

1676 \

From: Ayling Dawson Gmail <
To: <constitutionalreview@justice.govt.nz>
Date: 27/06/2013 4:20 p.m.
Subject: "CAP" submission constitutional review

I want no change to New Zealand's unwritten constitution. It has served us well and I would like to see one New Zealand for all our citizens.

Graeme Ayling

Tauranga

2693

I have studied the customary rights legislation and I do find it absurd that a person name from a historical unit should contact ear and sleep. I learned a great deal on the matter about respecting the nature of the whole creation in its diversity.

I submit: The values of law, order, tangas and the values of change, not tangas must be inherent and dominate our commonwealth constitution we might create to be our own.

Education is everything!

History brings us and so must be our responsibility!

Secular law is in the commonwealth, so commonwealth should be the focus of the constitution of secular law!

What I believe our country needs is a cap on estate value! One life's bond maximum - as in nature if the currency doesn't flow the water stagnates and the organism dies!

Sincerely,
The People

1) Firstly, I would like to express my
appreciation to those who submitted
the submission due date, as it
is that I do not want to see,
I would have had no ability
to submit myself as well. I
agree to the greatest degree
of my time. From 28th June -
1st July (is impossible) to thank you.
Secondly the process of LMA and
notification in the back of the
newspapers is not sufficient to
reach the people on the ground
in my community. Thirdly I twice
phoned the office to learn of
the seminar, and all I got was
the standard ph message saying
someone didn't know about this
most important undertaking and my
message received no reply!

1) I have a number of concerns
with the limited content of
the seminar - I walked away with
no idea what is real! This
conversation is to me, nothing
more than an emotive hooker
to appease the Tyranny of the
State in its recent unconstitutional
last narrow decisions

1 Charter schools: what equity does one have when their education is jeopardized?

Gay marriage: how do you honour a gay marriage? Does gay marriage produce a product or state so as to perpetuate that right, or is it purely selfish?

1 The GCSB: it's understand of risk we are traded as manifest market properties of the crown in exchange for liberty - what liberty do I have in a computer generated world, where the powers of oppression are unlimited?

1 My primary concern lies in the fact that currency is not, or at least discussed in the constitutional conversation - and without the recognition that currency is bonded by debt to the person whose rights we endeavour to protect (is a waste of time) as without access to currency you essentially have no access to these rights (and vice versa), so why is it not understood so much? More so into the culture as our currency dictates by common interest, and as the philosophy

1
of jurisprudence is as animated
as the currency itself. We need
a constitution that is clear
and concise for the security
of the person and their ability
to obtain equity in a world
dominated by admiralty in the
false ego. The system we face
is the most beautiful creation
and does allow you grace if you
choose it, but I would be
remiss if I said that even the
judge in Kaituma court, knew
what he was doing in coming
the common-wealth to threaten
people! I don't believe that
we the people have any trouble
with grace or equity - 'it is
the delcency of admiralty in
currency that has us oppressed.
1 I believe we created our money
by debenture and allowing debentures
to be created against that - we
have inadvertently reversed the
nature of honour by pacts in the
false ego and so undermined the
sanctity of grace! It is almost
as if the monarchy for which
we forged these bonds has
abandoned us!?

Submission to the New Zealand Constitutional Advisory Panel 2013

As a supporter of Amnesty International, I write to add my voice in support of its submission to the current constitutional conversation.

I am concerned that all our human rights are not adequately protected in New Zealand law.

For example, our Bill of Rights Act 1990 only incorporates civil and political rights. Yet, it is widely recognised that human rights are interrelated, interdependent and indivisible; this means that one set of rights cannot be enjoyed in a meaningful way if the other set of rights is not also adequately protected and respected too.

I believe civil and political rights, such as the right to life, cannot truly be achieved without the equal right to work, accessible health care, adequate housing and education, which are enshrined in the concepts of economic, social and cultural rights.

Despite having ratified the International Covenant on Economic, Social and Cultural Rights in 1978, successive New Zealand Governments have failed to fulfill their obligations to respect, promote and fulfil these human rights.

While the Government says economic, social and cultural rights are currently protected by subject specific statutes, current issues involving these rights, such as child poverty, show that the current system is not working to adequately protect our rights. The maze of laws and policies around economic, social and cultural rights make it difficult for New Zealanders to understand and access their rights.

Without a clear framework to guide legislation and policy it also makes it difficult to see if laws policies are actually working to recognise New Zealanders rights. In addition many human rights in New Zealand lack avenues to remedies if they are breached, which limit New Zealanders' access to justice - an essential right of victims of all human rights violations.

I therefore submit the following recommendations:

- The incorporation of economic, social and cultural rights into the Bill of Rights Act 1990;
- The entrenchment of the Bill of Rights Act 1990 so that the weight and importance of these rights is adequately recognised;
- The explicit inclusion of the power for judges to provide remedies when the Bill of Rights Act is violated;
- That New Zealand ratify the Optional Protocol for International Covenant of Economic Social and Cultural Rights, including opting in to its inquiry and inter-state mechanisms, so that New Zealanders have access to an international remedy;
- The establishment of a Human Rights Select Committee to ensure that the impact of legislation on human rights is sufficiently considered;
- The requirement of all levels of Government to take a human rights approach to addressing human rights issues; and
- Increased human rights education initiatives to increase awareness of economic, social and cultural rights.

I believe these recommendations will provide for stronger protections within our constitutional framework for economic, social and cultural rights.

Taking these measures will ensure a strong legal framework in which all rights are equally protected. It will ensure that the Government can take a rights-based approach to addressing rights issues in New Zealand such as child poverty.

New Zealand has an obligation to take steps to progressively realise such rights as the rights to health, education, and adequate housing. Ensuring they are explicitly protected in New Zealand law is a significant step in ensuring that New Zealand is a place where human rights are protected, respected and fulfilled.

Paul Baakman
Christchurch
New Zealand

750

From: <constitutionalreview@justice.govt.nz>
To: 5/05/2013 4:43 p.m.
Date: <http://www.ourconstitution.org.nz/> form submission
Subject:

Sent from The Constitution Conversation #link:<http://www.ourconstitution.org.nz/>.

Full Names: Venkatraman Babu and Gayathri Sukumaran Organisation Name: Email:
Phone: Postal AddressA: Postal AddressB:
Postal City: Auckland Postal Region: Postal Post Code: Postal Country: New
Zealand Submission: Dear panel members,

We would like our country to continue in its current form rather than Americanizing it by creating a rigid constitution. We believe that, if such a written constitution were to be created, and the Treaty of Waitangi made a part of it, it will not be long before our future is hijacked by the extreme left wing radicals of the Greens, just like the United States is being hijacked by the extreme right wing radicals of the NRA.

Please do let a good thing be and save the future of the country for our children.

Sent on the 5 May 2013 at 16:42

310

From:
To: <constitutionalreview@justice.govt.nz>
Date: 14/04/2013 2:40 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

Sent from The Constitution Conversation #link:<http://www.ourconstitution.org.nz/>.

Full Names: Neil Badger Organisation Name: private family Email:
Phone: Postal Address: Postal
Address: Postal City: Tauranga Postal Region: Bay of Plenty Postal Post Code:
Postal Country: New Zealand Submission: no one I know of European descent likes being
referred to as Pakeha. I believe the word should be expunged from our language as the 'n' word has
been done, firstly in America now worldwide. Whatever the origin of the word, it is now felt to be
derogatory,
insulting and racist.

There is no justice in giving Maori the right to rename the North and South Islands. They are in the
minority and should not be allowed to exert their demands over the majority of non-Maori New
Zealanders.

N

Sent on the 14 April 2013 at 14:39

847

From:
To: <constitutionalreview@justice.govt.nz>
Date: 15/05/2013 10:04 a.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

Sent from The Constitution Conversation #link:<http://www.ourconstitution.org.nz/>.

Full Names: Lee Badham Organisation Name: Email: Phone:
Postal AddressA: Fl: , Postal AddressB
Postal City: Tauranga Postal Region: Bay Of Plenty Postal Post Code: Postal Country:
New Zealand Submission: We do not need a written Constitution. The system we currently have is
working. If a written Constitution is to be considered it needs a BINDING referendum vote from ALL
New Zealand citizens to take place. This referendum vote could take place at the time
of the next Election and the majority results would determine whether a written Constitution would be
put in place. ANYTHING ELSE is NOT Democracy.

Sent on the 15 May 2013 at 10:03

847A

From: "Lee"
To: <constitutionalreview@justice.govt.nz>
Date: 3/07/2013 12:50 p.m.
Subject: CAP Submission

To Whom It May Concern Re : Maori Seats

It is my submission that Maori Seats should be abolished. They are a form of apartheid and have no place in a democracy.

Yours sincerely
(Ms) Lee Badham
Tauranga

8476

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 24/07/2013 12:00 p.m.

Sent from The Constitution Conversation #link:<http://www.ourconstitution.org.nz/>.

Full Names: Lee Badham Organisation Name: Email: Phone:
Postal AddressA: Postal AddressB: Postal City: Tauranga Postal Region: Postal Post
Code: Postal Country: New Zealand Submission: I believe the Maori Seats should be
abolished as they are racist in the true meaning of the word.

There should also only be ONE Electoral Roll for ALL New Zealanders. Separate Electoral Rolls are
racist in the true meaning of the word.

Submitted on the 24 July 2013 at 11:59

2432

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 4/07/2013 8:22 a.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

Sent from The Constitution Conversation #link:<http://www.ourconstitution.org.nz/>.

Full Names: Jessica bagge Organisation Name: Email: Phone:
Postal AddressA: Postal AddressB: Postal City:
Blenheim Postal Region: Marlborough Postal Post Code: Postal Country: New Zealand
Submission: I like the Bill of Rights, I'm okay about you writing ONE Constitution that incorporates the other documents, but please write it for ALL New Zealanders, Europeans, Pacifica, Maori - everyone. We have a diverse community and I tire of endless special reference to Maori. It's time we set the standard of ONE New Zealand for all who live here. In law. So we can get on with growing our wonderful Country and it's people. I think the legal system we have now helps keep Parliament in check. I would like the Monarchy to remain as the ceremonial head. If there are sweeping changes please incorporate a review date so that if it's not working as hoped, it can easily be changed. When you look around other Countries and see what they do, what works best in their Constitutions?
Lets take the best from everyone else and have a Super Constitution. Good luck. Thanks for the opportunity to submit.

Sent on the 4 July 2013 at 08:21

4/89

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 30/07/2013 2:07 p.m.

Sent from The Constitution Conversation #link:<http://www.ourconstitution.org.nz/>.

Full Names: A Baghaki Organisation Name: Amnesty International NZ Email:
Phone: Postal AddressA: Postal AddressB: Postal City: Auckland
Postal Region: Postal Post Code: Postal Country: New Zealand Submission: As a long
time Amnesty Intl and a human rights supporter I am submitting that in order to have a
comprehensive framework protecting all human rights, the New Zealand Bill of Rights Act 1990 must
include economic, cultural and social rights.

New Zealand has an opportunity to be a leader in the international community by protecting the
human rights of its citizens. Currently, however there are many flaws that weaken the position and
rights of citizens. One defect is that despite ratifying the International
Covenant on Economic, Social and Cultural Rights in 1978, the rights contained are yet to be
entrenched in the Bill of Rights Act. All rights should be treated equal, and economic, cultural and
social rights must have the same standing as political and civil
rights.

It is also disappointing that such an important conversation is given such a small time frame for
discussion and submissions.

Regards

A Baghaki

Submitted on the 30 July 2013 at 14:01

1211

From:
To: <constitutionalreview@justice.govt.nz>
Date: 9/06/2013 1:58 p.m.
Subject: http://www.ourconstitution.org.nz/form_submission

Sent from The Constitution Conversation #link:<http://www.ourconstitution.org.nz/>.

Full Names: Ian Frank Nicholas Bagnall Organisation Name: Email:
Phone: Postal AddressA: Postal
Address: Postal City: Tauranga Postal Region: Western Bay of Plenty
Postal Post Code: Postal Country: New Zealand Submission: Any written Constirution
for New Zealand must avoid falling into the Apartheid trap that damaged South Africa.

New Zealanders should be one people with equal rights for all, no separate register for voting and no separate seats for MPs. Equality is what must prevail, if we are to have a viable future. It will put a stop to the infighting which could destroy this nation.

Sent on the 9 June 2013 at 13:57

2992

KIWI

harmony

TIM BAGNALL

The Constitution of New Zealand

Historical Context:

The founding document of the Nation, The Treaty of Waitangi was written in two languages, Maori and English.

One version purported to be a translation of the other.

There was exploitation and clashes, which are now being addressed. This constitution will only come into place when these problems are addressed as well as they possibly can be.

Other groups have been targeted in the intervening years including Chinese, Dalmations, Pacific Islanders, people with disability, and women. More recently males, especially fathers (with their children) have also been targeted. These groups have been able to be targeted because we have no constitution.

We live in New Zealand and all our people have a shared humanity, which demands that they be treated not as in the past, but in a future that we all value together, that we treat all peoples as equal under the law because they are humans.

All citizens (and children) therefore have a right to expect that their Country will be governed in the common good.

All citizens will accept their equality under the law as they share their common humanity.

The justice system that we live under will be required to be reformed so that the equality so vital to our common humanity will not pit one group against another and will act without fear or favour.

ENSHRINING YOUR HUMAN RIGHTS

Each citizen will have their human rights enshrined in our constitution.

Equality under the law

Freedom of speech

Education to our potential

Health – The right to treatment for both our physical and mental wellbeing

The right to share the love of two biological parents

The right of mothers and fathers to relate to their CHILDREN

THE POWER OF THE STATE

The power of the State under a constitution can be tested where necessary in Constitutional Courts.

The power of the State shall be used to ensure the territorial integrity of its citizens and children.

The power of the State shall be circumscribed in certain matters.

The power of the State shall be circumscribed in certain matters.

In matters of conscience

In radical changes from manifestos

In unconstitutional acts

In unconstitutional acts the state will make applications or file notices of defence to test those acts within Constitutional Courts.

In matters of conscience or where a majority of New Zealanders object to proposed legislation, binding citizens initiated referenda will decide such issues.

This shall apply at a local level through binding citizens initiatives.

Responsibility to obey the law applies universally.

The State therefore is not above the law and retrospective legislation to cover illegal acts are unconstitutional.

Fair governance also demands that citizens know what are the powers of the secret police. The constitution allows citizens to discover any and all information about them and this shall apply to all bureaucracies. Open complaint authorities must be required to observe this part of the Constitution.

PREAMBLE:

We the people of New Zealand honour those who have suffered injustices in the past.

Respect those who have worked to build our country and we respect New Zealand's diversity.

We adopt this Constitution as the supreme law of our Republic.

To be based on democratic values, one law for all and human rights.

The will of the people will be tempered by the vital need for everyones human rights (including childrens) to be equally protected by the law.

Our Constitution will be secular but each person has rights in New Zealand as listed in
-> *Put yours in.*

FOUNDNG PROVISIONS:

1. The Republic of New Zealand is one sovereign democratic State founded on the following values.
 - a) Human dignity, equality under the law, and the advancement of human rights and freedoms.
 - b) The supremacy of the Constitution and the rule of law are embodied into a Constitutional Court.
 - c) Non-racialism and non sexism.
 - d) Universal adult suffrage, a national common voters roll, regular elections and a multi party system of democratic government to ensure accountability, responsiveness and openness.

SUPREMACY OF CONSTITUTION:

2. Law or conduct inconsistent with the Constitution is invalid and the obligations imposed by the Constitution will be upheld in a Constitutional Court.

CITIZENSHIP:

3. All citizens are;
 - a) Equally entitled to the rights, privileges and benefits of citizenship and
 - b) Equally subject to the duties and responsibilities of Citizenship.

NATIONAL FLAG AND ANTHEM:

4. & 5. To be determined by direct democracy of the citizens of NZ.

LANGUAGES:

6. English, Maori and international sign languages shall be deemed to be the official languages of New Zealand

Jim Bagnall

CHAPTER 2 - BILL OF RIGHTS

RIGHTS:

7.

- 1) The Bill of Rights is the corner stone of democracy in New Zealand. This Constitution affirms the values of human dignity, equality and freedom.
- 2) The State must respect, protect, promote and fulfil the rights in the Bill of Rights and a Constitutional Court will be set up to ensure this happens.
- 3) Limitations to the Bill of Rights are contained in the rest of the Constitution.

APPLICATION:

8.

- 1) The Bill of Rights applies to all law and binds the legislature, the executive, the judiciary and all organs of the State.
- 2) If the State does not give effect to the Constitution and the individual rights enshrined in the Constitution, the Constitutional Court shall be able to receive applications and make judgements on the States actions.

EQUALITY:

9.

- 1) Everyone is equal before the law and has the right to equal protection and benefit of the law.
- 2) Equality includes the full and equal enjoyment of all rights and freedoms. To promote the achievement of equality under the law a Constitutional Court will protect persons or categories of persons disadvantaged by unfair discrimination.
- 3) The State may not unfairly discriminate directly or indirectly against anyone on one or more grounds including race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, religion, conscience, belief, culture, disability, language and birth.

Please feel free to amend, rewrite, comment, criticize in anyway you feel.

Thanks

Jim Bagnall

EQUALITY (Cont.)

- 4) No person may unfairly discriminate directly or indirectly against anyone on one or more grounds in terms of subsection (3). National legislation must be enacted to prevent and prohibit unfair discrimination and legislation.
- 5) Discrimination on one or more grounds listed in subsection 3 is unfair unless it is established in a constitutional court that it is fair.

HUMAN DIGNITY:

10.

Everyone has inherent right to dignity and the right to have their dignity respected and protected.

LIFE:

11.

Everyone has the right to life.

FREEDOM AND SECURITY OF THE PERSON

12.

- 1) Everyone has the right to freedom and security of the person which includes the rights;
 - a) Not to be deprived of freedom arbitrarily or without just cause.
 - b) Not to be detained without trial.
 - c) To be free from all forms of violence from either public or private sources.
 - d) No to be tortured in any way and
 - e) Not to be treated or punished in a cruel, inhuman or degrading way.
- 2) Everyone has the right to bodily and psychological integrity which includes the right
 - a) To make decisions concerning reproduction.
 - b) To security in and control over their body and
 - c) Not to be subjected to medical or scientific experiments without their formal consent.

SLAVERY SERVITUDE & FORCED LABOUR

13.

No one may be subjected to slavery servitude or forced labour.

PRIVACY:

14.

Everyone has the right to privacy, which includes the right not to have

- a) Their person or home searched
- b) Their property searched
- c) Their possessions seized or
- d) The privacy of their communication infringed.

FREEDOM OF RELIGION BELIEF AND OPINION:

15.

- 1. Everyone has the right to freedom of conscience, religion, thought, belief and opinion.
- 2. Religious observances may not be conducted by the State or State-aided institutions.
- 3. This section does not prevent legislation recognising
 - a) Marriages concluded under any tradition or system of religions, personal or family law or
 - b) Systems of personal and family tradition, or adhered to by persons professing a particular religion.
- 4. BUT EXCLUDES Religion promoting and/or applying violence, terrorism Law or abuse and is breaking the constitutional freedoms ensured by this Constitution.

FREEDOM OF EXPRESSION:

16.

- 1. Everyone has the right to freedom of expression which includes
 - a) Freedom of the press and other media
 - b) Freedom to receive or impart information or ideas.
 - c) Freedom of artistic creativity and
 - d) Academic freedom and freedom of scientific research.
- 2. The right in subsection (1) does not extend to
 - a) Propaganda for war
 - b) Incitement of imminent violence or
 - c) Advocacy of hatred that is based on race, ethnicity, gender or religion and that constitutes incitement to cause harm.

Any other suggestions or changes etc. welcome.

Thanks Jim

ASSEMBLY – DEMONSTRATION – PICKET – PROTEST – PETITION

17.

Everyone has the right, peacefully and unarmed, to assemble, to protest, to demonstrate, to picket and present petitions.

FREEDOM OF ASSOCIATION:

18.

Everyone has the right to freedom of association.

POLITICAL RIGHTS:

19.

1. Every citizen is free to make political choices which includes the right
 - a) To form a political party within the terms of the constitution
 - b) To participate in the activities of, or recruit members for a political party and
 - c) To campaign for a political party or cause.
2. Every citizen has the right to free, fair and regular elections for any legislative body established in terms of the constitution.
3. Every adult citizen has the right
 - a) To vote in elections for any legislative body established in terms of the Constitution and to vote in citizen initiated referenda and local initiatives and to do so in secret.
 - b) To stand for public office and, if elected, to hold office.

CITIZENSHIP

20.

No citizen may be deprived of citizenship.

FREEDOM OF MOVEMENT & RESIDENCE

21.

1. Everyone has the right to have freedom of movement.
2. Every citizen has the right to enter, to remain in and to reside anywhere in the Republic.
3. Everyone has the right to leave the Republic.
4. Every citizen has the right to a passport.

FREEDOM OF TRADE, OCCUPATION & PROFESSION

22.

Every citizen has the right to choose their trade, occupation or profession freely. The practice of a trade, occupation or profession may be regulated by law.

LABOUR RELATIONS

23.

1. Everyone has the right to fair labour practices.
2. Every worker has the right
 - a) To form and join a trade union.
 - b) To participate in the activities and programmes of a trade union and to
 - c) Strike.
3. Every employer has the right
 - a) To form and join an employers organisation and
 - b) To participate in the activities and programmes of an employers organisation.
4. Every trade union and every employers organisation has the right
 - a) To determine its own administration programmes and activities.
 - b) To organise and
 - c) To form and join a federation.
5. Every trade union, employers organisation and employer has the right to engage in collective bargaining. National legislation may be enacted to regulate collective bargaining, to the extent that the legislation may limit a right in this chapter, the limitation must comply with section ()

ENVIRONMENT

24.

Everyone has the right

- a) To an environment that is not harmful to their health and wellbeing
- b) And to have the environment protected for the benefit of present and future generations through reasonable legislative and other measures that
 - I. Prevent pollution and ecological degradation
 - II. Promote conservation and
 - III. Secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development.

PROPERTY

25.

1. No one may be deprived of property except in terms of law of general application and no law may permit arbitrary deprivation of property.
2. Property may be expropriated only in terms of law of general application.
 - a) For a public purpose or in the public interest and
 - b) Subject to compensation, the amount of which and the time and manner of payment of which have either been agreed to by those affected or decided or approved by a Court.
3. The amount of compensation and the time and manner of payment must be just and equitable, reflecting an equitable balance between public interest and those affected, having regard to all relevant circumstances including
 - a) The current use of property?
 - b) The history of acquisition and use of the property
 - c) The market value of the property
 - d) The extent of direct State investment and subsidy in the acquisition and beneficial capital improvement of the property, and
 - e) The purpose of the expropriation.
4. For the purposes of this section
 - a) The public interest includes equitable access to all New Zealand's natural resources.
 - b) Property is not limited to land.
 - c) Maori land – Waitangi tribunal – inserted here together with land confiscated from Fathers and their children.

HOUSING

26.

1. Everyone has the right to have access to adequate housing.
2. The State must take reasonable legislative and other measures, within its available resources, to achieve the progressive realization of this right.
3. No one may be evicted from their home, or have their home demolished without an order of Court made after considering all relevant circumstances. No legislation may permit arbitrary evictions.

HEALTH CARE, FOOD, WATER AND SOCIAL SECURITY

27.

1. Every on has the right to have access to
 - a) Health care services, including reproductive health care.
 - b) Sufficient food and water and
 - c) Social security, including, if they are unable to support themselves and their dependents, appropriate social assistance.
2. The State must take reasonable legislative and other measures, within its available resources, to achieve the progressive realization of each of these rights.
3. No one may be refused emergency medical treatment.

CHILDREN

28.

1. Every child has the right
 - a) To name and nationality from birth.
 - b) To family care or parental care, or to appropriate alternative care when removed from the family environment.
 - c) To basic nutrition, shelter, health care services and social services.
 - d) To be protected from maltreatment, neglect, abuse or degradation.
 - e) To be protected from exploitative labour practices.
 - f) Not to be required or permitted to perform work or provide services that
 - I. Are inappropriate for a person of that child's age or
 - II. Place at risk the child's wellbeing, education, physical or mental health or spiritual or moral or social development.
 - g) Not to be detained except as a measure of last resort, in which case, in addition to the rights a child enjoys under section () and () the child may be detained only for the shortest appropriate period of time and has the right to be
 - I. Kept separately from detained persons over the age of 18 years and
 - II. Treated in a manner and kept in conditions that take account of the Childs age.
 - h) To have a legal practioner assigned to the child by the State and at State expense, in civil proceedings affecting the child, if substantial Injustice would otherwise result and
 - i) Not to be used directly in armed combat and to be protected in times of armed conflict.

EDUCATION

29.

1. Everyone has the right
 - a) To a basic education, including adult basic education and
 - b) To further education, which the State, through reasonable measures, must make progressively available and accessible.
2. Everyone has the right to establish and maintain at their own expense, independent educational institutions that
 - a) Are registered with the State
 - b) Maintain standards that are not inferior to standards at comparable public educational institutions.
3. The State shall allow State run schools to administer other exams at Secondary level other than the N.C.E.A.

LANGUAGE AND CULTURE.

30.

Everyone has the right to use the language and to participate in the cultural life of their choice, but no one exercising these rights may do so in a manner inconsistent with any provision of the Bill of Rights.

CULTURAL, RELIGIOUS, & LINGUISTIC COMMUNITIES.

31.

1. Persons belonging to a cultural, religious and linguistic community may not be denied the right, with other members of that community
 - a) To enjoy their culture, practise their religion and use their language and
 - b) To form, join and maintain cultural, religious and linguistic associations and other organs of civil society.
2. The rights in subsection (1) may not be exercised in a manner inconsistent with any provisions of this constitution or the Bill of Rights.

ACCESS TO INFORMATION.

32.

1. Everyone has the right to access to
 - a) Any information held by the State – and
 - b) Any information that is held by another person and that is required for the exercise or protection of any rights
2. National legislation must be enacted and a Constitutional Court created to To give effect to these rights and may provide for reasonable measures to alleviate the administrative and financial burden on the State.

JUST ADMINISTRATIVE ACTION

33.

1. Everyone has the right to administrative action that is lawful, reasonable and procedurally fair.
2. Everyone whose rights have been adversely affected by administrative action has the right to be given written reasons.
3. National legislation must be enacted to give effect to this right
 - a) Provide for the review of administrative action by a Constitutional Court – an independent and impartial tribunal.
 - b) Impose a duty on the State to give effect to the rights in subsection (1) and (2) and
 - c) Promote an efficient administration.

ACCESS TO COURTS.

34.

Everyone has the right to have any dispute that can be resolved by the application of law decided in a fair public hearing before a Court or, where appropriate, another independent and impartial tribunal or forum.

ARREST, DETAINED AND ACCUSED PERSONS.

35.

1. Everyone who is arrested for allegedly committing an offence has the right
 - a) To remain silent.
 - b) To be informed promptly
 - I. Of the right to remain silent and
 - II. Of the consequences of not remaining silent
 - c) Not to be compelled to make any confession or admission that could be used in evidence against that person.
 - d) To be brought before a Court as soon as reasonably possible but not later than
 - I. 48 hours after the arrest or
 - II. The end of the first Court day after the expiry of 48 hours if the 48 hours expires outside ordinary Court hours or on a day which is not an ordinary Court day.
 - e) At the first court appearance after being arrested, to be charged or to be informed of the reason for the detention to continue or to be released and
 - f) To be released from detention if the interests of justice permit, subject to reasonable conditions.

Continued

ARREST, DETAINED AND ACCUSED PERSONS

35.

2. Everyone who is detained, including every sentenced prisoner has the right
 - a) To be informed promptly of the reason for being detained.
 - b) To choose, and consult with, a legal practitioner and to be informed of this promptly.
 - c) To have a legal practitioner assigned to the detained person by the State and at State expense if injustice would otherwise result, and to be informed of this promptly
 - d) To challenge the lawfulness of the detention in person before a Court and, if the detention is unlawful, to be released.
 - e) To conditions of detention that are consistent with human dignity, including at least exercise and the provision, at State expense, of adequate accommodation, nutrition, reading material and medical treatment and
 - f) To communicate with and be visited by, these persons
 - I. Spouse or partner
 - II. Next of kin
 - III. Chosen religious counsellor, and
 - IV. Chosen medical practitioner
3. Every accused person has a right to a fair trial, which includes the right
 - a) To be informed of the charge with sufficient detail to answer it.
 - b) To have adequate time and facilities to prepare a defence
 - c) To a public trial before an ordinary Court.
 - d) To have their trial begin and conclude without reasonable delay.
 - e) To be present when being tried.
 - f) To choose and be represented by a legal practitioner and to be informed of this right promptly.
 - g) To be presumed innocent, to remain silent, and not to testify during the proceedings.
 - h) To adduce and challenge evidence .
 - i) Not to be compelled to give self-incrimination evidence.
 - j) To be tried with the help of an interpreter if necessary.
 - k) Not to be convicted for an act or omission that was not an offence under either national or international law at the time it was committed or omitted.
 - l) Not to be tried for an offence in respect of an act or omission for which that person has previously been either acquitted or convicted.

35. Continued

3.

- m) To the benefit of the least severe of the prescribed punishments if the prescribed punishment for the offence has been changed between the time that the offence was committed and the time of sentencing and
- n) Of appeal, or review by, a higher court.

1. Whenever this section requires information to be given to a person, that information must be given in a language that the person understands.

LIMITATION OF RIGHTS.

36.

1. The rights in the Bill of Rights may be limited only in terms of law of general application to the extent that the limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality, freedom, taking into account all relevant factors including
 - a) The nature of the right
 - b) The importance of the purpose of the limitation
 - c) The nature and extent of the limitation
 - d) The relation between the limitation and its purpose and
 - e) Less restrictive means to achieve the purpose.
2. Except as provided in subsection (1) or in any other provision of the Constitution, no law may limit any right in the Bill of Rights.

STATES OF EMERGENCY

37.

1. A state of emergency may be declared only in terms of an Act of Parliament and only when
 - a) The life of the Nation is threatened by war, invasion, general insurrection, disorder, natural disaster or other public emergency and
 - b) The declaration is necessary to restore peace and order.
2. A declaration of a state of emergency, and any legislation enacted or other action taken in consequences of that declaration may be effective only
 - a) Prospectively and
 - b) For no more than 21 days from the date of the declaration unless parliament resolves to extend the declaration. Parliament may extend the declaration for no more than 3 months at a time.

Continued:

STATES OF EMERGENCY

37.

2.

- b) The first extension of the State emergency must be by resolution adopted with a supporting vote of a majority of the members of the parliament. Any subsequent extension must be by a resolution adopted with a supporting vote of at least 60 per cent of the members of parliament. A resolution in terms of this paragraph may be adopted only following a public debate in parliament.
- 3. Any competent Court may decide on the validity of
 - a) A declaration of a state of emergency
 - b) Any extension of a declaration of a state of emergency or
 - c) Any legislation enacted, or other action taken in consequence of a declaration of a state of emergency.
- 4. Any legislation enacted in consequence of a declaration of a state of emergency may derogate (1) from the Bill of Rights only to the extent that
 - a) The derogation (2) is strictly required by the emergency and
 - b) The legislation
 - I. Is consistent with the Republic's obligation under international law applicable to states of emergency.
 - II. Confirms to subsection (5) and
 - III. Is published in the National Media as soon as reasonably possible after being enacted
- 5. No Act of Parliament that authorizes a declaration of a state of emergency and no legislation enacted or other action taken in consequence of a declaration may permit or authorize –:
 - a) Indemnifying the State, or any person, in respect of any unlawful act.

(1) **derogate - To repeal part of the law to restrict, to modify, to repeal, annul or revoke partially as a law.**

(2) **Derogation - The act of derogating - limiting in extent or operation.**

I enclose definitions of words to neutralize complexity. The details are included so that our constitution will have teeth and clarity for a Constitutional Court.

ENFORCEMENT OF RIGHTS

38.

Anyone listed in this section has the right to approach the Constitutional Court, alleging that a right in the Bill of Rights has been infringed or threatened and the Constitutional Court may grant appropriate relief including an enforcement and a declaration of that persons rights. The persons who may approach a Constitutional Court are

- a) Anyone acting in their own interests
- b) Anyone acting on behalf of another person who cannot act in their own name
- c) Anyone acting as a member of, or in the interests of, a group or class of persons
- d) Anyone acting in the public interests of its members
- e) An association acting in the interests of its members.

INTERPRETATION OF THE BILL OF RIGHTS

39.

1. When interpreting the Bill of Rights a Constitutional Court
 - a) Must promote values that underlie an open and democratic society based on human dignity, equality and freedom
 - b) The Constitutional Court when setting precedents must promote the spirit, purport and objects of the Bill of Rights
 - c) To the extent that other laws are consistent with The Bill of Rights the Constitutional Court may pass judgements that uphold those laws.

Chapter 3

COOPERATIVE GOVERNMENT

Government of The Republic

40.

1. All spheres of Government must observe and adhere to the principles in this Chapter and must conduct their activities within the parameters that the Chapter provides.

PRINCIPLES OF COOPERATIVE GOVERNMENT AND INTERGOVERNMENTAL RELATIONS

41.

All spheres of Government and all organs of State within each sphere must

- a) Preserve the peace, national unity and indivisibility of the Republic
- b) Secure the well being of the people of the Republic
- c) Provide effective, transparent, accountable, coherent and constitutional government for the Republic and its people
- d) Be loyal to the Constitution, the Republic and its people
- e) Not to assume any power or function except those conferred on them in terms of the constitution
- f) Lay open proposed legislation to be inspected by the Constitutional Court for its constitutionality and effects on childrens future
- g) If (f) encroaches on the impact that government has in other spheres, the Government should realize that. The Constitution is bound to be adhered to where applicable
- h) Co operating with one another in mutual trust and good faith by
 - I. Fostering friendly relations
 - II. Assisting and supporting one another
 - III. Informing and consulting one another on matters of common interest
 - IV. Coordinating legislation and actions with one another
 - V. Avoiding legal proceedings but using the Constitution as guidelines
- i) When disputes and disagreements are irresolvable using direct democracy Nationally and locally to canvas the binding will of the Constituents will be used.

Chapter 3 41 Continued.

- 2 An Act of Parliament must
 - a) Establish or provide for structures and institutions to promote and facilitate intergovernmental relations and
 - b) Provide for appropriate mechanisms and procedures to facilitate settlement of intergovernmental disputes
3. An organ of State involved in an intergovernmental dispute must make every reasonable effort to settle the dispute by means of mechanisms and procedures provided for that purpose, and must exhaust all other remedies before it approves a Court to resolve the dispute.
4. A Constitutional Court may be used to resolve disputes or it may refer a dispute back to the organs of State involved.

Chapter 4 - Parliament
Composition of Parliament

Chapter 5 - The President and National Executive

To be completed by

Thank you for your suggestions for my 3 chapters

CHAPTER 8

COURTS AND THE ADMINISTRATION OF JUSTICE

JUDICIAL AUTHORITY

165

1. The judicial authority of the Republic is vested in the Courts.
2. The Courts are independent and subject only to the Constitution and the law, which they must apply impartially and without fear, favour or prejudice.
3. No person or organ of State may interfere with the functioning of the Courts.
4. Organs of State, through legislative and other measures, must assist and protect the Courts to ensure the independence, impartiality, dignity, accessibility and effectiveness of the Courts.
5. An order or decision issued by a Court binds all persons to whom and organs of State to which it applies.

JUDICIAL SYSTEM

166

The Courts are;

- a) The Constitutional Court
- b) The Supreme Court of Appeal
- c) The High Courts including any High Court of Appeal that may be established by an Act of Parliament to hear appeals from High Courts.
- d) The District Courts and
- e) Any other Court established or recognised in terms of an Act of Parliament including any Court of status similar to either the High Court or the District Courts.

CONSTITUTIONAL COURT

167

1. The Constitutional Court consists of a President, a Deputy President and nine other Judges.
2. Some of these Judges may be Judges from other Countries on an exchange basis.
3. A matter before the Constitutional Court must be heard by at least eight Judges.
4. The Constitutional Court
 - a) Is the highest Court in all constitutional matters
 - b) May decide only constitutional matters and issues connected with decisions on constitutional matters and
 - c) Makes the final decision whether a matter is a constitutional matter or whether an issue is connected with a decision on a constitutional matter.
5. Only the Constitutional Court may;
 - a) Decide disputes between organs of State in the national or provincial

sphere concerning the constitutional status, powers or functions of any of those organs of State.

- b) Decide on the constitutionality of any parliamentary or provincial Bill but may do so only in the circumstances anticipated in sections () or ()
- c) Decide applications envisaged in sections () or ()
- d) Decide on the constitutionality of any amendment to the Constitution.
- e) Decide that Parliament or the President has failed to fulfil a constitutional obligation or
- f) Certify a provincial constitution in terms of section ()

Chapter 8 - Constitutional Court continued

6. The Constitutional Court makes the final decision whether an Act of Parliament (past, present or projected) is constitutional and must confirm any order of invalidity made by other Courts. Also it makes the final decision as to the constitutionality of the conduct of the President.
7. National legislation and/or the rules of the Constitutional Court must allow a person, when it is in the interests of justice and with the leave of the Constitutional Court.
 - a) To bring a matter directly to the Constitutional Court or
 - b) To appeal directly to the Constitutional Court from any other Court.
8. A constitutional matter includes any issue involving the interpretation, protection or enforcement of the Constitution.

SUPREME COURT OF APPEAL

168.

1. The Supreme Court of Appeal consists of determined by an Act of Parliament.
2. A matter before the Supreme Court of Appeal must be decided by the number of judges determined by an Act of Parliament.
3. The Supreme Court of Appeal may decide appeals in any matter. It is the highest Court of Appeal except in Constitutional matters and may decide only
 - a) Appeals
 - b) Issues connected with appeals and
 - c) Any other that may be referred to it in circumstances defined by an Act of Parliament.

HIGH COURTS

170

A High Court may decide

1. Any constitutional matter except a matter that
 - a) Only the Constitutional Court may decide or
 - b) Is assigned by an Act of Parliament to another Court of a status similar to a High Court and
2. Any other matter not assigned to another court by an Act of Parliament .

DISTRICT COURTS AND OTHER COURTS.

171

District Courts and all other Courts may decide any matter determined by an Act of Parliament, but a Court of status lower than a High Court may not enquire into or rule on the constitutionality of any legislation or any conduct of the President.

COURT PROCEDURES

172

All Courts function in terms of National legislation and their rules and procedures must be provided for in terms of national legislation.

POWERS OF COURTS IN CONSTITUTIONAL MATTERS

173

- 1 When deciding a constitutional matter within its power, a court
 - a) Must declare that any law or conduct that is inconsistent with the Constitution is invalid to the extent of its inconsistency and
 - b) May make any order that is just and equitable including
 - I. Any order limiting the retrospective effect of the declaration of invalidity and
 - II. An order suspending the declaration of invalidity for any period and on any conditions, to allow the competent authority to correct the defect.
2.
 - a) The Supreme court of Appeal, a High Court or a Court of similar status may make an order concerning the Constitutional validity of an Act of Parliament, a local government Act or any conduct of the President, but an order of Constitutional validity has no force unless it is confirmed by the Constitutional Court
 - b) A Court which makes an order of constitutional invalidity may grant a temporary interdict or other temporary relief to a party, or may adjourn the proceedings, pending a decision of the Constitutional Court on the Validity of that Act or conduct.
 - c) National legislation must provide for the referral of an order of constitutional invalidity to the Constitutional Court.
 - d) Any person or organ of State with a sufficient interest may appeal, or apply, directly to the Constitutional Court to confirm or vary an order of constitutional invalidity by a Court in terms of this subsection.

INHERENT POWER

174.

The Constitutional court, Supreme Court of Appeal and High Courts have the inherent power to protect & regulate their own process and to develop the common law taking into account the interests of justice.

APPOINTMENT OF JUDICIAL OFFICERS

175.

1. Any appropriately qualified woman or man who is a fit and proper person may be appointed as a Judicial Officer. Any person to be appointed to The Constitutional Court must also be a New Zealand Citizen.
2. The need for the judiciary to reflect broadly the racial and gender composition of New Zealand must be considered when Judicial Officers are appointed.
3. TO BE CONSIDERED
4. TO BE CONSIDERED
5. At all times, at least four members of the Constitutional Court must be persons who were judges at the time they were appointed to the Constitutional Court.
6. The President must appoint the Judges of all other Courts on the advice of the Judicial Service Commission.
7. Other Judicial Officers must be appointed in terms of an Act of Parliament, which must ensure that the appointment, transfer or dismissal of, or disciplinary steps against these Judicial Officers take place without favour or prejudice.
8. Before Judicial Officers begin to perform their functions, they must take an oath or affirm that they will uphold and protect the Constitution.

ACTING JUDGES

176.

1. The President may appoint a woman or a man to be an acting judge of the Constitutional Court if there is a vacancy or if a judge is absent. The appointment must be made on the recommendation of the Cabinet member responsible for the administration of Justice acting with the concurrence of the President of the Constitutional Court and the Chief Justice.
2. The Cabinet member responsible for the administration of Justice must appoint acting judges to other Courts after consulting the senior judges of the Court on which the acting judge will serve.

TERMS OF OFFICE AND REMUNERATION

177.

1. A Constitutional Court judge is appointed for a non renewable term of 12 years, but must retire at the age of 70.
2. Other judges hold office until they are discharged from active service in terms of the Act of Parliament.
3. The salaries, allowances and benefits of judges may not be reduced.

REMOVAL

178.

1. A judge may be removed from office only if
 - a) The Judicial Complaints Commission finds that the judge suffers from an incapacity, is incompetent or is guilty of misconduct and
 - b) The National assembly calls for that judge to be removed by a resolution adopted with a supporting vote of at least two thirds of its members.
2. The President must remove a judge from office upon adoption of a resolution calling for that judge to be removed.
3. The President on the advice of the Judicial Service Commissioner may suspend a judge who is the subject of a procedure in terms of subsection (1)

JUDICIAL SERVICE COMMISSION

179.

1. There is a Judicial Service Commission consisting of
The makeup of which will be decided after decisions are made about the Structure of the Government.
2. The Judicial Services Commission has the powers and function assigned to it in the Constitutional and National legislation.
3. The Judicial Services Commission may determine its own procedure, but decisions of the Commission must be supported by a majority of its members.

PROSECUTING AUTHORITY

180.

1. There is a single national prosecuting authority in the Republic structured in terms of an Act of Parliament consisting of ;
 - a) A National Director of Public Prosecutions who is the head of the prosecuting authority, and is appointed by the President as head of the National Executive and
 - b) Directors of Public Prosecutions and prosecutions as determined by an Act of Parliament.
2. The prosecuting authority has the power to institute criminal proceedings on behalf of the State, and to carry out any necessary functions.
3. National legislation must ensure that the Directors of Public Prosecutions
 - a) Are appropriately qualified and
 - b) Are responsible for prosecutions in specific jurisdictions subject to subsection (5)
4. National legislation must ensure that the prosecuting authority exercises its functions without fear, favour or prejudice.
5. The National Director of Public Prosecutions
 - a) Must determine with the concurrence of the Cabinet Minister responsible for the administration of Justice and after consulting with the Director of Public Prosecutions, prosecution policy must be observed in the prosecution process.
 - b) Must issue policy directives which must be observed in the prosecution process.
6. All other matters concerning the Prosecution Authority must be determined by national legislation.

OTHER MATTERS CONCERNING THE ADMINISTRATION OF JUSTICE

181.

National legislation may provide for any matter concerning the administration of justice that is not dealt with in the Constitution including

- a) Training programmes for judicial officers
- b) Procedures for dealing with complaints about judicial officers; and
- c) The participation of people other than judicial officers in Court decisions.

Chapter 9

STATE INSTITUTIONS SUPPORTING CONSTITUTIONAL DEMOCRACY

182.

1. The following State Institutions strengthen Constitutional democracy in the Republic
 - a) The Public Protector
 - b) The Human Rights Commission
 - c) The Commission for Gender Equality
 - d) The Auditor General
 - e) The Electoral Commission.
2. These institutions are independent and subject only to the Constitution and the law and they must be impartial and must exercise their powers and perform their functions without fear, favour or prejudice.
3. Other organs of State, through legislative and other measures, must assist and protect these institutions to ensure the independence, impartiality, dignity and effectiveness of these institutions.
4. No persons or organ of State may interfere with the functioning of these institutions.
5. These institutions are accountable to the National Assembly and must report On their activities and the performance of their functions to the Assembly at least once a year.

PUBLIC PROTECTOR

FUNCTIONS OF THE PUBLIC PROTECTOR

183.

1. The Public Protector has the power, as regulated by national legislation
 - a) To investigate any conduct in State affairs, or in the public administration in any sphere of government, that is alleged or suspected to be improper or to result in any impropriety or prejudice
 - b) To report on that conduct, and
 - c) To take appropriate remedial action.
2. The Public Protector has the additional powers and functions prescribed by National legislation.
3. The Public Protector must be accessible to all persons and communities.
4. The Public Protector may investigate Court decisions
5. Any report issued by the Public Protector must be open to the public unless exceptional circumstances, to be determined in terms of National legislation, require that a report be kept confidential.

TENURE

184.

The Public Protector is appointed for a non renewable period of seven years.

HUMAN RIGHTS COMMISSION

FUNCTIONS OF THE HUMAN RIGHTS COMMISSION

185.

1. The Human Rights Commission must
 - a) Promote respect for human rights and a culture of human rights.
 - b) Promote the protection, development and attainment of human rights and
 - c) Monitor and assess the observance of human rights in the Republic.
2. The Human Rights Commission has the powers, as regulated by National Legislation necessary to perform its functions, including the power-
 - a) To investigate and to report on the observance of human rights
 - b) To take steps to secure appropriate redress where human rights have been violated.
 - c) To carry out research and
 - d) To educate
3. Each year, the Human Rights Commission must require relevant organs of State to provide the Commission with information on the measures that they have taken towards the realisation of the rights in the Bill of Rights concerning housing, health care, food, water, social security, education and the environment.
4. The Human Rights Commission has the additional powers and functions prescribed by national legislation.

COMMISSION FOR GENDER EQUALITY

FUNCTIONS OF COMMISSION FOR GENDER EQUALITY

186.

1. The Commission for Gender Equality must promote respect for gender equality and the protection, development and attainment of gender equality. This does not mean the introduction or enforcement of quotas.
2. The Commission for Gender Equality has the power to advise on educational legislation for the provision of Equality within the education system for boys and girls.
3. The Commission has the power to advise on existing and future legislation for the provision of equality in contact with children and the property division and child support on separation.

AUDITOR GENERAL

FUNCTION OF AUDITOR GENERAL

187.

1. The Auditor General must audit and report on the accounts, financial statements and financial management of-
 - a) All national and provincial State departments and administration.
 - b) All municipalities and
 - c) Any other institution or accounting entity required by national or provincial legislation to be audited by the Auditor General.
2. In addition to the duties prescribed in subsection 1 and subject to any Legislation, the Auditor General may audit and report on the accounts, financial statements and financial management of –
 - a) Any institution funded from the National Revenue Fund or a Provincial Revenue Fund or by a municipality or
 - b) Any institution that is authorised in terms of any law to receive money for a public purpose.
3. The Auditor General must submit audit reports on any legislature that has a direct interest in the audit, and to any other authority prescribed by national legislation. All reports must be made public.
4. The Auditor General has the additional powers and functions prescribed by National legislation.

TENURE

188.

The Auditor General must be appointed for a fixed, non renewable term of between five and ten years.

ELECTORAL COMMISSION

FUNCTIONS OF ELECTORAL COMMISSION

189.

1. The Electoral Commission must-
 - a) Manage elections of National and Local legislative bodies in accordance with national legislation.

COMPOSITION OF ELECTORAL COMMISSION

190.

The Electoral Commission must be composed of at least three persons. The number of members and their term of office must be prescribed by national legislation.

INDEPENDENT AUTHORITY TO REGULATE BROADCASTING.

BROADCASTING AUTHORITY

191.

National legislation must establish an independent Authority to regulate broadcasting in the public interest and to ensure fairness and a diversity of views broadly representing New Zealand society.

GENERAL PROVISIONS

APPOINTMENTS

192.

1. The Public Protector and the members of any Commission established by this chapter must be men or women who-
 - a) Are New Zealand citizens
 - b) Are fit and proper persons to hold the particular office and
 - c) Comply with any other requirements prescribed by national legislation.
2. The need for a Commission established by this chapter to reflect broadly the Race and gender composition of a multi-cultural New Zealand must be considered when members are appointed but not on a quota basis.
3. The appointment of an Auditor General as a New Zealand citizen must be on the basis of specialized knowledge, or experience in auditing State finances and public administration must be given due regard in appointing the Auditor General.
4. The President, on the recommendation of the National Assembly must appoint the Public Protector, the Auditor General and the members of
 - a) The Human Rights Commission
 - b) The Commission for Gender Equality, and
 - c) The Electoral Commission.
5. The National Assembly must recommend persons
 - a) Nominated by a committee of the Assembly composed of members of all parties represented in the Assembly and
 - b) Approved by the Assembly by a resolution adopted with a supporting vote –
 - I. Of at least 60 per cent of the members of the assembly, if the recommendation concerns the appointment of the Public Protector or the Auditor General or
 - II. Of a majority of the members of the Assembly, if the recommendation concerns the appointment of a member of the Commission.
6. The involvement of civil society in the recommendation process may be provided for as envisaged in Section 59 (1) (a).

REMOVAL FROM OFFICE

193.

1. The Public Protector, the Auditor General or a member of a commission established by this Chapter may be removed from office only on –
 - a) The ground of misconduct, incapacity or incompetence
 - b) A finding to that effect by a Committee of the National Assembly, and
 - c) The adoption by the Assembly of a resolution calling for that persons removal from office.
2. A resolution of the National assembly concerning the removal from office or –
 - a) The Public Protector or the Auditor General must be adopted with a supporting vote of at least two thirds of the members of the Assembly or –
 - b) A member of a commission must be adopted with a supporting vote of a majority of the members of the Assembly.
3. The President
 - a) May suspend a person from office at any time after the start of the proceedings of a committee of the National Assembly for the removal of that person; and
 - b) Must remove a person from office upon adoption by the Assembly of the resolution calling for that persons removal.

Chapter 10.

PUBLIC ADMINISTRATION

BASIC VALUES AND PRINCIPLES GOVERNING PUBLIC ADMINISTRATION 194.

1. Public administration must be governed by the democratic values and principles enshrined in the Constitution including the following principles.
 - a) A high standard of professional ethics must be promoted and maintained
 - b) Efficient, economic and effective use of resources must be promoted
 - c) Public administration must be developmental-oriented.
 - d) Services must be provided impartially, fairly, equitably and without bias
 - e) Peoples needs must be responded to, and the public must be encouraged to participate in policy making
 - f) Public administration must be accountable
 - g) Transparency must be fostered by providing the public with timely, accessible and accurate information
 - h) Good human resource management and career-development practices to maximise human potential must be cultivated.

PUBLIC SERVICE COMMISSION

195.

1. There is a single Public Service Commission for the Republic.
2. The Commission must be regulated by national legislation and must be impartial and exercise its powers and perform its functions without fear, favour or prejudice.
3. No person or organ of State may interfere with the functioning of the Commission.
4. The powers and function of the Commission are –
 - a) To promote the principles set out in section 194
 - b) To investigate, monitor and evaluate the practices of the Public Service.
 - c) To ensure effective and efficient performances within the Public Service.
 - d) On receipt of any complaints –
 - I. To investigate and report on the investigation to the relevant authority
 - II. To investigate grievances of employees and recommend appropriate remedies.

///

From:
To: <constitutionalreview@justice.govt.nz>
Date: 8/04/2013 7:32 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

Sent from The Constitution Conversation #link:<http://www.ourconstitution.org.nz/>.

Full Names: Nick Bagnall Organisation Name: Email: Phone:
Postal AddressA Postal AddressE Postal
City: ja Postal Region: Western Bay of Plenty Postal Post Code: Postal
Country: New Zealand Submission: I believe that everybody should be treated equally.

There should be only one category of citizen.

There should be one electoral role, one vote for ever adult (candidate + party).

Sent on the 8 April 2013 at 18:30

111a

From:
To: <constitutionalreview@justice.govt.nz>
Date: 14/04/2013 11:17 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

Sent from The Constitution Conversation #link:<http://www.ourconstitution.org.nz/>.

Full Names: Nick Bagnall Organisation Name: Email: Phone:
Postal AddressA: Postal AddressB: Postal
City: Postal Region: Western Bay of Plenty Postal Post Code: Postal
Country: New Zealand Submission: The entire world knows this country as New Zealand. As one of the last countries to be founded, we should keep that original name. Change to Aotearoa would confuse most of the world. How smart is that?

Voting should be compulsory, as is filling in a census form. Any constitutional change should be endorsed by a referendum, as should any major change to that, or substantial change to laws. Money is a human invention, and we should be able to distribute it more evenly.

We should focus on such ideals as Peace, Simplicity, Equality, Integrity, Truth, Justice and Fairness, as well as creating a Sustainable Society.

Governments should remain at a 3 year term, and we should retain MMP.

Sent on the 14 April 2013 at 23:16

2154

From: "Joe Bagrie"
To: <constitutionalreview@justice.govt.nz>
Date: 3/07/2013 10:33 a.m.
Subject: CAP Submission

My wife and myself believe all residents residing here and born in NZ are New Zealanders with the same rights and law for all ethnic groups. We believe the Maori seats should be abolished as it is promoting a form of racism'

Joe and Lu Bagrie

Queenstowr

1226

From:
To: <constitutionalreview@justice.govt.nz>
Date: 9/06/2013 5:24 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

Sent from The Constitution Conversation #link:<http://www.ourconstitution.org.nz/>.

Full Names: Bailey Organisation Name: Email: Phone:
Postal AddressA: Postal AddressB: Postal City:
Auckland Postal Region: Postal Post Code: Postal Country: New Zealand
Submission: We new zealanders of all backgrounds having founded and developed our society in
equality fairness and comraidship oppose any laws which establish racialdistinction or devision. There
should be one law for all of us. We ask if the Waitangi Tribunal which
has outlived its usefulness be abolished.

Sent on the 9 June 2013 at 17:23

2902

From: Mark Bailey
To: "constitutionalreview@justice.govt.nz" <constitutionalreview@justice.govt.nz>
Date: 7/07/2013 8:46 p.m.
Subject: CAP submission

7 July 2013

Dear Constitutional Advisory Panel

It is disappointing to see the biased views being "suggested" on the www.ourconstitution.org website with regards removing references to the Treaty of Waitangi from law. The majority of New Zealanders are not favoured by the privileges sought through what is in essence race-based law. I'm not sure why having an "international reputation as a world leader in the recognition of indigenous people's rights" is a position to aspire to. Firstly, you are obliged to define for us what an "indigenous" New Zealander might be: presumably not those of us who have only ever thought of New Zealand as home but don't have brown skin. There is also confusion with the (now almost universal) definitional issue for those who have mixed ancestry. Additionally, if the argument invokes mysticism of the soil then the disputes over rights and ownership will continue in perpetuity.

"Negative effects" on the relationship between Crown and Iwi would presumably be positive effects on the relationship between the Crown's funder (the hapless NZ tax payer) and Iwi? "Public" protests would certainly be nothing new for those of us that have always lived in New Zealand and are a small price to pay for saying no to race-based privilege. Citizens should be free to partake in Maori activities and donate money should they feel this way inclined. It would be a despotic society that enforces the practice by coercion.

With regards to the Maori seats it saddens me that in the year 2013 they are still in existence. Race-based representation has no place in any free society. First and foremost democratic rights should be based on citizenship not race. In any case, it appears that Maori (by your definition?) are very well represented in parliament through the non-Maori seats!

My family and I implore you to recommend a position establishing the rule of law for all New Zealanders and restoring liberty for all. Any other position will lead to further segregation of the nation and baleful grievances.

Yours faithfully,

Dr Mark Bailey

Christchurch

1901' PAPER AD:-

TAURANGA.

Tauranga:

17th June, 2013

Dear Constitutional Advisory Panel.

New Zealand does not need a written constitution - and I strongly oppose any legislation or reference to the Treaty of Waitangi should one be drafted now or in the future.

Yours faithfully,

(Miss NANCY BAILEY.)

468

From:
To: <constitutionalreview@justice.govt.nz>
Date: 16/04/2013 8:23 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

Sent from The Constitution Conversation #link:<http://www.ourconstitution.org.nz/>.

Full Names: Robert Bailey Organisation Name: Email: Phone:
Postal AddressA: it Postal AddressB: Postal City:
Christchurch Postal Region: none Postal Post Code Postal Country: New Zealand
Submission: None to the first question

AND

No to the second, theres to much time and money wasted on them now

Sent on the 16 April 2013 at 20:22

468a

From:
To: <constitutionalreview@justice.govt.nz>
Date: 16/04/2013 8:26 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

Sent from The Constitution Conversation #link:<http://www.ourconstitution.org.nz/>.

Full Names: Robert Bailey Organisation Name: Email: Phone:
Postal AddressA: Postal AddressB: Postal City:
Christchurch Postal Region: none Postal Post Code: Postal Country: New Zealand
Submission: Abolish there seats and make them stand up and be voted in on merit not race

Sent on the 16 April 2013 at 20:25

468b

From:
To: <constitutionalreview@justice.govt.nz>
Date: 16/04/2013 8:30 p.m.
Subject: http://www.ourconstitution.org.nz/form_submission

Sent from The Constitution Conversation #link:<http://www.ourconstitution.org.nz/>.

Full Names: Robert Bailey Organisation Name: Email: Phone:
Postal AddressA: Postal AddressB: Postal City:
Christchurch Postal Region: none Postal Post Code: Postal Country: New Zealand
Submission: We need no more than 75 good mps

Sent on the 16 April 2013 at 20:29

1390

From: "Raymond Bailey"
To: <constitutionalreview@justice.govt.nz>
Date: 17/06/2013 12:40 p.m.
Subject: justice review.

New Zealand does not need a written constitution and I strongly oppose any legislation or reference to the Treaty of Waitangi should one be drafted now or in the future. Ray Bailey

3688

From: Bailey
To: <constitutionalreview@justice.govt.nz>
Date: 18/07/2013 3:12 p.m.
Subject: CAP Submission

Constitutional Review Comments

My comments on the above are as follows -

Constitutional Review Panel Makeup

The make up of the review panel is undemocratic and should have been based on the population percentages published by Statistics New Zealand for each group represented. The existing panel is unbalanced and strongly biased towards "Maori" demands. As such any recommendations put forward by this panel will be legally challenged. The only population groups correctly represented are Asian and the Pacific people.

Treaty of Waitangi

When originally drafted the Treaty clauses covered and included all the people of New Zealand not just one group. In recent years the treaty has been specifically redrafted to benefit "Maori" alone by greedy lawyers.

The Treaty and its principles is an outdated document and as such must not be included in any new constitutional document.

If it was a document such as the Magna Carta which covered all the people of England at the time and still applies then it could be included in a new constitution.

As the Treaty is now well out of date and caters specifically for one small group of New Zealanders (less than 15%) all references must be removed from existing legislation.

Maori Parliamentary Seats and Maori Representation on Local Bodies

As Maori are currently less than 15% of the population, and by 2026 it is predicted this number will be reduced to 10% (Statistics NZ), special Parliamentary seats and non elected representation on local bodies must be abolished. If not, logically and realistically Asian and Pacific Island New Zealanders should be given identical privileges of representation.

Waitangi Tribunal

As the Treaty of Waitangi is out of date and in it's rewritten form caters only for "Maori", the Waitangi Tribunal must be abolished as a costly racist separatist organisation.

When it is realised that less than 15% of the New Zealand population is "Maori", and the majority of these have more other blood than Maori blood, then we no longer have an entity that we can call Maori people, but a mixed blood people. My ancestry is French, Welsh and English but do I insist that I am any of these ? No, I am a New Zealander and proud of it.

Separatism

I strongly oppose separatism or racism or whatever you want to call it, but every day I see a new example of another special privilege being handed to "Maori" on a plate.

This also includes there being one law for all. In a country like New Zealand with a relatively small population there is and never should be a separate legal system for a small and ever decreasing population group.

Roger Bailey

Roger Bailey

Tauranga

Ph:

92

From:
To: <constitutionalreview@justice.govt.nz>
Date: 8/04/2013 3:01 p.m.
Subject: CA

Aspirations

No reference to the Treaty of Waitangi and its principles in the constitution

Remove all existing references from existing legislation

Abolish race based seats in Parliament

Abolish race based seats on local bodies

Abolish the Waitangi Tribunal

Oppose separatism

I want to see New Zealand full of people who are all New Zealanders and proud to be so, not a separatist state where a privileged few of a minority people have all the say in how the country is run. I'm afraid that all I have read concerning the Advisory Panel's work thus far does not give me any confidence in the future of New Zealand if the proposed written constitution is passed into law..

Comments on the Constitutional Advisory Panel makeup

The Constitutional Advisory Panel consist of 12 handpicked individuals by the Maori and National parties as follows -

5 -Maori representatives

1 -Pacific Island representative

1 -Asian representative

5 - Others including European ancestry; 3 of these having strong Maori ties

In the Panels first Progress Report, in their naivety, ignorance or arrogance (or all three) they produced a chart illustrating ethnicity by percentage of the main ethnic groups in New Zealand.

Pacific Islanders

2006 - 10%

2026 - 7% (Projected)

Asian

2006 - 16%

2026 - 10% (Projected)

Maori

2006 - 16%

2026 - 15% (Projected)

Others including European ancestry

2006 - 70%

2026 - 77% (Projected)

Therefore, based on this chart the current Constitutional Advisory Panel should consist of -

2 -Maori

1 -Pacific Islands

1 -Asian

8 - Others including those of European descent

So it is apparent the Advisory Panel has been stacked in favour of Maori right from the word go.

Why is Maori representation (including the three known European Maori sympathisers) so far in excess of the number it should be ie 8 instead of figures based on the ethnicity chart produced by the Panel ?

Does this mean that any recommendations made by this Panel will be invalid and unlawful and can therefore be challenged in the courts ?

Rog Bailey

Tauranga

21 45

From: Samantha Bailey
To: <constitutionalreview@justice.govt.nz>
Date: 3/07/2013 10:16 a.m.
Subject: CAP Submission
Attachments: Constitutional Advisory Panel.docx

Please see the attached submission.

Kind Regards,

Dr Samantha Bailey

2145

Constitutional Advisory Panel

3rd July 2013

Dear Sir/Madam,

Re: Review of Maori Seats in Parliament

I believe that Maori seats should be abolished. We live in a democratic country and race-based representation has no place in our modern society. If we are to have seats based on race – then surely all races must be represented. This task of “classifying” people based on race is impossible and as every New Zealander over the age of 18 has the right to vote, we do not need special seats for special interest groups.

Furthermore the inherent dangers that lie in giving privileges to people based on ethnicity has lead to some of the greatest disasters in history. Need it be mentioned - Nazi Germany & South African apartheid. The concept of maori seats *increase* segregation and can never encourage New Zealand to move forward as one nation.

The origins of Maori seats encompass a controversial discussion – but by all accounts were supposed to be a *temporary* measure. It is ethically fallacious to continue race based favouritism and it is time for our Government to conclude racial prejudice.

Yours faithfully,

Dr Samantha Bailey

Christchurch

2128.

From: Suzanne Bailey <...>
To: "constitutionalreview@justice.govt.nz" <constitutionalreview@justice.gov...>
Date: 3/07/2013 9:04 a.m.
Subject: CAP Submission

I am a 3rd generation Kiwi. I am 62 years old. It's the 21st Century, NZ is now a very multi cultural society. I am tired of NZ being held to ransom by a small minority of the population. Its time we were all one with one Law for all. The Maori seats should be abolished. The country should no longer be held to ransom time and time again over the Treaty of Waitangi. why should my generation have to pay over and over for a piece of paper signed generations ago which basically states everyone has the same rights under British Law. My grand daughter is half Maori. Why does that child have more rights in this Country than her mother?

Calm seas and fair breezes
Suzanne Bailey

Whangarei

4563¹
From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 1/08/2013 10:03 p.m.

Sent from The Constitution Conversation #link:<http://www.ourconstitution.org.nz/>.

Full Names: Eve Khalda Bain Organisation Name: Email:
Phone: Postal AddressA: Postal AddressB:
Postal City: Wellington Postal Region: Postal Post Code: Postal Country:
New Zealand Submission: I believe that there needs to be a serious emphasis placed on civic education in this country. I am unsure if it is part of the curriculum for our schools, but I attended a public college and received very little in the way of civic education.

I feel very strongly that an understanding of our government, our unique constitution, and how public power is exercised in this country should not be the reserve of students studying law or politics at university. Most of the first year law course should form part of compulsory secondary education.

I do not think a process such as this Advisory Panel can ever be truly meaningful without a better system of civic education in New Zealand. It is near on impossible for people to become engaged, passionate and questioning about a topic if they know next to nothing about it.

It is astounding how little knowledge and understanding there is around our constitution, Bill of Rights, and especially the Treaty of Waitangi. I know that my view of the Treaty and its role changed markedly after I learnt more about at university, and as

I have personally experience how transformative this understanding can be, I really want other people of all ages and backgrounds to have the chance to learn more about their own country.

I have many ideas about how this could potentially be done.

Submitted on the 1 August 2013 at 22:02

1765'

Auckland
26th June 2013

The Secretariat,
Constitutional Advisory Panel
To Ministry of Justice
DX SX 10088
Wellington
Dear Panel

I enclose some thoughts
on the constitution which I hope
may be of some assistance to you
in your deliberations.

I realize that there are
many other issues than what I have
mentioned but I believe that the aim
should be for equality for all our
people.

I wish you well in the work
ahead of you.

Sincerely

R. T. BAIN

DOES NEW ZEALAND WANT OR NEED A CONSTITUTION

I am sorry for the delay in forwarding this submission to you but at the time of collecting my thoughts on this important matter, I am in hospital.

SUBMISSION

To my mind New Zealand should be a DEMOCRACY based on CITIZENSHIP - a country where its genuine citizens are EQUAL. To achieve this aim we must tidy up and finalize areas which are prohibiting a level playing field to be achieved. By this I mean that DEMOCRACY should be CITIZENSHIP not race or colour - people with equal rights and opportunities.

The above, of course, does not mean that ethnic groups are required to give up their cultures. It just means that the LAWS OF NEW ZEALAND apply equally to ALL its people.

TO ACHIEVE THIS END OF CITIZENSHIP WE MUST FIRSTLY LOOK AT THE "TREATY OF WAITANGI".

1. Is there a form of the TREATY which has been agreed and accepted by the parties to it.

2. If so, are there still any genuine grievances to be settled bearing in mind that Maori state that they are entitled to claim land by way of conquest - for example the way they ravaged the Chatham Islands. If you apply the same reasoning to the rest of New Zealand and exclude areas where the Treaty wasn't signed (and could be deemed conquered) - then there may be few or no claims to be settled. If some claims are just, should they not be against the British Government and not present New Zealanders who had nothing to do with Treaty matters. (I have heard of a grievance against Maori which couldn't be proceeded because the witnesses to the event had left New Zealand)

3. So we need to define who is a Maori. I have,

for example, heard of a white Australian who came to New Zealand and is considered as a DEEMED MAORI.

4. Full and Final must be given its true MEANING, if a claim is established and then settled. For example, should Ngai Tahu and Tainui get a top up when by illustration Ngai Tahu have made a CAPITAL GAIN (in my estimate) of at least \$200 million in one investment alone - namely Ryman Healthcare Ltd in which they still hold 30 million shares and Tainui would have made a substantial CAPITAL GAIN when they sold their considerable shareholding in the same company.

So that we may progress the NATION for the benefit of ALL our people we must set a final date for Treaty settlements so that we may move forward. We must

(a) Then regard the Treaty as a finalized document

(b) name the 6th February each year as NEW ZEALAND DAY

(c) Have any official ceremony for this New Zealand Day held in our CAPITAL & WELLINGTON. (This would overcome the problem of who held the Prime Minister's arm on this day.)

EQUITY AND EQUALITY.

1. Once the matters above (and any other necessary items) have been dealt with, we should look at becoming a DEMOCRACY.

FOR EXAMPLE

(A) LIST SEATS in PARLIAMENT should be abolished. The MP's on these lists don't represent any electorates and I believe are therefore less likely to be aware of problems at grass roots level. I understand, also, that the general public have no idea of who is on the lists and their order of ranking. There may however be reason to allocate say 5 seats from the total number of Parliament - such seats ^{being allocated} to people with special qualities which would be of benefit to the country. The holder(s) of these seats will be determined by the leaders of the two main polling parties and in the event of a clash the Governor

General could have a casting vote

B MAORI SEATS should be abolished if there is to be equality and one NATION. Maori have equal rights under the law and governance of New Zealand and I can't see where or why there should be separate or special seats in Parliament for them. To me this denigrates Maori who have proven that they are able to win seats the same as other ethnic people can.

IMMIGRATION

I believe that before immigrants can become permanent New Zealand citizens they must be instructed in and agree to abide by the laws of New Zealand. They must also be advised where their culture is in conflict with our regulations. They would then (if deemed eligible) make their decision on whether they wished to become permanent citizens.

The above does not mean, however, that they have to give up their culture, customs and language. This could add colour to our culture. They should however be encouraged to learn our language.

GENERAL

It has been said Israel, Great Britain and New Zealand are the only countries in the world which don't have a written constitution.

If this is so, perhaps we are the lucky ones, who would want a constitution like that of America where you have a licence to kill because of opposition to amend the gun laws.

I believe that we are more flexible in our form of Governance and that amendments to our various laws etc. can be speedily made when and where such amendments are necessary. I am not aware that we have been disadvantaged because we haven't had a constitution.

I believe we would be better spending our time on the important issues raised by Owen Glenn in his book "MAKING A DIFFERENCE". If people in authority were to read chapter 10 of this book entitled "HELP MAKE A DIFFERENCE" we would be getting somewhere in making New Zealand a better country. We have so many advantages over other countries in achieving betterment for all our people.

One sentence in Owen Glenn's book page 10 gives a wonderful glimpse of where we should be heading. - namely

"It is important that all those who live in a community, particularly the young and vulnerable, are safe and feel safe in their homes and their neighbourhood."

I wish you well in your deliberations,
Yours in haste
Sincerely,

 R. T. BAIN

4156

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 30/07/2013 11:08 a.m.

Sent from The Constitution Conversation #link:<http://www.ourconstitution.org.nz/>.

Full Names: Tim Bain Organisation Name: Email: ... om Phone:
Postal AddressA: Postal AddressB: Postal
City: Christchurch Postal Region: Postal Post Code: Postal Country: New Zealand
Submission: I believe that it is important for New Zealand to adopt a written constitution for two key reasons.

Firstly, I think that many important parts of our law (the relationship of the Maori and Pakeha, the role of human rights, the relationship between the executive and the legislature and the role of the courts, and the role of human rights in legislation) have largely developed in a "behind-the-scenes" and gradual way that has largely precluded the opportunity for our constitutional arrangements to be discussed openly and with an open mind. I also think that the ad-hoc and gradual nature of change has meant that there are some institutions which survive through pure inertia, and others that have been heavily influenced by particular interest groups.

Secondly, I think that a written constitution is one that can be actively protected and upheld by the Courts. I believe this is necessary because the conventional nature of our constitutional arrangements means that their existence is owed mostly to the good faith of those who are in the best position to gain from violating them (i.e. those holding power in Parliament). While I don't believe that there is a serious threat of the emergence of a dictatorship, I think that New Zealand is very vulnerable to (and indeed has suffered) a gradual erosion of many important tenets of our democracy in the name of expediency or political gain.

I do not believe that such a written constitution need be rigid - indeed I think that one which would be easily amendable through a referendum would be preferable. A constitution need not be rigid to be effective, it needs only to be clearly defined and enforceable - neither of which are possible without it being in written and thus certain form.

I would strongly urge the inclusion of the Bill of Rights in such a document, given that the protection of human rights is the first duty of government. To avoid a rigid interpretation, I strongly urge the retention of the "justified limitation" provisions in the current legislative Bill.

Finally, I would not support entrenching the Treaty of Waitangi in our constitution. I do not think that a treaty of colonisation is an appropriate constitutional document, even if the uncertainty in its meaning could be resolved. If there were to be a special constitutional position given to Maori (perhaps based on "the principles of the Treaty of Waitangi" but not relying upon it), I believe that this should be adopted through new provisions inserted into our written constitution after a national discussion. I personally am opposed to such an insertion, as I would prefer something that recognised the need to cherish the uniqueness of the Maori culture and language to New Zealand while still recognising that

the job of the government is to protect and serve all citizens
equally and without difference, regardless of any one citizen's social or cultural group and its history.

Submitted on the 30 July 2013 at 11:06

4156a

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 30/07/2013 11:12 a.m.

Sent from The Constitution Conversation #link:<http://www.ourconstitution.org.nz/>.

Full Names: Tim Bain Organisation Name: Email: Phone:
Postal AddressA: Postal AddressB: Postal
City: Christchurch Postal Region: Postal Post Code: Postal Country: New Zealand
Submission: I would support an extension to the Parliamentary term to four years to minimise the disruption due to election cycles. I believe that the Prime Minister should be able to set the exact date of the election, but that there should be a constitutionally prescribed window of one or two months to limit this discretion. This would balance flexibility with the need to prevent political manipulation.

I support the terms of the Electoral Integrity Act but only as applicable to party list MPs, as they were elected based on their party affiliation. I believe electorate MPs should be able to vote against the interests of their party in order to better represent their constituents.

The size and number of electorates should be subject to strict regulation to prevent gerrymandering, and should take into account population numbers but also the shape of settlements.

Submitted on the 30 July 2013 at 11:11

1074

From:
To: <constitutionalreview@justice.govt.nz>
Date: 4/06/2013 11:27 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

Sent from The Constitution Conversation #link:<http://www.ourconstitution.org.nz/>.

Full Names: Allan Baird Organisation Name: Email: Phone:
Postal AddressA: Postal AddressB: Postal City: Postal Region:
Southland Postal Post Code: Postal Country: New Zealand Submission: New Zealand
is a great place the way it is. It has been shaped by the efforts of many generations of migrants. Rules
& Laws have been written & re-written over time to reflect the needs of the people. This is
statue & case law & it is an extensive collection
of materiel. I do not believe a single document could encompass all that has gone on, or should have
the standing to override the precedents set in the many cases that have been tried in New Zealand or
abroad (where similar laws exists).

The constitutional document would become a hugely expensive process to undertake & it is likely
to cause division within New Zealand society. Our energies should be focused on tangible things that
will make New Zealand continue to be a great place to live &
bring up a family.

I do not believe a written constitution is needed, therefore comment over higher legal status is not
required. Nor is a comment on consistency required.

Sent on the 4 June 2013 at 23:26

1074a

From:
To: <constitutionalreview@justice.govt.nz>
Date: 4/06/2013 11:58 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

Sent from The Constitution Conversation #link:<http://www.ourconstitution.org.nz/>.

Full Names: Allan Baird Organisation Name: Email: Phone:
Postal AddressA: Postal AddressB: Postal City: Postal Region:
Southland Postal Post Code: Postal Country: New Zealand Submission: I believe there
is adequate representation with 120 seats in parliament. I believe the parliamentary term at three
years is still appropriate. It may constrain some policy direction but that in itself may be a good thing.
If the government is performing
to the peoples' expectations, then they will likely get a second term. If not they will be defeated. A
four year term could see significant mismanagement before an election could redress the
government. Current process is fine for determining when an election
is held. A party should decide how its list MP's are determined & when they have moved away
from following the parties policies. Electoral MP's are decided by the voting public every electoral
term.

Sent on the 4 June 2013 at 23:58

10746

From: _____
To: <constitutionalreview@justice.govt.nz>
Date: 4/06/2013 11:37 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

Sent from The Constitution Conversation #link:<http://www.ourconstitution.org.nz/>.

Full Names: Allan Baird Organisation Name: _____ Email: _____ Phone: _____
Postal AddressA: _____ Postal AddressB: _____ Postal City: _____ Postal Region: _____
Southland Postal Post Code: _____ Postal Country: New Zealand Submission: The Treaty
was a document written 163 years ago to cater for events that were happening at the time. It was
likely written in haste & not fully understood by both parties. It has made a contribution to our
statue, but so have two world wars & other events
that have shaped our nation over the ensuing period. I do not believe any further elevation of the
Treaty of Waitangi is required. I have already commented that I do not see a need for a written
constitution.

Sent on the 4 June 2013 at 23:37

775

From:
To: <constitutionalreview@justice.govt.nz>
Date: 7/05/2013 8:15 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

Sent from The Constitution Conversation #link:<http://www.ourconstitution.org.nz/>.

Full Names: Linda Baker Organisation Name: Email: z Phone:
Postal AddressA: Postal AddressB: Postal City: Postal Region:
Auckland Postal Post Code: Postal Country: New Zealand Submission: My submission
is that:

Maori seats should be removed.

A written constitution is a must.

The Treaty of Waitangi, Dont want Treaty settlements to go forever if the Treaty of Waitangi is in the new written constitution and keep the payouts going non-stop.

Linda Baker

Sent on the 7 May 2013 at 20:13

4495

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 31/07/2013 9:17 p.m.

Sent from The Constitution Conversation #link:<http://www.ourconstitution.org.nz/>.

Full Names: Molly Baker Organisation Name: Email: Phone:
Postal AddressA: Postal AddressB: Postal City: Christchurch Postal Region: Postal
Post Code: Postal Country: New Zealand Submission: I do not believe that New Zealand
needs a formalised, written constitution. We have the Treaty of Waitangi, the Bill of Rights, and the
Constitution Act which guides our government. A written constitution would be less flexible when
looking long term as
society changes. The systems put in place at the moment allow for a degree of malleability, and this
is how it should stay.

However, if a written constitution were to be put in place, it definitely need to incorporate the Bill of
Rights, the Treaty of Waitangi, and the Constitution Act. These are the three most important
documents that guide how our country runs.

Particular importance must be place on the Treaty of Waitangi. New Zealand is not doing enough to
fulfil our bicultural obligations. There is vast inequality between Māori and non-Māori, especially in
terms of health, education, justice, poverty, and so on.

We must not forget the principles derived from the spirit of the Treaty (partnership, protection and
participation). These guiding principles would address these inequalities, so long as the Treaty has
utmost importance in future pieces of legislation.

Submitted on the 31 July 2013 at 21:17

425

From:
To: <constitutionalreview@justice.govt.nz>
Date: 16/04/2013 9:23 a.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

Sent from The Constitution Conversation #link:<http://www.ourconstitution.org.nz/>.

Submission: Who has driven the perceived need of a Constitutional Review now why are we now
going through this discussion at this time? Full Name: Michael John Baker Email:

Sent on the 16 April 2013 at 09:22

1834

Submission to Constitutional Advisory Panel.

I am opposed to a Written Constitution for New Zealand.

My main reason being that Parliaments in a Democratic State, like ours, is the Supreme Court of the People, and should not be bound by any out dated documents or rules, which in issues of the day may not be appropriate to the time. No Court should be able to overturn the will of the People.

I believe that Parliamentary Representatives should not exceed 100 in number and that at least 75% of them should be there by popular vote and be answerable to their electors by ballot.

I think a 4 year term of Parliament is preferable to our present Parliamentary term.

In the course of time, when current settlements of Treaty claims and as Maori and Pakeha become more one race, by intermarriage etc. the separate Maori Seats should be phased out.

When Members no longer are representative of the Party that they came to Parliament with, they should leave Parliament and be replaced by election of the voters.

yours faithfully,

R. N. Baker,

SORRY I CAN'T WRITE THIS.

A VERY GOOD FRIEND DID IT FOR ME.

Cambridge.

3670

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 17/07/2013 10:14 p.m.

Sent from The Constitution Conversation #link:<http://www.ourconstitution.org.nz/>.

Full Names: Ross Anthony Baxter Organisation Name: Email: Phone:
Postal AddressA. Postal AddressB. Postal City: Coromandel
Postal Region: Postal Post Code: Postal Country: New Zealand Submission: I would
like the principles as currently defined in our unwritten constitution entrenched in a written New
Zealand constitution. I agree with the principles outlined on the following page:

<http://www.ourconstitution.org.nz/New-Zealands-Constitution>

Although a written constitution may not be the place to define the electoral system in New Zealand, I would want a regular review of voting systems, eg MMP, FPP, etc. to ensure that the fairness and representative nature of our democracy is preserved. For example, it is conceivable that a party could have 49.9% of the vote in a General Election and not have any say in the government of New Zealand, but a party with no more than 5% of the vote could have a say.

Submitted on the 17 July 2013 at 22:14

008

ConstitutionalReview - Re: Your correspondence

From: "Ross Baker"
To: "ConstitutionalReview" <ConstitutionalReview@justice.govt.nz>
Date: 27/09/2012 11:04 a.m.
Subject: Re: Your correspondence

Secretariat,
Constitutional Advisory Panel,
c/- Ministry of Justice,
Wellington 6011

I agree, the aim of the booklet is to inform and support conversations with summary information about the existing constitutional arrangements, the conversation so far, and the questions and perspectives that have been expressed along the way but we believe the following is a statement to mislead the public that not one of the quoted institution and organization you mention could substantiate with forensic evidence. "*As tangata whenua, Māori have a close and direct concern with the management of natural resources*".

The Tiriti o Waitangi named these people as tangata maori, not tangata whenua and Maori legion is riddled with stories of tangata whenua inhabiting New Zealand when the canoe people arrived arrived in the 14th century.

Thank for treating this issue as a submission, but we believe it is misleading to make statements such as this without forensic evidence. The public has the right to an open mind before the evidence is produced.

Yours sincerely,

Ross Baker,
Researcher, One New Zealand Foundation Inc.

From: ConstitutionalReview
Sent: Wednesday, September 26, 2012 8:13 AM
To:
Subject: Your correspondence

Dear Mr Baker

Thank you for your recent correspondence regarding the information booklet produced by the Constitutional Advisory Panel.

The aim of the booklet is to inform and support conversations with summary information about the existing constitutional arrangements, the conversation so far, and the questions and perspectives that have been expressed along the way. In gathering the information and perspectives reflected in the booklet the Panel relied on existing resources including academic texts, previous ministerial inquiries, case law, Waitangi Tribunal reports and news media. Public understanding and participation is needed for enduring constitutional arrangements that reflect the values and aspirations of New Zealanders. The

Panel are committed to ensuring that the people of New Zealand have an opportunity to tell them what they think.

As your emails deal with substantive issues, they will be treated as submissions by the Panel.

Regards

Secretariat, Constitutional Advisory Panel

| c/- Ministry of Justice | DX SX10088 | Wellington 6011 | 04 918 8800 |
www2.justice.govt.nz/cap-interim/

>>> "Ross Baker"

15/09/2012 6:58 p.m. >>>

Secretariat,
 Constitutional Advisory Panel,
 c/- Ministry of Justice,
 Wellington 6011

The following is stated on page 47 of the booklet produced by the Constitutional Advisory Panel, "As *tangata whenua*, Māori have a close and direct concern with the management of natural resources".
Where is the Constitutional Advisory Panel's evidence to support this claim?

Even one of the Panelist, Dr Ranginui Walker does not believe Maori were the *tangata whenua* when he stated on page 18 of the "1986 New Zealand Book of Events", "The traditions are quite clear: wherever crew disembarked there were already *tangata whenua* (prior inhabitants). The canoe ancestors of the 14th century merged with these *tangata whenua* tribes.

The Hon John Key, Christopher Finlayson and Pita Sharples have all confirmed under the Official Information Act that Government does not have a definition of the Indigenous People or *tangata whenua* of New Zealand.

Maori tradition also makes it perfectly clear that the *tangata whenua* were light skinned with fair or reddish hair and in some cases, blue eyes. The Te Arawa tribes that moved to Rotorua and Taupo tell of people already inhabiting these areas. These people were called Ngati Hotu and were described by Te Arawa as, ☐ of non-Maori appearance, having reddish hair and pale skin ☐. Other names given to the *tangata whenua* were *Patupaiarehe* or *Turehu*. Maori traditions tell of these friendly, peaceful and law abiding people teaching Maori many of their skills and cultures before they either ☐ merged with the canoe people of the 14 century ☐ or were exterminated by the *tangata maori* as were the Moriori on the Chatham Islands.

If the canoe people of the 14 century merged with the *tangata whenua* to become *tangata maori*, then the *tangata maori* that merged with the Pakeha have fulfilled their ancestors wishes that signed the Tiriti o Waitangi on the 6th February 1840 with a handshake from Governor Hobson and the words, "He iwi tahi tatou - We are now one people Nation".

While *tangata maori* brought very little to the shores of New Zealand, the Pakeha people brought and shared most of the commodities and skills we take for granted today. Now that today's Maori have gained the skills and commodities of the Pakeha, they want to take back the natural resources they took from the *tangata whenua*. Natural resources belong to all the people of New Zealand and must be held in trust by the Crown for all to share - The Law of Nature. ☐ By the law of nature these things are common to mankind ☐ the air, running water, the sea and consequently the shores of the sea ☐ ☐ Institutes of Justinian 500AD

With the *tangata maori* merging with the *tangata whenua*, the majority of *tangata maori* merging with the Pakeha, the signing of the Tiriti o Waitangi and the continuing laws of the land, we have all become New Zealand Citizens under one flag and one law, irrespective of race, colour or creed.

He iwi tahi tatou - We are now one people/Nation

Before Maori can be recognised as the tangata whenua of New Zealand in our Constitution, we must have document forensic evidence. **What documented forensic evidence does the Constitution Advisory Panel have to substantiate this claim?**

Our Constitution must make no distinction between race, colour or creed. Intercourse between the races over the last 172 years has made us all one people/Nation - **New Zealanders!**

Yours sincerely,

Ross Baker

Researcher, One New Zealand Foundation Inc.

This letter will appear on our website, www.newzealandsnewconstitution.com

=====
Confidentiality notice: This email may contain information that is confidential or legally privileged. If you have received it by mistake, please:

(1) reply promptly to that effect, and remove this email and the reply from your system;

(2) do not act on this email in any other way.

Thank you.
=====

FILE COPY

ConstitutionalReview - Law of Nature V US Government/Official Information Act Request

From: "Ross Baker"
To: "John Key" <john.key@national.org.nz>
Date: 17/09/2012 6:35 p.m.
Subject: Law of Nature V US Government/Official Information Act Request
CC: "Christopher Finlayson" <christopher.finlayson@parliament.govt.nz>,
 "ConstitutionalReview" <ConstitutionalReview@justice.govt.nz>

Hon John Key,
 Prime Minister,
 Parliament Building,
 Wellington.

Dear Sir,

Re: Official Information Act Request.

The Law of Nature is part of the Magna Carta, therefore part of our Law. *"By the law of nature these things are common to mankind –the air, running water, the sea and consequently the shores of the sea"*

As shown by the challenge to the US Government below, *"It is the duty of the state to protect the people's common heritage of streams, lakes, marshlands and tidelands...."* – Supreme Court of California.

This is followed by article an by Graham E Anderson describes how the **Law of Nature** is already instilled in many of our Acts of Parliament.

Under the Official Information Act, **What right has the New Zealand Government to over-rule the Law of Nature, the Magna Carta and therefore, our New Zealand Law?**

Yours sincerely,

Ross Baker.

Researcher, One New Zealand Foundation Inc.

Law of Nature vs US Government.

From the article below, *The Public Trust Doctrine at Mono Lakes*, the Public Trust Doctrine (**Law of Nature**) over-ruled a decision by the US Government. If the **Law of Nature** can over-rule the US Government, then surely it can over-rule the New Zealand Government selling our water.

"By the law of nature these things are common to mankind –the air, running water, the sea and consequently the shores of the sea"
 – Institutes of Justinian 500AD

The Public Trust Doctrine at Mono Lake

The Public Trust Doctrine

Trust: an arrangement whereby a person (a trustee) is made the nominal owner of property to be held or used for the

benefit of one or more others.

A grasp of the ancient public trust doctrine is fundamental to understanding how Mono Lake's status changed from doomed to saved. In 1983, early in the battle to save Mono Lake, the Supreme Court of California ruled that Mono Lake has "public trust values" that must be considered in any decisions about the lake's water. Water diversions from Mono Lake were reconsidered in light of the Court's decision, leading to the lake's ongoing recovery. Since the California Supreme Court's decision in 1983, which is considered one of the top ten environmental law cases of the 20th century, the public trust doctrine continues to be used to protect natural resources in the United States.

Brief History

"By the law of nature these things are common to mankind—the air, running water, the sea and consequently the shores of the sea"
— Institutes of Justinian

The essence of the public trust doctrine has existed since Roman times, and was first articulated in the laws of Emperor Justinian. In its early form, the idea of the public trust sought to protect the public's rights to access certain resources, particularly navigable bodies of water. Public uses of water resources were to be protected by the state, which, as a trustee, could not grant exclusive rights to any single individual or entity. Giving ownership or rights to an individual would infringe on the public's right to access and use the resource.

The public trust doctrine was inherited by the England's legal system, and emerged in 1215 as part of the Magna Carta, the document which sought to limit the power of the king. The Magna Carta specifically condemned interference with public access to navigable bodies of water, and prevented the king from giving favored noblemen exclusive rights to hunt or fish in certain areas. Though the king was understood to own the land, he had an obligation to protect it for the use by the general public.

As the public trust doctrine moved into US common law, many questions remained about its scope. Could it protect natural resources, including non-navigable waters, or was it limited to shores and large water bodies? Some states incorporated the doctrine into their constitutions; one manifestation exists in rules about the California coastline. As emphasized in Roman law, the land exposed between high tide and low tide is open to everyone — no individual can own this land, or prevent others from walking along it. Throughout the 20th century, the public trust doctrine was referenced in several cases, but much more attention was turned to the doctrine after Joseph Sax wrote an article in 1970 applying the public trust doctrine to natural resource management.

The Public Trust Doctrine at Mono Lake

"The public trust...is an affirmation of the duty of the state to protect the people's common heritage of streams, lakes, marshlands and tidelands...."
— Supreme Court of California, 1983

As researchers studied the ecology of Mono Lake and activists sported "Save Mono Lake" bumper stickers, a few minds were hard at work digging up theories that could save the lake. UC Berkeley student Tim Such, influenced by Joseph Sax's article, was the first person to suggest using the public trust doctrine in court; the law firm of Morrison and Foerster, which worked on the Mono Lake case, found this idea the most powerful among the theories considered. In 1979, the National Audubon Society and the Mono Lake Committee filed a law suit against Los Angeles, and the crux of this suit was the public trust doctrine.

While the law suit was going on, Harrison Dunning, a Mono Lake supporter and a law professor at UC Davis, organized a conference in 1981 called "The Public Trust Doctrine in Natural Resources Law and Management." During the conference, he challenged the participants to consider several questions, among them: Is there a single public trust doctrine? Is the doctrine applicable to any natural resource? What kinds of public uses are protected by the public trust doctrine? The conference also considered to what degree the public trust doctrine threatened established water rights that were historically understood to be difficult to challenge. While the conference left many questions unanswered, it raised awareness about the public trust doctrine and foreshadowed its ultimate use in the decision about Mono Lake.

In February of 1983, the California Supreme Court announced that the public trust doctrine applies to Mono Lake, a victory for advocates of the lake. Expanding the ancient doctrine to include recreational and aesthetic values and the importance of the lake to wildlife, as earlier decisions had established, the Court decreed that Mono Lake has "public trust values" that the state has an obligation to maintain. The Court ruled that the predecessor to the State Water Board had not taken these values into account when allowing Los Angeles to divert water from the Mono Basin, and

that the water rights of Los Angeles and the public trust values of Mono Lake had to be more fairly balanced.

It took another 11 years for this ruling to be enforced, which came in the form of the California State Water Resources Control Board's Decision 1631 in 1994. This decision, which took into account many studies about the lake, mandated a lake level of 6392 feet above sea level. This level would protect the public trust values and ecology of the lake while still allowing some water to flow to Los Angeles. Without the 1983 ruling that public trust values must be considered in conjunction with water rights, a cooperative decision that protects the health of the lake and still allows moderate diversions to Los Angeles would not have been possible.

The Public Trust Doctrine after the decision at Mono Lake

Though many questions remain about applying the public trust doctrine in other cases, the Mono Lake case clears up some of the it's ambiguity. In earlier court cases, particularly Marks v. Whitney, the public trust doctrine had been understood to protect more than simply public access to certain resources; it also protects recreation, aesthetic values, and ecology. This interpretation was reinforced by the Mono Lake decision. The Mono Lake decision also provided another interpretation of the doctrine, one that gives it considerable force. Water rights in the West had been nearly invincible; the public trust doctrine, however, can insist that these rights be changed to protect resources belonging to the public, and the water rights holder will be given no compensation.

Mono Lake supported a revival of the venerable public trust doctrine, giving environmentalists a reminder of a powerful force for protecting our land and waters. As the Mono Lake case demonstrated, it is possible to call upon the government to protect values inherent in the natural places that belong to everyone.

References:

Arnold, Craig Anthony. "Working Out an Environmental Ethic: Anniversary Lessons from Mono Lake." Wyoming Law Review, Vol. 4 No. 1, 2004. <http://www.monobasinresearch.org/images/legal/arnoldethic.pdf>

Dowie, Mark. "In Law We Trust: Can Environmental Legislation Still Protect the Commons?" Orion Online. July/August 2003. <http://www.oriononline.org/pages/om/03-4om/Dowie.html>

Dunning, Harrison C. "California Instream Flow Protection: Then and Now." McGeorge Law Review. McGeorge School of Law, University of the Pacific, 2005.

Hart, John. Storm Over Mono. University of California Press: Berkeley, 1996.

"The Mono Lake 'Public Trust' Decision of the California Supreme Court." February 17, 1983. Reprinted by the Mono Lake Committee.

"The Public Trust Doctrine in Natural Resources Law and Management: Conference Proceedings." Harrison C. Dunning, editor. The Regents of the University of California, 1981.

Law of Nature on Statute Books

The following article by Graham E Anderson describes how the **Law of Nature** is already instilled in many of our Acts of Parliament.

"By the law of nature these things are common to mankind –the air, running water, the sea and consequently the shores of the sea"
– Institutes of Justinian 500AD

PANZ Monograph Number 4
ISBN 0-9583363-4-2

The Queen's Chain

Graham E. Anderson.
Extracted from The Landscape December 1977

"...by natural law itself these things are the common property of all: air, running water, the sea and with it the shores

of the sea.” Justinian, some 1500 years ago

The introduction and development of the principle of public access to the sea, lakes, and rivers of New Zealand has been of some considerable interest to me.

My research has put together a sequence of events and administrative decisions which show a clear and firm intent on the part of the legislators to provide reserves and access which is quite remarkable, given the vociferous opposition to such ideas from those who stood to lose, and for which I have not been able to find the origin.

Land legislation was introduced in New Zealand only after a great deal of private trading had taken place, and the legitimising of prior claims, as well as the control of future purchases, provided a great deal of difficulty for those whose job it was to implement the law, so that the matter of access to the water’s edge often got overlooked in the process.

Nevertheless, the threads leading to the introduction of coastal reserve legislation in New Zealand are clearly discernible, even if it is not yet established who first decided to include such a requirement. Several people, including Sir George Gipps, Governor of New South Wales, Sir James Stephen, Lord John Russell, and Lord Normanby, the latter three Colonial Secretaries at one time or another during the period when New Zealand was “erected into a Colony”, had views and experience of a kind which might have led them to put such requirements into effect, but despite access to the manuscript drafts of several relevant documents in the Turnbull Library I have as yet been unable to ascertain just who did.

As did other colonial territories, New Zealand suffered the avarice of land grabbers in its first few decades of European settlement; not least from those who were supposed to be administrators of justice in such matters, one of whom claimed to have bought some 2,000,000 acres from the Maoris for the usual pittance, another some 50,000 acres.

In Australia similar land problems had occurred, particularly in New South Wales where Governor Gipps administered New Zealand as a dependency. Gipps himself has also, in 1835, reported to the British Government on land purchase control in Canada, where he was sent to investigate the matter.

Captain Hobson, who had accepted the position of New Zealand Consul in February 1839, received on his embarkation for New Zealand, a letter from Lord Normanby, the then Secretary for the Colonies, which read in part:

“Her Majesty is not unaware of the great natural resources by which that country (NZ) is distinguished... On the other hand the Ministers of the Crown have deferred to the advice of the Committee appointed by the House of Commons in 1836... in thinking that the increase of national wealth and power promised by the acquisition of NZ would be inadequate compensation for the injury which must be inflicted on a numerous and inoffensive people whose title to the soil is indisputable...”

“The Governor of NSW will, with the advice of the legislative council, be instructed to appoint a Legislative Commission to investigate and ascertain what are the lands in NZ held by British subjects under grants from the Natives... and it will then be decided by him how far the claimants... may be entitled to confirmatory grants from the Crown and in what conditions such confirmations ought to be made.”

How to cope with the undoubted rights of the Maoris to the land, and the urgent desire of the Europeans for it, was exercising the minds of the Colonial Office to such an extent that it was to be end of 1840 before the final draft of the Queen’s Instructions to Governor Hobson had been thrashed out at the Colonial Office in England, and in the meantime a “New Zealand Land Bill” was prepared in New South Wales, clause 5 of which read:

“...no grant of land is to be recommended which exceeds 2560 acres, unless specially authorised...; or which shall comprehend and headland, promontory, bay, or island, that may hereafter be required for any purpose of defence or for the site of any town or for any other purpose of public utility; not of any land situated on the sea shore within 100 feet of high water mark...”

All this took place in the face of claims by such people as Busby (50,000 acres), Wentworth (2,000,000 acres!) and the New Zealand Company, all of whom had made private deals with the Maoris.

In the Queen ‘s Instructions dated 5 December 1840, clause 43 reads:

“And it is our pleasure and we do further direct you... to report... what particular lands it may be proper to reserve... as places fit to be set apart for the recreation and amusement of the inhabitants... or which it may be desirable to reserve for any other purpose of public convenience, utility, health or enjoyment... and it is our will and pleasure, and we do strictly enjoin and require you, that you do not on any account, or on any pretence whatsoever grant, convey,

or demise to any person...any of the lands so specified...nor permit or suffer any such lands to be occupied by any private person for any private purpose.”

On 16 April 1941 the new Secretary for the Colonies, Lord John Russell, wrote to Hobson informing him that the NSW New Zealand Land Bill had been disallowed (because New Zealand had become an independent colony prior to its passing) and that Hobson was to propose a new law on the subject to the NZ Legislature “subject to variations to meet exigencies the experience of Hobson may have brought to light.” The NSW Act was to be followed as “a safe and proper guide.”

In June 1841 Hobson repealed the NSW Act and authorised the Governor of the New Zealand Colony to appoint Land Commissioners with certain powers, and clause VI of his proclamation reads the same as clause 5 of the NSW Act with the addition of the words “or village reserves” inserted after the words “any town.”

The need for coastal reserves, the desire to create them, and their purpose, was clearly well established by the New Zealand administration within its first year of operations, and the powers necessary to bring them about had been created. What remained to be established was the willingness to recognise the obligation on the part of those who had already purchased land, the realisation of the right of coastal access on the part of the growing population, and the necessary zeal on the part of the administrators as land was sold.

In many places in New Zealand the Queen’s Chain, as the coastal reserve became known because of its nominal width, has been the foundation of coastal land subdivision, but in others it has not. The fault, then has lain with our lack of diligence as the years have gone by, and the varying degrees of willingness on the part of successive administrators to insist on the observation of the original intentions –not in the absence of laws in the first place. Various men, and various Acts, provided the framework for such reserves –we just neglected to fill in the spaces.

Thomas Cass, in 1851, as Chief Surveyor to the Canterbury Association, decreed that one chain from high water mark and one chain from the surveyed edges of lakes and larger rivers should be reserved as road.

J. T. Thompson, in 1861, Chief Surveyor for the Otago Province, required surveyors to provide a 100 link (one chain of course) reserve adjacent to navigable rivers.

The Land Act of 1877, in Section 144 stated:

“The Governor may...reserve from sale, and Crown lands which in his opinion are required for...docks, quays, improvements of harbours, landing places...bridges, ferries, canals, or other internal communications whether by land or water, or for the health recreation convenience or amusement of the people...”

Under the Land Act of 1885, the Survey Regulations of 1886 read, in part:

“Suitable sites for school are to be reserved...Also at least 100 links frontage to all navigable rivers and coasts, making the traverse lines if possible the boundary of such reservation.”

The Native Land Purchase Act of 1892, in Clause 100 required that:

“There shall be reserved from sale or any other disposition a strip of land not less than 66 feet in width along all high water lines of the sea, and of its bay, inlets, or creeks, and along the margins of all lakes exceeding 50 acres in area, and along the banks of all rivers and streams of an average width exceeding 33 feet...”

The Survey Regulations of 1923 required that a landowner, when subdividing his land for residential purposes, and where the subdivision was situated on a river or sea shore, must provide “an esplanade reserve of suitable width”.

The 1924 Land Act, in Section 14 read:

“Notwithstanding any sale or other disposal of any unsurveyed rural or pastoral lands in any manner whatsoever at any time previous to the approval of the plan of the survey of the same by the Chief Surveyor of the District, the General Governor shall have the right without liability to pay compensation, to exclude from such sale or other disposal any road lines which may be required through or over any such lands, and to reserve any of the said lands which are situated on the seashore or on the margins of any lake or on any river bank...”

And section 129 stated:

“There shall be reserved from sale or other disposition a strip of land not less than 66 ft in width along all high water lines of the sea, and of its bays, inlets or creeks, and along the margins of all lakes, exceeding 50 acres in area and along the banks of all rivers and streams of an average width of not less than 33 feet and in the discretion of the Commissioner, of not less than 33 feet.”

In the current 1948 Land Act, Section 58 requires a 20 metres coastal reserve, but allows this to be reduced to not less than 3 metres if the Minister of Conservation thinks such would be sufficient. (S 58 now repealed by Conservation

Law Reform Act 1990).

So, in New Zealand, we have a situation where not even the (Department of Survey and Land Information) can tell with any precision just how much coastal reserve we have (nor even just how long our coastline is), and where successive Governments, Acts, regulations, and Administrations have given varying emphasis to the implementation of Queen Victoria's Instructions to Governor Hobson.

But there can be no doubt, even in the minds of those who own land on the coast where the provision was omitted, that the omission was the exception, and that the general intention was, and still is, for all of us to have rights of access and passage along and above the water's edge.

As the 1948 Act recognises, the continued (and continuous!) existence of the coastal reserve is what is important, and its width may well vary a great deal, and may depend on circumstances of topography, exposure, population numbers, etc, etc, but hopefully not just on the avarice of the adjacent landowner.

The fault lies not in the laws but in ourselves that we have crowded the coast, and the Queen's Chain concept is as appropriate right now to the new idealism of environmental management as it was to the nineteenth century problems of land grabbing, coastal shipping by sail, river communication, and lack of roads, not to mention the idealism of at least some of those who had before them the squalor and injustices of industrial England as they attempted to frame legislation for a new very raw colony.

From: "Ross Baker"
To: <ConstitutionalReview@justice.govt.nz>
Date: 24/04/2013 10:11 a.m.
Subject: Re: Definition of Maori.
Attachments: MAORI BLOOD QUANTUM.pdf

If we are to have a review of our Constitution, then it must include a legal definition of Maori fair to all New Zealanders, which must be debated as part of the review. See attached article which appears on our website.

Yours sincerely,

Ross Baker.

Researcher, One New Zealand Foundation Inc.

www.onenzfoundation.co.nz

THE MAORI BLOOD QUANTUM QUESTION?

As we are in the process of writing a Constitution based on one document and more than likely to include the Treaty of Waitangi, which will automatically include the United Nations Declaration on the Rights of Indigenous People and that Maori are the Indigenous People of New Zealand, we must also decide on who can legally claim to be Maori under our Constitution.

A legal definition that is fair to all New Zealanders.

Over the years, Governments have breached the Treaty of Waitangi by passing legislation and Acts that have allowed for this dilution of ancestry/blood quantum through intermarriage of Maori with other races. The Treaty of Waitangi was never intended to allow a person with '*tangata maori*' ancestry to have preferences, privileges or advantage through legislation over their fellow New Zealanders who cannot claim '*tangata maori*' ancestry. **BUT** over the last 148 years, Governments have allowed this to happen but no more so than through the introduction of the 1975 Treaty of Waitangi Act, which created the Waitangi Tribunal, the "Five Principles" and the Treaty as "a Partnership between Maori and the Crown".

Maori today being anyone with a minute trace of '*tangata maori*' ancestry.

The Treaty of Waitangi made us all one people under the law and therefore, does not allow for one race or group of people to have legal preference, privilege or advantage over their fellow New Zealanders. Under Te Tiriti o Waitangi, we all became one people under the law. "**He iwi tahi tatou We are now one people**" - **BUT** Prime Minister John Key, without mandate from the people or Parliament agreed to the *United Nations Declaration on the Rights of the Indigenous People* and Co-Leader of the Maori Party, Pita Sharples told the United Nations, without any evidence that *Maori are the Indigenous People of New Zealand*.

Maori now have rights under the United Nations, supported by the world's Indigenous People, unavailable to all other New Zealanders.

No one can dictate what a person wants to be, Maori, Pacific Islander, English, Dutch, Indian or New Zealander etc, it is their right, their whakapapa, their genealogy - **BUT** if it means it will give preference, privilege or advantage through legislation, then that is a different matter. It is discriminatory if a person with a minute trace of one particular ancestry can have preference, privilege or advantage through legislation over a person who cannot claim ancestry to that particular race or group.

Most Maori today have mixed ancestry of varying percentage through intermarriage over the last 200 to 300 years by their ancestors' own freewill and is now a fact of life, which cannot be changed. This cannot be blamed on the Government or the Pakeha - **BUT** on their ancestors' decision to intermarry with races other than their own. The majority of their ancestry/blood quantum must dictate a person's race, for legislation purposes - **BUT** for personal preference, they can belong to whatever race or group they wish.

For example, there is no reason why a person with 50% or less '*tangata maori*' ancestry/blood quantum cannot call himself Maori and be proud of it, proud of their whakapapa - **BUT** this should not allow that person a preference, privilege or advantage

over any other New Zealand citizen in relation to legislation unless the amount of 'tangata maori' ancestry/blood quantum was 50% or more

Blood quantum is something your parents decided for you.

As the majority of the world's people, Maori were not a pure breed race when they arrived in New Zealand in the 14th century, their DNA consisting of Polynesian and Melanesian. "The traditions are quite clear on one point, whenever crew disembarked there were already tangata whenua (prior inhabitants). The canoe ancestors of the 14 century merged with these tangata whenua tribes", Leading Maori historian Dr Ranginui Walker. Ngapuhi Chief David Rankin endorsed this when he said, "Maori are not indigenous to Aotearoa New Zealand". These people intermarried with the 'tangata whenua' and became known as 'tangata maori' when the Treaty of Waitangi was signed in 1840 - BUT Maori have continued to intermarry until most are **not** the race of people they were when they signed the Treaty of Waitangi in 1840. Most have more of the ancestry they claim created the injustices than their 'tangata maori' ancestry.

Blood quantum is decided in the bedroom by your parents it is a fact of life that cannot be changed - ever!!!!

If Maori are to be given special rights over all other New Zealanders in our Constitution, then we must decide who can claim to be "legally" Maori today. **Surely to claim 'indigenous privilege/rights', Maori must have 50% or more of 'tangata maori' ancestry/blood quantum in their veins.**

The One New Zealand Foundation Inc believes it would be fair to all New Zealanders if the definition in our Constitution stated, "To be legally Maori under our Constitution, Maori must have 50% or more of tangata maori ancestry/blood quantum".

When making your submission to the Constitution Advisory Panel, we ask that you include this Blood Quantum issue in your submission why should a New Zealander with less than 50% of 'tangata maori' ancestry have privilege, advantage or extra rights over any other New Zealander?

See ONZF article, "Maori as one sees in legislation", www.onenzfoundation.co.nz.

Ross Baker, Researcher, One New Zealand Foundation Inc. 10/4/13

P.S. The closing date for Submissions, 5pm on the 1 July 2013.

The address for Submissions, **Submissions,
Secretariat, Constitution Advisory Panel,
C/o Ministry of Justice,
DX SX10088,
Wellington.**

3929

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 28/07/2013 11:54 a.m.

Sent from The Constitution Conversation #link:<http://www.ourconstitution.org.nz/>.

Full Names: Taran Baker Organisation name: Email: Phone:
Postal AddressA: Postal AddressB: Postal City: New Plymouth Postal Region: Postal
Post Code: Postal Country: New Zealand Submission: - Maori views should be represented in
parliament like anyone else: elected by either the list or electorate seats. There is no place for racially
selected seats in a modern democracy.

- Maori views and perspectives should be represented in local government like anyone else: elected
by ward or at large. There is no place for racially selected councillors or un-elected Maori boards to be
making decisions in a modern democracy.

Submitted on the 28 July 2013 at 11:53