

Human Rights Conventions and the public sector

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I te whānautanga mai ō te tangata,
kahore ōna here.
E ōrite ana tōna tapu,
tōna mana,
me ōna tika ki te katoa.

(Above is UDHR Article 1 – We are all born free and equal
in dignity and rights.)

“The cornerstones on which peace is founded are, quite simply, respect and understanding for one another. Working together, we build peace by defending the dignity of every individual and community.

By upholding justice and the rule of law, and by striving for societies that are fair and offer opportunities for all, we overcome division and find reconciliation, so that the benefits of progress and prosperity may be multiplied and shared”.



UN Charter

“We the peoples of the United Nations determined to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind,

To reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small, and

To establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained; and

To promote social progress and better standards of life and of freedom”

STANDARDS OF INTEGRITY & CONDUCT

A code of conduct issued by the State Services Commissioner
under the State Sector Act 1988, section 57

STATE SERVICES COMMISSION
Te Kaitiaki o Te Kaitiaki



WE MUST BE FAIR, IMPARTIAL, RESPONSIBLE & TRUSTWORTHY

The State Services is made up of many organisations with powers to carry out the work of New Zealand's democratically elected governments.

Whether we work in a department or in a Crown entity, we must act with a spirit of service to the community and meet the same high standards of integrity and conduct in everything we do.

We must comply with the standards of integrity and conduct set out in this code. As part of complying with this code, our organisations must maintain policies and procedures that are consistent with it.

For further information see
www.ssc.govt.nz/code



FAIR

We must:

- treat everyone fairly and with respect
- be professional and responsive
- work to make government services accessible and effective
- strive to make a difference to the well-being of New Zealand and all its people.

IMPARTIAL

We must:

- maintain the political neutrality required to enable us to work with current and future governments
- carry out the functions of our organisation, unaffected by our personal beliefs
- support our organisation to provide robust and unbiased advice
- respect the authority of the government of the day.

RESPONSIBLE

We must:

- act lawfully and objectively
- use our organisation's resources carefully and only for intended purposes
- treat information with care and use it only for proper purposes
- work to improve the performance and efficiency of our organisation.

TRUSTWORTHY

We must:

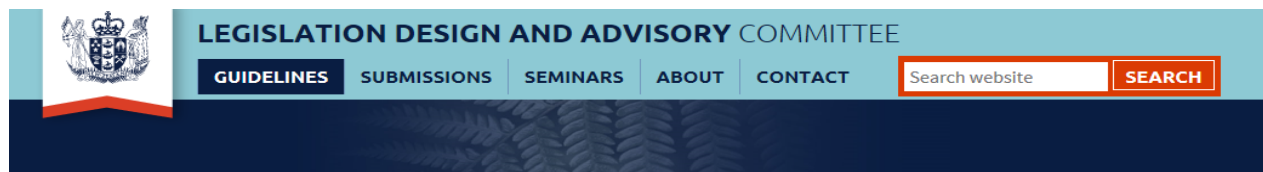
- be honest
- work to the best of our abilities
- ensure our actions are not affected by our personal interests or relationships
- never misuse our position for personal gain
- decline gifts or benefits that place us under any obligation or perceived influence
- avoid any activities, work or non-work, that may harm the reputation of our organisation or of the State Services.



SSC Standards of Integrity and Conduct

LAC Guidelines -

<http://www.ldac.org.nz/guidelines/lac-revised-guidelines>



[Home](#) > [Guidelines](#) > LAC Guidelines: 2014 edition

 [LAC Guidelines 2014 \(PDF 1.1 MB\)](#)

Guidelines

2014 Rewrite project

LAC Guidelines: 2014 edition

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LAC Guidelines: 2014 edition

Introduction

These Guidelines have been produced by the LAC (remodelled in 2015 into the Legislation Design and Advisory Committee) for government officials who are developing legislation. These Guidelines should enable officials to identify and address many of the issues that arise during the legislative development process.

These Guidelines are not intended to act as a hurdle for officials to overcome; nor are they concerned with second guessing policy decisions by Ministers. Rather, these Guidelines represent “best practice” in relation to the development of legislation.

Many of these Guidelines can be departed from in certain circumstances, and strict compliance may not always be possible. Where a departure from these Guidelines does occur, officials should be prepared to demonstrate (often to a Select Committee) that they have fully considered the issues, and are able to provide good justification for the departure.

A number of the considerations in these Guidelines will also be addressed as part of the various existing government requirements relating to the legislative development process. [Disclosure statements](#) , [Regulatory Impact Assessments](#) , [New Zealand Bill of Rights Act 1990](#)  (“NZBORA”) vets, and compliance with the [Cabinet Manual](#)  will all have their own procedures and requirements.

RULE OF LAW

- The rule of law is the most fundamental constitutional principle in New Zealand law and incorporates a number of subsidiary principles. The full scope of the rule of law is the subject of debate, but at its core are the following principles:
- the law must be clear, accessible and apply to everybody (private citizens and the Government);
- human rights must be adequately protected, and proceedings before courts and tribunals must be fair;
- public powers must be exercised fairly and in accordance with the law, and must never be exercised arbitrarily;

The LAC Guidelines state that **Respect for the dignity** of the individual is of paramount concern to the law and gives rise to fundamental human rights.

These rights include the right to:

- life;
- physical integrity;
- freedom from medical or scientific experimentation without consent;
- freedom to refuse to undergo medical treatment;
- freedom from discrimination on specified grounds;
- freedom from torture, cruel, degrading or disproportionately severe treatment or punishment.

“The presumption in favour of liberty is that Nobody should be deprived of their liberty without proper cause and due process. Liberty can be denied in various ways. Examples include:

- arrest and imprisonment;
- . detention for mental health treatment;
- . detention for customs or immigration purposes;
- . restrictions on a person’s movement or activities (such as curfews or prohibition from entering certain parts of a town).

"Respect for property: People are entitled to the peaceful enjoyment of their property (which includes intellectual property and other intangible property). The law actively protects property rights through the criminalisation of theft and fraud and through laws dealing with trespass, and other property rights. The Government should not take a person's property without good justification. A rigorously fair procedure is required and compensation should generally be paid. If compensation is not paid, there must be cogent policy justification (such as where the proceeds of crime or illegal goods are confiscated). The law may allow restrictions on the use of property for which compensation is not always required."

The LAC Guidelines reinforce the **Principle of Legality**. They say: Clear and unambiguous wording must be used if Parliament wishes to override fundamental rights and values.

The principle of legality: Parliament must use unambiguous language when seeking to override basic human rights. The courts will presume that general words in legislation are not intended to override basic human rights. If there is any doubt, it is likely that the right will prevail.

This principle is reflected in s 6 NZBORA: “Wherever an enactment can be given a meaning that is consistent with the rights and freedoms contained in this Bill of Rights, that meaning shall be preferred to any other meaning.”

New legislation must comply with **New Zealand's international obligations.**

“International obligations: There is a presumption that New Zealand will act in accordance with its international obligations, and that legislation will comply with those obligations.”

This requirement brings in New Zealand's International Human Rights obligations. And again if the presumption is that legislation will comply with these obligations the presumption is also that all of the subordinate activity of Government will too. Parliament though remains sovereign in New Zealand.

The Legislation Amendment Bill sets minimum requirements for disclosure relating to policy background and development of a Government Bill which require the Chief Executive to ensure at least one disclosure statement is made to:

- Identify any assessment of whether any of the provisions of the Bill appear to limit any of the rights and freedoms affirmed by NZBORA;
- Describe the steps taken by, or on behalf of, the relevant entity to assess consistency of the Bill to New Zealand's international obligations (which include international obligations).
- Describe the steps taken by, or on behalf of, the relevant entity to assess consistency of the Bill with the principles of the Treaty of Waitangi
- Describe the nature of the external consultation.

All of those steps have human rights implications.

Scottish Human Rights to Social Security

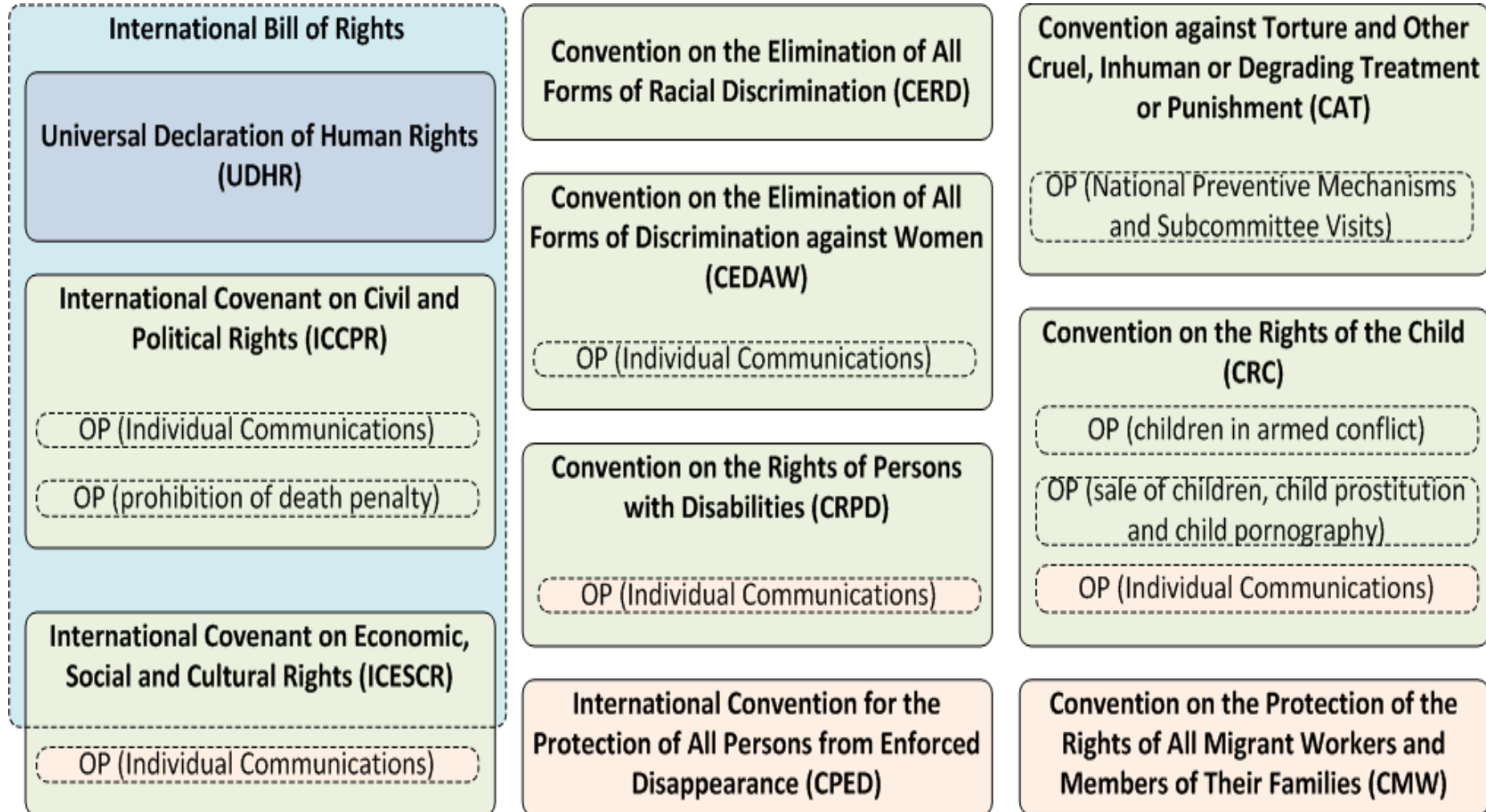
<https://youtu.be/ChPfGgNr6n4>

New Zealand's Constitution

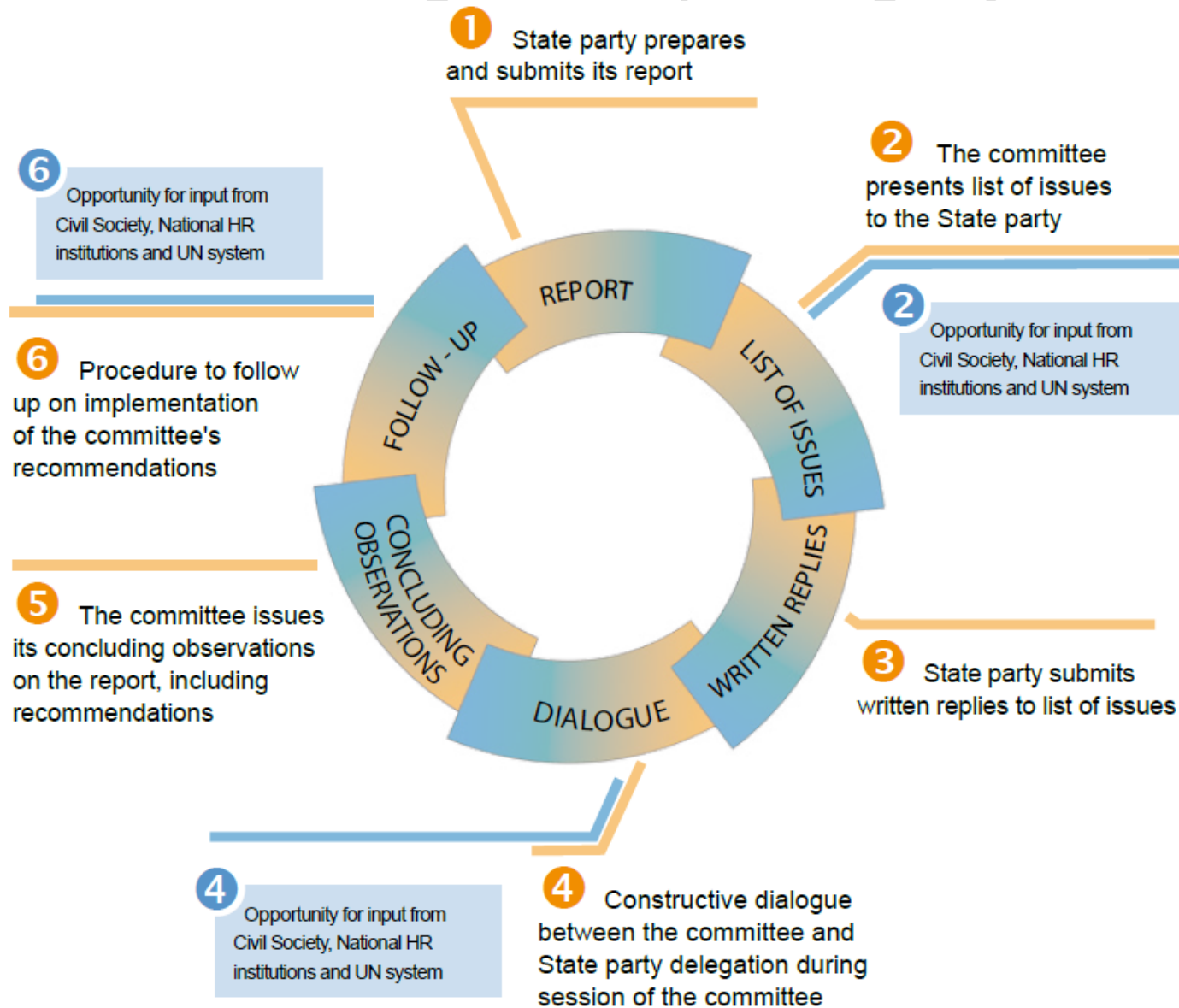
In the introduction in describing New Zealand's Constitution, Sir Kenneth Keith says:

- “The New Zealand constitution is to be found in formal legal documents, in decisions of the courts, and in practices (some of which are described as conventions). It reflects and establishes that New Zealand is a monarchy, that it has a parliamentary system of government, and that it is a democracy. It increasingly reflects the fact that the Treaty of Waitangi is regarded as a founding document of government in New Zealand. The constitution must also be seen in its international context, because New Zealand governmental institutions must increasingly have regard to international obligations and standards.”

The International Human Rights Framework



Human Rights Reporting Cycle



Domestic Reporting Process

Reporting Agencies

Agencies that co-ordinate a report or examination preparation

Foreign Affairs
UPR (report)

Justice
ICCPR, ICESCR, CAT
CERD, UPR (review)

Social Development
CRC, CRPD (ODI)

Ministry for Women
CEDAW

Information Agencies

Agencies that routinely supply information for reports & examinations

Te Puni Kōkiri

MBIE

Corrections

Police

Health

Education

Ethnic Communities

Pacific Peoples

NZ Defence Force

General Agencies

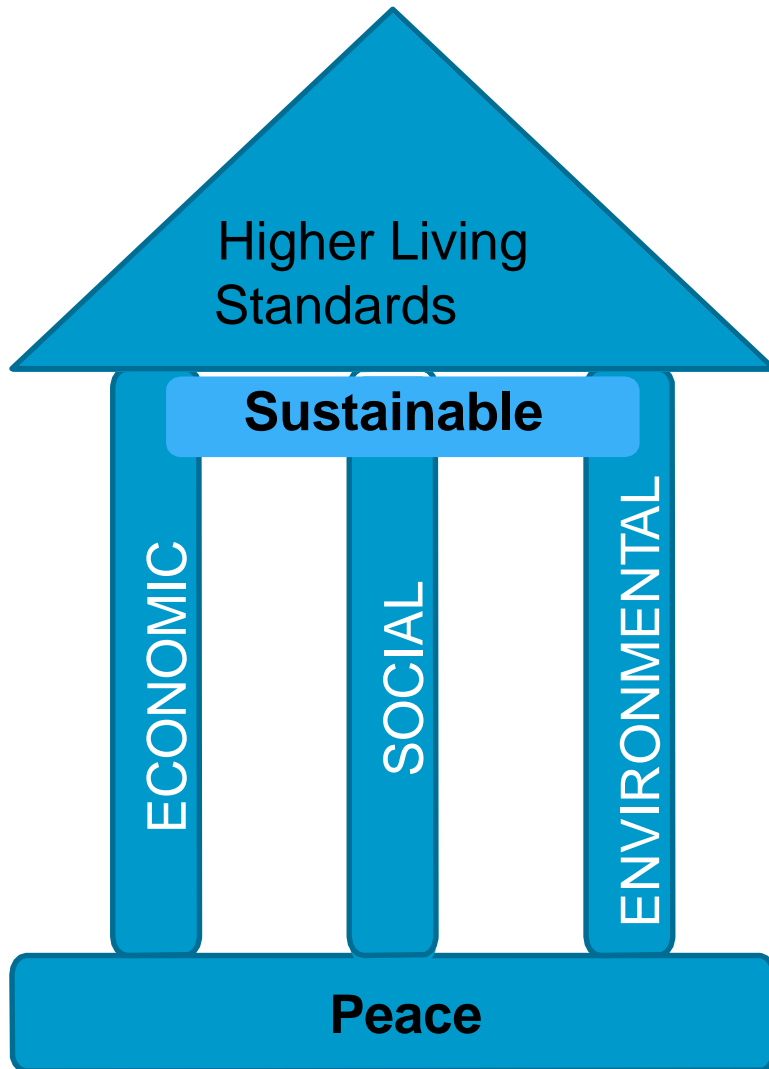
Agencies with a general interest in human rights monitoring and reporting

DPMC

Crown Law

Statistics NZ

What would good governance and policy coherence look like?



Treasury Living Standards
Sustainability
Equity
Risk
Economic Growth
Social cohesion

Sustainable Development
Contributing to the (SDGs) in New Zealand
Human Rights Promotion and Protection (Social
Economic Cultural Rights)

Awareness – Advocacy - Action

Peacemaking
Transparency and
Accountability
Human Rights Promotion
and Protection (Political and
Civil Rights)
SDG Goal 16
Recognition and Inclusion of Marginalised Groups

1 NO
POVERTY



2 ZERO
HUNGER



3 GOOD HEALTH
AND WELL-BEING



4 QUALITY
EDUCATION



5 GENDER
EQUALITY



6 CLEAN WATER
AND SANITATION



7 AFFORDABLE AND
CLEAN ENERGY



8 DECENT WORK AND
ECONOMIC GROWTH



9 INDUSTRY, INNOVATION
AND INFRASTRUCTURE



10 REDUCED
INEQUALITIES



11 SUSTAINABLE CITIES
AND COMMUNITIES



12 RESPONSIBLE
CONSUMPTION
AND PRODUCTION



13 CLIMATE
ACTION



14 LIFE
BELOW WATER



15 LIFE
ON LAND



16 PEACE, JUSTICE
AND STRONG
INSTITUTIONS



17 PARTNERSHIPS
FOR THE GOALS



**SUSTAINABLE
DEVELOPMENT
GOALS**

<http://sdg.humanrights.dk/>

The International Human Rights Framework

International Bill of Rights

Universal Declaration of Human Rights (UDHR)

International Covenant on Civil and Political Rights (ICCPR)

OP (Individual Communications)

OP (prohibition of death penalty)

International Covenant on Economic, Social and Cultural Rights (ICESCR)

OP (Individual Communications)

Convention on the Elimination of All Forms of Racial Discrimination (CERD)

Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)

OP (Individual Communications)

Convention on the Rights of Persons with Disabilities (CRPD)

OP (Individual Communications)

International Convention for the Protection of All Persons from Enforced Disappearance (CPED)

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)

OP (National Preventive Mechanisms and Subcommittee Visits)

Convention on the Rights of the Child (CRC)

OP (children in armed conflict)

OP (sale of children, child prostitution and child pornography)

OP (Individual Communications)

Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW)

New Zealand's National Plan of Action

Mahere Rautāki a Motu

<http://npa.hrc.co.nz/>

Explore by Category

Government Actions

UPR Recommendations

This National Plan sets out the actions the Government is taking to protect and promote Human Rights as a result of the commitments it made through its second Universal Periodic Review (UPR) before the United Nations Human Rights Council in 2014

54

Submissions to the UPR
by 250+ civil society individuals
and groups

155

UPR Recommendations
of which 121 were accepted by
the Government

97

Government Actions
to address UPR
Recommendations

Explore by Category

Government Actions and UPR Recommendations have been categorised across four groupings to provide further insight and analysis

1

How are decisions made?

> Are they based on international human rights standards?

2

What are all the human rights in this situation?

> Is there conflict between different rights?

> Try to balance these different rights so everyone's rights are respected

> Give first priority to the rights of the most vulnerable

3

Participation

> Can those affected participate in decisions that affect them?

4

Non-discrimination

> Do those affected have the same rights and responsibilities as others?

5

Empowerment

> Can those affected use their human rights to make change and have a say in decisions that affect them?

6

Accountability

> Can those affected complain about decisions that affect them?



Human Rights
Commission

Te Kāhui Tika Tangata

The Human Rights Approach

Six Steps