



Report of the Petitions Committee

Petition of Trade Aid and World Vision New Zealand: Take Action against Modern Slavery

February 2022

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Petition of Trade Aid and World Vision New Zealand

Recommendation

The Petitions Committee has considered the petition of Trade Aid and World Vision New Zealand—Take Action against Modern Slavery—and recommends that the Government bring legislation addressing modern slavery before the House as soon as possible while allowing for adequate policy development and public consideration.

Request for a law banning modern slavery

The petition was presented to the House on 1 July 2021. It requests:

That the House of Representatives, as a matter of urgency, enacts Modern Slavery legislation that requires public and private entities to report on the risks of modern slavery in their operations and supply chains, and on the actions they are taking to address those risks, and note that 20,541 people have signed an online petition in support of this.

Trade Aid and World Vision New Zealand have asked for New Zealand-specific modern slavery legislation that draws on the strengths and learns from the weaknesses of legislation enacted in other jurisdictions. The petitioners emphasise the importance of legislation that could cover businesses of all sizes, ensure that supply chains are transparent, and require businesses to take action to reduce modern slavery.

What is modern slavery?

Modern slavery describes severely exploitative practices that range from breaches of minimum employment standards to coercive behaviour. It includes debt bondage,¹ forced labour, forced marriage, human trafficking, and exploitative child labour. Victims of modern slavery can experience life-long physical and emotional harm.

The International Labour Organization estimates that in 2016 there were over 40 million victims of slavery around the world. Of these, 25 million were victims of some form of forced labour and 15 million were victims of forced marriage. In the Asia and Pacific region, 4 out of every 1,000 people were victims of forced labour.²

World Vision estimates that in 2019 New Zealand households spent an average of \$34 a week on “risky products”—products from industries that are implicated in modern slavery. Risky products include clothing and footwear, toys, electronics, textiles and thread, bananas

¹ Debt bondage occurs when people are forced to work to pay off debt. The victim has no control over the conditions of the debt or its repayment. Repayment conditions may be unfair, undefined, or indefinite, allowing the person holding the debt to demand labour indefinitely. Almost all of the money the victim earns typically goes toward paying off the debt. Debt bondage can be passed down generations.

² International Labour Organization, [Global Estimates of Modern Slavery](#), 2017.

and coffee, tobacco, and furniture. New Zealand imported \$3.1 billion in risky products in 2019.³

Modern slavery in New Zealand

The Ministry of Business, Innovation and Employment and the Human Rights Commission submitted that modern slavery occurs in New Zealand as well as being present in supply chains. They agreed that it is difficult to estimate the scope of modern slavery in New Zealand because people subject to modern slavery are less likely, and less able, to seek help or report this experience.

The ministry told us that most of the 51 identified trafficking victims in New Zealand were migrant men who had been trafficked for the purpose of labour exploitation. It believes that this group does not represent all people subject to modern slavery in New Zealand. An international human rights group, the Walk Free Foundation, estimates that 3,000 people were in modern slavery on any given day in New Zealand in 2016.⁴

The Human Rights Commission submitted that refugees, asylum seekers, and temporary migrants, including students, are the overwhelming majority of victims of modern slavery in New Zealand. It said that temporary migrants are at special risk because of migrant and student visa conditions that restrict the type of work temporary migrants and students can do and the employer they can work for. This is discussed in more detail later in this report.

The commission told us it receives few complaints relative to the estimated scope of modern slavery in New Zealand. It said that victims tend not to trust the state and there are a range of systemic barriers that make it difficult for victims to complain. They include language barriers and a lack of support once a complaint is made.

Details of the petition request

Trade Aid and World Vision submitted that New Zealand has a responsibility to help end modern slavery and ensure that products created by modern slavery do not enter New Zealand. The petitioners told us that New Zealand consumers do not want to buy products that support modern slavery. They also submitted that many New Zealand businesses have taken steps to reduce the risks of slavery in their supply chains. However, it is hard for New Zealanders to avoid buying risky goods, because there are no requirements for companies to have transparent supply chains. Similarly, businesses that take steps to prevent slavery in their supply chains face competition from businesses that do not take such steps.

Trade Aid and World Vision said that modern slavery legislation would substantially reduce the amount of slave-made goods entering New Zealand. It would provide transparency for consumers and put all businesses on an even footing. It would also preserve New Zealand's international reputation as a fair and ethical country that upholds human rights.

³ World Vision, *Risky Goods: New Zealand Imports*, 2021, p 17.

⁴ Walk Free Foundation, *Murky waters: A qualitative assessment of modern slavery in the Pacific region*, 2020.

The petitioners noted that, in 2020, the Government published a plan of action against forced labour, people trafficking, and slavery.⁵ The plan suggests that the Government might consider introducing legislation requiring large businesses to report on slavery risks in their supply chains. However, the petitioners submitted that there has been no firm commitment from the Government to introduce such legislation. They also believe legislation that applies only to large businesses is not sufficient.

Modern slavery legislation in other jurisdictions

Trade Aid and World Vision said that modern slavery legislation has been passed in a number of other jurisdictions, including the United Kingdom, Australia, and Europe.⁶ The petitioners submitted that it was important that New Zealand learn from overseas legislation. They noted that experts in the United Kingdom have already called for its Modern Slavery Act 2015 to be updated so that it is compatible with European legislation. The petitioners said it was important that any modern slavery legislation passed in New Zealand be progressive and compatible with other jurisdictions.

Proposed features of modern slavery legislation

Trade Aid and World Vision told us that they consider several features are needed to make sure modern slavery legislation is effective. World Vision said the recommendations drew on three key principles: legislation must require action, not just transparency; it must have the broadest possible application; and it must keep the rights of victims at its heart.

Both petitioners made specific recommendations about features they believe modern slavery legislation should have.

Legislation should be based on the United Nations Guiding Principles on Business and Human Rights

Trade Aid submitted that the UN Guiding Principles on Business and Human Rights should form the basis for modern slavery legislation. World Vision said the principles are a global trend in regulating business practice. Basing legislation on these principles would help ensure consistent practice across jurisdictions.

Legislation should require action, not just transparency

The petitioners told us that any legislation should require companies to take action, not just to report transparently on their supply chains. They recommended that companies be subject to mandatory due diligence requirements. Due diligence models require entities to take certain actions to identify, prevent, mitigate, and account for modern slavery, as well as to disclose any known information. World Vision said due diligence models had been shown to be more effective than simple reporting. However, to enable scrutiny, it believes that due diligence models should still include reporting.

⁵ Ministry of Business, Innovation and Employment, *Combatting Modern Forms of Slavery: Plan of Action against Forced Labour, People Trafficking and Slavery 2020–25*, 2020.

⁶ For example, the Californian Transparency in Supply Chains Act 2010, the United Kingdom's Modern Slavery Act 2015, the French Duty of Vigilance Law 2017, the Australian Commonwealth Modern Slavery Act 2018, the New South Wales Modern Slavery Act 2018, the Dutch Child Labour Due Diligence Act 2019, the Norwegian Transparency Act 2021, and the German Supply Chain Act 2021.

Legislation should have the broadest possible application

The petitioners said that modern slavery legislation should apply:

- in the private, public, and not-for-profit sectors
- to entities of all sizes
- to both international and domestic supply chains
- to international and domestic businesses operating in New Zealand
- to New Zealand businesses operating outside New Zealand.

The petitioners said that legislation that applied broadly would combat slavery as broadly as possible and create a level playing field for businesses and consumers. They submitted that 97 percent of the New Zealand economy is made up of small and medium enterprises, and said it was essential that legislation captures the whole economy. Broad application would also provide a clear and consistent process for all entities.

Legislation should be proportionate to business size and risk

However, the petitioners said that it was also important that modern slavery legislation take a proportionate approach to the level of obligations. They noted that smaller businesses have less capacity for due diligence. Their supply chains may also be less risky. They recommend that, in keeping with a proposed European model, New Zealand legislation take into account the risk profile of a business in an industry (for example, whether a business is dealing with a high-risk product like bananas or coffee) as well as the geographical risk of modern slavery (for example, a New Zealand business dealing with New Zealand-made goods compared with an international business importing most of its goods).

We expressed concern about the burden of reporting obligations on small and medium-sized businesses. The petitioners told us that they wanted the legislation to set those businesses up for success. They want the Government to provide businesses with tools and guidance to operate.

The petitioners also told us that undertaking due diligence will draw benefits to New Zealand businesses. World Vision said that modern slavery legislation was “the way the world is going”. They believe New Zealand businesses will soon be competing in an environment where doing due diligence to avoid modern slavery is essential. They pointed out that the European Union’s modern slavery legislation will apply to all entities in that market, so New Zealand businesses will need to participate. They believe those businesses will need to be supported by New Zealand law.

Good support for human rights also brings benefits to companies in areas like risk management, consumer perceptions, and insurance premiums. Trade Aid told us that good transparency in supply chains helps companies know where their products are coming from. It said that companies already want to share stories that show they are doing the right thing. It gave the example of the coffee industry, noting that 40 percent of coffee in supermarkets is now fair trade.

Legislation should include penalties for non-compliance and remedies for victims

World Vision emphasised that modern slavery legislation should have the rights of victims at its heart. It said the legislation should work to prevent and remedy human rights abuses from modern slavery. To achieve this, it said, any legislation must provide a pathway to justice and remedies for victims. It must also include penalties for non-compliance.

The petitioners stressed the importance of penalties for companies that do not comply. World Vision told us that only 40 percent of UK companies with obligations were found to be compliant with UK legislation. It attributed this to the lack of penalties for non-compliance. It pointed out that New South Wales' Modern Slavery Act 2018 includes penalties for non-compliance.

Legislation should include the ability to ban certain imports

Trade Aid said modern slavery legislation should include the ability to ban goods found to be made by slave labour. World Vision said the Government should consider introducing such bans.

Reporting should follow prescribed criteria

World Vision said it was important that all entities report consistently and clearly. Prescribed criteria should include a description of actions taken to assess, prevent, and mitigate the risk of modern slavery, as well as measures put in place to remedy modern slavery where it is found in supply chains. Entities should also be required to describe any identified risks and how effective any actions taken were.

Legislation should provide for an independent body such as an anti-slavery commissioner

World Vision submitted that the modern slavery legislation of both the UK and New South Wales provides for an independent body to scrutinise its operation.

Legislation should include a regular review mechanism

World Vision submitted that regular review would allow the Government to evaluate the effectiveness of the law.

Support from New Zealand communities and businesses

Trade Aid and World Vision emphasised that there is widespread support for modern slavery legislation from New Zealand communities and businesses. They submitted that New Zealand experts on modern slavery are also calling for modern slavery legislation, noting support from the Human Rights Commission and the University of Auckland's Centre for Research on Modern Slavery.

The petitioners' submission also included a joint letter from businesses supporting modern slavery legislation. The letter was signed by 112 businesses of all sizes, including cafés and coffee roasteries, clothing companies, supermarkets, banks, and multinational companies. The petitioners said other jurisdictions had seen similar support for modern slavery legislation. They submitted that businesses support such legislation because it improves industry standards, mitigates business risk, and creates a level playing field for businesses.

Comments from the Human Rights Commission

We asked the Human Rights Commission for its views, and were told that it supports the petition. The commission said that prohibiting slavery and slavery-related practices is a universally accepted standard that guards one of the most fundamental interests of human society. It also said that modern slavery legislation would fulfil some of the Government's international human rights obligations. It made further recommendations for possible legislation about modern slavery.

Migrants are the most common victims

The Human Rights Commission submitted that modern slavery exists widely in New Zealand. It acknowledged that there are no official statistics or data capturing the scope of modern slavery in New Zealand, but said that the data available shows that migrants are the most common victims of slavery in New Zealand.

The commission discussed a 2019 report commissioned by the Ministry of Business, Innovation and Employment. It found that exploitation of migrants included severe underpayment (wages of \$3 an hour), threats of termination, excessive hours without pay, salary withholding, assault, lack of employment contracts, and migrant workers being forced to pay employers money to work in New Zealand.⁷ The commission also noted recent convictions of New Zealand employers who severely underpaid migrant workers, were involved in human trafficking from Samoa into New Zealand, and were physically abusive to workers.⁸

The commission frequently hears complaints from migrants in the recognised seasonal employer (RSE) scheme. The Equal Employment Opportunities Commissioner, Saunoamaali'i Dr Karanina Sumeo, told us she believes Pasifika migrants trust her enough to complain to her because she is Pasifika. However, she said that case studies make it clear that RSE and Pasifika migrants are not the only migrant workers subject to exploitation in New Zealand.

Immigration rules and information gaps contribute to the problem

The commission submitted that New Zealand's immigration system contributes to modern slavery in New Zealand. It pointed out that work visas have conditions attaching employees to employers, meaning that employees must apply for new visas if their employment conditions change. This makes it difficult for victims to escape modern slavery to work elsewhere. It also noted that restrictions on student visas preventing students from working in the sex industry mean that students doing such work illegally are vulnerable to violence and exploitation. They cannot report exploitation or seek medical attention without fearing deportation.

The commission also believes there is a power and information gap between New Zealand citizens and immigrants. The power imbalance between employee and employer is heightened when the employer is a citizen and the employee is not. Temporary migrants

⁷ Francis Collins and Christina Stringer, Temporary Migrant Worker Exploitation in New Zealand, 2019.

⁸ *New Zealand Police v Balajadia* [2018] NZDC 2173, *R v Matamata* [2020] NZHC 1829, *Sai Bliss Limited and Bhupinder Bhardwaj* (2019), and *Davinder Singh* (2018).

also often do not know their employment rights or believe that employment rights only apply to residents and citizens, not temporary migrants.

Is the current domestic framework piecemeal?

The commission told us that New Zealand's current law relating to modern slavery is piecemeal. It falls under three main pieces of legislation: the Crimes Act 1961, the Employment Relations Act 2000, and the Immigration Act 2009. The commission said that the few prosecutions for slavery since 1961 do not indicate the absence of slavery in New Zealand, but rather that the detection and prosecution regime is not working well.

The commission submitted that current law lacks proactive measures to prevent modern slavery in that there are no requirements for reporting on supply chains. It said that there is an increasing understanding of the way modern slavery works and that new legislation addressing modern slavery would be timely.

New Zealand's international obligations

The Human Rights Commission noted that New Zealand has an obligation to protect against and actively combat slavery under a number of international treaties. It also noted that the United Nations Human Rights Council's Universal Periodic Review of New Zealand, which took place in 2019, recommended that New Zealand consider introducing legislation that would require transparent supply chains. The commission pointed out that New Zealand accepted this recommendation.

The commission said it was encouraged by the fact that the Minister for Workplace Relations and Safety has established a Modern Slavery Leadership Advisory Group to lead this work. The group brings together leaders from business, academia, unions, and non-governmental organisations. Members of the group were chosen based on their existing experience in the field and include representatives from Trade Aid and World Vision New Zealand.

The commission mentioned two further recommendations in the Universal Periodic Review: a recommendation from Thailand to combat and deter the exploitation of migrant workers and a recommendation from the Philippines to protect migrant workers and foreign students.

Human Rights Commission recommendations for new legislation

The commission made a number of further recommendations about modern slavery legislation. Primarily, it submitted that such legislation should be inclusive and that respecting and honouring human rights should be at the heart of all legislation in New Zealand. It said that establishing modern slavery legislation would protect the rights of people in New Zealand and meet New Zealand's obligations under domestic and international human rights laws. It also said that it was crucial that the legislation be coupled with clear guidance for implementation.

The commission endorsed the petitioners' call to base any modern slavery legislation on the United Nations Guiding Principles on Business and Human Rights. It submitted that the guiding principles provide a framework for both businesses and states to proactively address and prevent human rights abuses. It also agreed that legislation should not just focus on large entities. It said that a proportional response was necessary, but that human rights are for everyone, including people who work for smaller businesses.

The commission stressed that modern slavery legislation should meet the needs of vulnerable groups and populations, such as migrants and refugees. It said legislation would require broad consultation to ensure these needs were met. It also recommended reviewing the work visa system. It said that work visas that tie employees to specific employers make it especially difficult for victims of exploitation and slavery to leave exploitative workplaces.

The commission agreed with the petitioners' request that the legislation provide remedies and holistic support for victims and their families. The commission also said that penalties and consequences are needed against exploitative employers. It was afraid that, without penalties, suppliers under stress because of the COVID-19 pandemic might turn a blind eye to modern slavery.

We asked whether the current system included barriers that prevented people from reporting exploitation. The commission told us that language barriers were common. It also stressed that victims often do not trust the state to protect them. They believe that the state will focus on their immigration status rather than addressing their exploitation. Therefore, victims fear deportation if they report. RSE migrants fear that if they come forward with complaints they will not be selected in future seasons. Financial barriers are also substantial. We heard that the legislation should consider victims who cannot afford a lawyer. Investigations can take years and victims who make complaints need financial and social support during this time.

Comments from the Ministry of Business, Innovation and Employment

The Ministry of Business, Innovation and Employment is the lead agency on labour market and immigration policy. The ministry agreed with the petitioners that modern slavery is a serious issue. It submitted that modern slavery has direct and indirect implications: it has a lasting effect on its victims and it affects productivity in both international and domestic economies. It told us that there is growing pressure from business and civil society for the Government to take action. It agreed with the petitioners' estimates of the scale and scope of modern slavery in New Zealand supply chains, with New Zealand households spending an average of \$34 a week on risky products.

The ministry acknowledged that international supply chains have become increasingly complex and difficult to control. It pointed out that it is now possible to provide services internationally, as well as goods. Modern slavery must therefore be tackled globally, and global supply chains must be scrutinised at the national level.

The Government intends to explore legislation to address modern slavery

The ministry told us that, in its 2020 election manifesto, the Government committed to exploring the implementation of modern slavery legislation, with a focus on eliminating exploitation in supply chains. The Government intends to explore legislation that would address modern slavery, with four policy objectives:

- reduce the prevalence of modern slavery internationally
- raise awareness of modern slavery and drive behavioural and cultural change
- maintain and enhance New Zealand's international reputation

- support New Zealand's domestic framework in preventing exploitation, protecting victims, and enforcing the law.

The ministry submitted that it is working as quickly as practicable to develop options that would give effect to these objectives. It said that potential legislative options are complex and could have wide-ranging effects, so they require careful consideration. It noted that, in keeping with the petitioners' recommendations, it is drawing from the UN's Guiding Principles on Business and Human Rights.

The ministry is considering the following aspects of potential legislation:

- obligations on businesses, such as transparency, reporting, and due diligence
- which entities would be included in the legislation, and whether all entities should have the same obligations
- whether institutional support, such as an independent commissioner, is needed
- how the legislation would interact with other tools such as import bans
- penalties for breaching obligations.

The ministry will draw on international and local experience

The ministry submitted that, in keeping with the petitioners' recommendation, it is drawing on lessons from other jurisdictions that have adopted legislation to address modern slavery. It noted that some jurisdictions have limited their legislation to requirements for supply chains to be transparent, while other jurisdictions have gone further and implemented legislation requiring entities to do due diligence to prevent modern slavery. The ministry said it "wanted to take the time to examine their approaches to see what works well and what would work best for New Zealand".

The ministry said it receives support from the Modern Slavery Leadership Advisory Group. The ministry considers the group's advice invaluable in formulating the right legislative approach for New Zealand. It noted that Trade Aid and World Vision New Zealand have representatives on the group.

After Cabinet considers its proposals, the ministry intends to consult with the public in early 2022 about options for addressing modern slavery.

New Zealand's commitments to eliminating modern slavery

The ministry submitted that New Zealand has several international commitments relevant to ending modern slavery. It gives effect to them by:

- implementing the UN guiding principles in government contracts
- including provisions that seek to prevent modern slavery in free-trade agreements
- contributing to overseas development initiatives that work to address slavery and exploitation, particularly in the Pacific and Asia.

In New Zealand, the Government Procurement Rules require agencies to consider "broader outcomes" when purchasing goods and services. These "broader outcomes" include improving conditions for workers. For example, one procurement rule requires that agencies

monitor their contracts to ensure that any commitments to fair and safe working conditions are met.

Actions the Government is already taking

The ministry told us about actions the Government is currently taking to address modern slavery.

Addressing migrant exploitation

The petitioners, the Human Rights Commission, and the ministry all acknowledged that migrant workers are vulnerable to exploitation. The ministry told us that the Government is developing a strong domestic framework to address exploitation of temporary migrant workers. It has committed \$50 million over four years to implementing changes that aim to reduce such exploitation. The changes include:

- more compliance and enforcement from Employment New Zealand and Immigration New Zealand
- a new visa to let migrants in exploitative situations leave their employer quickly
- a new reporting system that allows migrants to make complaints to a specialised team
- an information and education action plan.

Plan of action against forced labour, people trafficking, and slavery

In early 2021, the Minister for Workplace Relations and Safety released an all-of-Government plan of action against forced labour, people trafficking, and slavery.⁹ The plan provides a high-level framework for actions agencies plan to take to combat modern slavery until 2025. The ministry has been directed to investigate how well New Zealand prevents modern slavery domestically and internationally, as well as options for addressing slavery in international supply chains. The exploration of modern slavery legislation is part of the plan of action.

The plan of action includes a duty for third parties who control or influence New Zealand employers to take steps to prevent breaches of New Zealand employment law. This would create an obligation for some New Zealand entities to undertake due diligence in their domestic supply chains, and take action to address any identified risks.

Our response to the petition

We thank Trade Aid and World Vision New Zealand for bringing the issue of modern slavery to our attention. We commend their thorough consideration of the issue and thank them for their continued work to end modern slavery in international supply chains. We also thank the Human Rights Commission for its considered submission and its work in the area of modern slavery in New Zealand.

We wish to note that the petitioners, the Human Rights Commission, and the Ministry of Business, Innovation and Employment were united in a view that modern slavery is a serious

⁹ Ministry of Business, Innovation and Employment, *Combating Modern Forms of Slavery: Plan of Action against Forced Labour, People Trafficking and Slavery 2020–25*, 2020.

problem in international and domestic supply chains. Each entity also acknowledged gaps in New Zealand's current regime. With that consensus in mind, we are pleased that the Government is considering legislation to address modern slavery. We are particularly pleased that a number of the petitioners' recommendations, namely drawing on the UN guiding principles and overseas legislative regimes, as well as public consultation, are already being incorporated into the development of potential legislation.

We are pleased that the Government is allowing time for adequate policy development and public consultation. We encourage the Government to consider the petitioners' recommendations in the development of its legislation. Following this, we urge the Government to bring legislation addressing modern slavery before the House as soon as possible.

Recommendation

We recommend that the Government bring legislation addressing modern slavery before the House as soon as possible while allowing for adequate policy development and public consideration.

Appendix

Committee procedure

The petition was referred to us on 30 June 2021. We met between 9 September 2021 and 10 February 2022 to consider it. We received written submissions from the petitioners, the Human Rights Commission, and the Ministry of Business, Innovation and Employment, and heard oral evidence from the petitioners, the commission, and the ministry.

Committee members

Hon Jacqui Dean (Chairperson)
Rachel Boyack
Dr Liz Craig
Shanan Halbert
Nicole McKee
Todd Muller
Teanau Tuiono

Evidence received

The documents we received as evidence in relation to this petition are available [on the Parliament website](#).