

Centre for Research on Modern Slavery Briefing

Modern Slavery Legislation: It is New Zealand's turn

New Zealanders buy goods produced overseas by forced labour on a regular basis, unknowingly helping sustain modern slavery practices. Modern slavery also exists in New Zealand. In a trade-dependent nation, this poses a potential risk for New Zealand businesses operating internationally.

In other countries, advances are being made to require more of private enterprises to protect human rights in their supply chains. For example, in Australia and the UK, transparency reporting legislation requires entities to publish an annual statement outlining actions taken to prevent modern slavery in their supply chains. However, this legislation only applies to larger entities. Entities can fulfil their obligations simply by admitting they have not taken any preventative steps.

The next generation of legislation is likely to apply to all entities, regardless of size. Several European countries have passed or are considering due diligence legislation.

The due diligence principle recognises that what is reasonable to expect of a large entity regarding auditing, reporting, and remediation may be far beyond the means of a small company. Accordingly, an entity defending itself against allegations of complicity in human rights abuses needs not to show that it has met or exceeded a standard set by global corporations but has done what might be reasonably expected of an enterprise of its size, industry, and dominant business model.

New Zealand law does not impose a supply chain transparency obligation on our companies concerning all forms of labour rights abuses. The exception is that importers must ensure their foreign sources do not employ prison labour (Customs and Excise Act 2018/Customs Import Prohibition (Goods Produced by Prison Labour) Order 2019).

In 2007, Trade Aid presented a petition to Parliament to expand this prohibition on imports of goods made by slave labour. The Foreign Affairs and Trade Select Committee believed there would be legal difficulties with implementing a prohibition. The Committee endorsed an approach that the private sector should voluntarily ensure supply chain participants respect core labour rights. This has not eventuated.

In 2009, the Hon Maryan Street introduced a member's Bill seeking to amend the Customs and Excise Act to prohibit the import of goods produced by slave labour. In 2015, MP Peeni Henare introduced a member's Bill with the same intent. Both Bills were voted down on the ground that slavery was imprecisely defined. In 2017, MP Dr Liz Craig introduced a Transparency in Supply Chains member's Bill; the Bill was withdrawn in March 2018.

New Zealand should introduce due diligence legislation that requires entities to take direct action to remove modern slavery from their supply chains. There is the need to define "modern slavery" in the New Zealand context to ensure it is fit for its purpose. Disclosure obligations must encompass human rights violations, including employment rights abuses and exploitation of migrant labour. A penalty regime extending to local involvement in extraterritorial rights abuses is long overdue.

Further, New Zealand should criminalise forced labour more extensively as well as implement a statutory defence of being a victim of human trafficking to individuals in breach of immigration regulations. This would ensure that the legislative framework more fully protects victims of human trafficking and modern slavery.

New Zealand enjoys a high reputation in regard to its respect for human rights and the rule of law. Offences of modern slavery are of international concern. New Zealand must play its part to ensure these crimes are effectively suppressed – both in New Zealand and abroad.

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