NEW ZEALAND

1. Discriminatory family code

The Marriage law of New Zealand guarantees equal right to marry as well as to form civil unions, and provides that married couples jointly share legal responsibility for financially maintaining the family's expenses.\(^1\) Same-sex couples are not discriminated against in regards to this right.\(^2\) Customary marriage between Māori peoples were no longer officially recognized after 1951, and it is reported that this, combined with the increasing urbanisation of young Māori, has resulted in a move away from traditional marriage practices.\(^3\)

The Marriage Act 1955 sets the minimum age of marriage at 18 years for both sexes, although minors over 16 may be married with the consent of a parent or guardian.\(^4\) In respect to early marriage, The United Nations (UN) reports, based on 2006 data, 8.4% of girls between 15 and 19 years of age were married, divorced or widowed; compared with 4.5% of boys in the same age range.\(^5\) Although it is not a common practice, one NGO reported 11 cases of forced marriage between January and November 2011, mostly among migrant communities.\(^6\) Although provisions exist to prevent early and non-consensual marriages,\(^7\) the Convention on the Elimination of all forms of Discrimination against Women (CEDAW) Committee has expressed its concern that no legislation exists to explicitly prohibit such unions.\(^8\)

**Parental authority** is shared by both parents in New Zealand. However, survey data from the latest census indicates that women are more likely than men to shoulder the majority of the childcare. In the four weeks preceding the 2006 Census of Population and Dwellings, 35% of women looked after a child living within their own household, compared with 27% of males. A large percentage of Māori women, 31%, also looked after a child living outside their own household.\(^9\)

---

\(^1\) Family Proceedings Act, 1980, s. 63
\(^3\) Encyclopedia of New Zealand (n.d)
\(^4\) Marriage Act 1955 s. 18
\(^5\) UN (2012)
\(^6\) Radhakrishnan (2012) p.94
\(^7\) Marriage Act 1955, s 17 and offences in ss 58,59 and 60 of the same Act.
\(^8\) CEDAW (2012), p.11
\(^9\) Statistics New Zealand (2006)
According to the 2006 Census, sole parent families made up 12% of families, the majority of which are female-headed households.\textsuperscript{10} Concerning parental authority after divorce, the law stipulates maintenance of children by the non-custodial parent. Recent changes to the law alter the formula for cross-claiming and recognition of shared parenting.\textsuperscript{11} NGOs have argued that this law will affect the poverty level of many mothers raising their children alone (who make up the majority of single parents).\textsuperscript{12}

New Zealand law provides for equal inheritance rights for sons and daughters, and there is no evidence that there is discrimination in practice, or under any informal customary systems.\textsuperscript{13} Upon dissolution of marriage or civil union, property is equally divided and the law provides for the valuation of non-monetary contributions made by either spouse during the union.\textsuperscript{14}

Both men and women have the ability to obtain a passport and transfer citizenship to their children.\textsuperscript{15}

\textit{More}

Both men and women have equal rights to initiate divorce in New Zealand, provided the couple has lived apart for two years.\textsuperscript{16}

Although bigamy is a crime under section 205 of the Crimes Act 1961, polygamy receives limited recognition in New Zealand under the Family Proceedings Act 1980, where the law of the country in which each of the parties is domiciled at the time of the union then permits the practice.\textsuperscript{17}

2. Restricted physical integrity

Domestic and family violence against women is addressed under the Domestic Violence Act 1995, which allows the police to immediately issue safety orders to perpetrators.\textsuperscript{18} Domestic violence may also be charged as a criminal offence, however reporting of this crime is hampered by the fact that police no longer classify domestic violence separately from other types of assault.\textsuperscript{19} In addition, the Government of New Zealand has established specialist family violence courts and means-tested legal aid services that provide referral and advocacy, as well as applicant support, and outreach.\textsuperscript{20} The government has also reportedly conducted domestic violence training for Family Court staff.\textsuperscript{21}

\textsuperscript{10} Statistics New Zealand (2006)
\textsuperscript{12} Auckland Coalition for Safety (2011), p.5
\textsuperscript{13} Administration Act 1969, s. 77
\textsuperscript{14} Property (Relationships) Act 1976 (PRA), s. 18
\textsuperscript{15} Citizenship Act 1977 s.6 and s.7.
\textsuperscript{16} Family Proceedings Act 1980, s. 39
\textsuperscript{17} Family Proceedings Act 1980, s. 2 (b)
\textsuperscript{18} Domestic Violence Act 1995, Part 6A
\textsuperscript{19} US State Department (2013b)
\textsuperscript{20} CEDAW (2011), p.43
\textsuperscript{21} CEDAW (2011), p.58
In practice however, this relatively strong legal framework is not always effectively implemented, and domestic violence continues to be a challenge for New Zealand society. In 2012, there were 87,622 family violence investigations by the Police, with 41,187 charges laid, and 19 homicides by an intimate partner (making up 35% of all homicides that year). In 2011, 6,515 cases of domestic violence were prosecuted, resulting in a 66% conviction rate, with 54% of those resulting in community (non-custodial sentences). Only 52% of the protection orders applied for in 2012 were eventually granted. In 2011-12, Women’s Refuges affiliated to the National Collective of Independent Women’s Refuges reported that 2,273 women and 1,424 children stayed in safe houses.

However, this may represent only a portion of actual prevalence of domestic violence, and it is estimated that only 18% of family violence cases are reported to the police. According to 2002 data 33% of women had experienced physical and/or sexual violence in their lifetime; according to 2011 data, when psychological/emotional abuse is included, the rate of women who had experienced violence increases to 55%. These numbers are even higher for marginalized women and girls. Māori women are at three times higher risk of partner violence than women overall. Migrant women are also particularly vulnerable to family violence. Although the Government has amended the visa conditions for migrant victims of domestic violence who are partners of New Zealand citizens or residents, to enable them (and their dependent children) to remain in New Zealand, NGOs have reported that the application process for these visa categories is difficult to prove and time consuming. Moreover, non-residents are not eligible for legal aid services.

Social attitudes remain an impediment to combatting domestic violence, particularly in marginalized populations; such as Pacific communities, where acceptance of domestic violence is reportedly linked to a perceived ability to access “westernised” support services and the limited help traditional social support structures can provide in an urban context. In order to address this, the Government launched a Campaign for Action on Violence within Families aimed at changing attitudes to family violence. The Government also reports that similar programmes have been developed for Māori, Pacific and migrant women and endorsed by their communities.

---

22 New Zealand Family Violence Clearinghouse (2013c)
23 New Zealand Police (2013)
25 New Zealand Family Violence Clearinghouse (2013)
26 FVDRC (2010)
28 New Zealand Family Violence Clearinghouse (2013)
29 CEDAW (2011), p.60
30 Auckland Coalition for Safety (2011), p.4
31 Shakti (2011), p.3
32 Cribb (1997)
33 CEDAW (2012)
The law in New Zealand criminalizes rape, including spousal rape.\(^{34}\) The maximum penalty is 20 years’ imprisonment.\(^ {35}\) In order to support the implementation of the law, the Government of New Zealand established a National Taskforce for Action on Sexual Violence; although the Human Rights Commission reports that a number of the Taskforce recommendations have yet to been implemented.\(^ {36}\) In addition there are about 30 specialised sexual violence services for victims in New Zealand covering about 70% of the female population, although many of these are reported to be under-funded.\(^ {37}\)

In practice, the Government reports that violence against women, including sexual violence, remains a significant problem in New Zealand.\(^ {38}\) Police data from 2012 indicates that 1,654 cases were reported, and 841 perpetrators were apprehended for sexual assault; 78% of which were prosecuted, resulting in a conviction rate of 39%.\(^ {39}\) However, these figures may be affected by significant under-reporting, as research from 2009 demonstrates that sexual offences have the lowest level of reporting rates of all personal crimes in New Zealand; with only around nine % of adult victims of sexual violence reporting the offence to the police.\(^ {40}\)

The most recent prevalence figures from the 2009 Crime and Safety Survey indicate that 29% of New Zealand women report having experienced sexual assault in their lifetime, the vast majority of which committed by a partner, ex-partner or family member. Victimization rates were higher for Māori women (37%) and for younger women (36% of 25- to 39-year-olds) than for other population groups.\(^ {41}\) The New Zealand Human Rights Commission has reported that the availability of culturally appropriate sexual assault services for diverse population groups (including Māori, Pacific people, ethnic communities, including refugees and people with disabilities) is uneven and has been identified as a gap in services.\(^ {42}\)

**Sexual harassment** is unlawful under the Employment Relations Act 2000 (as a personal grievance against an employer within 90 days of the incident), or under the Human Rights Act 1993 (as a complaint against an employer or another person). A variety of remedies are available under the Human Rights Act for sexual harassment, including a declaration that the Act has been breached, restraining orders, an apology, reimbursement of lost wages, and compensation (including damages for humiliation and pecuniary loss). Sexual contact induced by certain threats may also fall under the criminal code. In the fiscal year 2012-2013, the Human Rights Commission received 70 new sexual harassment complaints.\(^ {43}\)

There is no documented evidence that **female genital mutilation** is practiced in New Zealand. However, the practice is illegal under an amendment to the Crimes Act; providing for a

\(^{34}\) Crimes Act 1961, s.128  
^{38}\) CEDAW (2011), p.7  
^{39}\) New Zealand Police (2013d)  
^{40}\) Ministry of Justice (2009)  
^{41}\) Ministry of Justice (2009)  
^{42}\) Human Rights Commission (2012), p.9  
^{43}\) Human Rights Commission (2013), p.20
maximum penalty of seven years for anyone who performs, procures, or helps to perform FGM.\textsuperscript{44}

\textit{More}

The Prostitution Reform Act 2003 decriminalised \textit{prostitution}, with the aim of safeguarding the human rights of sex workers and protecting them from exploitation and violence.\textsuperscript{45} By certificating for the establishment of premises for prostitution, the Act aims to prevent prostitution of those under 18 years of age.

New Zealand has been identified as a destination country for women subjected to forced prostitution and forced labour.\textsuperscript{46} In order to combat the practice, New Zealand has comprehensively criminalized all \textit{trafficking}, including sexual servitude.\textsuperscript{47} These efforts meet the minimum international standards for action according to the U.S. Department of State’s Trafficking in Persons Report; although it reported in 2013 that the Government of New Zealand had not prosecuted or had not convicted any trafficking offenders in the last seven years, or certified any trafficking victims in the last nine years.\textsuperscript{48}

\textit{Abortion} is a crime in New Zealand unless women meet the grounds for an abortion as agreed by two certifying consultants.\textsuperscript{49} There are no parental notification restrictions on under-sixteen access for abortion. However, the Convention on the Elimination of all forms of Discrimination against Women (CEDAW) Committee has criticized the certification process, as having the potential to arbitrarily restrict a woman’s reproductive autonomy.\textsuperscript{50} NGOs also report that abortion services are relatively difficult to access for over one-sixth of the women in New Zealand based on their geographical location.\textsuperscript{51} According to Statistics New Zealand, in 2012 the general abortion rate was 16.1 abortions per 1,000 women aged 15–44 years, down from 17.3 per 1,000 in 2011.\textsuperscript{52}

The Government of New Zealand funds family planning and antenatal services, which generally provide free sexual and reproductive advice, without parental consent to those ages 16 and older. The most recent United Nations (UN) figures from 1995 indicate that 72.3\% of women used some form of modern \textit{contraceptive}.\textsuperscript{53} The Government reports that the age of first birth is rising, from a median age of 26 years in the early 1960s to 30 years in 2013.\textsuperscript{54}

\begin{small}
\begin{itemize}
\item \textsuperscript{44} The Crimes Act 1961, s. 204A
\item \textsuperscript{45} Prostitution Reform Act 2003, s. 3; CEDAW (2011), p.14
\item \textsuperscript{46} US State Department (2013)
\item \textsuperscript{47} Crimes Act 1961, s. 98D
\item \textsuperscript{48} US State Department (2013)
\item \textsuperscript{49} Contraception, Sterilisation, and Abortion Act 1977 and the Crimes Act 1961, s. 187A
\item \textsuperscript{50} CEDAW (2012), p.9
\item \textsuperscript{51} Women’s Health Action (2011), p.4
\item \textsuperscript{52} Statistics New Zealand (2012)
\item \textsuperscript{53} UN (2012b)
\item \textsuperscript{54} Statistics New Zealand (2013)
\end{itemize}
\end{small}
3. Son bias

The male-to-female sex ratio at birth in 2013 is 1.05 and for the working age population (15-64 years old) is 1.0.\textsuperscript{55}

There is no evidence to suggest that New Zealand is a country of concern in relation to missing women.

More

Data on infant mortality in New Zealand does not suggest a son bias. Roughly equal numbers of girls enroll in both primary and secondary schooling.\textsuperscript{56} Young women are more likely to achieve higher qualification levels in secondary education than young men.\textsuperscript{57}

4. Restricted resources and assets

Women in New Zealand have the right to non-discrimination in the ownership and access to land. There is no official data available on the rates of women’s ownership of property and land. Although the current Māori Land Act 1993 provides for gender equality in the use and control of land and resources, Māori women continue to be affected by the land dispossession that occurred under colonial legislation, which first privatized indigenous land in the name of the male head of household.\textsuperscript{58} For example, a Māori women’s group has brought a claim to the Waitangi Tribunal, alleging the Government’s failure to involve Māori women adequately in the allocation of fishing rights, citing a long history of Māori women’s exclusion from land and resources negotiations.\textsuperscript{59}

Women also have the right to non-discrimination in relation to non-land assets, and there are no restrictions on their equal rights to property, regardless of marital status. Upon divorce, an amendment in 2011 to the Property (Relationships) Act 1976 extends property rights to de facto partners of longer than three years; provides for the valuation of non-monetary contributions; and stipulates the entitlement to an equal sharing of all relationship property, not just the family home and chattels.\textsuperscript{60}

Under the Human Rights Act 1993 women in New Zealand have the equal right to financial services, including freely entering into contracts and applying for bank loans and other types of credit, and it is unlawful for anyone who provides banking or insurance facilities to discriminate against a person on the grounds of gender. According to 2011 World Bank data, women were just as likely to have an account with a financial institution (99.4% for both men and women) in

\textsuperscript{56} UNICEF (n.d)
\textsuperscript{57} CEDAW (2011), p.22
\textsuperscript{58} New Zealand Law Commission (1999), Chapter 2
\textsuperscript{59} Johnson (2005), p.55
\textsuperscript{60} Property (Relationships) Act 1976, ss. 18, 1c
the previous year, and only marginally less likely to have obtained a loan from a financial institution (25.4% of women, compared with 27.9% of men).61

5. Restricted Civil Liberties

Women and men enjoy equal right to public space, including freedom of assembly, freedom of expression, and collective action in New Zealand, and there is no evidence that there is institutional discrimination against women’s associations or NGOs. New Zealand has an active civil society that addresses a wide variety of women’s issues.62

The New Zealand Government has not adopted quotas and targets to increase the number of women in political and public life or to ensure the equal representation of women in all publicly appointed bodies, and reported in 2012 that it did not intend to do so. Instead it has developed a policy of ‘soft targets’ for equal representation, which the Human Rights Commission has criticized as insufficient, especially without dedicated national machinery to guide it.63 Women continue to be under represented in political life in New Zealand. In 2013 women made up 32.2% of elected members of Parliament.64 According to the most recent 2012 Census of Women’s Participation, since 2005, the proportion of women in parliament has remained static at between 33% and 34%; and, at the Ministerial level the number of women in Cabinet has hovered at 30%.65 Both the Greens and Māori Party have women co-leaders. As at 2010, women held between 25 and 35% of places in local government.66 However, Māori, Pacific and migrant women are still hugely under-represented at all levels of government.

More

With respect to women’s workplace rights, the Human Rights Act prohibits discrimination on the grounds of sex (including pregnancy and child birth), marital status, and family status.67 Moreover, the New Zealand government’s enactment of the Employment Relations (Breaks, Infant Feeding and Other Matters) Amendment Act 2008 and its Code of Employment Practice on Infant Feeding requires employers to provide breaks and facilities (where reasonable and practicable) which support women to breastfeed while employed; and the Employment Relations (Flexible Working Arrangements) Amendment Act 2007 gives eligible employees the statutory right to make a request for flexible working arrangements.

Government-funded paid parental leave took effect from 1 July 2002, which currently provides 12 to 14 weeks support for employees with at least six months’ continuous service with the same employer, as well as self-employer persons. Employees with at least 12 months’ continuous service with their employer are also entitled to up to 52 weeks of employment-protected unpaid parental leave, less any paid parental leave taken. This can be shared

---

61 World Bank (2011)
62 CEDAW (2012), p.1
66 Statistics New Zealand (2010)
67 Human Rights Act 1993, s. 21
between eligible spouses/partners.\textsuperscript{68} Up to two weeks of unpaid partner’s/paternity leave is also available.\textsuperscript{69} However the Human Rights Commission has noted that the provisions do not apply to women in New Zealand who are seasonal or contract workers such as carers, cleaners and agricultural workers.\textsuperscript{70}

\textsuperscript{68} Parental Leave and Employment Protection (Paid Parental Leave) Amendment Act 2002
\textsuperscript{69} CEDAW (2011), p.28
\textsuperscript{70} Human Rights Commission (2011), p.19
Sources


