

New Zealand 2023 Human Rights Report

Executive Summary

There were no significant changes in the human rights situation in New Zealand during the year.

There were no credible reports of significant human rights abuses.

The government took credible steps to identify and punish officials who may have committed human rights abuses.

Section 1. Respect for the Integrity of the Person

a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings

There were no reports the government or its agents committed arbitrary or unlawful killings.

b. Disappearance

There were no reports of disappearances by or on behalf of government authorities.

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

The law prohibited such practices, and there were no credible reports government officials employed them.

Prison and Detention Center Conditions

Watchdog groups highlighted overcrowding, inadequate mental health treatment and treatment of prisoners at risk of self-harm, excessive restraint (including the abuse of solitary confinement), and prisoner-on-prisoner violence as systemic problems in prisons and detention facilities. The UN Committee against Torture, publishing its findings after in-person hearings in August, acknowledged positive government efforts to improve prison conditions and mental health services for detainees, but it raised concerns of persistent problems in the youth justice sector.

Administration: Inmates could make uncensored complaints to statutory inspectors, the ombudsman, and nongovernmental organizations (NGOs).

Independent Monitoring: The government permitted prison-monitoring visits by independent human rights observers. The law provided for specified rights of inspection, including by members of parliament and justices of the peace. The Office of the Ombudsman inspected prisons and mental health facilities to prevent cruel and abusive treatment, in line with

international standards and domestic laws, and reported to parliament annually on prison conditions. In June the ombudsman published seven “expectations for the conditions and treatment of people in prisons.” Information was publicly available on complaints and investigations, subject to the provisions of privacy legislation.

The ombudsman’s most recent inspections of Department of Corrections facilities and locked healthcare units throughout the country found no evidence of torture or other cruel, inhuman, or degrading treatment or punishment, but it did note concerns regarding inmate and patient health care, privacy, and lack of Maori cultural support.

d. Arbitrary Arrest or Detention

The law prohibited arbitrary arrest and detention and provided for the right of any person to challenge the lawfulness of their arrest or detention in court. The government observed these requirements.

Arrest Procedures and Treatment of Detainees

Police could arrest a suspect without a warrant if there was reasonable cause; however, they usually required a court-issued warrant. Police officers could enter premises without a warrant to arrest a person if they reasonably suspected the person committed a crime on the premises or if they found the person committing an offense and were in pursuit. Police

had to inform arrested persons “as soon as possible” of their legal rights and the grounds for their arrest.

After arresting and charging a suspect, police could release a suspect on bail until the first court appearance. Except for more serious offenses, such as assault or burglary, bail was normally granted and frequently did not require a deposit of money. Suspects had the right to appear “as soon as possible” before a judge for a determination of the legality of the arrest and detention. After the first court appearance, the judge typically granted bail unless there was a significant risk the suspect would flee, tamper with witnesses or evidence, or commit a crime while on bail. 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 provided for an independent judiciary, and the government respected judicial independence and impartiality.

Trial Procedures

The law provided for the right to a fair and public trial, and the judiciary generally enforced this right. In July the Supreme Court sat in a rare closed session to hear the appeal of a woman stripped of her passport over concerns she posed a terrorism threat to the security of a third country.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

f. Transnational Repression

Not applicable.

g. Property Seizure and Restitution

Not applicable.

h. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence

The law prohibited such actions, and there were no reports the government failed to respect these prohibitions.

Section 2. Respect for Civil Liberties

a. Freedom of Expression, Including for Members of the Press and Other Media

The constitution and laws provided for freedom of expression, including for members of the press and other media, and the government generally respected this right. An independent media, an effective judiciary, and a

functioning democratic political system combined to promote freedom of expression, including for media members.

In February the government abandoned proposals for hate speech legislation after commentators and opposition members of parliament expressed concern that changes, such as adding religion to categories already covered, including color, race, or ethnic and national origin, would prove difficult to define.

Internet Freedom

The government did not generally restrict or disrupt access to the internet or censor online content.

The government banned publication on the internet of information concerning the 2019 terrorist attack on mosques in Christchurch and the attacker's "manifesto."

b. Freedoms of Peaceful Assembly and Association

The law provided for the freedoms of peaceful assembly and association, and the government generally respected these rights.

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at <https://www.state.gov/religiousfreedomreport/>.

d. Freedom of Movement and the Right to Leave the Country

The law provided for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights.

e. Protection of Refugees

The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to refugees, asylum seekers, and other persons of concern. The country's Refugee Resettlement Strategy was reviewed annually.

Access to Asylum: The law provided for the granting of asylum or refugee status, and the government had an established system for providing protection to refugees. Refugees could arrive in the country in three ways: (1) through the UNHCR resettlement ("quota") program; (2) as asylum seekers submitting temporary "protection claims"; or (3) as family members reunified with refugees already living in the country.

Durable Solutions: Authorities granted refugees who arrived through the quota program – capped at 1,500 per year – permanent residence status, and they could apply for naturalization after five year's residence in the

country. When refugees arrived, they stayed at a central refugee resettlement center in Auckland for six weeks. According to the government, they also received settlement support for up to 12 months, including help with learning English, health, education, and employment, though opposition members of parliament claimed in May that refugees suffered from inadequate accommodation and financial hardship.

Temporary Protection: The country provided temporary protection to persons who were not qualified as refugees on arrival but who filed a “protection claim.” Advocacy groups were concerned asylum seekers outside the UN quota system did not receive the same level of governmental support as quota refugees, specifically in finding work.

Section 3. Freedom to Participate in the Political Process

The law provided citizens the ability to choose their government in free and fair periodic elections held by secret ballot and based on universal and equal suffrage.

Elections and Political Participation

Abuses or Irregularities in Recent Elections: National elections in 2023 were widely reported to be fair and free of abuses and irregularities.

Section 4. Corruption in Government

The law provided criminal penalties for corruption by officials, and the government generally implemented the law effectively. The Serious Fraud Office and police investigated corruption. Agencies such as the Office of the Controller and Auditor General, as well as the Office of the Ombudsman, independently reported on and investigated state-sector activities, acting as watchdogs for public-sector corruption. Only parliament could remove individuals designated as “officers of parliament” from their positions.

In late 2022 several donors to the opposition National Party were found guilty of breaching election finance laws and sentenced to community service. The donors appealed their convictions; and the case was open as of October.

For additional information concerning corruption in the country, please see the Department of State’s *Investment Climate Statement* for the country and the Department of State’s *International Narcotics Control Strategy Report*, which includes information on financial crimes.

Section 5. Governmental Posture Towards International and Nongovernmental Monitoring and Investigation of Alleged Abuses of Human Rights

Domestic and international human rights groups generally operated without government restriction to monitor or investigate human rights conditions or cases and publish their findings. Government officials were cooperative and responsive to the views of these groups.

Government Human Rights Bodies: The Ministry of Justice funded the Human Rights Commission (HRC), which operated as an independent agency without government interference.

The Office of the Ombudsman, responsible to parliament but independent of the government, investigated complaints regarding administrative acts, decisions, recommendations, and omissions of national and local government agencies; inspected prisons; and followed up on prisoner complaints. The office enjoyed government cooperation, operated without government or party interference, had adequate resources, and was considered effective. The ombudsman produced a wide variety of reports for the government that were publicly available.

The Department of Internal Affairs provided administrative assistance to significant public and governmental inquiries into, among other items,

human rights abuses. The only large-scale ongoing inquiry was an investigation into abuse in care, underway since early 2018.

Section 6. Discrimination and Societal Abuses

Women

Rape and Domestic Violence: The law criminalized rape of women and men, including spousal rape. The government enforced this law effectively. The maximum penalty was 20 years' imprisonment; however, preventive detention could occur in cases when the parole board ruled the prisoner posed a continuing threat to society.

According to the Organization for Economic Cooperation and Development, the country had a high rate of intimate partner violence against women. The most recent data available from the Ministry of Justice (2021-2022) showed convictions for sexual offenses increased slightly from the previous year, although the trend over the last decade was a significant decline. According to the ministry's most recent annual *Crime and Victims Survey* (November 2021-November 2022) published in June, approximately 2 percent of adults had experienced sexual violence in the previous 12 months; approximately the same as in previous years.

Domestic violence was a criminal offense. Police were responsive to reports of domestic violence, and the government enforced the law effectively.

Women were almost four times more likely than men to have experienced intimate partner violence.

The law defined family violence to reflect how controlling behavior could be used over time to frighten victims and undermine their autonomy; it provided principles to guide decision making and timely responses across agencies; and it allowed information sharing between agencies to increase survivors' safety.

Other Forms of Gender-based Violence or Harassment: The law prohibited sexual harassment. Employers were required to ensure their workplace was free of behaviors that were unwelcome or offensive, and the law provided for civil proceedings. Sexual contact induced by certain threats also carried a maximum prison sentence of 14 years. The government, through the HRC and police, effectively enforced the law.

Discrimination: The law provided the same legal status and rights for women and men, including under family, religious, personal status, labor, property, nationality, and inheritance laws. The government effectively enforced the law, although a wage gap persisted between men and women in the workplace.

Reproductive Rights: There were no reports of coerced abortion or involuntary sterilization on the part of government authorities.

The government provided access to health services, including emergency contraception and postexposure prophylaxis, for survivors of sexual violence.

In 2021 the Health Care Quality and Safety Commission (HCQSC) identified noteworthy racial disparities in the issuance of oral contraceptives, interpreted by the HCQSC in the context of women's inability to access primary healthcare due to cost.

Systemic Racial or Ethnic Violence and Discrimination

The law prohibited violence and discrimination against racial or ethnic minorities, and the government enforced these laws effectively.

In its most recent annual report (2021-2022), the HRC reported that most complaints of alleged unlawful discrimination received (outside the "disability" category) related to race, racial harassment, or racial disharmony. In 2022 an HRC report found that Pacific Islanders and Asians were disproportionately affected by bullying and harassment in the workplace.

Pacific Islanders constituted 8 percent of the population in the most recent national census (2018). They experienced some societal discrimination and had a higher-than-average rate of unemployment and among the lowest labor force participation of any ethnic group. Several government ministries, including the Ministry for Pacific Peoples and the Ministry of

Health, had programs to identify gaps in delivery of government services to Pacific Islanders and to promote their education, employment, entrepreneurship, culture, languages, and identity.

Individuals who identified as Asians made up 15 percent of the population and reported some societal discrimination. The Ministry for Ethnic Communities provided a range of services and products for marginalized ethnic communities.

Indigenous Peoples

Approximately 16.5 percent of the population in the 2018 census claimed descent from the Maori people. The government bestowed specific recognition and rights, enshrined in law, custom, and practice, on Maori persons based on the 1840 Treaty of Waitangi, the country's foundational document, which guaranteed autonomy, self-determination, sovereignty, and self-government to Maori persons.

The law prohibited discrimination against the Indigenous population, but Maori persons experienced some societal discrimination and disproportionately high numbers of Maori persons were on welfare rolls, in prison, among school dropouts, and in single-parent households. Maori persons had elevated infant mortality statistics. An August 2022 HRC report found that Maori individuals were disproportionately affected by bullying and harassment in the workplace. Maori persons had higher rates of

unemployment than non-Maori – 7.1 percent in June, above the country’s average of 3.6 percent – and a labor force participation rate of 70 percent, below the country’s average of 72.4 percent.

To redress historic violations by the government of the terms of the Treaty of Waitangi, the Waitangi Tribunal, a standing commission of inquiry, adjudicated claims by various Maori groups (*iwi*). The tribunal made recommendations on claims brought by Maori relating to legislation, policies, actions, or omissions of the government that were alleged to breach the promises made in the Treaty of Waitangi. The government continued active negotiations with almost all *iwi* that made claims.

In August the UN Committee against Torture called on the government to reduce the disproportionately high number of Maori persons in prisons, improve the conditions of persons in detention, and raise the age of criminal responsibility from 10 to 14, in line with the Convention Against Torture. Maori persons constituted 53 percent of the prison population and nearly 50 percent of persons serving community-based sentences.

Children

Child Abuse: The law defined and prohibited child abuse, and the government effectively enforced the law. The government promoted information sharing between the courts and health and child protection agencies to identify children at risk of abuse.

The law permitted the ministry for children to act quickly to ensure the safety of newborns at immediate risk of serious harm, notably from parental substance abuse, family violence, or medical neglect. While admissions to Care and Protection Residences run by the ministry declined, a disproportionately high percentage of children (approximately 60 percent) entering children's ministry homes were Maori. Children younger than age five made up 30 percent of all children entering into care.

A Royal Commission of Inquiry into Abuse in Care was ongoing as of December.

Child, Early, and Forced Marriage: The legal minimum age for marriage was 18 for both men and women, but children between 16 and 18 could marry with family-court approval. Marriages involving children younger than 18 were rare. Child welfare advocates believed parents forced a small number of marriages of children between the ages of 16 and 18.

Sexual Exploitation of Children: The law provided that any person who engaged in sexual conduct with a child younger than 16 – the minimum age for consensual sex – was liable to a maximum prison sentence of 10 years. The law made it an offense punishable by seven years' imprisonment to assist a child younger than 18 in providing commercial sexual services; to receive earnings from commercial sexual services provided by a child younger than 18; or to contract for commercial sexual services from, or be a client of, a child younger than 18. While these statutes covered the sexual

exploitation of children, the trafficking in persons statute required a demonstration of deception or coercion to constitute a child sex-trafficking offense.

Authorities could prosecute citizens who committed child sex offenses overseas, and they did so in cooperation with several foreign governments.

Government statistics reported 488 convictions in 2022-2023 for sexual offenses against children younger than age 16, an increase from the previous year, although the trend was broadly stable over the last decade.

The law prohibited child pornography and provided for a maximum 14 years' imprisonment and heavy fines if a person produced, imported, supplied, distributed, or possessed for supply, displays, or exhibits an objectionable publication. The Censorship Compliance Unit in the Department of Internal Affairs policed images of child sex abuse on the internet and prosecuted offenders.

Antisemitism

According to the 2018 census, the Jewish community numbered approximately 5,200. While antisemitic incidents were relatively rare, in June the New Zealand Jewish Council expressed concern over a rise in online antisemitic content, which “poses real danger” and “can create conditions which incite real violence.”

Trafficking in Persons

See the Department of State's *Trafficking in Persons Report* at

<https://www.state.gov/trafficking-in-persons-report/>.

Acts of Violence, Criminalization, and Other Abuses Based on Sexual Orientation, Gender Identity or Expression, or Sex Characteristics

Criminalization: The law did not criminalize consensual same-sex sexual conduct between individuals ages 16 and older.

Violence and Harassment: According to the Ministry of Justice's *Crime and Victims Survey* (November 2021 – November 2022), adults identifying as gay, lesbian, bisexual, or having other diverse sexualities had a higher than average likelihood of experiencing intimate partner violence and sexual violence. There were no reports that officials failed to investigate, prosecute, and punish those complicit in violence and abuses against lesbian, gay, bisexual, transgender, queer, or intersex (LGBTQI+) persons.

Discrimination: The law explicitly recognized LGBTQI+ couples and their families and granted them rights equal to the rights of other persons. Same-sex marriage was legal. The law prohibited abuse, discrimination, and acts of violence based on sexual orientation and gender identity, and the government enforced the law. An August 2022 HRC report found that

bisexual employees suffered disproportionately from bullying and harassment in the workplace. According to government body Employment New Zealand, “transgender people may be protected under the Human Rights Act 1993 from unlawful discrimination on the grounds of gender identity in the workplace but this has not been tested in New Zealand courts.”

Transgender persons experienced some societal discrimination, but according to media in June, the “vast majority of New Zealanders believe trans people should be protected from discrimination.”

Availability of Legal Gender Recognition: Individuals seeking to amend the sex recorded on their birth certificates needed to go to the family court and have medical treatment to physically conform with the sex they wanted listed on their birth certificate. The Births, Deaths, Marriages, and Relationships Registration Act of 2021 (not yet fully in force), however, introduced a self-identification process to amend the sex recorded on birth certificates that no longer required those steps.

Involuntary or Coercive Medical or Psychological Practices: The law prohibited performing conversion practices on anyone younger than age 18 and criminalized conversion practices carried out with the intention of changing or suppressing a person’s sexual orientation, gender identity, or gender expression. The law also allowed for civil redress for victims of

conversion practices. The HRC provided services to persons who experienced involuntary conversion practices.

Non-lifesaving surgical procedures on intersex children for the purpose of “normalizing” gender appearance were legal and occurred.

Restrictions of Freedom of Expression, Association, or Peaceful Assembly:

There were no reports of such restrictions.

Persons with Disabilities

Persons with disabilities could access education, health services, public buildings, and transportation on an equal basis with others. The law prohibited discrimination against persons with disabilities – whether physical, sensory, intellectual, or mental – unless such discrimination could be “demonstrably justified.” The government effectively enforced applicable laws.

Most school-age children with disabilities attended either schools dedicated to children with disabilities or mainstream schools. According to Statistics NZ, more than 30 percent of youth (aged 15-24) with disabilities were not in education, employment, or training, compared with only 10 percent of the general population. Persons with disabilities faced employment discrimination in hiring and access to the workplace. The unemployment rate for persons with a disability in June was 9 percent, more than twice that of persons without a disability. Unlawful discrimination on the grounds of

disability was the most common cause of complaints to the HRC in 2021-2022 (the most recent figures available).

Watchdog groups were concerned about compulsory assessments and treatments and the use of seclusion and restrictive practices in medical facilities, especially those involved with mental health services. Maori persons were significantly more likely to be subjected to these practices.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law provided for the right of workers to form and join independent unions of their choice without previous authorization or excessive requirements, to bargain collectively, and to conduct legal strikes, with some restrictions. The law prohibited antiunion discrimination. While the law did not require reinstatement of workers dismissed for union activity, courts could order this at their discretion.

Police had the right to freedom of association and the right to organize and bargain collectively, but sworn police officers (including all uniformed and plainclothes police but excluding clerical and support staff) did not have the right to strike or take any form of industrial action.

Contractors and self-employed persons were subject to occupational safety and health (OSH) laws, but not other employment-related laws. They could not join unions, bargain collectively, or conduct strikes.

Workers could only strike while negotiating a collective bargaining agreement or over matters of health and safety. An employer could employ another person to perform the work of a striking employee under strict conditions. Strikes by providers of essential services were subject to certain procedural requirements, including mandatory notice of three to 28 days, depending on the service involved. The list of essential services was broader than international standards on the definition of essential services.

To bargain collectively, unions had to be registered, independent, governed by democratic rules, and have a minimum of 15 members. Unions could not bargain collectively on social or political issues.

The government respected these rights and effectively enforced applicable laws without lengthy delays. Employment legislation placed a statutory duty on both unions and employers to bargain in good faith and entitled both employees and employers to engage in economic sanctions (strikes and lockouts) to support their bargaining claims. The law provided penalties for violations of freedom of association or collective bargaining protections that included fines commensurate with those applied to similar crimes. Penalties were regularly applied against violators. Cases were occasionally referred to the civil Employment Court, which heard and determined cases relating to

employment disputes. Employment Court cases included challenges to determinations of the Employment Relations Authority (a government-appointed tribunal that helped resolve employment relationship problems), questions regarding the interpretation of laws, and disputes over strikes and lockouts.

b. Prohibition of Forced or Compulsory Labor

See the Department of State's annual *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

c. Prohibition of Child Labor and Minimum Age for Employment

The law prohibited the worst forms of child labor and provided for a minimum age of employment, limitations on working hours, and OSH restrictions for children. By law children younger than age 16 could not work between 10 p.m. and 6 a.m. The law also stated children enrolled in school could not work, even outside school hours, if such employment could interfere with their education. The law banned employment of children younger than 15 in specific hazardous industries such as manufacturing, mining, and forestry.

Government inspectors effectively enforced these laws. The law outlined prison sentencing guidelines and fines for the most serious offenses.

Penalties were commensurate with those for similar crimes. Penalties were regularly applied against violators.

Small numbers of children ages 16 to 18 worked in hazardous situations, such as in agriculture; the law required them to be fully trained. Children younger than 15 could not drive a tractor or large vehicle, except children working in agriculture older than 12 and fully trained or in training, or if they lived on the property.

See the Department of Labor's *Findings on the Worst Forms of Child Labor* at <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/findings> for information on the Cook Islands, Niue, and Tokelau.

d. Discrimination (see section 6)

e. Acceptable Conditions of Work

Wage and Hour Laws: Income researchers frequently used 60 percent of the median household as the unofficial poverty level, and the minimum hourly wage was set above this. The wage was adjusted annually.

The law provided that work hours should be set in collective or individual agreements between employers and employees. Although a 40-hour workweek was traditional, employers and employees could contractually agree to a workweek of more than 40 hours. Overtime pay was negotiable.

Labor regulations did not define an absolute maximum number of overtime hours.

Occupational Safety and Health: The government established appropriate OSH standards and proactively investigated labor conditions. Extensive laws and regulations governed health and safety issues. Employers were obliged to provide a safe and healthy work environment, as they had primary responsibility for individuals' health and safety at work. The law allowed workers to refuse to perform work likely to cause serious harm and permitted legal recourse if the worker believed an employer penalized them as a result. The government also required employers to provide health insurance for seasonal workers.

Wage, Hour, and OSH Enforcement: The Ministry of Business, Innovation, and Employment enforced laws governing working conditions through subagencies such as the Labor Inspectorate, Employment NZ, and Worksafe, the official OSH authority. The number of inspectors was sufficient to enforce compliance. In cases of noncompliance with labor law, inspectors had the authority to make unannounced visits and to shut down equipment, levy fines, require restitution of wages, and revoke the licenses of offenders. Labor inspectors effectively enforced wages, hours, safety, and health rules in all sectors. Worksafe reported that 75 percent of surveyed employers changed their workplace practices following inspections. Convictions for violations of the OSH law, as well as for violations of the wages and hours

law, could result in fines, deportation of noncitizens, or imprisonment.

These penalties were commensurate with similar violations. Penalties were regularly applied against violators.

Employers who breached minimum employment standards for their migrant workers faced a set 12 month “stand-down” period during which they lost the ability to support migrant visa applications. As of September, 62 companies or employers were on the stand-down list.

The informal economy was approximately one tenth of GDP, and authorities enforced labor laws in this sector.