

323

From: "Greg Dillon"
To: <constitutionalreview@justice.govt.nz>
Date: 14/04/2013 5:07 p.m.
Attachments: Submission to NZ Constitutional Review.docx

Justice Dept,

Please find attached my submission to NZ Constitutional Review.

Regards,

Greg Dillon

Submission to New Zealand's Constitutional Review

My submission regarding the New Zealand Constitutional Review is that I want no change to New Zealand's unwritten constitution. It has served us well since the 1852 New Zealand Constitutional Act was passed, our founding document. It may require some alterations in the future, but a race based constitution is just not needed.

A raced based constitution would result in Apartheid in reverse situation in New Zealand.

I also believe that there should not be electorates based on race.

New Zealander's should be all treated equally; this is not the case at moment.

Gregory James Dillon

751

From: <
To: <ConstitutionalReview@justice.govt.nz>
Date: 5/05/2013 5:25 p.m.
Subject: Submission on Constitutional Review
Attachments: NZ Constitution Reform.docx

Please find attached a submission on the review of our constitutional arrangements.

Regards
Gerard Direen

NZ Constitution Reform

April 2013

This review

Any decisions made as a result of this review need to be made by a significant parliamentary majority (eg two thirds). Otherwise we risk decision-making being driven by narrow political interest and ideology. A further step to add integrity and sustainability to decisions would be to include a citizen referendum in the final process.

Improving Democracy

Constitutional change should be about improving democracy. This will require a range of steps and commitment from individuals, groups, organisations and government over time..

Our democratic system would benefit from some stronger form of social contracts between citizens and government. Ideally, we would develop our constitution out of shared values and beliefs about democracy and government. A constitution could provide a core, formalised record of this.

Any reform will also need to take into account what we already possess in terms of a constitutional framework, including the Treaty of Waitangi, The Bill of Rights and our Electoral law.

Changing Context: post WW2

Changing constitutional arrangements needs to consider context.

In my view, we have moved towards less cohesive social contracts and government since the 1950s. As our society has become more diverse and fragmented, we have seen greater divergence of views. As we have pursued more individual outcomes and rights we have attended less to collective needs. "Command and control" government has tended to be the norm.

Since the 1980s in particular, an almost frantic process takes place for new governments as they drive ahead legislative change to suit their support bases, vested interests and ideological positions. The result has been extensive reform across our society for limited widespread benefits.

Evidence for this is that the same old goals remain out of reach. Sustained economic growth, improved productivity, better law and order, effective health and education systems, and a fair welfare system are goals we struggle to achieve. There remains an unresolved disagreement about the direction of financial and social policy in NZ. This often leads to short-term policy outcomes.

I believe our lack of fundamental social contracts, including the limited presence of a strong constitutional framework, plays a key role in allowing "winner takes all" government to apply.

The change in the electoral system to MMP may have been a movement designed

to restrict governments' power, but it has yet to show sufficient leverage. Reduced voter turnout as in 2011, is one strong indicator of a lack of engagement in a key aspect of our democratic process.

Recent Education policy by Government gives a good example of "winner takes all" decision-making and poor policy formation. Consider the origin of the Charter Schools decision, the introduction of Novopay, the failed introduction of class size changes and the poorly implemented review of the Christchurch school system. Better democratic process and government process should place checks and balances on this sort of decision-making.

Increasing Distortions

Our political system and society have become increasingly sophisticated in manipulating information, in ways that serve politicians' and interest groups' beliefs and goals. This tends to minimise both opposition and open scrutiny. Our constitutional review needs to consider the influence and shortcomings of this context.

MMP has been a positive step in my opinion, however it has created its own shortcomings that may be addressed in ongoing electoral reform. However, I believe that a constitution should also address matters such as the minority over-representation in government (eg Jim Anderton for Labour, John Banks for National, Peter Dunne for both).

Our constitutional arrangements need to also have an eye on the future. Significant issues such as climate change, ongoing international economic and social challenges and widening social disparities in NZ, should all be considered when designing a constitutional framework.

Guiding principles

Finally, core principles need to drive our direction and decisions. If we fail to arrive at a set of agreed beliefs or principles then we'll remain a cork on the tide of self-interest.

Three common principles that would seem worthy of promoting are:

- Participation
- Accountability
- Representation

Enshrining these into our constitutional framework would help to provide some of the checks and balances required on government and our political system.

Any constitutional reform should have at its forefront the protection of citizens against powerful interests, and the rights of those with least presence and power in our political system. Disproportionate influence on political decision-making by powerful and well-placed lobbyists has become entrenched. Constitutional review should provide a check on this and other inherent imbalances.

161

From:

To: <constitutionalreview@justice.govt.nz>

Date: 9/04/2013 8:17 p.m.

Subject: <http://www.ourconstitution.org.nz/> form submission

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

Full Names: Ian Mark Diston Organisation Name: Ian Diston Email:
: Phone: Postal AddressA: Postal
AddressB: Postal City: Waikanae Postal Region: Kapiti Coast Postal Post Code:
Postal Country: New Zealand Submission: 1. New Zealand constitution should be written
independent of race or religion. No race or religion should be treated differently and therefore
singled out within the Constitution. To single out or apply a bias to a specific race of people could
be viewed as racist.

2. It would be interesting to see if people in New Zealand vote due to Race or political belief. First past
the post or proportional representation appears to work. Even though every Political party blames the
other for the issues at hand.

Sent on the 9 April 2013 at 20:17

3786'

From:
To: <constitutionalreview@justice.govt.nz>
Date: 24/07/2013 9:14 a.m.
Subject: CAP Submission

I Kevin Dittmer submit the following submission:

- 1, The number of MPs in parliament should be reduced.
- 2, The length of the term of parliament should remain at 3 years.
- 3, The method of calculating the size of electorates should be changed.
- 4, The electoral integrity legislation should be re-introduced.
- 5, a, The separate Maori roll should be abolished.
b, The parliamentary Maori seats should be abolished.
c, The local government Maori seats should be abolished.
- 6, The role of the Treaty of Waitangi has nothing to do with our constitution, it never had, and will never do.
- 7, a, The protection of property rights should be included in the Bill of Rights.
b, The Bill of Rights should be entrenched through parliament.
- 8, New Zealand's Constitution should remain as it is. No, I repeat no alterations should be made to our constitution, it shall remain as standalone legislation within parliament.

Comments: I call on the House of Representatives to abolish the Waitangi Tribunal, and to implement a Declaration of Equality in to NZ law. This whole exercise of a constitutional review is fundamentally flawed, and totally illegal. When a select few of our citizens are given taxpayers money in darkness to subvert our constitution it amounts to treason. If the fundamental laws of any country cannot be debated openly then there is no transparency within government. It is the people of NZ that parliament serves, not a select few.

Signed: Kevin Dittmer

24th July 2013

4321"

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 31/07/2013 1:21 a.m.
Attachments: Submission on the ConstitutionB Dixon.pdf

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

Full Names:	Brian Dixon	Organisation Name:		Email:		Phone:	
	Postal AddressA:		Postal AddressB:			Postal City:	
Dunedin	Postal Region:	Postal Post Code:		Postal Country:	New Zealand		
Submission:	Submission Upload:	Submission on the Constitution B Dixon.pdf					

Submitted on the 31 July 2013 at 01:20

4321a

Brian Dixon

30 July 2013

Submissions Secretariat,
Constitutional Advisory Panel
Ministry of Justice
Wellington

Submission on a Constitution for Aotearoa / New Zealand

General issues

What are your aspirations for Aotearoa New Zealand?

I would like to see a country that is based on principles of fairness and equity. This should be represented and enforced at all levels; the way we treat our vulnerable citizens (the sick, the injured, the disabled, the young and old, victims of offences and those who are confined in our prisons and hospitals etc); the political system; the education system and other government services; the tax system; and the legal system.

How do you want our country to be run in the future?

Our MMP system of government could be used more effectively and provide greater advantages for New Zealanders if governments were required to have a greater degree of respect for Parliamentary process rather than being fixated on party-political divisions and an adversarial style of politics.

Increased use of technology to enable citizen involvement in political processes is one way of increasing the relevance of politics to the People and encouraging participation in political decision making. For example, electronic (and other) systems for referenda and public votes on certain issues would attract high levels of involvement.

The nation should be protected from the current divisive approach of the government and there need to be safeguards to prevent the dismantling of long-established rights and principles (e.g. erosion of information privacy).

New Zealand's Constitution

**Do you think our constitution should be written in a single document?
Why?**

There should be a central guiding document that is a statement of essential constitutional principles and guarantees basic rights and freedoms. However, the Constitution does

consist of more than that; it is already represented in a number of established documents, laws, practices and rulings that reflect our unique national character. These should remain intact and include, but are not limited to: Te Tiriti o Waitangi; human rights legislation (The Bill of Rights Act 1990 and Human Rights Act 1993); privacy laws (the OIA and Privacy Act and derived codes); aspects of the Evidence Act (e.g. protected communications); and (perhaps controversially) laws that preserve and protect the environment.

A balanced multi-party, cross-Parliament Committee should be established to draft the Constitution based on the input and advice of a wide range of issues groups and expert panels. Public input to the drafting process would be possible at multiple points and citizens would be encouraged to join local community working parties with clear avenues for the communication of ideas and responses.

Do you think our constitution should have a higher legal status than other laws (supreme law)? Why?

Absolutely, but it should provide some guidance on the priorities to be given to other laws (e.g. what takes precedence) and on their interpretation where appropriate. Otherwise there is little point in having a Constitution; it would have no status, would be disregarded by policy-makers and irrelevant to the people.

However, a Constitution with overarching legal status has its drawbacks too; few of our politicians would be prepared to give such a document the “teeth” necessary for it to be an effective brake on political and Executive power.

Who should have the power to decide whether legislation is consistent with the constitution: Parliament or the Courts? Why?

The Courts are the appropriate place for law to be applied; conventional Westminster practice is that our Parliament makes laws and Courts interpret and apply them. These conventions should be supported and enshrined in the constitution.

There should be a special Constitutional Court established for the express purpose of considering matters relating to constitutionally defined rights and freedoms (including Bill of Rights Act matters) with status equivalent to the Court of Appeal or Supreme Court.

While any government politicians might argue they have the right or responsibility to decide on the consistency of our laws (which is properly a consideration in shaping legislation), that is not a desirable approach when it comes to the application and interpretation of law as it would be inherently subject to some political bias. That would probably result in alternating government’s “tinkering” with the Constitution or its interpretation. This might be limited by a requirement of two-thirds or three-quarters of Parliament support being necessary for amendments to the Constitution and the determination of conflicts or inconsistencies between it and other laws.

New Zealand's Bill of Rights Act

Does the Bill of Rights Act protect your rights enough? Why?

Until recently, I would have answered yes to this but developments with the disclosure of espionage practices in New Zealand and abroad have changed that opinion. Our rights to privacy are under sustained and determined attack. Governments have been trusted to ensure our security agencies comply with the law; however, it has been revealed that illegal investigations of New Zealanders by the GCSB have not been occasional "lapses" but common practice. Other instances of improper uses of agency powers and misuse or mishandling of information have been appearing on an almost daily basis and our government has not provided any indication that these are of concern let alone an assurance that it will take action to remedy the problems. The only reaction has been to push upon us an unpopular law that makes the GCSB's actions legitimate.

What other things could be done to protect rights?

We need more stringent rules around breaches of our rights and serious penalties for violations. An enforcement agency is needed that is capable of investigating and determining such offences and imposing sanctions on the perpetrators.

Do you think the Act should have a higher legal status than other laws (supreme law)? Why?

Yes, but within or in association with a formal Constitution that legitimises such status. Human rights relate to social justice which, together with environment values, should have precedence in law.

Who should have the power to decide whether legislation is consistent with the Act: Parliament or the Courts? Why?

The Courts; perhaps a special Court established for that purpose at a level equivalent to the Court of Appeal or Supreme Court.

What additional rights, if any, could be added to the Act? Why?

Certain assumed basic entitlements have been shown to be vulnerable to political interference, demonstrating clear need for these to be guaranteed in law. For example:

The right to be free from intrusion into one's private communications.

and

The right to an upbringing without poverty and deprivation.

The Treaty of Waitangi

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

It must be a component of that instrument. It embodies the agreement on the rights of the indigenous people and also determines many of the rights of others in Aotearoa as well, being a benchmark for fair and equitable treatment.

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

Yes. Much of our legal framework is now based on Te Tiriti and we have had a court dedicated to the application of the Treaty to the settlement of land and other claims. It makes sense that it should, therefore, be central to the Constitution.

Māori Representation

How should Māori views be represented in Parliament?

How could Māori electoral participation be improved?

How should Māori views and perspectives be represented in local government?

These matters are of great significance and warrant a proper debate in their own right and with invited contribution from a wide representation of Maori and other residents of Aotearoa/New Zealand. I do not presume to have adequate knowledge of the issue to make an informed submission on this at this time but would like to be able to do so in another forum after seeking the information I need to do that.

Electoral matters

How many members of Parliament should we have? Why?

Around the current number and composition (MMP and electorates)

How long should the term of Parliament be? Why?

I am of the view that the term should not be increased. However, it would make sense to consider a system where all members face elections within a three or four year period, with a proportion of them coming up for staggered elections through that period (e.g. at yearly or two yearly intervals). Electronic (and other) voting systems should be introduced to facilitate this regular electoral accountability model. This would mean out politicians were more clearly responsive to community (voter) expectations while anyone elected would be

able to anticipate an adequate period between elections to engage in longer term planning. The composition of parties and governments could change yearly which would place greater emphasis on cross-party cooperation in Parliament with a view to ongoing stable governance.

How should the election date be decided? Why?

By an independent body not subject to political influence.

What factors should be taken into account when the size and number of electorates are decided? Why?

Population basis seems fairest, although geographic factors will need consideration to avoid unwarranted division of communities of interest.

What should happen if a Member of Parliament parts ways with the party from which he or she was elected? Why?

If an electorate representative, they should be able to remain as the individual was democratically elected to Parliament. List MP's should be required to resign and be replaced by their Party as they have not been specifically elected but the Party has received electoral support determining the proportion of List seats. That proportion is unfairly distorted if the member remains.

Do you have any other comments or suggestions about New Zealand's constitution?

Yes. It is unacceptable that a government defies the will of the people regarding the need for rule changes to the political voting system (e.g. refusing to follow referendum indications and commission advice to alter MMP one seat entitlement thresholds). There needs to be some mechanism for over-ride of political bias in electoral matters such as a constitutional authority that has the power to require change where the public has clearly favoured that.

Brian Dixon
July 2013

3893

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 25/07/2013 6:40 p.m.

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

Full Names: Christopher Malcolm Dixon Organisation Name: individual submission Email:
Phone: Postal Address:
AddressB: Postal City: Postal Region: Auckland Postal Post Code: Postal
Country: New Zealand Submission: Thank you for the opportunity to make a submission on the
role of the Treaty of Waitangi in a New Zealand Constitution.

I do not believe that the Treaty of Waitangi should have ANY role in a constitution. The current treaty arrangement does not encourage equal freedoms, equal responsibilities, or equality, but instead has been used to divide New Zealand along racial lines.

Having the Treaty of Waitangi as part of any constitution would not be in the spirit of what was originally intended and understood by those who wrote and signed the treaty. This can be confirmed by reading the manuscripts of the speakers who spoke at Waitangi.

An excellent resource which I believe is balanced and well researched is "The Great Divide" by Ian Wishart.

Submitted on the 25 July 2013 at 18:39

3893a

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 25/07/2013 7:44 p.m.

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

Full Names: Christopher Malcolm Dixon Organisation Name: individual submission Email:
Phone: Postal AddressA: Postal
AddressB: Postal City: Postal Region: Auckland Postal Post Code: Postal
Country: New Zealand Submission: I believe that all New Zealanders, regardless of how long
they have called this land home, have a valid view.

I would like to see more opportunity for the entire voting population of New Zealand to have a say on laws that are progressing through parliament.

If you look at countries around the globe, Switzerland stands out as a peaceful and prosperous state. Their system of governance is one that I admire, and the basis for it is the involvement of the people.

Regularly in Switzerland there are referendum that decide the laws of the country. Because the people have voted the rules to be a particular way, they both understand and obey them.

In New Zealand, the system is different. Very few people understand the laws, and it is almost impossible to obey them all. There are frequently times where politicians vote on a particular issue in a way that is opposite to what the general populous wants when polled by independent survey companies.

Thus, I believe that New Zealand would benefit from having binding referendum.

Submitted on the 25 July 2013 at 19:42

38936

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 25/07/2013 7:53 p.m.

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

Full Names: Christopher Malcolm Dixon Organisation Name: individual submission Email:
Phone: Postal Address A: Postal
Address B: Postal City: Postal Region: Auckland Postal Post Code Postal
Country: New Zealand Submission: There should be no race-based seats in parliament

We should have 99 Members of Parliament or less.

Two years as parliamentary term.

Election Date is the weekend before Labour Weekend every two years - unless the Governor-General dissolves parliament.

Local issues should be dealt with on a local level, therefore there should be one Auckland seat, one Wellington seat, and one seat for every city or town over ten thousand people. Where there are vast areas without a population hub of over ten thousand people within a three hour drive, establish a seat there.

Electorate seats should have all independent members in them. Scrap political parties. Instead, have political parties gather support and lobby politicians for laws that support their particular view. This solves the current problem of a member remaining in parliament while leaving the party that got them in there.

Submitted on the 25 July 2013 at 19:52

3893c

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 25/07/2013 7:36 p.m.

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

Full Names: Christonher Malcolm Dixon Organisation Name: individual submission Email: cmalcolm@msn.com Phone: Postal Address A: Postal Address B: Postal City: Postal Region: Auckland Postal Post Code: Postal Country: New Zealand Submission: In almost daily news items there are articles that point to a New Zealand that is increasingly divided by race. I do not think that it is healthy or right for this country to travel down the path of separating people based on their racial history. And what I am referring to is the maori and non-maori separation that is happening at the top, i.e. Parliament.

A very well researched book explaining the history of New Zealand and its Treaty is "The Great Divide" by Ian Wishart.

Also updated on a regular basis is <http://www.nzcpr.com/> the NZ Centre for Political Research.

<http://www.nzcpr.com/TreatyTransparencyResearchReportJanuary2013.pdf> is an e-book which does not make for encouraging reading if you believe that NZ is a country that promotes equality;

I sincerely hope that New Zealand can continue to build a country where, in the words of Martin Luther King Jr, "each man will be judged, not by the colour of his skin, but by the content of his character."

Submitted on the 25 July 2013 at 19:35

3893d

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 25/07/2013 7:19 p.m.

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

Full Names: Christopher Malcolm Dixon Organisation Name: individual submission Email:
Phone: Postal AddressA: Postal
AddressB: Postal City: Postal Region: Auckland Postal Post Code: Postal
Country: New Zealand Submission: I am undecided as to the merit of a single constitution. This is
because the process to make a foundational document such as this cannot please everyone. It is also
because the document must be simple enough for most to read and understand without being
too long. It should be able to be memorised, in sections, by school aged children. However, to act in
accordance with the simple constitution may break existing laws, so what then? What if you do not
believe in a particular part of the constitution?

Yes, the constitution should be a single document, but it must be short and simple. It must include the
right to life, the right to defend oneself, and it MUST NOT HAVE ANY RACIAL BASIS. The reason I
include the prohibition of racial division is because New
Zealand should not be a racist country, but instead should treat everyone according to their
behaviour.

Submitted on the 25 July 2013 at 19:18

3893e

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 25/07/2013 7:10 p.m.

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

Full Names: Christopher Malcolm Dixon Organisation Name: individual submission Email:
Phone: Postal AddressA: Postal
AddressB: Postal City: Postal Region: Auckland Postal Post Code: Postal
Country: New Zealand Submission: As a background to this submission, I do not believe that
humans have any rights. This is because humans have freedom to choose how they act, and the
standards that they uphold. However, I also believe that all humans have some absolute
responsibilities,
and these are to: look after and protect those who need it - whether in this country or another, to look
after the welfare of the living things we are responsible for, to look after the environment in a way that
our grandchildren would appreciate, and the
responsibility to act in accordance with the laws of the country.

Now for starters, we tell children in school that they evolved from animals, and then we get surprised
when they act like animals. So lets start by giving children the right to have all the information - and
that includes different viewpoints on their origin.

Next, I think that anyone who neglects their responsibilities to act lawfully and uprightly has also
decided through their actions to give away any rights they have.

Because the bill of right aims to protect the right to life, I believe that everyone should have the right to
defend themselves against someone trying to hurt them. I especially believe that no criminal charge
should be brought against anyone defending themselves
in their own home at night against an intruder. This includes the right to use deadly force against an
intruder in a home at night, whether or not the intruder can be proved to have attacked a person
inside it.

Submitted on the 25 July 2013 at 19:09

3893f

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 25/07/2013 6:51 p.m.

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

Full Names: Christopher Malcolm Dixon Organisation Name: individual submission Email:
Postal Address:
Postal City: Postal Region: Auckland Postal Post Code: Postal
Country: New Zealand Submission: I believe that maori views in parliament are represented
because they are people, and they have a voice just like anyone else. To segregate views based on
race is a bad idea - just like Apartheid in South Africa or USA

Maori views in parliament should instead be represented just like any other interested group of people, and that is through the democratic process that includes lobbying and voting. To have a race-based system in New Zealand surely is an idea that belongs in the dark ages.

Maori electoral participation depends on what you call maori. What makes a maori anyway? Is it their ancestry, or is it their culture, or is it their religion or is it their behaviour? I think that a better question to ask is "how can the views of all New Zealanders be heard in parliament, and how can the people feel like the people they elect are actually listening?"

Maori views in a local government context should be heard on an equal footing with anyone else who wishes to make a difference in the local area. To have one view more important than another based on race is a dangerous and flawed idea that belongs in our past, not our future.

Submitted on the 25 July 2013 at 18:50

ConstitutionalReview - <http://www.ourconstitution.org.nz/> form submission

From:**To:** <constitutionalreview@justice.govt.nz>**Date:** 5/06/2013 12:05 p.m.**Subject:** <http://www.ourconstitution.org.nz/> form submission

Sent from The Constitution Conversation.**Full Names:** John Robert Dixon**Organisation****Name:****Email:****Phone:****Post:****AddressA:****Postal
AddressB:****Postal City:** Papamoa Beach**Postal Region:** Bay of Plenty**Postal Post****Code:****Postal** New Zealand**Country:**

Submission: Not happy with what I see in this new constitution. If it is based on the treaty of waitangi, then forget it ,it could cause a revolution. what I see of the panel that has been chosen does not fit in such a touchy piece of legislation The proper way to go about it would be done by the law lords of London and stop a biased piece of the future. We are one nation and should not be separated from this.

Sent on the 5 June 2013 at 12:05

1238

From: nigel.dixon@justice.govt.nz
To: <constitutionalreview@justice.govt.nz>
Date: 9/06/2013 9:39 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

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

Full Names: Nigel John Dixon Organisation Name: Email: ,
Phone Postal AddressA: Postal AddressB: Postal City: Christchurch
Postal Region: Postal Post Code: Postal Country: New Zealand Submission: I strongly
oppose any reference to the Treaty of Waitangi being installed into any new constitution.

Equal rights for all New Zealander's should be the aim of every leader in the country, for the greater
long term good of all.

New Zealand is currently becoming more & more racist.

Any new constitution should aim to eliminate or minimize that, not exacerbate it.

Sent on the 9 June 2013 at 21:37

1138

From:
To: <constitutionalreview@justice.govt.nz>
Date: 6/06/2013 5:02 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

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

Full Names: Philip Barry Dixon Organisation Name: Email: Phone:
Postal AddressA: Postal AddressB:
Postal City: Auckland Postal Region: Postal Post Code: Postal Country: New
Zealand Submission: 1.The Treaty of Waitangi does not need inclusion. Maori as citizens are
already included, don't need special rights.

2.We already have a constitution of sorts. It is working why change it. If it ain't broke why fix it?

Sent on the 6 June 2013 at 17:01

2532

From: Todd Dixon
To: "constitutionalreview@justice.govt.nz" <constitutionalreview@justice.g...
Date: 4/07/2013 11:22 a.m.
Subject: CAP Submission

Hi All

Having Maori seats is racist!

Get rid of them

Regards

Todd

4525

From: David Do
To: <constitutionalreview@justice.govt.nz>
CC: David Do
Date: 31/07/2013 11:19 p.m.
Subject: CAP submission - David Do, 11:17pm, 31 July 2013
Attachments: Constitutional Advisory Panel submission David Do 31 July 2013.pdf

Hello,

Here is my submission to the Constitutional Advisory Panel. I would be grateful for a reply that confirmed that this was received in this inbox before midnight 31 July 2013.

--

Yours Sincerely,
David Do.

"He simply loved planning, as well as being superb at it. This was one of his ways of squeezing maximum enjoyment out of each adventure." - Words spoken in tribute at Sir Edmund Hillary's 2008 funeral by friend Jim Wilson.

Submission to the Constitutional Advisory Panel, 31 July 2013, David Do

Introduction

1. This is a personal submission from a young Asian male New Zealand er who is passionate about how to make our democracy better.
2. It will not be as complete or comprehensive as perhaps others who have contributed to this conversation, but I thought this was a good opportunity to crystallise my views about government, how power should be exercised, and our future as a country.
3. My submission is in four sections:
 - a) Who I am;
 - b) My Aspirations for New Zealand ;
 - c) Summary of Constitutional Proposals ;
 - d) Specific Response s to Submission Questions .

Who I am

4. I was born in Auckland in June 1985 to a Vietnamese father and Chinese mother.
5. My dad was a refugee from Ho Chi Minh City – he fled the Communist government on a boat in the late 1970s, which almost capsized if it weren't for a Soviet trawler rescuing it. He ended up in a refugee camp in Indonesia before somehow ending up in New Zealand, away from some of his friends who chose other countries for relocation. My mum was from Guangzhou and immigrated here, and specialised in being a sewing machinist.
6. They met in New Zealand in the early 1980s, and both worked hard in manufacturing 'blue collar' jobs. We lived as a modest middle income household, nothing flashy, and we knew the value of money.
7. Although they are divorced now, I owe a great deal to my parents and to the work and dedication they put into raising and supporting me. I was also able to benefit from a good public education system, with strong academic achievement throughout my compulsory schooling.
8. I have always been driven by the notions of service, helping others, and trying to live one's values through hard work and dedication.
9. I particularly grew as a person once I started at the University of Auckland. I moved out of home, and got involved in politics and other volunteer activities while studying history and politics and working part-time.
10. I got heavily involved in advocating and supporting students through the student movement – helping out with the student association foodbank as Welfare Officer, then getting interested in wider welfare and education issues. I was elected Auckland University Students' Association Education Vice President in 2007, and then President in 2008. More recently, I was the co-President of the New Zealand Union of Students' Associations for 2010 and 2011, an elected national -level advocate, campaign er and coordinator .
11. Throughout my time working for and with students, I worked closely and cooperatively with Māori student organisations, such as the student roopu Nga Taurua Māori at Auckland University, and the national Māori tertiary students' association Te Mana Ākonga. I always sought to maintain positive constructive relationships with them, in recognition of the Treaty of Waitangi. It occurred to me automatically that this was the easiest and best way to work with others.
12. In my second year at university I joined the Labour Party because my values and perspectives are most closely aligned with that Party. I enjoyed participating, engaging, and campaigning around political and policy issues with fellow members and others. I got more involved with the Princes Street university branch, eventually becoming branch chair for two years, and also involved in Young Labour.

13. I was involved in queer issues through being a member, then officeholder and chair of UniQ Auckland, the social/political club on campus for queer students (queer is a reclaimed word that acknowledges both gender and sexual diversity. It is used as a collective term that is inclusive but not exclusive to gay, lesbian, bisexual, transgender, takataapui, and intersex identities). I helped as a volunteer and submitter in the campaign for civil unions, and more recently in the campaign for marriage equality.
14. I now have a Bachelor of Arts (Honours) in Politics, live in Wellington, currently work in the public service, and am a union delegate at my workplace. I am proud to be a New Zealander and I want to make my future here rather than overseas.

My aspirations for New Zealand

15. A future New Zealand should lead the world again in economic prosperity, environmental quality, and in genuine positive partnerships among all of its people. It would be a democratic, socially inclusive, and dynamic country where everyone is included and able to participate in society. Diversity and solidarity would be valued and incorporated into our daily lives and into our social, economic, and political structures and processes.
16. I believe that we should stand for the hopes and aspirations of all New Zealanders towards a life of security, dignity and fulfilment, today and into the future. The contribution of all people to our nation should be respected and valued because they strove then, as we do now, for a fair share for all, support for the vulnerable, and hope for a better tomorrow.
17. Every New Zealander deserves the maximum possible opportunity, prosperity, security, fairness, and freedom. It is a birthright that we all have as citizens and one we generously extend to those who choose to make their home here in New Zealand.
18. I firmly believe that politics is about the power to do good for the people and that the state's role is to empower and protect. Empathy should be at the heart of our relationships with each other as human beings, and of our structures and processes as a society. We need to have an inclusive society, infused with social justice. Individual aspirations and collective responsibility cannot be separated or prioritised over the other.
19. Government (and by extension the constitution) is about ensuring the right balance to achieve all of these complementary but sometimes conflicting objectives. The government is a protector, enabler, facilitator, and empowering agent. It should also be an entrepreneur when appropriate. We need a political system and framework which will protect and make real the aspirations of the people.
20. There are at least five key values that should underpin New Zealand's future development:
 - a) **Freedom:** Freedom is a value that includes both the right to fully participate in society and to exercise choice about how we live our lives. Freedom enables us to be who we are and to achieve our individual and collective potential. People can only exercise true personal freedom when they have the resources to enable them to participate fully and in the context of a society that establishes strong personal, social, and economic rights for all.
 - b) **Equality:** A just society is founded on equality and fairness. It means that all people should have equal access to all social, economic, cultural, environmental, political and legal spheres regardless of wealth or social position. All New Zealanders should have a fair go, as well as the support and opportunity to achieve one's potential no matter who they are or their background.

Equality is also driven by inclusion. We value our diversity and that we are all equal before the law and enjoy the same fundamental rights. We owe each other and our community the same duties, and we are all worthy of the same respect. An equal society is one that is built on co-operation and respects diversity.

- c) **Opportunity:** All New Zealanders should have the opportunity to fulfil their potential and make the most of their talents. We want all New Zealanders to share in prosperity, to participate in their communities and to be able to have control over their own lives. Everyone should have the opportunity to play their part in making decisions about our future and all should have their voices heard.
- d) **Solidarity:** Solidarity is the value that underpins the social contract which affirms our acceptance of mutual rights and obligations for the good of society as a whole. It defines our commitment to a compassionate, inclusive, tolerant and responsible society. Solidarity recognises that the human experience is a shared one, and talks to our common responsibility for the health and wellbeing of our families, communities, workplaces, our economy and our environment.

Our democratic traditions value social justice, equality and human rights. This leads to policies which should support fairness, inclusion and prosperity to be shared by all, and supports the role that representative democratic government can play in giving everyone a fair chance at life.

- e) **Sustainability** is the value that will ensure resources are shared fairly across society and in doing so protect the resource base for future generations. We are not just selfishly concerned about ourselves and what we have, but whether our actions are going to leave our children's and grandchildren's generations with the same or increased opportunities. It is about ensuring economic sustainability within environmental, ecological, social and cultural bottom lines. It is about development that will deliver good education and good health, secure housing and jobs, access to safe food, clean water, clean air and secure energy resources.

On the pace of change

- 21. We have remarkably lucky as a country in many ways and we must always strive to keep making things better. However, transformation and change takes time, patience and the acceptance of people willing to engage. The pace of change will inevitably be slower than one hopes. Progress can be uneven, and always requires a fight to move forward.
- 22. I personally prefer taking a principled but pragmatic approach to political change. I know that one cannot get everything one wants in one go, so one does the best they can in the constraints that exist (and when one can, try and change those constraints). None of this should stop one from keeping one's eyes on the prize.

On power and privilege

- 23. I am keenly aware that our history and society today is far from perfect. The Treaty of Waitangi, long disregarded and almost discarded, continues to be the subject of ignorance and bigotry despite significant progress over the past twenty years.
- 24. We have a long way to go to eliminate racism and discrimination in society, among other things. The recent reactions to proposals for compulsory Te Reo education in schools, greater Māori language on TV, greater use of Māori placenames, and the online emergence of a 'Pakeha' party, are more reminders that there is a long way to go. This is despite major advances over the past ten years in Māori cultural achievement, societal adoption of Māori language and arts, and in people-to-people relationships. We probably will need a few more decades of increased social mixing and structural change to reach full racial tolerance and the elimination of racism.
- 25. Our social capital and public trust in institutions and government has been depleted due to unbridled power and reckless misguided decisions from the mid-1980s onwards which have led to outcomes destructive of our social and economic cohesion. It is not surprising there is widespread distrust and cynicism of our politics and our political institutions.
- 26. We also cannot mask the real inequality of the multiple power relationships that exist in our society. Race, gender, and class are key cleavages in our society. Many of our past and current controversies involve the assertion of rights and a claim on equality against what many would deem a well-off European male heterosexual 'Establishment'.

27. Privilege is something many of us take for granted in our society in different ways, for example whether it is, among other things:
- having enough to eat;
 - being treated fairly at work, school, or a health provider without discrimination or bias;
 - having your name pronounced correctly;
 - being able to safely and confidently speak your own language; and/or
 - openly showing your love to your partner without fear.
28. Certain groups of people enjoy much greater levels of such privilege than others, and yet some of those people who enjoy multiple privileges take offence when others seek to enjoy the same rights and 'privileges' that they take for granted.
29. Personally, I find it strange how people regard certain things as 'racist', 'ideological', or 'political' – while unconsciously (or consciously) expressing their own race-based or ideologically-based beliefs. I also get tired and annoyed at racists, bigots, and other regressives – they offer nothing but negativity based on their own prejudices and inability to think the better of other people.

Is a constitution 'political'? And what does 'unconstitutiona l' mean?

30. A question we cannot avoid is how a constitution can or should determine policy outcomes. Any constitution inevitably does this, either 'invisibly', overtly, poorly, or well. Certain constitutional processes may affect whether policies are able to be developed, implemented, or maintained. Different institutional configurations affect distributions of power and influence, as well as the responsiveness of the system to the people.
31. I think we should make explicit what our values and principles are in a new written Constitution. It should be a statement and declaration of our values as a people and how we want our country run for everyone's benefit.
32. It will at least give us something to compare to when one says something is 'unconstitutiona l'. It is unclear sometimes what this term means. It seems to mean that it doesn't 'feel' right, or that it goes against one's values, rights, or principles. The term is used somewhat loosely in the US where they have a written constitution, but even more loosely here.
33. At the very least, a written Constitution will give us a benchmark which we can own, be proud of, and hold ourselves up to, so we know for sure what is 'constitutiona l' and what is not.

Summary of Constitutional proposals

34. I am comfortable with maintaining and building on our key current constitutional principles, namely that New Zealand should be a representative democracy where everyone must follow the law, with a government accountable to Parliament and subject to separation of powers. I believe there is potential for improvements to this system to make sure it works well for all of us into the future.
35. This is a summary of my specific responses below:
- a) Our Constitution should be reviewed, improved, and consolidated into a single document. It should also be entrenched as supreme law.
 - b) The Bill of Rights Act 1990 should be entrenched, strengthened, and expanded with particular reference to economic, social, and cultural rights.
 - c) The Treaty of Waitangi should be entrenched as supreme law, and ongoing efforts must be made to incorporate the principles and spirit of the Treaty into our daily lives and constitutional/political processes.
 - d) Māori representation at all levels of government must be strengthened, consistent with the principles of the Treaty of Waitangi. This includes entrenching the Māori seats in Parliament, and extending Māori seats to all local councils.
 - e) Parliament should be maintained at the same number of MPs, the recommendations of the MMP review should be fully implemented, and a 4 year term should only be put in place alongside increased accountability and transparency measures.
 - f) There is merit in considering a judicial check to ensure that all legislation is consistent with supreme law such as the Treaty of Waitangi and the Bill of Rights. This would provide more appropriate scrutiny than reintroducing an Upper House of Parliament.
 - g) Other matters the Panel should recommend include that:
 - i. New Zealand should become a republic;
 - ii. the environment, the public service, and local government should be recognised in the Constitution; and that
 - iii. deliberative democracy should be considered to further advance the Panel's work.

Specific Responses to Submission Questions

New Zealand's Constitution

36. **Our constitution should be reviewed, improved, and consolidated into a single document.**
This will at the very least mean that more of us will be aware of what our constitutional arrangements are. It will also provide greater clarity for decisionmakers, help citizens understand our rules of governance and power, and if done right, have the power to inspire and educate current and future citizens.
37. The 'it's not broken, don't fix it' mentality is seductive but ultimately lazy. It is important we start this process now, rather than have a crisis force some urgent consideration. One could respond with another colloquialism – 'you don't know what you've got till it's gone' – improving and putting our constitution into a single document will give us a guaranteed protection of constitutional stability.
38. **The Constitution should be supreme law** because of the higher and overriding importance of its laws. The rules of the game need to be entrenched.

Bill of Rights Act

39. The Bill of Rights Act continues to be a significant landmark in New Zealand law and a protector of our rights.
40. I think the Act does protect our rights fairly well at the moment – the problem is not in the Act itself but in its implementation which can be uneven amongst government agencies.
41. **The Bill of Rights Act should be entrenched**, to truly guarantee its protections and people's rights. All legislation is meant to be consistent with the Act, but at the moment the Act is subservient to other legislation when there are conflicting interpretations. This was the result of a political compromise at the time to get the legislation passed, however in my view it is time this inconsistency was remedied.
42. If we believe in policies and structures that protect our values and principles, then we need the rule of law and the moral and constitutional force that can come with it. If a government or legislator is afraid that their proposals go against certain rights and principles that are arguably universally held, then there is something wrong with their proposal – not the law.
43. The most significant next step we should take with the Act is to provide a constitutional guarantee to provide for people's **economic, social, and cultural rights**, while consolidating existing protections of civil and political rights.
44. Expanding the Act in this way and then entrenching it would give full, consistent and explicit effect to these additional rights and will help us give effect to the shared values and aspirations of all New Zealanders.
45. I support and include the following lightly edited extract from Amnesty International's website:

"Economic, social and cultural rights are a broad category of human rights guaranteed in the International Covenant on Economic, Social and Cultural Rights and other legally binding international and regional human rights treaties. Nearly every country, including New Zealand, is party to a legally binding treaty that guarantees these rights. They include:

- **rights at work**, particularly just and fair conditions of employment, protection against forced or compulsory labour and the right to form and join trade unions;
- **the right to education**, including ensuring that primary education is free and compulsory, that education is sufficiently available, accessible, acceptable and adapted to the individual;
- **cultural rights** of minorities and Indigenous Peoples;
- **the right to the highest attainable standard of physical and mental health**, including the right to healthy living conditions and available, accessible, acceptable and quality health services;

- the **right to adequate housing**, including security of tenure, protection from forced eviction and access to affordable, habitable, well located and culturally adequate housing;
- the **right to food**, including the right to freedom from hunger and access at all times to adequate nutritious food or the means to obtain it;
- the **right to water** – the right to sufficient water and sanitation that is available, accessible (both physically and economically) and safe.

National governments bear the primary responsibility for making human rights a reality. They must:

- **respect** peoples' rights – they must not violate these rights;
- **protect** peoples' rights – ensuring that other people or bodies do not abuse these rights; and
- **fulfil** peoples' rights, making them a reality in practice.

International law allows for the fact that making economic, social and cultural rights a reality can only be achieved progressively over time. However, the duty of governments to respect and protect these rights and to ensure freedom from discrimination is immediate. Lack of resources is no excuse.

Although governments may need time to realize economic, social and cultural rights, this does not mean they can do nothing – they have to take steps towards fulfilling them....Government s must not discriminate in their laws, policies or practices and must prioritize the most vulnerable when allocating resources ”.

46. New Zealand's representative when the Universal Declaration of Human Rights was being drafted at the United Nations Colin Aikman said:

“the assertion of the right of personal freedom is incomplete unless it is related to the social and economic rights of the common man... these social and economic rights can give the individual the normal conditions of life, which make for larger freedom. And in New Zealand we accept that it is the function of government to promote their realisation...”

47. Currently, we have no consistent way to check if our laws, regulations , and policies are compatible with these rights even though we know there is continued disadvantage, structural discrimination, and institutional racism in our society.
48. At the very least, it would also help if section 7 of the Act was amended to also include reference to the rights contained in international human rights law to which New Zealand is a party. Section 7 requires the Attorney General to bring to the attention of Parliament any provision in a Bill that appears to be inconsistent with the rights enshrined in the Act. This would ensure any Bill's inconsistencies with New Zealand's international obligations were brought to the attention of Parliament so that it could debate and vote on the Bill with a full awareness of its potential impact on economic social and cultural rights in New Zealand .

The role of the courts

49. Parliamentary sovereignty is part of our history and I am comfortable with maintaining it in future constitutional arrangements.
50. However, I am concerned by what some would argue are examples of parliamentary or executive overreach in recent years. Would proposals like 'Rogemomics', 'Ruthenasia', state asset sales, the Electoral Finance Act, and the Government Communications Security Bureau bill have been possible if parliamentary power had been moderated or checked by constitutional safeguards exercised by the courts?
51. There is merit in exploring whether judicial constitutional safeguards can be put in, to provide protections against possible breaches of the trust and power that people place in Parliament . For example, the Supreme Court could be called upon to consider the consistency of legislation with supreme or entrenched law in response to a:

- direct petition by a certain number of citizens,
- direct petition or request from the equivalent of 40% of Parliament's MPs, or
- through normal legal appeals processes.

52. Such requests should probably be available only for particular or exceptional circumstances and would require a fairly high legal test to be considered. The appointment of judges should also continue on a non-partisan basis. Protections to protect this should be implemented.

Treaty of Waitangi

53. Our history has been marred by an overwhelming failure to honour and make real the spirit and the promise of the Treaty of Waitangi. The Treaty of Waitangi was meant to be about togetherness, not separation, and not oppression. Yet historical events and forces have led to the latter two, and destroyed much of the possibility of the first.

54. An enormous amount still needs to be done to make things right because an enormous amount of wrong has been done. We have an opportunity to make further progress to make things right, in line with our common aspirations.

55. **The Treaty of Waitangi should be made supreme law as part of a new Constitution.** Entrenching the Treaty will help ensure the Constitution is an inclusive, empowering, and protective governing framework for all of us.

56. The bicultural base of our society needs to be firmly established, and from that base we can develop a flourishing society that comprises and accepts the multicultural reality of our communities. Māori are the tangata whenua and 'first people' - it would be demeaning to Māori for Asian and Pacific Islanders to expect equal status to that.

57. Entrenchment means that over time we can have proper implementation of policies that give effect to the Treaty of Waitangi, greater power-sharing for mutual benefit and partnership, and empowerment for everyone but especially those who until now have been dispossessed and marginalised from society.

58. Mechanisms or systems should be created to ensure that all government actions are consistent with the principles of the Treaty of Waitangi (and over time extend this monitoring to cover the private and community sector).

59. More importantly, there needs to be a constant and ongoing education process for all people (not just for those in school), about the Treaty of Waitangi and what it means for our daily lives and our country. Right now, it would be a challenge to 'take the people with us', despite the considerable progress that has been made over the past twenty years with the Treaty.

Principles of the Treaty of Waitangi

60. The Panel should also recognise that I think there is a desire for a clear and definitive view shared by Māori and the Crown on what the principles of the Treaty of Waitangi are for our times.

61. It would be easy to get the impression that the principles of the Treaty have never been defined, even though they have - albeit from different sources, iterations, and times. I understand why it might appear that they are undefined or at least unclear for most.

62. It is also a collective failure that existing principles, even though they are evolving, have never really been publicised, disseminated, or 'socialised' enough so that most people know at least something about them. The Treaty's principles have already been framed very negatively to many people before they have even had a chance to find out their content and substance.

63. It becomes easier to understand the Treaty when it is framed in terms of basic human values and principles about how we should always deal with each other. Various jurisprudence, decisions, and precedent over the years have developed principles that, with some more work, can be combined further into something meaningful, comprehensible, yet comprehensive.

64. One possible amalgam as a starting point combines principles determined by the Court of Appeal arising from the 1987 case *New Zealand Māori Council v Attorney-General*, and the 1991 Waitangi Tribunal report on the Ngai Tahu claim. I view these principles as laudable things that we should incorporate into our constitutional framework and translate into how we live our daily lives. These principles include:
- a) **exchange and reciprocity** - the acquisition of sovereignty for the Crown (and the freedom for the Crown to govern) in exchange for the protection of rangatiratanga for Māori over their resources and taonga, and to have all the rights and privileges of citizenship.
 - b) **partnership and good faith** - the Crown and Māori, as partners, should act reasonably and in the utmost good faith.
 - c) **consultation** - not just an obligation but a duty as part of good faith, ideally fully fledged discussion with every attempt to find an agreed position that accords with Treaty principles.
 - d) **active protection** of Māori interests by the Crown.
 - e) duty to **remedy** past breaches by the Crown.
 - f) **options** for the future - Māori have the option to choose to operate in one or the other world, or to 'walk in two worlds', because the Treaty protected traditional Māori rights and gave them the rights of British subjects.

Māori representation

65. All levels of government require fair and authentic representation and incorporation of Māori perspectives. This is in recognition of the moral and ethical obligations we have as partners in the Treaty of Waitangi, as well as other benefits that arise from having a diversity of views, unique perspectives, and participation of stakeholders.
66. More work should also be done to foster and share good practice on how different levels of government engage with whanau, hapu, and iwi, as well as other parts of the community that are served.
67. **The Māori seats in Parliament should be maintained and entrenched**. While their origins were not necessarily benevolent, they have evolved to provide valuable and guaranteed Māori representation in Parliament. They should only be abolished when Māori feel and know there is no longer a need for such specific measures.
68. **The Māori electoral roll** should be changed to enable Māori voters to change between the General roll and the Māori roll at any time.
69. **Local government is a major gap in Māori representation**. There should be a minimum of one Māori seat on each local authority council. I was highly disappointed that the legislation setting up the Auckland Council did not include provision for 3 Māori seats in addition to its 20 councillors.
70. Māori seats on the local council should be viewed as an extension of the Treaty of Waitangi principle of partnership. They would provide a guaranteed forum for Māori voices to be aired, ensuring Māori issues are on the agenda, and encouraging confidence in the council amongst Māori. Having a focused group of councillors advocating Māori issues is a far more certain way of ensuring the Māori perspective gets a hearing, and allows for the opportunity of Māori-focused consultation being done before decisions are made.
71. Our history provides further reasons and a similar context for such seats. In Auckland, like in many other New Zealand cities, tangata whenua contributed significantly to the city's founding and growth. Not only have iwi like Ngati Whataua and Tainui worked historically alongside settlers to build up Auckland's economy and culture; they have also gifted land in the Central Business District, Waiheke, Mission Bay, and other areas. Offering Māori seats would have acknowledged this contribution, and enshrined a commitment to ongoing give-and-take on important issues affecting Auckland.

72. The notion that the inclusion of separate representation represents 'apartheid' is misguided. Māori seats are about ensuring a commitment to indigenous rights, just as they are at a national level. If the government is supportive of Māori seats at the national level, it cannot be persuaded by the 'apartheid' slogan at a local level. The idea that other minorities should have special seats, alongside Māori, ignores the support for biculturalism that this country has demonstrated clearly since signing the Treaty of Waitangi. And the view that having reserved seats for Māori will sideline Māori concerns fails to grasp the fact that, without Māori seats, there is a distinct possibility that Māori will not be on the agenda at all.
73. One objection with some merit is the claim that Māori can be elected without the seats. While this may be true (just as Māori can get elected outside of the Māori seats into Parliament), the presence of the seats is about more than just the representation itself. It is about a symbolic commitment to indigenous rights, and an unashamed guarantee that Māori concerns deserve to be heard no matter what the whims of voters from one election to the next.

Electoral Matters

74. The current size of Parliament of 120 MPs is sound and should not be changed. It should certainly not be fewer – this would reduce Parliament's capability to run the business of the nation (such as through select committees and so forth) and reduce the diversity of our representatives, all for very limited financial savings.
75. I am sympathetic to a 4 year Parliament term provided certain conditions are met. The reasons are that it would provide greater time to implement policies and a consistent policy direction in accordance with the outcome of the election, as well as provide the possibility of more longer-term (or at least medium-term) planning.
76. People are understandably distrustful of any notion that they would have less say over who their representatives are and what they do. This reflects the destruction of trust in our institutions caused primarily by political decision-making in the 1980s and 1990s.
77. It also reflects the fairly thin level of engagement most voters have anyway (namely that a vote once every 3 years is better than a vote every 4 years). This in itself is a worry, and I support but won't repeat suggestions inevitably made by others to seek ways to increase voter turnout and improve citizen decision-making and engagement in political processes generally.
78. I don't think a 4 year election will mean fewer political scandals, or political 'shenanigans', and frankly that's not what it's designed to do (there are many other ways to address those issues). But it will allow an increased possibility for the better governing of New Zealand.
79. Several measures should need to be satisfied before a 4 year term is put forward. These measures should improve the transparency, accountability, and responsiveness of Parliament which should go hand in hand with the higher level of responsibility voters may give them for being in power for 4 years. Such measures include:
- a) Proper OIA reform to enable 'open government' – whereby the assumption is that official information is automatically made public unless there is a legitimate reason to withhold.
 - b) Implements the MMP Review recommendations in full
 - c) Increased transparency over political donations, political lobbying, and politicians' expenses.
 - d) Guaranteed funding levels that enable increased capacity and powers for the watchdog agencies of government – such as the Ombudsman, Human Rights Commission, Parliamentary Commissioner for the Environment, and the Privacy Commissioner. These agencies play a vital role on keeping an eye on government on the public's behalf.
 - e) Greater funding and support for policy monitoring and evaluation functions throughout the public service – New Zealand suffers from a distinct lack of it.
 - f) Strengthened Select Committee systems to enable better parliamentary scrutiny of executive functions, and improved parliamentary procedures to enable greater cross-party collaboration (such as co-sponsoring Bills).

Other matters

New Zealand should become a republic

80. Republicanism is essentially about making the journey from being a subject to becoming a citizen. It is based on the principle that government authority is reliant on the consent of citizens and therefore electing the head of state is a basic democratic right.
81. There is a world of difference between having our head of state being a British citizen and choosing a New Zealander as our head of state – a person who shares our values.
82. In a republic, a New Zealander would be our head of state. That person should be elected democratically, either directly or indirectly, and be accountable to all New Zealanders. These ideas are the heart of republicanism – where power comes from the people.
83. In contrast, the monarchy is based on the principle that hereditary privilege alone should decide the head of state. It represents a belief that government authority is embodied in a single individual (the monarch).
84. No New Zealander can aspire to be our head of state at present, no matter how much ability they have, and no matter how much effort they put in. A British aristocrat has that role instead, representing the class system that New Zealanders shun. The Queen is an absentee and ineffectual head of state and her position is unaccountable to New Zealanders.
85. We should also become a republic because:
 - a) We are an independent country. Objectively it cannot be argued that New Zealand's current head of state represents us being fully independent of Great Britain. New Zealand should have a New Zealander as the head of state.
 - b) We are a unique, dynamic and diverse country. Our constitutional arrangements, national symbols and head of state should reflect our national identity, culture and heritage. Just as we choose native symbols like the pohutukawa or the kiwi to represent our national identity, so should we choose our head of state, a key symbol of our nation, from amongst us.
 - c) Our head of state should be democratic elected and accountable to voters – this will mean a more effective constitutional safeguard and decrease the risk of political instability.
86. I concede that immediate change is not warranted or urgent, however that does not mean nothing should be done.
87. A republic is inevitable, and we will need to ask how our head of state will be appointed, what they will do, and how they will be held accountable to us. I support the proposals for moving to a republic as stated by the Republican Movement New Zealand. In essence they propose that:
 - a) New Zealanders choose whether the country becomes a republic over two referenda with detailed constitutional and legislative work done before each referendum. A democratic process is needed for our transformation into a republic to ensure the informed consent of New Zealanders.
 - b) If they so choose, New Zealand would become a parliamentary republic with an independent non-executive Head of State replacing the Governor-General and Monarch.
 - c) New Zealand voters choose whether our Head of State is either elected by voters or by a super-majority of Parliament.
 - d) The Head of State would have the same functions and powers (exercisable in accordance with current constitutional conventions) as the Sovereign and Governor-General have now and can only be dismissed by a super-majority of Parliament.

88. How New Zealanders understand their place in the world is crucial to New Zealand's success in an increasingly globalised world. At the very least, the debate and discussion around becoming a republic affirms the values that are important to New Zealanders. It will promote discussion about New Zealand's history and future. It will clarify the values we all see as important. Becoming a republic will be a celebration of New Zealand's unique culture and heritage. It will demonstrate New Zealand's confidence and independence and it will symbolise a shared sense of nationhood.
89. A change to a republic does not require us to put aside our traditions or rewrite history. We will still be a member of the Commonwealth, retain our flag and honour the Treaty of Waitangi. The republic will simply confirm our coming of age as a nation.

Recognise the Environment in the Constitution

90. Our natural environment is the foundation upon our social, economic, cultural and human needs, wants, interests, and policies are based. Sustainability must be at the heart of the long term vision for New Zealand – a country where there is a strong, healthy, safe and just society, living within environmental limits.
91. New Zealand should join the worldwide trend to provide constitutional provision for the fundamental human right to a clean and healthy environment. This could be included in our Bill of Rights Act. Not including it in a future constitution would be at odds with the importance that New Zealand and New Zealanders place on environmental matters.

Recognise Local Government in the Constitution

92. Local government is a democratically elected level of government which is directly accountable to the local communities it serves. Local government forms part of the social contract between citizens and government, and it is part of the rule of law and part of the country's representative democracy.
93. Local councils are the voice of their communities and because they are the level of government closest to communities, they are able to identify community needs and find solutions. It is the layer that has the most direct connection with people and communities whether that be through local democracy or service provision.
94. Local authorities work with others to achieve their goals because they cannot do it all themselves, but also because central government, community organisations, and the private sector, also have significant impacts on overall well-being.
95. Constitutional recognition would give a platform for a proper partnership approach with central government, and reiterate the value of local government.

Recognise the Public Service in the Constitution

96. The public service is a vital part of the machinery of government and plays an important role in carrying out, protecting, and maintaining constitutional processes.
97. We have amongst the best public services in the world. Strong public services make a better, more equal society possible. They are also at the heart of New Zealand's reputation for being fair, transparent and free of corruption. Public services create a stronger economy by investing in infrastructure, creating a skilled workforce and supporting people that the market can't or won't help. The state also has unique responsibilities because as citizens, we entrust the state to protect us and act in our common interests. There are some things, such as prisons, which only the state should do.
98. Over 100 years, governments have come and gone with the election cycle, but the professional and politically neutral public service has endured. The Government's increasing focus on a 'whole of system' view of the state services, efficient and effective outcomes, stewardship, and leadership is welcome.

99. We all want what is best for the public sector so that it can continue to serve New Zealanders through supporting the work of the government of the day, and future governments. The Panel should take the opportunity to give regard to this important part of our constitutional system.

Next steps for the Panel – more education and deliberative democracy .

100. I support the call that will inevitably be made by other submitters that there is a vital need to introduce civics education and provision to learn Te Reo throughout our school sector. The evidence and rationale to support this, to improve present and future citizens' knowledge, participation and engagement in their nation's life, is clear.
101. There is considerable value in using deliberative democracy (sometimes manifested as citizens' assemblies or citizens' juries) to help continue the conversation started by this Constitutional Advisory Panel, and to help further develop some of the proposals that may come out in the final Panel report.
102. Citizens' assemblies help develop, refine and test ideas and proposals amongst a group of randomly selected citizens who are supported and informed to make a collective decision on what might be best for their community. There have been several successful examples overseas which have led to the decisions being put to public referendum. (For more information refer to the article 'Citizens' Assemblies and Policy Reform in New Zealand' by Janine Hayward).
103. This type of democratic decision making has had a poor reputation for being misused to manufacture consent for regressive change (for example the privatisation of Wellington Power 1994), or a last minute throwaway ideas in times of political desperation (two examples - Julia Gillard's quickly dumped proposal before the 2010 election to ask a citizens' assembly for climate change advice, and the Green Party's 2007 suggestion of citizen juries to examine campaign funding and finance).
104. However, there is considerable potential in deploying this model if the Panel wants to continue the conversation beyond this year, and to develop and test significant proposals for constitutional change before seeking a public mandate for change. They could also be used to help facilitate nationwide dialogue to formulate a statement of national aspirations as a standard against which our national laws and regulations can be measured, and which can be used as a basis for forming a formal, written national constitution.
105. We can trust our fellow citizens to make good decisions if these assemblies are meaningful, supported, and publicised amongst the wider community. They can be effective in delivering or co-creating outcomes that can be supported and owned by all of us.

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Submitted on the 31 July 2013 at 23:18

Submission to the Constitutional Advisory Panel, 31 July 2013, David Do

Introduction

1. This is a personal submission from a young Asian male New Zealand er who is passionate about how to make our democracy better.
2. It will not be as complete or comprehensive as perhaps others who have contributed to this conversation, but I thought this was a good opportunity to crystallise my views about government, how power should be exercised, and our future as a country.
3. My submission is in four sections:
 - a) Who I am;
 - b) My Aspirations for New Zealand ;
 - c) Summary of Constitutional Proposals ;
 - d) Specific Response s to Submission Questions .

Who I am

4. I was born in Auckland in June 1985 to a Vietnamese father and Chinese mother.
5. My dad was a refugee from Ho Chi Minh City – he fled the Communist government on a boat in the late 1970s, which almost capsized if it weren't for a Soviet trawler rescuing it. He ended up in a refugee camp in Indonesia before somehow ending up in New Zealand, away from some of his friends who chose other countries for relocation. My mum was from Guangzhou and immigrated here, and specialised in being a sewing machinist.
6. They met in New Zealand in the early 1980s, and both worked hard in manufacturing 'blue collar' jobs. We lived as a modest middle income household, nothing flashy, and we knew the value of money.
7. Although they are divorced now, I owe a great deal to my parents and to the work and dedication they put into raising and supporting me. I was also able to benefit from a good public education system, with strong academic achievement throughout my compulsory schooling.
8. I have always been driven by the notions of service, helping others, and trying to live one's values through hard work and dedication.
9. I particularly grew as a person once I started at the University of Auckland. I moved out of home, and got involved in politics and other volunteer activities while studying history and politics and working part-time.
10. I got heavily involved in advocating and supporting students through the student movement – helping out with the student association foodbank as Welfare Officer, then getting interested in wider welfare and education issues. I was elected Auckland University Students' Association Education Vice President in 2007, and then President in 2008. More recently, I was the co-President of the New Zealand Union of Students' Associations for 2010 and 2011, an elected national-level advocate, campaigner and coordinator.
11. Throughout my time working for and with students, I worked closely and cooperatively with Māori student organisations, such as the student roopu Nga Tauira Māori at Auckland University, and the national Māori tertiary students' association Te Mana Ākonga. I always sought to maintain positive constructive relationships with them, in recognition of the Treaty of Waitangi. It occurred to me automatically that this was the easiest and best way to work with others.
12. In my second year at university I joined the Labour Party because my values and perspectives are most closely aligned with that Party. I enjoyed participating, engaging, and campaigning around political and policy issues with fellow members and others. I got more involved with the Princes Street university branch, eventually becoming branch chair for two years, and also involved in Young Labour.

13. I was involved in queer issues through being a member, then officeholder and chair of UniQ Auckland, the social/political club on campus for queer students (queer is a reclaimed word that acknowledges both gender and sexual diversity. It is used as a collective term that is inclusive but not exclusive to gay, lesbian, bisexual, transgender, takataapui, and intersex identities). I helped as a volunteer and submitter in the campaign for civil unions, and more recently in the campaign for marriage equality.
14. I now have a Bachelor of Arts (Honours) in Politics, live in Wellington, currently work in the public service, and am a union delegate at my workplace. I am proud to be a New Zealander and I want to make my future here rather than overseas.

My aspirations for New Zealand

15. A future New Zealand should lead the world again in economic prosperity, environmental quality, and in genuine positive partnerships among all of its people. It would be a democratic, socially inclusive, and dynamic country where everyone is included and able to participate in society. Diversity and solidarity would be valued and incorporated into our daily lives and into our social, economic, and political structures and processes.
16. I believe that we should stand for the hopes and aspirations of all New Zealanders towards a life of security, dignity and fulfilment, today and into the future. The contribution of all people to our nation should be respected and valued because they strove then, as we do now, for a fair share for all, support for the vulnerable, and hope for a better tomorrow.
17. Every New Zealander deserves the maximum possible opportunity, prosperity, security, fairness, and freedom. It is a birthright that we all have as citizens and one we generously extend to those who choose to make their home here in New Zealand.
18. I firmly believe that politics is about the power to do good for the people and that the state's role is to empower and protect. Empathy should be at the heart of our relationships with each other as human beings, and of our structures and processes as a society. We need to have an inclusive society, infused with social justice. Individual aspirations and collective responsibility cannot be separated or prioritised over the other.
19. Government (and by extension the constitution) is about ensuring the right balance to achieve all of these complementary but sometimes conflicting objectives. The government is a protector, enabler, facilitator, and empowering agent. It should also be an entrepreneur when appropriate. We need a political system and framework which will protect and make real the aspirations of the people.
20. There are at least five key values that should underpin New Zealand's future development:
 - a) **Freedom:** Freedom is a value that includes both the right to fully participate in society and to exercise choice about how we live our lives. Freedom enables us to be who we are and to achieve our individual and collective potential. People can only exercise true personal freedom when they have the resources to enable them to participate fully and in the context of a society that establishes strong personal, social, and economic rights for all.
 - b) **Equality:** A just society is founded on equality and fairness. It means that all people should have equal access to all social, economic, cultural, environmental, political and legal spheres regardless of wealth or social position. All New Zealanders should have a fair go, as well as the support and opportunity to achieve one's potential no matter who they are or their background.

Equality is also driven by inclusion. We value our diversity and that we are all equal before the law and enjoy the same fundamental rights. We owe each other and our community the same duties, and we are all worthy of the same respect. An equal society is one that is built on co-operation and respects diversity.

- c) **Opportunity:** All New Zealanders should have the opportunity to fulfil their potential and make the most of their talents. We want all New Zealanders to share in prosperity, to participate in their communities and to be able to have control over their own lives. Everyone should have the opportunity to play their part in making decisions about our future and all should have their voices heard.
- d) **Solidarity:** Solidarity is the value that underpins the social contract which affirms our acceptance of mutual rights and obligations for the good of society as a whole. It defines our commitment to a compassionate, inclusive, tolerant and responsible society. Solidarity recognises that the human experience is a shared one, and talks to our common responsibility for the health and wellbeing of our families, communities, workplaces, our economy and our environment.

Our democratic traditions value social justice, equality and human rights. This leads to policies which should support fairness, inclusion and prosperity to be shared by all, and supports the role that representative democratic government can play in giving everyone a fair chance at life.

- e) **Sustainability** is the value that will ensure resources are shared fairly across society and in doing so protect the resource base for future generations. We are not just selfishly concerned about ourselves and what we have, but whether our actions are going to leave our children's and grandchildren's generations with the same or increased opportunities. It is about ensuring economic sustainability within environmental, ecological, social and cultural bottom lines. It is about development that will deliver good education and good health, secure housing and jobs, access to safe food, clean water, clean air and secure energy resources.

On the pace of change

- 21. We have remarkably lucky as a country in many ways and we must always strive to keep making things better. However, transformation and change takes time, patience and the acceptance of people willing to engage. The pace of change will inevitably be slower than one hopes. Progress can be uneven, and always requires a fight to move forward.
- 22. I personally prefer taking a principled but pragmatic approach to political change. I know that one cannot get everything one wants in one go, so one does the best they can in the constraints that exist (and when one can, try and change those constraints). None of this should stop one from keeping one's eyes on the prize.

On power and privilege

- 23. I am keenly aware that our history and society today is far from perfect. The Treaty of Waitangi, long disregarded and almost discarded, continues to be the subject of ignorance and bigotry despite significant progress over the past twenty years.
- 24. We have a long way to go to eliminate racism and discrimination in society, among other things. The recent reactions to proposals for compulsory Te Reo education in schools, greater Māori language on TV, greater use of Māori placenames, and the online emergence of a 'Pakeha' party, are more reminders that there is a long way to go. This is despite major advances over the past ten years in Māori cultural achievement, societal adoption of Māori language and arts, and in people-to-people relationships. We probably will need a few more decades of increased social mixing and structural change to reach full racial tolerance and the elimination of racism.
- 25. Our social capital and public trust in institutions and government has been depleted due to unbridled power and reckless misguided decisions from the mid-1980s onwards which have led to outcomes destructive of our social and economic cohesion. It is not surprising there is widespread distrust and cynicism of our politics and our political institutions.
- 26. We also cannot mask the real inequality of the multiple power relationships that exist in our society. Race, gender, and class are key cleavages in our society. Many of our past and current controversies involve the assertion of rights and a claim on equality against what many would deem a well-off European male heterosexual 'Establishment'.

27. Privilege is something many of us take for granted in our society in different ways, for example whether it is, among other things:
- having enough to eat;
 - being treated fairly at work, school, or a health provider without discrimination or bias;
 - having your name pronounced correctly;
 - being able to safely and confidently speak your own language; and/or
 - openly showing your love to your partner without fear.
28. Certain groups of people enjoy much greater levels of such privilege than others, and yet some of those people who enjoy multiple privileges take offence when others seek to enjoy the same rights and 'privileges' that they take for granted.
29. Personally, I find it strange how people regard certain things as 'racist', 'ideological', or 'political' – while unconsciously (or consciously) expressing their own race-based or ideologically-based beliefs. I also get tired and annoyed at racists, bigots, and other regressives – they offer nothing but negativity based on their own prejudices and inability to think the better of other people.

Is a constitution 'political'? And what does 'unconstitutional' mean?

30. A question we cannot avoid is how a constitution can or should determine policy outcomes. Any constitution inevitably does this, either 'invisibly', overtly, poorly, or well. Certain constitutional processes may affect whether policies are able to be developed, implemented, or maintained. Different institutional configurations affect distributions of power and influence, as well as the responsiveness of the system to the people.
31. I think we should make explicit what our values and principles are in a new written Constitution. It should be a statement and declaration of our values as a people and how we want our country run for everyone's benefit.
32. It will at least give us something to compare to when one says something is 'unconstitutional'. It is unclear sometimes what this term means. It seems to mean that it doesn't 'feel' right, or that it goes against one's values, rights, or principles. The term is used somewhat loosely in the US where they have a written constitution, but even more loosely here.
33. At the very least, a written Constitution will give us a benchmark which we can own, be proud of, and hold ourselves up to, so we know for sure what is 'constitutional' and what is not.

Summary of Constitutional proposals

34. I am comfortable with maintaining and building on our key current constitutional principles, namely that New Zealand should be a representative democracy where everyone must follow the law, with a government accountable to Parliament and subject to separation of powers. I believe there is potential for improvements to this system to make sure it works well for all of us into the future.
35. This is a summary of my specific responses below:
- a) Our Constitution should be reviewed, improved, and consolidated into a single document. It should also be entrenched as supreme law.
 - b) The Bill of Rights Act 1990 should be entrenched, strengthened, and expanded with particular reference to economic, social, and cultural rights.
 - c) The Treaty of Waitangi should be entrenched as supreme law, and ongoing efforts must be made to incorporate the principles and spirit of the Treaty into our daily lives and constitutional/political processes.
 - d) Māori representation at all levels of government must be strengthened, consistent with the principles of the Treaty of Waitangi. This includes entrenching the Māori seats in Parliament, and extending Māori seats to all local councils.
 - e) Parliament should be maintained at the same number of MPs, the recommendations of the MMP review should be fully implemented, and a 4 year term should only be put in place alongside increased accountability and transparency measures.
 - f) There is merit in considering a judicial check to ensure that all legislation is consistent with supreme law such as the Treaty of Waitangi and the Bill of Rights. This would provide more appropriate scrutiny than reintroducing an Upper House of Parliament.
 - g) Other matters the Panel should recommend include that:
 - i. New Zealand should become a republic;
 - ii. the environment, the public service, and local government should be recognised in the Constitution; and that
 - iii. deliberative democracy should be considered to further advance the Panel's work.

Specific Responses to Submission Questions

New Zealand's Constitution

36. **Our constitution should be reviewed, improved, and consolidated into a single document.** This will at the very least mean that more of us will be aware of what our constitutional arrangements are. It will also provide greater clarity for decisionmakers, help citizens understand our rules of governance and power, and if done right, have the power to inspire and educate current and future citizens.
37. The 'it's not broken, don't fix it' mentality is seductive but ultimately lazy. It is important we start this process now, rather than have a crisis force some urgent consideration. One could respond with another colloquialism – 'you don't know what you've got till it's gone' – improving and putting our constitution into a single document will give us a guaranteed protection of constitutional stability.
38. **The Constitution should be supreme law** because of the higher and overriding importance of its laws. The rules of the game need to be entrenched.

Bill of Rights Act

39. The Bill of Rights Act continues to be a significant landmark in New Zealand law and a protector of our rights.
40. I think the Act does protect our rights fairly well at the moment – the problem is not in the Act itself but in its implementation which can be uneven amongst government agencies.
41. **The Bill of Rights Act should be entrenched**, to truly guarantee its protections and people's rights. All legislation is meant to be consistent with the Act, but at the moment the Act is subservient to other legislation when there are conflicting interpretations. This was the result of a political compromise at the time to get the legislation passed, however in my view it is time this inconsistency was remedied.
42. If we believe in policies and structures that protect our values and principles, then we need the rule of law and the moral and constitutional force that can come with it. If a government or legislator is afraid that their proposals go against certain rights and principles that are arguably universally held, then there is something wrong with their proposal – not the law.
43. The most significant next step we should take with the Act is to provide a constitutional guarantee to provide for people's **economic, social, and cultural rights**, while consolidating existing protections of civil and political rights.
44. Expanding the Act in this way and then entrenching it would give full, consistent and explicit effect to these additional rights and will help us give effect to the shared values and aspirations of all New Zealanders.
45. I support and include the following lightly edited extract from Amnesty International's website:

"Economic, social and cultural rights are a broad category of human rights guaranteed in the International Covenant on Economic, Social and Cultural Rights and other legally binding international and regional human rights treaties. Nearly every country, including New Zealand, is party to a legally binding treaty that guarantees these rights. They include:

- **rights at work**, particularly just and fair conditions of employment, protection against forced or compulsory labour and the right to form and join trade unions;
- **the right to education**, including ensuring that primary education is free and compulsory, that education is sufficiently available, accessible, acceptable and adapted to the individual;
- **cultural rights** of minorities and Indigenous Peoples;
- **the right to the highest attainable standard of physical and mental health**, including the right to healthy living conditions and available, accessible, acceptable and quality health services;

- the **right to adequate housing**, including security of tenure, protection from forced eviction and access to affordable, habitable, well located and culturally adequate housing;
- the **right to food**, including the right to freedom from hunger and access at all times to adequate nutritious food or the means to obtain it;
- the **right to water** – the right to sufficient water and sanitation that is available, accessible (both physically and economically) and safe.

National governments bear the primary responsibility for making human rights a reality. They must:

- **respect** peoples' rights – they must not violate these rights;
- **protect** peoples' rights – ensuring that other people or bodies do not abuse these rights; and
- **fulfil** peoples' rights, making them a reality in practice.

International law allows for the fact that making economic, social and cultural rights a reality can only be achieved progressively over time. However, the duty of governments to respect and protect these rights and to ensure freedom from discrimination is immediate. Lack of resources is no excuse.

Although governments may need time to realize economic, social and cultural rights, this does not mean they can do nothing – they have to take steps towards fulfilling them...Government s must not discriminate in their laws, policies or practices and must prioritize the most vulnerable when allocating resources".

46. New Zealand's representative when the Universal Declaration of Human Rights was being drafted at the United Nations Colin Aikman said:

"the assertion of the right of personal freedom is incomplete unless it is related to the social and economic rights of the common man... these social and economic rights can give the individual the normal conditions of life, which make for larger freedom. And in New Zealand we accept that it is the function of government to promote their realisation..."

47. Currently, we have no consistent way to check if our laws, regulations, and policies are compatible with these rights even though we know there is continued disadvantage, structural discrimination, and institutional racism in our society.
48. At the very least, it would also help if section 7 of the Act was amended to also include reference to the rights contained in international human rights law to which New Zealand is a party. Section 7 requires the Attorney General to bring to the attention of Parliament any provision in a Bill that appears to be inconsistent with the rights enshrined in the Act. This would ensure any Bill's inconsistencies with New Zealand's international obligations were brought to the attention of Parliament so that it could debate and vote on the Bill with a full awareness of its potential impact on economic social and cultural rights in New Zealand.

The role of the courts

49. Parliamentary sovereignty is part of our history and I am comfortable with maintaining it in future constitutional arrangements.
50. However, I am concerned by what some would argue are examples of parliamentary or executive overreach in recent years. Would proposals like 'Rogernomics', 'Ruthenasia', state asset sales, the Electoral Finance Act, and the Government Communications Security Bureau bill have been possible if parliamentary power had been moderated or checked by constitutional safeguards exercised by the courts?
51. There is merit in exploring whether judicial constitutional safeguards can be put in, to provide protections against possible breaches of the trust and power that people place in Parliament. For example, the Supreme Court could be called upon to consider the consistency of legislation with supreme or entrenched law in response to a:

- direct petition by a certain number of citizens,
- direct petition or request from the equivalent of 40% of Parliament's MPs, or
- through normal legal appeals processes.

52. Such requests should probably be available only for particular or exceptional circumstances and would require a fairly high legal test to be considered. The appointment of judges should also continue on a non-partisan basis. Protections to protect this should be implemented.

Treaty of Waitangi

53. Our history has been marred by an overwhelming failure to honour and make real the spirit and the promise of the Treaty of Waitangi. The Treaty of Waitangi was meant to be about togetherness, not separation, and not oppression. Yet historical events and forces have led to the latter two, and destroyed much of the possibility of the first.
54. An enormous amount still needs to be done to make things right because an enormous amount of wrong has been done. We have an opportunity to make further progress to make things right, in line with our common aspirations.
55. **The Treaty of Waitangi should be made supreme law as part of a new Constitution.** Entrenching the Treaty will help ensure the Constitution is an inclusive, empowering, and protective governing framework for all of us.
56. The bicultural base of our society needs to be firmly established, and from that base we can develop a flourishing society that comprises and accepts the multicultural reality of our communities. Māori are the tangata whenua and 'first people' - it would be demeaning to Māori for Asian and Pacific Islanders to expect equal status to that.
57. Entrenchment means that over time we can have proper implementation of policies that give effect to the Treaty of Waitangi, greater power-sharing for mutual benefit and partnership, and empowerment for everyone but especially those who until now have been dispossessed and marginalised from society.
58. Mechanisms or systems should be created to ensure that all government actions are consistent with the principles of the Treaty of Waitangi (and over time extend this monitoring to cover the private and community sector).
59. More importantly, there needs to be a constant and ongoing education process for all people (not just for those in school), about the Treaty of Waitangi and what it means for our daily lives and our country. Right now, it would be a challenge to 'take the people with us', despite the considerable progress that has been made over the past twenty years with the Treaty.

Principles of the Treaty of Waitangi

60. The Panel should also recognise that I think there is a desire for a clear and definitive view shared by Māori and the Crown on what the principles of the Treaty of Waitangi are for our times.
61. It would be easy to get the impression that the principles of the Treaty have never been defined, even though they have - albeit from different sources, iterations, and times. I understand why it might appear that they are undefined or at least unclear for most.
62. It is also a collective failure that existing principles, even though they are evolving, have never really been publicised, disseminated, or 'socialised' enough so that most people know at least something about them. The Treaty's principles have already been framed very negatively to many people before they have even had a chance to find out their content and substance.
63. It becomes easier to understand the Treaty when it is framed in terms of basic human values and principles about how we should always deal with each other. Various jurisprudence, decisions, and precedent over the years have developed principles that, with some more work, can be combined further into something meaningful, comprehensible, yet comprehensive.

64. One possible amalgam as a starting point combines principles determined by the Court of Appeal arising from the 1987 case *New Zealand Māori Council v Attorney-General*, and the 1991 Waitangi Tribunal report on the Ngai Tahu claim. I view these principles as laudable things that we should incorporate into our constitutional framework and translate into how we live our daily lives. These principles include:
- a) **exchange and reciprocity** - the acquisition of sovereignty for the Crown (and the freedom for the Crown to govern) in exchange for the protection of rangatiratanga for Māori over their resources and taonga, and to have all the rights and privileges of citizenship.
 - b) **partnership and good faith** - the Crown and Māori, as partners, should act reasonably and in the utmost good faith.
 - c) **consultation** - not just an obligation but a duty as part of good faith, ideally fully fledged discussion with every attempt to find an agreed position that accords with Treaty principles.
 - d) **active protection** of Māori interests by the Crown.
 - e) duty to **remedy** past breaches by the Crown.
 - f) **options** for the future - Māori have the option to choose to operate in one or the other world, or to 'walk in two worlds', because the Treaty protected traditional Māori rights and gave them the rights of British subjects.

Māori representation

65. All levels of government require fair and authentic representation and incorporation of Māori perspectives. This is in recognition of the moral and ethical obligations we have as partners in the Treaty of Waitangi, as well as other benefits that arise from having a diversity of views, unique perspectives, and participation of stakeholders.
66. More work should also be done to foster and share good practice on how different levels of government engage with whanau, hapu, and iwi, as well as other parts of the community that are served.
67. The **Māori seats in Parliament should be maintained and entrenched**. While their origins were not necessarily benevolent, they have evolved to provide valuable and guaranteed Māori representation in Parliament. They should only be abolished when Māori feel and know there is no longer a need for such specific measures.
68. The **Māori electoral roll** should be changed to enable Māori voters to change between the General roll and the Māori roll at any time.
69. **Local government is a major gap in Māori representation**. There should be a minimum of one Māori seat on each local authority council. I was highly disappointed that the legislation setting up the Auckland Council did not include provision for 3 Māori seats in addition to its 20 councillors.
70. Māori seats on the local council should be viewed as an extension of the Treaty of Waitangi principle of partnership. They would provide a guaranteed forum for Māori voices to be aired, ensuring Māori issues are on the agenda, and encouraging confidence in the council amongst Māori. Having a focused group of councillors advocating Māori issues is a far more certain way of ensuring the Māori perspective gets a hearing, and allows for the opportunity of Māori-focused consultation being done before decisions are made.
71. Our history provides further reasons and a similar context for such seats. In Auckland, like in many other New Zealand cities, tangata whenua contributed significantly to the city's founding and growth. Not only have iwi like Ngāti Whātua and Tainui worked historically alongside settlers to build up Auckland's economy and culture; they have also gifted land in the Central Business District, Waiheke, Mission Bay, and other areas. Offering Māori seats would have acknowledged this contribution, and enshrined a commitment to ongoing give-and-take on important issues affecting Auckland.

72. The notion that the inclusion of separate representation represents 'apartheid' is misguided. Māori seats are about ensuring a commitment to indigenous rights, just as they are at a national level. If the government is supportive of Māori seats at the national level, it cannot be persuaded by the 'apartheid' slogan at a local level. The idea that other minorities should have special seats, alongside Māori, ignores the support for biculturalism that this country has demonstrated clearly since signing the Treaty of Waitangi. And the view that having reserved seats for Māori will sideline Māori concerns fails to grasp the fact that, without Māori seats, there is a distinct possibility that Māori will not be on the agenda at all.
73. One objection with some merit is the claim that Māori can be elected without the seats. While this may be true (just as Māori can get elected outside of the Māori seats into Parliament), the presence of the seats is about more than just the representation itself. It is about a symbolic commitment to indigenous rights, and an unashamed guarantee that Māori concerns deserve to be heard no matter what the whims of voters from one election to the next.

Electoral Matters

74. The **current size of Parliament of 120 MPs is sound** and should not be changed. It should certainly not be fewer – this would reduce Parliament's capability to run the business of the nation (such as through select committees and so forth) and reduce the diversity of our representatives, all for very limited financial savings.
75. I am **sympathetic to a 4 year Parliament term provided certain conditions are met**. The reasons are that it would provide greater time to implement policies and a consistent policy direction in accordance with the outcome of the election, as well as provide the possibility of more longer-term (or at least medium-term) planning.
76. People are understandably distrustful of any notion that they would have less say over who their representatives are and what they do. This reflects the destruction of trust in our institutions caused primarily by political decision-making in the 1980s and 1990s.
77. It also reflects the fairly thin level of engagement most voters have anyway (namely that a vote once every 3 years is better than a vote every 4 years). This in itself is a worry, and I support but won't repeat suggestions inevitably made by others to seek ways to increase voter turnout and improve citizen decision-making and engagement in political processes generally.
78. I don't think a 4 year election will mean fewer political scandals, or political 'shenanigans', and frankly that's not what it's designed to do (there are many other ways to address those issues). But it will allow an increased possibility for the better governing of New Zealand.
79. **Several measures should need to be satisfied before a 4 year term is put forward**. These measures should improve the transparency, accountability, and responsiveness of Parliament which should go hand in hand with the higher level of responsibility voters may give them for being in power for 4 years. Such measures include:
- a) Proper OIA reform to enable 'open government' – whereby the assumption is that official information is automatically made public unless there is a legitimate reason to withhold.
 - b) Implements the MMP Review recommendations in full
 - c) Increased transparency over political donations, political lobbying, and politicians' expenses.
 - d) Guaranteed funding levels that enable increased capacity and powers for the watchdog agencies of government – such as the Ombudsman, Human Rights Commission, Parliamentary Commissioner for the Environment, and the Privacy Commissioner. These agencies play a vital role on keeping an eye on government on the public's behalf.
 - e) Greater funding and support for policy monitoring and evaluation functions throughout the public service – New Zealand suffers from a distinct lack of it.
 - f) Strengthened Select Committee systems to enable better parliamentary scrutiny of executive functions, and improved parliamentary procedures to enable greater cross-party collaboration (such as co-sponsoring Bills).

Other matters

New Zealand should become a republic

80. Republicanism is essentially about making the journey from being a subject to becoming a citizen. It is based on the principle that government authority is reliant on the consent of citizens and therefore electing the head of state is a basic democratic right.
81. There is a world of difference between having our head of state being a British citizen and choosing a New Zealander as our head of state – a person who shares our values.
82. In a republic, a New Zealander would be our head of state. That person should be elected democratically, either directly or indirectly, and be accountable to all New Zealanders. These ideas are the heart of republicanism – where power comes from the people.
83. In contrast, the monarchy is based on the principle that hereditary privilege alone should decide the head of state. It represents a belief that government authority is embodied in a single individual (the monarch).
84. No New Zealander can aspire to be our head of state at present, no matter how much ability they have, and no matter how much effort they put in. A British aristocrat has that role instead, representing the class system that New Zealanders shun. The Queen is an absentee and ineffectual head of state and her position is unaccountable to New Zealanders.
85. We should also become a republic because:
 - a) We are an independent country. Objectively it cannot be argued that New Zealand's current head of state represents us being fully independent of Great Britain. New Zealand should have a New Zealander as the head of state.
 - b) We are a unique, dynamic and diverse country. Our constitutional arrangements, national symbols and head of state should reflect our national identity, culture and heritage. Just as we choose native symbols like the pohutukawa or the kiwi to represent our national identity, so should we choose our head of state, a key symbol of our nation, from amongst us.
 - c) Our head of state should be democratic elected and accountable to voters – this will mean a more effective constitutional safeguard and decrease the risk of political instability.
86. I concede that immediate change is not warranted or urgent, however that does not mean nothing should be done.
87. A republic is inevitable, and we will need to ask how our head of state will be appointed, what they will do, and how they will be held accountable to us. I support the proposals for moving to a republic as stated by the Republican Movement New Zealand. In essence they propose that:
 - a) New Zealanders choose whether the country becomes a republic over two referenda with detailed constitutional and legislative work done before each referendum. A democratic process is needed for our transformation into a republic to ensure the informed consent of New Zealanders.
 - b) If they so choose, New Zealand would become a parliamentary republic with an independent non-executive Head of State replacing the Governor-General and Monarch.
 - c) New Zealand voters choose whether our Head of State is either elected by voters or by a super-majority of Parliament.
 - d) The Head of State would have the same functions and powers (exercisable in accordance with current constitutional conventions) as the Sovereign and Governor-General have now and can only be dismissed by a super-majority of Parliament.

88. How New Zealanders understand their place in the world is crucial to New Zealand's success in an increasingly globalised world. At the very least, the debate and discussion around becoming a republic affirms the values that are important to New Zealanders. It will promote discussion about New Zealand's history and future. It will clarify the values we all see as important. Becoming a republic will be a celebration of New Zealand's unique culture and heritage. It will demonstrate New Zealand's confidence and independence and it will symbolise a shared sense of nationhood.
89. A change to a republic does not require us to put aside our traditions or rewrite history. We will still be a member of the Commonwealth, retain our flag and honour the Treaty of Waitangi. The republic will simply confirm our coming of age as a nation.

Recognise the Environment in the Constitution

90. Our natural environment is the foundation upon our social, economic, cultural and human needs, wants, interests, and policies are based. Sustainability must be at the heart of the long term vision for New Zealand – a country where there is a strong, healthy, safe and just society, living within environmental limits.
91. New Zealand should join the worldwide trend to provide constitutional provision for the fundamental human right to a clean and healthy environment. This could be included in our Bill of Rights Act. Not including it in a future constitution would be at odds with the importance that New Zealand and New Zealanders place on environmental matters.

Recognise Local Government in the Constitution

92. Local government is a democratically elected level of government which is directly accountable to the local communities it serves. Local government forms part of the social contract between citizens and government, and it is part of the rule of law and part of the country's representative democracy.
93. Local councils are the voice of their communities and because they are the level of government closest to communities, they are able to identify community needs and find solutions. It is the layer that has the most direct connection with people and communities whether that be through local democracy or service provision.
94. Local authorities work with others to achieve their goals because they cannot do it all themselves, but also because central government, community organisations, and the private sector, also have significant impacts on overall well-being.
95. Constitutional recognition would give a platform for a proper partnership approach with central government, and reiterate the value of local government.

Recognise the Public Service in the Constitution

96. The public service is a vital part of the machinery of government and plays an important role in carrying out, protecting, and maintaining constitutional processes.
97. We have amongst the best public services in the world. Strong public services make a better, more equal society possible. They are also at the heart of New Zealand's reputation for being fair, transparent and free of corruption. Public services create a stronger economy by investing in infrastructure, creating a skilled workforce and supporting people that the market can't or won't help. The state also has unique responsibilities because as citizens, we entrust the state to protect us and act in our common interests. There are some things, such as prisons, which only the state should do.
98. Over 100 years, governments have come and gone with the election cycle, but the professional and politically neutral public service has endured. The Government's increasing focus on a 'whole of system' view of the state services, efficient and effective outcomes, stewardship, and leadership is welcome.

99. We all want what is best for the public sector so that it can continue to serve New Zealanders through supporting the work of the government of the day, and future governments. The Panel should take the opportunity to give regard to this important part of our constitutional system.

Next steps for the Panel – more education and deliberative democracy .

100. I support the call that will inevitably be made by other submitters that there is a vital need to introduce civics education and provision to learn Te Reo throughout our school sector. The evidence and rationale to support this, to improve present and future citizens' knowledge, participation and engagement in their nation's life, is clear.
101. There is considerable value in using deliberative democracy (sometimes manifested as citizens' assemblies or citizens' juries) to help continue the conversation started by this Constitutional Advisory Panel, and to help further develop some of the proposals that may come out in the final Panel report.
102. Citizens' assemblies help develop, refine and test ideas and proposals amongst a group of randomly selected citizens who are supported and informed to make a collective decision on what might be best for their community. There have been several successful examples overseas which have led to the decisions being put to public referendum. (For more information refer to the article 'Citizens' Assemblies and Policy Reform in New Zealand' by Janine Hayward).
103. This type of democratic decision making has had a poor reputation for being misused to manufacture consent for regressive change (for example the privatisation of Wellington Power 1994), or a last minute throwaway ideas in times of political desperation (two examples - Julia Gillard's quickly dumped proposal before the 2010 election to ask a citizens' assembly for climate change advice, and the Green Party's 2007 suggestion of citizen juries to examine campaign funding and finance).
104. However, there is considerable potential in deploying this model if the Panel wants to continue the conversation beyond this year, and to develop and test significant proposals for constitutional change before seeking a public mandate for change. They could also be used to help facilitate nationwide dialogue to formulate a statement of national aspirations as a standard against which our national laws and regulations can be measured, and which can be used as a basis for forming a formal, written national constitution.
105. We can trust our fellow citizens to make good decisions if these assemblies are meaningful, supported, and publicised amongst the wider community. They can be effective in delivering or co-creating outcomes that can be supported and owned by all of us.

2573.

From: "Ron W Dobbs"
To: <constitutionalreview@justice.govt.nz>
Date: 4/07/2013 3:09 p.m.
Subject: CAP Submission

Maori seats should be Abolished and we should be one people and know special right for any other people.

Regards,
Ron W Dobbs

943

From:
To: <constitutionalreview@justice.govt.nz>
Date: 29/05/2013 11:45 a.m.
Subject: <http://www.ourconstitution.org.nz/> form submission
Attachments: Constitution.docx

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

Full Names: Sandy Dobedoe Organisation Name: Email: Phone:
Postal AddressA: Postal AddressB: Postal City: Whitianga
Postal Region: Coromandel Postal Post Code: Postal Country: New Zealand
Submission: Treaty

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

A: We should abolish the Treaty of Waitangi. It promotes separatism.

2. Q: Do you think the Treaty should be made a formal part of the constitution?

A: No – The Treaty should be abolished. It promotes separatism.

Maori Representation

1. Q: How should maori views be represented in Parliament?

A: Like everyone else's view, by elected members of Parliament.

2. Q: How should maori views and perspectives be represented in local Government?

A: Like everyone else's view, by elected members of Parliament.

3. Q: How could maori electoral participation be improved?

A: It's up to any individual if they want to vote or not. It's their choice.

New Zealand Constitution

1. Q: Do you think our constitution should be written in a single document?

A: No, because, it's not broken so don't try and mend it.

2. Q: Who should have the power to decide whether legislation is consistent with the constitution?

A: Legislation works fine as it is - with the Government

3. Q: Do you think our constitution should have a higher legal status than other laws (supreme law)?

A: It works fine as it is – it's not broken, so don't try and fix it.

Bill of Rights

1. Questions 1 to 5.

A: It works fine as it is – it's not broken, so don't try and fix it

Electoral Matters.

1. How many members of Parliament should we have

A: If they have been elected in by voters they have every right to be there.

2. How should the election date be decided?

A: It should be flexible and the Prime Minister should decide when.

Electoral Matters Cont.

3. What should happen if a member of Parliament parts ways with the party from which he or she was elected?

A: He/ She should leave Parliament and not be allowed back (It should be a privilege to serve)

A: They were elected, if you cant do the job or don't want the job, that's fine, but once you leave your out for good.

A: They should not be allowed to jump to another party or start a new party as they have shown that they do not have the commitment to follow the job through.

4. How long should the term of Parliament be?

A: 4 Years – Because any changes needs time.

5. What factors should be taken into account when the size and number of electorates are decided?

A: Abolish the maori count as being separate count. Other than that, keep the same formula.

A Final word:

We do not need a new constitution; we need this country to treat everyone the same, no matter what the colour of their skin is, where they come from or how long they have been here. If they hold New Zealand Citizenship we should all be treated the same. Let's make this country different from the rest of the world and work as one country and enjoy the melting pot of ALL cultures that makes this country great. Concentrating on one culture is detriment to us all.

Sent on the 29 May 2013 at 11:43

Treaty

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A: They were elected, if you cant do the job or don't want the job, that's fine, but once you leave your out for good.

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4791

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 31/07/2013 3:54 p.m.

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

Full Names: Amanda Dobson Organisation Name: Email: I
Phone: Postal AddressA: Postal AddressB: Postal City:
Postal Region: Te Whanganui a Tara / Wellington Postal Post Code:
Postal Country: New Zealand Submission: Nga mihi maioha ki a koutou Te Constitutional
Advisory Panel,

As a pakeha New Zealander, tangata-tiriti I identify and define myself according to being of the 3rd generation of my family born in this land. My tamariki and mokopuna have whakapapa from both partners of Te Tiriti o Waitangi / The Treaty of Waitangi. Therefore my aspirations for Aotearoa New Zealand are to have a governance model that is relevant, appropriate and reflective of honouring this partnership commitment.

As far as I am concerned the present governance model we have has a long way to go to doing justice to this.

I am passionate about supporting and contributing to the creation of a Treaty based constitution for the future wellbeing of all people who live in Aotearoa.

I strongly believe that our Constitutional model should be founded upon, reflect and honour Te Tiriti o Waitangi, recognising this as our founding document.

Giving due recognition to the mana of Te Tiriti o Waitangi, means that our constitution should be treaty based, as opposed to fitting the Treaty into a constitutional framework.

The Treaty has from its inception laid the foundation to give effect to the rights of all New Zealanders so should continue to be the basis of our constitution. The Treaty provides the basis for honourable and just relationships between tangata whenua and tangata tiriti. Therefore the most appropriate constitution for our nation is one informed by and modelled on this.

I believe our nation of Aotearoa / New Zealand needs a Constitution designed by and for us that reflects the uniqueness of this place and its people. I believe it is inappropriate for us to have a constitutional model that is imported from another time and place, that of Victorian England.

Developing a clearly articulated, unique 'Aotearoacentric' written constitution to provide clarity in terms of our governance framework makes should be a high priority.

I think this goal creates a good opportunity to have a full consultation process which raises the wider constitutional issues and questions. I for one do not think a hereditary monarch from the other side of the world is relevant or appropriate as head of our state in the 21st century.

I think it is exciting to think about what could be possible in creating a modern, unique, treaty based constitution and governance model that is truly appropriate for our time and place and it is high time for our nation and government to make a commitment to this. So I'd like to see a real commitment made to giving this it's due consideration and a full and progressive process of consultation.

Submitted on the 31 July 2013 at 15:53

1554

From: John Dobson >
To: "constitutionalreview@justice.govt.nz" <constitutionalreview@justice.gov...
Date: 24/06/2013 6:39 p.m.
Subject: Constitution Submission
Attachments: The Constitution Conversation submission 2013.pdf

Tena Koutou ki Advisory Panel - many thanks - submission attached.

SecretariatConstitutional Advisory Panel
C/o Ministry of Justice
DX SX10088
Wellington

The Constitution Conversation

He mihi ki te Constitutional Advisory Panel

Tena KoutouKatoa

I would like to make a submission **in favour of embedding the principles of the articles of the treaty within the Constitution**. Historically New Zealand's constitutional foundation is based on giving equality of access of all citizens to the "Rights and Privileges of British Subjects", that equality was dependent on Te Tiriti, as was the ceding of "kawanatanga" (though not rangitiratanga) to the Crown.

This partnership has evolved and currently allows the principles to successfully give guidance and direction within courts and laws on where disputes can arise and how they can be treated. The results of actions have resulted in debate on the issues and in decisions going to either side (e.g. Original Foreshore decision in favour of Maori – asset sale of Mighty River decision in favour of the Government). When the principles were abused by depriving the right of claimants to be heard in a court of law (e.g. Foreshore and Seabed Act) the result led to distrust and ill feeling between Tangata Whenua and the government.

The first article of the government's right to govern is given; however, the other principles also need to be embedded:

Principle of self-management (the rangatiratanga principle)¹

Article 2 guarantees to Māori hapu (tribes) the control and enjoyment of those resources and taonga that it is their wish to retain. The preservation of a resource base, restoration of tribal self-management, and the active protection of taonga, both material and cultural, are necessary elements of the Crown's policy of recognising rangatiratanga. The Government identified the key concept of this principle as a right for iwi to organise as iwi and, under the law, to control the resources they own.

Principle of equality

Article 3 constitutes a guarantee of legal equality between Māori and other citizens of New Zealand. This means that all New Zealand citizens are equal before the law. Furthermore, the common law system is selected by the Treaty as the basis for that equality, although human rights accepted under international law are also incorporated. Article 3 has an important social significance in the implicit assurance that social rights would be enjoyed equally by Māori with all New Zealand citizens of whatever origin. Special measures to attain that equal enjoyment of social benefits are allowed by international law.

Principle of reasonable cooperation

The Treaty is regarded by the Crown as establishing a fair basis for two peoples in one country. Duality and unity are both significant. Duality implies distinctive cultural development while unity implies common purpose and community. The relationship between community and distinctive development is governed by the requirement of cooperation, which is an obligation placed on both parties by the Treaty. Reasonable cooperation can only take place if there is consultation on major issues of common concern.

¹ Fourth Labour Government

and if good faith, balance, and commonsense are shown on all sides. The outcome of reasonable cooperation will be partnership.

Principle of redress

The Crown accepts a responsibility to provide a process for the resolution of grievances arising from the Treaty. This process may involve courts, the Waitangi Tribunal, or direct negotiation. The provision of redress, where entitlement is established, must take account of its practical impact and of the need to avoid the creation of fresh injustice. If the Crown demonstrates commitment to this process of redress, it will expect reconciliation to result².

These principles are needed to ensure the rights of Maori are considered in the decision making process and that the government are required to act in good faith by following an understanding based on the initial agreement between Maori and any Tauwiwi. These **rights should not be subject to repeal by referendum.**

As an aside the constitution should also **guarantee the independence of the legal system from government influence.**

John Dobson

Ngati Koata, Ngati Kuia.

² Wikipedia Treaty of Waitangi Article

1729

From: "Andrew Dodds" <
To: <constitutionalreview@justice.govt.nz>
Date: 29/06/2013 5:11 p.m.
Subject: CAP submission
Attachments: Constitution submission final.doc

Andrew Dodds

Phone

Submission on New Zealand's Constitution

Andrew Dodds

Aspirations

Starting Point

We live in a society where there is a diverse range of basic assumptions about the world (worldview). If you were to ask New Zealanders about how they would answer some of the most basic questions of life, you would get some very diverse and irreconcilable answers.

What is our origin?

What is the source of humanity's problems?

What is the solution to those problems?

And yet, we must all live together with agreement on how we live together. It would be easy to regard some views as being disqualified because they are not supported by a popular worldview. When it comes to discussions about public good, we all approach it from how we answer the most basic questions. There can be no "neutral" position.

Question

What are your aspirations for Aotearoa New Zealand?

I would like to live in a country where equal respect is shown to all viewpoints. In democratic debate all viewpoints should be listened to, and everyone given the opportunity to shape democratic outcomes. However, the possible outcomes are not all equal. The best possible outcomes need to be discerned through the democratic process.

"To be effective and sustainable over time, law and political authority must express a people's sense of what's right, just and worthy of pursuit." - Ryan Messmore.

I would like to live in a country where there is freedom to pursue individual and common goals - goals that would benefit the whole of society. Such goals include training for a career, working for an income, supporting a family, taking part in music, art, sport, etc.

I would *not* like to live in a country where freedom is seen merely as licence; where people are able to do whatever they want to do. In our society, the right to choose is highly valued. There are demands for freedoms to do things that lead to undesirable consequences for both the individual, and for society as a whole.

"...ask not what your country can do for you — ask what you can do for your country." - John F. Kennedy.

Question

How do you want our country to be run in the future?

The way our country is run at present is a good basis for how I would like it to be run in the future. The strengths of our constitution include the rule of law, representative democracy, responsible government, and separation of powers.

"The truth [is] that all men having power ought to be distrusted, to a certain degree." - Baron de Montesquieu (1689-1755).

It is important that judges do not have the power to strike down legislation, or say any law is unconstitutional. If the Courts had this power, then the interpretation of the constitution could be based on the personal views of judges, and we would be ruled by a judicial oligarchy.

*"Democracy is where the people have the right to make the wrong decisions."
-from the movie "The Teahouse of the August Moon".*

New Zealand's Constitution

Question

Do you think our constitution should be written in a single document?

No. New Zealand, Israel, and the United Kingdom are not countries I would associate with abuses of state power. New Zealand's present constitution has served us well.

History shows us that state declaration of rights does not protect its citizens. The French revolutionaries' Declaration of the Rights of Man and of the Citizen preceded the Reign of Terror. Stalin's 1933 Constitution was regarded as the most liberal constitution in the world, but gave citizens no means to apply it.

Question

Do you think our constitution should have a higher legal status than other laws (supreme law)?

No. Supreme law by its self does not guarantee fairness and justice, and a fundamental protection of citizens. It could also make any remedies to unforeseen situations more difficult.

Question

Who should have the power to decide whether legislation is consistent with the constitution: Parliament or the Courts?

Parliament should have the power to decide whether legislation is consistent with the constitution. Members of Parliament are elected by the citizens and can be held to account.

Bill of Rights ActStarting Point

The primary function of Human Rights is to protect citizens from the power of the state, for the common good. The citizens must make sure the state recognises the rights of the citizens. It is not the role of government to create rights.

"... the rights of man come not from the generosity of the state, but from the hand of God." - John F. Kennedy

Question

Does the Bill of Rights Act protect your rights enough?

Yes. Our rights are protected by procedures that have been developed and refined over the centuries. Rights need to be basic, but adequate. We don't need to have a "world-leading human rights culture".

Treaty of WaitangiStarting Point

When the Treaty of Waitangi was signed, New Zealand was a very different country to what it is today. There were perhaps 50 Māori for each European settler. "...European settlers and Māori formed two separate communities within a single country." ("The Origins of the Māori Seats").

There are some discrepancies between the English and Māori texts. Therefore, for the Treaty of Waitangi to be relevant for today, we need to understand and focus on the Principles, or intent of the Treaty. The Principles when fully developed, could in effect, become a new Treaty.

I think the basic object of the Treaty was that two cultures would exist in one country among equal peoples. Perhaps the most important principle of the Treaty is the principle of partnership.

Question

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

No, not until there is widespread agreement to precise definition of the principals of the treaty, decided by a publicly elected body.

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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.

Greg Dodds
Christchurch
New Zealand

1413

From: "Wilson Dodds"
To: <constitutionalreview@justice.govt.nz>
Date: 18/06/2013 12:32 p.m.
Subject: constitutional review

"New Zealand does not need a written constitution and we strongly oppose any legislation or reference to the Treaty of Waitangi should one be drafted now or in the future." W a.nd M Dodds

1814

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 redrawn 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 its 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.

JUDY DODGE

WAITORI

2245

From: "Peter Dolden"
To: <constitutionalreview@justice.govt.nz>
Date: 3/07/2013 3:03 p.m.
Subject: CAP Submission

Please abolish the Maori seats in Parliament.

I believe they are no longer needed and are a form of institutional racial discrimination.

Faithfully

Peter James Dolden

Tauranga

I do not believe NZ needs a written constitution due to its inflexible nature - take the issues Australia has with their constitution and possible amendments which has slowed the development of their society in light of worldwide changing views.

I believe NZ should strengthen their own legislation to have some with higher tiers than others - entrenchment as such but not in the form of a "constitution" as it is harder to achieve change. Entrenched law: Treaty of Waitangi; Bill of Rights; Separation of Powers - all I can think of for now, but hopefully has 'inspired' you.

Furthermore, 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.

Chloe Domett
Hamilton
New Zealand

1588

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 26/06/2013 8:47 a.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

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

Full Names: E G. Dominikovich Organisation Name: Email: Phone:
Postal AddressA: ; Postal AddressB: Postal City: Auckland
Postal Region: Postal Post Code: Postal Country: New Zealand Submission: Our
constitution must not be based on the Treaty of Waitangi. The Maori have already gained more than
their share of NZ through weak, vote-buying governments. NZ is for all NZers not for the agitating
and. demanding selfish few.

Sent on the 26 June 2013 at 08:45

1588a

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 26/06/2013 8:47 a.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

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Full Names: E G. Dominikovich Organisation Name: Email: Phone:
Postal AddressA: Postal AddressB: Postal City: Auckland
Postal Region: Postal Post Code: Postal Country: New Zealand Submission: Our
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their share of NZ through weak, vote-buying governments. NZ is for all NZers not for the agitating
and. demanding selfish few.

Sent on the 26 June 2013 at 08:45

15886

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 26/06/2013 6:45 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

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

Full Names: EGDominikovich Organisation Name: Email:
Phone: Postal AddressA: Postal AddressB: Postal City:
Aucklandy Postal Region: Postal Post Code: Postal Country: New Zealand
Submission: Like most NZers that I associate with I am most resistant tthe regular ridiculous superficial political gain.demands of uthe Maori, the extent of which have no known precedent world wide, in history .

Apart from the considerable doubt that they inhabited NZ before other racial groups including the Moriori, they were defeated in warfare, much self generated. Therefore, we should not be their 'servants' but their fair and realistic directors, attending to the well being of all New Zealanders, not a greedy, undeserving minority. Enough is enough and they have had plenty, much of it for political gain.

Sent on the 26 June 2013 at 18:45

2554

From: "Barry Don"
To: <constitutionalreview@justice.govt.nz>
Date: 4/07/2013 12:57 p.m.
Subject: CAP Submission

Dear Constitutional Advisory Panel,

I herewith submit that the Maori seats be abolished as they have long outlived their original need. Being race-based, they are no longer relevant in a modern society. Quite simply, our democratic rights must be based on citizenship, not race.

Yours sincerely,

Barry Hugh Don

NELSON

2390

From: Pat Donley
To: <constitutionalreview@justice.govt.nz>
Date: 4/07/2013 12:33 a.m.
Subject: CAP Submission

The Maori seats must be abolished, Maori have fair and proportional representation now. The Maori seats are simply apartheid and racist, we did not support this in South Africa, and will not support this in New Zealand.
Regards Pat&Sandra Donley

1040

From:
To: <constitutionalreview@justice.govt.nz>
Date: 4/06/2013 1:09 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

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

Full Names: Derrick Frederick Donovan Organisation Name: Email:
Phone: Postal AddressA: Postal AddressB: Postal City:
Postal Region: Auckland Postal Post Code: Postal Country: New Zealand Submission:
1. No Treaty references in constitution. They would cement apartheid into place. Once in, hard to get out. (Vide American 'Right to bear arms')

2. Yes to four year term. Would end early electioneering, allow things to get done, cost the Nation less.

Sent on the 4 June 2013 at 13:09

2288

From: Daniel Donovan
To: <constitutionalreview@justice.govt.nz>
Date: 3/07/2013 4:22 p.m.
Subject: CAP Submission

Abolish maori seats
thanks

357

From:
To: <constitutionalreview@justice.govt.nz>
Date: 15/04/2013 4:33 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

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

Full Names: Derrik Frederick Donovan Organisation Name: Email:
Phone: Postal AddressA: Postal AddressB: Postal City: Albany
Postal Region: Auckland Postal Post Code: Postal Country: New Zealand Submission:
1. The Treaty should have no place in our constitution.

2.No. Because it holds the seeds of apartheid. We are all New Zealanders and should all be of equal status. (Past wrongs done both to Maori and to other New Zealanders may be righted by current law.)

Sent on the 15 April 2013 at 16:32

393

From:
To: <constitutionaireview@justice.govt.nz>
Date: 15/04/2013 8:31 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

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

Full Names: Amy Dore Organisation Name: Email: Phone:
Postal AddressA: Postal AddressB: Postal City: Queenstown
Postal Region: Otago Postal Post Code: Postal Country: New Zealand Submission: I
think we should have one written constitution. We should all live as one people and the Maori should
not have special rights as this just causes serration in our country. There should be no more claims
being made by them as this is taking up too much
of the tax payers money and again causing serration. We are one people, we should have one law.
No matter what our race or gender is.

Sent on the 15 April 2013 at 20:30

2668

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 5/07/2013 12:45 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

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

Full Names: Dennis Dorney Organisation Name: none Email: Phone:
Postal AddressA: Postal AddressB: Postal City:
Dunedin Postal Region: Otago Postal Post Code: Postal Country: New Zealand
Submission: Having attended a recent meeting in Dunedin about the Constitutional Conversation, where the guest speaker gave a very disorganised presentation, I came away with no obvious reason why we should change the present system. In the UK where I was born, there is no specific Constitution and the country has coped very well without one. Most British subjects rarely ever think of it and there is no pressure there from the public for any change.

I then spent about 30 years in Australia that does have a constitution and the lawyers are for ever tinkering with it, mostly trying to make modifications to it that were clearly never intended but aimed at some short term political aim. Referendums to change the Constitution nearly always fail because people don't trust the politicians or the lawyers. I am sure that New Zealanders will have the same level of disdain.

The US also has a very well known Constitution which is currently up to its 27th amendment, if I remember correctly, yet still can't stop people running around with assault rifles shooting any who doesn't share their views.

When Hitler gained power in Germany, it had a very good Constitution created after WW1 to ensure that Germany would be a well behaved nation, but Hitler simply tore it up.

The point I am making is that a Constitution is useless. If people are vigilant and protect their rights a Constitution is unnecessary. If people are lazy and apathetic, which New Zealanders are, a Constitution will not save them. Our present Government is, at this very moment, introducing sweeping powers to allow it to spy on Kiwis without needing any justification. We should be out on the streets in the thousands, but no-one cares. So what use is a Constitution in the face of such apathy?

Sent on the 5 July 2013 at 12:45