

NEW ZEALAND

EXECUTIVE SUMMARY

New Zealand is a parliamentary democracy. Citizens choose their representatives in free and fair multiparty elections, most recently held on November 26, when the National Party won 59 parliamentary seats and formed a minority coalition government with John Key as prime minister. Security forces reported to civilian authorities.

There were no reports of widespread human rights problems, but indigenous persons disproportionately experienced societal problems and ethnic minority individuals experienced societal discrimination. There also were allegations during the year of labor abuses of crewmembers on board foreign chartered vessels fishing in the country's Exclusive Economic Zone (EEZ).

Violence against women also was a problem.

The government took steps to prosecute officials who committed abuses.

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

a. Arbitrary or Unlawful Deprivation of Life

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

b. Disappearance

There were no reports of politically motivated disappearances.

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

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

Prison and Detention Center Conditions

Prison and detention center conditions generally met international standards, including availability of potable water, and the government permitted monitoring visits by independent human rights observers.

On May 20, three men were convicted of murder in the killing of a fellow prisoner at Auckland Prison in 2009. They were sentenced to life imprisonment on December 16. There have been no prison inmate deaths since this occurrence.

At year's end the prison population was 8,378. Of these, 493 were female, 373 were between the ages of 15 and 19, and 4,273 (approximately half) were of Maori descent.

Persons accused of a crime who are 17 years of age or older are tried as adults and, if convicted, sent to adult prisons. Prisoners younger than 17 are managed in residential facilities operated by the national Child and Youth Welfare Agency.

Authorities allow prisoners at least one personal visit each week for a minimum of 30 minutes, permit religious observance, and allow inmates to make uncensored complaints to statutory inspectors or the ombudsmen. The Ombudsmen Office reports to Parliament annually on its findings. The law provides for specified rights of inspection, including those by members of Parliament (MPs) and justices of the peace, and information was publicly available on complaints and investigations, subject to the provisions of privacy legislation.

The law requires prison facilities to be inspected to ensure that they meet minimum standards, and improvements were made when deficiencies were identified.

d. Arbitrary Arrest or Detention

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

Role of the Police and Security Apparatus

The New Zealand Police is responsible for internal security, and the armed forces, under the Ministry of Defense, are responsible for external security. Civilian authorities maintained effective control over the security forces, and the government has effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving the security forces during the year.

Arrest Procedures and Treatment While in Detention

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

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

e. Denial of Fair Public Trial

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

Trial Procedures

The law provides for the right to a fair public trial by jury, and an independent judiciary generally enforced this right. Defendants enjoy a presumption of innocence and the right to counsel. They also have the right to present, confront, and question witnesses; access government-held evidence; and appeal convictions. A lawyer is provided at public expense if the defendant cannot afford counsel.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

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 (HRC) and the Office of Human Rights Proceedings.

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

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

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

Status of Freedom of Speech and Press

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

Internet Freedom

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

Academic Freedom and Cultural Events

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

b. Freedom of Peaceful Assembly and Association

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

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at www.state.gov/j/drl/irf/rpt/.

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

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

Protection of Refugees

Access to Asylum: The country's laws provide for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees.

Durable Solutions: The government accepts up to 750 refugees each year for resettlement from third countries and facilitates their local integration.

Temporary Protection: The government processed a total of 305 requests to provide temporary protection to individuals outside the annual quota of 750 refugees accepted for resettlement. Outcomes included granted applications, a different visa granted on other grounds, or individuals absconded; a specific breakdown was not available.

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

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

Elections and Political Participation

Recent Elections: In the most recent general elections, held on November 26, the National Party won 59 of 122 parliamentary seats and formed a minority government in coalition with the ACT and United Future parties. The National-led government also had a cooperation agreement with the Maori Party. Four other parties were represented in Parliament: Labour, Green, New Zealand First, and Mana.

Participation of Women and Minorities: Women participated fully in political life. There were 39 women among the 121 MPs and eight women on the executive council, which is composed of 28 ministers (20 within the cabinet and eight outside). The chief justice of the Supreme Court was a woman. There was one woman in the 24-seat parliament of the Associated State of the Cook Islands and four women in the 20-seat parliament of the Associated State of Niue.

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

There were 21 Maori members, six members of Pacific Island descent, and six members of Asian descent in Parliament. The cabinet included at least three members of Maori ancestry.

Section 4. Official Corruption and Government Transparency

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

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

The law provides for public access to government information, including access for noncitizens and foreign media, to be provided within 20 working days of a request, and the government generally adhered to the law in practice. Information must be made available unless a good reason, such as concern for national security, exists for not doing so; the government did not abuse this provision. The requester must be given an estimate of any fees before the information is provided.

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

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

Government Human Rights Bodies: The Ministry of Justice funds the active HRC, which operated as an independent agency without government interference. The commission had a staff of 60 and adequate resources to perform its mission. It submitted more than 50 legal and policy interventions during the year ending June 30, and the government responded to its recommendations, which led to several law changes. The HRC was considered effective and enjoyed high public confidence.

The Office of the Ombudsmen, an organization responsible to Parliament but independent of the government, is charged with investigating complaints about the 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, was adequately resourced, and was considered effective and trusted by the public. The office produced a wide variety of reports for the government that were available on its Web site.

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

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

Women

Rape and Domestic Violence: Violence against women affected all socioeconomic groups. The law criminalizes rape, including spousal rape. The maximum penalty is 20 years' imprisonment; however, indefinite detention may occur in cases where the parole board during its annual review believes that the prisoner poses a continuing threat to society. The Ministry of Justice reported no such cases during the July-December 2010 period, the most recent publicly available data.

Domestic violence is a criminal offense. During the period July-December 2010, police recorded 1,691 charges for "sexual attacks," resulting in 659 convictions. During the same period, there were 12 charges of spousal rape with three

convictions, and four charges of “unlawful sexual connection with spouse” with no convictions.

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

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

Harmful Traditional Practices: There were no cases of female genital mutilation (FGM) reported in the country during the year. However, a 2011 UN report commented that a growing number of women and girls among the country’s immigrant communities have been subjected to or are at risk of FGM. The New Zealand Female Genital Mutilation Education Programme stated that “there is no documented evidence” that FGM currently occurs in the country.

Sexual Harassment: The law prohibits sexual harassment and provides civil penalties. However, sexual contact induced by certain threats may also fall under the criminal code, with a maximum 14-year prison sentence. The HRC published fact sheets on sexual harassment and made sexual harassment prevention training available to schools, businesses, and government departments on a regular basis. In the year ending June 30, the HRC’s disputes resolution team heard and resolved 60 new human rights inquiries and complaints that cited the ground of sexual harassment. Additionally, two cases appeared before the director of the Office of Human Rights Proceedings. In one case the director decided to provide legal representation and the matter was before the Human Rights Review Tribunal at year’s end.

Reproductive Rights: The government recognized the basic right of couples and individuals to decide freely and responsibly the number, spacing, and timing of their children free from discrimination, coercion, or violence, and granted access to information on reproductive health. The government does not limit access to male contraception, and female contraception is available without parental consent to women age 16 and older. Skilled healthcare for women was widely available.

Discrimination: Women enjoy the same legal status and rights as men. While the law prohibits discrimination in employment and rates of pay for equal or similar

work, the government acknowledged that a gender earnings gap persisted in practice. According to 2011 Department of Labor (DoL) survey statistics, women earned more than 90 percent of the average hourly earnings for men.

The Ministry of Women's Affairs addresses problems of discrimination and gender equality, and there is a minister of women's affairs in the cabinet. The HRC has an equal opportunity employment team that focuses on workplace gender problems. This team regularly surveys pay scales, conducts a census of women in leadership roles, and actively engages public and private employers to promote compensation equality.

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 born in the country. The law requires notification of births by both parents as soon as "reasonably practicable" (deemed as generally being within two months of the birth), and most births were registered within this time frame.

Child Abuse: Continuing a trend from the previous year, total cases of identified child abuse and neglect increased approximately 11 percent in 2011 compared with 2010. According to the Ministry of Social Development, abuse or neglect was found in around two-fifths of the cases investigated. More public awareness campaigns were conducted to bring attention to this issue, which was believed to have led to more reports of concern. A disproportionately high number of reported cases of child abuse (approximately 45 percent) involved Maori children.

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

Sexual Exploitation of Children: Commercial sexual exploitation of children remained a problem. A 2007 nationwide study--the most recent available--found that 1.3 percent of 772 surveyed sex workers were underage. When discovered, law enforcement authorities arrested and prosecuted violators. Citizens who commit child sex offenses overseas may be prosecuted in New Zealand courts. The law makes it an offense punishable by seven years' imprisonment to assist a person under 18 years of age 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 under 18. The law also makes it an offense to deal in individuals younger than 18 for sexual exploitation or engagement in enforced labor. The penalty for a person who sells, buys, transfers, barter, rents, hires, or in any other way enters into a dealing or takes an action involving a person under 18 for the purposes of sexual exploitation or enforced labor is 14 years' imprisonment.

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

The law provides that any person who has a sexual connection with a person younger than 16 years of age is liable to imprisonment for a term not exceeding 10 years.

The law prohibits child pornography and provides for a NZ\$10,000 (approximately \$8,000) fine of an individual, and NZ\$30,000 (\$24,000) of a corporate body, if a person makes, imports, supplies, distributes, possesses for supply, displays, or exhibits an objectionable publication. The law also provides a penalty of 10 years' imprisonment or a NZ\$200,000 (\$160,000) fine of a corporate body if a person commits such an act knowing that the publication is objectionable. Possession of objectionable material is also an offense punishable by a NZ\$2,000 fine (\$1,600) for an individual and NZ\$5,000 (\$4,000) for a corporate body. A person knowingly possessing objectionable material is liable to a penalty of five years' imprisonment or a NZ\$50,000 (\$40,000) fine for an individual or a NZ\$100,000 (\$80,000) fine for a corporate body. It constitutes an aggravating factor to be taken into account in sentencing if the publication promotes or supports exploitation of children or young persons for sexual purposes, deals with sexual conduct with or by children or young persons, or exploits nudity of children or young persons.

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

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For country-

specific information see

http://travel.state.gov/abduction/country/country_3781.html.

Anti-Semitism

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

Trafficking in Persons

See the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip.

Persons with Disabilities

The law prohibits discrimination against persons with disabilities in employment; education; access to places and facilities; and the provision of goods, services, housing, and accommodation. The government is prohibited from discriminating on the basis of physical, sensory, intellectual, or mental disability, unless such discrimination can be "demonstrably justified." During the year the HRC received 279 disability-related complaints, which represented 26 percent of the total complaints received. Compliance with access laws varied.

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

National/Racial/Ethnic Minorities

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

Asians, who made up 10 percent of the population, also reported some societal discrimination. The government mandates a race relations commissioner who developed a Diversity Action Program aimed at the Maori, Pacific Islander, and Asian communities. The program includes an annual Diversity Forum to eliminate race-based discrimination. It was widely attended and considered effective.

The Office of Ethnic Affairs within the Department of Internal Affairs focuses on improving dialogue and understanding about minority communities among the wider population.

Indigenous People

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

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

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

In March Parliament passed the Marine and Coastal Area Act to replace the controversial 2004 Foreshore and Seabed Act. The new act provides that the common marine and coastal area (formerly known as the foreshore and seabed) cannot be sold off, and guarantees public access, fishing, navigation, and existing use rights. Various Maori leaders expressed differing views on its passage. The Maori Party supported passage for addressing two fundamental rights that they contended were not addressed by the previous act: the right to access justice through the courts and property rights. However, some Maori groups and individuals, including MPs, protested the bill's passage for not providing any mechanism to claim private title of these marine and coastal areas--meaning that the title cannot be sold and that public access cannot be denied. Despite some initial outcry after its passage, little public debate about the act subsequently occurred.

From January through December, the government settled three Maori claims related to the 1840 Treaty of Waitangi, the country's founding document. Through

the end of the year, 14 additional groups signed deeds of settlement and awaited legislation to make their deeds unconditional. A further 12 indigenous groups, known as “iwis,” moved into active negotiations, making a total of 78 iwi groups in various stages of claims, including the final legislative phase, which occurs after claims are settled.

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

The law prohibits abuse, discrimination, and acts of violence based on sexual orientation and gender identity, and the government generally enforced the law. During the year the HRC received 205 discrimination complaints relating to gender identity or sexual orientation (19 percent of all complaints). The Ministry of Justice received no reports of societal violence or discrimination based on sexual orientation or gender identity.

Other Societal Violence or Discrimination

The law prohibits violence or discrimination against persons with HIV/AIDS, and no such cases were reported.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law provides workers in the public and private sectors the right to form and join organizations of their choice without previous authorization or excessive requirements, and the law was applied in practice. The law allows unions to conduct their activities without government interference, including the right to strike, and this right was exercised in practice. The law provides for the right of workers to organize and bargain collectively through unions, and workers exercised this right in practice. The law prohibits antiunion discrimination and allows for reinstatement of workers fired for union activity. No such cases arose during the year that required government intervention.

Contractors are not covered by most provisions of employment law and cannot join unions, bargain collectively, or benefit from certain leaves or overtime compensation.

Strikes by providers of “key services” are subject to certain procedural requirements, including mandatory notice of three to 14 days, depending on the service involved. Key services include: production, processing, and supply of petroleum products; production and supply of electricity, water, and sewer services; emergency fire brigade and police services; ambulance and hospital services; manufacturing of certain pharmaceuticals and dialysis solutions; operation of residential welfare or penal institutions; airport and seaport operations; and dairy production operations. The listing of some of these sectors is based on broader criteria than the International Labor Organization’s definition of “essential services.”

To bargain collectively, unions must be registered, independent, governed by democratic rules, and have at least 15 members. Unions may not bargain collectively on social or political issues. Nearly all unionized workers were members of unions affiliated with the New Zealand Council of Trade Unions (NZCTU), a federation that included unions representing various trades and locations. A few small, nonaffiliated unions also existed.

The law prohibits uniformed members of the armed forces from organizing unions and bargaining collectively. However, police have freedom of association and the right to organize and bargain collectively. With regard to strikes, the law prohibits sworn police officers (which includes all uniformed and plainclothes police but excludes clerical and support staff) from striking or taking any form of industrial action. Disputes that cannot be settled by negotiation between the police association and management are subject to compulsory, final-offer arbitration. The government effectively enforced applicable laws without lengthy delays.

A labor law amendment passed in 2010 extends to all employers the ability of employers and employees to agree to trial periods of 90 days or less, during which employees are not permitted to raise a personal grievance for unjustified dismissal. Designed to improve labor-market flexibility and encourage employment of new staff members, particularly from groups that faced higher levels of labor-market disadvantage, this amendment became effective on April 1. Previously, 90-day trial periods applied only to small businesses with fewer than 20 employees. The NZCTU criticized this reform as undermining workers’ rights. However, employees let go during the trial period may still raise a personal grievance on the grounds of sexual or racial harassment, discrimination, or unjustified disadvantage. If an employment problem arises during the trial period, the employee and the employer may access mediation services.

b. Prohibition of Forced or Compulsory Labor

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

c. Prohibition of Child Labor and Minimum Age for Employment

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

d. Acceptable Conditions of Work

On April 1, the government increased the minimum hourly wage by NZ\$0.25 to NZ\$13.00 (\$10.40). The separate new entrants' wage for 16- to 17-year-old workers was increased to NZ\$10.40 (\$8.32) for nonsupervisory workers with less than three months or 200 hours of employment. There was no official poverty-level income figure, but researchers frequently used 50 percent of the median income as the poverty-level income; using this measure, full-time workers earning the minimum wage were above the poverty level. A majority of the work force earned more than the minimum wage.

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

By law employees are accorded one paid 10-minute rest break during a two- to four-hour work period, one paid 10-minute rest break and one unpaid 30-minute meal break during a four- to six-hour work period, and two paid 10-minute rest breaks and one unpaid 30-minute meal break during a six- to eight-hour shift.

Extensive laws and regulations govern health and safety issues. Employers are obliged to provide a safe and healthy work environment, and employees are responsible for their own safety and health, as well as ensuring that their actions do not harm others. Workers have the legal right to strike over health and safety issues, as well as the right to withdraw from a dangerous work situation without jeopardy to continued employment. The government mandates employers to provide health insurance for their seasonal workers.

The DoL is responsible for enforcing laws governing working conditions. DoL inspectors effectively enforced safety and health rules, and they had the power to shut down equipment if necessary. The DoL normally investigated reports of unsafe or unhealthy working conditions within 24 hours of notification. During the year the DoL received 9,600 complaints of health- or safety-related workplace incidents. Approximately 1,200 of these resulted in compliance or enforcement action.

The NZCTU reported that in the mining and road transport industries, lack of adequate rest in practice resulted in increased safety risks and health risks for workers.

During the year there were allegations by unions, Maori groups, and human rights organizations, among others, of labor abuses on foreign fishing vessels operating in the country's territorial waters. In August the government established a panel of inquiry to investigate and evaluate the economic and social costs and benefits of use of foreign chartered vessels in the country's fishing industry. The panel's mandate included making recommendations concerning government policy on use of such vessels and improvements in operational practices. The panel held hearings in October and was scheduled to release conclusions and recommendations in February 2012.