

**Hannah Malloch  
Policy Analyst  
Immigration Policy**

# Outline

- My role as a Policy Analyst for Immigration New Zealand
- Rationale for the Plan of Action
- Inter-agency Working Group on People Trafficking
- International best practice
- Consultation on the development of the Plan of Action
- Process to develop the Plan of Action
- Ongoing – development of immigration policy for victims



# My role as a Policy Analyst

- Policy Analyst for immigration since November 2007
- In my time in the team I have:
  - managed the development of a Plan of Action to Prevent People Trafficking
  - recommended amendments to the **victims of domestic violence immigration policy**
  - reported on some of New Zealand's international obligations under United Nations' conventions that relate to humanitarian aspects of immigration, **specifically on people trafficking issues**
  - drafted policy for the implementation of the Immigration Bill



# Rationale for the Plan of Action

- The New Zealand Government recognises:
  - New Zealand could **potentially be targeted as a destination country for victims** – and there may be cases that have been, or remain, undetected
  - People trafficking is a transnational crime that must be combated with a **regional and global approach**
  - A comprehensive anti-trafficking **framework is required** so that any future identified **victims are treated appropriately** by authorities who understand the unique nature of people trafficking crimes



# International Best Practice

## United Nations Trafficking Protocol

- In 2002, New Zealand ratified the United Nations Convention against Transnational Organised Crime and its associated Protocol to Prevent, Suppress and Punish Trafficking in Persons (Trafficking Protocol)
- The Trafficking Protocol outlines the responsibilities ratifying states have committed to undertake to:
  - Combat people trafficking crime at home and abroad
  - Protect the human rights of victims of trafficking
  - Prosecute people trafficking offenders



# Inter-agency Working Group

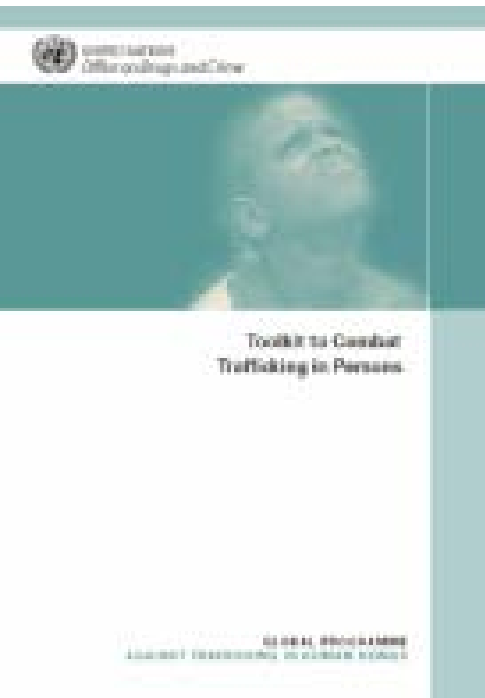
Aim: coordinate all anti-trafficking initiatives and develop a Plan of Action to Prevent People Trafficking

- Membership of the following agencies:
  - Ministry of Foreign Affairs and Trade
  - Department of Prime Minister and Cabinet
  - New Zealand Customs Service
  - New Zealand Police
  - Ministry of Womens' Affairs
  - Ministry of Justice
  - Ministry of Social Development
  - Ministry of Health



# International best practice

- The following informed the development of the Plan of Action:



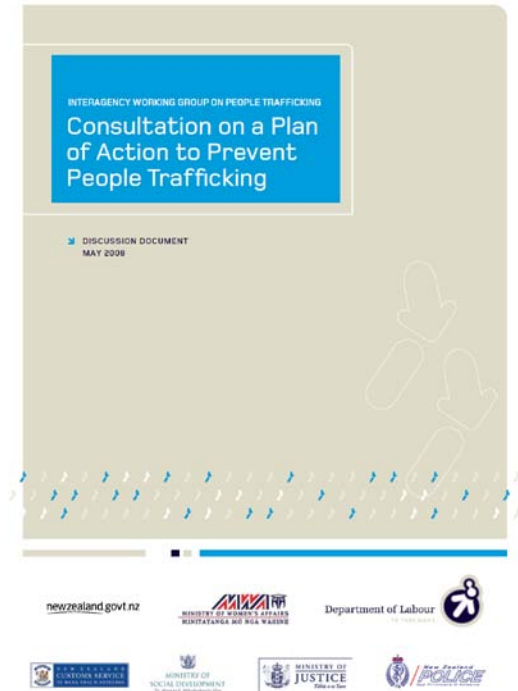
- Requirements stated in the [Trafficking Protocol](#)
- United Nations Office on Drugs and Crime: *Toolkit to Combat Trafficking in Persons*
- International Organisation for Migration – guide
- International examples of anti-trafficking strategies: Australia, European countries, UK
- Australian Institute of Criminology research



# Consultation on the Plan of Action

## Public consultation round

- Undertaken in June – July 2008
- Public meetings in Auckland, Wellington and Christchurch
- 34 submissions received from:
  - non-government organisations, interest groups, international organisations, academics, interested individuals, unions
- All submitters supported a Plan of Action



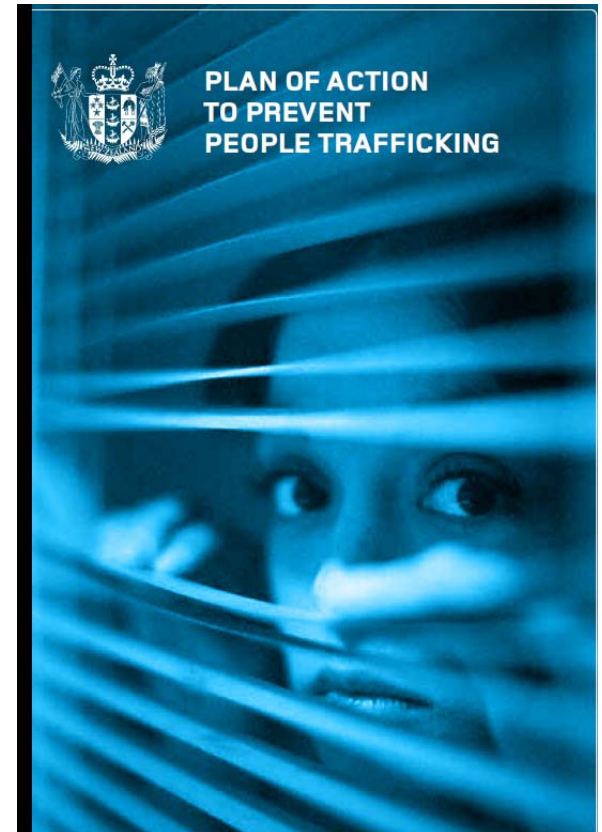
# Process to develop a Plan of Action

| Development tasks  | Timeframe   |
|--|---|
| Seek Cabinet approval for developing a Plan of Action and consultation | Agreement gained in March 2008                          |
| Public consultation  | June – July 2008  |
| Analysis of submissions  | August 2008   |
| International best practice research                                   | Overlapping process<br>- From August 2008 to April 2009 |
| Coordinate all agency contributions                                    |   |
| Draft Plan of Action   |   |
| Seek Cabinet agreement   | Agreement gained in June 2009                           |
| Public release of the Plan of Action                                   | 13 July 2009  |



# Plan of Action to Prevent People Trafficking

- Released on 13 July 2009
- Distributed to stakeholders in the:
  - Government and NGO sectors
  - Unions and Libraries
  - International Organisations
  - Australian government
- Available on Department of Labour website:  
[www.dol.govt.nz/publications/research/people-trafficking/index.asp](http://www.dol.govt.nz/publications/research/people-trafficking/index.asp)



# Plan of Action to Prevent People Trafficking

## PRINCIPLES AND GOALS

### Overall objective

The New Zealand Government prevents people trafficking, brings offenders to justice and offers protection and assistance to victims of trafficking.

### Principles

A

Victims of people trafficking have humanitarian needs and should be afforded appropriate assistance and protection.

B

Traffickers and their associates, and people who exploit victims of trafficking, are to be prosecuted to the full extent of the law.

C

The whole-of-government response to people trafficking is coordinated, timely and comprehensive and meets New Zealand's international commitments.



# Plan of Action to Prevent People Trafficking

## PREVENTION

- Training to identify trafficking activity
- Targeted awareness-raising
- Research on people trafficking
- Intelligence-gathering
- International engagement on people trafficking issues
- International development assistance to combat the causes of people trafficking
- Enhancing border security to prevent traffickers targeting New Zealand

## PROTECTION

- Recognition of trafficking victims' status
- Repatriation assistance for victims of trafficking
- Immigration status
- Health services for victims of trafficking
- Housing for victims of trafficking
- Social services and financial assistance for victims of trafficking
- Protection of trafficking victims' physical safety

## PROSECUTION

- Investigation of suspected trafficking activity
- Support for victims of trafficking during the criminal justice process
- Compensation for victims of people trafficking



# Ongoing – policy for victims of trafficking

- My role as a the project manager has come to an end
  - Responsibility has transferred to Border Security Group
- Now my role is to complete one of the action items
  - **Action item 16:** immigration status
- The policy will enable **temporary stay initially** with the opportunity to apply for **permanent residence in some cases**
- Any victims identified before the policy is implemented will be managed within existing immigration provisions and ministerial intervention on a case by case basis



# Ongoing – policy for victims of trafficking

## IMMIGRATION STATUS

**AGENCY INVOLVED:**  
DOL

**RELATED TO:**  
Principle (a) and Goals (5) & (8)

Police-certified victims of trafficking are likely to need to stay in New Zealand at least temporarily while the Police consider, or commence, an investigation. If the Police gain enough evidence for a prosecution, they may seek the victim's consent to participate in a criminal justice process against alleged traffickers. In this instance it may be necessary for the victim to remain in New Zealand for a substantial period of time.

Where it is considered that it is too dangerous for the victim to return to their home country, the Department of Labour may look at options for long-term immigration solutions. The Department of Labour has work underway to enable the needs of victims can be accommodated within the range of permits currently offered.

| No. | OBJECTIVE  | ACTION   | TIMETABLE                                    | AGENCY RESPONSIBLE | MEASURE               |
|-----|--|--|--|--------------------|-----------------------|
| 16  | Victims can apply for an immigration status suitable for their needs | Develop a policy for victims of people trafficking | Short: Seek Ministerial agreement for policy | DoL                | Policy implementation |



# In summary

- The Plan of Action to Prevent People Trafficking:
  - Is focused primarily on **prevention**
    - **Protection** of victims and **prosecution** of offenders covered too
  - Takes **regional focus** to combating people trafficking
  - Informed by:
    - feedback from stakeholders gained through consultation
    - International best practice literature and tools
    - Other countries' examples
  - Is a **living document** that can be added to in the future



**Steve Watson**  
**Immigration Manager**  
**Compliance Operations**

# Compliance Operations

- Teams throughout New Zealand – main based in Auckland
- Ensure visitors and migrants comply with the immigration law and with their permits conditions
- Decide whether or not to remove a person from New Zealand
- Must have careful regard to various international obligations
- Removal only occurs after due process and taking into account the right of appeal
- Effect removal
- Removal priorities are people who have committed crimes, a cost to the Crown, failed refugees, RSE enforcement or who pose a threat to the community
- Important role educating NZ employers and Educational Institutes



# Branch Structure

- Branch Management.
- Staff undertaking compliance work = approximately 45 nation wide.
- Services are delivered from Auckland, Hamilton, Wellington, Napier, Nelson and Christchurch.
- Budget is approx \$6 million per annum.
- Approximately 16,000 foreign nationals in the country do not hold valid permits.



# Role/Purpose of an Immigration Compliance Officer

- An Immigration Compliance Officer provides a collaborative approach to enforcing policies of New Zealand in a fair and humane way
- This includes working with community, law enforcement and interest groups; investigating individuals and employers who may be in breach of immigration legislation, and removing persons who are unlawfully in New Zealand and revocation of immigration permits



# A Compliance/RSE Officer will:

- Assist with immigration related concerns or queries that stake holders may have
- Investigate immigration related issues raised by stake holders
- Conduct field visits to ensure compliance with the Immigration Act 1987
- Conduct site visits to all workplaces to educate and protect workers



# Compliance Teams

Compliance is divided into three areas of work:

- General
- RSE
- Failed Refugees



# Areas of Responsibility

Primary activities:

- Enforce New Zealand's Immigration Act & Government Policy
- Locating illegal migrants and removing them from New Zealand (Overstayers)
- Revocation of permits
- Deporting criminal offenders (NZ Residents)
- Ensuring employers do not employ and exploit migrant workers



# The Sex Industry

- Strong pull factors - \$\$\$
- Willing foreign workers
- Primarily East & South-East Asian origin
- PRA 2003: Decriminalised, but illegal on temporary permits
- Transparent industry – advertising
- NZ Prostitutes Collective
- Some links to organised crime (AOC)



# Trafficking vs Smuggling

“The **key difference** is that trafficked people are under the control of the traffickers, unlike those who are smuggled.”

~ Interagency Working Group on People Trafficking (May2008)  
*“Consultation on a Plan of Action to Prevent People Trafficking”*

Victims of trafficking: deception, coercion, exploitation - ongoing

Smuggled migrants: commercial transaction – ends post-border



Smugglers generate profit from fees to move people

Traffickers acquire **additional** profits through the exploitation of victims

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# The Reality at the Border



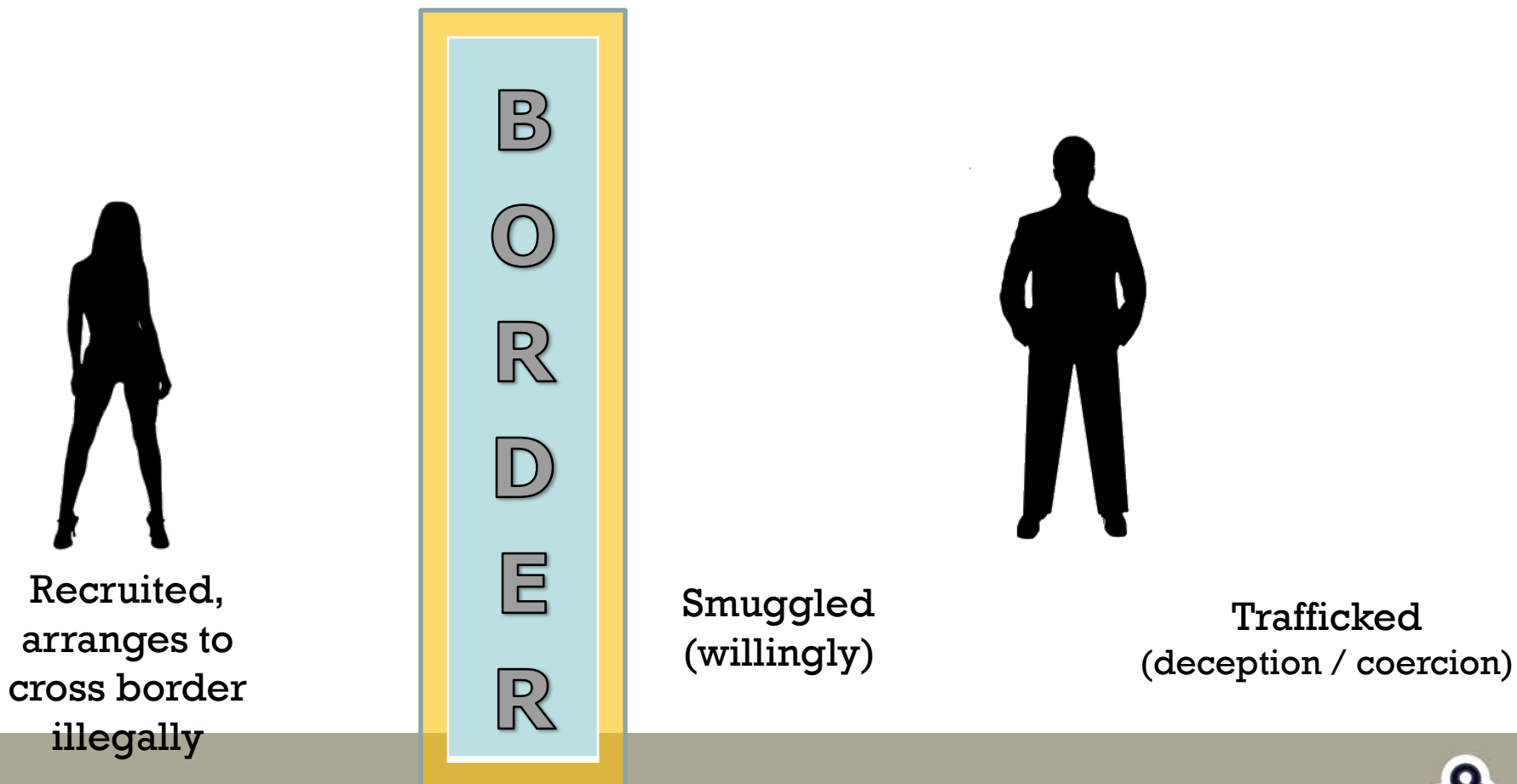
- Most women work in the sex industry **willingly and voluntarily**
- It is difficult to detect trafficking victims at the border because generally when they pass through the border, **they are not yet victims**



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# Smuggled Migrant to Trafficking Victim: The Transition



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# Victims

- Money (debt → bonded labour)
- Fear of authorities (Police, Immigration)
- Threats / abuse of victim
- Threats to victims' family
- Substance abuse – reliance upon drug supply
- Physical confinement



# The International Situation

“Over the past decade, trafficking in persons  
has reached epidemic proportions.

No country is immune.”

~ *United Nations*



# Possible Outcomes: LAW ENFORCEMENT

## Organised crime involvement

- Increase in organised crime presence in NZ
- Increase in associated crime – drugs, identity crime, fraud, money laundering



## Ongoing prevention work

- Prioritising sex industry compliance
- Intelligence gathering
- Networking with other agencies – internationally & within NZ



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# Legal Powers

- NZ signed and ratified the UN Trans National Organised Crime Convention and its Protocols in 2002
- Crimes Act - criminalised participation in an organised criminal group, smuggling migrants, and trafficking in persons punishable with imprisonment for up to 20 years, a fine of \$500,000 or both (s 98D of the Crimes Act)
- Crimes Act - criminalised dealing in people under 18 year olds for sexual exploitation, removal of body parts or engagement in forced labour (s 98AA of the Crimes Act)
- s39A of the Immigration Act – new offence for an employer to exploit people by hindering or preventing a person leaving employment - punishable by a fine of up to \$100,000 and a prison term of up to 7years



# Possible Outcomes: POLITICAL



## International Reputation

- United Nations Trafficking Protocol – ratified 2002
- US Trafficking in Persons (TIP) Report
  - Tier I (fully compliant)
- Interagency Working Group on People Trafficking
  - Coordinate government agency and NGO efforts
- Bali Process on People Smuggling, Trafficking in Persons and other Related Organised Crime
- Pacific Immigration Directors' Conference



# Intelligence

- Immigration, Customs and Police are developing a people trafficking Intelligence Collection Plan
- Collection Plan examines holdings and assess future information requirements to better understand and mitigate people trafficking risks
- There have been no cases of people trafficking identified in New Zealand to date but we cannot be complacent and assume immunity to this form of organised crime
- The complex nature of people trafficking means that it is very difficult to identify and quantify



# Intelligence

- Preliminary research surveyed immigration staff to determine if they see clients exhibiting indicators of people trafficking
- Study found staff perceived they were encountering a variety of indicators that **may** indicate trafficking
- These indicators do not confirm that trafficking has occurred but identify situations where further agency investigation may be required
- This highlights the need to develop best practise and training for identifying, recording and managing potential cases of people trafficking



# Intelligence

- Frontline Immigration staff have received initial training on trafficking indicators, victim interviewing and victim protection
- Border, Fraud and Compliance staff are tasked to feed operational intelligence into the collection plan
- Border risk targeting profiles updated to monitor for trafficking indicators
- Immigration Compliance pre, execution and post operational planning phases updated to include trafficking as an intelligence and evidence gathering priority



# Major Indicators

Location of victims / suspected victims

- Police, Immigration, Health & Labour Inspectors



Information received

- from International sources- New Zealand as a destination country
- from Internal stakeholders - re trafficking victims requesting assistance



# Secondary Indicators

- Increased occurrences of trafficking overseas, especially Australia
- Increased organized crime presence in New Zealand, particularly in the sex industry
- Reports from the border of increased detections of sex workers
- Risk countries with Visa-free status



# (IN)VISIBLE INDICATORS

*By nature, this crime is well-concealed and extremely under-reported.*

*There is no fail-safe way to identify whether or not it is occurring, and to what extent.*

*The following indicators can assist with the identification of potential victims in the field.*

Victim statements

Passport / ID withheld

Locks on **outside** of doors

No time off - No sightseeing / shopping etc

Excessive hours of work

Living at the place of work (brothel)

No money

Limited practical, everyday clothing

Observed / spoken for by another

Unusual fear of authorities

Signs of depression/suicide attempts



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# OPERATIONALLY

## Difficulties with Tactical Indicators

- Many foreign women are working in sex industry - **willingly and voluntarily** (\$\$\$)

### Often:

- have no English
- have a fear of authorities
- live at their place of work
- engage in contracts / loans for initial costs

**BUT... Are Not Trafficking Victims**



# CHALLENGES for Law Enforcement

- Language and cultural barriers
  - Under-reporting by victims
- Post-border offending
- Transnational offenders
- Poverty/corruption/poor governance in source countries
- Challenges in obtaining evidence, identifying perpetrators and prosecuting.

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# Plan of Action: Action Items

- Increased intelligence gathering and sharing
- Increased communication between Government agencies and NGO's, NZPC etc
- Communication with international agencies
- Specialist training for Police & Immigration officers – to recognise signs of trafficking



Do you have any questions?

