



## Organised Crime and Anti-corruption Legislation Bill Law and Order Select Committee

### The Salvation Army New Zealand Fiji and Tonga Territory Submission

#### BACKGROUND

1. The Salvation Army is an international Christian and social services organisation that has worked in New Zealand for over one hundred and thirty years. The Army provides a wide-range of practical social, community and faith-based services, particularly for those who are suffering, facing injustice or those who have been forgotten and marginalised by mainstream society.
2. We have over 90 Community Ministry centres and Churches (Corps) across the nation, serving local families and communities. We are passionately committed to our communities as we aim to fulfil our mission of caring for people, transforming lives and reforming society through God in Christ by the Holy Spirit's power.<sup>1</sup>
3. The Salvation Army is, along with many other organisations, an active campaigner against trafficking in persons and labour exploitation throughout the world. Our trafficking in persons and labour exploitation work in New Zealand and the wider Pacific has been led by our Social Policy and Parliamentary Unit. In 2013 and 2014, this Unit coordinated and organised two *Prevent People Trafficking Conferences*<sup>2</sup>. These conferences brought together international speakers and delegates, government officials, academics, Church groups and other key stakeholders working in these areas. Additionally, we have tried to engage with trafficking and labour exploitation issues through submissions to government legislation, developing information campaigns for internal Salvation Army and wider public audiences, advocacy to government departments, and partnering with other organisations working in this area. We join other individuals and organisations in advocating for a zero-tolerance approach and philosophy towards trafficking and labour exploitation in New Zealand.
4. This submission has been approved by Commissioner Robert Donaldson, Territorial Commander of The Salvation Army's New Zealand, Fiji and Tonga Territory.

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<sup>1</sup> <http://www.salvationarmy.org.nz/our-community/mission/>

<sup>2</sup> More information can be found here: <http://www.salvationarmy.org.nz/research-media/social-policy-and-parliamentary-unit/human-trafficking>

## THE SALVATION ARMY PERSPECTIVE

5. The Salvation Army has opted to submit on one specific aspect of this large omnibus Bill – clause 5 (new section 98D). We do not wish to comment on other parts of this Bill.
6. The Salvation Army welcomes this legislation’s attempts to codify the offence of trafficking in persons in New Zealand law. We submit the following recommendations that, although slightly outside the parameters of this Bill, are clearly relevant to the intent and purpose of this part of the Bill.

### 6.1 Civil Society Advisory Group

- We submit that the Government should continue to move towards the establishment of an advisory group composed of key individuals, migrant worker groups and non-governmental organisations with expert skill and knowledge in trafficking and labour exploitation issues in New Zealand and the wider region.
- After the Prevent People Trafficking conference in 2013, delegates recommended approaching key government agencies to discuss the formation of an advisory group that could meet regularly with government agencies and give valuable input and insight into trafficking and labour exploitation in New Zealand.
- We note there is already a working model of this in Australia with the Annual National Roundtable on Human Trafficking and Slavery established in 2008 where non-governmental organisations working in these areas meet with the government around these issues<sup>3</sup>. However, we recommend that a New Zealand example of this civil society group should meet more regularly than the Australian Roundtable.
- This concept was presented to the Ministry of Business Innovation and Employment and the Inter-Agency Working Group on People Trafficking in 2013.
- We contend that this concept is worthy of further investigation by the Government. We submit that the Government, and the specific government agencies working with these issues, would benefit greatly from having expert, real life, and current information from these other parts of civil society.

### 6.2 Immediate and appropriate care for those who have been trafficked and/or exploited

- This legislation goes some way to addressing those who actually perpetrate trafficking and exploitation of people in New Zealand. However, The Salvation Army submits that the needs and care of those who have been identified as victims of this crime of trafficking or exploitation are not adequately addressed in this legislation.
- We submit that if this Bill is not the ideal means to address these needs, then further clarity and guidance is necessary from government agencies as to how the needs and care of these victims can best be addressed.

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<sup>3</sup> <http://www.ag.gov.au/CrimeAndCorruption/HumanTrafficking/Pages/default.aspx>

- In 2011, the United Nations Special Rapporteur on trafficking in persons initiated an online discussion forum around the *Draft basic principles on the right to an effective remedy for trafficked persons*<sup>4</sup>. The ideas from this report included, among many other things, a recommendation that trafficked people should be provided stable residence in the State they have been trafficked to. This is particularly important if the trafficked person is at risk of deportation, legal proceedings regarding the perpetrators are in progress, or return to their original State would be dangerous or unsafe. Furthermore, another recommendation called for the principles of *do not harm* and *the best interests of the child* to be the fundamental principles for any remedies suggested for children who have been trafficked and/or exploited.
- While it is encouraging to see the legislative amendments focussed on the perpetrators of trafficking in persons or labour exploitation, we cannot ignore the dire situations that the victims of trafficking and exploitation face in New Zealand. Again, we submit that there must be an increased focus on the immediate and appropriate care for these people. Additionally, if a civil society advisory group is established, more effective and collaborative remedies can be developed between non-governmental organisations and government agencies.

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<sup>4</sup> <http://ungift.org/knowledgehub/>

## SPECIFIC RESPONSES TO AMENDMENTS

### 7. New section 98D(1)

- The Salvation Army generally supports this subsection.
- However, we submit that further clarification might be needed as to whether this subsection can adequately cover situations of internal or domestic trafficking and/or labour exploitation.
- Subsection 1(b) seems to cover any such crimes. But we request clarification about this issue please.
- Identification of victims of trafficking or labour exploitation is notoriously hard, particularly if the situation(s) of trafficking or exploitation are all happening within our New Zealand borders and possibly with New Zealand citizens or residents. This section will have greater effect if it can adequately cover all forms of trafficking and exploitation that are unfortunately occurring in our nation right now.

### 8. New section 98D(2)

- While The Salvation Army is not necessarily an advocate for long prison sentences or increased incarceration, we sincerely hope that this penalty acts as a real deterrent to those contemplating or engaging in these behaviours.
- We note that the trafficking, exploitation and slavery offences in the Australian Criminal Code 1995 have a very detailed series of various crimes and penalties. General penalties are around 12 year's imprisonment whereas offences involving children have even stronger penalties of 25 years. We also note that in Division 271.5 of that Code, the offence of domestic trafficking in persons has a 12 year prison sentence penalty.

### 9. New sections 98D(3) and (4)

- The Salvation Army supports these subsections.
- We submit that this definition of exploitation is in line with that detailed in the Recommended Principles and Guidelines on Human Rights and Human Trafficking published by the Office of the High Commissioner for Human Rights in 2002<sup>5</sup>.

## CONCLUSION

For further information or discussion, please contact:

Major Sue Hay  
Director, Social Policy and Parliamentary Unit  
The Salvation Army New Zealand, Fiji and Tonga  
+64 27 635 2822 | + 64 9 261 0885 (DDI) [sue\\_hay@nzf.salvationarmy.org](mailto:sue_hay@nzf.salvationarmy.org)

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<sup>5</sup> <http://www.ohchr.org/Documents/Publications/Traffickingen.pdf>