



[Home](#) » [Under Secretary for Democracy and Global Affairs](#) » [Bureau of Democracy, Human Rights, and Labor](#) » [Releases](#) » [Human Rights Reports](#) » [2009 Country Reports on Human Rights Practices](#) » [East Asia and the Pacific](#) » [New Zealand](#)

2009 Human Rights Report: New Zealand

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

2009 Country Reports on Human Rights Practices

March 11, 2010

New Zealand is a parliamentary democracy with a population of 4.33 million. Citizens choose their representatives in free and fair multiparty elections, most recently held in November 2008. The National Party won 58 parliamentary seats and formed a minority coalition government; John Key became the new prime minister. Civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens, and the law and judiciary provide effective means of addressing individual instances of abuse; however, indigenous people disproportionately experienced societal problems.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life

There were no reports that the government or its agents committed arbitrary or unlawful 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 such practices, and there were no reports that government officials employed them.

Prison and Detention Center Conditions

Prison and detention center conditions generally met international standards. The government permitted monitoring visits by independent human rights observers, and such visits occurred during the year.

On March 1, a prisoner was killed by fellow inmates at Auckland Prison. Three men were charged with murder and a fourth was charged as an accessory. The case remained pending at year's end. The family complained that there was inadequate supervision at the prison.

At year's end the prison population was 8,196. Of these, 493 were female; 553 were between the ages of 15 and 19; and 4,140 were prisoners of Maori descent. Male and female prisoners were held in separate prison facilities under equivalent conditions.

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Persons accused of a crime who are 17 years of age or older are tried as adults and, if convicted, sent to adult prisons. Juvenile correctional facilities house prisoners who are under 17 years of age.

d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus

Civilian authorities maintained effective control over the police, and the government has effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving security forces during the year.

Arrest Procedures and Treatment While in Detention

A court-issued warrant is usually necessary to make an arrest, but police may arrest a suspect without a warrant if there is reasonable cause. Police officers may enter premises without a warrant to arrest a person if they reasonably suspect the person of committing a crime on the premises or have found the person committing an offense and are in pursuit. Police must inform arrested persons immediately of their legal rights and the grounds for their arrest.

After arresting and charging a suspect, police may release the person on bail until the first court appearance. Court bail is granted after the first court appearance unless there is a significant risk that the suspect would flee, tamper with witnesses or evidence, or commit a crime while on bail. Police do not normally grant bail for more serious offenses such as assault or burglary. Family members were granted prompt access to detainees. Authorities allowed detainees prompt access to a lawyer of their choice and, if indigent, to a lawyer provided by the government.

e. Denial of Fair Public Trial

The law provides for an independent judiciary, and the government generally respected judicial independence in practice.

Trial Procedures

The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. Defendants enjoy the rights found in other common-law jurisdictions, including a presumption of innocence, a right to a jury trial, a right of appeal, and the rights to counsel, to question witnesses, and to access government-held evidence. The law extends these rights to all citizens. A lawyer is provided at public expense if the defendant cannot afford counsel.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

There is an independent and impartial judiciary in civil matters, which includes access to the Human Rights Review Tribunal and other courts to bring lawsuits seeking damages and other remedies for alleged human rights abuses. There are also administrative remedies for alleged wrongs through the Human Rights Commission (HRC) and the Office of Human Rights Proceedings.

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

The law prohibits such actions, and the government generally respected these prohibitions in practice.

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 generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. Internet access was widely available and used by citizens.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

b. Freedom of Peaceful Assembly and Association

The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion

The law provides for freedom of religion, and the government generally respected this right in practice.

Societal Abuses and Discrimination

Relations among religions generally were amicable, although there were isolated instances of societal abuses or discrimination based on religious belief or practice.

The Jewish community numbered approximately 7,000 persons. Anti-Semitic incidents were rare.

The HRC received 20 complaints regarding a well-publicized case in January in which a cafe owner asked two women to leave his establishment when he heard them speaking Hebrew. The matter was resolved through mediation, and the cafe owner apologized in a press release.

The government-funded HRC actively promoted religious tolerance.

For a more detailed discussion, see the *2009 International Religious Freedom Report* at www.state.gov/g/drl/rls/irf.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

There is no statutory authority for imposing a sentence of exile, and the government did not practice forced exile.

Protection of Refugees

The country is a party to the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol. Its laws provide for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. In practice the government provided protection against expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. The government also provided temporary protection to individuals who may not qualify under the definition of the 1951 convention and the 1967 protocol until their status was determined and action taken.

During the year the country handled two stateless persons cases, and both individuals claimed refugee status. The first, a Palestinian, was granted asylum. The second case, pertaining to a Kuwaiti, was ongoing at year's end.

Bahareh Moradi, an Iranian citizen, requested refugee status in 2006 and was denied. She appealed that decision in 2008 and lost. By law the Immigration Service cannot divulge details about specific refugee cases; however, it reported that this case was resolved. Bahareh was no longer in hiding, and she faced no deportation order.

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

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation

In the most recent general elections, held in November 2008, the National Party won 58 of 122 parliamentary seats and formed a minority government in coalition with the ACT Party (five seats) and the United Future Party (one seat). The National-led government also had a cooperation agreement with the Maori Party (five seats). Under the terms of the cooperation agreement, the National Party abandoned its opposition to Maori-designated parliamentary seats. A good working relationship existed between the Maori Party and the National Party government. Three other parties were represented in Parliament: the Labour Party (43 seats), the Green Party (nine seats), and the Progressive Party (one seat).

Women participated fully in political life. There were 41 women in Parliament and eight on the executive council, which is composed of 28 ministers (20 within the cabinet and eight outside). The chief justice of the Supreme Court was a woman. There were three women in the 25-seat parliament of the Associated State of the Cook Islands and four women in the 20-seat parliament of the Associated State of Niue.

Seven seats in Parliament are reserved for persons of Maori ancestry. The number of Maori seats is adjusted every five years, based on the number of persons who register to vote on the Maori electoral roll. Persons of Maori ancestry can also become members of Parliament (MPs) by election or appointment to non-Maori conventional seats.

There were 20 Maori members, five members of Pacific Island descent, and six members of Asian descent in Parliament. The cabinet included at least three members of Maori ancestry.

Section 4 Official Corruption and Government Transparency

The law provides criminal penalties for official corruption, and the government generally implemented these laws effectively. There were isolated reports of government corruption during the year. Efforts to combat corruption and prosecution of corruption cases are handled through the Ministry of Justice and the independent Serious Fraud Office.

In April the case of an MP charged in 2007 with 37 criminal violations, including bribery, corruption, and perverting justice, went to trial. A court found the MP guilty of 11 charges of bribery and corruption and 15 charges of obstruction of justice, and it sentenced him to six years in prison.

The law requires MPs, including all ministers, to submit an annual report of financial interests, which is then disclosed publicly. Career civil servants are not subject to this requirement but are subject to ethics standards established by the State Services Commission.

The law provides for public access to government information to be provided within 20 working days of a request. Information must be made available unless a good reason, such as concern for national security, exists for not doing so. The requester must be given an estimate of any fees before the information is provided.

Section 5 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views. There were no visits by UN or other international organization representatives during the year.

The Ministry of Justice funds the active HRC, which operates as an independent agency without government interference. The commission has a staff of 60 and has adequate resources to perform its mission. The commission issues four reports each year.

Section 6 Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination on the basis of race, sex, disability, age, and national or ethnic origin, and the government actively enforced these prohibitions.

Women

Violence against women affected all socioeconomic groups. The law criminalizes rape, including spousal rape; the maximum penalty is 20 years' imprisonment; however, indefinite detention occurred in cases where the parole board believed that the prisoner still posed a risk to society. Each case is reviewed annually by a parole board. From July 2008 through June, police recorded 2,364 "sexual attacks," which resulted in 1,127 prosecutions. During the same period, the police recorded seven offenses of spousal rape with four prosecutions and six offenses of unlawful sexual connection with a spouse with three prosecutions.

Assault by a male on a female is a nonsexual crime punishable by up to two years' imprisonment (a penalty double that for a male-on-male or a female-on-male assault, which carries a one-year maximum penalty). In the 12-month period ending June 30, 3,788 persons were prosecuted for assault by a male on a female. Crisis centers offering support services for victims of sexual violence existed throughout the country and included centers focusing specifically on Maori and Pacific Islanders.

The government's Task Force for Action on Violence Within Families continued to coordinate a variety of government initiatives to eliminate family violence, including its Te Rito program, a national strategy to address all forms and degrees of domestic violence.

Police were responsive when domestic violence was reported. The government partially funded women's shelters, rape crisis centers, sexual abuse counseling, family violence networks, and violence prevention services.

The 2003 Prostitution Reform Act (PRA) decriminalized prostitution and created a certification regime for brothel operators. The act prohibits persons under age 18 from working in the sex industry and gives prostituted adults the same workplace protections as those given to workers in other industries. The law also eliminates the defense (by clients, brothel operators, and pimps, for example) of claiming ignorance that a person engaged in commercial sexual activity was under age 18. The act extends culpability to any person who receives financial gain from such activity involving an underage person. The law prohibits sex tourism, and citizens who commit child sex offenses overseas can be prosecuted in New Zealand courts. The government prosecuted sexual offenses committed abroad based upon evidence collected, including photographs confiscated from the accused upon reentry into the country.

The 11-member Prostitution Law Review Committee (PLRC) consisted of representatives from local government, the police, the public health industry, business, academia, nongovernmental organizations (NGOs), and the sex industry. The PLRC was established under the PRA to review the act's operation. In May 2008 the PLRC published its review of the PRA, in which it recommended continued monitoring and advocacy within the sex industry, support for sex workers seeking alternatives to street work, and enhancements at national and local government levels regarding safety and compliance measures.

Sexual harassment in violation of the Employment Relations Act or the Human Rights Act is unlawful and carries civil penalties. However, sexual contact induced by certain threats may also fall under the criminal code, with a maximum 14-year prison sentence. The HRC published fact sheets on sexual harassment and made sexual harassment prevention training available to schools, businesses, and government departments on a regular basis.

The government recognized the basic right of couples and individuals to decide freely and responsibly the number, spacing, and timing of their children, and granted access to information on reproductive health free from discrimination, coercion, or violence. The government does not limit access to male contraception, and female contraception is available without parental consent to women 16 years and older. Skilled healthcare is available, and women are equally diagnosed and treated for sexually transmitted infections, including HIV.

The Ministry of Women's Affairs addresses problems of discrimination and gender equality, and there is a minister of women's affairs in the cabinet.

The Human Rights Commission has an Equal Opportunity Employment team that focuses on workplace gender issues. This team regularly surveys pay scales, conducts a census of women in leadership roles, and actively engages public and private employers to promote compensation equality.

While the law prohibits discrimination in employment and in rates of pay for equal or similar work, the government acknowledged that a gender earnings gap persisted in practice. According to June figures, women earned 88 percent of the average hourly earnings for men.

Children

Children born in the country attain citizenship if at least one parent is either a citizen or legal permanent resident of the country. Children born outside of the country attain citizenship as long as at least one parent was a citizen born in the country.

Child abuse continued to be of concern to the government. The government promoted information sharing between the courts and health and child protection agencies to identify children at risk of abuse. The Office of the Commissioner for Children played a key role in monitoring violence and abuse against children. Cases of child abuse and neglect increased

over previous years, but according to the Ministry of Justice it was unclear whether this trend reflected higher levels of abuse and neglect, or whether lower community tolerance stimulated increased reporting.

Commercial sexual exploitation of children remained a problem. When discovered, law enforcement authorities arrested and prosecuted the violators.

At year's end a New Plymouth brothel owner charged in November 2008 for employing a 15-year-old girl as a prostitute in 2005 awaited trial. An initial trial was abandoned due to the defendant's health, and a new one was pending at year's end.

A Christchurch brothel owner charged with exploiting underage girls for prostitution in July 2008 was convicted during the year and sentenced to prison for 27 months.

One other 2007 prosecution in Christchurch relating to underage prostitution remained pending at year's end.

The government developed in concert with NGOs a national plan of action against the commercial exploitation of children, and operated programs to reintegrate children out of prostitution through vocational training and educational opportunities.

The Department of Internal Affairs Censorship Compliance Unit actively policed images of child sex abuse on the Internet and prosecuted offenders. The government maintains extraterritorial jurisdiction over child sex offenses committed by the country's citizens abroad.

Trafficking in Persons

The law prohibits transnational trafficking in persons. The Department of Labor (DoL) reviewed allegations of trafficking but did not prosecute any cases due to insufficient evidence that the victims were trafficked. No cases of transnationally trafficked persons have come to the attention of the authorities since reporting began in 2001, although there were complaints of exploitation of foreign agricultural workers and nonresident women working illegally in prostitution. The government realized that an absence of trafficking reports did not guarantee that trafficking did not occur. The government launched the National Plan of Action for the Promotion and Protection of Human Rights in June that includes training for immigration officials, labor inspectors, and police officers in identifying trafficking "triggers." All labor and illegal prostitution complaints are thoroughly investigated by the appropriate government agency, and no evidence of trafficking was identified during the year.

The antitrafficking law does not address internal trafficking. Other laws that criminalize the exploitation of adults and children in cases where victims (e.g., minors engaged in commercial sex) have not crossed an international border have been used to investigate and prosecute internal trafficking cases.

Although prostitution is not a crime, it is illegal for nonresidents to work in commercial sex activities.

The antitrafficking law stipulates a maximum penalty of 20 years in prison and fines of NZ\$500,000 (approximately \$300,000). Laws against slavery and child sexual exploitation carry penalties of up to 14 years in prison. Under the PRA it is illegal to use or profit from using a person less than 18 years of age in prostitution. Under the criminal law, it is also illegal to have sexual contact with a child under 16 years of age, regardless of whether the accused believed the child to be 16 years or older.

The government established the Interagency Working Group (IWG) as part of the national plan of action. The IWG has primary responsibility for coordinating government efforts to combat trafficking in persons and works closely with NGOs and civil society groups.

The New Zealand Council for Victim Support Groups stood ready to provide wide-ranging assistance programs to victims of internal trafficking, including short-term shelter, temporary legal residence, witness protection, access to medical services, and safe repatriation. The government also worked to address trafficking in children by providing funding for NGO outreach programs in Auckland and Christchurch that provided accommodations and other support for young persons involved in or at risk of involvement in prostitution.

The Department of State's annual *Trafficking in Persons Report* can be found at www.state.gov/g/tip.

Persons with Disabilities

The law prohibits discrimination against persons with disabilities in employment; education; access to places and facilities; and the provision of goods, services, housing, and accommodation. During the year the HRC received 385 disability-related complaints which represented 9 percent of the total complaints received. Compliance with access laws varied. The government is prohibited from discrimination on the basis of physical or mental disability, unless such discrimination can be "demonstrably justified."

The government supported equal access for persons with disabilities to polling facilities.

The government's Office for Disability Issues worked to protect and promote the rights of persons with disabilities. In addition, during the year both the HRC and the Mental Health Commission continued to address mental health issues in their antidiscrimination efforts.

National/Racial/Ethnic Minorities

Pacific Islanders, who made up 7 percent of the population, experienced societal discrimination. The Ministries of Justice and Pacific Island Affairs had a program to identify gaps in delivery of government services to Pacific Islanders.

Asians, who made up 10 percent of the population, also reported discrimination. The government mandates a Race Relations Commissioner who has developed a Diversity Action Program aimed at the Maori, Pacific Island, and Asian communities. The program includes an annual Diversity Forum to eliminate race-based discrimination.

Indigenous People

Approximately 15 percent of the population claimed at least one ancestor from the country's indigenous Maori minority. The law prohibits discrimination against the indigenous population; however, there was a continuing pattern of disproportionate numbers of Maori on unemployment and welfare rolls, in prison, among school dropouts, in infant mortality statistics, and among single-parent households.

Maori unemployment was 10 percent in June, compared with the national average of 5 percent. The average hourly earnings for Maori in June were NZ\$18.76 (approximately \$13.13), and median earnings were NZ\$16.74 (\$11.72). These figures compared with the average and median earnings for all workers of NZ\$22.35 (\$15.65) and NZ\$18.75 (\$13.12), respectively. The median age among Maoris was in the low 20s compared with a median age in the high 20s for the entire population. Younger workers were more likely to be unemployed and typically earned less than their older colleagues; however, the government did not model Maori incomes to reflect this age difference.

Maori constituted 51 percent of the prison population and 42 percent of persons serving community-based sentences. The government, along with community partners, implemented several programs and services to reduce Maori recidivism and overrepresentation in the criminal justice system.

Government policy recognized a special role for indigenous people and their traditional values and customs, including cultural and environmental issues that affected commercial development. The Ministry of Maori Development, in cooperation with several Maori NGOs, sought to improve the status of indigenous people.

A 2004 law regulates ownership of the foreshore (the land between high and low tide) and the seabed. The law granted ownership of the foreshore and seabed to the state and provides for universal public access. It also established a mechanism to accommodate customary indigenous rights of land use, including preservation of existing fishing rights. This legislation has been the focus of protests by Maori groups asserting customary title to the land and by non-Maori groups opposing such claims.

The National Party-led government established a goal to settle all Maori historic claims related to the 1840 Treaty of Waitangi, the country's founding document. At the end of the year, two of the 10 largest Maori tribes had settled their claims completely, receiving NZ\$170 million (approximately \$119 million) each. The government reported significant progress with 20 of the remaining 78 tribes and estimated a total cost of between NZ\$1.5 billion and NZ\$2.0 billion (\$735 million to \$1.4 billion). The government opened a Web site (www.ots.govt.nz) to increase transparency and enable the public to monitor treaty settlement progress.

The government extended the September 2008 filing deadline in order to facilitate a large number of claims. The Ministry of Maori Development reported that all claims were registered and assigned to the applicable geographic regions for resolution.

Police arrested 20 persons, some of whom were Maori, in October 2007 on various weapons charges, including unlawful possession of rifles. The arrests reportedly stemmed from an investigation begun in 2005 after hunters told authorities they had seen a group of men training with firearms in a camp in a remote mountain area. Maori MPs and others in the Maori community criticized police conduct of the raids that led to the arrests as excessive and heavy-handed. Authorities dropped charges against one defendant due to lack of evidence, and the other 17 cases remained pending at year's end with no scheduled trial date. The government did not file any terrorism charges against these defendants.

In August 2007 the UN Committee on the Elimination of Racial Discrimination (CERD) reported on racial discrimination in the country. The report criticized the government's foreshore and seabed legislation and its handling of Maori land claims. The report also expressed concern that the Bill of Rights Act and the Treaty of Waitangi, under which many Maori rights are spelled out, do not enjoy protected status within the country's parliamentary system. Therefore, according to CERD, enactment of legislation contrary to the act and the treaty was possible. The report included 16 recommendations for changes relating to Maori rights or the rights of other ethnic groups, and CERD requested responses to four of those recommendations within one year. The government submitted a written response to these four CERD recommendations in September 2008 in which it agreed with three of the four recommendations. The fourth, which recommended that the country provide undocumented children access to public education without restriction, was partially rejected. The law states that persons in the country illegally cannot have access to public education; however, interim measures were in place allowing children whose immigration status was under review to attend school.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

The law prohibits abuse, discrimination, and acts of violence based upon sexual orientation and gender identity, and the government generally enforced the law. During the year the HRC received 57 discrimination complaints relating to gender or sexual orientation (1.3 percent of all complaints). The Ministry of Justice received no reports of societal violence or discrimination based on sexual orientation.

A Hungarian tourist was acquitted of murder but convicted of the lesser charge of manslaughter for killing a gay man who had solicited him at a local bar. The defendant claimed that the victim's sexual advances had provoked him to commit the crime. The legislature has since repealed the Law of Provocation that the tourist used in his defense.

Other Societal Violence or Discrimination

The law prohibits violence or discrimination against persons with HIV/AIDS.

Section 7 Worker Rights

a. The Right of Association

The law provides workers the right to form and join organizations of their choice without previous authorization or excessive requirements, and the law was applied. Nearly all unionized workers were members of unions affiliated with the Council of Trade Unions, a federation that included unions representing various trades and locations. A few small, non-affiliated labor unions also existed. According to DoL statistics published in March, unions represented 17 percent of all wage earners. The law allows unions to conduct their activities without government interference, including the right to strike, and this right was exercised in practice. Labor organization in the territory of Tokelau (population 1,466) was limited and based on communal decision making and activity. In Niue, a self-governing country in free association with New Zealand (population 1,625), the dominant public sector (422 positions) had an active public-service association. In the Cook Islands, also a self-governing country in free association with New Zealand (official population 21,000; resident population 13,000), most workers in the public sector, the major employer, belonged to the Cook Islands Workers' Association, an independent local union. Industrial relations in the Cook Islands are governed by a simplified version of New Zealand's national legislation.

The law prohibits sworn police officers (which includes all uniformed and plainclothes police but excludes clerical and support staff) from striking or taking any form of industrial action. Disputes that cannot be settled by negotiation between the police association and management are subject to compulsory, final-offer arbitration. Strikes by providers of "key services" are subject to certain procedural requirements, including mandatory notice of three to 14 days, depending on the service involved. Key services include: production, processing, and supply of petroleum products; production and supply of electricity, water, and sewer services; emergency fire brigade and police services; ambulance and hospital services; manufacturing of certain pharmaceuticals and dialysis solutions; operation of residential welfare or penal institutions; airport and seaport operations; and dairy production operations.

There were 11 legal strikes during the first nine months of the year. The Employment Court ruled that one additional strike in September at a dairy company was illegal because it was a key service.

The Employment Court has full and exclusive jurisdiction in matters related to strikes or lockouts and may issue an injunction to prevent the strike or lockout. The DoL also offers mediation in such cases.

The government mediated two labor disputes involving Auckland port workers and a third involving Wellington transport workers. All three cases were decided with minimal interruption in service and resulted in pay increases through new collective bargaining agreements.

b. The Right to Organize and Bargain Collectively

The law provides for the right of workers to organize and contract collectively through unions, and workers exercised this right in practice.

The Employment Relations Act governs industrial relations and promotes collective bargaining. To bargain collectively, unions must be registered, be governed by democratic rules, be independent, and have at least 15 members. Unions may not bargain collectively on social or political issues.

The law prohibits uniformed members of the armed forces from organizing unions and bargaining collectively. However, police have freedom of association and the right to organize and bargain collectively.

There were no special laws or exemptions from regular labor laws in export processing zones.

A company challenged the Service and Food Workers Union's right to send union organizers into its facilities, arguing that the organizers worked for a competitor, and trade secrets could be compromised. The Employment Court unanimously decided on April 8 in favor of the union ruling that, with adequate prior notice, practical means were available to protect trade secrets.

The Employment Relations Authority (ERA) reviewed the case of a union delegate who was laid off for what the employer claimed were low performance ratings due to his confrontational personality. The employee claimed that he lost his job because of his union activities. ERA found in favor of the employee, stating that his employer would not have dismissed him had he not been a union delegate.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, including by children, and the government generally enforced these provisions effectively. There were no reports of forced labor during the year.

d. Prohibition of Child Labor and Minimum Age for Employment

DoL inspectors effectively enforced a ban on the employment of children under the age of 15 in hazardous industries such as manufacturing, mining, and forestry. Children under age 16 may not work between the hours of 10 p.m. and 6 a.m. By law children enrolled in school may not be employed, even outside school hours, if such employment would interfere with their education.

e. Acceptable Conditions of Work

In April the government increased the minimum hourly wage to NZ\$12.50 (approximately \$8.75). Combined with other regularly provided entitlements and welfare benefits for low-income earners, this wage generally was adequate to provide a decent standard of living for a worker and family. In addition, the new entrants' wage for 16- to 17-year-old workers was increased to NZ\$10 (\$7) for nonsupervisory workers with less than three months or 200 hours of employment. A majority of the work force earned more than the minimum wage.

A 40-hour workweek is traditional. There are legal limits regarding hours worked and premium pay for overtime work. The law does not provide specifically for a 24-hour rest period weekly; however, management and labor have accepted the practice, and it was the norm. The law provides for a minimum four-week annual paid vacation and 11 paid public holidays. Employees who work on a paid holiday are entitled to time and a half for that day and a day off with pay on another date. The armed forces are exempted from this benefit.

A new law went into effect on April 1 granting employees one paid 10-minute rest break during a two- to four-hour work period, one paid 10-minute rest break and one unpaid 30-minute meal break during a four- to six-hour work period, and two paid 10-minute rest breaks and one unpaid 30-minute meal break during a six- to eight-hour shift.

On March 1, the government passed legislation allowing companies with 19 or fewer employees to hire new workers for a trial period of up to 90 calendar days. Employers are permitted to dismiss new employees during this period without cause as long as the decision is not based upon illegal discrimination.

DoL is responsible for enforcement of laws governing work conditions. From July 2008 to June, DoL received 11,269 health- or safety-related employment complaints and opened 10,694 investigations. By the end of June, 6,214 of those investigations were complete. DoL received 2,593 miscellaneous employment complaints and completed 2,208 investigations of these cases by the end of June. Eighty percent of matters regarding employment relations were settled before or at mediation.

On July 27, the government announced Recognized Seasonal Employee policy changes to payroll deductions to increase transparency and make auditing easier. On November 30, the government made it mandatory for employers to provide health insurance for their seasonal workers.

Extensive laws and regulations govern health and safety issues. 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.

Workers have the legal right to strike over health and safety issues, as well as the right to withdraw from a dangerous work situation without jeopardy to continued employment. DoL inspectors effectively enforced safety and health rules, and they had the power to shut down equipment if necessary. The DoL normally investigated reports of unsafe or unhealthy working conditions within 24 hours of notification.

On July 20, the Supreme Court overturned a lower court decision in the case of a 60-year-old Air New Zealand pilot who had been downgraded from the rank of pilot in command to first officer because a foreign government's rules prohibited him from commanding a commercial aircraft on routes to the foreign country. The court found that incorrect legal precedent was applied; however, it ruled that age was a valid occupation qualification. The pilot then withdrew the case.