

## Written submission of World Vision New Zealand

### *Trade Aid and World Vision New Zealand - Modern Slavery Act petition*

1 September 2021

#### **Introduction**

Thank you for the opportunity to provide information regarding the joint petition from Trade Aid and World Vision New Zealand (WVNZ), calling for New Zealand to introduce legislation to combat modern slavery.

WVNZ is part of the World Vision International partnership. Together, we have impacted the lives of over 200 million children across almost 100 countries by tackling the root causes of poverty and injustice. We're dedicated to helping vulnerable children survive, recover and thrive through humanitarian emergency response and long-term development work. We help children caught in emergencies, extreme poverty, or facing abuse and exploitation. As we work alongside communities to build a better world for children, our advocacy challenges the policies, systems, structures, practices, and attitudes that make it difficult for vulnerable children and their families to experience life in all its fullness.

By addressing the systemic contributors to and causes of poverty, World Vision's advocacy work ensures that community transformation is sustainable and scalable. Informed by our experience working with communities, World Vision advocates at the local, national, regional, and global levels. As such, WVNZ's advocacy work includes calling on the New Zealand government to make changes to domestic policy that will have a positive impact on children around the globe.

In 2020, WVNZ partnered with Trade Aid and launched a public campaign urging the New Zealand government to enact modern slavery legislation. This submission supports the public petition presented to the House of Representatives on 1 July 2021.<sup>1</sup>

#### **The issue of 'modern slavery'**

There are 40 million people estimated to be living in modern slavery worldwide today.<sup>2</sup> There is no formal global legal definition of modern slavery, however, modern slavery can be loosely defined as "the severe exploitation of other people for personal or commercial gain."<sup>3</sup> It is generally understood to include the following: Human trafficking, forced labour, servitude, slavery and slavery like practices, debt bondage, forced marriage and organ harvesting.<sup>4</sup>

Out of the 40 million, 24.9 million are estimated to be in forced labour, with 16 million people exploited in the private sector such as construction or agriculture, 4.8 million persons in forced sexual exploitation, and 4 million persons in forced labour imposed by state authorities.<sup>5</sup>

Forced labour is one of the main forms of modern slavery today and it can be understood as "work that is performed involuntarily and under the menace of any penalty. It refers to situations in which

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<sup>1</sup> [https://www.parliament.nz/en/pb/petitions/document/PET\\_111975/petition-of-trade-aid-and-world-vision-new-zealand-take](https://www.parliament.nz/en/pb/petitions/document/PET_111975/petition-of-trade-aid-and-world-vision-new-zealand-take)

<sup>2</sup> The Global Slavery Index, Walk Free. Available at: <https://www.walkfree.org/projects/the-global-slavery-index/>

<sup>3</sup> See Anti Slavery International commentary available at: <https://www.antislavery.org/slavery-today/modern-slavery/>

<sup>4</sup> Ibid 3

<sup>5</sup> International Labour Organization (ILO) available at: <https://www.ilo.org/global/topics/forced-labour/lang--en/index.htm>

persons are coerced to work through the use of violence or intimidation, or by more subtle means such as manipulated debt, retention of identity papers or threats of denunciation to immigration authorities.”<sup>67</sup>

### **Children and modern slavery**

1 in 4 victims of modern slavery are children.<sup>8</sup> Not all work involving children is modern slavery and it can be helpful to see this on a spectrum. At one end of the spectrum there are some types of work that provide a positive contribution to a child’s development. It can help them to learn, grow and maintain useful skills. Work can be a vital source of income for their families. However, further down the spectrum there is work that can be categorised as child labour, which might not amount to child slavery, but can hinder a child’s development and education. More extreme child labour may be hazardous and place a child at risk of harm. And at the far end of the spectrum, children are exploited for the gain of someone else (modern slavery).<sup>9</sup>

#### **Case study: 11-year-old Ima\***

When Ima was 11, she spent her days working at the shrimp depot. She would desperately try to keep her fingers warm from all the ice by wrapping them in strips of cloth, which only mildly helped. She frequently cut her fingers on a part of the fish that was sharp as a knife.

The shrimp processing factory stole Ima's dreams. All Ima could see before her was a lifetime squatting for hours in the dark, surrounded by the stench of shrimp.

"When I worked at the shrimp factory, I could not dream," she says. "I felt that I should not dream."

*\*Name changed to protect identity*

In our work we want children to thrive and develop. This means they should not be at risk of or subject to work on the spectrum that harms them, hinders their development, and/or is exploitative and abusive.

### **Modern slavery and New Zealand**

World Vision has conducted research that contains an urgent message for New Zealanders. In 2019, New Zealanders imported more than \$3.1 billion of risky products, which is more than 5% of the country’s total imports. As households, we inadvertently spend an average of \$34 per week – only slightly less than on our electricity spend – on industries whose products are implicated in modern slavery.<sup>10</sup> Garments, electronics and footwear were identified in the research as the top three risky imports to New Zealand.

<sup>6</sup> International Labour Organization (ILO) available at: <https://www.ilo.org/global/topics/forced-labour/definition/lang--en/index.htm>

<sup>7</sup> ILO Forced Labour Convention, 1930 (No. 29) and The Forced Labour Protocol (Article 1(3))

<sup>8</sup> Ibid 2

<sup>9</sup> See Anti Slavery International commentary available at: <https://www.antislavery.org/slavery-today/child-slavery/>. See World Vision commentary available at: <https://www.worldvision.org/child-protection-news-stories/child-labor-facts>

<sup>10</sup> World Vision. *Risky Goods – New Zealand Imports*. May 2021. Available at: <https://www.worldvision.org.nz/getmedia/6904e490-14b7-4fbf-b11e-308dd99c44a/WVNZ-research-risky-goods-nz-imports/>

### **Case study: 11-year-old Karan\***

He should've been at school, but instead, 12-year-old Karan\* worked long, gruelling hours in a shoe factory with dangerous chemicals. "I liked going to school, and if I had a choice, I would rather go back to school and learn than work," sa Karan.

Depending on the amount of work, he would spend 8-9 hours every day in the factory. The factory had been set up in a residential home to keep it hidden from the authorities.

"My work usually involves sticking pieces of the shoe together with glue," said Karan. "The glue has a very strong smell that makes me dizzy and sick when I use it for too long. I can't focus on work sometimes because of this, and the manager gets angry and shouts at me when I make mistakes."

*\*Name changed to protect identity*

Currently in New Zealand entities don't have to ensure their products haven't been made by people who are enslaved or undertake any due diligence or reporting on their supply chains.

Many jurisdictions, including those who New Zealand would consider a close ally, have introduced legislation<sup>11</sup> or have legislation in progress/soon to come into force<sup>12</sup> that requires such steps. New Zealand has clearly fallen behind the international response and standard. However, this provides an opportunity for New Zealand to learn from others and design a truly effective law.

### **The solution**

There is no 'one fix' when it comes to modern slavery and WVNZ believe a holistic approach is required to sustainably address this human rights issue. However, as emphasised by the General Secretary of the International Trade Union Confederation, "a range of existing international standards and emerging national laws, based on the UN Guiding Principles on Business and Human Rights (UNGPs),<sup>13</sup> highlight the role of due diligence in identifying, addressing and avoiding risks to human rights, including the risk of modern slavery."<sup>14</sup> Due diligence is a key part of the solution.

As such, WVNZ call for there to be a legal requirement for entities to undertake due diligence in New Zealand. Due diligence requires entities to put in place processes to identify risks and adverse impacts on human rights and modern slavery, and prevent, mitigate and account for such risks and impacts in their operations and supply chain. It would require entities to take steps to address any forced labour or other risk of modern slavery identified in their supply chains. Entities should be required to publicly report on their findings, the steps they take, and the impact of those steps.

To preserve its global reputation as a defender of human rights and for New Zealand businesses to maintain their competitive edge, New Zealand legislation should consider all global developments

<sup>11</sup> For example: Modern Slavery Act (UK) 2015, Commonwealth Modern Slavery Act 2018, Dutch Child Labour Due Diligence Act 2019, French Duty of Vigilance Law 2017, California Transparency in Supply Chains Act 2010,

<sup>12</sup> For example: New South Wales Modern Slavery Act 2018, proposed EU due diligence directive, Norwegian Transparency Act 2021, German Supply Chain Act 2021.

<sup>13</sup> Office of the High Commissioner, United Nations Human Rights. *UN Guiding Principles on Business and Human Rights Implementing the United Nations "Protect, Respect and Remedy" Framework*. United Nations, New York and Geneva 2011. Available at: [GuidingPrinciplesBusinessHR\\_EN.pdf \(ohchr.org\)](https://www.ohchr.org/Documents/PrinciplesBusinessHR_EN.pdf)

<sup>14</sup> Burrow, Sharon. General Secretary, International Trade Union Confederation. *Eliminating Modern Slavery: Due diligence and the rule of law*. 8 August 2017. Available at: <https://www.business-humanrights.org/en/blog/eliminating-modern-slavery-due-diligence-and-the-rule-of-law/>

taking place, including human rights due diligence laws in Europe, the UK and Australian modern slavery acts. It is also important to be looking at global developments and look to introduce progressive legislation to ensure that New Zealand does not find itself in a position where it introduces laws that need rapid reform to be in sync and compatible with other jurisdictions. For example, we note that despite having a Modern Slavery Act with reporting requirements, there are calls in the UK from business and expert organisations for further legislation to be introduced more in line with European models. Later in this submission, we provide specific recommendations about what needs to be included in New Zealand law.

There have been murmurs from government as to the development of legislation. In its 2020 Manifesto, the Labour government committed to “exploring the implementation of modern slavery legislation in New Zealand to eliminate exploitation.”<sup>15</sup>

Likewise, the Government’s ‘Plan of Action against Forced Labour, People Trafficking and Slavery 2020-25’ sets out the following:

“Given the prevalence of forced labour, people trafficking and slavery in international supply chains, it is important that we monitor and consider international approaches to addressing this problem. The United Kingdom and Australia have introduced legislation requiring large businesses to report on what they are doing to address modern slavery in their supply chains, and New Zealand will consider whether such an approach would be effective in our context. New Zealand will also be undertaking work to develop and adopt a National Action Plan to implement the United Nations Guiding Principles on Business and Human Rights, which provide a global standard for preventing and addressing the adverse human rights impacts linked to business activity.”<sup>16</sup>

Despite steps in the right direction, a commitment to enact such legislation in New Zealand remains outstanding.

## **Support**

There is widespread support for the introduction of modern slavery legislation across different stakeholders. WVNZ and Trade Aid’s ‘Sign for Freedom’ campaign was met with considerable public support, evidenced by the large number of signatures to the public petition. In total, 37,128 New Zealanders joined the call for legislation and signed the petition, which was handed to the Minister for Workplace Relations and Safety, Minister Michael Wood, on 29 June 2021.

Further, there has been resounding support from the business community for the introduction of legislation. A joint letter from businesses in support of progressing the work towards a Modern Slavery Act for New Zealand has also been presented to the Minister Wood. As of 29 June 2021, this letter has been signed by 112 businesses, including both small and large entities. A copy of this letter is annexed to this submission for your reference.

The wide support from the private sector for due diligence legislation is an international theme. For example, in the UK, CEO Nick Beighton of major online retailer Asos is calling for the implementation of mandatory human rights due diligence legislation in the UK (to strengthen the

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<sup>15</sup> Labour’s 2020 Election Manifesto, October 13, 2020. Available at: [https://www.labour.org.nz/news-labour\\_2020\\_manifesto](https://www.labour.org.nz/news-labour_2020_manifesto)

<sup>16</sup> Ministry of Business, Innovation and Employment. *Plan of Action against Forced Labour, People Trafficking and Slavery, 2020 – 2025*. March 2021. Available at: <https://www.mbie.govt.nz/dmsdocument/13607-plan-of-action-against-forced-labour-people-trafficking-and-slavery-proactiverelapse-pdf>

2015 Modern Slavery Act).<sup>17</sup> When looking at the introduction of German due diligence law, 71 companies vocally called for the law to pave the way for ambitious regulation at the EU level,<sup>18</sup> and when the law itself was passing through parliament, more than 50 companies called for the provisions to be strengthened.<sup>19</sup> There are far too many examples of business support to list in this submission, so we direct the Committee to the list of large businesses, associations & investors with public statements and endorsements in support of mandatory due diligence regulation compiled by the Business and Human Rights Resource Centre.<sup>20</sup> Widespread business support it is not all surprising given that the case for such legislation includes that it serves to drive up industry standards,<sup>21</sup> mitigates business risk, and creates a level playing field for businesses to operate on.<sup>22</sup>

Key expert stakeholders also support the call for legislation, for example, Auckland University's Centre for Research on Modern Slavery who are calling for Government action.<sup>23</sup> The Human Rights Commission are also calling for this, stating "we need legislation to identify, address, and eliminate modern slavery and migrant labour exploitation by requiring companies to publicly report on slavery risks in their supply chains."<sup>24</sup>

### Specific recommendations

Like any body of law, its effectiveness will depend on the strength of the provisions, the scope of the obligations and the level of compliance.

As such, based on analysis and critique of existing international law, WVNZ calls for the New Zealand Government to implement law that captures (but is not limited to) the following recommendations:

1. Legislation is **based on the UN Guiding Principles on Business and Human Rights (UNGPs)**,<sup>25</sup> which is a global trend in relation to regulating business practice.
2. Legislation **should require mandatory due diligence** as due diligence models surpass reporting on transparency in supply chains (including prescribed reporting).
  - 2.1 The legislation, however, should require reporting on due diligence to allow for transparency and appropriate scrutiny of activity.
  - 2.2. New Zealand should look to an approach that goes beyond modern slavery in supply chains and considers wider human rights abuses and environmental harms.

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<sup>17</sup> Wright, Beth. UK: ASOS calls for mandatory human rights due diligence legislation. 29 April 2021. Available at: <https://www.business-humanrights.org/en/latest-news/uk-asos-calls-for-mandatory-human-rights-due-diligence-legislation/>

<sup>18</sup> <https://www.business-humanrights.org/en/big-issues/mandatory-due-diligence-gesetz/>

<sup>19</sup> Business and Human Rights Resource Centre. *More than 50 companies call for German draft due diligence law to be strengthened in Parliament*. 22 April 2021. Available at: <https://www.business-humanrights.org/en/latest-news/statement-sorgfaltspflichtengesetz/>

<sup>20</sup> Business and Human Rights Resource Centre. *List of large businesses, associations & investors with public statements & endorsements in support of mandatory due diligence regulation*. 6 June 2019. Available at: <https://www.business-humanrights.org/en/latest-news/list-of-large-businesses-associations-investors-with-public-statements-endorsements-in-support-of-mandatory-due-diligence-regulation/>

<sup>21</sup> Ibid 17

<sup>22</sup> Da Graca Pires Céline, Wang Cynthia, Manta Francesca & Husseini Salah, Business for Social Responsibility. *Commentary: The Future of Human Rights Due Diligence - Legislation and Regulation for a Level Playing Field*. 5 October 2020. Available at: <https://www.business-humanrights.org/fr/derni%C3%A8res-actualit%C3%A9s/commentary-the-future-of-human-rights-due-diligence-legislation-and-regulation-for-a-level-playing-field/>

<sup>23</sup> Spicer, Antoinette. Why New Zealand needs a Modern Slavery Act. Consumer. 27 May 2021. Available at: <https://www.consumer.org.nz/articles/modern-slavery>

<sup>24</sup> See Human Rights Commission commentary available at: <https://www.hrc.co.nz/our-work/business-and-work/modern-slavery/>

<sup>25</sup> Ibid 13

3. **Reporting should follow prescribed criteria**, including a description of actions taken to assess, prevent and mitigate risk, as well as measures put in place to remedy modern slavery if found. It should also include a requirement to disclose a description of risks that are identified and the effectiveness of the actions taken. This will ensure that all entities report consistently and clearly on the required criteria.
4. The legislation should **apply to the public and not for profit sector as well as businesses**.
  - 4.1 We note that the Plan of Action acknowledges that the “Government also has a role to play in addressing forced labour, people trafficking and slavery within its own supply chains through its procurement of goods and services.”<sup>26</sup> It would be inappropriate for any such legislation to exclude public procurement.
5. **All entities, including large entities as well as SMEs**, should have obligations under the legislation. This is necessary in the New Zealand context where 97% of the economy is made up of SMEs.
  - 5.1. This is consistent with the UNGPs which sets out that “all business enterprises have an independent responsibility to respect human rights, and that in order to do so they are required to exercise human rights due diligence to identify, prevent, mitigate and account for how they address impacts on human rights (our emphasis).”<sup>27</sup>
  - 5.2. New Zealand should look to the proposed EU diligence law which will apply to all publicly listed (on the EU market) small and medium-sized undertakings as well as high-risk small and medium-sized undertakings.
6. The EU model as proposed seeks to implement proportionate measures:

*“Considers that some undertakings, and particularly publicly listed small and medium-sized undertakings and high-risk small and medium-sized undertakings may need less extensive and formalised due diligence processes, and that a proportionate approach should take into account, amongst other elements, the sector of activity, the size of the undertaking, the severity and likelihood of risks related to the respect of human rights, governance and the environment intrinsic to its operations and to the context of its operations, including geographic, its business model, its position in value chains and the nature of its products and services; calls for specific technical assistance to be provided to Union undertakings, especially to small and medium-sized undertakings, so that they can comply with due diligence requirements;”*<sup>28</sup>

We recommend the New Zealand model do the same; apply to all sized entities but **take a proportionate approach to the level of obligations**.
7. The legislation should **apply to both domestic and international supply chains** in order to ensure a clear consistent process for entities.

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<sup>26</sup> Ibid 16

<sup>27</sup> Ibid 13

<sup>28</sup> Ibid 2

8. The EU model would also capture entities outside the Union but active on the internal market.<sup>29</sup> Similarly in New Zealand, **both New Zealand entities as well as those operating in New Zealand** should be captured by the legislation.
9. The legislation should **include penalties for non-compliance**.
  - 9.1. We note that the UK's Modern Slavery Act has been heavily critiqued for lack of penalty,<sup>30</sup> and monitoring from civil society in 2021 found that only 40% of companies with obligations were compliant.<sup>31</sup>
  - 9.2. In the Australian state of New South Wales (NSW), the *Modern Slavery Act 2018* (NSW) (passed by the NSW Parliament but not yet in force) also foresees penalties for non-compliance.<sup>32</sup>
10. The legislation should provide for an independent body such as an **independent anti-slavery commissioner**, in line with the legislative approaches in the UK and NSW.
11. There should be a **built-in regular review mechanism** to allow for evaluation of the effectiveness of the law.

Our further general recommendations are that the government should launch a **public consultation** to ensure evidence can be provided by a broad spectrum of persons and entities. We also consider, as part of this work, that the Government needs to look at the introduction of **import bans for goods made by slave labour**, following global developments in this regard, including as currently passed by the Australian Senate.<sup>33</sup>

Please contact WVNZ if you have any follow-up questions or require clarification.

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<sup>29</sup> European Parliament resolution of 10 March 2021 with recommendations to the Commission on corporate due diligence and corporate accountability (2020/2129(INL)) Brussels, 10 March 2021. Available at: [https://www.europarl.europa.eu/doceo/document/TA-9-2021-0073\\_EN.html](https://www.europarl.europa.eu/doceo/document/TA-9-2021-0073_EN.html)

<sup>30</sup> *Independent Review of the Modern Slavery Act 2015: Final Report Presented to Parliament by the Secretary of State for the Home Department by Command of Her Majesty*, May 2019. Available at: Evaluation of the Early Legal Advice Project Final Report - Research Report 70 (publishing.service.gov.uk)

<sup>31</sup> Business and Human Rights Resource Centre. *Modern Slavery Act: Five years of reporting. Conclusions From Monitoring Corporate Disclosure*. February 2021. Available at: [https://media.business-humanrights.org/media/documents/Modern\\_Slavery\\_Act\\_2021.pdf](https://media.business-humanrights.org/media/documents/Modern_Slavery_Act_2021.pdf)

<sup>32</sup> <https://legislation.nsw.gov.au/view/html/inforce/current/act-2018-030>

<sup>33</sup> Hurst, Daniel. *Australian Senate passes bill banning imports made using forced labour*. The Guardian. 23 August 2021. Available at: <https://www.theguardian.com/australia-news/2021/aug/23/australian-senate-poised-to-pass-bill-banning-imports-made-using-forced-labour>