

New Zealand

1. Discrimination in the family

a) Overarching legal framework for marriage

The law provides women with the same rights as men to enter into marriage (Marriage Act 1955, sect. 23). Legal provisions prohibit forced marriage as a marriage or civil union without consent is considered void (Family Proceedings Act 1980, sect. 31). The law provides for official registration of all marriages and partnerships including customary and religious marriages (Marriage Act 1955, sect. 8, 9 & Births, Deaths, Marriages and Relationships Registration Act 1995, sect. 53, 55). Informal or de-facto unions are regulated by law under a number of acts, notably under the Births, Deaths, Marriages, and Relationships Act 1995, the Property (Relationships) Act 1976, the Administration Act 1969 and the Family Proceedings Act 1980.

b) Child marriage

The legal age of marriage for women and men is 18 years old (Marriage Act 1955, sect. 2). Legal exceptions to the legal age of marriage can be allowed for minors who have reached 16 years old and can be authorised upon a judge's decision with the consent of the parents/guardians (Marriage Act 1955, sect. 17 & 19). Child marriage is considered void (Marriage Act, sect. 2). Child marriage of girls and boys does not appear to be a practice of concern in New Zealand (UNICEF, 2017).

c) Household responsibilities

No legal provisions were located which would restrict women's rights to be recognised as the head of household. The law provides women with the same rights as men to be the legal guardians of their children during marriage and in informal unions (Care of Children Act 2004, sect. 17). Additionally, the law provides women with the same rights and responsibilities as men with regards to their children during marriage (Care of Children Act 2004, sect. 15 & 16). The law provides married/unmarried women with the same rights as married/unmarried men to choose where to live (Bill of Rights Act 1990, sect. 18).

Gender roles and social expectations continue to affect women's and men's roles and responsibilities within the family (Statistics New Zealand, 2011). While women and men tend to increasingly share equally household and family life related responsibilities, men spend more time on productive activities within the labour force and women spend more time on child care than men (Statistics New Zealand, 2011). It is estimated that women spend five hours a day on child care in comparison to three hours for men (Statistics New Zealand, 2011). Additionally, women spend approximately one hour more than men a day on household work (Statistics New Zealand, 2011).

d) Divorce

The law provides women with the same rights as men to initiate divorce and women have the same requirements as men to finalise a divorce or annulment (Family Proceedings Act 1980, sect. 20, 21, 22, 37 & 39). The law provides women with the same rights as men to be the legal guardians of their children after divorce and the law provides women with the same rights and responsibilities as men with regards to their children after divorce (Family Proceedings Act 1980, sect. 45).

There is no legal discrimination regarding divorce rights and it appears that there are no discriminatory practices that would restrict those rights.

e) Inheritance

The law provides daughters with the same rights as sons to inherit land and non-land assets (Administration Act 1969, sect. 77). The law provides female surviving spouses with the same rights as male surviving spouses to inherit land and non-land assets (Administration Act 1969, sect. 77). Additionally, the law provides women with the same rights as men to make a will (Wills Act 2007, sect. 9).

The Māori Land Court manages inheritance of Māori land (New Zealand Government, n. d.). According to the traditional Māori inheritance system, ancestral land was inherited through generations by continuous occupation (*ahi kā*) and tribal chiefs inherited the authority over land and people (New Zealand Government, n. d.). Traditional Māori land tenure was communal (New Zealand Government, n. d.). Contemporary Māori land inheritance is regulated by the Māori Land Court which provides for succession orders when an owner of Māori land dies (New Zealand Government, n. d.). Māori land can be passed down to blood relatives, *whāngai* (adopted children), spouses, partners and members of the *hapū* (clan) (New Zealand Government, n. d.).

2. Restricted Physical integrity

a) Violence against women

There is no law addressing violence against women including a comprehensive approach to address violence against women with specific provisions for investigation, prosecution and punishment of perpetrators and protection and support services for victims. There is no action plan or policy addressing violence against women.

The CEDAW Committee (2012) notes the high incidence of violence against women and the low reporting and conviction rates in cases of violence against women. Māori women and Pacific women and girls are particularly vulnerable to gender-based violence, notably to domestic violence and sexual violence (Human Rights Committee, 2016). In 2011, 20% of Māori women reported being assaulted or threatened by an intimate partner which is three times the national average (Human Rights Council, 2011). The Ministry for Women (2015) has developed a document introducing indigenous perspectives for primary prevention of violence against women within and outside the *Whānau* (Māori family).

b) Domestic violence

Domestic violence is not a criminal offense under the legal framework. Nonetheless, the Domestic Violence Act 1995 provides for protection orders in cases of domestic violence and covers physical, sexual, psychological and economic abuse from former partners and within the family (sect. 3 & 7).

Under the Victims' Rights Act 2002, it is mandated by law that any person who deals with a victim of domestic violence, such as a judicial officer, a lawyer, a member of court staff, a Police employee, a probation officer or a member of the New Zealand Parole Board, should treat the victim with courtesy, compassion and respect the victim's dignity and privacy (sect. 7). Additionally, a victim of domestic violence or a member of a victim's family who has welfare, health, counselling, medical or legal needs arising from the offense should have access to services (Victims' Rights Act 2002, sect. 8).

The Women's Refuge Association, partially funded by the Government, offers shelter to women and children victims of domestic violence across New Zealand (Women's Refuge, n. d.). The association also operates a helpline (Women's Refuge, n. d.). A number of other helplines operate in New Zealand to assist victims of domestic violence such as the Family Violence Information Line or the Shine Helpline (New Zealand Police, n. d.).

The New Zealand National Plan of Action for the Protection and Promotion of Human Rights (2015-2019) includes a number of Government Actions to be taken in relation to domestic violence, notably to implement new trials to improve timeliness of family violence prosecutions; to implement Integrated Safety Response Pilot to address family violence; to review the family violence legislation; to develop a whole-of-government strategy to reduce family violence and sexual violence within New Zealand and to work across government and with communities to strengthen primary prevention initiatives that keep Māori women safe from becoming victims of intimate partner and sexual violence (Human Rights Commission, n. d.).

The CEDAW Committee (2012) reports on the increase of number of cases treated in the Family Violence Courts and the implementation of awareness-raising activities such as the "It's not OK" campaign on family violence. The "It's not OK" campaign comprised of TV advertising, community campaigns, violence-free champions, news media, printed resources and merchandise and research and evaluation (New Zealand Government, 2016).

According to a government report, domestic violence is prevalent in New Zealand (Law Commission, 2015a). Women are the predominant victims of domestic violence in particular of intimate partner violence (Law Commission, 2015a). Research shows that one in four women reportedly experience one or more violent offenses by a partner during their lifetime (Ministry for Women, 2016). The most common form of reported domestic violence is severe physical and psychological harm (Law Commission, 2015a). Domestic violence victims often do not report to the authorities, due to a number of reasons, including common misconceptions that equate domestic violence with marital dispute or that tend to blame the victim, feelings of shame and guilt, as well as the effects of a combination of physical, psychological, emotional, social and financial abuse as a "pattern of harm" and "a form of entrapment" (Law Commission, 2015a: 28). Only 13% of intimate partner violence is estimated to be reported to the Police (National Council of Women of New Zealand, 2015).

In addition, intimate partner homicides are common (Law Commission, 2015a). Approximately, three quarters of intimate partner homicides are perpetrated by men and women are the victims (Law Commission, 2015a). Estimations show that in 18% of cases of intimate partner homicides with a history of family violence, the “primary victim of the past abuse (...) kills the predominant aggressor” and they are mostly committed by women (Law Commission, 2015a: 6).

Māori women are disproportionately affected by domestic violence and are more likely to face discrimination in seeking help when they are abused in comparison with other domestic violence victims (Law Commission, 2015a). Māori women are reportedly confronted to intersectional and structural discrimination (Law Commission, 2015a). Pacific women and women from migrant communities are additionally particularly vulnerable to domestic violence (Law Commission, 2015a). “These groups can face distinct socio-economic, cultural and practical barriers that make it more difficult to seek help” (Law Commission, 2015a: 35).

c) Rape

Sexual violence is criminalised under the Crimes Act 1961 (sect. 128A). Rape is a criminal offense and is punishable of imprisonment of up to 20 years (Crimes Act 1961, sect. 128B). The attempt of rape and sexual violence is punishable of imprisonment of up to ten years (Crimes Act 1961, sect. 129). The law is based on lack of consent and does not require proof of physical force, resistance or penetration (Crimes Act 1961, sect. 128A). Additionally, the legal definition of rape includes marital rape (Crimes Act 1961, sect. 128). The law repeals discriminatory practices such as reduced sentences or escaping punishment if the perpetrator marries the victim (Crimes Act 1961, sect. 128). Victims of rape and sexual violence are provided with medical support and legal assistance (Victims’ Rights Act 2002, sect. 4, 7 & 8).

Furthermore, the law stipulates that when a complainant giving oral evidence in a case of sexual nature, the court must consider the particular vulnerability of the complainant and the impact on the complainant of giving oral evidence (Criminal Procedure Act 2011, sect. 93). The courtroom must also be cleared when a complainant gives evidence in cases of sexual nature (Criminal Procedure Act 2011, sect. 199). Additionally, in a sexual case, no evidence can be given, and no question can be put to a witness relating directly or indirectly to the sexual experience of the complainant with any person other than the defendant or to the reputation of the complainant in sexual matters (Evidence Act 2006, sect. 44).

Estimations show that one in four women and one in eight men are victims of sexual violence in their lifetime (Law Commission, 2015). Māori women and young women are particularly vulnerable to sexual violence and they are twice as likely to experience it (National Council of Women of New Zealand, 2015).

Research highlights that the criminal justice system may be inadequate to respond to the justice needs of victims of sexual violence in New Zealand (Law Commission, 2015). Notably, as the victim is usually the only witness to the offense, a victim’s testimony may constitute the only evidence (Law Commission, 2015). During the trial process, a victim’s credibility will be put under scrutiny and challenged (Law Commission, 2015). This has been found to deter victims to report cases of sexual

violence (Law Commission, 2015). Victims seldom report cases of rape and sexual violence (Law Commission, 2015). Research shows that the main reasons for not reporting are adverse effect on the family, shame or fear of the perpetrator, fear of stigma, and lack of trust (Law Commission, 2015).

Moreover, the stereotypical version of rape which is perpetrated by a stranger, with use of a weapon or evidence of physical violence and signs of the victim's struggle and resistance occur rarely (Law Commission, 2015). Most rape and sexual violence cases in New Zealand occur in private and most victims know the perpetrator through personal and family relationships (Law Commission, 2015). Additionally, rape and sexual violence often occur over a long period of time (Law Commission, 2015). However, the common stereotypical conception of rape hinders on the criminal justice system to respond adequately and tends to minimise the experiences of victims (Law Commission, 2015). Furthermore, it is reported that workers of the criminal justice system may not advise women to go through a trial as it may re-traumatise complainants in cases of rape and sexual violence (Law Commission, 2015).

d) Sexual harassment

The legal framework provides legal protection from sexual harassment under the Human Rights Act 2000 (sect. 62). The law includes civil remedies (Human Rights Act 2000, sect. 92I & 92M). There are no criminal penalties included in the legal framework with regards to sexual harassment. The legal definition of sexual harassment covers the workplace, educational establishments, public places and cyber harassment (Human Rights Act 2000, sect. 62). Sporting establishments are not covered under the legal framework.

The CEDAW Committee (2012) stresses the high incidence of cyberbullying targeting young girls. With regards to sexual harassment at work, 70 complaints have been received by the Human Rights Commission in 2015 (Human Rights Commission, 2015). The complaints were made predominantly by women (52%) (Human Rights Commission, 2015). In comparison 16% of complaints of sexual harassment in the workplace were made by men (Human Rights Commission, 2015). People aged between 18 and 30 years old are more likely to make a complaint to the Human Rights Commission (24% of complaints) (Human Rights Commission, 2015).

e) Female genital mutilation

Female genital mutilation (FGM) is considered a crime under the Crimes Act 1961 and includes criminal penalties for medical practitioners, parents and other practitioners of FGM (sect. 204A). Anyone who practices FGM is liable to imprisonment for up to seven years (Crimes Act 1961, sect. 204A). The same sentence is applied to anyone who sends, makes arrangements, travels with or takes a child outside of New Zealand with the intent to submit the child to FGM (Crimes Act 1961, sect. 204B). Anyone who incites, counsels, procures or induces any person to submit outside New Zealand to FGM is liable to imprisonment of up to seven years (Crimes Act 1961, sect. 204B). Victims of FGM can seek legal redress and compensation under the law (Crimes Act 1961, sect. 204A).

There is no evidence to suggest that FGM is a practice of concern in New Zealand (Ministry of Social Development, n. d.).

f) Abortion

Abortion on request is not available in New Zealand. A legal abortion is available within the first 20 weeks of pregnancy on several grounds, notably to preserve the mental health of the woman; due to rape, statutory rape, or incest; to preserve the physical health of the woman; due to foetal unviability; and to save the woman's life (Crimes Act 1961, sect. 187A). The age of the pregnant, while not constituting a ground for abortion, can be taken into account (Crimes Act 1961, sect. 187A). An abortion after the first 20 weeks of pregnancy is allowed to save the life of the woman or to prevent serious permanent injury to the woman's physical or mental health (Crimes Act 1961, sect. 187A). To undergo an abortion, a woman must have the approval of doctors (certifying consultants) (Contraception, Sterilisation and Abortion Act 1977, sect. 29). The principle of conscientious objection for doctors is applied in cases of abortion (Contraception, Sterilisation and Abortion Act 1977, sect. 46). A minor girl does not need the permission of a parent or guardian to seek a legal abortion (Care of Children Act 2004, sect. 38). 98% of abortions are performed on the grounds of serious danger to the mental health of the woman (New Zealand Family Planning, n. d.).

3. Restricted Access to productive and financial resources

a) Secure access to land and assets

Regarding land, property and other non-land assets, the law provides married women with the same rights as married men to own, use, make decisions and use as collateral (Property (Relationships) Act 1976, sect. 1N, 8, 9 & Human Rights Act 1993, sect. 53). Regarding land, property and other non-land assets, the law provides unmarried woman with the same rights as unmarried men to own, use, make decisions and use as collateral (Property (Relationships) Act 1976, sect. 9 & Human Rights Act 1993, sect. 53). Regarding land, property and other non-land assets, women are provided with the same rights as men after divorce or separation to own, use, make decisions and use as collateral (Property (Relationships) Act, sect. 55 & Human Rights Act 1993, sect. 53). Additionally, regarding marital property, a married woman has the same rights as a married man to administer (Property (Relationships) Act 1976, sect. 1N, 8, 9 & Human Rights Act 1993, sect. 53). Furthermore, the law provides for joint land titling for land used or acquired by married couples and informal unions (Property (Relationships) Act, sect. 8 & Human Rights Act 1993, sect. 53).

The Māori Land Act 1993 establishes the Māori Land Court and regulates the administration of estates, the recording of ownership, the status of land and the alienation of land with regards to Māori land. Land in New Zealand can have several statuses, notably Māori customary land, Māori freehold land, general land owned by Māori, general land, crown land and crown land reserved for Māori (Māori Land Act 1993, sect. 129). The Māori Land Court also manages inheritance of Māori land (New Zealand Government, n. d.).

b) Secure access to formal financial resources

The law provides married women with the same rights as married men to open a bank account at a formal financial institution (Human Rights Act 1993, sect. 44). Additionally, the law provides women with the same rights as men to obtain credit (Human Rights Act 1993, sect. 44).

There is no legal discrimination regarding secure access to formal financial resources and it appears that there are no practices which restrict those rights.

c) Workplace rights

New Zealand has ratified several of the International Labour Organisation Conventions, notably the Equal Remuneration Convention (C100) in 1983 and the Discrimination (Employment and Occupation) Convention (C111) in 1983.

The law mandates non-discrimination on the basis of sex in employment and specifically covers job advertisements, selection criteria, recruitment, hiring, terms and conditions, promotions, training, assignments and termination (Employment Relations Act 2000, sect. 104 & Human Rights Act 1993, sect. 22, 23). The law mandates equal remuneration for work of equal value (Equal Pay Act 1972, sect. 3). No legal provisions were located that would prohibit women from entering certain professions or that would prohibit women from working the same night hours as men.

The law does not mandate separate paid maternity and paternity leave, but instead integrates into the parental leave scheme (Parental Leave and Employment Protection Act 1987, Articles 71CA & 71 CB). The total length of the paid parental leave is 18 weeks, available to both partners (Parental Leave and Employment Protection Act 1987, Article 71J). The rate of parental leave payment payable to any eligible employee is the lesser of \$527.72 per week and the greater of (i) 100% of the employee's ordinary weekly pay before the commencement of the parental leave payments; and (ii) 100% of the employee's average weekly income from work (Parental Leave and Employment Protection Act, Article 71M).

The law protects women's employment security when they are on maternity leave (Parental Leave and Employment Protection Act 1987, sect. 49). The law does not require women to have permission from their husband or legal guardian to choose a profession, occupation or work or to register a business. An employee victim of sex discrimination in employment may apply to the Authority for the resolution of the grievance or may make a complaint under the Human Rights Act 1993 (Employment Relations Act 2000, sect. 112).

The New Zealand National Plan of Action for the Protection and Promotion of Human Rights (2015-2019) comprises a number of Government Actions to be taken such as to nominate appointments to state sector boards and committees and to support women in developing their governance careers; to analyse detailed data from State Services Commission on women's representation in public service leadership; to utilise women's skills in economic growth and to connect emerging women leaders to the support and information they need to realise their leadership potential (Human Rights Commission, n. d.).

The CEDAW Committee (2012) notes the high rates of unemployment faced by young women and women within ethnic minority groups. Moreover, the occupational segregation persists (CEDAW, 2012). 64% of women and 75% of men participate in the labour force (Ministry for Women, 2016). However, research highlights that 58% of people under-utilised in the labour market are women, this comprises people unemployed or under-employed (Ministry for Women, 2016). Women are more likely to be professionals, community and personal service workers or in administration roles while

men are more likely to be managers, trades workers, machinery operators or labourers (Ministry of Women, 2017). In terms of sectors, sectors such as manufacturing and construction is male-dominated while the retail trade and education sector is female-dominated (Ministry for Women, 2017).

Furthermore, women are underrepresented in senior and decision-making positions (CEDAW, 2012). As an example, the proportion of women on private sector boards is 17% and the proportion of men is 83% in 2015 (Human Rights Commission, 2015). The proportion of women in senior management in the private sector is 19% and the proportion of men is 81% (Human Rights Commission, 2015). The public sector shows less disproportion (Human Rights Commission, 2015). The proportion of women in senior management in the public service was 44% in 2015 and the proportion of women in state sector boards was 43% in 2015 (Human Rights Commission, 2015).

The gender pay gap persists in New Zealand as estimations show that female employees receive on average 25\$ per hour while male employees receive on average 29\$ per hour (Ministry for Women, 2017). Māori women and Pacific women are reportedly more affected by the wage gap than other groups of women (Human Rights Committee, 2016). Reports establish that young Māori women and Pacific women are particularly marginalised in employment; Māori women under 25 have an unemployment rate of 23% and Pacific women under 25 have an unemployment rate of 31% (Human Rights Commission, 2015). Women are additionally more likely to work part-time, as 30% of women work part-time compared to 8% of men (Ministry of Women, 2017). Women are overrepresented in minimum wage jobs (Human Rights Committee, 2016).

4. Restricted Civil liberties

a) Citizenship rights

The law provides women with the same rights as men to acquire, change and retain their nationality (Citizenship Act 1977, sect. 8 & 15). Additionally, the law provides married women with the same rights as married men to confer nationality to their spouse (Citizenship Act 1977, sect. 8). Women and men are granted the same rights to confer nationality to their children (Citizenship Act 1977, sect. 6 & 7). Furthermore, the law provides married/unmarried women with the same rights as married/unmarried men to register the birth of their children (Births, Deaths, Marriages, and Relationships Registration Act 1995, sect. 9). The law allows for late and delayed registration of unregistered adults or children (Births, Deaths, Marriages, and Relationships Registration Act 1995, sect. 16). The Registrar-General only can register birth notified more than two years after the birth (Births, Deaths, Marriages, and Relationships Registration Act 1995, sect. 16).

The Constitution does not recognise and prohibit multiple and intersectional discrimination but Human Rights Act 1993 prohibits discrimination on several grounds including sex, marital status, religious belief, ethical belief, colour, race, ethnic or national origins, disability, age, political opinion, employment status, family status, and sexual orientation (sect. 21).

There are no identity cards in New Zealand. The law provides married/unmarried women with the same rights as married/unmarried men to apply for passports (Passports Act 1992, sect. 3 & 4).

Additionally, the law provides women with the same rights as men to acquire passports and other travel documents for their minor children (Passports Act 1992, sect. 4). The law provides married/unmarried women with the same rights as married/unmarried men to travel outside the country (Bill of Rights Act 1990, sect. 18).

b) Voting

The law provides women with the same rights as men to vote (Bill of Rights 1990, sect. 12).

Drawing on data from the 2014 General Election, research shows that women were more likely to vote than men (87% of women compared to 83% of men) (Statistics New Zealand, 2016). Out of the people who did not vote, 60% of men and 47% of women declared it was due to feelings of disengagement (Statistics New Zealand, 2016). In addition, out of the reasons for not voting, 37% of women and 25% of men declared it was because of a perceived barrier (Statistics New Zealand, 2016).

c) Political voice

The law provides women with the same rights as men to hold public and political office, including within the legislature, the executive and the judiciary (Constitution Act 1986, sect. 10, 6, 23 & Bill of Rights 1990, sect. 12). There are no legal quotas nor special measures to promote women's political participation at the national or local level.

The CEDAW Committee (2012) reports on the high level of participation of women in public life at the central and local government levels and in the Foreign Service. Representation of women in leadership in the public sector is rising as there were in 2015, 43% of women within state sector boards and 44% of women in senior management in the public service (Human Rights Commission, 2015). In 2017, Jacinda Ardern was elected Prime Minister of New Zealand (Ministry of Culture and Heritage, 2017). She is the third female Prime Minister in New Zealand (Ministry of Culture and Heritage, 2017).

d) Access to justice

The law provides women with the same capacity as men to be sued and to sue (Bill of Rights 1990, sect. 27). A woman's testimony carries the same evidentiary weight in court as a man in all types of court cases such as civil, criminal, family court, and tribunal (Bill of Rights 1990, sect. 27).

The law includes elements to ensure that women are able to exercise their rights to sue, such as the Legal Services Act 2011 which, while not targeting women directly, aims to promote access to justice by establishing a system that provides legal services to people of insufficient means and delivers those services in the most effective and efficient manner (sect. 3). Additionally, the Criminal Procedure Act 2011 includes provisions that to protect witnesses, in particular in cases of sexual nature, such as the automatic suppression of identity of complainant in specified sexual cases and the court must be cleared when a complainant gives evidence in cases of sexual nature (sect. 203 & 199).

The Ministry for Women and the Human Rights Commission are the specialized bodies tasked with monitoring gender equality. The Human Rights Commission has the power to receive and resolve complaints on discrimination from women victims of discrimination (Human Rights Act 1993, sect. 79).

Additionally, the Human Rights Commission has the power to monitor compliance of national laws and policies with international human rights standards and has the power to conduct education and public awareness on gender equality and women's human rights (Human Rights Act 1993, sect. 5).

The mandate of the Ministry for Women focuses on providing effective advice and solutions to government agencies and the private sector, supporting the Government's process to nominate suitable women for state sector boards and committees, managing the Government's international reporting obligations, and providing administrative support for the National Advisory Council on the Employment of Women (Ministry for Women, 2016).

The Treaty of Waitangi Act 1975 establishes the Waitangi Tribunal. Its jurisdiction includes where any Māori claims that he or she, or any group of Māoris of which he or she is a member, is or is likely to be prejudicially affected by any ordinance of the General Legislative Council of New Zealand, by any regulations, order, proclamation, notice or other statutory instrument made, issued or given, by any police or practice by or on behalf of the Crown, by any act done or omitted by or on behalf of the Crown and is inconsistent with the principles of the Treaty may submit a claim to the Waitangi Tribunal (Treaty of Waitangi Act 1975, sect. 6).

Women are reportedly underrepresented in senior positions within the legal profession (CEDAW, 2012). Research shows that 30% of judges are women (Ministry for Women, 2016). The CEDAW Committee (2012) stresses that Māori women are disproportionately prosecuted and convicted of crimes and as victims. Māori women represent 60% of the female prison population (Human Rights Council, 2011). Additionally, the CEDAW Committee (2012) notes that migrant women face adverse cultural, linguistic and financial barriers to access justice.

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