

INTERAGENCY WORKING GROUP ON PEOPLE TRAFFICKING

Consultation on a Plan of Action to Prevent People Trafficking

DISCUSSION DOCUMENT
MAY 2008



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Department of Labour
TE TARI MAHI





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HOW TO MAKE A SUBMISSION

This discussion document proposes the development of a plan of action to prevent people trafficking, and seeks input from interested parties on the proposed approach of a plan of action, its development and implementation.

The Department of Labour is managing the submission process on behalf of the Interagency Working Group on People Trafficking. Other Working Group members represent the Department of Prime Minister and Cabinet, New Zealand Customs Service, New Zealand Police, and the Ministries of Foreign Affairs and Trade, Justice, Health, Social Development, and Women's Affairs.

The Department will pursue an open and transparent consultation process to consider how best to prevent and deal with future cases of people trafficking in New Zealand. Following the consultation, the Department will report to the Minister for Immigration, Hon Clayton Cosgrove, on the analysis of submissions and the development of a draft plan of action to prevent people trafficking.

Consultation questions are presented in bold throughout the discussion document. These questions are also attached as an appendix for ease of reference and reply. The questions are for submitters to use as a guide. The Working Group is also interested to hear about people trafficking issues that have not been presented in this document.

Submissions must be received by 31 July 2008 and can be sent to:

People Trafficking Submissions
Department of Labour
PO Box 3705
WELLINGTON 6011

Submissions can be emailed to:

Submissions@dol.govt.nz

Submissions can be made online at:

www.dol.govt.nz/consultation/peopletrafficking/index.asp

This discussion document can also be downloaded from this webpage.



FOREWORD

People trafficking is a crime of control and exploitation. It is an act that victimises someone who has not consented to being taken across borders.

The New Zealand Government is committed to taking a proactive approach to prevent and combat people trafficking. We recognise the transnational nature of people trafficking crime, and are currently working to develop and enhance international and domestic processes for prosecuting people traffickers and assisting the victims of trafficking.

New Zealand enforcement authorities have yet to uncover any evidence or indications of people trafficking despite a number of investigations both by Police and Immigration officials to identify trafficking activity. While ideally this absence of trafficking will continue, it is important for New Zealand to be prepared to deal with any future cases that may arise effectively and in accordance with international best practice.

The Interagency Working Group on People Trafficking has produced this discussion document to seek input from interested parties on the proposed approach, development and implementation of a plan of action to prevent people trafficking. This is also an opportunity for suggestions about other items that could be included in a plan of action.

The work to develop a plan of action represents the first cross-government strategy for dealing with people trafficking and demonstrates the Government's dedication to curbing the global trade in persons, and to assisting vulnerable people who become victims of trafficking.

I encourage you to participate in the development of further measures to prevent and combat people trafficking by submitting your thoughts on these issues.

A handwritten signature in black ink, appearing to read 'Clayton Cosgrove', written in a cursive style.

Hon Clayton Cosgrove
Minister of Immigration

OVERVIEW

Purpose

1. People trafficking¹ is an international crime that so far has not managed to gain a foothold in New Zealand. We have been fortunate; however there is no room to be complacent. People trafficking is a global concern and New Zealand could potentially be targeted as a destination for trafficked persons. New Zealand government agencies and non-government organisations (NGOs) should be prepared to deal with instances of trafficking in accordance with international best practice.
2. The New Zealand Government is working to develop a plan of action to prevent people trafficking (plan of action) to form a framework for a comprehensive response to prevent people trafficking. Government agencies' engagement with interested NGOs in the development of a plan of action aims to form constructive partnerships for identifying indicators of trafficking activity and developing procedures to protect any victims.
3. The implementation of a plan of action would assist New Zealand to meet our international obligations as outlined in the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (see paragraph 10); to combat international organised crime; and to protect the integrity of New Zealand's borders. In addition, an effective plan of action would help to maintain New Zealand's reputation as a safe country.
4. We request your input to ensure that the plan of action developed is right for New Zealand. Your views on the issues covered in the discussion document will be a valuable contribution in building on our work to prevent this crime.

New Zealand context

5. There is no evidence to suggest that New Zealand is a source, transit, or destination country for victims of trafficking. Even so, New Zealand has already undertaken a number of initiatives to prevent trafficking from occurring and to address any emerging or potential cases. In order to reinforce efforts already underway, the Government is developing a plan of action as a comprehensive anti-trafficking framework to coordinate work across government agencies and NGOs.
6. New Zealand has implemented a range of legislative provisions and policies to prevent trafficking, prosecute offenders, and protect the victims. New Zealand is also party to United Nations Conventions and international programmes relevant to people trafficking.
7. Exploitation of trafficked persons can take many forms; the most common are forced labour, and sexual servitude. It is important for the Government to focus anti-trafficking efforts in sectors that may be used to conceal activity. A plan of action could raise the profile of people trafficking, thereby assisting New Zealand to create an environment to effectively prevent it.
8. There have been a small number of prosecutions in New Zealand relating to the smuggling of illegal migrants. The difference between people trafficking and smuggling is outlined in paragraph 25.

¹ People Trafficking is also known as Human Trafficking. The term People Trafficking has been used throughout this discussion document for consistency.

International obligations

United Nations

9. The United Nations aims to strengthen international cooperation across the four pillars of peace, security, human rights and development. New Zealand is strongly committed to the United Nations and the multilateral system more widely.
10. On 19 July 2002, New Zealand ratified the United Nations Convention against Transnational Organised Crime (UNTOC) and its supplementary Protocols²:
 - Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Trafficking Protocol); and the
 - Protocol against the Smuggling of Migrants by Land, Sea and Air (Smuggling Protocol). People smuggling prevention is not within the scope of a plan of action to prevent people trafficking.
11. As a signatory to the United Nations Trafficking Protocol, New Zealand is required to develop strategies for preventing and combating people trafficking. The three basic purposes of the Trafficking Protocol are: prevention and combating of trafficking, protection and support of victims of trafficking, and promotion of cooperation between States.
12. New Zealand is party to a number of other relevant international conventions, including the United Nations Convention on the Rights of the Child (UNCRC) and the United Nations Convention on the Elimination of all forms of Discrimination against Women (CEDAW). New Zealand's signing and ratification of these international treaties is consistent with the high priority that the New Zealand Government places on the protection of human rights.

The Bali Process on People Smuggling, Trafficking in Persons and other Related Organised Crime

13. The Bali Process on People Smuggling, Trafficking in Persons and Related Organised Crime (the Bali Process) has strengthened cooperation on these issues between participating countries in the Asia Pacific region. New Zealand has taken a leadership role in the Bali Process since its inception in February 2002. New Zealand is a member of the Steering Group (co-chaired by Australia and Indonesia), and contributes funding to the Bali Process for programmes and activities which relate to capacity building, legislative reform, border management, public awareness and information sharing.
14. New Zealand is also a 'country coordinator' leading the Bali Process work programme of Regional and International Cooperation on Policy Issues and Legal Frameworks. Regional networks established through the Bali Process are being drawn on to pursue greater regional cooperation between agencies, in particular, to combat trafficking in persons.

Pacific Immigration Directors' Conference

15. The Pacific Immigration Directors' Conference (PIDC) provides a forum for immigration agencies to meet at a senior level to discuss issues of mutual interest aimed at strengthening participants' territorial borders and the integrity of their entry systems. These discussions have focused on trafficking issues. New Zealand chaired the PIDC in 2006 and hosted the 10th PIDC in October 2006.

² Full text of the United Nations Convention Against Transnational Organised Crime (UNTOC) and the Trafficking and Smuggling Protocols is available at www.unodc.org/pdf/crime/a_res_55/res5525e.pdf

Interagency Working Group on People Trafficking

16. In March 2006, an intergovernmental agency workshop recommended the establishment of an interagency Working Group to coordinate and develop a national 'prevention' strategy on people trafficking. The Working Group has prepared this discussion document to summarise the work the Government has done, and is currently undertaking, to tackle people trafficking.
17. A plan of action could align the current legal and policy provisions for dealing with perpetrators and supporting victims of people trafficking into a single framework. A key objective for a plan of action would be to coordinate government agency and NGO efforts to prevent trafficking and assist potential victims. A plan of action would also outline a plan for improving New Zealand's ability to prevent and detect people trafficking.
18. The Working Group proposes that a plan of action could address, and be measured against, the following objectives:
 - **Prevention** of people trafficking
 - **Prosecution** of people traffickers and exploiters
 - **Protection** and support of victims of trafficking
 - **Settlement** of victims of trafficking.
19. The Working Group would like to hear your feedback on the following areas in the discussion document:
 - **Issues to consider in the development of a plan of action**
 - **Comments and questions about People Traffickers**
 - **Comments and questions about Victims of Trafficking**
 - **Strategy for a plan of action**

ISSUES TO CONSIDER IN THE DEVELOPMENT OF A PLAN OF ACTION

What is People Trafficking?

20. At its most simple level, people trafficking is forced exploitation of people. The most prominent form of trafficking is of women for commercial sexual services. International experience of trafficking is characterised by:

- the victimisation of vulnerable people from developing countries, and countries with economies in transition, for
- sustained exploitation in developed countries.

Difference between Trafficking and Smuggling

21. People trafficking, as defined in the United Nations Trafficking Protocol, is:

"the recruitment, transportation, transfer and 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, or the abuse of power or of a position of vulnerability, or of the giving or receiving of payments or benefits to a person in control of the victim, for the purposes of exploitation which includes sexual exploitation, forced labour or services, slavery or similar practices, and/or the removal of organs".

22. The Trafficking Protocol states that the recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered "trafficking in persons" even if this does not involve the other factors outlined above.

23. New Zealand has adopted a transnational definition of people trafficking which only covers occurrences where victims are taken across international borders. This definition is instilled in Section 98D of the Crimes Act 1961. Other existing legislation already covers criminal offences associated with the exploitation of victims of trafficking within New Zealand.

24. Smuggling of migrants, as defined in the United Nations Smuggling Protocol consists of two elements:

- the procurement of the illegal entry of a person into another country of which that person is not a national or a permanent resident, and
- obtaining, directly or indirectly, a financial or other material benefit for procuring such entry.

25. The **key difference** is that trafficked people are under the control of the traffickers, unlike those who are smuggled. ***Victims of trafficking are subjected to exploitation and coercion at the hands of the traffickers.*** Smuggled migrants intend to enter countries illegally and tend to be left to their own devices once they have crossed the border.

Role of the Government and NGO Sector

26. The New Zealand Government is involved in preventing people trafficking by contributing to overseas development assistance in order to reduce push factors, maintaining robust border controls, participating in international programmes and discussions on people trafficking, developing the procedures for identifying and investigating traffickers, and assisting victims of trafficking.

27. The Government funds the NGO sector to provide social services and assistance for vulnerable people. The NGO sector could work with the relevant government agencies to support victims of trafficking by providing refuge, social services and assistance.
28. No one has been prosecuted for trafficking in New Zealand. Therefore, it has not yet been possible to assess the adequacy or appropriateness of the legislative and policy measures or social services that may be involved in dealing with cases of people trafficking.

People Traffickers and Victims of Trafficking

29. The existing policies and procedures for preventing people trafficking and prosecuting traffickers are discussed in the People Traffickers section. The Victims of Trafficking section looks at the assistance available that victims of trafficking may access and the processes to find positive future outcomes for victims. Both sections suggest work to enhance the ability of the New Zealand Government and NGOs to prevent and combat potential cases of people trafficking.

QUESTION

- 1. What other factors should be considered in the development of a plan of action to prevent people trafficking?**

PEOPLE TRAFFICKERS

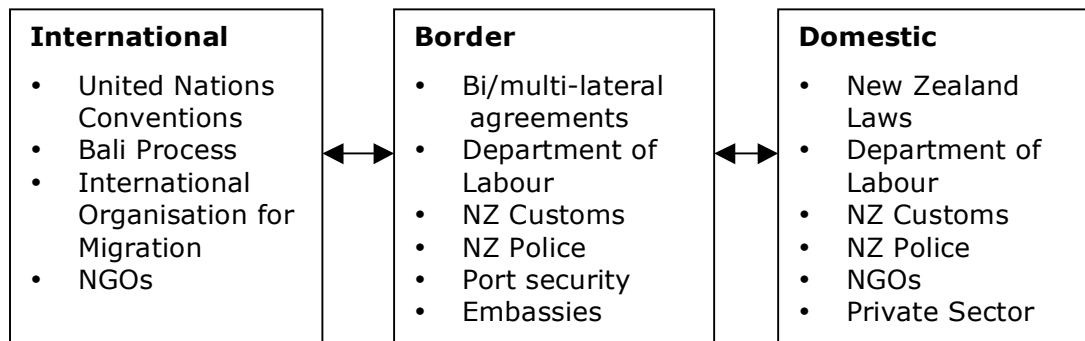
30. People trafficking is a multi-billion dollar business which helps to sustain organised crime. The demand for cheap labour and prostitution, including child sex tourism, drives the market in trafficked persons internationally. Therefore, it is important for anti-trafficking efforts to focus on the reduction of such demand to protect potential victims.
31. Trafficking is a violation of human rights. Anecdotal evidence from international cases shows that traffickers target vulnerable individuals by offering them seemingly legitimate job opportunities abroad. Once they have reached the new location victims are forced to remain under the control of the traffickers and are subjected to ongoing exploitation for the material benefit of the traffickers.
32. The Prevention section (from paragraph 37) describes the various measures New Zealand uses to prevent people trafficking. The Working Group would like to hear feedback from submitters about the initiatives and requests suggestions for new initiatives.
33. An integral part of the eradication of people trafficking is the prosecution of perpetrators of the crime. Traffickers may be individuals or linked to organised crime groups, and victims may be "sold" or "re-sold" to separate groups during their transit or at their destination. This can make it difficult to identify all the individuals who are responsible for the crime.
34. People trafficking is a difficult crime to detect. New Zealand businesses may be able play a role in identifying trafficking activity. If businesses are aware of trafficking issues they can report practices that may be signs of trafficking, such as under payment of workers or unsatisfactory working conditions.
35. In order to increase the chances of successful prosecutions of traffickers, there could be mechanisms in place to encourage victims to come forward to testify against traffickers, and for victim support to be available throughout the prosecution process.
36. The Prosecution section (from paragraph 45) outlines various legislative provisions that cover the criminal offences relating to people trafficking and raises questions about whether these provisions are adequate, and how NGOs can assist victims of trafficking to participate in criminal proceedings against traffickers.

Prevention

37. New Zealand has already undertaken a number of legislative, law enforcement and international initiatives to prevent people trafficking. These initiatives include:

- development of a legal framework including the criminalisation of trafficking
- ratification of United Nations conventions to protect human rights
- ongoing membership in international and regional organisations which have an anti-trafficking focus
- implementation of national plans of action related to improving the circumstances of women and protecting children, and
- financial assistance provided by the New Zealand Agency for International Development (NZAID) aimed at alleviating social and economic conditions that hinder economic development.³

38. This diagram shows the elements that work together to prevent people trafficking.



39. The Working Group has recommended strengthening New Zealand's prevention measures in line with international best practice to ensure that trafficking does not occur in New Zealand. The Trafficking Protocol highlights the following areas to explore to increase security against people trafficking. Suggested work items for Government agencies and NGOs are in italics.

Training and enforcement

40. Training is important to equip enforcement officers and social services with the ability to identify and deal with cases of people trafficking in the correct manner so that the ability to successfully prosecute traffickers is maintained.

- *Provide targeted training for law enforcement agencies and social services in the prevention, detection, and investigation of trafficking.*

Research and intelligence-gathering

41. Efforts to enhance our collective understanding of trafficking issues are required. Research and intelligence-gathering can enhance our knowledge of trafficking and assist in the development of measures to address the identified issues.

³ NZAID has specifically contributed funds to a range of international projects that aim to combat and prevent people trafficking. One focus area of NZAID's Policy for Achieving Gender Equality and Women's Empowerment relates to support for reduction of all forms of gender-based violence, including trafficking of women and girls.

- *Conduct research focusing on the prevalence and nature of trafficking and collect, analyse and disseminate intelligence on any related trends.*

Public Awareness

42. Education campaigns about the global trafficking problem are necessary to develop public awareness of people trafficking and enable indicators of people trafficking to be widely recognisable.
- *Promote public awareness through information and media campaigns.*

Social and Economic initiatives

43. Trafficking is fostered in an environment where people are systemically underprivileged, and vulnerable to people and groups with disproportionate power.
- *Participation by New Zealand in social and economic initiatives in developing countries to reduce the vulnerability of people to exploitation.*
 - *Cooperation between government agencies, NGOs, and other relevant organisations and elements of society to prevent trafficking and identify trafficking activity.*
 - *Adopt bilateral initiatives (economic, educational, social and cultural) that alleviate the factors that make persons vulnerable to trafficking, such as poverty, underdevelopment and lack of equal opportunity.*
 - *Maintain strict and regulated labour standards within New Zealand to reduce opportunities for trafficking to exist.*

Information exchange

44. The exchange of information is crucial to the identification of people traffickers (and victims of traffickers) who are passing across borders, and operating in the community. Information that can lead to the apprehension of traffickers are profiles of suspected traffickers, victims, or members of known organised crime groups, and the types of travel documentation and methods of travel used by traffickers.
- *Develop practices for sharing of information between relevant domestic agencies (such as memoranda of understanding for sharing information to assist identifying traffickers and victims).*
 - *Establish bilateral and multilateral agreements to share information with other countries.*

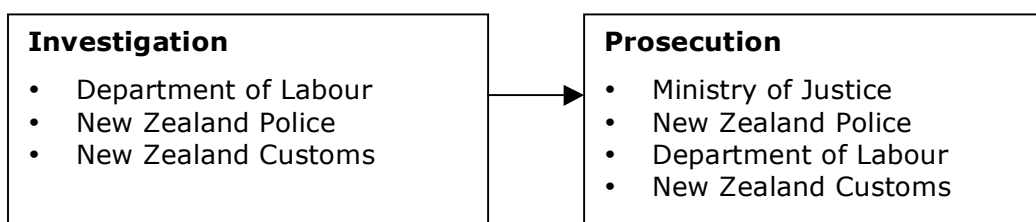
Prosecution

Legislation

45. People trafficking is a crime that can ruin the lives of victims. Despite victims of trafficking breaching immigration or other laws, the circumstances of their illegality are due to the deceptive or coercive actions of traffickers. Traffickers are motivated to gain material benefit from the persistent exploitation of the victim; this may include providing funds to organised crime groups to expand operations.
46. The Trafficking Protocol requires signatory states to create criminal offences related to trafficking in persons.⁴ In 2002, New Zealand criminalised participation in an organised criminal group, smuggling migrants, and trafficking in persons in an amendment to the Crimes Act 1961.⁵
47. Under section 98D of the Crimes Act 1961, the penalty for trafficking persons imposes a term of imprisonment not exceeding 20 years, a fine not exceeding \$500,000, or both. Further provisions to criminalise dealing in people under the age of 18 years for sexual exploitation, removal of body parts⁶ or engagement in forced labour came into force on 14 June 2006.⁷
48. In addition, under Section 39A of the Immigration Act 1987, an employer may be prosecuted for exploiting people who are not legally entitled to work by hindering or preventing a person leaving the employment or ascertaining their employment rights. These offences may be punishable by a fine of up to \$100,000 and a prison term not exceeding seven years. Furthermore, New Zealand employment law provides for redress if an employee's entitlements are not met under the Employment Relations Act 2000, Holidays Act 2003, and the Minimum Wage Act 1983.⁸
49. The Victims' Rights Act 2002 provides specific statutory recognition to the role of victims in the criminal justice system. The Act provides that the victim be informed of the progress of, their role in, and every final disposition of the criminal proceedings.

Investigation

50. The following diagram outlines the agencies which would be involved in investigating and prosecuting people traffickers.



51. There are formal Memoranda of Understanding between both New Zealand Customs and the New Zealand Police, and between the New Zealand Police and the Department of Labour to facilitate information sharing, joint operations and training opportunities.

⁴ Trafficking Protocol, Article 5 (1).

⁵ Crimes Amendment Act 2002, new sections 98A – 98F

⁶ Removal of body parts is included in the United Nations definition of people trafficking, see paragraph 21.

⁷ Crimes Amendment Act 2005, new section 98AA

⁸ All available at www.legislation.govt.nz

52. The private sector may be the first to become aware of activity that is indicative of trafficking. Concerns and suspicions can then be referred to the Department of Labour or the Police for further investigation.

Prosecution measures

53. Prosecution of people traffickers is intended to deter people traffickers from targeting New Zealand as a destination or transit country. New Zealand has yet to prosecute anyone for people trafficking; however, it is necessary for New Zealand to be prepared to deal with any emerging cases.

54. A plan of action could contain commitment from both government agencies and NGOs to focus on improving measures to:

- detect, monitor, and investigate the perpetrators of people trafficking
- put measures in place to protect and encourage victims of trafficking to take part in proceedings
- prosecute the perpetrators of people trafficking to maximise the deterrence of further people trafficking, particularly when sentencing is undertaken
- prevent the obstruction of justice by the use of force, threats or intimidation against the victims of people trafficking or those investigating, prosecuting or adjudicating people trafficking offences, and
- provide specialised training for the New Zealand Police, prosecutors and Judges.

Victims' involvement

55. To ensure that identified people traffickers are able to be prosecuted to the full extent of the law, it is necessary for victims to be encouraged and enabled to participate in the criminal proceedings, so long as the victims' rights and wellbeing are not impaired by participating in this process. It is important that while victims are assisting with the, often lengthy, prosecution process they are afforded the ability to support themselves and enjoy a quality of life expected by New Zealanders. Victims of people trafficking are likely to need assistance with:

- witness protection
- information on relevant court and administrative proceedings, and assistance (including legal counselling and 'mother tongue' services) to enable victims' views and concerns to be presented and considered in proceedings
- social support throughout the prosecution process
- access to legal processes that can enable them to seek compensation and restitution for victims of people trafficking (victims who are forced to undertake labour may be eligible for compensation, see paragraph 48).

Comments and questions about People Traffickers

56. Cooperation between government agencies and NGOs would be necessary to discourage the demand that fosters the exploitation of people which can lead to trafficking in persons. Effective prevention of trafficking also involves the identification of trafficking activity at the border and in the community.
57. New Zealand Government agencies are involved in ongoing work to effectively prevent people trafficking and have developed legislative provisions to prosecute. A plan of action would take guidance from the measures outlined in the Trafficking Protocol to build on the existing initiatives.
58. Government agencies intend to engage with interested NGOs throughout the development of a plan of action to gain commitment for future work to prevent, detect, and raise awareness of trafficking, and provide protection and support for any identified victims.
59. Criminal proceedings can be time intensive. Victims of people trafficking should be able to participate in the process effectively. Victims may also wish to be able to undertake suitable employment to support themselves in the community during this time and, where suitable and sufficient employment cannot be found, will need access to appropriate social services.
60. The Working Group recognises that by allowing victims to stay and work in New Zealand during the prosecution of traffickers, victims may settle in New Zealand and wish to stay. Opportunity exists for those who wish to apply to extend their temporary visa, or to apply for permanent residence.
61. The Working Group is interested to hear from submitters about future methods of prevention and detection of people trafficking and provisions for the prosecution of traffickers.

QUESTIONS

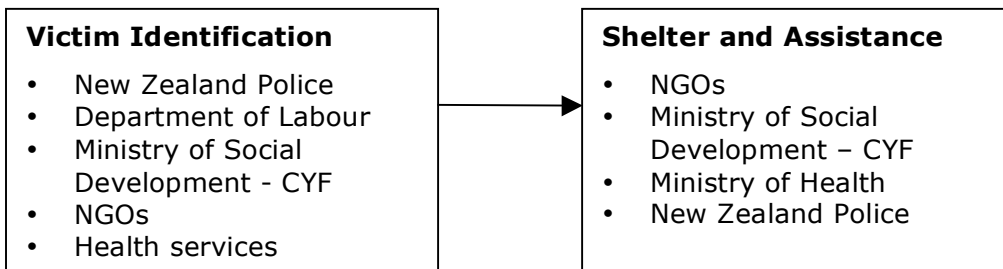
- 2. What other prevention measures could be included in a plan of action?**
- 3. What other prosecution measures could be included in a plan of action?**
- 4. How should the private sector be involved in a plan of action?**

VICTIMS OF PEOPLE TRAFFICKING

62. People trafficking is a unique migration/criminal offence that requires a specialised response from government agencies and NGOs. Although trafficked migrants may be in breach of immigration or other laws, the circumstances of their illegality are driven by outside agents for the purposes of exploitation.
63. Traffickers exploit people's desire to make a better life for themselves. They can mislead people with false promises of legitimate jobs in other countries. Many of those who accept these offers find themselves in situations where they are forced to undertake labour and/or submit to ongoing sexual exploitation.
64. Poverty, underdevelopment and lack of equal opportunity can increase exposure to people trafficking. Women from developing countries and children from all over the world are especially vulnerable to becoming victims of trafficking.
65. Victims of trafficking become trapped within their circumstances and may be unable to seek help. For example, they may be afraid to approach law enforcement authorities due to their unlawful status; they may have amassed large debts to the traffickers for their travel to New Zealand; or they (or their families) may have been threatened with violence if they attempt to leave.
66. The Protection section (from paragraph 70) discusses the current policies and programmes to protect victims of people trafficking and explores the indicative procedures for assisting victims to achieve positive outcomes. These measures follow international guidelines; however, they have yet to be tested with an identified case of people trafficking in New Zealand.
67. Identified victims of people trafficking face an uncertain future. While in the vast majority of cases it is preferable for victims to return to their country of origin, immigration officials would evaluate the circumstances of each victim on a case by case basis.
68. The Settlement section (from paragraph 81) considers the current provisions for assisting victims of trafficking to re-establish their lives.
69. The Working Group seeks your comments about possible future policies and criteria for victims of trafficking seeking to stay in New Zealand.

Protection

70. Once victims of trafficking are identified, government agencies and NGOs can work together to offer them protection from the traffickers and their associates. A plan of action would develop further initiatives to identify and support the victim as well as create an assistance pathway.
71. The Working Group notes that there are several support groups who would be well placed to support and protect identified victims. The unofficial links between Government agencies and NGOs could be formalised with policies for dealing with their specific needs.
72. The Victims' Rights Act 2002 gives effect to a number of victims' rights by making them enforceable. Such rights include the right to be informed of services (such as physical and mental health services, legal services, social welfare and counselling) and access to remedies. The New Zealand Council of Victim Support Groups provides 24 hour emotional support, personal advocacy and information to all people affected by crime and trauma throughout New Zealand.
73. The Children, Young Persons, and their Families Act 1989 provides protection for children less than 18 years old in New Zealand. The Ministry of Social Development administers Child Youth and Family Services (CYF) which provides protection services to people under the age of 18 years who require state assistance. This would include providing care and accommodation for children who are trafficked.
74. Under the Immigration Act 1987, the Department can issue temporary permits to people who are witnesses in criminal proceedings. Victims of people trafficking could be granted this immigration status to allow them to assist the prosecution of alleged people traffickers.
75. The agencies involved in identifying and assisting victims of trafficking are outlined below.



76. The Working Group considers that to identify and provide the required specialised care for victims of people trafficking, a plan of action could contain elements to further develop policies and processes for dealing with victims of trafficking appropriately. Suggested work items are in italics.

Victim identification

77. International experience shows that victims are unlikely to present themselves to officials in order to seek help. There are many reasons for this: victims may be scared that they could be punished for their illegal status in the country, they may be dependent on traffickers for a drug addiction, traffickers may have threatened harm to the victim or their family, or there may be language barriers.

- *Develop further proactive procedures for victim identification, including intelligence-gathering methods for New Zealand Police and Immigration Officers, and Labour and Health Inspectors.*

Privacy

78. Victims of trafficking may be re-victimised by traffickers if their privacy is not well protected. Protection of victim's privacy could encourage them to cooperate with authorities to prosecute traffickers.

- *Protect the privacy and identity of victims of people trafficking.*

Physical Safety

79. Victims of trafficking should be offered safe shelter where traffickers and their associates cannot locate them. This can reduce the risk of re-victimisation and retaliation from traffickers. It may also encourage the victim to have the confidence to assist Police with the investigation of their case.

- *Provide for the physical safety of victims of people trafficking, including safe shelters, to prevent harm, retaliation or intimidation.*

Multi-agency services

80. Victims may benefit from help provided by advocates as they are likely to be unfamiliar with how to access the variety of social services available in New Zealand.

- *Develop and provide services on a multi-disciplinary and/or multi-agency basis for the physical, psychological and social recovery of victims of people trafficking in cooperation where necessary with other organisations. Services to include:*
 - *appropriate housing*
 - *counselling and information (including access to 'mother tongue' legal and social assistance)*
 - *medical, psychological and material assistance*
 - *English language acquisition and assistance connecting with their community residing in New Zealand, and*
 - *employment, educational and training opportunities (where considered appropriate).*
- *Service providers should take into account the age, gender and special needs of victims of trafficking.*

Settlement

81. The human rights of a victim of trafficking would be the key priority in terms of providing assistance to trafficking victims.

Return to country of origin

82. A positive outcome for victims is repatriation with a sustainable future. This is because victims are unlikely to have a support network of family and friends in New Zealand and they may not have the language or employment skills to support themselves in the New Zealand labour market.

83. The Working Group considers that a single framework is required for safe and dignified return and reintegration of victims of people trafficking to their home communities. The process established should ensure there is appropriate and safe adult support for children and young people returned. This support should continue after reintegration so that parents and children are then supported to live together again after the trauma they may have suffered.

84. The Working Group considers the reintegration and return elements for a plan of action are:

- facilitated voluntary return without undue or unreasonable delay
- identity and travel documentation and visa arrangements
- security arrangements and escorts (if required)
- transport, transit and reception arrangements
- post-return support arrangements in their country of origin.

Settlement in New Zealand (temporary or permanent)

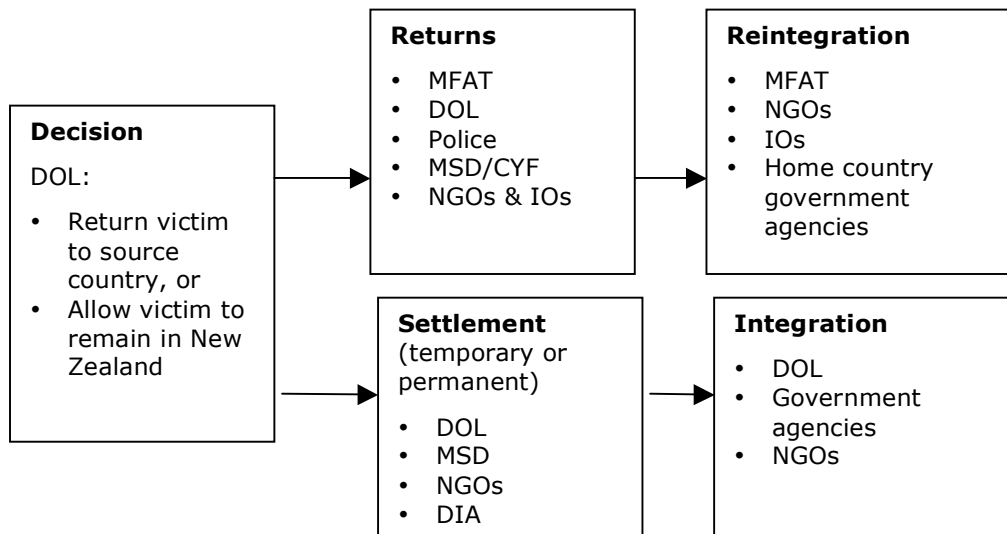
85. The Trafficking Protocol requires signatory governments to permit victims of people trafficking to remain within jurisdiction, temporarily or permanently, in appropriate cases taking into consideration humanitarian and compassionate factors.

86. The Government could establish policies and processes for identifying and supporting the victims who have to stay in New Zealand. Such processes would ensure the safety and protection of the victim, and maintain a confidential and human rights based approach to care and services. If the traffickers are apprehended, this would encompass cohesive interagency procedures to ensure victim support throughout their participation in the prosecution process.

87. The following diagram shows the role of agencies which may be involved in assisting the return or settlement of victims of trafficking.

Key:

- DOL – Department of Labour
- MFAT – Ministry of Foreign Affairs and Trade
- MSD – Ministry of Social Development
- CYF – Child Youth and Family Services
- NGOs – Non-Government Organisations
- IOs – International Organisations
- DIA – Department of Internal Affairs



Comments and questions about Victims of Trafficking

88. The safety of victims should remain the paramount consideration. Inherent in the principles of protection are the observance of strict confidentiality protocols to ensure that the victim's identity, whereabouts and circumstances are not divulged to any source outside the protective sphere. This is to ensure that people traffickers and others cannot intimidate, threaten or otherwise further victimise the individual.
89. Privacy is also important because victims can be at risk of stigmatisation in their home community if the details about their subjugation become widely known, particularly if they have been forced into prostitution.
90. In addition, providing a "victim-friendly" environment that safeguards dignity fosters both a sense of wellbeing and a sense of trust between the victim and care-providers. This process can also facilitate information exchange that might lead to the apprehension and prosecution of people traffickers and others complicit to the people trafficking case.

QUESTIONS

- 5. What other protection measures could be included in a plan of action?**
- 6. What other settlement measures could be included in a plan of action?**
- 7. How should the NGO sector be involved in a plan of action?**
- 8. What criteria should balance the decisions about whether victims of trafficking should be returned to their home country or supported to remain in New Zealand?**

STRATEGY FOR THE PLAN OF ACTION

Principles

91. The aim of the plan of action is to implement an overarching framework to review, develop, refine and enhance New Zealand's anti-people trafficking strategies. This includes a framework for aligning and coordinating efforts by society including NGOs, academics and the Government.
92. The plan of action would outline short, medium and long term goals, and seek responsibilities of government departments to undertake the agreed work programmes or services. Much of the work would be cross-government; other work would be undertaken in partnership with other countries or NGO partners. All agencies involved could work within collaborative relationships to achieve the goals of the plan of action.

Key Steps

93. The proposed key steps to develop a preventative people trafficking strategy are:
 - consult the public and interested organisations,
 - draft the plan of action,
 - finalise the plan of action and seek Cabinet approval,
 - implement the work programmes agreed in the plan of action, and
 - review and report back implementation and outcomes.

Consult the public

94. The initial step is to seek a wide range of input from interested parties to develop an overview to identify strengths/weaknesses in the current framework. Then government agencies can work to identify and gain consensus on the elements to form the plan of action.

Draft the plan of action

95. The plan of action could then be written that addresses the views of submitters and the ability of government agencies and NGOs to deliver on programmes and initiatives.

Finalise the plan of action

96. When government agencies and NGOs partners have agreed to the way forward the plan of action can be finalised and adopted by Government. Following this the plan of action would be released to the public and implemented across government agencies and NGOs.

Implement the plan of action

97. The plan of action could then be implemented, and Government would work to consolidate and increase cooperation with key regional counterparts by developing bilateral/multilateral agreements to prevent people trafficking across state borders.

Monitor the effectiveness of the plan of action

98. Implementation of the plan of action would require a reporting framework to measure the implementation, operation and outcomes of the New Zealand Government's action plan. Examples of indicators could include:

- awareness of trafficking among police and immigration enforcement officers,
- awareness of trafficking among public, social services and private organisations,
- appropriateness of services available for victims of people trafficking,
- cooperation in international and regional efforts to combat trafficking, and
- development of training for investigation into trafficking.

99. Agencies with responsibility for operational matters should continue to cooperate closely and effectively to ensure a coordinated and coherent response on people trafficking matters. Ongoing consultations with interested parties and community representatives are an integral part of this work.

QUESTIONS

9. What additional factors should be measured to evaluate the effectiveness of the plan of action?

10. Do you have any further comments?

APPENDIX A - SUBMISSION FORM

Consultation on a Plan of Action to Prevent People Trafficking

Please note that any submissions that you make may be the subject of a request under the Official Information Act 1982. To assist the Department of Labour in the processing of such requests, you will be requested to indicate at the beginning of your submission whether or not you would like the contents made a matter of public record. Any request for non-disclosure will be considered in terms of the Official Information Act.

Please indicate if you (please type X in the appropriate box)

would be happy for your submission to be released, or

would like to be consulted prior to any release.

Information about you (optional)

This submission was made by:

Name: _____

Postal address: _____

Organisation: _____

Role/Position (if applicable): _____

Please answer as many or as few questions as you would like. Please give reasons for your views. You may attach additional pages to your submission.

Submissions close on 31 July 2008.

- 1. What other factors should be considered in the development of a plan of action to prevent people trafficking (plan of action)?**

- 2. What other prevention measures could be included in a plan of action?**

- 3. What other prosecution measures could be included in a plan of action?**

- 4. How should the private sector be involved in a plan of action?**

5. What other protection measures could be included in a plan of action?

6. What settlement measures could be included in a plan of action?

7. How should the NGO sector be involved in a plan of action?

8. What criteria should balance decisions about whether a victim of trafficking should be returned home or supported to stay in New Zealand?

