a grass roots organisation—'change happens from the bottom up'; the key is in knowing who you are and what you do, and then work together to effect change
- numerous campaigns have been run and planning for more is ongoing
- STT shows through action the power of community
- STT has partnerships with such organisations as the UN and law enforcement
- more campaigns are being planned for 2012

The chocolate campaign will continue and grow in strength. It is a campaign that can be won and, therefore, it is vital that commitment remains high to ensure all chocolate products are declared 'free of child labour'. Stop the Traffik firmly believes that each one of us makes a difference and collectively we can 'stop the Traffik'. Recently there has been an over-focus on sex trafficking, yet trafficking is not just about sex—it is about the goods we purchase and consume. Focusing on chocolate and its production can harness the power of community. Historically, there are examples of this working effectively: William Wilberforce used sugar, Ghandi used salt, and we can use chocolate.

Speaker 1: Jack Byrne, Senior Policy Analyst, New Zealand Human Rights Commission

Human Rights

An overview of human rights protections relating to trafficking and their application in New Zealand:

Human rights are about dignity, equality and security. Human trafficking violates human rights. Vulnerability comes in so many forms. All people need to experience freedom from:

- discrimination on the basis of race, ethnicity, sex etc
- arbitrary detention
- forced labour, debt bondage
- forced marriage
- slavery-like practices, servitude and;
- the sexual exploitation of children and women

Furthermore, people need the freedom of movement, which includes the right to leave and return to one's own country.

In respect to trafficking responses we must:

- respect, protect and fulfil human rights
- Focus on those most vulnerable —including women, children and migrants.

Moreover, responses must not violate a person's rights, such as:

- detention of trafficked persons in immigration or shelter facilities
- prosecution of trafficked persons for status-related offenses such as illegal entry or illegal work
- forced repatriation of victims that places them in danger of reprisals or re-trafficking
- conditional provision of support and assistance
- denial of a right to a remedy

Referring to international human rights standards and the concept of trafficking being recognised in international law for some time, it was pointed out that only in recent years had trafficking in persons been included in a number of protocols and treaties. (Please refer to appendix 2 for references to the different conventions). Conventions can be used to argue the cause. As well, arguments are more powerful when attached to protocols. Such protocols hold us accountable to our peers.

Yet, while having conventions and protocols in place, and despite clear definitions, the interpretation of concepts can be a difficult and challenging process, especially when definitions overlap. There are, for instance, various links between the sale of children,

the trafficking in children, the forcing of children into labour and the recruitment of children for use in armed conflict.

The definition of trafficking includes three core elements:

- a. An action** —recruiting, transporting, transferring, harbouring or receiving a person.
- b. A means**—using a threat, force, coercion, abduction, fraud, deception; abusing power or a position of vulnerability; giving or receiving payments or benefits to gain consent from someone who has control over another person.
- c. For the purpose of exploitation**—exploitation of the prostitution of others, other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

For adults, all three elements must be present (action + means + for the purpose of exploitation), while for child victims of trafficking it is NOT necessary to show that any means (e.g. force or deception) was used as a child recruited or transported for exploitation is a victim of trafficking.

The presentation concluded with a reminder that there was no room for complacency within New Zealand, as community concerns continue to be raised about exploitation and possible trafficking of women through forced marriages; or as workers on extended family's farms, children through prostitution and migrant workers in the

- hospitality industry (chefs and restaurant staff)
- horticulture and viticulture
- fishing industry – foreign charter vessels

'All of us must be better prepared to respond effectively to these human rights violations.'

Speaker 2: Charles Chauvel, MP, Customs and Excise (Prohibition of exports made by slave labour) Amendment Bill 2009

Mr Chauvel briefly outlined the history of the amendment, which came about as a result of a petition from Trade Aid NZ, who gathered 17,000 signatures demanding greater transparency in supply chains, calling for the identification of goods that may have slave labour associated with them. The intended purpose was to remedy the gap in legislation around the failure to be able to identify slave labour.

The Bill came into the House in 2009 and was presented by the Hon. Maryanne Street. However it was narrowly defeated by National and Act, in referring it to a select committee (please refer to appendix 3 for part of her introduction speech).

Had the Bill progressed through, it would have defined slave labour. Goods made by slave labour would have been stopped at the border from entering New Zealand.

Both National and Act argued that the definition being used in the Bill was problematic and, as such, would make it impossible to work within.

Mr Chauvel believes it is an opportune time to reinvigorate the Bill, and he is committed to being part of that process in re-introducing it to the House. One first step would be to approach the Hon. Tim Groser formally to discuss the proposal. The presentation concluded by stating that our present legislation is inadequate and needs improvement.

Speaker 3: Marie Damour, Deputy Chief of Mission, Wellington, US Department of State

Human Trafficking

Speaking on the 2011 Trafficking in Persons Report, Ms Damour described the 'tier system' used to identify countries' efforts to address the issue of human trafficking within its borders. The three tiers are ranked as:

- **Tier 1**—fully comply with the minimum standards
- **Tier 2**—do not fully comply but are making efforts to do so
- **Tier 2 Watch List**—concern that the situation is deteriorating, to be re-evaluated next year
- **Tier 3**—do not fully comply and are not making significant efforts to do so.

The aim of the yearly report is to intentionally raise global awareness, in order to begin to bring about effective action; the goal being the elimination world-wide of trafficking in persons.

Any anti trafficking measures need to include the 'Three Ps'—prevention-protection-prosecution.

What do we know? Trafficking is a global problem with no country immune. Trafficking responds to market demands therefore traffickers adapt swiftly to such changes.

Trafficking preys upon human vulnerabilities. The UN definition of trafficking is very clear: there does not need to be cross border movement for a case to be identified as trafficking, since trafficking in persons may also take place within any given border. There are far more incidents of labour exploitation and trafficking than sexual exploitation, yet it is sex trafficking that commands media headlines and public attention.

New Zealand is ranked under Tier 1, which means the country fully complies with the minimum standards set down. However, it was acknowledged there is still major room for improvement. No responses are perfect as there is still much to be learnt regarding the crime of trafficking in persons. Services for those who were identified as victims needed improving; there was also a critical need for closer collaboration of non-government organisations. Furthermore, any approach needs to be victim centred. It is important that throughout the process, those who have been victims of trafficking have their rights protected.

It is to be noted that any written material is, at best, a human endeavour so is not infallible. At present there was a reliance on information from NGOs and government, yet there remains a dearth of good credible information.

While a great deal is heard about women and children being trafficked, there is a need to recognise that men, too, are trafficked. Men are usually trafficked for labour. Many of the men do not like to be called victims, which complicates any given assistance.

Further issues to be addressed are

- The need to eliminate the demand for trafficked labour, and
- Working towards supply chains being free of slavery.

Speakers 4 and 5: Sarah Su, Business Advisor, Operations Support, Intelligence, Risk and Integrity Division; and Peter Elms, Manager, Fraud and Compliance, Intelligence, Risk and Integrity Division—Immigration NZ, Department of Labour.

Presentation One:

Trafficking in Persons Plan of Action—an update, and a presentation on the recent fishing incidents including Immigration NZ's role, accountability and involvement in the issues.

The presentation gave an update on the Trafficking in Persons Plan of Action, covering,

- Legislation

- NZ context
- Government response
- Progress to date
- Key messages

(Please see appendix 4 which outlines the legislation covering trafficking.)

As yet, New Zealand has not had any prosecutions in relation to incidents of people trafficking. However, it is acknowledged there are areas of risk where it may occur, namely:

- vulnerable migrant workers—unaware of their rights, working illegally and fearful of authorities
- Prostitution Reform Act 2003—while prostitution is decriminalised, but illegal on temporary permits

Sex industry—strong pull factors:

- links to organised crime and being here unlawfully makes them vulnerable
- intelligence gathered in INZ compliance operations show foreign nationals work in the sex industry willingly

At the border—generally when they pass through the border, they are not aware they are being trafficked:

- traffickers can secure a genuine visa and deceive the victims into coming
- intelligence gathered at the border shows that passengers believed to be travelling to New Zealand to work in the sex industry unlawfully do so willingly, especially countries with visa-free status

The Trafficking in Persons Plan, coordinated by the Department of Labour, was released in July 2009. It is seen as a living document that can be added to. The plan's aim is to ensure people who have been trafficked are protected and their rights preserved. Trafficking is a migration/immigration issue. Approximately 2000 people are deported from New Zealand yearly, of which 700 are formally detained and deported. The remainder are case-managed through working with those who have entered New Zealand illegally, and assisting them to leave. Those knowingly entering the country illegally can be at risk and in danger of being exploited.

The Department of Labour responds to these risks through:

- Training:
 - trafficking indicators

- victim-sensitive interviewing
- risk profiles
- Targeted visits to high risk industries:
 - operational pre-briefs
- Recognised Seasonal Employer Scheme
- Migrant Dairy Workers Initiative

Recognised Seasonal Employer Scheme

- facilitates workers from overseas (primarily from the Pacific) for the horticulture and viticulture industries
- accredited employers audited to ensure standards, such as paying market rate and ensuring minimum pastoral care needs, are met
- the Department also investigates complaints from workers recruited under the RSE policy, and educates employers about their obligations

Migrant Dairy Workers Initiative

- the Department established a working group to look at issues that affect vulnerable migrant workers, specifically those working on dairy farms
- we acknowledge migrant employers are less likely to formally report employment relations problems for fear of jeopardising their employment
- such migrants are on temporary working visas and are predominantly from the Philippines, as well as South America, South Africa, Fiji and UK
- the Department is involved in educating migrant dairy workers on their workplace rights, with the aim to prevent any possible exploitation. This has included publishing a factsheet explaining work rights in NZ in various languages, and more awareness material is due to be available in the sector early 2012

Training, Risk Profiles etc

- the Department has profiles related to work visa applications which target indicators to detect fraud, including specific characteristics as well as those linked to other entities (i.e. name of employer, sponsor etc)
- the profiles provide Immigration Officers with robust verification, referral or investigation techniques. These profiles are triggered automatically in the normal course of processing an application and are regularly updated

- immigration officers can also refer cases to the Department's Fraud Branch and Immigration Intelligence Unit for further investigation

Key messages the Department wants to emphasise are:

- authorities are here to protect, not punish people who come forward for help
- contact your local Police if you need help, or know of someone who may need help
- the NZ Government is committed to ensuring that workers are not exploited and human rights are protected at all times

Presentation Two: Foreign Charter Vessels—New Zealand Government Response

Foreign chartered vessels are chartered by NZ quota owners and are foreign owned, operated and crewed. New Zealand does not have sufficient boats or crew to meet international fishing quota obligations, hence the need to meet quota requirements via foreign chartered vessels. Referring to the scale of the operation, Mr Elms stated that at present, approximately 1200 to 1500 visas for fishing crew are being issued yearly. The vessels are officered by Koreans and crewed by Indonesians, with a smaller number officered by Ukrainians and crewed by Eastern Europeans.

The presentation outlined the legislation and policy that covers issues relating to foreign charter vessels:

- Fisheries Act—requires 'authorised agent'
 - Minimum Wage Act 1983
 - Wages Protection Act 1983
- Labour Inspectors, Employment Relations Authority and Employment Court
 - have jurisdiction to deal with complaints
- Code of Practice for Foreign Fishing Crew

The responsibilities of the **authorised agent** are to provide labour inspectors with records relating to the Minimum Wage Act and the Wages Protection Act, and be served with documents relating to those Acts (and this will be deemed as if the employer has been served). However there remain jurisdictional issues with enforcing against an overseas employer.

Fishing vessels must be registered under the Ship Registration Act, including vessels owned or operated by an overseas person—under the Fisheries Act 1996. If a vessel is registered, the requirements of the Minimum Wage and Wages Protection Acts must be

met in relation to persons engaged or employed to do work on the vessel who hold the required work visa.

Labour Inspectors, the Employment Relations Authority and the Employment Court also have jurisdiction to deal with complaints from crew in relation to the Minimum Wage Act or Wages Protection Act.

Following a number of incidents where foreign charter vessel crew jumped ship due to pay and conditions on board, the Department of Labour was directed to engage the industry for durable solutions.

The Minimum Wage Act 1983 and Wages Protection Act 1983:

- jurisdictional issues with enforcement

Therefore, the Code of Practice for Foreign Fishing Crew was developed:

- gives mandate pursuant to Immigration Instructions

Previous non-compliance with the Code of Practice may jeopardise the company's ability to obtain visas for crew.

The Code of Practice:

- was developed in conjunction with the fishing industry and the NZ Fishing Industry Guild
- was first developed in 2004—revised Code of Practice came into effect in 2006
- must be agreed to by NZ Charter Parties before visas are issued

Key employment provisions are contained in immigration policies and the Code of Practice on Foreign Fishing Crew including:

- minimum wage plus \$2 an hour (currently \$15 per hour total)
- limited deductions (food, visa fees, airfares) which cannot take pay below minimum wage for all hours worked
- wage records to be kept by employer and safe working environment provided (whereby the employee can complain to the Police or DoL)
- right for employees to access NZ employment institutions regarding disputes or problems under the employment agreement.

As at 6 July 2011—671 Foreign chartered vessel crew were in NZ.

What are the challenges?

Wages:

Difficult to ascertain how much crew members actually get paid as:

- correct payment may be made to agents, but is not necessarily retained by crew members
- transactions take place offshore

Health and safety:

For the Health and Safety Act to apply to crew, the ship needs to be registered under the Ship Registration Act and to have employment agreements governed by New Zealand law.

Labour Inspectors only offer technical support to immigration officers, due to there not being any New Zealand employer or New Zealand employment agreement. Also, the Code of Practice for Foreign Fishing Crew has put in place requirements over and above minimum legislative entitlements, which are the statutory mandate for the involvement of Labour Inspectors.

Maritime New Zealand has some responsibility for health and safety issues through its 'Port State' functions (the powers of the country where the vessel is operating). In recent years it has substantially increased its oversight of FCVs and now requires them to meet the same standards as domestic vessels. Ultimate responsibility for health and safety, however, lies with the vessel's flag state.

Further challenges:

- difficult to monitor conditions on board the vessel
- difficult to verify allegations of abuse
- legislative constraints once a vessel is outside of NZ's territorial waters

Referring to the latest claims raised by the research into the fishing industry, it was acknowledged that such allegations have proven extremely difficult to verify, as the incidents all take place at sea and when reported can be inconsistent. Furthermore, there was awareness that crew members who wish to keep their employment are much less likely to make a complaint. At present, the issues are being further investigated as part of the ongoing Ministerial Inquiry.

Speaker 6: Jacqueline Joudo Larsen, Senior Research Analyst, Crime and Populations Programme, The Australian Institute of Criminology

The trafficking of children in the Asia-Pacific (general overview, adoption and trafficking and potential risks within informal guardianship arrangements)

The presentation began with an overview covering:

- what is child trafficking?
- child trafficking in the Asia region
- child trafficking in the Pacific region
- drivers of child trafficking
- child trafficking and child protection systems

Referring to article 3 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons,³ it was emphasised that there are two critical differences between the trafficking of an adult and a child:

- means of control or deception not a necessary part of the process
- children cannot legally consent to exploitations or trafficking

To further emphasis this difference a number of case scenarios were given, two being:

- a 17 year old girl from China agrees to an offer made by a recruiter to work in a brothel in Viet Nam for five days a week for low wages. She arrives at a brothel in Viet Nam and the terms of agreement (time/wages) are honoured
- a 17 year old boy from North Korea crosses illegally into China with hopes of a better life and immediately finds a job paying the equivalent of \$1.25 per day. Soon after, he is recruited and transported by a neighbour to work for a construction factory in another city where he is initially paid \$1.75 per day but after a few months, the employer forces the boy to work around the clock, withhold wages, and subjects him to slavery-like conditions.

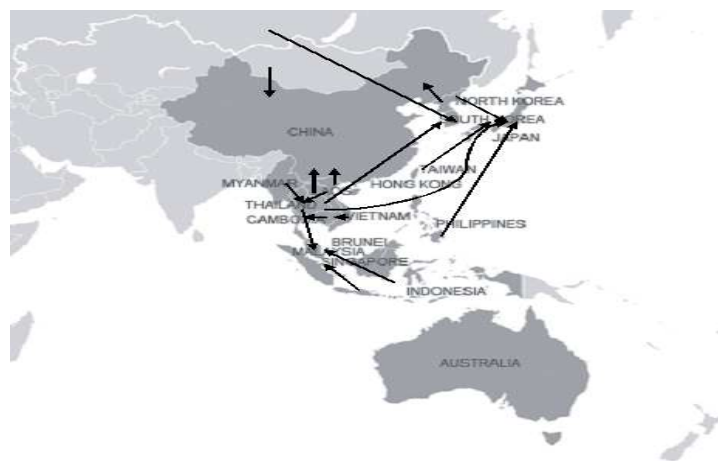
What is presently known about the extent of child trafficking in the Asia region?

³ The recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices.

While currently there is little reliable data available regarding the size of the crime, it is acknowledged that cases that have been identified are 'the tip of the iceberg'.

What does child trafficking involve?

Child trafficking involves various forms of bonded and exploitative labour, such as domestic services, factory work, fishing; sexual exploitation, such as through child prostitution or the production of child pornography; forced marriage; armed conflict; adoption, and begging.



Routes for child trafficking in the Asia region

Patterns between internal and cross border routes are exposing:

- links between migration and trafficking
- common processes employed to traffic children
- mixed profile of traffickers

Focusing on the Pacific region and child trafficking research makes known some important issues, in as much as

- the region is characterised by a largely youthful population—almost 37 percent of the region's population aged less than 15 years
- children are susceptible to a range of exploitative and criminal activities, including commercial sexual exploitation, sex tourism, labour exploitation, illegal adoption

- a lack of reliable data on the occurrence of these activities renders it difficult to measure the extent of the problem

There are a range of factors which affect the vulnerability of children in the Pacific, such as the low level of youth education and employment due to the high costs of education and the lack of employment opportunities. Cultural practices also impact unfavourably, for instance, the billeting of children within region wide familial networks, which can place children at greater risk of exploitation.

Focusing on Australia and what is known regarding child trafficking, it was revealed that while there have been no prosecutions, there are two possible cases where a child has been trafficked into Australia into the sex industry. Also, the Australian government has identified 12 children from India who may have been kidnapped, sold to orphanages and then adopted by unsuspecting Australian families.

It is understood that the trafficking of children is due to a range of factors and vulnerabilities. Of these, four have been identified from literature:

- child's vulnerability
- family-related factors
- socioeconomic factors
- demand

The presentation continued by outlining systems and best practices needed in the prevention of child trafficking. To achieve a holistic approach, prevention practices needed to include three key elements:

- strengthening legal and justice systems
- strengthening social welfare systems
- strengthening social behaviour change systems

The presentation concluded by stating further work and emphasis:

- there remains a need to strengthen the evidence base, particularly in relation to achieving greater conceptual clarity
- conflation of child trafficking with smuggling, irregular migration and prostitution is problematic but child protection can be advanced irrespective of the entry point

- interventions which seek to address the problem on all levels—community, family and individual—within a broader child protection framework are likely be the most effective

Speaker 7: Adi Melania Tibika, Training Officer, Save the Children, Fiji

Issues affecting children in Fiji

*You asked for water
god gave you rain
you asked for bread,
god gave you wheat
you asked for a bud,
god gave you a rose
you asked for the sounds of laughter,
God gave you a child.*

*Children are gifts from God
they need your ears to hear them
they need your hands to lead them
they need your advice to guide them
most of all they need you to protect them.*

Save the Children has been established in Fiji for 39 years. It is the only rights-based non-government organisation solely focused on children in the country. Save the Children works to protect children from violence, abuse, neglect and harmful work. It was emphasised that *'many children's lives are marred because the adults around them do not take children's rights seriously'*.

Currently Save the Children runs the following programmes:

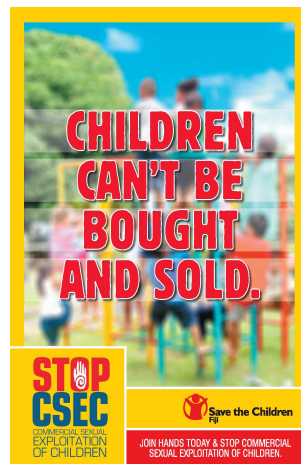
- Mobile Playgroup Project
- school development
- emergency relief and
- Child Rights Unit
- action-oriented research
- awareness raising and advocacy

***'Children are gifts from God
they need your ears to hear
them'***

The issues dealt with daily cover positive discipline, child abuse, commercial sexual exploitation of children and child trafficking. Among the programmes run are raising awareness of the dangers of trafficking and programmes which educate parents on children's rights in a non-threatening way.

One of the challenges faced in endeavouring to change parental behaviour, especially attitudes towards discipline is the reality that whilst physical punishment was not traditional in many cultures before colonisation, it has become internalised and integrated into indigenous people's belief and systems over time.

A situational analysis was carried out in 2004 on CSA and CSEC in Fiji and the report was published in 2006 which revealed that children below 18 years of age are being exploited in violation of the United Nations Convention of the Rights of the child. Save the Children Fiji's (SC Fiji) situational analysis released in 2006, relating to the commercial sexual exploitation and child sexual abuse of *Children in Fiji*, and stories in the media, indicate that prostitution, pornography, 'sinister' adoption, early marriage and child sex tourism (CST) is happening in Fiji.



When exploited, children are denied their right to protection from:

- harm (Art. 19)
- work that is harmful to their health and education (Art. 32)
- sexual abuse (Art. 34)
- being kidnapped or sold (Art. 35)
- exploitation (Art. 36)

United Nations Convention on the Rights of the Child

Both boys and girls are victims of commercial sexual exploitation, although the prostitution of girls is far more prevalent.

Prostitution: Girls and boys are victims, individual and organised. Interviews with the prostitution victims in Suva discovered that 33 percent of the total victims are still in school and come from broken homes.

Pornography: I am sure you are aware of the 1997 case of the Australian national with 2000 images of child pornography. During the investigation, researchers found other reports of child pornography included an account concerning some visiting yachtsmen who would lure children (4—7 year olds) from nearby villages with sweets and lollies, to join them on a picnic, and in turn photograph them as they played in the nude.

Sinister Adoption: Children adopted in the traditional manner⁴

Early Marriages: The culture of early and arranged marriages, particularly in the Indo-Fijian community, sets the platform for potential CSEC situations. Newspapers carry personal advertisements from mainly males based outside of Fiji, seeking young, mainly Indo-Fijian females for the purpose of marriage. Due to lack of employable skills, education, support services and coping mechanisms, these girls engage in prostitution as a means for survival.

Child Sex Tourism: Little to no local information available on child sex tourism. Developing countries are ideal destinations for perpetrators. Both boys and girls are victims of commercial sexual exploitation, although the prostitution of girls is far more prevalent.

Vulnerabilities identified are:

- poverty of economics, opportunity and education
- children with disabilities
- children living in violent situations
- children who are victims of physical and sexual abuse
- unsupervised children
- billeted children
- early Marriages

⁴ Sinister adoption is adoption of a child for exploitation or abuse. This is not always the intention of the parent who may give their child/children willing to another family relative or friend in the hope the child may have a better life.

- growing number of visitors to Fiji

Child trafficking in Fiji is new and the focus tends to be on trans-national rather than domestic trafficking. There needs to be increasing awareness of this issue.

The presentation continued with highlighting the risk factors:

- poverty
- discrimination against women in education, employment and wages
- migration through formal channels is not possible for many of these women
- dreaming of a better life
- increase in tourism

The supply aspect of trafficking is perhaps the most transparent: In areas where poverty has already limited people's choices, and discrimination against women in education, employment and wages, can leave them with very few options for supporting themselves and their families.

'Dreaming of a better life in the city, or a foreign country, they become vulnerable to traffickers' false promises of high-paying jobs.'

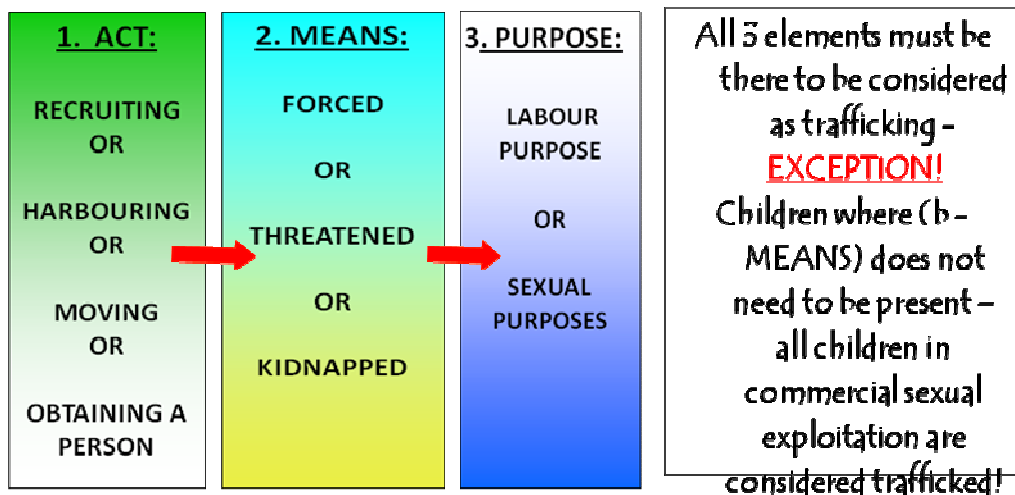
Migration through formal channels is not possible for many of these women.

Dreaming of a better life in the city, or a foreign country, they become vulnerable to traffickers' false promises of high-paying jobs.

Even though women and children might feel uneasy about the travel circumstances, despair over their current prospects and hope for a new life can easily outweigh any sense of danger.

In this way, poverty and gender inequality create a large pool of potential and seemingly willing 'recruits.'

The three elements of trafficking:



The challenges in addressing the issues in Fiji:

- talking about sex in the family is 'taboo'
- children's rights assumed to be a foreign concept—misconception
- children's low status in society (seen & not heard)
- those that quote biblical text in support of physical punishment
- culture of respect for elders
- cack of information
- 'minding your own business' attitude

The presentation concluded with a challenge for all present: conventions and treaties can be made every year but the reality lies with us here today. Save the Children Fiji and other institutions can create awareness all throughout the country, in such workshops as this. But the ownership lies in our hands as parents and community members. If you suspect any incident that places the life of a child at risk, please do make a report to the appropriate authorities.

Speaker 8: Luisa Samani, Information Researcher, Tonga Women and Children, Crisis Centre

Documenting Her Story: outlining the centre's first trafficking case and the first prosecution in Tonga

The Tonga Women and Children Crisis Centre (TWCCC) are involved in the following programmes:

- free 24-hour counselling —call (676) 222 40
- transitional housing —the Mo'ui Ke Fiefia Safe House
- integrated response

- assistance (legal, health, police)
- I-YEL Program
- male advocacy
- community outreach and awareness

All support to those seeking help is provided at the client's discretion. Legal advice is available via referral to a lawyer. The referrals of clients to court, police stations, hospitals and other agencies occur upon request. The centre provides emotional support and options for clients to be able to make choices for themselves

Trafficking in Tonga

Tonga prosecuted its first case of trafficking this year involving two victims who are Chinese nationals, forced into prostitution by another Chinese national—she is Currently serving 10 years in prison after she was found guilty for trading in prostitution. The complainants, two Chinese women, told the court that the trafficker had forced them into prostitution in Tongatapu.

Tonga prohibits all forms of human trafficking through its Revised Transnational Crimes Act of 2007, which defines human trafficking as including forced labor and Forced prostitution, and which prescribes penalties of up to 25 years imprisonment for these offences. However, as yet Tonga is not a party to the 2000 UN TIP Protocol, and the Government of Tonga does not yet fully comply with the minimum standards for the elimination of trafficking.

So, although the two victims expressed a desire to pursue civil charges against their trafficker, they were not provided access to legal assistance to do so. Neither did the Government take steps to proactively identify other victims of trafficking or educate the public about human trafficking.

What this case highlighted was that while Government acknowledged that trafficking occurs in Tonga, the community at large thought it was a case-in-isolation and did not understand trafficking and its consequences. Furthermore, civil society organisations and NGOs were ill-equipped to raise awareness and advocate for victims.

The two victims identified themselves to authorities and were subsequently provided with medical assistance and Police protection during their trafficker's trial. One of the victims wanted to speak about her experiences with the WCCC and shared her story.

The presentation continued by covering the story, as it was shared with TWCCC:

The victim was forced into prostitution in Tonga, and was forced into labour at the trafficker's restaurant. She had responded to an advertisement in China about working in Tonga in the hospitality industry. All she needed to be eligible was to pay a flat fee to the agent, who would cover her airfare, visa costs and initial set-up in Tonga. There was an option of the agent covering those costs and the client paying it back in installments, once in the country and working. Coming from a poor family in the rural parts of China, she chose this option. What happened, instead, was she was greeted at the airport (with another Chinese woman having the same arrangements) by the trafficker who removed her passport and she was taken with the other Chinese woman to a building and told to wait in a room.

The trafficker returned later to tell her that because she owed their agent some money, that she would not be working as a hotel maid, but rather, she would be required to undertake some prostitution work in the restaurant. She would pay back what she owed from this prostitution. The victim was prostituted and was paid \$10 from the \$100 paid by each male client. When recounting her story, she said there were many other women in the same situation but that they were 'scared' of coming forward because of threats they were receiving from other Chinese business people in Tonga.

She also spoke about the 'fear' that many of them had of the Tonga Chinese Federation who had a lot of power among the Chinese nationals living in Tonga, and the possible consequences that would occur if they were to speak out.

TWCCC, when working with her, needed to make sure that they met with the victim in a place she felt was safe, that a translator was found who was trustworthy and understood confidentiality and that she was ok with the WCCC representative. She was given the freedom to tell her story in her own way and on her own timing. This was documented by writing notes (it was noted that it would have been helpful to have had a tape recorder but WCCC did not have access to this resource). TWCCC made sure she felt confident about sharing her story, by undertaking a non-judgmental, confidential dialogue with the victim. The main points, which had been documented, were read back

to give her the opportunity to alter it in any way. She was also asked if she wanted us to advocate on her behalf to seek further assistance by Police or to intervene in the court proceedings by providing a report. TWCCC felt it was critical that she led any action and was not encouraged or forced against her will.

As a result of working with the Chinese survivor of trafficking TWCCC resolves to:

- translate WCCC brochures into the Chinese language for distribution among Chinese migrant women
- put together an info-kit on trafficking for both in Tongan and Chinese—again for distribution
- continue documenting stories of victims and survivors
- lobby and advocate for legislative reform in this area
- encourage improved support services among NGOs and government service providers
- encourage more awareness-raising on trafficking

Speakers 9 and 10: Catherine Healy, National Coordinator, and Calum Bennachie, New Zealand Prostitutes Collective

Raids or Rescue?

Audit tools for anti trafficking measures amongst sex workers

Catherine outlined the role of the New Zealand Prostitutes Collective. NZPC was started in 1987 by sex workers and their allies, to:

- to provide advice, information, and support to sex workers that enables them to work safely;
- to overcome barriers that impact negatively on the rights, health, and well being of sex workers;
- to operate community-based services around the country.

‘Don’t talk about us, talk to us’.

Absent from ongoing dialogue are the voices of sex workers. Troubling to see the conflation of sex work with trafficking in persons, and as a result *all* are seen in need of rescue: *‘Nothing about us—without us’.*

NZPC have their own audit tools which helps them monitor what is happening in the NZ sex industry, and they are about to undertake a research project. Wider afield, other

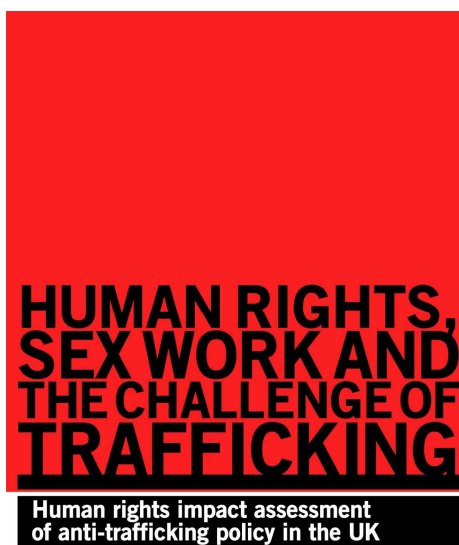
organisations are engaged in such work, for example, Nick Mai, GAATW, x:Talk, NZPC, Scarlet Alliance. Currently NZPC are undertaking research into migrant sex workers in New Zealand.

In addition, The Right Guide (2010), has been developed by Aim for human rights, (the Netherlands), La Strada Czech Republic, La Strada International and SCOT-PEP (UK), as a tool to assess the human rights impact of anti-trafficking policies.

Sex worker rights should be supported at all times, rather than undermined: 'Rescue' operations—raids on brothels—undermine the rights of sex workers by disrupting their lives. Sex workers are often arrested arbitrarily and detained in other countries in the Asia Pacific region with migrant sex workers subjected to deportation. These 'rescue' operations often expose sex workers to abuse by authorities, and fail to include sex workers in processes of finding effective solutions to any coercive and/or exploitative practices the sex workers may be facing.

'States should ensure that anti-trafficking measures do not violate sex workers' human rights, that their rights are not violated by others, and that they can enjoy and exercise all the human rights that have been agreed upon in international treaties and covenants on an equal footing with other citizens' (p13).

'Over the last years, repressive measures that restrict the fundamental rights and freedoms of sex workers have been proliferating, often claiming to be in the interest of combating trafficking' (p13).



A report by the x:talk project
October 2010

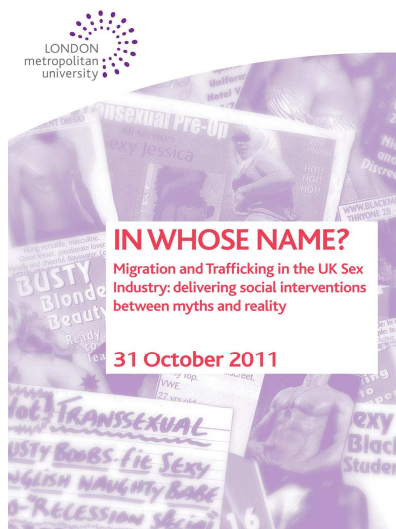
X:talk (cross talk) is a sex worker-led workers' co-operative which approaches language teaching as knowledge sharing between equals, and regards the ability to communicate as a fundamental tool for sex workers to work in safer conditions, to organise and to socialise with each other. In 2010, they completed a study on the effects of anti-trafficking policies in the UK on migrant and other sex workers.

X:talk concluded that the UK's anti-trafficking policy 'positions sex workers, in general, and migrants, in particular, as passive victims in need of help. It fails to recognise that, for most, sex work is work or a livelihood strategy. The result is that support and services are designed without the input of those they affect—sex workers and migrant sex workers. More specifically, is the concern that sex workers have not been involved in finding solutions to exploitative practices within the sex industry, outside of a trafficking framework' (p36).

They stated that 'because of the combined moral panic around migration and the sex industry, ATP focuses almost exclusively on women in the sex industry. This has the dual effect of rendering men and transgender people invisible in anti-trafficking efforts, and of ignoring the trafficking of people into non-sexual work' (p36).

They also found the 'existing focus on migration law enforcement and on the sex industry does not address the needs, choices and agency of trafficked people, whether they work in the sex industry or elsewhere, and prevents migrant and non-migrant

people working in the sex industry from asserting fundamental rights' (p36).



Dr Nick Mai, of the London Metropolitan University recently completed a study involving 67 women, 24 men, 9 transgender people in-depth semi-structured interviews with migrants working in all sectors of the sex industry and from the main areas of origin involved (South America, Eastern Europe, EU and South East Asia).

Among the key points he found were:

- the majority of the migrant workers in the UK sex industry who were interviewed were not forced or trafficked
- working in the sex industry is often a way for those interviewed to avoid the unrewarding and sometimes exploitative conditions they meet in non-sexual jobs
- most interviewees feel that the criminalisation of clients will not reduce demand or exploitation in the sex industry and that it will be pushed underground,

making it more difficult for migrants working in the UK sex industry to assert their rights in relation to both clients and employers (pp 1—2)

The Global Alliance Against Trafficking in Women has produced a guide to sorting out the myths and facts about sporting events and trafficking.

‘What’s the Cost of a Rumour?’ is a well-researched and written paper, and points to the need for an evidence-based approach when examining anti-trafficking measures.

Objectivity when examining what actually happened at major sporting events, rather than the emphasis on imagining what may occur, is vital. Everyone needs to have his or her rights protected and no-one should be exploited.

Speaker 11; Rae Julian, President, United Nations Womens’ National Committee for Aotearoa, New Zealand,

Progress of the World’s Women 2011—key points from NZ/Pacific position

‘UN Women’ is deeply committed to the abolition of sex trafficking. It forms part of our overall theme of preventing violence against women. A report from the United Nations in 2010 spells out the challenges in this area. Despite increased efforts to improve the knowledge base on the scope and nature of trafficking in women and girls, data continues to be unreliable and deficient. The availability of more and better quality data, including statistics, is indispensable in order to undertake effective legislative and policy reforms, monitor trends, and assess the impact of measures taken.

One of UN Women’s core themes is EVAW—ending violence against women. Trafficking is an example of VAW and it is widely recognised that, where it is prevalent, it is also symptomatic of attitudes towards women, as commodities to be traded when it is deemed to be necessary.

The UN is promoting a campaign called UNITE (to end VAW). As Ban Ki Moon has said, *‘There is one universal truth, applicable to all countries, cultures and communities: violence against women is never acceptable, never excusable, never tolerable.’*

By 2015, UNiTE aims to achieve the following five goals in all countries:

- adopt and enforce national laws to address and punish all forms of violence against women and girls
- adopt and implement multi-sectoral national action plans
- strengthen data collection on the prevalence of violence against women and girls
- increase public awareness and social mobilisation
- address sexual violence in conflict

What can be done here?

1. Support the work of those attempting to prevent trafficking in women and girls within and to New Zealand. Organisations such as Stop Demand, ECPAT, the women's refuge movement, The Salvation Army and others are underfunded and, therefore, under-resourced to carry out their valuable roles.
2. Support organisations that work within the Pacific in this area. They need not only financial support, but also recognition from government that preventing trafficking, or rescuing the victims, is a way to promote sustainable economic development, since it assists these women to contribute to the local economy. (An appeal to support the rights of the women and girls is less likely to arouse a positive response at present).

Speaker 12: Kim Anh Duong, PhD Fellow, Women's and Gender Studies Programme, The University of Waikato, Hamilton, New Zealand,

A victim-centred approach to protect trafficking survivors: Case of a country in the Great Mekong Sub-region

The presentation covered:

- human trafficking in Vietnam
- what is a victim-centred approach?
- protection of trafficking survivors in Viet Nam
- good practice: shelter for trafficking survivors

In Viet Nam the various types of trafficking are for:

- sexual exploitation
- labour exploitation
- forced marriage
- orphans and embryos
- removal of organs

- surrogacy

Whilst it is difficult to know exactly how many people may be trafficked, some figures give an idea of the size and extend. For example, some statistics from Vietnam show that:

- between 2004-2009: 1586 cases of trafficking in women and children (TWC), 2888 traffickers involved, 4008 victims
- 19,828 women and children are absent from home, suspected to have been trafficked
- returned: 2790 victims
- 60 percent trafficked victims returned home by themselves; the rest, 40 percent returned home through rescuing and official repatriation
- similar support to victims

(Source: GOV, 2009, 2010)

Victims of trafficking are given protection by:

- A victim-centred approach
- 3Rs: rescue, rehabilitation and reintegration
- government support package: temporary accommodation, foods, psychological consultation, transportation fees, financial support, access to micro-credit, vocational/job trainings
- support at-risk women and girls
- provide shelters
- community-based initiatives

The presentation highlighted the challenges in working with those identified as having being trafficked:

- 60% victims returned home by themselves, not through official way
- many women do not want to claim to be victims
- limited resources
- limited number of shelters
- stigma and discrimination still exist
- similar support to all victims

Good practice in Viet Nam operates through a cooperative model of state and non-state actors. The shelter works well and satisfies its residents as job training is based on the residents' specific needs and expectations. A shelter in the south provides:

- support with accommodation & foods
- psychological support; health care
- vocational training, job creation
- job trainings according to individual expectations (hairdressing, nail decoration, cooking, school education etc)
- visiting home
- certain challenges
- advantages and disadvantages of the VCA

In concluding, the following observations/comments were made:

- human trafficking is on the rise in Viet Nam
- the victim-centred approach is key to fighting human trafficking, but not enough
- victims need to be supported with sustainable livelihoods
- support to victims must focus on their needs and expectations
- protection of trafficking survivors needs to be a gender-responsive and rights-based approach

Day Two: The inconvenient truths—not in our backyard?

Speakers 13 and 14: Researchers Glenn Simmons and Christina Stringer

'Not in New Zealand's waters, surely? Labour and human rights abuses aboard foreign charter vessels'

'We are slaves because normal employees have a voice, but we do not...didn't expect this when we sign the contract, but once on a boat we were trapped into modern slavery ... in the old days slaves were not paid and chained, now we are paid and trapped... but we are worse than slaves ...'

The fishing industry has been beset by claims of physical, psychological and wage abuse aboard foreign chartered fishing vessels fishing within New Zealand's waters. Research undertaken revealed extensive fraud and deception can take place where those applying for jobs on board the vessels are misled as to the scope and scale of degradation of abuse once they have signed up and are on board the vessels.

'Profit is the over-riding feature in the crime of trafficking.'

The researchers presented preliminary findings, based on their current research, into human trafficking in the fisheries industry.

- *Trafficking in Persons Report 2011* highlights that no independent research has been undertaken into the trafficking problem in New Zealand
- United Nations Office on Drugs and Crime (UNODC) has called for empirical research into human trafficking aboard fishing vessels

The researchers undertook interviews with Indonesian crew from Korean foreign charter vessels. In New Zealand, 76 Indonesian crew, from 12 Korean foreign charter vessels, covering a period from 1998 to 2011, were interviewed.

Applied the ILO and European Commission's Operational Indicators of Trafficking in Human Beings (2009), as conceptualised by experts from 27 EU member States: Each indicator is based on the six dimensions of trafficking as identified in the Palermo Protocol:

1. deceptive recruitment i.e. nature of job, location or employer
2. coercive recruitment i.e. violence on victims
3. recruitment by abuse of vulnerability
4. exploitation i.e. excessive working days or hour
5. coercion at destination i.e. confiscation of documents
6. abuse of vulnerability at destination

According to the UNODC (2011, 36) 'although variances do exist, human trafficking often appears to require close cooperation between fishing vessel operators and intermediary brokers and recruitment agencies.'

The Code of Practice on Fishing Crew (2006) must be complied and includes with the following:

The New Zealand company will monitor the employer's performance (including that of their Manning Agents) to ensure

- compliance with employment entitlements
- crew have access to fresh water and adequate food, clean and dry accommodation and are provided with suitable protective gear and clothing
- crew must be informed of the minimum wage and that they are entitled to payment for all hours worked

Employees' rights:

- minimum wage + \$2 per hour (\$15 per hour)
- deductions for food, visa fees and airfares are not allowed to take pay below New Zealand minimum wage
- if employer refuses to pay minimum entitlements, the New Zealand organisation can be required to pay

The presentation factually highlighted the stark contrast in employment conditions between those working aboard FCV as opposed to foreign workers onboard NZ flagged vessels:

| On average foreign crew working on a FCV vessel earn between \$NZ6,700 – \$11,600 p.a. (after deductions) | On average foreign crew working on a New Zealand flagged vessel earn between \$NZ60,000 - \$80,000 p.a. |
|---|---|
| <ul style="list-style-type: none">• Employment is through Manning Agents who require money and collateral to secure the job (e.g. land, house and money)• Salary \$US250-\$500 per month paid to Manning Agent (50% paid to family with 50% less fees paid to crew at end of 2 year contract)• On average work 16 hours a day (112 hours per week); shifts can be up to 53 hours in length• No days off during 2 year contract• Forced to engage in extensive dumping and high-grading practices• Required to sign false timesheets regardless of hours worked• Signature on NZ contract forged• Bonus \$NZ250-\$350 per month paid in cash at end of contract at the airport• Fined \$US2,000-\$10,000 for abandoning contract, even if seeking refuge from abuse. | <ul style="list-style-type: none">• Transparency with contracts, timesheets, wage calculations, and employment costs• NZ minimum wage \$15 per hour paid• 6 hours on/ 6 hours off• Payment to individual crew's NZ bank account after each catch is landed• Taken power away from Manning Agents. |

Conditions onboard were shown to be substandard.

- accommodation had little or no heating
'A floating freezer... absolutely appalling conditions just like a slum ... there are definitely human rights abuses out there, they are slave ships'
(Interviewee NZ13, 2010)
- drinking water a brownish rusty colour; food supplies rationed and locked up; fed fish bait
'Live like rats' (Interviewee NZ41, 2011).
- lack of protective clothing/safety gear

- denied medical treatment; accidents covered up/not reported

'If anyone stands against this abuse, it has been known for them to be taken to a private cabin and beaten' (DoL 2004, 15)

As well, interviews revealed workers being subjected to verbal and physical abuse.

- Muslim workers frequently called dogs, monkeys and other names
- crew often beaten for little or no reason
- a shift crew lined up and hit with a shovel
-

'Officers are vicious bastards ... factory manager just rapped this 12 kg stainless steel pan over his [Indonesian crew member] head, split the top of his head, blood pissing out everywhere ... I told the Master can't leave him cause he's bleeding all over the squid. He said 'oh no no he's Indonesian no touchy no touchy'. Took him to the bridge and third mate said 'Indonesian no stitchy no stitchy'. I ended up giving him over 26 stitches ... bit of a mess' (Interviewee NZ 6, 2011).

'Saw the factory manager and the second in charge kicking Indonesian workers on the ground with steel capped boots ... saw Indonesian helmsman kicked in the genitals by an officer, because he turned the vessel the wrong way ... bleeding and needed medical attention' (Interviewee NZ 15, 2011).

'While eating lunch, the Bosun put a rice sack over my head and punched the back of my head until I had trouble breathing' (Interviewee NZ, 2011).

Inhumane punishments

- made to stand on deck for hours, without food or water in extreme weather conditions

The researchers preliminary findings, revealed dimensions of trafficking within the FCV sector by documenting cases of deception, coercion, denial of liberty (withholding vital documentation), threats and intimidation.

Based on preliminary findings, the researchers suggested that, many of the Indonesian crew they interviewed are victims of trafficking for forced labour. They are:

- Subjected to deceptive recruitment practices
- Employed in exploitative work condition
- Placed in situations of coercion and abuse

In addition to being a trafficking offense, the crimes committed are covered by a number of sections of the New Zealand Crimes Act 1961. Law enforcement officers need to be educated to recognise and properly understand the international crisis human trafficking has become.

To be noted: *'the problem of exploitation and abuse on board FCVs is not new, it has been known by successive governments in New Zealand since 1987.'*

Speaker 15: Jennifer Burn, Director UTS Anti-Slavery, Australia, Associate Professor, Faculty of Law, University of Technology, Sydney

Beyond sex trafficking—challenges in identifying labour trafficking and exploitation in Australia

Human Trafficking is commonly referred to as modern-day slavery. The face of modern-day slavery is a different one than the old form of chattel slavery, characterised by physical chains and forced removal that dominated the transatlantic slave trade. Rather, 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.

'Freedom is not just another word.'

Used, too, is the threat of deportation. Victims do not know they are in the country illegally—they are told that after arrival, and that if found out the authorities will hold them in jail, and abuse them.

Often, victims have their passports and papers confiscated as a control mechanism. Traffickers often control victim's communication with family members, not allowing phone calls or mail to be received. Verbal abuse is often used as a way to deplete their self-esteem. Physical violence and sexual assault are also common elements in these types of situations.

More labour trafficking cases in Australia are identified than sex trafficking. Samples of labour trafficking were highlighted in the presentation:

- A young man was brought to Australia from India to work in a restaurant. When he arrived at his new job, he faced the following conditions: working 12 hours a day seven days a week with few breaks, and being forced to live and bathe at the restaurant. He had limited freedom of movement, was continually abused and his family back home was threatened.
- A woman from the Philippines was brought to Australia for what she thought was a marriage. Instead she was kept as a slave. She was forced to work 12 hour days in a shop for little pay, and on returning to the residence of the offenders, where she lived, she worked as a domestic helper performing household chores and providing childcare services. She spoke little English and was culturally isolated. When she tried to flee her passport was confiscated.

Since 2004, the Support for Victims of People Trafficking Programme has assisted 187 people: 167 women and 20 men. Of these, 151 were women trafficked into the sex industry, while the other 16 women and the 20 men were allegedly trafficked into other industries.

The Australian Federal Police undertook 45 investigations into people trafficking matters in 2010-11, bringing the total since 2004 to 305. Almost 70 percent of these investigations related to trafficking for sexual servitude and the remainder related to other forms of labour trafficking.

What are the challenges in identifying labour trafficking and exploitation?

- victims rarely contact authorities on their own
- victims of labour trafficking are often isolated
- they often do not identify themselves as victims of trafficking and are afraid of the authorities and of deportation.
- victims of labour trafficking are not a homogenous group of people.
- under-reported
- not well understood
- cultural and social factors
- experiences of shame
- reluctance to take action against a family or other employer
- family obligations back home

The vulnerability of workers was emphasised. In this sense, the exploitation of migrant workers—and possibly the most serious forms of exploitation such as forced labour and slavery—could arguably be characterised as *low-risk, high-profit activities*.

- migration status and fear of deportation or return
- physical and/or linguistic isolation from the broader community
- impact of contractual obligations
- existence of family or community ties back in their home countries
- financial pressures, which could not readily be discharged if the person returned to work in their country of origin

The International Labour Organisation has a number of key indicators of trafficking for labour exploitation:

Strong Indicator:

- deceived about the nature of the job, location or employer

Medium Indicators:

- deceived about conditions of work
- deceived about content or legality of work contract
- deceived about family reunification
- deceived about housing and living conditions
- deceived about legal documentation or obtaining legal migration status
- deceived about travel and recruitment conditions
- deceived about wages/earnings
- deceived through promises of marriage/adoption

Weak Indicator:

- deceived about access to education opportunities

Detection of labour trafficking is a complex task, and needs to be supported by the development of operational tools that aid identification. It is vital to ensure that key agencies have a basic awareness of labour trafficking and exploitation to assist in identification of victims.

Developed guidelines for non government organisations working with people who have been trafficked include 10 principles:

10 principles for working safely and ethically with trafficked people

1. Understand and protect the rights of trafficked people.
2. Always act to protect people's safety.
3. Negotiate informed consent.
4. Provide appropriate referrals.
5. Protect privacy and confidentiality.
6. Provide culturally appropriate services.
7. Provide professional and ethical services.
8. Know how to respond to subpoenas and other requests for information.
9. Know how to support witnesses in court proceedings.
10. Recognise that families and children have special needs.

Media releases

11 Aug 2011

An early morning immigration compliance operation at Sydney's Flemington markets located six illegal workers today. The five women and one man, all in their 20s from the People's Republic of China, were apprehended following information provided to the Department of Immigration and Citizenship (DIAC) through the Dob-In line. A department spokesman said all of the illegal workers are being transferred to Villawood Immigration Detention Centre for processing ahead of their removal from Australia at the earliest opportunity. He said the six people had all previously arrived in Australia on student visas which had either expired or, in the case of two of the women, their subsequent applications for permanent residence had been rejected.

'While student visa holders may have work rights, illegal workers in Australia will not be tolerated and the Department actively investigates community reports and takes swift action to apprehend non-citizens without work rights,' the spokesman said. 'It is the responsibility of employers to ensure that non-Australian workers they hire hold a visa with valid work rights.'

The Visa Entitlement Verification Online (VEVO) service is available to employers to check the relevant identification details of prospective employees, with their consent, to quickly confirm if they are eligible to work in Australia.

Employers convicted under Commonwealth legislation of having illegal workers face fines of up to \$13,200 and two years' imprisonment; while companies face fines of up to \$66,000 per illegal worker. The spokesman said investigations into the circumstances of

the employment of the illegal workers found today would continue. People with information about illegal workers or visa over stayers are encouraged to call the Immigration Dob-In Line on 1800 009 623.

Media Enquiries: National Communications 02 88626261

http://www.newsroom.immi.gov.au/media_releases/952

22 Jul 2011

The Department of Immigration and Citizenship (DIAC) will begin planning today for the removal of illegal workers identified in a joint operation with New South Wales Police in the Riverina. Immigration compliance officers from the Sydney and ACT Regional Offices with NSW Police from the Griffith Local Area Command detained 20 unlawful non-citizens (UNCs) from China for breaches under the Migration Act.

A spokesman from the department said warrants were executed at several private residences in Griffith, after information from the community.

‘Several people spoken to by compliance officers at these residences were identified as not holding valid visas,’ the spokesman said. ‘These people were immediately detained and taken to Griffith police station.’

The operation—on July 21—also resulted in a number of vehicles being stopped and the occupants’ immigration status checked. Several people were also not holders of valid visas, nor were they entitled to work in Australia. Among these, a Chinese woman, who had escaped immigration custody after arriving in Darwin unlawfully, was found hiding in one of the vehicles. ‘The department will not tolerate unlawful non-citizens living and working in Australia,’ the spokesman said. ‘The group, which comprises eight men and 12 women, will be taken into immigration detention at Villawood Immigration Detention Centre until their removal from the country.’

The circumstances of their employment are under further investigation.

Members of the public with information on UNCs in the community or illegal work practices are encouraged to contact the DIAC community dob-in line on 1800 009 623.

Speaker 16: Geoff White, General Manager, Trade Aid

Trade Rules!

Exploring the negative impact trade rules have on all aspects of society and the role they have played in the increase in slavery in international commerce, detailing specifically the cocoa industry, and how slavery is now an integral part of the business model of the large chocolate companies.

'With the prices we get from companies, we cannot afford to employ adult labour.'

Quote obtained from Dutch governmental investigation of cotton production in India.

Using global examples the presentation cited Multi National Corporation supermarkets in Brazil as being responsible for 60,000 dairy farmers being put out of business; in Bolivia, foreign investors in the public water system has led to higher rates resulting in poorer families spending $\frac{1}{4}$ of their income on water; in the first 10 years of the North American Free Trade Agreement in Mexico 30 million jobs were lost as foreign investment went into large capital intensive farms.

Because trafficking grows best in extreme poverty, its economic as well as social preconditions can be identified as being

- poor
- homeless
- a refugee, or
- abandoned

All lead to the desperation that opens the door to slavery, making it easier for the traffickers to lay a trap.

In the book 'Disposable People – New Slavery in the Global Economy' author Kevin Bales makes the distinction between slavery of the past and today.

Past slavery was based on ethnic and racial differences. The 'otherness' of the slaves made it easier to employ the violence and cruelty necessary for total control. This 'otherness' could be defined in almost any way:

- a different religion
- tribe
- skin colour
- language

- custom
- economic class

But he says what we see today is that the criteria is now based on weakness, gullibility and deprivation—the vulnerabilities of poverty. International trade agreements impose far-reaching rules that place severe restrictions on the very policies developing countries need in order to fight poverty. And despite the rhetoric and cheerleading from developed countries that free trade is the answer to poverty, in fact, most of the developing world is poor as a result of trade liberalisation.

Christian Aid

Econometrics report:

- trade liberalisation has cost sub-Saharan Africa US\$272 billion over the past 20 years
- this roughly is what it received in aid over this time
- effectively, aid did no more than compensate African countries for the losses they sustained by meeting the conditions that were attached to the aid they received

Free Trade Agreements

- negotiated largely behind doors
- undermine the promise of trade and globalisation as forces to reduce poverty
- seek to benefit rich country exports and firms
- at the expense of poor farmers and workers

The worst of the agreements strip developing countries of the capacity to effectively govern their economies and to protect their poorest people. They impose far-reaching, hard to reverse rules that systematically dismantle national policies designed to promote development

They do this in a number of ways:

Rules on Liberalisation of Services

- drive local firms out of business
- reduce competition
- extend the monopoly power of large companies

Example: Mexico liberalised financial services in 1993 in preparation for NAFTA

- foreign ownership banking system—85%
- but lending to Mexican business fell 10% GDP to 0.3%
- depriving poor people living in rural areas of credit

Investment Rules

Prevent developing country governments from requiring foreign companies to

- transfer technology
- train local workers
- or even source inputs locally

Under such conditions

- foreign investment fails to build national linkages
- create decent employment or increase wages
- and instead exacerbates inequality

Impose Tariff Liberalisation

- threaten livelihoods of small farmers
- prevent governments from using tariff policy to promote manufacturing

For example:

- European Economic Partnership Agreements
- oblige the poorest countries in the world to reduce a very large part of the tariffs to zero
- at the same time these agreements do not address rich country subsidies
- adverse effect of these subsidised products being dumped on poor countries
- or the plethora of non-tariff barriers that impede access to rich country markets

And here's the thing:

The overall effect of FTA's is to progressively undermine economic governance, transferring power from governments to largely unaccountable multinational companies.

These companies, in turn, use their market power to pay low prices and play one farm or factory off against the other. This can result in poverty wages for factory workers and prices below the cost of production for farmers.

How trade liberalisation, the power of multinational companies, and an increase in poverty leads to an increase in slavery is perfectly illustrated in the cocoa/chocolate industry.

| | |
|---|---|
| <p>Ivory Coast</p> <p>What happened</p> | <ul style="list-style-type: none"> • 40% of world supply of cocoa • majority is exported to US and Europe • by MNCs Cargill • Nestle • Archer Daniels Midland • processed into chocolate by Nestle, Hersheys, M&M Mars |
| <p>But</p> | <ul style="list-style-type: none"> • cocoa prices fell during 1980s and 90s • farmers were protected by government support price system • this was dismantled as a result of structural adjustment programme forced as a condition of loans by the World Bank and IMF • lower prices, declining profitability for farmers • inability to pay adult wages • widespread use of child labour to cut production costs • children trafficked from neighbouring Mali (as young as nine years old) to work as slaves on the cocoa farms |
| <p>Efforts</p> | <ul style="list-style-type: none"> • 1999 ILO launched an initiative 'Combating Trafficking in Children for Labour Exploitation in West and Central Africa' in conjunction with local governments and support of US Dept of Labour • 2000 Ivory Coast and Mali signed an agreement to fight cross-border child trafficking • these efforts all proved fruitless • 2001 Ivorian government tried to generate revenue, that could be passed on to farmers, by increasing export tariffs |

2001

Local activist believes much higher—90% of all cocoa plantations

Industry

- Problem

Shifting responsibility

- but large exporters simply refused to export any more cocoa until the new tariffs were lowered
- Government lowered tariffs to previous level
- US media expose child slavery on Ivory Coast Cocoa farms (1.8m children working) —US Dept of Labour 109,000 child slaves
- consumer demands for answers—chocolate companies
- Senator Tom Harkin and Representative Eliot Engel took up the issue to label chocolate as slave free—US market
- their bill passed by House of Representatives
- Chocolate Manufacturers Assoc lobbied hard against the bill at Senate—and it was not passed
- industry agreed to Harkin-Engel Protocol
- agreed to take action to solve the problem by 2005
- protocol involved ‘voluntary standards’ means companies don’t have to follow it
- the initiatives that industry set up have had no effect and they missed their 2005 deadline, and then their 2008 deadline, and then dropped the idea of a deadline
- rather than focusing on their culpability for creating conditions (slavery) and in effect rewarding farms and plantations that use forced labour, industry refused to implement any changes to their supply chain
- it used the Protocol to shift responsibility for reform to third parties—national governments, ILO
- changed a commitment to develop and implement certification of its cocoa supply to being the responsibility of the Ivory Coast government, whilst knowing that the government is incapable of doing this
- the industry proposed certification system is not aimed at identifying which farms or plantations

| | |
|---|---|
| <p>So, today</p> | <p>actually use child slavery, instead it will provide a statistical portrait measuring whether labour conditions have improved on a country-wide basis</p> <ul style="list-style-type: none"> • despite initialising agreement to implement certification standards by 2005 the chocolate industry say they have fulfilled their obligations by establishing pilot projects to test a cocoa farm monitoring programme |
| <p>Their actions and lack of moral and social obligations</p> | <ul style="list-style-type: none"> • cocoa imports from West Africa = US\$4.3 billion • are best highlighted in a response to a law suit filed by the International Labour Rights in 2005 against cocoa importers in the US <p>challenged on the comments they espouse in their corporate social responsibility statements, lawyers argued that Codes of Conduct are simply 'aspirational'.</p> |
| <p>Quote</p> | <ul style="list-style-type: none"> • 'it simply is not reasonable to construe policy statements (for example) as imposing an enforceable contractual obligation or Nestle to monitor its suppliers' treatment of children or Archer Daniels Midland to affirmatively act if it knew that its suppliers used child forced labour' |
| <p>Summary</p> | <ul style="list-style-type: none"> • the example of the chocolate industry shows how international trade rules make poor countries poorer, leading to conditions that are ideal for slavery to flourish, which are then exploited by multinationals for profit |

Speaker 17: Rachel Bogen, B.A. (Hons), independent contractor Refugees as Survivors, New Zealand.

The vulnerabilities of refugees and displaced peoples

The vulnerabilities facing refugees and internationally displaced people are far reaching. These may be:

- related to gender
- conditions of poverty and insecurity
- fear of authorities, language barriers, illiteracy ...
- related to physical and mental health
- some of these vulnerabilities may be transferable to the situation of trafficked persons
-

Placing such vulnerabilities in context the following facts were cited:



43.7 million Forcibly displaced people worldwide.

There are **15.2 million refugees**.

This includes: **837,000 asylum seekers** and **27.5 million IDPs**.

44% of refugees and **31%** of asylum-seekers are **children under 18 years**.

Referring to women and children, the presentation summarised how their sexuality threatened their security. Accordingly, females were at risk of gender-based violence, especially in conflict settings, as well as

- sexual assault
- rape
- sexual exploitation and abuse
- forced prostitution

Statistics make for grim reading, such as,

- **54 % of women that survive rape** in refugee camps do not receive emergency contraception within 120 hours (UNHCR, 2007).
- IDP camps in **Port-au-Prince (S.A.)**: women and adolescent girls engage in transactional sex. Designated areas and tents for prostitution activities where 'services' are given in exchange for food (UNHCR , 2011)
- **Colombia**: 2 of 10 displaced women were forced to flee because of crimes of sexual violence (OXFAM International, 2009)
- **North Korea**: women escaping deprivation and political oppression are at risk for trafficking into **China**
- sold to Chinese men or to owners of brothels or karaoke bars (Refugees International, 2005)

Women are more susceptible to flight:

- **armed conflict** affects women differently:
- **men killed** or injured at war/in violence
- loss of **income** source, **shelter**, and/or **protection**
- lack of **financial independence**
- depend on government and nongovernmental **relief**
- **dependents**
- less educated/**illiterate**
- **gender-based violence**

Also, during times of transit/flight women are responsible to care for others such as their own children and other children who may be without an adult carer, and the elderly or sick. Furthermore, once in a camp situation they experience:

- **loss of basic dignities** and fundamental rights:
- **poverty**
- lack of **privacy** for toileting and bathing
- **unsanitary** conditions
- **lack of resources**:
- food, water, shelter, healthcare, protection ...
- **malnutrition** and starvation
- fearful for lives and **safety**

Displaced children are at high risk of exploitation and abuse:

- limited education

- health complications
- psychological trauma
- separation from family
- increased risk for recruitment into armed forces
- sexual exploitation and abuse
- dependency on state and humanitarian agencies
- teenage pregnancies—rape
- fear reporting and/or hide abuses

Without **institutional support**, women and children are particularly vulnerable to human traffickers.

A lack of documentation and/or being present illegally within a country further heightens a person's vulnerability to abusive situations. They are vulnerable to:

Exploitation through

- below minimum wage salaries
- not being reliably paid
- other **unjust** labour practices

Reduced access to

- healthcare
- education
- housing
- social benefits/government assistance programmes

Or some simply do not seek assistance when needed.

Illegality:

- prolonged detention
- lack legal protection
- health risks and insecurities
- live in constant fear of detection and/or deportation:
- marginalisation

Further barriers are created through fear and mistrust of those in authority. Such fear has arisen from

- past experiences
- raped and abused
- mass rape or rape by military personnel
- providers of assistance and protection = perpetrators of exploitation and abuse
- fear of deportation
- forcibly returned to where they could be persecuted

Resettlement is not in itself a guarantee that conditions for refugees improve, as they are settled into the poorest and remote areas, where

- they experience unsanitary living conditions
- finding employment is a major difficulty
- language barrier
- lack interview skills and work experience
- limited awareness of employment agencies and training options

They continue to be vulnerable to

- illegal employment agencies
- exploitation
- experience violence and abuse
- possibility for prostitution

Speaker 18: Laura Beacroft, Research Manager

Australian Institute of Criminology

**Vulnerabilities and Protections to Trafficking in Persons in the Pacific:
Implications for Monitoring**

The presentation began by stating the reality that surrounds the crime of trafficking in persons, which is that it is

- not recognised
- not reported
- few prosecutions

The low level of prosecutions means the ‘tip of the iceberg is not even showing, and there is a need to know what is sitting below the waterline.’ The crime goes largely

unrecognised. If something goes unseen, little can be done about it. The crime is not new, but we do not have the lens to see it.

Two trafficking type cases were outlined:

Case 1: marriage

- female victim brought to Australia from a Pacific Island nation
- an arranged marriage
- from the start she found herself in a situation of domestic servitude, where she experienced traumatic and abusive sexual experiences

'[My husband said] these are the rules and regulations. You should be caring for everything in the house, doing the cooking, washing, cleaning, and whenever I go to the shower you have to give me my toothbrush and towel. You must iron my clothes and make my food whenever I like and whatever I like ... You must care for me ... I brought you to give me money and help me in the house. If you don't do those things I will send you back. Otherwise, it's no use keeping you here' (survivor's statement)

Case 2: labour exploitation

- young pacific island man brought to work in Sydney through local connections
- worked long hours (5.30am to 8-9pm), six days a week
- physical abuse leading to permanent injury
- injury at work and not properly treated
- not properly fed
- occasionally paid Australian \$50

Some issues for the Pacific are:

- confusion between smuggling and human trafficking, with sex work and bad work—educate those who can prevent, intervene and/or prosecute
- tolerance or normalisation of exploitation is a breeding ground for severe exploitation, such as human trafficking—tackle exploitation

How to monitor a largely unreported crime?

- monitor to understand patterns and changes over time, to inform actions
- need a Framework of Concepts to assess the overall problem and whether it is getting worse or better
- framework allows us to tease out key and logical Indicators

- *direct indicators* directly measure TIP (ie. direct information on victims, offenders, incidents)
- *indirect indicators* consider matters that are contextually related (ie. assessments of at-risk groups or related crimes)

Examples of possible indicators for monitoring trafficking in persons across the Pacific Island region

- context, tracking problematic cultural practices (bride price issues) and protective cultural practices (initiatives to mitigate these risks)
- individual factors, tracking exploitation and protections for migrants and children, since they are especially vulnerable
- risk and protections, tracking exploitation and protections in under-regulated high impact sectors, such as logging, fishing and mining
- community awareness, tracking community knowledge of trafficking and community responses
- service supports, tracking services and responses for victims; corruption and probity in key sectors such as immigration/border control and the criminal justice system
- system responses, tracking prosecutions for trafficking in persons and related crimes including attrition and success rates for cases through the criminal justice system
- impact, tracking matters that interrupt offenders' profitability, for example, by asset confiscation; and whether victims are reintegrated and not re-victimised
- outcomes, since it is an unreported crime it is desirable for known cases to increase, and for responses to be consistent with evidence about how to reduce the crime

'the tip of the iceberg is not even showing, and there is a need to know what is sitting below the waterline.'

Common data sources are:

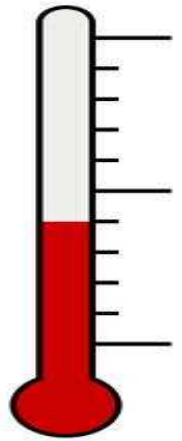
- administrative data on victims, offenders and incidents from relevant government departments
 - interview transcripts
 - number of convictions
 - case files
- surveys of at-risk groups such as migrant sex workers and of community knowledge and attitudes to human trafficking

- targeted Research using qualitative and/or quantitative analysis to gain more in-depth critical knowledge for eg about offenders
- findings from independent court decisions and ombudsman reports

However it was acknowledged that data is not useful if it focuses on the wrong things or is not comparable. Therefore what would be needed is a minimum dataset.

When considering a national dataset, what needs to be considered?

- purpose of the monitoring (barometer on trafficking problem)
- scope(cover all indicators)
- core units of measurement (incidents, victims and offenders as distinct individuals)
- level of analysis (regional, national and localised if necessary ie. 'hot spots')
- clear definitions and counting rules (guided by international standards and domestic statistical census standards)



AIC is developing a Framework and Minimum Data Set for monitoring of Australia's human trafficking problem and relevant issues in the Pacific region.

Final Speakers: Jacqueline Joudo Larsen, Senior Research Analyst, and Laura Beacroft, Manager of the Crime and Populations Programme, The Australian Institute of Criminology, 2009 co-host.

The final speakers were an introduction into the final break out sessions which were aimed at taking the work of the forum into future response and action.

A brief review on the 2009 forum and actions arising from the forum

The 2009 forum was co hosted by the Australian Institute of Criminology and the Salvation Army's Social Policy and Parliamentary Unit. The key themes of the forum were:

- human rights
- background and causal factors
- responses to trafficking and capacity to respond
- labour trafficking
- child trafficking
- sex trafficking
- non-government organisations' responses to trafficking

Identified priorities arising from the 2009 forum were:

- sex industry legalisation and the potential for trafficking in persons and exploitation
- understanding the role of culture
- collaboration to ensure resources are well targeted
- identifying vulnerabilities that may lead to tip in the region
- learning more about offenders and offending patterns in the region
- CSE⁵ of children and the potential link to tip
- role of parenting norms in the Pacific Islands
- the impact of labelling countries as source, transit and destination countries within the Pacific

Alan Bell, Director of ECPAT, Child Alert NZ

Partnering for Change: The case for a New Zealand Anti-Trafficking Coalition

The issue

The trafficking of people is abhorrent and every step should be taken to prevent this happening in any form and in every place.

The scope

This could include trafficking of people for a number of reasons—labour, prostitution, pornography. It could include trafficking into New Zealand *within* New Zealand; in the Pacific Region, or globally.

The context

In New Zealand we have about 10-12 (maybe more) different agencies with concerns regarding human trafficking (ECPAT, Hagar, Justice Acts, Oxfam, NZCTU, Prescha, The Salvation Army, Save the Children, Stop Demand, Trade Aid, UNICEF, World Vision,) Each agency has its own priorities and 'style'. All tend to comment and act independently.

The suggestion

- to create a coalition against Human Trafficking in an effort to maximise effectiveness.
- to speak with one voice on occasions to bring more attention to the issue.

⁵ Commercial sexual exploitation of children

- to demonstrate a unity of concern and to reduce any confusion.

Strengths and weaknesses of forming a coalition:

Plus:

- stronger voice
- more impact
- more credibility

Minus:

- a larger base
- slower process
- lack of dynamic action
- disagreements on messaging

Where to next?

- what degree of interest?
- steering Committee?
- issues?

Saturday afternoon group break out sessions

Responses to two questions:

What have we learnt?

What can be done?

Group One

What have we learnt?

- the uniqueness and importance of other organisations working together
- also include labour exploitation in trafficking awareness programmes
- networking—learnt more. the research presentations are very valuable
- diverse ways of exploitation and the diverse organisation and information that still needs to be collected
- form partners to carry out research in the Pacific
- the need to keep a distinction between trafficking and prostitution
- research is important in order to document stories and use it as a tool to push for legislation

What can be done?

- more awareness training with law enforcement officers-labour exploitation
- research-case analysis (looking at patterns)
- take back knowledge and skills and present to the rest of the team at home
- support partnerships that resource the Pacific. Need to address this issue.
- access students from the Pacific Island countries to do research/field work/internship in the Pacific
- change our perspective of sex workers
- assist NGOs to get NZ partners to access SDF⁶.

Group Two

What have we learnt?

- the number of people/partners working/interested in this area
- the Pacific focus
- anti slavery—interested in chocolate
- plight of seafarers conditions
- lack of information available/awareness—understanding for those who should/could help, and for those being abused
- no minimum age of child labour

What can be done?

- form a Stop the Traffik action group—awareness and campaigns
- share contacts and information
- produce material to create awareness of trafficking —exploitation/child protection issues to educate
- sharing information relating to human rights

Group Three

What have we learnt?

- an alignment of the UN definition of trafficking with NZ legislation, definition and interpretation, eg. no conviction/prosecutions for trafficking because they are not identified as such.* It is deemed as low priority to address because there

⁶ Sustainable Development Fund (NZ Aid Programme)

have been no trafficking prosecutions.

*that way the appropriate agencies would become aware and the best course of action taken to deal with both the victims and perpetrators

What can be done?

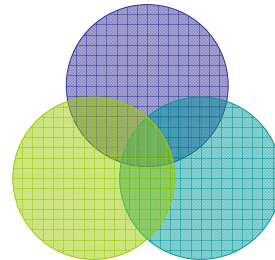
- create a hotline so people have a specific place to report cases of trafficking (social media).
- TV campaign similar to the ones on drinking/domestic violence and depression
- Have a contact list/informal network
- a list of each organisation/agency that attended the conference and a brief description outlining what they do and how they can best be contacted so we can all work together at the appropriate times
- website? email? document on conference?

Group Four

What have we learnt?

- Networking:
 - own networks
 - wider
 - global

For Collaboration and action



What can be done?

- communication:
 - specific action
 - CLCANZ Te Kupenga Reo/Netvoice

Education for Action

Group Five

What have we learnt?

- the need to develop a collective voice.

What can be done?

- collective campaign to put pressure on government and businesses for change (letter writing, face book campaign etc)

- a buying guide on ethical products
- a community response (we are our brother's keeper)
- building relationships/networking.

Group Six

What have we learnt?

- the enormity
- the complexity
- the focus

What can be done?

- data—collection and analysis
- networking—consolidate and expand—regional and global
- millennium development goals

Group Seven

What have we learnt?

- the need to create awareness (possible fishing)
- the need for cooperation-coordination-recognition
- 'in our waters'

What can be done?

- legislation – Slave Labour Import Bill
- work on definition
- networking

Group Eight

What have we learnt?

- working conditions on foreign fishing vessels—looking at it from a consumer point of view too. Thinking about large fishing companies, everything money driven
- corruption in high places. Government complacency, 'clean, green?' NZ reputational risk. No government department dealing to slavery issues for imports. Cooperation necessary in Australian methods. Not enough publicity, no political will to change things. Law protects fisheries not people.

- constant morphing of trafficking methods. Cheapness of human life. Deception in the salary and wage promises. Multi national companies stronger than government.
- engage and educate the young into action and campaigns.

What can be done?

- communication-education-conversations—making it relevant, eg. labels on consumer goods.
- definition of slavery needed
- food products on our shelves that involve slavery –legislation needed
- bring home the message in the NZ angle-the fisheries situation gives us an excellent opportunity with the fish products we have—hard data! Using the statements of the observers
- need consistent information—need wide angle
- campaign—lobby for legislation; WTO ruling; 'you don't go ahead if it affects public morals.'

What next?

- define the problem
- communicate with stake holders and communities to raise awareness and find solutions
- bring about a change in attitudes, legislation and behaviour
- prevention—protection—prosecution
- we'll achieve this by working together—networking.

Conclusion—Moving Forwards

The forum concluded with a brief plenary discussion on what the first steps forwards might look like? What were the identified priorities?

There was a desire to get more information about TIP (awareness raising was quite important) through more frequent contact with relevant groups in NZ. In particular, there was a lot of discussion about becoming more organised as a group (one example given was the possible response from NGOs once the research on trafficking on foreign fishing vessels was released. Also discussed was the possibility of having groups formed

in other locations in NZ who could then report back to an over sighting body in Wellington/Auckland).

There was general agreement and energy for the setting up of a network, with the details of such a network to be determined at a future date. The Salvation Army's Social Policy and Parliamentary Unit offered to form a Stop the Traffik NZ network, and there was affirmation of the offer by a significant number of those present. Also, there was considerable energy to support the fishing researchers with the aim of furthering the work.

Appendix 1.

Pacific Trafficking in Persons Forum

December 2 – 3, 2011
'The Inconvenient Truths'

Programme Day 1.

Registration begins at 8 a.m. Please collect your name badge and folder at the registration desk and proceed into the auditorium prior to 8 30 a.m.

| | |
|--|--|
| 8 30 a.m. powhiri | The Salvation Army Maori Ministries |
| Unwrapping the Inconvenient Truths | Session chair... Don Lord |
| <i>8. 45 a.m. Director of The Salvation Army's Social Policy and Parliamentary Unit, Major Campbell Roberts</i> | <i>Welcome and Introduction to the forum</i> |
| <i>9 a.m. Chris Frazer to introduce key note speaker</i> | <i>Welcome and introduction to Ruth Dearnley CEO Stop the Traffik UK</i> |
| <i>9 50 a.m. Jack Byrne, Senior Policy Analyst, New Zealand Human Rights Commission</i> | <i>An overview of human rights protections relating to trafficking and their application in New Zealand.</i> |
| <i>10. 10 a.m. Charles Chauvel MP</i> | <i>Customs and Excise (Prohibition of exports made by slave labour) Amendment bill 2009</i> |
| <i>10. 30 a.m.</i> | <i>Morning tea</i> |
| <i>11 a.m. Deputy Chief of Mission Marie Damour, the U.S. Embassy Wellington</i> | <i>Trafficking in Persons report 2011, Country Narrative – New Zealand</i> |
| <i>11. 30 a.m. Sarah Su, Business Advisor, Operations Support, Intelligence Rick and Integrity Division, and Peter</i> | <i>Trafficking in Persons Plan of Action-an update, and a presentation on the recent</i> |

| | |
|---|--|
| <i>Elms, Manager, Fraud and Compliance, Intelligence Rick and Integrity Division, Immigration NZ, Department of Labour.</i> | <i>fishing incidents including INZ's role, accountability and involvement in the issues.</i> |
| <i>12. 30 p.m.</i> | <i>Lunch</i> |

The inconvenient truths behind the exploitation of children for financial gain

Outcome: Acknowledging all children as our taonga to be nurtured and protected; exposing the risks facing our young generation, and identifying who takes responsibility

Afternoon session

Chair, Alan Bell

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|---|--|
| <i>1. 30 p.m. Jacqueline Joudo Larsen, Senior Research Analyst , Crime and Populations Program, The Australian Institute of Criminology</i> | <i>The trafficking of children in the Asia- Pacific (general overview, adoption and trafficking and potential risks within informal guardianship arrangements)</i> |
| <i>1. 50 pm questions/comments</i> | |
| <i>2. p.m. Save the Children, Fiji Adi Melania Tibika Training Officer</i> | <i>Issues Affecting Children in Fiji.</i> |
| <i>2.20 p.m. questions/comments</i> | |
| <i>2. 30 p.m. Tonga Women and Children, Crisis Centre, Luisa Samani, Information Researcher</i> | <i>Documenting Her Story outlining the centre's first trafficking case and the first prosecution in Tonga</i> |
| <i>2.50 p.m. questions/comments</i> | |
| <i>3 p.m. Daniel Walker, author</i> | <i>'God in a Brothel'</i> |
| <i>3.20 p.m.</i> | <i>Afternoon tea</i> |

The inconvenient truths behind the continued exploitation and abuse of women

Outcome: Placing gender at the centre of any anti trafficking measures

Chair, Laura Beacroft

| | |
|---|---|
| <i>3. 45 pm. The New Zealand Prostitutes Collective Catherine Healy, National Coordinator</i> | <i>Raids or Rescue? Audit tools for anti trafficking measures amongst sex workers</i> |
| <i>4. 05 p.m. questions/comments</i> | |
| <i>4. 15 p.m. United Nations Women's' National Committee for Aotearoa, New Zealand, Rae Julian, President</i> | <i>PROGRESS OF THE WORLD'S WOMEN 2011 – Key points from NZ/Pacific position</i> |
| <i>4. 35 p.m. questions/comments</i> | |
| <i>4. 45 p.m Kim Anh Duong , PhD Fellow, Women's and Gender Studies Programme,</i> | <i>'A victim-centred approach to protect trafficking survivors: Case of a country in the Great Mekong Sub-region'</i> |
| <i>5. 05 p.m. questions/comments</i> | |
| <i>5. 15 p.m. conclude for evening meal</i> | <i>Participants to make their own arrangements for the meal (list of suggested cafes available)</i> |

Evening programme begins at 7 15 p.m.

Programme day 2 The inconvenient truths – *Not in our backyard?*

Outcome: to further our understanding of the unintended consequences of globalisation

Chair, Jacqueline Joudo Larsen

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|---|--|
| <i>8 a.m. Researchers Glenn Simmons and Christina Stringer</i> | <i>Stringer, C. and Simmons, G. 'Not in New Zealand's waters, surely? Labour and human rights abuses aboard foreign charter vessels'</i> |
| <i>8 30 a.m. questions/comments</i> | |
| <i>8 45 a.m. Jennifer Burn, Director UTS Anti- Slavery, Australia, Associate Professor, Faculty of Law, University of Technology,</i> | <i>Beyond sex trafficking – challenges in identifying labour trafficking and</i> |

| | |
|---|---|
| Sydney | exploitation in Australia |
| 9 05 a.m. questions/comments | |
| 9 15 a.m. Geoff White, General Manager Trade Aid | Trade Rules! Exploring the negative impact trade rules have on all aspects of society and the role they have played in the increase in slavery in international commerce, detailing specifically the cocoa industry, and how slavery is now an integral part of the business model of the large chocolate companies. |
| 9 35 a.m. questions/comments | |
| 9 45 a.m. | Morning tea |
| 10 15 a.m. Rachel Bogen, B.A. (Hons) Independent contractor, Refugees as Survivors, New Zealand. | The vulnerabilities of refugees and displaced peoples |
| 10 35 a.m. questions/comments | |
| 10 45 a.m. Laura Beacroft, Research Manager, Australian Institute of Criminology, the Australian Institute of Criminology | . Vulnerabilities and Protections to Trafficking in Persons in the Pacific: Implications for Monitoring |
| 11 05 a.m. questions/comments | |
| 11. 15 a.m. Participants- Geoff White, Trade Aid, Glenn Simmons, Christina Stringer, Researchers Laura Beacroft, AIC, Jennifer Burn, Director UTS Anti Slavery, Ruth Dearnley (chair) | Round table panel discussion |

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| 11 45 a.m. Jacqueline Joudo Larsen | Capturing key questions/comments |
| 12 15 p.m. | Lunch |

Day 2 continued...

The inconvenient Truths- Moving Forward
Outcome... Identify and affirm priorities for collaborative action

Chair, Ruth Dearnley

| | |
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| 1.15. p.m. Speakers, Jacqueline Joudo Larsen senior Research Analyst, and Laura Beacroft, manager of the Crime and Populations Program, the Australian Institute of Criminology, 2009 co- host. | a brief review on the 2009 forum and actions arising from the forum |
| 1.35. p.m. Alan Bell Director ECPAT, Child Alert NZ | The challenges and strengths of forming a coalition |
| 1.45. p.m. Ruth Dearnley to lead an open discussion | What issues have been highlighted? What needs to be done to further our understandings? |
| 2 05. p.m. | Whose responsibility is it to act? Identifying the key players |
| 2. 25 p.m. | What is required in terms of immediate and long-term action? |
| 3. 40 p.m. Chris Frazer, the Salvation Army's Social Policy and Parliamentary Unit | closing the forum- final words |

3. 45 pm afternoon tea and departure

Appendix Two:

Human Rights presentation

Convention on the Rights of the Child 1989

- Article 11 (combat illicit transfer and non-return of children abroad)
- Article 21 (protections around inter-country adoptions)
- Article 32 (regulation of child labour)
- Article 33 (prevent use of children in the illicit production and trafficking of drugs)
- Article 34 (protect children from sexual exploitation and abuse)
- Article 35 (prevent abduction, sale of or traffic in children)
- Article 36 (protect against exploitation)

August 2011 - NZ ratified CROC Optional Protocol on the *Sale of Children, Child Prostitution and Child Pornography*

Optional Protocol

- Article 1 (prohibits sale of children, child prostitution and child pornography)
- Articles 2 and 3 (minimum actions that must be fully covered in criminal or penal laws)
- Articles 4 – 7 (suppression of these crimes including extradition)
- Article 8 (protection of victims)
- Article 9 (prevention)
- Article 10 (international cooperation)

Must take into account the general principles of CROC:

- Non-discrimination, best interests of the child, right to survival and development, right to freely express their views and have due weight given to them

Convention on the Elimination of all forms of Discrimination Against Women 1979:

Article 6

'Take all appropriate legislative and other measures to suppress all forms of traffic in woman and exploitation of the prostitution of women'

CEDAW Committee's concluding Observations 2007

29. The Committee requests the State party to provide, in its next report, comprehensive information and data on trafficking in women and girls, on the number of prosecutions and convictions and on measures taken to combat such activities, including with respect to migrant women and girls, and the impact of such measures

Universal Periodic Review 2009

New Zealand accepts the recommendation to record and document cases of trafficking in women and children as well as exploitation of migrant women and girls in prostitution, and share the information with other countries in the region where appropriate.

The Trafficking Protocol 2000

- 1 of 3 binding protocols to the UN Convention Against Transnational Organised Crime 2000
- The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (the Trafficking Protocol)
- First-ever **treaty-based definition** of trafficking
- Aids monitoring and accountability

Definitions matter—Actions matter more

UNCROC Article 35

Requires States to take all appropriate measures to prevent the abduction of, sale of *or* traffic in children.

Optional Protocol clearly defines:

- Sale of children (for sexual exploitation / forced labour / organ transfers / illegal adoption); Child prostitution; Child pornography.

'The trafficking in and sale of children are overlapping concepts, but they are not identical. . . The question is not how to categorize these offences, but whether the responses to them, in terms of protecting children and punishing offenders, are adequate and comply with the provisions set out in the various international instruments.'

August 2011 Report to the UN General Assembly by the Special Rapporteur on the sale of children, child prostitution and child pornography

Principles and Guidelines

Recommended Principles and Guidelines on Human Rights and Human Trafficking

- published in 2002 by UN High Commissioner for Human Rights
- provide practical human rights-based policy guidance

Primacy of Human Rights

Set out in the first 3 principles

- place the **human rights** of trafficked persons at the centre of all efforts
- States have responsibilities under international law to **prevent** trafficking, to **investigate** and **prosecute** traffickers and to **assist and protect trafficked persons**
- Anti-trafficking measures should not adversely affect the **human rights and dignity** of persons

Obligations

- **Criminalise trafficking** (Article 5 of the Protocol)
- Quickly and accurately **identify victims** of trafficking (Guideline 2)
- **Investigate and prosecute** trafficking with due diligence (Guideline 2)
- Provide victims with **support and protection** (Article 6, detailed in Principle 8)
- Provide special protection for **child victims** including girls (CROC Articles 32-39 and Principle 10)
- **Prevent trafficking** (Articles 2, 9, 11 and 12 and Principles 2, 4, 5 and 6 and Guideline 7)
- **Cooperate internationally** (Articles 2, 9, 10 and 13 and Guideline 11)

Trafficking Protocol or UN Principles and Guidelines

Appendix Three:

Customs and Excise (Prohibition of Imports Made by Slave Labour) Amendment Bill First Reading

Hon MARYAN STREET (Labour) : I move, *That the Customs and Excise (Prohibition of Imports Made by Slave Labour) Amendment Bill be now read a first time.* I am pleased to bring this bill, the Customs and Excise (Prohibition of Imports Made by Slave Labour) Amendment Bill, to the House this evening. Slavery was abolished in Britain in the nineteenth century, and the ban on slavery is a foundation stone of modern international human rights law. It is unambiguously prohibited by international law, and the few Governments that tolerate it can be prosecuted by the International Criminal Court in The Hague. Despite this, the evil of slavery continues, with estimates ranging from 12 million to 29 million people enslaved. Despite bans in law, I am advised that hereditary slavery continues in Mauritania and Niger, while the use of child slaves is widespread in parts of West Africa. There are regular cases from Asia of parents selling their children into slavery, and debt slavery continues to occur in parts of the Asian subcontinent and in South America.

Banning the fruits of this vile traffic is a moral imperative and moral necessity. We live in the 21st century. Globalisation has brought trading partners closer together and opened up opportunities for the exchange of goods on a scale not known before. Just recently in this House, we passed legislation enabling the ASEAN-Australia-New Zealand free-trade agreement to proceed, thereby opening up huge markets to rapidly reducing tariffs for our exporters. But globalised trade does not happen in a moral vacuum, and that is the starting point for my bill.

Although I am a strong supporter of free trade, for many reasons, not the least of them being that I believe New Zealanders' quality of life is dependent upon the wealth and the jobs created from tradable commodities and services, I do not believe in trade at any price. Trade must occur at the right price, a fair price, and an ethical price. Fair trade and ethical trade are the starting points for this debate.

This bill presents the New Zealand Parliament with an opportunity to explore in good faith how free trade and human rights might be accommodated in a principled and thoughtful way. Earlier this year the Foreign Affairs, Defence and Trade Committee

considered the petition of Geoff White, on behalf of Trade Aid and 17,000 others, requesting just this: that the House legislates against the importation of products made by slave labour. The question was considered and reported back to the House, with a Green Party view expressing a desire for legislation. The conversation around this issue has continued within the Labour Party since that time, along the lines that, notwithstanding any practical difficulties of attestation, proof, and enforcement, it was still worthwhile to bring a bill to a select committee for consideration, investigation, and amendment where appropriate.

There is no doubt that this bill represents an idealistic position, but I do not make any apology for that. It is not the first idealistic position I have adopted, and I hope it will not be the last one. The mechanism for achieving the ends sought in this bill is the addition of a definition of 'slave labour' to the definition clause of the Customs and Excise Act 1996, and the insertion of another clause into schedule 1 of that Act. These are modest proposals. I have no interest in scoring points on this issue. I seek, in good faith, to present a bill before the House that we can debate in a select committee where improvement can be made, in order that New Zealand can stand up and say that our law bans the importation of goods produced by slave labour. There would not be a member in this House who would for a moment support slave labour, or the fruits of it; not one member in this House, I am sure. Perhaps one has just walked in. This bill is being brought forward without any sense of positioning or point-scoring in mind. I have only the desire to bring to the fore a discussion about an ethical and a morally based position on trade in this Parliament.

Although international trade rules, for example GATT, do not contain specific permission to ban goods produced by slavery, they allow measures necessary to protect public morals, human life and health, or to ban goods produced by prison labour, which is article 20 of GATT. Schedule 1 of the Customs and Excise Act 1996, which this bill seeks to amend; accordingly, states that 'Goods manufactured or produced wholly or in part by prison labour' are prohibited goods. The same efforts and mechanisms that are used to enforce that statute might be used to enforce the provisions of this bill. In fact, examination at the select committee might produce even better mechanisms than the ones we have. I do not have a monopoly on that wisdom. I was not a member of the Foreign Affairs, Defence and Trade Committee at the time it considered the original petition from Trade Aid. But, as I say, the conversation has continued within the Labour Party around this matter since that time.

The United States has the Tariff Act of 1930, which unambiguously bars the entry of goods produced by any form of forced labour, including slave and child labour. Belgium has a Government-endorsed voluntary social label, which producers can sign up to, that declares absolutely that their goods are not produced by slave labour. So there are two models already out there in the international arena that we could consider more closely in the application to New Zealand legislation.

We should all aspire to a global economic system that trades sustainably and ethically. I do not believe this is pie-in-the-sky legislation. I believe that all of us should look beyond current structures, current economic systems, and current constraints to a world where we know that what we consume has not been produced by means of 'labour by persons over whom any or all of the powers attaching to the right of ownership are exercised.' That is the definition I seek to include in the amendment to the Customs and Excise Act. That is a definition of slavery that echoes the wording of the 1926 Slavery Convention and the Rome Statute of the International Criminal Court. New Zealand is a party to both of those pieces of international law. Let us see whether we can find a way to make our universal, undoubted commitment to the abolition of slavery in all its forms practical in our trading relationships.

Appendix Four:

Crimes Act 1961 Section 98D Trafficking in persons by means of coercion or deception

- Definition requires movement & means
- Punishable with imprisonment of up to 20 years, a fine of \$500,000 or both

Also under the Crimes Act 1961:

- s98 – Dealing in slaves
- s98AA – Dealing <18yrs for exploitation
- s98A – Participation in organised criminal group
- s208 – Abduction for marriage/sexual connection
- s209 – Kidnapping

Prostitution Reform Act 2003

- s16 – induce or compel person to provide sexual services
- s20 – assist <18yrs to provide sexual services
- s21 – receive earnings from <18yrs

Immigration Act 2009

- s351 – exploitation of persons not legally entitled to work