



**New Zealand Nurses Organisation**  
**Submission to the Interagency Working**  
**Group on People Trafficking, Department**  
**of Labour**  
**on the**  
**Plan of Action to Prevent People Trafficking**  
**Discussion Document**  
**July 31, 2008**

**Inquiries to:** Marilyn Head

New Zealand Nurses Organisation

PO Box 2128, Wellington

Phone: 04 499 9533

DDI: 04 494 6372

Email: [marilynh@nzno.org.nz](mailto:marilynh@nzno.org.nz)

## **INTRODUCTION**

1. The New Zealand Nurses Organisation (NZNO) thanks the Interagency Working Group on People Trafficking and the Department of Labour for the opportunity to comment on the Plan of Action to Prevent People Trafficking document.
2. The New Zealand Nurses Organisation (NZNO) is a Te Tiriti o Waitangi based organisation which represents over 41 000 nurses and health workers. NZNO is the leading professional body of nurses and the leading nursing union in Aotearoa New Zealand. Our members include nurses, midwives, students, health care workers and other health professionals.
3. We agree that, although there is little evidence for people trafficking in New Zealand at present, globalisation and increased workforce mobility offer consistent challenges to the protection of national borders from international criminal activity. In this context, a preventative Plan of Action is a sensible precautionary approach. However, we raise some issues about the narrow focus of the Plan of Action and suggest that comprehensive policy which addresses the broad spectrum of preventing and addressing immigration abuses and nurturing good workforce and community relations with migrants needs to be developed urgently.

## **GENERAL COMMENTS**

4. As New Zealand's leading professional body and nursing union, we are acutely aware that a significant proportion of the health workforce - almost one half of the medical workforce and one third of nurses - are born or trained overseas; that we currently register more overseas nurses than we train; and that retention rates amongst migrant health professionals are low. As the recent OECD report *Health Workforce And International Migration: Can New Zealand Compete* (Dumonte & Zurn, 2007) highlighted, there is increasing international competition for health professionals and significant risks related to our dependence on migrants to make up deficits in our health

workforce - particularly if they choose, as evidence suggests they do, to use Aotearoa as a 'stepping stone' to higher waged employment in the Australia.

5. Over recent years NZNO has become increasingly concerned about the exploitation of migrant workers. Unscrupulous recruitment agents, unreasonable bonding, debt imposition, hotbedding, deliberate misinformation which ensures skilled migrants are tied to inappropriate low-waged employment and unnecessary training, and passport retention are not uncommon experiences amongst migrant nurses.
6. NZNO strongly believes that while people trafficking may be the most vicious and extreme form of immigration abuse, it is part of a continuum and should not be considered in isolation. The described key difference between trafficking and smuggling (that the latter "tend to be left to their own devices once they have crossed the border") highlights the difficulties in trying to ring-fence a particular activity. Under this definition, we are aware that many migrant nurses could be said to have been trafficked as they certainly continue to be exploited by 'traffickers' once in New Zealand by being directed into certain sectors – such as the aged care sector, by paying large fees for unnecessary and inappropriate 'education', living in appalling and overcrowded conditions, and having unsafe and unfair working conditions imposed.
7. These 'lesser' forms of immigration abuse are currently not being addressed and NZNO suggests that there is little point in using scarce resources to develop a Plan of Action to counter the extreme of potential human trafficking while ignoring actual and persistent "everyday exploitation" of migrants.
8. NZNO is also aware that, in spite of quite dramatic changes in the nature of immigration in terms of numbers, skill levels and source countries over the past few decades, there has been little attempt to educate or promote cultural awareness between migrants and New Zealanders. New Zealand lacks coherent policy and strategies around the interface between migrant and indigenous workforces and NZNO is increasingly concerned about the racially

explosive situations in the workforce and communities which are developing as a consequence.

9. The focus on skills/qualifications and passing a foreign English Language Test (the Cambridge-developed International English Language Test) as prerequisites to employment without consideration for any introduction to *New Zealand* culture, or support for living and working here, is inappropriate and unsafe. It can, in certain circumstances, set migrants up for failure, making them vulnerable to exploitation; and does nothing to encourage migrants to stay and share their much-needed skills here. NZNO notes that in many other English speaking countries questions are being raised about the appropriateness of IELTS as an “international” communication test, originally intended for a quite different purpose, given the disparate sovereign nations and varying occupations for which it is used. Similarly there is considerable unease that a patented United Kingdom language test, and the plethora of English language schools promoting it, place corporate interests before national needs for an efficient determinant of functional communication skills. There is no empirical evidence to suggest that success in IELTS is a good indicator of communication skills in any occupation, or of successful migrant integration and clearly there is a lot more than language that differentiates different countries. NZNO is confident that Aotearoa is capable of developing robust, evidence-based communication and acculturation tests and processes, as other countries have done.
10. There are many routes by which skilled migrant health practitioners can end up on minimum wages and /or leaving the country to New Zealand’s great loss. With good planning, appropriate acculturation, mentoring and support, this is quite avoidable.
11. Our health system is absolutely dependent on migrant health professionals wanting to come to New Zealand and stay here. To attract and retain them, and be confident that the benefits will be mutual, they should be valued and

well informed, yet often we find that very basic information has been kept from them.

12. Migrants at high risk of exploitation, for instance those who come in on student and short term visas, are constantly 'warned off' joining Unions or other support organisations which could help protect them; they are usually completely unaware of relevant legislation regarding employment conditions and practise – a significant omission when one considers the implications of the Health Practitioners' Competence Assurance Act (2003). It is important that legitimate migrants are well informed and supported because it is usually through migrant communities that exploitation and trafficking are detected. NZNO notes that some local government bodies, such as Wellington City Council, have excellent processes for providing new migrants with relevant and essential information.
13. New Zealanders also have to be prepared and supported to work with migrants and develop safe, healthy workplace systems. It is not unusual for New Zealanders to be a minority group in a number of workplaces, and it is naïve to assume that good race relations will occur spontaneously with ignorance on both sides. In the aged care sector, for instance, there are many facilities which are dominated by Filipino nurses and caregivers, who are sometimes paid more than their NZ counterparts and guaranteed full employment because of immigration requirements (though often these conditions are not monitored and not met). Without sound systems management and cultural awareness, it is easy to see how problems with rostering, task sharing, and patient care can be attributed to racial factors and how that can contribute to unhealthy workplace attitudes. NZNO industrial advisers are disturbed by the increased signs of racial tension and intolerance in the workplace they have observed over the past year or so.
14. NZNO feels it is disingenuous of New Zealand to claim "a leadership role" in the Bali Process when evidence suggests current processes for protecting and supporting migrants are inadequate.

15. Apart from the duplication and confusion resulting from fragmentation of services, there are multiple risks in focussing resources on dealing with a rare, gross form of abuse outside the more common context of migrant exploitation or abuse. In addressing any form of migration abuse, including human trafficking, robust protocols for prevention, detection, prosecution, victim support and settlement must be considered and enforced. Currently they are not. There is little auditing of migrants, even those brought in under the accreditation and skilled migrant schemes, to ensure that they are working under the conditions offered. Those on temporary and student visas are often very much 'under the radar'. NZNO suggests that good policy needs to be underpinned with robust data and that more comprehensive checks are needed.
16. NZNO believes that the best protection from human trafficking is having robust employment, human rights and immigration legislation and regulation which is firmly rooted in the equitable and ethical treatment of all people, including migrants. In this context NZNO notes with concern the limitations placed on the Human Rights Commission by Section 350 of the current Immigration Bill which "recognises that immigration matters inherently involve different treatment on the basis of personal characteristics."
17. Human rights are non-negotiable; subordinating the Human Rights Act 1993 to immigration legislation makes it an oxymoron. NZNO strongly recommends that New Zealand accede to the principles of ethical immigration as set out in the International Labour Organisation (ILO) Convention 143 and the United Nations Convention on the Rights of all Migrant Workers and their Families.
18. While there are differences in circumstance, support services necessary for victims of human trafficking are intrinsically the same as those required for victims of other forms of abuse and should be provided as part of the existing health and social services within the existing legal framework for human rights

(as long as the latter remains unmodified by Section 350 of the Immigration Bill).

19. Similarly, detection and prosecution of any infringement of migration and border control should be pursued within the existing enforcement framework – for example, NZ Customs, NZ Police, Port Security, and the Department of Labour.
20. NZNO strongly supports robust public awareness campaigns and suggests that employers and unions, community and migrant groups, and government agencies should be involved in planning them and encouraged to implement systems and practises which encourage healthy workplace attitudes.
21. NZNO warns, however, that public awareness campaigns which highlight extreme forms of abuse can stigmatise migrants per se. There is a particular danger that innocent migrants may be implicated or assumed complicit in illegal activities arousing inappropriate public concern. Such has already been the case with publicity surrounding the United States Report on Human Trafficking earlier this year when, with no corroborating evidence or clarity about which country was being referred to, migrant nurses were reported as at risk of high levels of debt that could lead to their working in the sex industry (Dominion Post). It is unacceptable and counter-productive for migrants to be stigmatised in this way.
22. NZNO respectfully suggests that a Plan of Action for addressing People Trafficking in the absence of comprehensive plan for addressing common immigration abuses is somewhat similarly unbalanced and sensationalist.
23. A comprehensive policy which covers the spectrum of immigration abuses and focuses on education is required.
24. NZNO draws your attention to the fact that NZNO is taking an active role in researching the nature and extent of the exploitation of migrant nurses and caregivers. We have appointed a researcher, Dr Leonie Walker, who has already uncovered abuses which are of grave concern and inconsistent with

the principles most New Zealanders would subscribe to. NZNO would be happy to share the results of Dr Walker's research.

## RECOMMENDATIONS

25. The New Zealand Nurses Organisation recommends that you:

- **note** that we have not encountered people trafficking in the sense defined in the discussion paper but have encountered considerable evidence of migrant exploitation and have noticed **with concern** a upsurge in racial tension where particular migrant groups dominate in some workplaces;
- **note** that we do **not agree** with a narrow policy focus on the potential of people trafficking outside the wider context of immigration abuses;
- **note** that we do **agree** that a Plan of Action to address immigration abuses, which may include people trafficking, is pragmatic;
- **agree** that the best protection from gross immigration abuse is a sound legislative, regulatory, and social services framework based on a respect for human rights and a commitment to ethical immigration;
- **agree** that in some sectors, such as Health, Aotearoa is dependent on attracting and retaining skilled migrants and that appropriate acculturation and support processes need to replace the IELTSs as a measure of migrant suitability;
- **agree** that New Zealand could fulfill its international obligations, and be justified in taking a leading role in the Bali process, by ratifying ILO convention 143 and the United Nations Convention on the Rights of all Migrant Workers and their Families;
- **note** NZNO is undertaking new research into migrant nurse issues.

## **CONCLUSION**

26. In conclusion, NZNO strongly advocates that this opportunity be taken to develop comprehensive Plan of Action to address the full spectrum of immigration issues and abuses, of which people trafficking may be a part.

Marilyn Head

**NZ Nurses Organisation**