

28 August 2023

Section 9(2)(a)

Section 9(2)(a)

Our ref: OIA 106517

Tēnā koe Section 9(2)(a)

Official Information Act request: International Covenant on Civil and Political Rights

Thank you for your email of 2 August 2023 in which you requested further information relating to a previous response provided to you by the Ministry of Justice (our ref: OIA 105425) under the Official Information Act 1982 (the Act). Specifically, you requested:

Thank you for the responses provided. However, the answer provided to Question 1 was unclear. Question 1 was: "Over the time period between 1st of October 2019 and 1st of June 2023, has New Zealand, the New Zealand Government, and/or the Ministry of Justice availed itself of the right of derogation under Article 4 of International Covenant on Civil and Political Rights?" Based on the answers the Ministry of Justice provided to question 1, 2, and 3 it is implied that the New Zealand Government did not avail itself of the right of derogation under Article 4 of the International Covenant on Civil and Political Rights? Can your organisation clearly confirm that the New Zealand Government and/or the Ministry of Justice did not avail itself of the right of derogation under Article 4 of the International Covenant on Civil and Political Rights at any stage between 1st of October 2019 and 1st of June 2023?

I can confirm that over the period between 1 October 2019 and 1 June 2023 the New Zealand Government did not use the right of derogation under Article 4 of the International Covenant on Civil and Political Rights Act (ICCPR).

The New Zealand Bill of Rights Act 1990 (NZBORA) is the primary mechanism by which New Zealand implements the ICCPR, which provides for the permissible limitations of rights.

Section 5 of NZBORA says:

"... the rights and freedoms contained in this Bill of Rights may be subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society."

In line with ICCPR, any limit on rights affirmed in NZBORA must be proportionate and no greater than necessary to achieve an objective. If a right is limited it is necessary to demonstrate that the objective is important enough that the limit of a right is justified. All bills introduced to Parliament are vetted for consistency with NZBORA and reports issued. These can be viewed at: [justice.govt.nz/justice-sector-policy/constitutional-issues-and-human-rights/bill-of-rights-compliance-reports/](https://www.justice.govt.nz/justice-sector-policy/constitutional-issues-and-human-rights/bill-of-rights-compliance-reports/)

Your comments in response to the Ministry's reply to your original question 5 are noted.

If you require any further information, please contact Media & Social Media Manager Joe Locke at media@justice.govt.nz.

Please note that this response, with your personal details removed, may be published on the Ministry website at: justice.govt.nz/about/official-information-act-requests/oia-responses/.

If you are not satisfied with this response, you have the right to make a complaint to the Ombudsman under section 28(3) of the Act. The Office of the Ombudsman may be contacted by email to info@ombudsman.parliament.nz or by phone on 0800 802 602.

Nāku noa, nā



Anna Johnston
Acting General Manager, Civil & Constitutional Policy