

5216

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 8/08/2013 12:02 p.m.

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

Full Names: Alan Broomhall Email: Postal
AddressA: Postal AddressB: Postal City: Invercargill
Postal Region: Southland Postal Country: New Zealand Submission: I am a New Zealain! Just
like an Australian Born in Australia, an Argentinean born in Argentina. I was Born in New Zealand
from parents who were Born in New Zealand. Therefore I am a Native to New Zealand. As a native to
the land I was Born in I have a

right to live in and enjoy firsthand the beaches, rivers, lakes, mudflats, mountains, wildlife and
Seafood of my country of birth.

I suggest there is now after 180 years of inhabitation of New Zealand by the European and Asian
colonialists that the descendants of these peoples and especially the descendants of these and the
Maori (mixed race) can be classed as the latest indigenous people

of New Zealand. With their /our unique culture and social hierarchy that is unlike what was left behind
in 18th century Northern Hemisphere. They are surely indigenous and Native as what tie is there to
where their ancestors are from when these people have

been born in New Zealand. If there is a tie to ancestral lands then the Moriori or the Maori were
colonialists from Polynesia so therefore they are Polynesian and not Maori.

Yes there may have been an issue with the English government and the Natives in 1835 to 1840, We
are now 190 years later and the world has changed New Zealand has changed as there are more of
my fellow New Zealanders of New Zealand descent. The issues are history

and needed to be sorted in the 1800's.

Create a Bicultural New Zealand greater than it is now and it is only time before we have a Civil War.

Submitted on the 10 June 2013 at 13:45

1842'

Wanganui
email
12 June 2013

MY SUBMISSION TO THE CONSTITUTION ADVISORY BOARD

Question (1) The pros and cons of having our constitution written down in a single document:

The present constitution has served us well as it is and any change to it could turn it into a race based constitution, so it wouldn't matter if it is one or more pages, As it is, our constitution is on one page for anyone who is computer literate.

Question (2) The role of the Bill of Rights Act 1990 in our constitution:

If we are to have the Bill of Rights Act in our constitution then it should be on equality for all races. This is outlined in Article third, "Maoris to be given the same righjts as the people of England".

Question (3) The role of the Treaty of Waitangi in our constitution:

The Treaty should have nothing to do with the Treaty of Waitangi. When the Treaty was signed, the chiefs had given up their individual treeitories to her majesty the queen in return for protection and one law and one sovereignty for all the people of New Zealand.

the National Government and the Maori party want to enshrine the English document written by James Freeman, that was rejected by Hobson as a Treaty because he authorised only the Maori Treaty. The signatures on Freeman's false treaty pertain to the Maori text, This document, in itself, is an unsigned paper and the reason it states "Done at Waitangi on the 6th of February 1840 instead of where and when the signing took place, Waikato in April of this year. The only English Treaty document Hobson Authorized is his final draft, dated 4th of February 1840, (held by Archives) which was translated into Maori and is equal in words and meaning to the Tiriti o Waitangi which was signed on the 6th February 1840 at Waitangi. Government have failed inall

attempts to prove otherwise.

Question (4) Maori representation in local and national government:

There should be no race - based parliamentary and local body seats. This is racialism as it gives special treatment to one race. Maori should be elected or not given, the treaty gave Maoris and settlers the same rights.

In article second of our treaty it clearly states "to all the people of New Zealand tinorangatiranga" as opposed to the Article three which clearly defines Maoris separately in gifting them the "same (not equal) rights as the people of England", no more no less, one voting system. Ariki are superior, if Maori sovereignty were intended arikitanga would have been written and the "all the people of NZ" would be unnecessary, as in the first article.

Question (5) Electoral issues such as the size of parliament and the length of its term:

I do not believe the size of parliament should be reduced.

yours sincerely

Ian Brougham

4822

From: Kevin Broughan
To: <constitutionalreview@justice.govt.nz>
Date: 31/07/2013 4:31 p.m.
Subject: Constitutional Review

In New Zealand we like to think the rights of citizens in a free and democratic society are protected. That the NZBORA has real protections. However this and other acts which protect citizens can be easily removed by simple enactments of other bills. For example the GCSB amendment bill 2013 overrides the NZBORA the way it is written. Why are so many bills able to be enacted under urgency without substantial reasons?

Similarly the right to* judicial review* of actions of government and government agencies is being progressively removed through a government having a simple majority, a compliant membership and a beholden set of coalition partners.

In New Zealand we might sometimes think of ourselves as leaders in human rights - but we are a small country and beholden. When for example did we speak out against the building of any let alone thousands of settlements by Israel on the best land on the West Bank in Palestine? When did we speak out against the breaking of laws by the USA NSA? When did we speak out against the use of drone attacks on civilians? Why do we not support ILO conventions?

Sadly, many of our own most basic human rights are still not adequately protected in our own law - issues like *the right to housing, healthcare, education and appropriate employment.* In NZ we take these basic rights, collectively called economic, social and cultural rights, for granted and assume they are well protected in places like our Bill of Rights Act. Unfortunately, this is not the case.

Without these legal protections it's much harder to hold decision makers accountable when things go wrong. For instance having up to 270,000 of our kids living in relative poverty or having third-world rates of acute rheumatic fever.

It's time for New Zealand to ensure that economic, social and cultural rights are protected equally alongside civil and political rights like fair trials and the right to vote. It's time our decision makers are held accountable to *ensure our rights are respected, protected and fulfilled.*

**

If there are hearings before a review committee I would intend appearing, with more than a perfunctory 10 minutes.

**

*Yours sincerely - Kevin Broughan

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Professor Kevin A. Broughan
Department of Mathematics
University of Waikato
Hamilton
New Zealand

2083

From: Alan Brown <
To: "constitutionalreview@justice.govt.nz" <constitutionalreview@justice.gov...
Date: 3/07/2013 7:52 a.m.
Subject: CAP Submission

My belief is it is time to abolish Maori seats, people should be voted in on their merit not race.

Alan Brown

1911

CONSTITUTION CONVERSATION

Thank you for the opportunity to make a submission on the Constitutional Conversation.

New Zealand Constitution:

We do not need a separate Constitution.

Bill of Rights:

Property Rights could be added.

Treaty of Waitangi:

The Treaty of Waitangi is a document that declared Sovereignty of the Crown and Equality of Maori as the Queen's subjects. No more, no less. It is not a partnership between the Crown and Maori neither were there any principles included.

Maori Representation:

Maori views should be presented on an equal basis with all other New Zealanders. There are many nationalities living in New Zealand as citizens of New Zealand, and by giving privileges and preferences to one section of New Zealanders, e.g. Maori, is racism. I am against special seats for Maori on Regional and Local Councils for the same reason.

Electoral Matters:

Around 120 - 125 members of Parliament is a good number. Maori Electoral seats should be abolished and absorbed into Electorates which can then be re drawn up geographically so they don't cover such a large area.

Other Matters:

Maori Blood Quantum – For Maori to claim any special rights as Maori, under any Constitution, should it become law, they must have 50% or more of tangata maori ancestry quantum.

Who are Indigenous People of New Zealand? Answer: Everyone that is born in New Zealand is Indigenous to New Zealand.

In conclusion:

I believe in one law for everyone with no special treatment based on race.

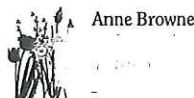
Our society must be developed in equality, fairness, and comradeship.

I oppose any laws that establish or promote racial distinction or division.

I reject references to the Treaty of Waitangi or it's principles in any constitutional documents and that such references are removed from all existing legislation.

Race based Parliament seats and representation on local bodies must be abolished.

The Waitangi Tribunal must be abolished, it is a sham.



SUBMISSIONS
Secretariat,
Constitutional Advisory Panel
C/o Ministry of Justice
DX SX10088
WELLINGTON

3847

From: "Brian W Brown"
To: <constitutionalreview@justice.govt.nz>
Date: 24/07/2013 9:39 p.m.
Subject: FW: constitutional review

Kind Regards

Brian W Brown

P

M

E

From: Brian W Brown [mailto:
Sent: Wednesday, 24 July 2013 9:37 p.m.
To: 'constitutionalreview@justice.govt.nz.'
Subject: constitutional review

Dear sir /madam I hereby make the following submissions regarding the constitutional review currently before parliament. 1 My wish would be to see the number of m.p.s in government reduced to a maximum of 99. 2. That the treaty should have no role in our future constitutional arrangements. 3. That the Maori seats be abolished as this is seen as apartheid in my view. I also have the same view regarding local government seats. 4 That having a separate Maori role only divides the country and is the cause of much racial disharmony and therefore should be abolished at the first opportunity. 5 Should none of these submissions be adhered to then the only remaining action for the bulk of the population to take would be for us all to declare ourselves as Maori thereby making us one race one country and to declare all of us as new Zealanders.

Kind Regards

Brian W Brown

Tauranga

P

M

E

1003

From:
To: <constitutionalreview@justice.govt.nz>
Date: 31/05/2013 9:07 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

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

Full Names: Barry Brown Organisation Name: Email: Phone:
Postal AddressA: Postal AddressB: Postal City:
kaitiaki Postal Region: northland Postal Post Code: Postal Country: New Zealand
Submission: to me the constitution should be based on the treaty of waitangi because it is the
founding document of the settlement, in aotearoa, of the english. Maori should be allowed to continue
the role of kaitiaki of both the land and seaways, in constant consultation
with the government of the day, for the area from which they come. A shared interest in things MAF
and DOC must be seen to be transparent. Maori language and history be made compulsory at all
levels of education. I'm Maori and think that we should reject any
submissions that regard turning our country into a republic..i think at this level the treaty could be
rescinded.(?) i don't think my thoughts are racist because this is a reflection of our history as tangata
whenua and the coming of the english. For those
non maori and not english, the constitution will then embrace their own culture, in the intergration, to
the new zealand culture. Shared rights to information, education and health be made equal and
supported financially by our political philosophies.

Sent on the 31 May 2013 at 21:06

206

From:
To: <constitutionalreview@justice.govt.nz>
Date: 11/04/2013 11:16 a.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

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

Full Names: Carol Brown Organisation Name: Email: Phone:
Postal AddressA: Postal AddressB: Postal City: Rotorua Postal Region: Postal Post
Code: Postal Country: New Zealand Submission: The treaty of waitangi should be put where
it belongs, a historical document only with no political relevance. All new zealand citizens should be
treated equally, regardless of ethnic origin.

Sent on the 11 April 2013 at 11:15

2113

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.

Denzil And Marget Brown
Wellington
New Zealand

20871

From: David Brown <
To: <constitutionalreview@justice.govt.nz>
Date: 2/07/2013 8:49 p.m.
Subject: CAP Submission

With the development of the Maori and Mana Parties there is no need for
Maori specific seats. The Labor, New Zealand First and National Parties all
have Maori MPs representing the various provinces.

--
Dave Brown
Director,
Phone:
Cell:

3681

From: Greg Brown
To: <constitutionalreview@justice.govt.nz>
Date: 18/07/2013 10:43 a.m.
Subject: CAP Submission

Our submission is as follows;

We New Zealanders believe that having founded and developed our society in equality and fairness and comradeship oppose any laws which establish or promote racial distinction or division. There should be one law for all.

We reject any reference to the Treaty of Waitangi or its principles in any constitutional document.

We ask that such references be removed from existing legislation.

We ask that race based parliamentary seats be abolished.

We also ask that race based representation on local bodies be abolished.

We also ask that the Treaty of Waitangi Tribunal which has outlived its usefulness be abolished.

Robert G Brown

DUNEDIN

William Adam

DUNEDIN

' 4475

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 31/07/2013 7:24 p.m.
Attachments: Constitution Submissions.doc

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

Full Names: Graeme Brown Organisation Name: Email:
Phone: Postal AddressA: Postal AddressB: Postal City:
Pakuranga Postal Region: Auckland Postal Post Code: Postal Country: New Zealand
Submission: Submission Upload: Constitution Submissions.doc

Submitted on the 31 July 2013 at 19:23

SECTION 4: Aspirations

The Constitutional Advisory Panel is inviting everyone to answer the following question: what are your aspirations for Aotearoa New Zealand?

Dump "Aotearoa" - New Zealand is just fine
Maori have never had partnership with the crown. They ceded sovereignty in 1940.
By promoting partnership non Maori become 2nd class citizens
Dump the Treaty of Waitangi Act 1975 and all associated legislation
Disband the Tribunal
Dump the principles and remove them from legislation.
The true Maori version of the Treaty was a good document for the day. Pity Maoridom don't refer to the true treaty in their demands.
Sack every historian who continues to rewrite our history in favour of Maori. NZ history in our schools is barely recognisable now.
Put the foreshore and seabed back in Crown ownership
Stop investing lakes and rivers in private (Maori) ownership. They should remain in crown ownership for all of us.
Do none of the above then we are heading eyes wide shut towards an Apartheid nation.

4475a

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 31/07/2013 7:29 p.m.
Attachments: Constitution Submission.doc

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

Full Names: Graeme Brown Organisation Name: Email:
Phone: Postal AddressA: Postal AddressB: Postal City:
Pakuranga Postal Region: Auckland Postal Post Code: Postal Country: New Zealand
Submission: Submission Upload: Constitution Submission.doc

Submitted on the 31 July 2013 at 19:28

Constitution Submission

Q1. Thinking of the future, what role do you think the Treaty of Waitangi could have in our constitution?

I can see no roll for the Treaty in any constitution should we ever need one.

The Treaty (Ti Tiriti - the Maori version) is not adhered to now and the so called principles have taken the true intentions of the Treaty too far off track and thus made it a very contentious document. The Waitangi Tribunal is still defining the meanings of the Treaty which itself is very dangerous in constitutional law. Ti Tiriti was a simple document, and refers to "all the people of New Zealand", there was no partnership between Maori and the crown and to believe there is, is just a falsehood.

Proposing that one sector of society can leverage advantage from a document that was for "all people" is dangerous for democracy. Democracy cannot exist when it tries to include tribalism as part of its governance structure.

For these reasons the treaty could never form part of any constitutional arrangement now or any time in the future.

Q2. Do you think that the Treaty should be made a formal part of the constitution? Why?

Short answer NO.

But you ask a loaded question by referring to "the" constitution. You are assuming there is need for a formal constitution. There is nothing to suggest that New Zealand needs a written constitution. The current, settled, constitutional arrangements have worked well for many years. During that time, no real constitutional issues have arisen.

So why does New Zealand need a revised, written, single document, codified, constitution? It doesn't.

All it could achieve would be to lead New Zealand towards a state of legal separatism.

Graeme Brown

706

From: "Ian & Janet Brown" >
To: <constitutionalreview@justice.govt.nz>
Date: 30/04/2013 5:43 p.m.
Subject: Comments

Dear Recipients, This is such an immense matter I feel only able to comment on things I feel on some of these points.

1. The Treaty of Waitangi seems to be such a confusing collection of documents which vary in interpretation to whatever suits at the time. Therefore, I feel it would be undesirable to include this in a written constitution at present. If it ever becomes something that is clear & defined then the situation may change. Best to stick with the current arrangements, I feel.

2. I am of the opinion that the number of M.P.'s should be reduced to 100 with the number of list M.P.'s reduced by 20.

3.-Elected "Waka jumpers " should be required to resign & seek re-election. List M.P.'s should be required to leave Parliament to be replaced by the next in line List M.P.

4. The Parliamentary Term should remain at 3 years.

5. Maori Seats should be abolished because "Maori" seem quite able to be voted into Parliament in the "normal" way. They can also get in on Lists seats with no problem as far as I can see. The current arrangement re "Maori" seats seems to be encouraging an even greater sense of dividing the country. I note that Pacific people are wanting similar arrangements, currently. I expect other ethnic groups will shortly require the same & no doubt have a legitimate claim with Maori able to have 2 avenues of getting into Parliament which no other ethnic group has. Most Maori obviously have European forebears in their mix in any case, therefore it seems unnecessary to retain the specifically Maori seats.

I hope that these comments are helpful, regards, Ian Brown

1354

From: [redacted]
To: <constitutionalreview@justice.govt.nz>
Date: 15/06/2013 2:17 p.m.
Subject: Consitution

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 SINCERELY
JILL BROWN.

870

From:
To: <Constitutionalreview@justice.govt.nz>
Date: 19/05/2013 3:17 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

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

Full Names: Jimmv Thomas Brown Organisation Name: Email:
Phone: Postal AddressA: Postal AddressB:
Postal City: Postal Region: Canturbary Postal Post Code: Postal Country:
New Zealand Submission: 1. I think the constitution should be written out on a single document. I believe this will make it easier for the general public and international visitor to research, if it was a single document.

2 Yes our constitution should have a higher legal status then other laws. Because it would give our constitution mana and integrity making it our own and cant be influenced by any external forces.

3. Both should have control. and governed by an external agency of some sort. control should not be left to one party as this can lead to bias decisions.

Sent on the 19 May 2013 at 15:17

1125

From:
To: <constitutionalreview@justice.govt.nz>
Date: 6/06/2013 11:05 a.m.
Subject: Submission on matters concerning New Zealand's constitution
Attachments: submission from kelsey brown.docx; Part.001

“What opportunities does the Treaty of Waitangi provide for our future constitutional arrangements?”

Emeritus Professor John Burrows QC has said “We often reconsider and change specific laws, but this constitutional review provides an opportunity to review the most basic and fundamental law of them all”¹. This essay will explore the opportunities that the Treaty of Waitangi provides for our future constitutional arrangements. In order to do this constructively, we shall firstly consider what is meant by the term “opportunities” in the context of the Treaty. We will then move to consider this issue through exploring its context, the controversy surrounding it (both in present day and in the past) before then moving on to take a progressive approach in considering the possible routes that our constitution may take from here on. In order to present a well argued and reasonable point of view that considers both sides, we will use the writings of Geoffrey and Mathew Palmer, publications on the constitution, and Richard Hill’s writings, as well as considering some of the current debates that are taking place within our communities.

There are many questions being asked in New Zealand surrounding the constitutional debate, such as whether we should have a written constitution with entrenched protection for the Treaty, or whether New Zealand should be a republic. As well as other topics for debate such as the entrenchment of Māori seats, whether a new entity of legislation is needed altogether to manage treaty claims and principles (a Treaty Commission). There are many opportunities offered by considering the Treaty of Waitangi in our future constitutional arrangements.

In the context of this essay we will be interpreting the word ‘opportunities’ to be considering the appropriate status or position of the treaty within New Zealand’s future constitutional arrangements. Opportunities within the Treaty could also mean using the Treaty’s basic principles, applied more widely than the original Treaty does, as a possible blue-print for a Constitution.

¹ New Zealand Government. (2013). *The Constitution Conversation*. Available: <http://www.cap.govt.nz/The-Panel>. Last accessed 26/04/2013

The Treaty of Waitangi has been a subject for debate since its creation in 1840. It is a document that has a complicated history in Aotearoa. As discussed in the “The Conversation So Far” publication the Treaty’s position as the “founding document of government in New Zealand is the result of decades of back and forth between the Iwi and the Crown”².

Before we can consider what future the treaty might have within a newly-minted constitution we must consider its role in the birth of New Zealand and its current level of embeddedness in our existing statutory framework. The Treaty established this country as a bicultural democracy that guaranteed certain rights and protections (if somewhat ambiguously) to both Māori and European settlers. It is already bound up with our current constitutional framework via legislation and the consideration of Treaty rights, including guaranteed representation of Māori in the House and the establishment of the Waitangi Tribunal.

Successive governments have acknowledged the Treaty as our founding document and they have attempted to redress breaches of the Treaty through settlement processes. The New Zealand Government made a statement of support for the United Nations Declaration on the Rights of Indigenous Peoples in 2010. This statement of support means that, on the international stage, New Zealand has pledged allegiance to maintaining the rights of its indigenous people. New Zealand has acknowledged Māori having a “distinct and special status as the Indigenous People of New Zealand...reaffirming the importance of the Treaty of Waitangi as a unique feature of indigenous rights in NZ”³. As well as recognizing Māori have an interest in all policy and legislative matters. This declaration is an aspirational document that does not bind the govt. However, this is a commitment made in 2010, not 1840. This signifies the continual affirmation of NZ’s commitment to our Indigenous Peoples rights,

² New Zealand Government. (2013). *The Conversation So Far*. Available: http://www.cap.govt.nz/store/doc/The_Conversation_So_Far.pdf. Last accessed 26/04/2013

³ New Zealand Government. (2013). *The Conversation So Far*. Available: http://www.cap.govt.nz/store/doc/The_Conversation_So_Far.pdf. Last accessed 26/04/2013 p 35.

indicating the Treaty's continued relevance.

The Treaty has continued relevance, we must now consider where the treaty fits in the very different New Zealand that exists today. New Zealand is no longer a bi-cultural country and the perception of one group being set above all others might no longer be appropriate. It is established that even once the historical Treaty grievances are settled, the treaty will continue to impact the Crown actions. It is common belief that in order to prevent future breaches, Treaty principles must be considered.

In order to achieve a direction for the future we can consider the review of New Zealand's constitutional arrangements that took place in 2005. As discussed in "The Conversation So Far" documents, in 2004, Parliament established a Select Committee to review New Zealand's existing constitutional arrangements, "with specific regard to the treaty, the committee identified the relationship between the constitution and the Treaty of Waitangi, including whether it should and how it might form a superior law as a significant and topical constitutional issue" ⁴. The committee in this instance in 2004, found that "the lack of consensus on what is wrong and how or whether it could be improved, means that the costs and risks of attempting significant reform could outweigh those persisting with current arrangements" ⁵. Were we to radically change the part that the treaty of Waitangi plays in our constitution and the way our society works we would need to consider all of these elements. These findings reinforce the bigger picture idea that there is an air of uncertainty surrounding the Treaty, it's role in our legislation and governing body is ambiguous, and needs to be clarified.

Geoffrey and Mathew Palmer discuss the constitutional place of the Treaty in their work "Bridled Power". They begin from the stand-point that the question is not whether the Treaty will remain an integral part of New Zealand's constitutional arrangements, but the "nature and extent of that integral part" ⁶.

⁴ New Zealand Government. (2013). *The Conversation So Far*. Available: http://www.cap.govt.nz/store/doc/The_Conversation_So_Far.pdf. Last accessed 26/04/2013 p39

⁵ Ibid., p39

⁶ Palmer, G & M (1997). *Bridled Power*. 3rd ed. New Zealand: Oxford University Press. p287

The Treaty of Waitangi's unique place in our law, the fact that it is not given effect by a statute, and that the courts do not use it directly means that its place is not "part of a basic constitutional document with overriding effect"⁷. However, as discussed previously, New Zealand does not have such a document at all. The Palmers make clear that the Treaty holds a prominent and important role in being a key source of our government's moral and political claims to legitimacy in governing Aotearoa.

We are also urged by these two scholars to consider the constitutional significance (and therein the opportunities that it may offer to our Constitution) by considering the evolution of attitudes to it⁸. The Treaty can be seen as having an active role in all three branches of the powers within New Zealand. The Treaty is an important influence on decision making in the executive branch, with Cabinet papers considering the Treaty and with all executive proposals in terms of legislation having to draw consistencies with the treaty principles.

The Treaty can also be seen in the legislative process. The Palmer's go so far as to comment "the advent of MMP seems destined only to increase the political salience of the treaty"⁹.

The shift in judicial attitudes is also discussed by the Palmers. It has gone from a 'simple nullity' to being 'simply the most important document in New Zealand's history'. It is at this point where we shall begin to discuss the proposed opportunity offered by the Treaty that appears most beneficial and appropriate for New Zealand and our constitution's future.

Popular opinion expressed through the "constitution conversation" forums held around the country is largely divided. At the 'What About Waitangi' forum held by the Maxim Institute, Tai Ahu offered the idea that despite consensus that The Treaty of Waitangi is simply the most important document, its status is uncertain and fragile. Tai Ahu discussed the proposition of utilizing this constitution reform to strengthen the place of the Treaty of Waitangi in New Zealand.

⁷ Ibid.,p287

⁸ Ibid.,p287

⁹ Ibid.,p287

Three points were made in terms of strengthening it. With these being the key ideas of certainty, legitimacy and recommitment. Were the Treaty to be an embedded part of our constitutional framework its place would be clear. This in turn would give it a sense of legitimacy, giving effect to the symbolic importance of the Treaty and the partnership that it stands for. The last theme is that of recommitment, the Crown is obliged to follow promises contained within the Treaty, holding up the principles of the Treaty and building a better, all embracing Constitution would be fulfilling this duty¹⁰.

In the opposite corner of the ring is David Round, author of 'Truth and Treaty'. Mr. Round shared the view that the constitution is an agreement, a source of solemn covenant, stressing the fact that it has to be an agreement between all citizens. Round believes that the Treaty should not be in our constitution. He believes if Treaty principles were to appear, it would be a case of a small vocal minority of population taking precedence over the majority¹¹.

Although Round is not in favour of the Treaty being in our constitution, he does discuss the place of those of Māori descent in our society as being an issue. However, it is not a legal issue in his eyes, describing the whole Treaty based movement as a "tribal grab for wealth and power, naked self interest"¹².

After considering these opinions it becomes clear that the people of our country have many varying ideas about the form our new Constitution should take.

It is proposed that "better expression of Treaty relationships in Parliament is not dependent on the Treaty being the only basis of our constitution."¹³ . Perhaps the best route for New Zealand at this present time, rather than an absolute overhaul is a more

¹⁰ Maxim Institute. (2013). *What about Waitangi?*. Available: http://www.maxim.org.nz/Policy_and_Research/What_about_Waitangi_event_audio.aspx. Last accessed 26/04/2013

¹¹ Ibid.

¹² Ibid.

¹³ M, Mulholland & V, Tawhai (2010). *Weeping Waters; The Treaty of Waitangi and Constitutional Change*. New Zealand: Huia Publishers. P99

safe and smooth transition to incorporating principles and modifying without fundamental change to our legislative structure. "The Treaty (could) form part of a wider constitutional bedrock, with appropriate formal acknowledgement given to its foundation status for government in NZ"¹⁴.

Judge Caren Fox shared in 'Weeping Waters' the fact that Dame Silvia Cartwright wrote about the 'constitution' stating very simply that it can "be used to describe the way a nation is governed"¹⁵. Whether our Constitution be written, or unwritten, the same principles are certain to be an integral part of it. The principles of equality, fairness, unity and partnership that can all be seen as principles from the Treaty of Waitangi.

The Treaty of Waitangi in its plainest, literal form may well only be an agreement between the Māori and Pakeha, but the ideals and principles that it embodies are themes that could be the foundation for a new agreement between all New Zealanders, no matter what race.

There is an argument within maoridom for Māori self governance, that they should have even more control over the levers of self control and will not be content with the way NZ is run until this is achieved. However, this is unrealistic because, as long as grievances have been redressed, no one race's rights will take precedence over another's.

It is not the fact that Māori arrived in New Zealand before the Europeans that gives the treaty its firmhold in our constitution. The Actions taken by the Crown against the Māori people in flagrant disregard of the Treaty, mean that now, redress and compensation is required. Until the historical grievance claims made by Māori have been resolved, New Zealand cannot and should not disregard the principles laid out in the Treaty of Waitangi. Furthermore, once redress has been achieved, the Treaty offers the opportunity to learn from our previous mistakes and apply the principles within it to a new, multi cultural state that considers all races equal and important.

¹⁴ M, Mulholland & V, Tawhai (2010). *Weeping Waters; The Treaty of Waitangi and Constitutional Change*. New Zealand: Huia Publishers. P99.

¹⁵ Ibid.,p99

The Tamaki Makurau Settlement Process Tribunal has eloquently encapsulated this discussion with its statement “The Treaty is about relationships”¹⁶ and so too is our constitution. This essay has considered the opportunities offered by the Treaty of Waitangi for our future constitutional arrangements through first considering the context, both nationally and internationally. We then discussed proposed changes put forward by an eclectic group of scholars and citizens alike and lastly, drawing conclusions on the best route for New Zealand’s future Constitution. The formalization of the place of the treaty within New Zealand’s Constitution could be a way to reinforce its place as constitutional substratum. This will enable the Treaty to have a degree of certainty concerning its level of importance and its applicability to both the constitutional arrangements as discussed and New Zealand’s legislation. This would also eradicate the ambiguity that has surrounded the Treaty and its principles for so long. A constitution inclusive of the Treaty and all that it stands for will be a strong step in the direction of a content country, with content citizens. We can use the Treaty principles to create an all embracing Constitution that is suitable to the multi cultural society that we now live in. New Zealand must find a way to uphold its promises to our Indigenous Peoples, whilst according the same rights and freedoms to all of our citizens.

¹⁶ Maxim Institute. (2013). *What about Waitangi?*. Available: http://www.maxim.org.nz/Policy_and_Research/What_about_Waitangi_event_audio.aspx. Last accessed 26/04/2013

4205

From: "Karena Brown"
To: <constitutionalreview@justice.govt.nz>
Date: 30/07/2013 2:59 p.m.
Subject: Constitutional Review
Attachments: Constitutional Conversation - July 2013.docx

z>

Hi

I wish to submit a submission to the constitutional review. I tried to do it on-line but it kept telling me it had been captured by the spam folder because I was using Auto Fill (and I wasn't - I filled in every line individually) so I am having to send it to you via my work email. However, I am making this as an individual and my information is as follows:

Karena Brown

Christchurch

Karena Brown

DDI:

on-Wed) 01

Mobile

Web:

Constitutional Advisory Panel
Parliament Buildings
Wellington

Re: New Zealand's Constitutional Arrangements

Dear Panel Members

I would like a chance to join the constitutional. As an overarching statement I would like it know that I believe our Constitution needs to be in one document so that it is easily accessible and transparent as to what is covered by it. After this, I would like to focus on a couple of constitutional areas

Bill of Rights

My first issue is with the Bill of Rights and how it addresses LGBTI issues. Section 19(1) covers the issue around freedom from discrimination as stated in the Human Rights Act 1993. I have real concerns in that gender identity is not currently covered and if we, as a nation, truly want to be an inclusive society for everyone then it is vital that we ensure that everyone is covered. It is not good enough to say that it is implicitly covered through sexuality and gender. It is not, Gender Identity is a completely different issue.

I would ask you to look at this website to understand the differences in terminology so that you can get a fuller understanding of why we need to include gender identity:

<http://itspronouncedmetrosexual.com/2012/03/the-genderbread-person-v2-0/>

By included gender identity into the list the transgender and intersex members of our communities can be assured that their rights are clearly included. Just as prohibition on the grounds of sex was insufficient to include sexual orientation, neither ground is adequate to encompass prohibition of discrimination on grounds of gender identity.

Electoral Matters

We have just had a referendum that reiterated MMP as our voting system of choice with the understanding that it would be reviewed as there was some general dissatisfaction with the way components of it worked.

I was disappointed that after a long consultation process and many thousands of submissions the current Government chose not to accept any of the recommendations put forward by the taskforce, thereby completely ignoring the feeling of the people, solely to protect its coalition partners.

Our voting system and the way it operates deserves to be apolitical and it should reflect the view of the people. The general view of the submitters was that we need to reduce the percentage needed for a Party to get into Parliament from 5% to the 4% initially recommended by the Royal Commission and that we should stop the coat tailing in of MPs solely on the basis that one of the party's members won an electorate seat. These two go hand in hand and should have been implemented. If a party can't get 4% of the Party Vote then they should only get the number of seats they actually won in the electorate competition.

This will ensure honesty and transparency can occur within our voting system and stop underhanded deals where parties choose not to contest a seat solely to allow a smaller political party that was polling low to gain more than one seat in Parliament. List MPs should only come in when a Political Party has gained the required % of the vote.

I believe the current number of MPs is a reasonable balance that we should maintain. I would be very worried should we reduce the number as electorates are already of a fairly large size and the only other way to reduce the size of parliament would be to reduce the proportionality and that is something I would truly hate to see happen.

Before MMP and the requirement for proportionality there were very few women in politics and even less from ethnic or LGBTI groups. No matter how diverse New Zealand was starting to look, Parliament did not reflect that. Since the first MMP election in 1996, the proportionality of women, ethnic and LGBTI groups have increased exponentially until we have a Government now that is much more reflective of society as a whole.

I would advocate we move to a system where the date of the general election is set in concrete – first instance, the 4th Saturday of November, so that everyone knows when it is and it is not up to the Prime Minister of the day to set the date based on when the best chances for re-election of his/her party would be.

I believe a 4 year term is a much better length because it enables the Government of the Day more time to actually implement changes and for the voting public to see whether they are true to their word. Currently, there appears to be a feeling the Government spends the last year of parliament doing things solely to attract voters to ensure their re-election so, with a 3 year term, there is only really 2 years of Government where you can see the real intent of the Government. If the term was for 4 years, voters would be able to see more clearly what are actual bribes and what is actually the policy of each political party.

I strongly believe that if a Member of Parliament parts way with party that they either have to leave Parliament if they are a list MP or have a by-election if they are an electorate MP. The MP is in parliament courtesy of belonging to a political party and if they choose to leave that party they either leave parliament or get the electorate to confirm that they were elected because of who they were and not because of which political party they belong to.

I am very happy to have this conversation in person if that is an opportunity available after these submissions close.

Karena Brown
Christchurch

1056

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

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

Full Names: Kenneth Peter Brown Organisation Name: Email:
Phone: Postal AddressA: Postal AddressB: Postal City:
Tauranga Postal Region: Bay of Plenty Postal Post Code: Postal Country: New
Zealand Submission: I do not agree it is necessary for us to have a set constitution. Just because
other countries have doesn't automatically mean we have to. Furthermore trying to incorporate Treaty
of Waitangi matters into a constitution is fraught with danger particularly
as there is still no consensus on Treaty issues. My major concern is the possible unintended
consequences of having one constitution document. If implemented it will be another form of
legislation to be misinterpreted, argued over and used by astute lawyers
to gain some advantage over issues that will arise in the future we don't currently comprehend. The
UK operates well with no constitution whereas the US has many interpretive issues over theirs and
legal manoeuvring as a consequence. In my view our system
is not broken and does not require "fixing" by instigating a single constitution.

Sent on the 4 June 2013 at 16:36

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 29/07/2013 12:17 p.m.

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

Full Names: Marv Lynne Brown Organisation Name: Email:
 Phone: Postal AddressA: , Postal AddressB: Postal City:
 Napier Postal Region: Hawkes Bay Postal Post Code: Postal Country: New Zealand
 Submission: The New Zealand Founding Constitutional document was signed on 6th February 1840 between the Indigenous People of Aotearoa, NZ and the British Government Representatives at Waitangi. I acknowledge the Maori version because it was signed by more Maori than the European version.

I think it is about time the Treaty of Waitangi document is finally acknowledged and adhered to by the Governments of NZ before our Maori Culture and Heritage disappears for good.

Our Culture is unique, our heritage is unique, our language is unique, our tikanga is unique, our wairua is unique. We are worth saving.

Our language almost died out until the Kohanga Reo movement to revitalise our language. Now the 'corporate business mentality' is getting in the way.

Governments after the signing of the Treaty chose to abide by the European version which was devastating for Maori.

Today 183 years later we own less than 1/3 of our lands out of the whole of NZ while our resources 'guaranteed to us' are 'appropriated' by the Governments with the Treaty 'put at the back of the room or locked away in a case' only to be brought out when needed.

The Government makes the laws and breaks the laws but are not held accountable, they just make a new law.

I would like to see the Treaty of Waitangi instated as a 'living working' document into the New Zealand Constitution, in its rightful place, based on the Maori version.

Thank you,

ML Brown,

Submitted on the 29 July 2013 at 12:16

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.

Melinda Brown
Gisborne
New Zealand

1596

From: Peter Brown <>
To: "constitutionalreview@justice.govt.nz" <constitutionalreview@justice.gov...>
Date: 26/06/2013 10:07 a.m.
Subject: Submission on written constitution
Attachments: Submission on Written Constitution for New Zealand.docx

To Whom it May Concern,
Please find attached my submission on New Zealand having a written constitution. I have endeavoured to address the questions raised in your website and have kept my comments reasonably brief and to the point.

Accepting I am but one of thousands making a submission if any aspect of my views need to be clarified or expanded upon I am perfectly willing to do so. My contact details are listed at the end of the submission.

I would appreciate acknowledgement of receipt of this submission.
Yours faithfully
Peter A Brown

Submission on Written Constitution for New Zealand

Need for a written Constitution:

My first point is that I do not see any obvious need for a written Constitution for New Zealand. I do not accept that because we are one of only three countries without such the implication we should follow the lead of the majority. In all honesty, although we have some problems, in comparison to some other countries, we are largely doing fairly well without a written constitution.

Having stated that though, there are some worrying problems which seemingly tend to be overlooked or pushed aside. It would improve things if these were properly and fairly addressed. If a written constitution would assist in addressing these problems then it could be a worthwhile step. I point out though that doing this would necessitate, in areas, a somewhat dramatic departure from the current position.

Bill of Rights Act:

I am of the belief that this legislation should be encompassed in a written constitution. That is not to say though that I am totally happy with the current Act. Simply put, there are often concerns raised about the rights of the minority over the majority, the rights of criminals over their victims or the rights of the criminal minded over the law abiding. I have come to the conclusion therefore the Act should be subjected to a review. The commitment to undertake this should perhaps be made prior to a written constitution being signed off.

The Treaty of Waitangi:

I do not believe there is a place for the Treaty to be embraced by a written constitution. I certainly do not believe that the "Principles of the Treaty" should be included in legislation, as has been the practice in the recent past.

I acknowledge there are legitimate claims for past grievances and that the Treaty is used basically as a tool to justify them. But that is where it should end. The claims should be settled fully and finally, within a specified timeframe and then the Treaty confined to history and recognised only as the founding document of importance in our early history.

As things are now the Treaty is becoming more and more the document that divides this nation. If we want a progressive future we need to recognise this and rectify the position. Cementing the Treaty into a written constitution will do the reverse.

Maori Representation:

We have MMP as our electoral system and that does away for any need for special seats for any race. Maori have proved to be well represented under MMP by getting involved in political parties.

The same applies to local politics. Councils should be made up of the best people available, in the eyes of the ratepayers. There should be no reserved seats for Maori or indeed anyone else. A time line should be set and the seats abolished.

Electoral Matters:

MMP I believe is the most acceptable system which is fair. It should stay at least for a committed period of time. However there needs to be some fine tuning, the most obvious of which is the "Coat Tails" MPs rule. This is the rule which allows list MPs from minor parties to come in on the back of a lone MP who wins an electoral seat. This should be changed. The 5% threshold should apply in all cases.

The term of Parliament I believe should remain unchanged at three years.

The election time should be decided by the Prime Minister as is the case now.

I believe that 120 MPs is a reasonable amount for a country the size of New Zealand. From time to time there are arguments put forward that with such a modest population 120 is too many.

The number of people is not the only factor that should be considered when determining the number of MPs required. Political issues are far more complex than perhaps they used to be. A country with a land mass the size of Britain and an equally extensive coastline faces more than just "population" problems. Equally so there are numerous issues around a whole range of political matters which are linked only remotely to population. All these matters require regular attention. It is therefore necessary that Parliament is made up of sufficient Parliamentarians to ensure there are the necessary capabilities

MPs come from a whole range of backgrounds. As a result some are more talented than others. For this country to be governed efficiently there needs to be a pool of talent across the whole House to ensure competent people can be appointed to the respective front benches. Reduce the MPs to too few and there is the possibility that this "talent pool" would be some way short of adequate.

In short, the whole business of Parliament (both governing and opposing) has become far more complex over recent times and that is not going to change. We must ensure that there are sufficient MPs to do the job efficiently and effectively.

Size and number of electorates:

I am not unhappy about the manner in which the electorate boundaries are decided now, except to say some electorates have to be very large in area to encompass a reasonable population. However if the Maori seats were to be abolished there could be seven more general seats which would go a long way to easing this problem

Electoral Integrity legislation should not be introduced. Regardless of how it is used it has the potential to be abused by giving party leaders too much control. This applies particularly to leaders of smaller parties. If abused this could be to the detriment of democracy, more likely at a low key level but not necessarily.

I speak from personal experience having served as an MP under a leader for 12 years, who wanted to bring in such legislation in 2005. My reaction then was exactly as it is now; a caucus team should be managed not dictated to. I successfully won the debate at Caucus and the idea was thankfully dropped.

It is with some reluctance I raise the case of Brendan Horan. I do so simply because it is a case that well illustrates my concerns.

I have only an idea what Horan was supposedly to have done and I have no idea at all of the degree of his alleged offending. I am reliably informed though that none of his caucus colleagues or party officials, let alone rank and file party members knew anything more than I do, certainly at the time of his sacking. The leader apparently sacked him on the basis of whatever he had gleaned and used Parliamentary privilege to do so.

Horan might well be guilty of some dastardly offence, which is deserving of him being sacked by both his party and Parliament. As I have said I do not know. What I do know though he has clearly been denied natural justice and that should not be acceptable.

I am aware, that perhaps as a result of the Horan issue, many of the public would be supportive of a list MP being dismissed from Parliament if he or she has been sacked from their party. My point therefore is if "Party Hopping" legislation is to be re-introduced it must contain provisions for the MP to have a fair and independent hearing before Parliament dismisses him or her completely.

Being sacked from one's party brings with it enough shame and embarrassment as it is. It also means that the individual will unlikely ever be elected again, no matter what. Being sacked from Parliament is far more serious. It not only destroys completely any good name the individual might have had, it could wreck totally any future career options... If "party hopping" legislation is re-introduced and MPs sacked from Parliament it must ensure the individual is given every opportunity to put his or her side of the case, preferably to a totally independent body.

My Aspirations for New Zealand include:

People to live in harmony (in the New Zealand way)

Population to be well educated and/or highly skilled

Systems to respect individual's rights and privacy (but not to the extent it shelters criminals or advantage seekers)

Maintain freedoms of the press and of speech

Country to be a "Good World Citizen"

My view on how the country should be governed:

Probably not much different from the manner in which it is governed now but with more provision for binding public referenda, particularly on "society" type issues.

These bills generally are "conscious vote" bills, which tend to change society's values. Bills such as Gay Marriage, Voluntary Euthanasia, Drinking age etc To my mind by MPs alone making decisions on these type of matters is to treat the public as little more than fools.

This submission is made by:

Peter A Brown

Tauranga

Email:

Telephone:

3935

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 28/07/2013 1:54 p.m.

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

Full Names: Reuben Thomas Dennis Brown Organisation Name: Email:
Phone: Postal AddressA: Postal
AddressB: Postal City: Rotorua Postal Region: Bay of Plenty Postal Post
Code: Postal Country: New Zealand Submission: 1. Would like the constitution to be
based on the Treaty of Waitangi as a founding document please

2. Courts should have the power to decide whether legislation is consistent with various acts as they are generally more independent than the govt

Submitted on the 28 July 2013 at 13:53

2157

From: Simon Mark-Brown
To: <constitutionalreview@justice.govt.nz>
Date: 3/07/2013 10:45 a.m.
Subject: CAP Submission

It is time to abolish the Maori seats. MMP and two Maori parties makes them unnecessary.

Simon Brown

666

From:
To: <constitutionalreview@justice.govt.nz>
Date: 29/04/2013 10:30 a.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

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

Full Names: Simon Brown Organisation Name: Email: Phone:
Postal AddressA: Postal AddressB: Postal
City: Auckland Postal Region: Auckland Postal Post Code: Postal Country: New
Zealand Submission: The need is to insure equal rights and this was the reason for the Treaty and
this should be continued.

Sent on the 29 April 2013 at 10:30

2363

From: "Trixie Newton"
To: <constitutionalreview@justice.govt.nz>
Date: 3/07/2013 9:25 p.m.
Subject: CAP Submission

Members of the Constitutional Panel - some questions for you to consider.

- . Are we ALL Zealanders first and foremost ?
- . What is written on our passports? New Zealanders?
- . Aren't we all equal under the law?
- . Isn't our super given as New Zealanders?
- . When travelling internationally we are recognised as New Zealanders by all other nationalities/countries

Trixie Brown

Owner

Owner

Database-Acq-Email-Signature

Kerikeri, New Zealand

1997

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 30/06/2013 9:02 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

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

Full Names: Dorothy Patricia Browne Organisation Name: Email:
Phone: Postal AddressA:
Postal AddressB: Postal City: Dunedin Postal Region: Otago Postal Post Code:
Postal Country: New Zealand Submission: These additional things need to be basic
rights.

The right of everyone to a healthy standard of living.

That is:-

* The right to adequate housing

* The right to sufficient food

* The right to clean water.

* The right to work

Sent on the 30 June 2013 at 21:01

35 49

From: "Gary Browne"
To: <constitutionalreview@justice.govt.nz>
Date: 13/07/2013 1:07 p.m.
Subject: CAP Submission

I, Gary Browne of Upper Hutt, do not agree with any form of constitution that is based on "co-governance" or so called "treaty principles".

Any change to New Zealand's constitutional arrangement should only be conducted via a binding referendum following complete, exhaustive and unbiased public consultation.

Gary Browne

1180

From:
To: <constitutionalreview@justice.govt.nz>
Date: 8/06/2013 4:18 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

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

Full Names: Gary Browne Organisation Name: Email: Phone:
Postal AddressA: Postal AddressB: Postal City: Upper Hutt
Postal Region: Postal Post Code: Postal Country: New Zealand Submission: Any
change to NZ constitutional arrangements should only occur with a full public referendum.

Sent on the 8 June 2013 at 16:17

1180 a

From: "Gary Browne"
To: <constitutionalreview@justice.govt.nz>
Date: 2/07/2013 4:02 p.m.
Subject: CAP Submission

Race-based representation has no place in a modern society - our democratic rights should be based on citizenship not race.

The Maori seats should be abolished.

Gary Browne

Upper Hutt

2232

From: "JR Browne"
To: <constitutionalreview@justice.govt.nz>
Date: 3/07/2013 1:33 p.m.
Subject: CAP Submission

Please add my name to the list of New Zealanders who oppose the retention of the Maori seats. The Maoris, who make up about 12% of our population have so many advantages over other ethnic sectors of our national community that they neither need nor can justify this anachronism.

JR Browne, , Rodney

Submissions to Governments Constitutional Advisory Panel.
 Secretary - Constitutional Advisory Panel.
 c/o Ministry of Justice
 Private Bag
 Wellington.

27/7/2013

The Panel:

I wish to state my opinion & views to the members of the above panel, who were appointed by the National Government in conjunction with the Maori Party to obtain as wide as possible public input on proposed changes to NZ Constitutional Arrangements now existing.

Parliamentary Matters:

The size of our Parliament & number of MPs have grown far in excess of what should be necessary to govern our small country properly & efficiently. The costs to the taxpayers of NZ for these extra members that have slowly crept in, is huge, and is completely unnecessary & unwarranted.

The Margaret Robinson's Citizens Initiated Referendum of 1999 showed then that over 80% of New Zealanders at that time recognised that New Zealand citizens wanted the number of MPs reduced to 99! This has been clearly indicated that we have more MPs in our parliamentary governance than is reasonably required. The above suggested number would I believe easily give effective representation to all New Zealanders & be sufficient to carry out proper governance in Parliament.

The Length of Term of Parliament:

I consider that the present term of three years, should be continued without change. It is long enough for an incoming Government, to establish itself and to bring about starting promised changes made at electioneering time!

The three year term should be permanently set & no change made.

The Election Date, Flexible or Fixed?

I consider that a fixed date would be the most fair for all parties & it would mean parties would all have the

exactly the same time as each other including the Government to establish their electioneering visions & perspectives to the Voting public of New Zealand.

The Permanently Fixed date should be initially agreed upon by all parties & then fixed permanently. The only way that this date be changed would be in the case of exceptional circumstances, (i.e.) A natural huge disaster within NZ, or such as a War, that demanded our military forces, intervention.

The Electorates:

At present there are 63 General seats available, & 7 Maori Seats, with 50 List seats available, a total of 120 seats (mps). I do not believe we have any reason to still continue having separate seats for Maori & believe those seats should be ~~disestablished~~ or brought into the General electorate seats.

They should have been abolished as per the Royal Commission of 1987 who recommended they be disestablished at that time! Obviously nothing was done & they still remain!

The General electorate seats should be set at 70, (i.e. 63 + the Seven Maori seats) with the MMP List seats reduced to a total of 30 making a total available seats to be 100. The estimate of 100 mps to represent those seats, would be sufficient to give wide representation to all New Zealanders & to enable proper governance in Parliament.

Electoral Integrity Legislation:

The above legislation that was introduced in 2001 to control MPs leaving one party, in Parliament & joining another, distorting the proportionality of Parliament, expired in 2005. A select Committee to establish if this legislation was to be replaced again, decided that in their wisdom it should not be needed! That decision was a bad one, & "self-serving" to any further MPs that may decide to change during their term in Parliament.

The legislation of 2001 should be reintroduced!

The Maori Electoral Option:

This electoral option of a separate Maori roll, where Maori can choose either to be on the Maori roll or the general roll is a "farce". There should be no special race based electoral options at all! New Zealand is supposed to be Democratically governed, with one law for all New Zealand Citizens, & no racial separatism of any kind!

The Maori electoral roll is further 'flawed' by the changes made to establish whom actually can be classed as having Maori ethnicity. At present it would seem that if one "thinks" he "is Maori" they can be! This is positively ridiculous!

Further to the above, the number of "Maori" deciding that they wish to be placed on this roll, serves their aspirations greatly. The reason being that Government Depts use this roll to give consideration to funding of public monies, to specific Maori separatist health & social services, etc.

The Maori electoral roll should be abolished, New Zealanders want equality under the law, with no "race based" preferences.

The Maori Seats:

They were devised in 1867 as a measure of allowing male, Maori, landowners to vote at that time, and were to be abolished in 1893, when legislation and voting rights were given by law, to both European & Maori. They were then (ie the special seats) superseded & superfluous as of 1893. Again nothing was done about them & they continued as previous!

In 1987 the Royal Commission on our Electoral system recommended that they be abolished if MMP voting was introduced. It was, & they again were not removed! The Maori seats are well past their "use by date" and must be disestablished.

Local Government Maori seats:

These above seats should never have been allowed to occur! Why should Maori expect to be given seats on a Local Territorial Authority without ever having been voted onto that Authority by the Ratepayers of that particular district or city? It is unlawful & a disgrace that New Zealand Ratepayer citizens have a racial group forced upon them, with no rights seemingly of rebuttal. It has cost Ratepayers huge amounts of money to pay for these unlawful, undemocratic & blatantly racist appointments!

All positions now held by placement of those whom have not been publicly voted for, or earned their Authority position, like every other NZ citizen, should be immediately abolished!

One law for all! Democratic rule! & no Racism of any kind to be tolerated.

Are Maori so weak that they need false legislation process to enable them to get onto Local Territorial Authorities without being voted in?

I don't believe for one moment that they are incapable of standing for, expressing opinions on, & being successful candidates & publicly voted into office!

Maori are smart and can look after themselves well. They have no need to have special rights given to them, above other citizens, to place them on Local Body governments. Shame on those who have belittled them, & put Maori into such an embarrassing position!

The Treaty of Waitangi (1840) & our current Constitutional Arrangements.

The Treaty documents of 1840 is an historical document written by the Crown, to bring about law & order to Maori whom previously had no such systems. At that time for Maori tribes ("might was right") The Crown would provide Maori with protection, with enforceable laws & ordered

systems of government, that would allow Maori & European settlers to be equal as one, under British Crown Sovereignty. Maori Chiefs signed, recognising that the Queen of England was to be their Sovereign Ruler & protector as she was for all British Subjects domiciled in New Zealand at that time. To gain the above benefits & safety, they ceded their rule, to the Queen as Sovereign, and ruler. The original Treaty document was simple & clear, and had no clauses or mention whatsoever of "principles of the treaty" as has recently been claimed as fact.

Those whom have perpetuated the above "principles" are trying to rewrite the original document to suit their own prejudices & purpose. These "purported principles" are inaccurate, and untrue and must not be given any credibility. One other factor that needs clear statement is that at no time was there ever a "partnership" between Maori & the Crown, as that could never happen. The Crown was always Sovereign and therefore, of total authority and power over all subjects. No such status should be concluded by Maori, that they had a partnership & equality, as has often recently been inferred. The Treaty of Waitangi has also been claimed by some as the founding document of New Zealand which is again completely erroneous. To simply assert the above is endeavouring to give the Treaty document more power & status than it has ever had previously!

The Constitutional Arrangements of New Zealand are made up of a collection of Statutes (Acts of Parliament) Orders in Council, decisions of the Courts, and unwritten Constitutional Conventions, which have been agreed upon over many years, by our society and citizens, as to how we are all to be governed.

New Zealand is a Constitutional Monarchy with a Parliamentary system of Government, known as the Westminster system. We have had this model for some long time of Governance, and it has worked well & will continue to do so as long as all citizens of New Zealand are treated equally. There has not been any cause to necessitate change to our Constitutional arrangements since the last review was held in 2005.

The Constitutional Arrangements Committee indicated that there was no need to introduce any Constitutional change. I consider in conclusion that the Treaty of Waitangi should have no influence whatsoever to the manner in which our Constitutional arrangements of Government are decided, now, or in the future. As mentioned previously the above document as written & signed by the Chiefs originally, has nothing to do with any proposed change to our present Constitutional arrangements of Government. The arrangements as of now are working well and it is my opinion that no change is widely called for, or needed.

The Bill of Rights:

There is no immediate need for the Bill of Rights to be entrenched. It is an Act of Parliament 1990 setting out clearly the rights of all New Zealand citizens. If changes were being considered by any group, there would have to be wide public support through a binding referendum to change such law or add more.

Constitutional Arrangements:

New Zealand must retain our present system of Constitutional Arrangements, with the ultimate law making power held by elected members of Parliament. It is a flexible system that consists of written statutes, conventions, & common law rights, that give our properly elected members of Parliament the ultimate law making powers. If the above members of Parliament make the mistake of introducing inappropriate & undemocratic changes of law, then the general voting public have the opportunity to vote them out of office, at the next General Election.

To retain Parliamentary Sovereignty is one of the most important means of continuing our hard earned democratic form of Government. Democracy for all New Zealand citizens must be retained!

major Constitutional Change (itany)

Should any major Constitutional change be deemed appropriate, after all submissions & public responses, have been read, heard, & widely known, and a decision made by the present National Government, it must be done in a democratic manner.

The only legitimate democratic way to enact major Constitutional change is through a Public Binding referendum process, with all New Zealand Citizens having the opportunity to cast a vote. The affirmative voting should be well over the 50% margin to maintain full public support.

Any attempts by MPs to change our Constitution by way of a Parliamentary vote, (as has already been suggested by the National Government) should be, & must be regarded as totally undemocratic and illegitimate, & strongly opposed by all citizens.

My aspirations for New Zealand is summed up as below

Declaration of Equality

We New Zealanders of all backgrounds having founded & developed our Society in equality, fairness & comradeship, oppose any laws which establish or promote racial distinction or division.

1. We reject any references to the Treaty of Waitangi or its principles in any constitutional document
2. We ask that such references be removed from all existing legislation
3. We ask that race based Parliamentary seats be abolished
4. We ask that race based representation on Local Body Authorities be abolished
5. We ask also that the Waitangi Tribunal be abolished

This Declaration of Equality is to ensure that we are a Democratic Nation. One law for all New Zealand citizens!

Submitted by
Michael J Browne

Glen Eden / Hiriangi
Auckland -

From: "Nigel Browning"
To: <constitutionalreview@justice.govt.nz>
CC: <tim.macindoemp@parliament.govt.nz>
Date: 22/07/2013 12:01 p.m.
Subject: Fw: CAP Submission

To whom it may concern with regards to the proposed Constitution review.

I strongly appose this review for the following reasons;

1/. This review has been set up with government funding of some \$4,000,000 since an agreement with the Maori Party for a coalition Government in 2008.

This is something that the vast majority of New Zealanders never knew about and even fewer understood what it could mean.

2/. The panel of people selected to consider /develop this constitution is very heavily biased towards the more radical Maori demands. The make up of the panel cannot be considered democratic or in any way balanced to get a fair composite assessment of the wishes and aspirations of all New Zealanders.

3/. The so called consultation process with a true cross section of New Zealand society just has not happened. The majority of the consultation has been with a heavy bias towards a constitution favouring a bi-racial [Maori / Pakeha] set up where all, or most, things Maori have preference over all others and would be enforced by a 'modern understanding' of the Waitangi Treaty which is very different to what was understood and agreed on in 1840 and reiterated by the Maori signatories in their meeting at Kohimaramara in 1860.

4/. These consultative meetings have been little known to most New Zealanders and have only been promulgated to those who would tend to agree with the biased constitutional review panel. To say that this review has been truly representative of the views of a wide range of NZ citizens is a lie, it has not happened!

5/. There is a proposal that this constitution could be adopted by a simple majority in Parliament, or even a 75% majority is wrong. It could in no way truly express the views of all the people. The correct and only honest way to have it approved with a substantial majority is by a referendum which can only be held after a proper information campaign is conducted throughout the country.

6/. Before the referendum can be held the constitutional review panel must be reconstituted to have a better balanced representation of informed and wise personnel. The membership of which must be well publicised.

7/. If this constitution was made law in New Zealand as proposed in its present format then it will engender an ill feeling and prosper injustices which will make the Land Confiscations and inequities look like a happy Sunday picnic. It will cause a racial division that will muddy this country and its fair mindedness for the foreseeable future. The economic destruction and social disharmony will be ongoing for both Maori, Pakeha and all others.

8/. A real fact is that the Maori people today have a majority of blood lines other than Maori. This percentage is as high as 2/3rds on average which means that 2/3rds of their wish to exercise Maori Rangitiratanga is from forebears who were not Maori and that the compensations awarded so far may have been overstated perhaps by this same amount!

There are numerous priveledges in assistance, taxation, education, health priorities and much more which are and have been ongoing help to Maori for a long time which is not available to others because of their race. This is tolerated, indeed welcomed by many non-Maori and is a great example of good will and a desire to help. This constitution will destroy most of that.

9/. Now a serious question; Is this written constitution even necessary? Has not this country got along well and become the country that it is with a world wide recognition as a fair and desirable place

to live, with a stable government, with a reasonable living standards and freedom for its people? It has evolved with our unwritten but understood constitution embodying English law, the Magna Carta , the Human Rights Act and law interpretation though case history over 160 years.? It should be left alone and not interfered with especially when it this review sets out to delete all this and have one part of our people divided and made dominant against all the others by racial deliniation .

10/. Finally If our present unwritten constitution has flaws then consider this; so do the written constitutions of other countries. There is absolutely no reason to believe that any new and written constitution will be perfect and have no flaws either. We would exchange any known flaws for the unknown . Making changes to a written constitution is difficult or virtually impossible. Under our present rule of law our unwritten constution can be and is changed to meet a changing world. It can take time and is not easy to do but at least it is answerable to the electorate. As a written constitution is above Parliament then it becomes unanswerable to the electorate. This would over ride our democracy which for all its faults serves us well enough.

Yours Sincerely,

Nigel Beach Browning,

Hamilton .

3/14

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.

Andrea Brownlie
Wellington
New Zealand

2467

From: "bruceandelisa" ·
To: <constitutionalreview@justice.govt.nz>
Date: 4/07/2013 9:21 a.m.
Subject: CAP Submission

abolish maori seats

2176

From: "Anne Bruford"
To: <constitutionalreview@justice.govt.nz>
Date: 3/07/2013 11:14 a.m.
Subject: CAP Submission

I believe the Maori seats have passed their "use by" date.

It is very divisive for NZ to have a "them and us" policy. We have a very multicultural society and everyone should have the opportunity to be represented in Parliament- but by being elected by the people- not handed to on a plate.

Why should Maori be given special privileges? Maori have been catered for with millions of dollars in pay outs from the taxpayer which they should be using to improve education and living standards for their people. They do not deserve further special privileges such as designated Maori seats.

The biggest problem for Maori in my view, is that they are treated as if they are unable to survive in the real world and need special pampering.

This breeds low self-esteem. I believe that if they were treated like everyone else they would be forced to get ahead themselves and feel a sense of pride in doing so.

Stop treating them like second class citizens and they might stop acting as if they are.

My best friend of 56 years is $\frac{3}{4}$ Maori, was brought up with her 3 siblings in a 2 bedroom state house by her widowed mother. All 4 children have either degrees or tertiary qualifications and are doing well in life. They are a proud family and a credit to their mother who always expected them to do well.

Abolish the Maori seats and give back the pride to Maori that has been eroded over the years by "do-gooders"? who have created this "poor-me" syndrome in a great many Maori people today.

Anne Bruford

Papakura

3926

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 28/07/2013 11:24 a.m.

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

Full Names: Alastair Bryan Organisation Name: Email: Phone:
Postal AddressA: Postal AddressB: Postal City: Palmerston
North Postal Region: Postal Post Code: Postal Country: New Zealand Submission: the
period of time between elections should be 4 years

Submitted on the 28 July 2013 at 11:23

3541

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 12/07/2013 3:01 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

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

Full Names: ROBERT BRYAN Organisation Name: Email: :
Phone: Postal AddressA: Postal AddressB:
Postal City: Upper Hutt Postal Region: Wellington Postal Post Code: Postal Country:
New Zealand Submission: If we are to have a written constitution it should be based on 3
documents. The 1st document is the Magna Carta being the founding document that set basic rights
i.e. no arrest without cause, freedom of association and the end of serfdom (slavery) where
a landowner actually owned the people who worked the land.

The second document is the Bill of Rights from the 17th Century which enshrined the principle of
Government by elected parliament and ended the divine right of kings.

The 3rd document is the Bill of Human Rights developed by The United Nations which expands on the
Magna Carta and addresses some of the more modern issues that have risen in the last 800 years.

The Treaty of Waitangi has very little relevance to this process except for the Clause which
guaranteed Maori the same rights as British Subjects. If this is to be a workable constitution there can
be no special privilege for Maori as that would give us a constitution
that was racist and apartheid. Because New Zealand is now a multi-cultural society any constitution
must apply equally to all with no elitist groups given any preference.

Sent on the 12 July 2013 at 15:00

4191

From: "Lawrie Bryant" <
To: <ConstitutionalReview@justice.govt.nz>
Date: 30/07/2013 2:17 p.m.
Subject: FW: Submission

THE IMPORTANT ISSUE IS NOT WHERE YOU'RE FROM - IT'S WHERE YOU ARE GOING

The key element of a democracy is equal rights. The degree of Maori or European blood should be irrelevant, and anything that gives favour on the basis of blood can be said to be racist.

The current practice of reciting one's whakapapa is cute in family circles and on the marae, but it is irrelevant and racist when introduced into a professional or Government environment. Everyone has ancestors and history, even Europeans: My ship was the Ajax in 1849, my river is the Dart, my Mountain is Earnslaw and my ancestors are English, Scottish, Welsh and Irish. In the age of megadata such recitations are a nonsense, particularly by a European, and if we are to be equal, so too are they from someone claiming any degree of Maori blood.

THE TREATY DID NOT CREATE A PARTNERSHIP

The treaty gave equality to all, allowed for the establishment of law and order - desperately wanted by Maori at the time, and began the process of freehold ownership of land - the key to prosperity in a democracy. Some elements and obligations of the treaty were not observed and the Waitangi Tribunal and the Government settlement processes are correcting those, as well as can be done after such a passage of time.

The unfortunate over reach of Cooke CJ describing it as "like a partnership," has been clung to and distorted by the racial activists, using it as grounds for claiming parity of outcome, rather than opportunity, which was the intent.

MAORI HAVE BEEN HERE THOUSANDS OF YEARS

This is another myth peddled by the activists, yet I believe the earliest proven (carbon dated) date of arrival is 1262. To give that context, at that time Oxford University was already prospering and they were playing golf at St Andrews.

Is it not hypocritical for Maori to claim first rights to NZ on the basis of arrival, and so diminish the rights of those without Maori Blood, while at the same time claiming spiritual rights to 90 Mile Beach from which the spirits of dead Maori are said to depart on the trip "home" to Hawaiki?

THE MAORI SEATS ARE RACIST AND SHOULD GO

If we had European only seats, and could elect members with less than half the votes cast in general roll seats as happens now, and if Europeans could canvass the nation every five years to try and get more voters onto the European only roll, NZ would be a pariah and unwelcome at any international forum. Yet we persist with these seats despite them originally being temporary, as a means of giving Maori men equality with Europeans, and there no longer being any need for them.

It should be remembered that NZ's commitment to Maori equality was demonstrated by our declining the invitation from Australia for us to join

them as a State at the time of Federation, because they would not give Maori equal rights with Europeans.

SUMMARY

No constitution should be developed on the basis of the Treaty or of different rights for people claiming proportions of blood from one race or another as the issue diminishes over time and the concept would become a nullity quite quickly.

Should there be a recommendation that we establish a constitution it should require a referendum with 75% support of all registered voters - not just of those who voted.

L R V Bryant

Masterton

30 July, 2013

3 844

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 24/07/2013 9:24 p.m.

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

Full Names: Victoria Bryant Organisation Name: Email: Phone:
Postal AddressA: Postal AddressB: Postal City:
Dunedin Postal Region: Otago Postal Post Code: Postal Country: New Zealand
Submission: I like that there is cross accountability between courts parliament and the government.
Also important to acknowledge our heritage and the Treaty as founding document. Having our
constitution across different documents ensures that there is discussion
and an evolving process to reflect our countries aspirations. A values based process will ensure the
manaaki of our land and people and future proof this for our children and generations ahead

Submitted on the 24 July 2013 at 21:23

2291

From: "David Bryce" <constitutionalreview@justice.govt.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 3/07/2013 4:29 p.m.
Subject: CAP Submission

Abolish the Maori seats.
Their existance in our political system is undemocratic!

DAVID BRYCE.

1126

From:
To: <constitutionalreview@justice.govt.nz>
Date: 6/06/2013 11:50 a.m.
Subject: <http://www.ourconstitution.org.nz/> form submission
Attachments: Submission .docx

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

Full Names: Kristopher Bucher Organisation Name: Email:
Phone: Postal AddressA: Postal AddressB: Postal City: Christchurch
Postal Region: Postal Post Code: Postal Country: New Zealand Submission:
Submission Upload: Submission .docx

Sent on the 6 June 2013 at 11:49

Question 3

The constitutional arrangement in New Zealand is a highly contentious issue that is presently being assessed by a Constitutional Advisory Panel. New Zealand is a rare exception to the Western norm in that a single-document constitution does not exist. Instead there is a 'constitutional framework' that establishes the fundamental principles of governance. Because New Zealand is a unitary state without a written constitution or an entrenched Bill of Rights Act, the executive has almost unconstrained power and is the supreme law making body. This creates an "extraordinary constitutional gap"¹ something that is exacerbated by the absence of checks and balances such as an Upper House or an effective system of judicial review. The unbridled parliamentary sovereignty is "potentially fraught with risks"² and could undermine the rights and privileges of New Zealand citizens. The introduction of a Mixed Member Proportional (MMP) voting system in 1986 was a positive step in the process of protecting citizens from excessive executive power, but the panel must consider revisions to the Bill of Rights Act and re-evaluate the role of the Treaty of Waitangi in the forthcoming review.

NZ is a constitutional monarchy; a Governor-General is appointed as head of state, and this position also fulfills representation of the Queen. We have adopted a Westminster system of government with similar characteristics to the system in the United Kingdom. Among these similarities is the hierarchical separation of powers that sets out the composition and roles of government. Although nominally the Governor-General is the source of all law, in reality the Government takes on much of this role. The three branches of government that do this are the legislative parliament who create, deliberate and pass laws, the executive who perform the administrative function of implementing and maintaining law, and the judiciary who interpret parliament's laws. The purpose of this is to avoid a dangerous concentration of power, however in New Zealand the "powers have overlapped and been amalgamated."³ Close relationships exist between the legislative and the executive, because of overlapping membership. The executive council is comprised of the various groups who execute the law such as cabinet, Government ministers and the Prime Minister, who are all also members of Parliament. Therefore, in New Zealand one group effectively makes, applies and interprets the law; put simply the New Zealand parliament has "unequalled and indisputable lawmaking power."⁴ An example of parliament exploiting this occurred in 1982 when the National Government under Prime Minister Hon. R.D. Muldoon passed the Clutha Development Empowering Act that effectively nullified a decision of the High Court, which had denied the parliament water rights to create the Clyde high dam.⁵ This broke constitutional

¹ Sir Robin Cooke quoted in Philip Joseph & Gordon Walker, *A Theory of Constitutional Change*, Oxford 166 (1987).

² Geoff Leane, *Enacting the Bill of Rights*, 26th ed. Hum. Rts. Q. 166 (2004)

³ Geoffrey Palmer and Matthew Palmer, 4th ed. *Bridled Power: New Zealand's constitution and government* Oxford 8 (2010)

⁴ McDowell and Webb, 4th ed. *The New Zealand Legal System: Structures and Processes*, LexisNexis NZ Ltd, Wellington 108 (2004)

⁵ LexisNexis NZ, Web, *The laws of NZ, Clutha Development* (8), Accessed on 16/05/13 at 3:18

Question 3

convention and showed that the executive can override judicial decisions. This is potentially dangerous because it compromises fairness and liberty, as Sir Robin Cooke said:⁶

[i]f ever a government, indifferent at heart to basic rights were to hold office in this country, it could force through, possibly even in a matter of hours and by the barest majorities, legislation opposed to basic principles of justice.

New Zealand's Constitution Act of 1986 is unlike similar documents overseas in that it has the legal status as only an ordinary statute. It is nonetheless an important Act as it set out, in law, the supremacy of Parliament. The Act affirmed the roles of the various branches of Government, stated that no Act of Parliament of the United Kingdom shall extend to New Zealand as part of its law, and most importantly "clarified for once, and for all, the ability of the New Zealand Parliament to make laws."⁷

The Bill of Rights Act (BORA) that was passed in 1990 was a watershed moment in New Zealand's constitutional history. It was introduced to "affirm, protect and promote human rights and fundamental freedoms."⁸ Sir Geoffrey Palmer was largely responsible for bringing the White Paper to Parliament in 1985. He wanted it to become entrenched law, which would introduce some constraints to parliamentary sovereignty such as empowering the courts to strike down invalid legislation. However, it was decided that "New Zealand is not ready for a fully fledged Bill of Rights... along the lines of the White paper draft"⁹ and significant amendments were made, thus the final version of the Bill is vastly different to the original. The Act is undermined by section 4, which states that it is subordinate law. This means if there is inconsistency between a provision in an Act and the provisions of the (BORA), the other Act prevails. This makes the Act hopelessly inadequate in protecting the rights and privileges of citizens, because Parliament could pass biased or unjust laws that override the Bill of Rights Act and thus our most fundamental rights. In order to protect New Zealanders from excessive executive power the review panel must consider entrenching the Bill of Rights Act so it is made superior law. This would establish a system of judicial review that can act as a safeguard to protect the rights of the citizens.

The shortcomings of the Bill of Rights Act are exacerbated by the absence of other checks and balances to parliamentary supremacy. As Geoffrey Palmer provided, the constitutional relationship between the executive and the judiciary is characterized by tension.¹⁰ This is because in New Zealand

⁶ Sir Robin Cooke, *Practicalities of a Bill of Rights* (1984)

⁷ McDowell and Webb, above n.4 at 135

⁸ Richard Scragg, 2nd ed. *The Principles of Legal Method in New Zealand*, Oxford 97 (2009)

⁹ Leane, above n.2 at 171, From *Final Report of the Justice and Law Reform Committees*

¹⁰ Geoffrey Palmer and Matthew Palmer, 4th ed. *Bridled Power: New Zealand's constitution and government* Oxford 312 (2010)

Question 3

judges do not have the power to deem legislation passed by ultra-vires or unconstitutional. Parliament however, has the authority to nullify court decisions. The judiciary's inability to review legislation against a written constitution indicates the traditionally weak position it holds¹¹, and again indicates the scope of parliamentary sovereignty in NZ. The abolition of an Upper House of legislative review in 1950 removed another check to parliamentary supremacy, because the function of the Upper House was to review and, if necessary, suggest amendments to legislation. This means that currently Parliament is almost unconstrained. As Cooke says, this is potentially dangerous because he does not think, "[t]orture for instance would be within the lawful powers of Parliament."¹²

The Treaty of Waitangi of 1840 is widely seen as our founding constitutional document because of its importance in the assertion of British sovereignty over New Zealand. It is in fact the "Governments moral and political claim to legitimacy in this country,"¹³ which makes it bemusing then that it is a nullity in the New Zealand legal system. This was shown by the case *Wi Parata v Bishop Of Wellington* (1877) 3 NZJur (NS) SC 72¹⁴ where Prendergast CJ held that the Treaty had no legal validity because there existed no body politic capable of making a cession of sovereignty. The precedent value of this case has had far reaching consequences, and today the Treaty is only recognized in law if it is specifically incorporated into legislation. The mistranslations and ambiguity regarding governorship (kawanatanga) and sovereignty (tino rangatiratanga) mean that in effect there has never been a legitimate cession of substantive sovereignty.¹⁵ The Waitangi Tribunal was established in 1975 as a result of this and has predominately served to address past grievances, although questions are still arising regarding the role the Treaty will play in New Zealand's constitutional future. Some of these questions surround the fundamental principles outlined in the Treaty, and more importantly how these principles can be incorporated into our modern constitutional framework. The role of the Treaty in our constitution must be clarified by Parliament in order to facilitate other constitutional reform such as entrenching the BORA.

Despite the aforementioned shortcomings to New Zealand's constitution, a few checks exist that do have a minor impact on restricting parliamentary supremacy. The Rule of Law for example states that everybody, even parliament, is equal and is subject to the law. This means that there is no arbitrary use of power and government must comply with the law. This was evident in 1976 in the case *Fitzgerald v Muldoon* (1976) 2 NZLR 615 (SC) where the plaintiff took the Prime Minister Hon. R.D

¹¹ Leane, above n.2, at 166

¹² Cooke J, *Taylor v New Zealand Poultry Board* (1984) 1 NZLR 394 (CA)

¹³ Palmer, above n. 10 at 346

¹⁴ *Wi Parata v Bishop of Wellington* (1877) 3 NZJur(NS) SC 72

¹⁵ Marcia Stenson Erik Olssen, 2nd ed. *A Century of Change*, Auckland (1997), Longman Publishing.

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Muldoon to court believing his plans to abolish the superannuation scheme were illegal. The judge held "[t]he Prime Ministers public declaration ... was illegal as being in breach of s 1 of the Bill of Rights"¹⁶ showing that while parliament does indeed have the ability to make and unmake laws as they choose, no person or body can override or set aside legislation. An additional limitation to parliamentary sovereignty is the democratic elections that are held every three years, enabling citizens to vote for a party they feel will be adequate. However, the most important modern constitutional development was the introduction of a Mixed Member Proportional (MMP) voting system, which is today an effective check to parliamentary sovereignty.

Under the MMP system citizens can vote in their local electorate for a representative in Parliament, as well as voting for their preferred political party from the 'party list.' To win a seat in Parliament a party must obtain at least 5% of the national vote or have a member win their electorate. Under MMP it is unlikely that a single party will receive a majority of the votes and as a result there is generally a coalition government. This means that negotiations must occur and the minority parties have a greater bearing on government policy, which means "[t]he tyranny of the majority... is thus potentially balanced by the need to form coalitions."¹⁷ Additionally, under MMP there are designated Maori seats, which are determined by the number of people who enroll on the Maori Electoral Role. While MMP does give minority parties an exaggerated influence in Parliament, it is however more effective than the first past the post (FFP) system that was previously in effect. Under FFP caucus and cabinet could pass almost any law they wished, they could readily break election promises without repercussions and most importantly pass questionable laws with extreme speed.

Overall, New Zealand's constitutional framework is potentially fraught with risks given the excessive power of the executive. The absence of checks and balances such as an Upper House of legislative review further strengthens parliamentary supremacy. Apathy and indifference has characterized New Zealand's attitude toward parliamentary sovereignty, but we must realize the danger that this poses to rights and freedoms and that constitutional reform is essential. The constitutional advisory panel must consider entrenching the BORA as superior law in order to empower the judiciary and protect the right of citizens. In order to do this the constitutional role of the Treaty of Waitangi must be reassessed, because currently any constitutional reform is likely to be difficult until the role of the Treaty is clarified. Ultimately, an entrenched BORA loyal to the White Paper draft is needed to protect the rights and freedoms of citizens from excessive executive power.

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¹⁶ *Fitzgerald v Muldoon*, (1976) 2 NZLR 615 (SC)

¹⁷ Leane, above n.2 at 176

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