

# NEW ZEALAND 2020 HUMAN RIGHTS REPORT

## EXECUTIVE SUMMARY

New Zealand is a parliamentary democracy. In October 17 elections, the Labour Party led by Prime Minister Jacinda Ardern won an outright majority in parliament. The elections were considered free and fair.

The New Zealand Police, under the Ministry of Police, are responsible for internal security, and the armed forces, under the Ministry of Defence, are responsible for external security. Civilian authorities maintained effective control over the security forces. Members of the security forces did not commit any significant abuses.

There were no reports of significant human rights abuses.

The government had effective mechanisms to identify and prosecute officials who commit human rights abuses; there were no reports of such abuses.

### **Section 1. Respect for the Integrity of the Person, Including Freedom from:**

#### **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**

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

Impunity was not a significant problem in the security forces.

#### **Prison and Detention Center Conditions**

Watchdog groups highlighted overcrowding; inadequate mental health treatment and treatment of prisoners who risked self-harm; excessive restraint, including the abuse of solitary confinement; and prisoner-on-prisoner violence as systemic problems in prisons and detention facilities. Both the government and civil society groups highlighted the disproportionate rates of incarceration of indigenous peoples (see section 6, Indigenous People).

Physical Conditions: Persons age 17 or older who are accused of a crime are tried as adults and, if convicted, sent to adult prisons. Authorities held male prisoners younger than 17 in four separate detention facilities operated by the national child and youth welfare agency, Oranga Tamariki. There was no separate facility for juvenile female prisoners because there were very few such prisoners.

Watchdog groups criticized the penal system for overcrowding and for inadequate and inconsistent health care.

Suicide and suspected suicide rates in prisons were higher than in the general population.

Due to a lack of beds in secure youth residences, at times children have been detained in police cells.

In April media reported that due to COVID-19 pandemic-related social-distancing restrictions, many prisons had longer lockdown periods for prisoners. The independent Office of the Ombudsman, which has a statutory monitoring role, reported that the Department of Corrections had “discouraged” ombudsman staff from visiting prisons because of the risk of infection (see Independent Monitoring below).

After a second COVID-19 outbreak in August that mainly affected Maori and Pacific Islander communities in South Auckland, the government required everyone who tested positive for COVID-19 to stay at a government-managed isolation facility, rather than self-isolate at home. All isolation and quarantine facilities were international-standard hotels. Responding to a Maori rights activist’s accusations that the new rules were “paternalistic” and “racist,” the government said the change was made “for public health reasons...regardless of ethnicity, to keep families together.”

Administration: Inmates could make uncensored complaints to statutory inspectors, an ombudsperson, and nongovernmental organizations (NGOs). The Office of the Ombudsman reports to parliament annually on its findings about prison conditions.

Following a June change in legislation, prisoners serving sentences of less than three years are eligible to vote in general elections.

Independent Monitoring: The government permitted prison-monitoring visits by independent human rights observers. The law provides for specified rights of inspection, including by members of parliament and justices of the peace. Information was publicly available on complaints and investigations, subject to the provisions of privacy legislation. The Office of the Ombudsman inspects prisons and mental-health facilities to prevent cruel and inhuman treatment, in line with national standards and the law.

In April the ombudsman reported that the Department of Corrections had “discouraged” ombudsman staff from visiting prisons because of the risk of COVID-19 infection. The corrections minister ordered the department to facilitate statutory visits from the Office of the Ombudsman “where they could be done safely.” Also in April an NGO representative claimed the Corrections Department’s COVID-19 policies contravened the UN Standard Minimum Rules for the Treatment of Prisoners, under which any lockdowns longer than 22 hours a day without meaningful human contact are considered solitary confinement. The corrections minister stated that no prison operated a policy of locking the whole jail down for 23 hours a day.

#### **d. Arbitrary Arrest or Detention**

The law prohibits arbitrary arrest and detention and provides for the right of any person to challenge the lawfulness of his or her arrest or detention in court. The government observed these requirements.

#### **Arrest Procedures and Treatment of Detainees**

Police may arrest a suspect without a warrant if there is reasonable cause; however, a court-issued warrant is usually required. Police officers may enter premises without a warrant to arrest a person if they reasonably suspect the person committed a crime on the premises or if they found the person committing an

offense and are in pursuit. Police must inform arrested persons “as soon as possible” of their legal rights and the grounds for their arrest.

After arresting and charging a suspect, police may release the suspect on bail until the first court appearance. Except for more serious offenses, such as assault or burglary, bail is normally granted and frequently does not require a deposit of money. Suspects have 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 grants bail unless there is a significant risk the suspect would flee, tamper with witnesses or evidence, or commit a crime while on bail. Authorities granted family members timely access to detainees and allowed detainees prompt access to a lawyer of their choice and, if indigent, to a lawyer provided by the government.

Pretrial Detention: In June, 36.5 percent of prisoners held in custody were being held on remand while they awaited trial or sentencing. The number of prisoners held on remand has increased more than threefold in the past 20 years, primarily due to increased time required to complete cases and stricter bail restrictions. The median duration of prisoners’ time held in remand was between one and three months.

#### **e. Denial of Fair Public Trial**

The law provides for an independent judiciary, and the government respected judicial independence and impartiality.

#### **Trial Procedures**

The law provides for the right to a fair public trial, and an independent judiciary generally enforced this right.

Defendants enjoy a presumption of innocence. By law authorities must inform defendants promptly and in detail of the charges against them. Defendants have the right to a fair, timely, and public trial; to be present at their trial; to have counsel (the government provides a lawyer at public expense if the defendant cannot afford counsel); and to have adequate time and facilities to prepare a defense. Defendants receive free interpretation as necessary beginning from the moment they are charged through all their appeals. They have the right to confront witnesses against them, to present their own witnesses and evidence, and cannot be

compelled to testify or confess guilt. They have the right to appeal convictions. The law extends these rights to all defendants.

### **Political Prisoners and Detainees**

There were no reports of political prisoners or detainees.

### **Civil Judicial Procedures and Remedies**

Individuals and organizations may seek civil judicial remedies for human rights violations, including access to the Human Rights Review Tribunal. There are also administrative remedies for alleged wrongs through the Human Rights Commission and the Office of Human Rights Proceedings.

### **f. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence**

The law prohibits such actions, and there were no reports the government failed to respect these prohibitions. The government's chief privacy officer is responsible for supporting government agencies to meet their privacy responsibilities and improve their privacy practices.

In May media reported on two unauthorized trials of facial recognition systems by the police, using U.S. technology firm Clearview AI. The justice minister stated the trials were "not endorsed" and that neither senior police leadership nor the privacy commissioner had approved the trial. In August media reported that police, Immigration New Zealand, and the Internal Affairs Department had contracted U.S. firms DXC Technology and Dataworks Plus and Japanese company NEC on a range of automated biometric information systems.

## **Section 2. Respect for Civil Liberties, Including:**

### **a. Freedom of Expression, Including for the Press**

#### **Internet Freedom**

The government did not restrict or disrupt access to the internet or censor online content, and there were no credible reports the government monitored private online communications without appropriate legal authority.

After the March 2019 Christchurch mosque attacks, the government imposed an open-ended ban on publication via the internet and other means of the video footage of the attack and on the attacker's "manifesto."

### **Academic Freedom and Cultural Events**

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

### **b. Freedoms of Peaceful Assembly and Association**

The law provides 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**

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

In August a person challenged the legality of all COVID-19 pandemic-related health orders, including travel restrictions and "lockdowns" that commenced in March. The High Court judged the restrictions to be lawful but also found there had been a technical breach of the law during the initial phase of lockdown. The oral request for individuals to stay at home only became legal once written, which did not occur until nine days after the oral request.

### **e. Status and Treatment of Internally Displaced Persons**

Not applicable.

### **f. 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, stateless persons, and other persons of concern.

Access to Asylum: The law provides for the granting of asylum or refugee status, and the government has an established system for providing protection to refugees. Refugees can arrive in the country in three ways: 1) through the UNHCR resettlement program; 2) additional asylum seekers (also known as “protection claims,” see below) can be recognized as refugees; or 3) family members can be reunified with refugees already living in the country. The COVID-19 pandemic response affected scheduled intakes. In March, UNHCR and the International Organization for Migration suspended refugee resettlement departures to resettlement countries, including New Zealand. Refugee arrivals as part of the country’s Refugee Quota Program were on hold.

Some persons claiming asylum were held in prisons because of security concerns or uncertain identity. Asylum seekers detained in prisons are subject to general prison standards. In August, NGOs Amnesty International and the Asylum Seekers Support Trust claimed many asylum seekers were detained longer than the 28 days permitted by law “as a deterrent for asylum seekers.” The government detained these asylum seekers for an average of approximately seven months, according to the Asylum Seekers Support Trust.

Durable Solutions: The country accepts refugees under the UNHCR resettlement program. Refugees who arrive through this program are granted permanent residence status. When refugees arrive they stay at a central refugee resettlement center in Auckland for six weeks, where they receive settlement support for up to 12 months including help with English, health, education, and finding work.

Temporary Protection: The country provided temporary protection to persons who did not qualify as refugees under its UN quota commitment. Asylum seekers--persons who have fled from their own country because they fear persecution or harm--were recognized as refugees. Advocacy groups were concerned that the asylum seekers outside the UN quota system did not receive the same level of governmental support as quota refugees, specifically in finding employment.

### **Section 3. Freedom to Participate in the Political Process**

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

#### **Elections and Political Participation**

Recent Elections: In October 17 elections seen as free and fair, the Labour Party led by Prime Minister Jacinda Ardern won an outright majority in parliament. The election was delayed from September 19 by agreement of all political parties, due to a second COVID-19 outbreak in Auckland.

Participation of Women and Members of Minority Groups: No laws limit participation of women or members of minority groups in the political process, and they did participate. Following the October 17 election, parliament now has 48 percent women members, up from 38 percent at the 2017 election.

#### **Section 4. Corruption and Lack of Transparency in Government**

The law provides criminal penalties for corruption by officials, and the government generally implemented the law effectively. The Serious Fraud Office and police investigate corruption. There were no reports of government corruption during the year. In September the Serious Fraud Office filed a charge of “Obtaining by Deception” against two defendants in the New Zealand First Foundation, a funding mechanism for Deputy Prime Minister Winston Peters’ New Zealand First Party, for alleged campaign finance breaches.

Allegations of corruption can be reported anonymously, and the law protects employees who make a report relating to their employers. Agencies such as the Office of the Controller, the Office of the Auditor General, and the Office of the Ombudsman independently report on and investigate state sector activities, acting as watchdogs for public sector corruption. Only parliament has the ability to remove individuals, who are known as officers of parliament, from these civil service positions.

In June a former auditor general, removed by parliament in 2017 because of a “lack of confidence” in his judgment stemming from the alleged mishandling of a fraud case in his previous role as chief executive of the Ministry of Transport, lost his petition for his case to be re-examined. The New Zealand First Party issued a dissenting minority view on the petition, asserting the precedent established by the case “weakens our system of constitutional government of the protection of the tenure of the auditor-general as an Officer of Parliament.”

Financial Disclosure: All members of parliament, including all cabinet ministers, are required to submit an annual report of financial interests, including income and assets, which the government releases to the public. Career civil servants are not

subject to this requirement but are subject to ethics standards established by the State Services Commission.

### **Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Abuses 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.

Government Human Rights Bodies: The Ministry of Justice funded the Human Rights Commission, which operates as an independent agency without government interference. The commission had adequate staff and resources to perform its mission.

The Office of the Ombudsman, responsible to parliament but independent of the government, is charged with investigating complaints about administrative acts, decisions, recommendations, and omissions of national and local government agencies; inspecting prisons; and following 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 on its website. In April the ombudsman reported that the Department of Corrections had “discouraged” ombudsman staff from visiting prisons because of the risk of COVID-19 infection.

The law mandates that the Department of Internal Affairs provide administrative assistance to significant public and governmental inquiries into, among other items, human rights abuses.

### **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**

#### **Women**

Rape and Domestic Violence: The law criminalizes rape of women and men, including spousal rape. The government enforces this law. The maximum penalty is 20 years’ imprisonment; however, preventive detention may occur in cases where the parole board, during its annual review, believes the prisoner poses a continuing threat to society.

Rates of reported violence against women remained at high levels, according to the Organization for Economic Cooperation and Development. Ministry of Justice data showed convictions for sexual offenses declined from 2018-19 to 2019-20. According to the ministry's most recent annual *Crime and Victims Survey* (October 2018-September 2019) almost one in six adults (16 percent) experienced intimate partner violence and nearly a quarter (24 percent) experienced sexual violence at some point during their lives. Women were more than two times more likely than men to have experienced intimate partner violence and three times more likely to have experienced sexual violence.

In May the government announced budget increases to support New Zealand's family violence services, whose work, they said, "has been shown to be so essential throughout the COVID-19 lockdown... We know this crisis has increased pressure to New Zealand families and that more victims are isolated."

Domestic violence is a criminal offense. Police were responsive to reports of domestic violence. The law provides victims with 10 days of paid domestic violence leave. The government partially funded women's shelters, psychosocial services, rape crisis centers, sexual abuse counseling, family-violence victim support networks, and violence prevention services. Victim's programs include: a crisis response plan for the 72 hours after a sexual assault; programs to reduce harmful sexual behavior, offending, and reoffending; programs focusing on adults who pose a risk to children; and services for male survivors of sexual abuse.

The law defines family violence to reflect how controlling behavior can be used over time to frighten victims and undermine their autonomy. It also provides principles to guide decision making; sets timely responses; names 10 government agencies and a range of social service practitioners as family violence agencies; removes legal barriers to information sharing between agencies to increase victims' safety; and makes a range of changes to improve the effectiveness of protection orders and the duration of police safety orders.

Sexual Harassment: The law prohibits sexual harassment and provides for civil proceedings to be taken in cases of harassment in the workplace. The government, through the Human Rights Commission, effectively enforced the law. Sexual contact induced by certain threats may also fall under the criminal code, with a maximum prison sentence of 14 years. The Human Rights Commission published a guide on making a complaint about sexual harassment. The guide includes access to the commission's free, informal, and confidential service for questions or

complaints about sexual harassment and unlawful discrimination. The commission also published fact sheets on sexual harassment and made regular sexual harassment prevention training available to schools, businesses, and government departments.

In May the Civil Aviation Authority released a Transport Ministry-ordered independent review that found the authority's leadership failed to identify and address bullying and sexual harassment complaints.

In August an independent report criticized the Defence Force's *Operation Respect* program to combat sexual violence. The operation, launched in 2016 to tackle sexual violence, harassment, and bullying within the armed forces, had no permanent manager for more than three years. The Defence Force has no comprehensive work plan to respond to recommendations in the independent report.

Coercion in Population Control: There were no reports of coerced abortion or involuntary sterilization on the part of government authorities. Under the country's *Disability Action Plan 2019-2023*, the Ministry of Health examines the protective framework for the bodily integrity of children and adults with disabilities for nontherapeutic medical procedures. The Human Rights Commission expressed concern regarding informed consent and the legal permissibility of nontherapeutic medical procedures including sterilization.

Discrimination: The law provides for 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 the law prohibits discrimination in employment and requires equal rates of pay for equal or similar work, academics and watchdog groups argue that the lack of pay transparency hinders pursuing pay discrimination claims.

## **Children**

Birth Registration: Children born in the country attain citizenship if either parent is a citizen or legal permanent resident of the country. Children born outside the country attain citizenship if either parent is a citizen. The law requires notification of births by both parents as soon as "reasonably practicable," deemed as being within two months of the child's birth, and most births were registered within this period.

Child Abuse: The law defines and prohibits child abuse and the government effectively enforced the law. A disproportionately high percentage of children (around 70 percent) entering into homes run by Oranga Tamariki/Ministry for Children were Maori children. The law permits the Ministry for Children to act quickly to ensure the safety of newborn babies who are at immediate risk of serious harm, in particular from parental substance abuse, family violence, or medical neglect. Total entries to homes run by Oranga Tamariki have declined over the past decade. Children under one year old made up 23 percent of all children entering into care this year. In August the chief ombudsman reported that Oranga Tamariki had been using its powers under “interim court custody orders” too frequently to remove newborns from their parents.

The government promoted information sharing between the courts and health and child protection agencies to identify children at risk of abuse.

Child, Early, and Forced Marriage: The legal minimum age for marriage is 18 for both men and women, but persons between 16 and 18 may marry with family court approval. Marriages involving persons younger than 18 were rare. Watchdog groups believed that parents forced a small number of marriages of persons between the ages of 16 and 18.

Sexual Exploitation of Children: The law provides that any person who engages in sexual conduct with a person younger than 16--the minimum age for consensual sex--is liable to a maximum prison sentence of 10 years. Further, the law makes it an offense punishable by seven years’ imprisonment to assist a person younger than 18 in providing commercial sexual services; to receive earnings from commercial sexual services provided by a person younger than 18; or to contract for commercial sexual services from, or be a client of, a person younger than 18. While these statutes cover dealing in persons younger than 18 for sexual exploitation, the trafficking-in-persons statute requires a demonstration of deception or coercion to constitute a child sex-trafficking offense. The authorities may prosecute citizens who commit child sex offenses overseas, and they did so in cooperation with a number of foreign governments during the year.

Government statistics reported 382 convictions in 2019 for sexual offenses against children younger than age 16, down from an annual average of more than 450 convictions during the previous decade.

The law prohibits child pornography and provides for a maximum 14 years’ imprisonment as well as heavy fines if a person produces, imports, supplies,

distributes, possesses for supply, displays, or exhibits an objectionable publication. The Censorship Compliance Unit in the Department of Internal Affairs polices images of child sex abuse on the internet and prosecutes offenders.

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State's *Annual Report on International Parental Child Abduction* at <https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/for-providers/legal-reports-and-data/reported-cases.html>.

### **Anti-Semitism**

According to the 2018 census, the Jewish community numbered approximately 5,200, less than 0.1 percent of those declaring a religious affiliation. While anti-Semitic incidents were rare, in January a swastika was spray-painted outside the Temple Sinai Wellington Jewish Progressive Congregation, and anti-Semitic comments later appeared online.

### **Trafficking in Persons**

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

### **Persons with Disabilities**

The law prohibits discrimination against persons with disabilities--whether physical, sensory, intellectual, or mental--unless such discrimination can 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. The unemployment rate for persons with a disability in 2019 was more than twice that of persons without a disability. Disability was the most cited ground in complaints of alleged unlawful discrimination to the Human Rights Commission in 2019.

The Human Rights Commission and the Office for Disability Issues worked to protect and promote the rights of persons with disabilities. Both the Human Rights Commission and the Mental Health Commission addressed mental disabilities in their antidiscrimination efforts. 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.

In August the ombudsman urged the government to fix “serious and persistent” problems at mental health units, where seclusion facilities and intensive care rooms were being used as bedrooms due to capacity issues; he stated this amounts to cruel or inhuman treatment. Previous ombudsman reports recommended such practices should stop.

In August the ombudsman published results of preliminary inspections of six elder-care facilities, undertaken “to ensure that measures taken to mitigate COVID-19 were not having a detrimental impact on the treatment and conditions of [elderly] residents.” The report was broadly positive but made four recommendations across two facilities to improve practices and 21 suggestions for improvement across all six of the facilities inspected. There were an estimated 5,000 elderly residents in private and public secure dementia units and psychogeriatric units.

Approximately 20 percent of eligible voters had a disability and faced obstacles to exercising their voting rights. The Electoral Commission has a statutory obligation to administer the electoral system impartially and seeks to reduce barriers to participation by developing processes that enable citizens with disabilities to access electoral services fully. The commission’s *Access 2020 Disability Strategy* attempted to “identify and reduce barriers that disabled people may encounter when enrolling and voting at elections.”

### **Members of National/Racial/Ethnic Minority Groups**

Pacific Islanders comprised 8 percent of the population in 2018. They experienced some societal discrimination and had higher-than-average rates of unemployment (6.4 percent) and among the lowest labor force participation (64 percent) of any ethnic group.

Several government ministries, such as 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. The Office of Ethnic Affairs within the Department of Internal Affairs focused on improving dialogue and understanding about minority communities among the wider population.

Asians, who comprised 15 percent of the population, reported some societal discrimination. In its 2019 annual report, the Human Rights Commission stated that more than 30 percent of inquiries and complaints of alleged unlawful discrimination raised with the commission related to race, racial harassment, or racial disharmony. In May the commission said it had received race-based complaints and inquiries related to the COVID-19 pandemic. It noted a rise in bullying and harassment of persons of Chinese and Asian descent. The commission launched a website to help persons understand their rights during the pandemic.

In August the race relations commissioner rebuked a South Island regional council chairman who publicly referred to COVID-19 as the “Chinese virus.” The council chairman stood by his comments, saying anyone who believes the term “Chinese virus” to be racist needs to stop “being so bloody precious...It’s not racist at all, we all know where it started.”

In July, Xi Weigo and Wang Lecheng, members of the country’s Chinese dissident community, were killed in a car crash; a third activist, Hongming (Freeman) Yu, was seriously injured. The three were part of a group of eight Chinese activists traveling to parliament to protest the Chinese Communist Party’s influence and interference in New Zealand and to deliver a petition calling on the government to place further focus on Chinese state political interference in the country. Several government agencies were investigating but have not announced any definitive conclusions. The fact that the Chinese diaspora community believed that agents from or affiliated with the People’s Republic of China caused this accident and other acts of intimidation against the Chinese and Uighur diaspora in New Zealand demonstrated a clear concern about interference by outside actors.

### **Indigenous People**

Approximately 16.5 percent of the population claims descent from the indigenous Maori group. The government bestows specific recognition and rights, enshrined in law, custom, and practice, to Maori persons. These rights derive from the 1840 Treaty of Waitangi, the country’s founding document, which guarantees autonomy, self-determination, sovereignty, and self-government to Maori persons.

The law prohibits discrimination against the indigenous population, but there were disproportionately high numbers of Maori persons on unemployment and welfare rolls, in prison, among school dropouts, and in single-parent households. Maori persons have elevated infant mortality statistics. Maori persons experienced some

societal discrimination and had the highest rates of unemployment--6.7 percent, above the country's average of 3.9 percent--and a labor force participation rate of 62 percent, below the country's average of 69 percent.

To redress historic violations by the government of the terms of the Treaty of Waitangi, a multiyear process (the Waitangi Tribunal, a standing commission of inquiry) established in 1975 adjudicated claims by various Maori groups (*iwi*). The tribunal makes recommendations on claims brought by Maori relating to legislation, policies, actions, or omissions of the government that are alleged to breach the promises made in the Treaty of Waitangi. The government continued active negotiations with almost all *iwi* that made claims.

Maori persons comprised 52 percent of the prison population and 46 percent of persons serving community-based sentences. In 2019 the corrections minister stated his "top priority has been to address the significant over-representation of Maori in prisons and on community sentences and orders." He announced the launch of *Hokai Rangi*, a five-year strategy to reduce the number of Maori persons in prison to 16 percent. The strategy, codesigned with the Maori community, aims to improve rehabilitation and reintegration outcomes.

### **Acts of Violence, Criminalization, and Other Abuses Based on Sexual Orientation and Gender Identity**

The law does not criminalize consensual same-sex sexual conduct between adults older than 16. The law prohibits abuse, discrimination, and acts of violence based on sexual orientation and gender identity, and the government enforced the law. According to the Ministry of Justice's most recent *Crime and Victims Survey* (October 2018-September 2019), gay, lesbian, or bisexual adults had more than twice the average likelihood of experiencing intimate partner violence and sexual violence.

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

The law provides 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 prohibits antiunion discrimination. While the law does not require reinstatement of workers dismissed for union activity, courts may order this at their discretion.

Police have 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) do not have the right to strike or take any form of industrial action.

Contractors are not covered by most employment-related laws (excluding health and safety laws) and cannot join unions, bargain collectively, or conduct strike action.

Workers may strike while negotiating the right to a collective bargaining agreement or over matters of health and safety. Strikes by providers of essential services are 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 must be registered, independent, governed by democratic rules, and have a minimum of 15 members. Unions may not bargain collectively on social or political issues.

The government respected these rights and effectively enforced applicable laws without lengthy delays. The law provides penalties for violations of freedom of association or collective bargaining protections and includes fines commensurate with similar crimes. Cases were occasionally referred to the civil employment court.

## **b. Prohibition of Forced or Compulsory Labor**

The law prohibits and criminalizes all forms of forced labor. The government's efforts to enforce the law were not always effective. Penalties were commensurate with similar crimes. Fines can be imposed for labor violations that may be indicators of forced labor such as underpayment of wages and excessively long working hours. The government continued to pursue convictions under forced labor and trafficking laws. It did not initiate any new trafficking prosecutions but secured two trafficking convictions within the reporting period.

In July Joseph Matamata, a horticultural contractor, was sentenced to 11 years' imprisonment after being found guilty of slavery and trafficking-in-persons charges in a case with 13 identified victims. Both the government and Matamata

signaled they would appeal the sentence. Although this represents the longest term of imprisonment sentenced under the trafficking statute, the government claimed the judge's sentence was "manifestly inadequate" and that it would appeal on the basis that the judge failed to impose a nonparole period of half the prison sentence. Matamata's appeal will question whether the terms "slavery" and "human trafficking" were correctly defined during the five-week trial. A date for the review in the Court of Appeal has not yet been set.

Recruitment agencies that recruit workers from abroad must utilize a licensed immigration adviser. The Immigration Advisers Authority, an independent body, promotes and protects the interests of individuals receiving immigration advice. It licenses individuals deemed fit and competent to give immigration advice; maintains standards and a code of conduct for immigration advisers; investigates individuals giving immigration advice without a license; and receives complaints from persons who received poor immigration advice.

The government continued partnerships with foreign governments during the year to better monitor and regulate the recruitment of foreign migrant workers. According to the government, the aim of these partnerships was to reduce the risk of exploitation by providing better information to employers on recruitment and compliance.

Media reports during the year suggested migrant workers were vulnerable to forced labor in sectors including horticulture, retail, agriculture, construction, hospitality, and domestic service. Reports stated that some migrant workers from India, Bangladesh, and China, among other countries, were charged excessive and escalating recruitment fees, experienced unjustified salary deductions, nonpayment or underpayment of wages, excessively long working hours, and restrictions on their movement. Some had their passports confiscated and contracts altered improperly. Victims were often deterred from filing complaints out of fear of jeopardizing their visa status.

In July the government stated that COVID-19 travel restrictions, which prevented many migrant workers in the country from returning home, had made migrant workers vulnerable to workplace exploitation, including forced labor.

Also see the Department of State's *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 prohibits the worst forms of child labor and provides for a minimum age of employment, limitations on working hours, and occupational safety and health restrictions for children. By law children younger than 16 may not work between 10 p.m. and 6 a.m. The law also states that children enrolled in school may not work, even outside school hours, if such employment would interfere with their education. The law bans employment of children younger than 15 in specific hazardous industries such as manufacturing, mining, and forestry.

Small numbers of children ages 16 to 18 worked in hazardous situations, such as in agriculture: The law requires them to be fully trained. Children younger than 15 cannot drive a tractor or large vehicle, except children working in agriculture if they are older than 12 and are fully trained or are being trained, or if they live on the property. Concerns remained about the commercial sexual exploitation of children (see section 6, Children).

Government inspectors effectively enforced these laws. The law outlines prison sentencing guidelines and fines for the most serious offenses. Penalties were commensurate with similar crimes.

Also 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 with Respect to Employment and Occupation**

The law prohibits discrimination with respect to employment and occupation on the grounds of age, sex (gender) or sexual orientation; marital or relationship status; religious or ethical beliefs; skin color, race, ethnicity or country of origin; disability, impairment or illness; political opinions; and employment status. The government effectively enforced these prohibitions, and penalties were commensurate with laws related to civil rights.

The Human Rights Commission has an equal opportunity employment team that focuses on workplace gender-related problems. This team regularly surveyed pay scales, conducted a census of women in leadership roles, and engaged public and private employers to promote compensation equality. The Office of Ethnic Affairs continued to take measures to promote ethnic diversity in occupation and employment.

According to the New Zealand Council of Trade Unions (NZCTU), Maori and Pacific Island persons--and Maori and Pacific Island women in particular--remained disadvantaged compared with the general population in terms of conditions of employment and wages. According to the NZCTU, across all sectors, the female-male gender pay imbalance in late 2019 was minus 12 per cent for the population as a whole, minus 22 per cent for Maori women, and minus 25.5 per cent for Pacific Island women.

#### **e. Acceptable Conditions of Work**

The minimum hourly wage was above the amount--60 percent of the median household income--that researchers frequently used as an unofficial poverty level.

The law provides that work hours should be set in collective or individual agreements between employers and employees. Although a 40-hour workweek is traditional, employer and employees may contractually agree to a workweek of more than 40 hours. Labor regulations do not define an absolute maximum number of overtime hours.

The government proactively investigated labor conditions. In cases of noncompliance with labor law, inspectors levied fines, required restitution of wages to workers, and revoked licenses of offenders. The Ministry of Business, Innovation, and Employment enforces laws governing working conditions, including wages and hours. The number of inspectors was sufficient to deter violations. In particular, employers who have breached minimum employment standards with regard to vulnerable migrant workers face a set “stand-down” period where they lose the ability to support migrant visa applications. As of October, 45 companies or employers were on the stand-down list.

Extensive laws and regulations govern health and safety issues. Employers are obliged to provide a safe and healthy work environment, and have primary responsibility for individual’s health and safety at work. The government requires employers to provide health insurance for their seasonal workers. The law allows workers to refuse to perform work likely to cause serious harm and permits legal recourse if the worker believes an employer penalized them as a result.

Inspectors from WorkSafe, the country’s official workplace safety agency, effectively enforced safety and health rules in all sectors including the informal economy, and they have the power to shut down equipment if necessary. WorkSafe reported that 75 percent of surveyed employers changed their workplace

practices following its inspections. Convictions for violations of the occupational health and safety law as well as for violations of the wages and hours law can result in fines, deportation of noncitizens, or imprisonment. These penalties are commensurate with similar violations.

As of October the country had 40 workplace-related fatalities; in 2019 there were 108. In late 2019, after WorkSafe started to include police, boating, transport, and aviation data in their analyses, the historical number of annual workplace fatalities rose sharply. The most dangerous sectors were categorized by WorkSafe as “arts and recreation” followed by “agriculture.” Consequently, WorkSafe revised the focus of its investigations so that transport, warehousing, construction, agriculture, forestry, fishing, and postal work are now identified as the country’s most dangerous sectors.