

Access to Asylum: The law provides for granting 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 government’s COVID-19 pandemic response reduced scheduled intakes.

Refoulement: In April the Supreme Court rejected an appeal against the extradition of a Korean-New Zealand national to the People’s Republic of China to face murder charges. The decision was criticized by human rights groups including Amnesty International, and the deportee’s lawyers claimed it was “an appalling human rights decision watering down the protections against torture and fair trial.” The final decision on extradition rests with the minister of justice and was pending as of October.

Durable Solutions: Refugees who arrive through this program are granted permanent residence status and after five year’s residence in the country, they may apply for naturalization. When refugees arrive, they stay at a central refugee resettlement center in Auckland for six weeks. According to the government, they also receive settlement support for up to 12 months, including help with English, health, education, and employment.

Temporary Protection: The country provided temporary protection to persons who were not qualified as refugees on arrival but who filed a “protection claim.” Given COVID-19-related international travel restrictions, few such persons arrived during the year. Advocacy groups were concerned that asylum seekers outside the UN quota system did not receive the same level of governmental support as quota refugees, specifically in finding work.

Due to COVID-19-related border restrictions, unlike in prior years, no one claiming asylum was held in prison because of security concerns or uncertain identity. NGOs and the Green Party claimed that some detained asylum seekers in prior years were held in prison longer than permitted by law and that some had been assaulted or attempted suicide. In response, the government commissioned an independent review which released its report in May, which found that “the

practice of long-term detention of refugee claimants in corrections facilities is wrong, at every level.” The government accepted these findings.

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 2020 elections seen as free and fair, the Labour Party led by Prime Minister Jacinda Ardern won an outright majority in parliament.

Participation of Women and Members of Minority Groups: No laws limit participation of women or members of historically marginalized groups in the political process, and they did participate. As of October, for the first time, women outnumbered men in parliament, which included 60 women and 59 men.

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. 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 and 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 can remove individuals designated as “officers of parliament” from their positions.

Several investigations into alleged corruption at the national and local levels were underway. In April both the ruling Labour Party and opposition National Party were charged by the Serious Fraud Office with election donation irregularities involving the same China-born New Zealand donors. The trial at the High Court in Auckland continued as of October 1.

While the government claimed that organized schemes “to exploit the refugee and protection system, were relatively uncommon in New Zealand,” in September an interpreter working for Immigration New Zealand was charged with “knowingly supplying false or misleading information” in the cases of more than 150 applicants from Malaysia and Indonesia being processed by its Refugee Status Unit. As of October, the case was pending.

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

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 HRC, which operates as an independent agency without government interference. Responding to calls from the commission of inquiry following the Christchurch attacks, the government increased the HRC’s budget substantially; an additional 5.49 million New Zealand dollars (\$3.38 million) was budgeted to strengthen its capacity to respond to hate speech, racism, religious intolerance, and discrimination.

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.

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. The only large-scale ongoing inquiry was an investigation into abuse in care, underway since early 2018 (see section 6,

Children).

Section 6. Discrimination and Societal Abuses

Women

Rape and Domestic Violence: The law criminalizes rape of women and men, including spousal rape. The government enforced this law effectively. 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.

In the Organization for Economic Cooperation and Development, the country has a high rate of intimate partner violence against women. The most recent data available from the Ministry of Justice (2021-22) 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 2020-November 2021) published in June, approximately 2 percent of adults experienced sexual violence in the previous 12 months; this figure did not change significantly from previous years. More than 75 percent of all sexual assaults were against women, and women were three times more likely than men to have experienced sexual violence. Approximately 35 percent of women experienced sexual assault in their lifetime. The report stated that "large proportions of both sexual assaults and offenses by family members are not reported to the Police."

Domestic violence is 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 provides survivors with 10 days of paid domestic violence leave. The government partially funded women's shelters, psychosocial services, rape crisis centers, sexual abuse counseling, violence prevention services, and family-violence victim support networks. Survivor's programs included: 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 female and 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; provides principles to guide decision making and timely responses across agencies; and allows information sharing between agencies to increase survivors' safety.

Sexual Harassment: The law prohibits sexual harassment. Employers are required to ensure their workplace is free of behaviors that are unwelcome or offensive and provides for civil proceedings. Sexual contact induced by certain threats also carries a maximum prison sentence of 14 years. The government, through the HRC, effectively enforced the law.

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

The government provides access to health services, including emergency contraception, for survivors of sexual violence.

In 2021 the Health Care Quality and Safety Commission identified noteworthy racial disparities in the issuance of oral contraceptives.

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 a wage gap persists between men and women in the workplace (see section 7.d.).

Systemic Racial or Ethnic Violence and Discrimination

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

In its most recent annual report (2020-21), the HRC stated that the majority of complaints of alleged unlawful discrimination raised with it related to race, racial harassment, or racial disharmony.

Pacific Islanders were 8 percent of the population in the most recent national census (2018). They experienced some societal discrimination and had higher-than-average rates of unemployment and among the lowest labor force

participation of any ethnic group (see section 7.d.). 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.

Asians, who were 15 percent of the population, reported some societal discrimination. During the COVID-19 pandemic the HRC launched a website to help Asian persons understand their rights, after it noted a rise in bullying and harassment of persons of Asian descent. The Ministry for Ethnic Communities, created in 2021 to promote diversity and improve minority communities' social inclusion and economic outcomes, provided a range of services and products for marginalized ethnic communities.

In February a verbal and physical assault on a Muslim student at the Otago Girls' High School, which was filmed and circulated widely on social media, led to the expulsion of two students. In March the University of Otago published a report acknowledging "serious and confronting" instances of systemic racism within the institution.

Indigenous Peoples

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

The law prohibits 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 have elevated infant mortality statistics. Maori persons also had higher rates of unemployment than non-Maori – 5.5 percent in June, above the country's average of 3.3 percent – and a labor force participation rate of 69 percent, below the country's average of 71.3 percent (see

section 7.d.).

To redress historic violations by the government of the terms of the Treaty of Waitangi, the Waitangi Tribunal, a standing commission of inquiry, adjudicates 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 were 53 percent of the prison population and nearly 50 percent of persons serving community-based sentences. Prisoners' rights activists continued to question the progress of *Hokai Rangī*, a five-year strategy launched in 2019 by the corrections minister aimed at reducing the number of Maori persons in prison.

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

The law permits 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 have declined over the past decade, 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.

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. The NGO Tahiri Justice Center 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. During a court case in August, however, an offender who was found guilty of 33 charges of sexual abuse against two girls younger than 16, claimed one of the girls was a consenting partner. The claim highlighted a loophole allowing consent as a legal defense available to those charged with statutory rape.

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 several foreign governments.

Government statistics reported 407 convictions in 2021 for sexual offenses against children younger than age 16, an increase on the previous year, although the trend has been broadly stable over the last 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.

Institutionalized Children: In 2021 inspectors from the Office of the Children's Commissioner reported hearing "serious allegations" that staff at the Ministry for

Children Care and Protection Residences bullied children and used excessive force, including inappropriate restraint techniques and isolation. After investigating, in March the commissioner's report stated there was not enough evidence to prove or disprove the allegations.

On August 24 parliament adopted a law for the oversight of the Children's Ministry and the Children and Young People's Commission. The new legislation replaces the children's commissioner with a board of representatives to monitor the ministry. Critics claimed it would enshrine state immunity from legal liability in individual cases. To prepare for the legislation and an expected increase in complaints, in August the Office of the Ombudsman set up a Children in Care Complaints Team.

In August the government announced that work had begun on three of the team's priority recommendations: speeding up compensation payments for claimants; a new confidential national listening service; and easier access for survivors to records of their time in care.

Antisemitism

According to the 2018 census, the Jewish community numbered approximately 5,200. While antisemitic incidents remained relatively rare, in March the New Zealand Jewish Council published its *Survey of Antisemitism in New Zealand 2021*, which noted "a sharp rise in the number of reported antisemitic incidents in the past few years." In June the 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 does not criminalize consensual same-sex sexual conduct between individuals older than 16.

Violence against LGBTQI+ Persons: According to the Ministry of Justice’s *Crime and Victims Survey* (November 2020-November 2021), adults identifying as gay, lesbian, bisexual, or having other diverse sexualities had more than twice the average likelihood of experiencing intimate partner violence and sexual violence.

Discrimination: The law prohibits abuse, discrimination, and acts of violence based on sexual orientation and gender identity, and the government enforced the law.

Availability of Legal Gender Recognition: Individuals seeking to amend the sex recorded on their birth certificates must go to the Family Court or have medical treatment to physically conform with the sex they want listed on their birth certificate. The Births, Deaths, Marriages, and Relationships Registration Act of 2021 (scheduled to enter into effect in 2023) would introduce a self-identification process to amend the sex recorded on birth certificates.

Involuntary or Coercive Medical or Psychological Practices Specifically

Targeting LGBTQI+ Individuals: In February parliament enacted the Conversion Practices Prohibition Legislation Act. It prohibits conversion practices from being performed on anyone younger than 18 and criminalizes causing serious harm by performing a conversion practice done with the intention of changing or suppressing a person’s sexual orientation, gender identity, or gender expression. The act also allows for civil redress for victims of conversion practices.

Non-lifesaving surgical procedures on intersex children for the purpose of “normalizing” gender appearance are legal in the country and occur. In March the government allocated more than 2.5 million New Zealand dollars (\$1.54 million) to introduce a new human rights-based approach to medical care for intersex youth, aimed at improving support and “preventing unnecessary medical interventions from occurring.”

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

There were no reports of such restrictions.

Persons with Disabilities

Persons with disabilities can access education, health services, public buildings, and transportation on an equal basis with others. 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. 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. The unemployment rate for persons with a disability in June was 8 percent, twice that of persons without a disability. Unlawful discrimination on the grounds of disability was the second most cited cause of complaints to the HRC in 2020-21 (the most recent figures available) (see section 7.d.).

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

Workers may only strike while negotiating a collective bargaining agreement or over matters of health and safety. An employer may employ another person to perform the work of a striking employee under strict conditions. 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. Employment legislation places a statutory duty on both unions and employers to bargain in good faith and entitles both employees and employers to engage in economic sanctions (strikes and lockouts) to support their bargaining claims. The law provides penalties for violations of freedom of association or collective bargaining protections that include fines commensurate with those applied to similar crimes. Penalties were regularly applied against violators. Cases were occasionally referred to the civil Employment Court, which hears and determines cases relating to employment disputes. Employment Court cases include challenges to determinations of the Employment Relations Authority (a government-appointed Tribunal which helps to resolve employment relationship problems), questions of interpretation of law, and disputes over strikes and lockouts.

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. 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 did not initiate any forced labor prosecutions.

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 believe they received poor immigration advice.

Media reports suggested migrant workers were particularly vulnerable to forced labor in sectors including horticulture, agriculture, retail, construction, hospitality, and domestic service. Media reports stated that some migrant workers from South and East Asia 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. Despite laws intended to address worker exploitation in the fisheries industry, media reports suggested abuses persisted.

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 OSH 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.

Government inspectors effectively enforced these laws. The law outlines 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 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. The commercial sexual exploitation of children remained a problem, and the government convicted 407 perpetrators for sexual offenses against children younger than 16 in the year to October (see section 6, Children).

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 law prohibiting discrimination does not specifically address refugee or stateless status. The government effectively enforced these prohibitions, and penalties were commensurate with laws related to civil rights. Penalties were regularly applied against violators.

The HRC had an equal opportunity employment team that focused 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 Ministry for Ethnic Communities promoted ethnic diversity in employment.

Although the law prohibits discrimination in employment and requires equal rates of pay for equal or similar work, the Ministry for Women identified a gender pay gap of 9.1 percent between women's and men's hourly pay; in public service the gap was 8.6 percent. Academics and watchdog groups argued that the lack of pay transparency hindered pursuing pay discrimination claims. According to the New

Zealand Council of Trade Unions, Maori and Pacific Island persons – women in particular – remained disadvantaged compared with the general population in terms of conditions of employment and wages. The council reported that Pacific Island women were paid 22 to 25 percent less than non-Maori women. In July the HRC launched a Pacific Pay Gap Inquiry, observing that “the bulk of the Pacific Pay Gap can’t be explained and is at least partly due to invisible barriers like racism, unconscious bias, and workplace discriminatory practices.”

In August an HRC report found that Maori, Pacific Islanders, and Asians, as well as disabled and bisexual employees, were disproportionately affected by bullying and harassment in the workplace, and overall, 15 percent of workers reported being “racially harassed” in their working life (see section 6).

Persons with disabilities faced employment discrimination in hiring and access to the workplace. The unemployment rate for persons with disabilities was more than twice the national average (see section 6).

e. Acceptable Conditions of Work

Wage and Hour Laws: The minimum hourly wage is set above the amount – 60 percent of the median household income – those researchers frequently used as an unofficial poverty level. The wage is adjusted annually.

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. Overtime pay is negotiable. Labor regulations do 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 govern health and safety issues. Employers are obliged to provide a safe and healthy work environment; they have primary responsibility for individuals’ health and safety at work. 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. The government also required employers to provide health insurance for their 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 have the authority to make unannounced visits and to shut down equipment, levy fines, require restitution of wages to workers, and revoke licenses of offenders. Labor inspectors effectively enforced wages, hours, safety, and health rules in all sectors, including the informal economy. 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 can result in fines, deportation of noncitizens, or imprisonment. These penalties are commensurate with similar violations. Penalties were regularly applied against violators.

Employers who have breached minimum employment standards regarding vulnerable migrant workers face a set “stand-down” period when they lose the ability to support migrant visa applications for at least 12 months. As of September, 47 companies or employers were on the stand-down list.

There were 39,000 serious work-related injury claims in 2021, an increase of 1,100 over 2020. The industries with the highest incidence rate of work-related injury claims were agriculture/forestry/fisheries, manufacturing, and construction. Between January and August, the country had 23 workplace-related fatalities (excluding occupational disease). WorkSafe categorized agriculture, transport and warehousing, and construction as the most dangerous sectors.