



New Zealand

Country Reports on Human Rights Practices - [2000](#)

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New Zealand is a parliamentary democracy, with executive authority vested in a 20-member cabinet led by the Prime Minister. The Governor-General is Head of State. The 120-member Parliament is elected in a mixed member proportional representation system, with 6 seats reserved for members of the native Maori population. The judiciary is independent.

The police and defense forces are responsible to civilian officials and are firmly controlled by them.

New Zealand is an efficient producer of agricultural products and an exporter of wool, meat, and dairy products. Tourism, forestry, fishing, and manufacturing recently have become significant economic sectors. Disparities in wealth are small but increasing. Government social programs offer substantial benefits to disadvantaged persons.

The Government generally respects the human rights of its citizens, and the law and judiciary provide effective means of dealing with individual instances of abuse. The Government has taken steps to address the problems of police abuse, overcrowded prisons, violence against women, and societal discrimination against the disabled, indigenous people, and Pacific islanders and Asians. Child abuse is a problem, and trafficking in persons is a small but growing problem.

The Government generally respects the human rights of citizens living in its territories of Tokelau, Niue, and Cook Islands.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Political and Other Extrajudicial Killing

There were no reports of political or other extrajudicial killings.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The law prohibits torture and other forms of mistreatment, and the Government generally respects these prohibitions in practice.

Police abuse declined slightly from 1999; however, there were instances of police abuse. During the year, 4.2 percent fewer complainants alleged misconduct by officers than during 1998-99. There were 11 cases of police misconduct that involved deaths, down from 21 in 1997-98. In one such case, police in May fatally shot a Maori youth, leading public officials, including the Prime Minister, to urge better police-Maori relations. The officer, also of Maori descent, was found by an internal police investigation to have acted in self-defense and

was exonerated, which resulted in protest from the Maori community in the Taranaki region.

Maori inmates constitute more than half the prison population, even though Maori are only 15 percent of the general population (see Section 5). The Government sought to reduce the problem of Maori recidivism through Maori focus units, which integrate Maori values into the rehabilitation program.

Prison conditions generally meet minimum international standards; however, prison overcrowding is a significant and growing problem to which the Government is responding by building new prisons. As of September, the inmate population totaled 5,940, with prison bed capacity of about 6,000. The inmate population is projected to increase to about 6,040 by 2002. In September the female inmate population rose to over 320, exceeding the number of available beds in women's prisons. As a result, women were housed in men's prisons, and advocates for prison reform asserted that facilities for female inmates in those situations were inadequate. In 1999 the Government added 22 new beds for women at the main women's prison in Wellington. In July the new Auckland Central Remand Prison opened, with beds for 360 male inmates. Two other new prisons are scheduled to open in 2002 and 2003. Construction also began during the year to improve older prisons in Dunedin and Invercargill that would result in toilets replacing buckets at those prisons by mid-2001.

A highly publicized case of prisoner abuse was resolved in September when four inmates received substantial monetary compensation and an apology from the Government for an apparently isolated incident in 1993 in which they claimed that they were stripped and beaten in retaliation for attacking prison officers. A U.N. committee that considered the case stated that the prisoners were not tortured but that their treatment was cruel and degrading. Overall, assaults in prisons (mostly inmate on inmate) rose from 97 to 120 in 1999-2000; however, suicides declined from 8 to 6. Over 98 percent of prison officers are trained in suicide awareness.

Special problems also exist concerning the treatment of youth offenders. As of 1998, 18 percent of the total inmate population was under the age of 20. Two special units for inmates under the age of 17 and vulnerable 17 to 19-year-olds opened during the year. They offer a peer-based approach to transform behavior. In July the Government announced that it planned to build two new youth units and expand a third, increasing capacity for youth offenders by 142 beds by March 2001.

The Government permits prison visits by human rights monitors.

d. Arbitrary Arrest, Detention, or Exile

The law prohibits arbitrary arrest, detention, or exile, and the Government observes these prohibitions.

e. Denial of Fair Public Trial

The law provides for an independent judiciary, and the Government respects this provision in practice. The judiciary provides citizens with a fair and efficient judicial process.

There is an impartial judiciary, with the right of appeal to the Privy Council in London, UK, although this option rarely is invoked. Within the country, the Court of Appeal is the highest appellate court, and it determines appeals from the High Court, which has original jurisdiction for major crimes and important civil claims. The High Court also handles appeals from lower courts and reviews administrative actions. Remaining original jurisdiction rests with 110 judges of the district courts. Special courts include: The Employment Court; family courts; youth courts; Maori Land Court; Maori Appellate Court; and the Environment Court.

The law provides for the right to a fair trial, and the judiciary implements this provision.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The law prohibits such practices, government authorities respect these prohibitions, and violations are subject to effective legal sanction.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The law provides for freedom of speech and of the press, and the Government respects these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combine to ensure freedom of speech and of the press, and of academic freedom. There were no reported instances of restrictions of free speech as in 1999.

b. Freedom of Peaceful Assembly and Association

The law provides for these rights, and the Government respects them in practice.

c. Freedom of Religion

The law provides for freedom of religion, and the Government respects this right in practice.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The law provides for these rights, and the Government respects them in practice.

The Government provides first asylum and is a signatory to the 1951 U.N. Convention relating to the Status of Refugees and its 1967 Protocol. The Government cooperates with the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. Under its own refugee quota, the Government accepts up to 750 UNHCR-approved refugees per year.

There were no reports of the forced expulsion of persons with a valid claim to refugee status.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. Parliamentarians are elected under a mixed-member proportional representation system, and general elections were held in November 1999.

Women and minorities are accorded full opportunity to participate in political life, but are underrepresented in government. In the 120-member Parliament, 36 seats are held by women; 16 by Maori; 3 by members of Pacific Island origin; and 1 by a member of Asian heritage. The Executive Council has 26 ministers (20 within the Cabinet and 6 outside the Cabinet) including 11 women (1 of whom is the Prime Minister), 4 Maori, and 1 Pacific Islander. The Cabinet has seven women, two Maori, and one Pacific Islander. The Prime Minister, the opposition leader, and the Chief Justice are women. In August Queen Elizabeth II of England, in her capacity as leader of the Commonwealth, appointed a new Governor General, also a woman, who is to take office in April 2001.

Women are underrepresented in government in the dependent territories of the Cook Islands, Tokelau, and Niue. Of the 25 members of the Cook Islands Parliament, 2 are women. In Niue, 2 of 20 are women.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international nongovernmental organizations (NGO's) operate without government restriction, investigating allegations and publishing their findings on human rights cases. Government officials are cooperative and responsive to the views of these human rights groups. The Human Rights Commission, a U.N.-accredited national human rights institution, investigates complaints of human rights violations and unlawful discrimination and acts as a conciliator. The Government also funds an independent race relations conciliator, who received complaints and acted as an ombudsman during the year.

Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The 1993 Human Rights Act prohibits discrimination on the basis of race, sex, religion, disability, and language, and the Government effectively enforces it.

Women

Violence against women is a problem that affects all socioeconomic groups. A 1997 government-sponsored academic survey indicated that 1 woman in 7 living with a male partner was abused physically or sexually by the partner in the previous 12 months, and 1 in 16 women were likely to be sexually assaulted each year. Publicity about domestic violence increased significantly after government ministers pressured a women's refuge coordinator in August not to publicize statistics about Maori spousal and child abuse rates. According to a 1994 Public Health Commission study, Maori women between the ages of 15 and 24 were 7 times more likely than non-Maori women to be hospitalized as a result of domestic assault. According to government statistics, in 1998 5,056 men were prosecuted for domestic assault, and about 1,000 more faced less serious family violence charges. Maori men constituted 41 percent of men convicted of assaulting a woman and 43 percent of men convicted of assaulting a child. Disproportionately high rates of domestic abuse also were documented among Pacific Islander families.

The law penalizes spousal rape. The Government convicted persons on this charge during the year. The National Collective of Rape Crisis groups, a private, nonprofit organization, claimed in 1998 that the majority of cases go unreported each year and that, of the cases that are reported to the police, only 10 to 15 percent result in convictions. The group reported that husbands and boyfriends committed about 25 percent of all sexual assaults.

The 1996 Domestic Violence Act broadened the definition of violence to include psychological abuse, threats, intimidation, harassment, and allowing children to witness psychological abuse. It expanded intervention measures, such as the use of protection orders; education programs for men, women, and children; stronger police powers to arrest and detain offenders; improved access to legal services for women eligible for legal aid; and tougher penalties for breach of a protection order. The family court received 22,174 applications for protection orders under the act from 1996 through 1997.

The Government's strategy to prevent family violence included a range of objectives, such as providing victim support, incorporating successful innovations and proven methods from family violence centers into the national family violence programs (that is, the promotion of "best practice"), ensuring safety from violence, and implementing Maori-designed and delivered programs. The Government partially funded women's refuges, rape crisis centers, sexual abuse counseling, family violence networks, and violence prevention services.

Prostitution is legal; however, organizing and recruiting women into prostitution is not. There were reports of abuse and the involuntary detention of women involved in prostitution during the year (see Section 6.f.). There were several credible reports that women were trafficked into the country and forced into prostitution (see Sections 6.c. and 6.f.).

While the law prohibits discrimination in employment and in rates of pay for equal or similar work, the Government acknowledged that in practice a gender earnings gap persists. Statistics for the second quarter of the year showed that women earned 86 percent of men's average ordinary hourly wage, up from 84.8 percent in 1999.

Children

The law provides specific safeguards for children's rights and protection. The Government demonstrates its commitment to children's rights and welfare through its well-funded systems of public education and medical care.

Child abuse gained significant attention during the year, especially after the deaths of three toddlers were linked to physical abuse. Publicity rose after a report by the Children's Commissioner blamed the 1999 death of a 4-year-old child on state agencies that had returned him to an abusive home. In July a toddler was killed and a second child suffered brain damage as a result of abuse by family members. In August caretakers were tried and convicted for the May 1999 and January 2000 beating deaths of a 6-year-old and a 3-year-old child. During 1998 and 1999, Child, Youth, and Family Services confirmed 1,660 cases of physical abuse, 1,375 cases of sexual abuse, and 1,414 cases of severe emotional abuse of children. Preliminary statistics for 1999 and 2000 showed little change in the prevalence of abuse. In 1997, the most recent year for which statistics are available, 12 children under age 15 died in assaults, including 7 who died from child battering. The Government reported that Maori children are four times as likely as non-Maori children to require hospital care for injuries resulting from deliberate harm. In August the Government instituted an expanded program of information sharing between court and health and child protection agencies to identify children at risk of abuse. Under the program, notifications to child-protection agencies of at-risk children increased by 30 percent in the first month. Applications to Family Court under the Domestic Violence Act included protection of more than 33,000 children.

There are a small number of documented cases of female genital mutilation (FGM), which is widely

condemned by international health experts as damaging to both physical and psychological health. FGM traditionally is not practiced in the country, but cases have been documented in the Somali, Sudanese, and Ethiopian immigrant communities. The influx of persons from countries where FGM is prevalent has slowed. It is illegal to perform FGM or to remove a child from the country to carry out the procedure. To address FGM, the Government sponsored public awareness campaigns, a child protection network, and a special clinic at the country's largest women's hospital.

Incidents of trafficking in children for sexual purposes also were documented during the year. The Government works with the NGO, ECPAT NZ, to combat trafficking in children and to develop legislation that would criminalize trafficking (see Section 6.f.).

People with Disabilities

The law prohibits discrimination against people with disabilities in employment, education, access to places and facilities and the provision of goods, services, and accommodation. Compliance with access laws, mandated by the Human Rights Act and the Disabled Persons Community Welfare Act, varies as business owners and others strive to make necessary adaptations. The Government has not complied fully with equal access laws prohibiting discrimination on the basis of disability in areas such as public transportation and public accommodation. In 1999 the Government granted itself a partial exemption from sections of the Human Rights Act that concern physical disability. The Government must comply by December 31, 2001 with laws and regulations relating to discrimination based on physical disability. The Human Rights Commission reported during the year that it received more complaints of discrimination based on disability than any other type of discrimination. The International Labor Organization (ILO) criticized the Government for not collecting adequate data on the employment of the disabled.

Indigenous People

Approximately 15 percent of the population claim at least one ancestor from the country's indigenous Maori or Moriori minorities. While the law prohibits discrimination against the indigenous population, the Government's Closing the Gaps report, released in May, noted the continuing disproportionate number of Maori included on the unemployment and welfare rolls, among the prison population, among school dropouts, in infant mortality statistics, and among single-parent households. For example, the official Maori unemployment rate (19 percent) is over three times that for non-Maori. Maori officials expressed concern over the Government's announcement in November that it would shift its Closing the Gaps strategy to address socio-economic disparities rather than race-based disparities. Maori inmates constitute more than half the prison population, even though Maori are only 15 percent of the general population. The Government addressed this problem through Maori focus units, which integrate Maori values into the rehabilitation program. A special program for Maori sex offenders, Kia Marama, halved the rate of recidivism among those who participated.

Government policy recognizes a special role for indigenous people and their traditional values and customs, including cultural and environmental issues that have an effect on commercial development. The Ministry of Maori Development, in cooperation with several Maori NGO's, seeks to improve the status of indigenous people. A special tribunal continues to hear Maori tribal claims to land and other natural resources stemming from the 1840 Treaty of Waitangi.

National/Racial/Ethnic Minorities

Pacific Islanders, who make up 5 percent of the population, are not an indigenous people, but they experience difficulties similar to Maori. Asians, who make up under 5 percent of the population, also experience discrimination. In August a citizen of Western ancestry was convicted of manslaughter for stabbing her Cambodian neighbor over 150 times. The judge ordered the lengthiest permissible sentence because of evidence that the killing was racially motivated. Pacific Islanders also are overrepresented in the prison system. They comprise only 5 percent of the general population but account for 10 percent of inmates.

Section 6 Worker Rights

a. The Right of Association

Workers have the right to establish and join organizations of their own choosing. The principal labor organization is the New Zealand Council of Trade Unions, a federation that includes unions representing various trades and locations. During the year, the Council of Trade Unions merged with the second-largest labor federation, the New Zealand Trade Union Federation. As a result, nearly all unionized workers are members of the Council of Trade Unions. A few small, independent labor unions also exist.

Labor organization is rudimentary in the territory of Tokelau (population 1,500) and in the Freely Associated State of Niue (population 1,700). In the more developed Associated State of the Cook Islands (population 19,000), most workers in the public sector, the major employer, belong to the Cook Islands Workers' Association, an independent local union inspired by New Zealand models. Industrial relations in the Cook Islands are governed by a simplified version of older national legislation.

The law protects unions from governmental interference, suspension, and dissolution. Unions do influence legislation and government policy. Some unions are affiliated with the Labor Party; others operate independently of political parties; all are free to support parties whose policies they favor. Unions often exercise the right to strike. Significant limitations on the right to strike were eliminated when the Employment Relations Act (ERA) replaced the Employment Contracts Act in October; unions are not limited to strikes related to the negotiation of a collective contract and can strike in pursuit of multiemployer contracts across an entire economic sector.

In the 12 months that ended in June there were 31 work stoppages, involving approximately 10,400 workers and the loss of approximately \$1.9 million (\$NZ 4.6 million) in wages and salaries.

Under the Police Act of 1958 and amendments, "sworn police officers," that is, all uniformed and plainclothes police but excluding clerical and support staff, are barred from striking or taking any form of industrial action. However, police have freedom of association and the right to organize and to bargain collectively. Disputes that cannot be settled by negotiation between the Police Association and management are subject to compulsory, final-offer arbitration.

The Freedom of Association Committee of the International Labor Organization (ILO) ruled in 1994 that the Employment Contracts Act of 1991 does not promote collective bargaining and limits the right of freedom of association and the right to strike in a manner inconsistent with ILO conventions. The Government contends that the ERA, which replaced the Employment Contracts Act in October, is consistent with ILO conventions. Discussions with the ILO to confirm this understanding were in progress at year's end. Sympathy strikes, secondary strikes, and strikes over social or political causes are illegal. In June a brief strike was staged by the Council on Trade Unions that expressed political solidarity with Fijian unionists in reaction to the overthrow of the government of Fiji. The Minister of Labor, who also is the Attorney General, did not take any enforcement action against the strikers or the Council.

Unions may affiliate internationally. The New Zealand Council of Trade Unions is affiliated with the International Confederation of Free Trade Unions.

b. The Right to Organize and Bargain Collectively

The law provides for the right of workers to organize and contract collectively, and this right is observed in practice. During the year, the Government changed the law governing industrial relations significantly. It repealed the Employment Contracts Act of 1991 and replaced it with the Employment Relations Act (ERA) on October 2. The ERA promotes collective bargaining, strengthens unions, and requires that parties to an employment agreement bargain in good faith to achieve either a collective or individual employment agreement. The act also promotes mediation and attempts to reduce the need for judicial intervention. The law prohibits uniformed members of the armed forces from organizing unions and bargaining collectively.

Unions represent fewer than 20 percent of all wage earners. Under the ERA, employment relationships are based on contracts. Individual employees and employers may choose to conduct negotiations for employment contracts on their own behalf, or they may authorize any other person or organization to do so on their behalf. Although choosing a union is entirely voluntary, unions have remained the most common agents used by workers to negotiate with employers. Employers must recognize a representative authorized by an employee or employees.

The Government does not control mediation and arbitration procedures. The ERA strongly encourages mediation, and requires that the majority of employment disputes first proceed through mediation. It also establishes a Employment Relations Authority as an investigative body to establish the facts of an employment relationship dispute and to make a determination according to the merits of the case. The Authority replaces the previous Employment Tribunal. An employment court remains, with exclusive jurisdiction over employment matters. Appeals from the employment court to the court of appeal are possible. Firing an employee for union activities is grounds for a finding of unjustified dismissal and may result in reinstatement and financial compensation.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, including forced and bonded labor by children; however, trafficking in women and children is a problem. Inspection and legal penalties ensure respect for the provisions. There were reports of the involuntary detention of women involved in prostitution, and the trafficking of women for prostitution (see Section 6.f.). In April the Government convicted and fined the operators of a factory in Auckland in which workers had been exploited; seven Thai women escaped slave labor conditions in October 1999 (see Section 6.f.).

d. Status of Child Labor Practices and Minimum Age for Employment

The Government prohibits forced and bonded child labor and enforces this prohibition effectively; however, trafficking in children is a problem (see Sections 6.c. and 6.f.). Department of Labor inspectors effectively enforce a ban on the employment of children under the age of 15 years in manufacturing, mining, and forestry. Children under the age of 16 may not work between the hours of 10 p.m. and 6 a.m. In addition to explicit restrictions on the employment of children, compulsory education ensures that children under the minimum age for leaving school (16 years) are not employed during school hours. By law children enrolled in school may not be employed, even outside school hours, if such employment would interfere with their education.

The Government announced that it would ratify ILO Convention 182 but did not define the worst forms of child labor.

e. Acceptable Conditions of Work

The law provides for a minimum 3-week annual paid vacation and 11 paid public holidays. A 40-hour workweek is traditional. While the law does not provide specifically for a 24-hour rest period weekly, management and labor accept the practice, and it is the norm. The government-mandated hourly minimum wage of approximately \$3.20 (\$NZ 7.55) applies to workers 20 years of age and older. Combined with other regularly provided entitlements and welfare benefits for low-income earners, this wage generally is adequate to provide a decent standard of living for a worker and family. The minimum wage for younger workers is 60 percent of the adult minimum. A majority of the work force earns more than the minimum wage. The current youth minimum wage of approximately \$1.90 (\$NZ 4.55) applies to workers of ages 16 to 19. In December the Government announced minimum wage increases that would take effect in March 2001.

An extensive body of law and regulations govern health and safety issues, notably the 1992 Health and Safety in Employment Act. Under this legislation, employers are obliged to provide a safe and healthy work environment, and employees are responsible for their own safety and health as well as ensuring that their actions do not harm others. As a result of union criticism, the act is under review by Parliament. Workers have the legal right to strike over health and safety issues. Unions, and members of the general public may file safety complaints on behalf of workers. Department of Labor inspectors enforce safety and health rules, and they have the power to shut down equipment if necessary. The Department of Labor standard is to investigate reports of unsafe or unhealthy working conditions within 24 hours of notification. Workers have the right to withdraw from a dangerous work situation without jeopardy to continued employment.

f. Trafficking in Persons

The law does not address trafficking in persons specifically, and the applicable related crime, aiding and abetting the breach of immigration regulations carries relatively light penalties; however, prostitution is legal. Laws against child sexual exploitation and slavery carry penalties of up to 14 years in prison and recently have been used to prosecute citizens employing foreign prostitutes.

Incidents of trafficking in children for sexual purposes also were documented during the year. The Government is working to develop legislation to criminalize trafficking and works with an NGO, ECPAT NZ, to combat trafficking in children, and a coalition in Auckland was established to provide information to persons at risk of being trafficked into the country. (see Section 5).

Trafficking in women and children (particularly from Thailand) to work in the sex industry is a small but growing problem. There were several credible reports that women were trafficked into the country during the year. Domestic NGO's and the Human Rights Commission assisted six Thai women in repatriating to Thailand after they escaped forced work in the sex industry. One of the women sued in New Zealand to recover money that she had paid to traffickers; she claimed that the defendants had advertised the work as catering or agriculture. In October 1999, seven Thai women were freed from slave labor conditions in an Auckland factory (see Section 6.c.).

[End.]