

5105

**From:** <webmaster@ourconstitution.org.nz>  
**To:** <constitutionalreview@justice.govt.nz>  
**Date:** 7/08/2013 3:42 p.m.

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

Full Names: Mark Douahy Email: Phone: Postal  
AddressA: Postal AddressB: Postal City: Postal Region:  
Bay of Plenty Postal Post Code: Postal Country: New Zealand Submission: New  
Zealand does not need a written constitution and I strongly oppose any legislation or reference to the  
Treaty of Waitangi should one be drafted now or in the future.

Submitted on the 16 June 2013 at 17:49

225

**From:** >  
**To:** <constitutionalreview@justice.govt.nz>  
**Date:** 11/04/2013 10:50 p.m.  
**Subject:** <http://www.ourconstitution.org.nz/> form submission

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

Full Names: Regan Douglas Organisation Name: Email: Phone:  
Postal AddressA: Postal AddressB: Postal City: Masterton  
Postal Region: Wellington Postal Post Code: Postal Country: New Zealand  
Submission: Electoral matters,

This submission is in relation to the way the electoral parties gain funds to participate in electoral campaigns.

Currently parties receive various donations with the only requirement as being disclosing sums of greater than \$50,000. As we have seen with John Banks, this safeguard is being abused. It is important to note that not all politicians do this or would do this, but the fact that it can happen is why it should be amended. The most effective proposal would be the government setting aside a certain amount of funds and paying this out to each of the parties equally. Political parties should still be able to hold fundraising events so that the larger, more popular parties can still earn sufficient funds.

The ability to take donations should be disallowed.

The effect of this is to enhance the degree of independence of those in power and those who are of 'means'. This is because some of them have a tendency to influence public policy to their own personal gains. The view I am trying to put across is that government policy is for the benefit of all the people equally and not for a select few.

Political donations can be a serious threat to the integrity and sanctity of the role of government. This submission can help to protect these values.

I appreciate the opportunity to make this submission,

Yours faithfully,

Regan Douglas

Sent on the 11 April 2013 at 22:50

3857

**From:** <webmaster@ourconstitution.org.nz>  
**To:** <constitutionalreview@justice.govt.nz>  
**Date:** 25/07/2013 7:51 a.m.

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

Full Names: Peter John Douglas-Bell Organisation Name: Email:  
Phone: Postal AddressA:

Postal AddressB: Postal City: Auckland Postal Region: AUCKLAND Postal Post  
Code: Postal Country: New Zealand Submission: It is time for us to start the journey to  
move away from having the British Monarchy as our Head of State. It is simply not right or relevant  
that the stars of a British Reality TV Show and various Women's Magazines (the British Monarchy)  
are our current  
and future Head of States.

They bear no relation whatsoever to modern New Zealand, and although I respect their part in our  
history, we are a vastly different society now.

The political and economic ties between the UK and NZ are tenuous - and indeed the trade barriers to  
the EU are such that the relationship is very one way (they own some of our key company's and  
assets). We have stronger ties to Australia, China and the United  
States however we would not consider having an Australian or Chinese as our Head of State.

We have grown so much as a country in the last 70 years since World War II. It is time for us to find a  
way to respectfully install our own Head of State and perhaps retain the British Monarchy in a kind of  
"God Parents" role - a bit like a "Founding Chairman"  
- so they can have a spiritual role relevant to remaining royalists but we can move forward as an  
independent nation.

We have determined our own destiny since 1973 when the UK joined the EU. That is 40 years ago.  
Now is the time.

Kind Regards

Peter Douglas-Bell

Submitted on the 25 July 2013 at 07:50



## 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.

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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.

Alan Dove  
Dunedin  
New Zealand

5112

**From:** <webmaster@ourconstitution.org.nz>  
**To:** <constitutionalreview@justice.govt.nz>  
**Date:** 7/08/2013 3:55 p.m.

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

Full Names: Susan May Dovey Email: Phone: Postal  
AddressA: Postal City: Dunedin Postal Region: Otago Postal Post Code:  
Postal Country: New Zealand Submission: Thank you for asking for my view.

I am a New Zealander. I have lived overseas - in North America, Australia and Europe, which makes me staunch in the knowledge that I am a New Zealander first, although I can trace my biological routes to Maori in the North Island, and to European tribes of

different types. I am a health researcher. One of the things we have to write on applications for funding is our "ethnicity". I was recently preparing an application with a colleague in Canada. Faced with this little box - "ethnicity" - she became very agitated.

She is Jewish - that is what she regards as her ethnicity and she is proud of it. She traces her biological lines back to Eastern Europe. She refused to write her ethnicity on the form. She said for millions of years Jewish people have been killed when they

have written on official forms that they are Jewish. I want our country not to do this to people. My vision for NZ is that it embraces everyone who wants to live here in peace, contribute to our society, and make the world a better place for our grandbabies

(who I sometimes call my mokopuna) yet to be born. I said to my friend - "that's OK. You don't have to fill in the form. It's really only to see if you're Maori or not". "Oh" she said "apartheid". She was born in South Africa. "Yes" I said, "apartheid". She

was astonished that any modern country would choose to systematically discriminate on a racial basis. Now that I think about it, I am too. Sometimes I write "Maori" on official forms and sometimes I don't. I wish the census would allow me just to be a New

Zealander. The thing is, that I'm a big mixture of every different race - like most New Zealanders. I don't look like any particular racial stereotype (except maybe Saxon!). I don't speak any language fluently except English. I can knit but I can't weave flax

- wish i could, it looks amazing. If there is to be systematic discrimination between the people of New Zealand, let it be to reduce poverty, enhance opportunities in life, encourage fairness in relationships between New Zealanders, whether they are male of

female, North or South Islanders, live in rural or urban places, cycle or drive trucks - not whether they write "Maori" on their census form, or not. Let's not think of the whole of NZ as being encompassed in Auckland. I think the Treaty of Waitangi also intends

this - but it has been captured by the apartheid-ists. I would like to see a Constitution that deliberately omits any reference to the Treaty of Waitangi and instead reflects the values shared by New Zealanders more generally. Values that will carry us into

the future. Having lived in countries with different values from ours, I'd say that the unique values in NZ include a commitment to peace (at all levels), fairness, openness, an abhorrence of abuse of power, an orientation to social support and working in

the best interests of the planet, and we value education for independent thinking. Let's cease all talk

of ethnicity - and particularly the assumption that ethnicity=race. I now write my ethnicity on official forms as "Protestant" (I was raised in the Anglican

church), as in many/most countries ethnicity is defined by religion. Let's see a Constitution that embraces us all. "Maori" (the word and the culture) won't disappear: in 100 years I hope that all NZers call themselves "Maori", whatever their race.

I liked Tariana Turia and sometimes I voted for the Maori party. I wouldn't like to see it disappear: I like having the option. But I think having Maori seats and a Maori electoral roll is anachronistic and unhelpful to a peaceful future for our country.

Submitted on the 16 June 2013 at 12:08

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558

**From:**  
**To:** <constitutionalreview@justice.govt.nz>  
**Date:** 19/04/2013 3:43 p.m.  
**Subject:** <http://www.ourconstitution.org.nz/> form submission

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

Full Names: Peter Edmund Dowden Organisation Name: Email:  
Phone: Postal AddressA: Postal AddressB:  
Postal City: Dunedin Postal Region: Postal Post Code: Postal Country: New Zealand  
Submission: The Prime Minister and the Cabinet should be elected at a special sitting of Parliament in an open, public ceremony scheduled on a particular date post-election.

Sure, there will still be "backroom deals" made but at least the actual appointment of the new Government won't be shrouded in intrigue and secrecy.

I propose that the PM and then each Cabinet post be voted on one at a time; it is likely that this would result in a bit of give and take with a couple of posts filled by minor parties and even one or two Opposition members but even Fiji's previous constitution allowed for Opposition cabinet members.

I think the PM should still be allowed to allocate portfolios.

The "Constructive vote of no confidence" rule as used in Germany should apply, so that a government may fall only if another one is appointed at the same time; there should be the possibility of a change in government mid-term without an election.

Parliament should have elections on most cases only when they fall due and only Parliament should have the right to dissolve itself, on a full vote of the House, not on the wish of the PM.

The Governor-General should be elected by the full house, perhaps with a super majority to ensure that a person with widespread support is chosen.

Sent on the 19 April 2013 at 15:43

216

**From:**  
**To:** <constitutionalreview@justice.govt.nz>  
**Date:** 11/04/2013 7:54 p.m.  
**Subject:** <http://www.ourconstitution.org.nz/> form submission

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

Full Name: ~~Francis~~ **Olaf** Dowling Organisation Name: None Email:  
 Phone: Postal AddressA:  
 Postal AddressB: Postal City: Christchurch Postal Region: Canterbury Postal Post  
 Code: Postal Country: New Zealand Submission: 1) Do you think our constitution should  
 be written in a single document?

Yes, it is much easier to convey the relevance of a constitution to the general populace when all relevant material is accessible in one document, which endows rights as a citizen or resident.

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

Yes. The constitution should not be alterable in interpretation by appeal to statutes or other legal authority. The constitutional document should not be amendable by a 1 vote majority of parliament, but require a much higher threshold (as in the United States)  
 - as my personal view is the primary role of human rights granted by a constitutional document are also to protect minorities.

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

The Courts. Historically most argument in liberal democracies has good reason to err on the side of divesting power from a singular authority (parliament) as a check and balance, as the way legislative and judicial branches of government are separated in many republics.

On a final personal note, I am a recovering alcoholic (having been previously diagnosed alcohol dependent) and voluntarily attended a Canterbury DHB funded Salvation Army run rehabilitation program, which was successful for me personally. A requirement of admission was compulsory church attendance, including those "sentenced" to rehab by the courts. Failure to attend church meant immediate discharge from the rehabilitation unit, an immediate issue of an arrest warrant by the police to recover the person to serve remainder of their sentence in a State prison.

I successfully campaigned to make church attendance voluntary through the Human Rights Commission, the Canterbury District Health Board and other legal avenues, as my primary objection being it was a state funded institution which accepted clients directed by the courts. In my calculations thousands of people have consistently been told to go to church or

go to jail over a period of years, solely in the Canterbury region.

A constitutional document should address the separation of Church and State in black and white terms, so people like me who challenge the legality of their internal policies regarding the role of religion in state funded enterprises do not have to resort to often misfitting third party agencies like the Human Rights Commission, but have a right to sue them in District Court on the basis of separation of church and state as constitutionally defined.

If separation of church and state is not strictly defined in constitutional documents as it is in the United States (where little ambiguity about this is present) then I personally will be dismayed.

Sent on the 11 April 2013 at 19:53



724

**From:**  
**To:** <constitutionalreview@justice.govt.nz>  
**Date:** 2/05/2013 4:14 p.m.  
**Subject:** <http://www.ourconstitution.org.nz/> form submission

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

Full Names: Roger Dowling Organisation Name: Email:  
Phone: Postal AddressA:  
Postal AddressB: Postal City: Postal Region: Wellington Postal Post Code:  
Postal Country: New Zealand Submission: Bill of Rights

1. Doesn't protect the right to shelter, warmth, food, water, medical care and electricity. These rights should be guaranteed at a minimum level at an affordable rate. Protection from exploitation for vulnerable sectors of society e.g elderly, disabled, children.

Freedom of religion should not breach other rights e.g. gender equality or sexual preference equality, or educational equality or freedom of expression. No tolerance for the intolerant.

2. Partial higher status. Should be entrenched and breaches publicised.

3. Additional Rights - as in 1 above.

4. Other things to protect rights: education especially at School level.

5. Who decides consistency: Parliament ultimately.

Sent on the 2 May 2013 at 16:13

724a

**From:**  
**To:** <constitutionalreview@justice.govt.nz>  
**Date:** 2/05/2013 4:32 p.m.  
**Subject:** <http://www.ourconstitution.org.nz/> form submission

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

Full Names: Roder Dowling Organisation Name: Email:  
Phone: Postal AddressA:  
Postal AddressB: Postal City: Postal Region: Wellington Postal Post Code:  
Postal Country: New Zealand Submission: Place in Constitution

1. None. Rights to maintenance and protection of Maori language should be protected in legislation e.g. teaching of Maori in schools, Maori TV. Treaty has symbolic importance and historic grievances should be settled equitably. No special rights apart from recognition of Maori language and culture should be given. Equal before the law. Positive discrimination only when necessary to lift Maori population up to rest of population e.g. in education, health care, life expectancy, socio economic status, housing etc.

2. No. Divisive document. Gives the Court too much discretion to interpret it producing unintended and unwanted consequences. Sea, foreshore, waterways, water, lake beds, right to fish/hunt recreationally should belong to everyone. NZ is now a melting pot with many NZers having Maori blood. Discrimination or special rights based on Ethnic background is not right.

Sent on the 2 May 2013 at 16:31

7246

**From:**  
**To:** [constitutionalreview@justice.govt.nz](mailto:constitutionalreview@justice.govt.nz)  
**Date:** 2/05/2013 4:42 p.m.  
**Subject:** <http://www.ourconstitution.org.nz/> form submission

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

Full Names: Roger Dowling Organisation Name: Email:  
Phone: Postal AddressA:  
Postal AddressB: Postal City: Postal Region: Wellington Postal Post Code:  
Postal Country: New Zealand Submission: 1. Parliament - Through their MP and party like  
everyone else. Maori can press particular points of views through a party, community or pressure  
group etc. Parties should be encouraged to select MPs who represent the make-up of NZ population.  
Maori seats  
should be abolished once all historic Treaty grievances are settled.

2. Maori representation could be improved by Political Parties selecting sufficient Maori Candidates in  
safe seats which represent the proportion of Maori in the general population. A civic education  
programme should be initiated to encourage Maori to stand.

3. As above

Sent on the 2 May 2013 at 16:42



724c

**From:**  
**To:** <constitutionalreview@justice.govt.nz>  
**Date:** 2/05/2013 4:53 p.m.  
**Subject:** <http://www.ourconstitution.org.nz/> form submission

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

Full Names: Roger Dowling Organisation Name: Email:  
Phone: Postal AddressA:  
Postal AddressB: Postal City: Postal Region: Wellington Postal Post Code:  
Postal Country: New Zealand Submission: 1. Capped at 120. Appropriate number.

2. 3 years. So we can get rid of them earlier if they don't perform.

3. Set date for election contained in Electoral Act.

4. Electorates should as far as possible have an equal number of voters, share a community of interest, tied together by communication links etc. Should be a set proportion of electorates seats to party seats by statute.

5. If not an electorate MP they should be forced to resign as the reason they got in was due to the party vote. If they leave the party they should leave their party seat so another Party MP can be appointed. Undemocratic otherwise.

Sent on the 2 May 2013 at 16:53

724d

**From:**  
**To:** <constitutionalreview@justice.govt.nz>  
**Date:** 2/05/2013 5:03 p.m.  
**Subject:** <http://www.ourconstitution.org.nz/> form submission

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

Full Names: Roger Dowling Organisation Name: Email:  
Phone: Postal AddressA:  
Postal AddressB: Postal City: Postal Region: Wellington Postal Post Code:  
Postal Country: New Zealand Submission: 3. Additional Rights - NZ citizens should have  
a right to roam over private rural/forestry land provided they stay a set distance from dwelling places.  
More land in NZ is owned by foreigners and corporations. New Zealanders should be able to enjoy  
open  
spaces subject to safeguards to protect privacy, livestock and security of chattels. NZers should be  
able to access rivers to fish without having to get permission from landowners. Feudal landowner  
rights have no place in NZ. Similar rights are granted in  
Scandinavia and other countries.

Sent on the 2 May 2013 at 17:02

# Quick Submission

2686

Your name:

Ainsley Down

Name of the organisation you represent (if applicable):

Postal address or email address:

Kia ora

- ① Teaching of our constitution & our history (Maori history) should be compulsory in our schooling system as we only have the colonising version of NZ History which is very pakeha & from the colonisers point of view.

"History is only ever written by the conquerors/colonisers"

"Maori is our future."

Te Tiriti o Waitangi should be enshrined in our constitution and the ~~Maori~~ Maori version should be the one that we ~~also~~ abide by as defined by United Nations that says the tangata whenua version should be the ruling/defining document not the conquerors/colonisers version!!

- ② Naka jumping (M.P's) should not be allowed unless they have been voted in. List M.P's ~~entitled~~ should be ousted if they ~~resign~~ choose to resign from the political party.

## Privacy and Confidentiality

Kia ora

Your personal information will be held in accordance with the Privacy Act 1993. This Act outlines the requirements for transparent collection, ethical use and secure storage of personal information.

The personal information you provide in this submission form will be used for the purposes of the Consideration of Constitutional Issues only.

You can also make a submission online at [www.ourconstitution.org.nz](http://www.ourconstitution.org.nz)



# Quick Submission

Your name:

A Down

Name of the organisation you represent (if applicable):

Postal address or email address:

① Teach Civics in schools as part of a core curriculum

② Keep constitution as a group of laws/Acts that can be modified by the will of the people / courts

③ Treaty is the one of the founding documents of NZ as in Maori Version not English Version

④ NZ land should not be sold to overseas buyers

⑤ Maori Sovereignty should be recognised and should be entrenched in NZ Government 50/50 basis

⑥ Teach Tiriti o Waitangi in schools should be compulsory

⑦ Maori Representation on local Government / Councils - should be enshrined on a 50/50 Basis

⑧ Every Council member should be taught about Tiriti o Waitangi - a university paper at the minimum

## Privacy and Confidentiality

Your personal information will be held in accordance with the Privacy Act 1993. This Act outlines the requirements for transparent collection, ethical use and secure storage of personal information.

The personal information you provide in this submission form will be used for the purposes of the Consideration of Constitutional Issues only.

**You can also make a submission online at [www.ourconstitution.org.nz](http://www.ourconstitution.org.nz)**

4760

**From:** <webmaster@ourconstitution.org.nz>  
**To:** <constitutionalreview@justice.govt.nz>  
**Date:** 31/07/2013 3:12 p.m.  
**Attachments:** Sarah Down and Thomas HarreSubmission for the Constitutional Review.pdf

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

Full Names: Sarah Down and Thomas Harré Organisation Name: Email:  
Postal AddressA: Postal AddressB: Postal City:  
Christchurch Postal Region: Postal Post Code: Postal Country: New Zealand  
Submission: Submission Upload: Sarah Down and Thomas Harre Submission for the  
Constitutional Review.pdf

Submitted on the 31 July 2013 at 15:12



## **Submission on the Constitutional Review for Aotearoa /New Zealand:**

Sarah Elizabeth Anne Down (BA, LLB (hons.), LLM Candidate (ANU))

Thomas Harré (BA, LLB, LLM (dist.), enrolled barrister and solicitor of the High Court of New Zealand)

### ***1. Introduction and expression of support for the process***

Sarah Down and Thomas Harré make this submission as interested individuals. This submission is not made in affiliation with any other organisation.

We wish to commend the Constitutional Advisory Panel for the work that has been undertaken so far.

We also want to note our support for the process that this Constitutional Review has taken. Inviting and making accessible to the public debates over the future of New Zealand is in itself a major contribution towards creating a vibrant democratic framework and is an important end in itself.

### ***2. Support for a Written Constitution***

We believe that New Zealand would greatly benefit from the adoption of a written constitution. This submission reflects this belief.

There are a number of reasons for this, all of which stem from a concern about the lack of protection of human rights in New Zealand. This deficiency has resulted in a number of troubling human rights breaches. However, despite these clear examples of human rights breaches there remains a widespread belief that New Zealand has an excellent human rights record. This point was well made by Sir Geoffrey Palmer when he noted that:

*New Zealand has always prided itself on respecting fundamental human rights. [Historically] the rhetorical political tendency was to say that New Zealand always honoured fundamental human rights without looking to see whether the claim was valid. Too often it was not. Administrative convenience, a tendency to trust the state and the use of its powers, and a homogenous political culture with a unicameral legislature made New Zealand in historical terms rather self-satisfied and uncritical about rights.*

This constitutional review offers an excellent opportunity to examine whether New Zealand's current constitutional arrangements are sufficient to protect human rights. Focussing on a number of case studies, this submission will show that in a number of respects, fundamental human rights are not well protected in New Zealand. It is for this reason we submit that there should be a change to our constitutional arrangements. It will then turn to explore a number of constitutional matters that should be considered as part of a written constitution.

### ***3. Summary of Recommendations made in this submission:***

- I. Establish a Human Rights Select Committee.
- II. Provide the judiciary with the power to remedy breaches of the New Zealand Bill of Rights Act 1990.



- III. Ratify the Optional Protocol for International Covenant of Economic Social and Cultural Rights.
- IV. Create a written constitution for New Zealand.
- V. Have an ongoing discussion about the role that the Treaty of Waitangi should play in New Zealand's constitutional landscape.
- VI. Expand the rights contained within the NZBORA to include cultural and economic rights, such as the right to education and healthcare.
- VII. Incorporate the New Zealand Bill of Rights Act 1990 into a written constitution.

#### **4. Human Rights in New Zealand:**

As is noted in the Constitutional Review paper, human rights are afforded a level of protection under the New Zealand Bill of Rights Act 1990 (NZBORA).<sup>1</sup> The Act covers important fundamental rights, the subject of which are often enshrined in written constitutions in other domiciles.<sup>2</sup> The NZBORA requires that where possible, the courts accord other domestic legislation interpretations consistent with the rights and freedoms contained within the NZBORA.<sup>3</sup> Under the Act, the Attorney-General has to bring to Parliament's attention any provision of proposed legislation that appears to be inconsistent with any of the rights or freedoms contained in the Act.<sup>4</sup> Furthermore, all policy papers to Cabinet and Cabinet Committees must include a statement about any inconsistencies of the proposal with the Human Rights Act and NZBORA, with a summary of implications and comment on whether and how the issues may be addressed or resolved.

However, there are serious shortcomings of the Act that mean it is unable to afford ample protection to the most fundamental of rights.

Firstly, the Attorney General's report is issued at their discretion. Secondly, the fact that the Attorney-General has attached a section 7 report to a bill has no formal implications for that proposed legislation's status. No special parliamentary procedures apply to a bill that has received a s 7 report. It does not – for instance – go to a special select committee for greater scrutiny, nor does it require a super majority vote in order to proceed. We agree with Janet Hiebert, who suggests that “despite the frequency of s 7 reports, they have seldom led to amendments to redress the perceived inconsistencies.”<sup>5</sup>

- **Recommendation: Establish a Human Rights Select Committee. This would ensure that the impact on human rights of all legislation is sufficiently considered.**

<sup>1</sup> Amongst a number of other pieces of legislation see for example: Human Rights Act 1993.

<sup>2</sup> However, that Act can also be criticised because it does not enumerate all rights contained in the International Covenant on Civil and Political Rights (ICCPR). The result is that New Zealand's principal human rights statute does not fully give effect to the ICCPR. This means that mechanisms such as the Attorney-General's reporting procedure only apply to some ICCPR rights, but not others.

<sup>3</sup> New Zealand Bill of Rights Act 1990, s 6.

<sup>4</sup> Ibid, s 7.

<sup>5</sup> J Hiebert “Rights Vetting in New Zealand and Canada: Similar Idea, Different Outcomes” (2005) 3 NZJIPIL 63, at 88.

As of the time of writing this submission, twenty seven government bills have been subject to section 7 reports.<sup>6</sup> Between 1990 and 2010, eighteen of those bills have become law without any change to the apparent NZBORA-inconsistent measures. Two of the remaining bills are currently before parliamentary select committees. Therefore only two government bills receiving s 7 reports have been amended.<sup>7</sup>

If legislation is found to breach either Act, the only remedy is a declaration that it is inconsistent with the right to freedom from discrimination. There is no requirement for the government to modify or repeal discriminatory legislation. Furthermore, recent legislative action has shown a casual disregard for proper democratic processes.<sup>8</sup> The following two recommendations would ensure that this abuse of process cannot reoccur in the future.

- **Recommendation: Explicitly provide the judiciary with powers to issue remedies when the NZBORA is violated. This would greatly strengthen the effect of the NZBORA in promoting human rights in New Zealand.**
- **Recommendation: 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 if domestic remedies fail them.**

The following discussion details two<sup>9</sup> case studies where the human rights of New Zealanders have been threatened by official action. We submit that if the recommendations made in this submission are accepted, such examples of abuse would be unable to occur in the future.

#### **4.1. *R v Hanson***

In February 2007 the New Zealand Supreme Court released a decision called *R v Hansen*. One of the findings of the case was that section 6(6) of the Misuse of Drugs Act 1975 (which placed a reverse burden of proof on the defendant) was inconsistent with the right to be presumed innocent until proven guilty. This right is found in section 25(c) of the NZBORA and article 14(2) of the International Covenant on Civil and Political rights. However, because of the subordinate status of the NZBORA, the finding by the Supreme Court that the provision was a breach of the right, was in itself the only remedy open to it and the judges were required to enforce the offending legislation.

This case has been ignored by Parliament despite a number of calls to amend it. It is troubling when a fundamental right such as the presumption of innocence is held to be threatened by legislation, but even in light of this finding by New Zealand's highest court, Parliament is able to ignore its responsibility to remedy the situation.

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<sup>6</sup> Ministry of Justice "Section 7 Reports" <[www.justice.govt.nz](http://www.justice.govt.nz)>.

<sup>7</sup> See further T Campbell et al (eds) (2011) *The Legal Protection of Human Rights: Sceptical Rights* Oxford University Press.

<sup>8</sup> See for example, the Crown Minerals Amendment Act which was rushed through Parliament under urgency without going to Select Committee. Also the New Zealand Public Health and Disability Amendment Bill, where most of the sections were blacked out so that Parliamentarians were not even sure what they were voting on. Of further concern is that, as former Prime Minister Sir Geoffrey Palmer, said in his book, *Bridled Power*, New Zealand MPs are "the fastest lawmakers in the west". See *Bridled Power: New Zealand Government under MMP*, Sir Geoffrey Palmer & Dr Matthew Palmer, Oxford University Press, 2004.

<sup>9</sup> Please note there are a number of other issues of concern that could be listed here as well - the Urewera dawn raids and the 'Dotcom' scandal being two notable examples.

#### **4.2. Foreshore and Seabed Act:**

In 2003 in response to the *Ngati Apa* decision,<sup>10</sup> the New Zealand government passed the Foreshore and Seabed Act in the face of controversy, protests, and racial tensions. The Act stated that the Government had exclusive rights to the foreshore and seabed. Such a proclamation was clearly discriminatory as it acted to extinguish potential native title rights of Māori.<sup>11</sup>

#### **5. New Zealand and International Human Rights:**

The Foreshore and Seabed Act is also relevant in illustrating the disregard that the New Zealand government has shown for the oversight of the UN treaty monitoring bodies and Special Procedures. The United Nations Committee on the Elimination of Racial Discrimination (CERD) issued a report to the New Zealand government, censuring them for the passage of the Foreshore and Seabed Act on the basis that the Act was discriminatory, and illustrated a disregard for indigenous rights. In response to this, the Prime Minister marginalised the importance of CERD, stating:

"I know that those who went off to this committee on the outer edges of the UN system are spinning it their way but I have to say there is nothing in that decision that finds that New Zealand was in breach of any international convention at all.... "It is not a court. It did not follow any rigorous process as we would understand one. In fact, the process itself would not withstand scrutiny at all."<sup>12</sup>

Deputy Prime Minister Michael Cullen described the final report of the UN Special Rapporteur on Indigenous People as disappointing, unbalanced and narrow. He said:

"This raft of recommendations is an attempt to tell us how to manage our political system. This may be fine in countries without a proud democratic tradition, but not in New Zealand where we prefer to debate and find solutions to these issues ourselves."<sup>13</sup>

Further, National Party (then the main opposition party, now in government) Māori Affairs spokesman Gerry Brownlee said: "The Government should show this report the respect it deserves by throwing it straight into the dustbin"<sup>14</sup>

These responses to international criticisms of New Zealand's treatment of human rights by government illustrate the need for human rights to be given additional protections through a written constitution that incorporates the NZBORA into higher law.

A formal procedure for responding to the findings of international human rights committees would provide a level of assurance to communicants and their advisors that the New Zealand Government respects the outcome of the international process. It would enable communicants to take a complaint to an international human rights committee knowing that it ought to be able to provide them with a meaningful result if they succeed. Such a formal procedure could be overseen by a Human Rights Select Committee, as recommended by this submission.

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<sup>10</sup> Attorney-General v Ngati Apa [2003] 3 NZLR 643

<sup>11</sup> G Leane "Fighting Them on the Beaches: The Struggles for Native Title Recognition in New Zealand" [2004] New C. Law Rv 5; (2004) 8(1) The Newcastle Law Review 65

<sup>12</sup> AIR Trust, "Shadow-Report to New Zealand's State Report to the Committee on the Elimination of Racial Discrimination: Summary by AIR Trust" June 2007, <[www2.ohchr.org/english/bodies/cerd/docs/ngos/airtrust.doc](http://www2.ohchr.org/english/bodies/cerd/docs/ngos/airtrust.doc)>.

<sup>13</sup> Ibid.

<sup>14</sup> Ibid.



To illustrate this point, the government's follow up to CERD's most recent Concluding Observations leaves much to be desired. To outline just three examples, in response to CERD's recommendation that the State party seek ways of ensuring that provisions of the Convention are fully respected in domestic law, the government has decided "the present arrangements are considered to be satisfactory". In response to the recommendation that the State party consider granting the Waitangi Tribunal legally binding powers to adjudicate Treaty matters, the government has said that it "does not intend to give the Tribunal binding powers to adjudicate Treaty matters, as it operates essentially as a truth and reconciliation process". And in response to the invitation for NZ to consider making the optional declaration provided for in Article 14 of the Convention, the government has responded that it has no intention of doing so. This would not mean that the New Zealand government would adopt all recommendations made to it, but merely that it should consider these recommendations in a measured and procedural fashion.

## ***6. Creating a written constitution for New Zealand***

The above discussion has shown that as matters currently stand, human rights are inadequately protected in New Zealand. Merely paying lip service to promoting human rights does not go far enough to actually protect New Zealand citizens. We submit that a written constitution that incorporates the rights currently contained within the NZBORA will enable human rights to be enforced in New Zealand.

A written constitution, incorporating a strengthened Bill of Rights would allow the judiciary to adjudicate on contentious human rights issues. At present, the NZBORA contains a tension between Parliamentary sovereignty, and giving powers of adjudication to the Court. This tension is found in sections 4, 5 and 6 of the NZBORA.

For the NZBORA to be given the weight it requires to be effective, section 4 – stating that legislation inconsistent with the NZBORA is not affected – would need to be removed. We submit that the test set out in section five of the NZBORA, which asks whether limitations on rights are "demonstrably justified in a free and democratic society" is enough to provide a balance between the sovereignty of Parliament, and the power of the judiciary.

This balance is reinforced by section 6, stating that legislation should be interpreted consistently with the Bill of Rights where possible. The effect of removing section 4 would be to give the courts the power to consider whether an enactment imposes a justified limitation on rights contained within the BORA, or whether the enactment should be read down.

- **Recommendation: Create a written constitution for New Zealand. This higher law would enshrine human rights fundamental to all New Zealanders, and would serve as a guard against abuse of official powers.**

## ***7. Specific matters to be covered by a written constitution:***

### **7.1. The place of the Treaty of Waitangi and tangata whenua in a written constitution**

The place of the Treaty of Waitangi in New Zealand's constitutional framework has been debated ever since it was initially drafted. Numerous pieces of legislation refer specifically to the Treaty principles. However, due to the nature of the current constitutional arrangements there is only a



moral – as opposed to a legal – obligation on the government to act in accordance with the Treaty and its principles. As was explored in the above section of this submission with respect to the Seabed and Foreshore Act, the result of this is that blatantly discriminatory legislation against Māori can be passed without regard to the Treaty.

We submit that this is not a satisfactory state of affairs, and any constitutional change will need to carefully consider the ongoing role of the Treaty of Waitangi.

It is submitted that a useful lesson can be taken from the Canadian experience where there is constitutional protection of the rights of first nations peoples under section 35 of the Constitution Act 1982 (Canada). The section, while within the Constitution of Canada, falls outside the Canadian Charter of Rights and Freedoms. The section does not define the term "aboriginal rights" or provide a closed list; some examples of the rights that section 35 has been found to protect are fishing,<sup>15</sup> logging, hunting,<sup>16</sup> the right to land, and the right to enforcement of treaties.<sup>17</sup> There remains a debate over whether the right to aboriginal self-government is included within section 35, however since 1995 the Government of Canada has had a policy recognizing the inherent right of self-government under section 35.

We submit that a similar, open-ended approach could be taken with respect to the Treaty of Waitangi. The risk of taking an approach that too tightly defines the principles of the Treaty would risk devaluing the Treaty as a whole.

It is very difficult to come up with the "right answer" to the question of how to deal with the Treaty of Waitangi. We are recommending that any constitutional change carefully and thoroughly consider how the rights of Māori as tangata whenua can be protected against alarmist politics and the "tyranny of the majority".

- **Recommendation: leave open for further discussion the question of how best to answer the question of the ongoing role of the Treaty of Waitangi**

## **7.2. The status of the New Zealand Bill of Rights Act 1990**

A number of United Nations treaty-body mechanisms and the NZHRC have expressed concern that New Zealand does not have an over-arching or an entrenched constitution that protects human rights in New Zealand. The United Nations Human Rights Committee has expressed concern that it is possible to enact legislation incompatible with the provisions of the New Zealand Bill of Rights Act 1990.

We submit that civil and political rights, such as the right to life, cannot be fully realised without the equal right to work, accessible health care, adequate housing and education, which form part 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 fulfil their obligations to respect, promote and fulfil these human rights.

<sup>15</sup> *R v Sparrow*, [1990] 1 S.C.R. 1075

<sup>16</sup> *R v Powley*, [2003] 2 S.C.R. 207

<sup>17</sup> See Nigigoonsimeon, "The Duty to Consult and Accommodate First Nations" <<http://nigigoonsimeon.ca/>>.

As with the response to the CERD report mentioned above, the government tends to pay lip service to the protection of economic, social and cultural rights, while at the same time glossing over real issues such as child poverty. It has been said that there are specific statutes that work to protect these rights, however in practice it is clear that these are not having the desired effect.<sup>18</sup>

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.

- **Recommendation: Incorporate economic, social and cultural rights into the Bill of Rights Act 1990**
- **Recommendation: Entrench the Bill of Rights Act 1990 so that the weight and importance of these rights is adequately recognised**

### ***8. Conclusion***

This submission has focussed on the aspects of constitutional reform which we believe to be of most importance to New Zealand: increasing the strength of the New Zealand Bill of Rights Act, and maintaining an open dialogue about the ongoing and evolving role that the Treaty of Waitangi must play in the future of New Zealand. This is a timely discussion to be having, and we are pleased to have had the opportunity to make this submission.

Thank you for your consideration of this submission.

Sarah Down  
Thomas Harré

July 2013

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<sup>18</sup> As an example, see further B Bruce *Inside Child Poverty* (2012).



1553

**From:** <webmaster@ourconstitution.org.nz>  
**To:** <constitutionalreview@justice.govt.nz>  
**Date:** 24/06/2013 5:51 p.m.  
**Subject:** <http://www.ourconstitution.org.nz/> form submission

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

Full Names: Alison Downes Organisation Name: Email:  
Phone: Postal AddressA: Postal AddressB: Postal City:  
Christchurch Postal Region: Canterbury Postal Post Code: Postal Country: New  
Zealand Submission: I think the treaty of waitangi should have equal value with any pakeha, New  
Zealand rules etc. I have recently been to Belgium and they have two groups of people and they have  
equal representation in all matters and they live very harmoniously together  
eg language, culture etc. I think at present often acknowledged of things Maori is weak. To ensure  
our society remains mainly harmonious we need to improve Maori recognition.

Sent on the 24 June 2013 at 17:50



532

**From:**  
**To:** <constitutionalreview@justice.govt.nz>  
**Date:** 18/04/2013 8:49 a.m.  
**Subject:** [RELEASED FROM QUARANTINE] [SUSPECT SPAM]  
[http://www.ourconstitution.org.nz/form\\_submission](http://www.ourconstitution.org.nz/form_submission)

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

Full Names: Clive DOWNES Organisation Name: Email:  
Phone: Postal AddressA: Postal AddressB: Postal City: AUCKLAND Postal Region:  
Postal Post Code: Postal Country: New Zealand Submission: 1. I do not think the treaty of  
Waitangi should have any role in New Zealand's constitution.

2. I do not think the treaty should have any formal role in New Zealand's constitution. The treaty is  
divisive and under its current interpretation and usage favours one race above others. In my opinion  
for New Zealand and all New Zealanders to grow and prosper  
as a nation all New Zealanders regardless of their race, creed or how long ago their ancestors  
arrived here need to be treated as equals without favour or special consideration.

Sent on the 16 April 2013 at 22:46

4710

**LAWS 420:**

Law and the Democratic Process Assignment

Andrew Geddis

Semester 1 2013

Charlotte Doyle

*“Māori Representation in Parliament”*

To the Constitutional Advisory Panel

### **Personal details**

This submission is from Charlotte Doyle, Auckland  
I can be contacted at

Māori are the *tangata whenua* of Aotearoa - as the indigenous people they cannot be considered merely as a minority group in contemporary Aotearoa/New Zealand society. The United Nations describes 'indigenous communities' as those who have historical continuity extending to pre-invasion, pre-colonial times in a country and who consider themselves to be separate from the dominant culture and wish to have their ethnic identity continued into the future. There is however a wide range of opinions on what the term 'indigenous' means in broader terms given the complexity of the various migratory origins of the people who now live in Aotearoa/New Zealand. As a 'white' Aotearoa/New Zealander who is the sixth generation to have been born in this country after my ancestors migrated here from the northern hemisphere, I belong to this country and the ethnic term 'European' has no relevance to my identity. New Zealand is the place I am native to. It therefore seems naïve at this stage in Aotearoa/New Zealand's development as a nation, to argue that by being 'indigenous' there is greater entitlement to living in this country.

It is very important to see Māori as 'indigenous' in the respect that Aotearoa/New Zealand is the birthplace of Māori culture therefore *tikanga maori* should unquestionably be formally represented in Parliament and our Constitution.

Fundamental differences between Māori and other ethnic groups due to their primary cultural connection to Aotearoa/New Zealand necessitates Maori representation to be singularly recognised. The preservation and supported evolution of Māori culture as unique needs to be seen as a vital issue. In addition such recognition can facilitate harmonious cooperation between Māori and Pakeha (and other more recent migrant communities) with maximum benefit for all..

### *How should Māori views be represented in Parliament?*

The words *kawānatanga* and *tino rangatiratanga* in the Treaty of Waitangi guarantee Māori self-determination which is the right to control their own affairs. Protecting this right of indigenous peoples has been a concern internationally recently acknowledged in Article 3 of the United Nations Declaration for Indigenous Rights. After experiencing forced assimilation into European culture throughout New Zealand's colonial history, an independent voice and self-determination are what Māori have very strongly fought for and continue to reinforce and protect.

Māori leader and spokesperson Mason Durie has defined Māori self-determination as pragmatically bound to contemporary Māori aspirations and hopes for "the advancement of Māori people, as Māori, and the protection of the environment for future generations."<sup>1</sup> Aotearoa/New Zealand as a nation should therefore be pushing for Māori self-determination and limiting its scope and potential is detrimental. Māori academic Ranginui Walker points out that the successful outcomes of giving Māori the ability to govern themselves in the past have been illustrated by the example of the Māori Battalion in World War One which strengthened Māori identity.<sup>2</sup> It is possible to achieve this in Parliament.

The most significant objection to separate representation is its seeming inconsistency with principles of democratic equality to construct a constitution based on ethnic considerations. Māori representation is often ignorantly seen as elitist and separatist. Under the National Party leadership of Don Brash in the 1990s, the image of Māori as being 'privileged' was pushed even though statistics demonstrated Māori were struggling socio-economically.<sup>3</sup> Ethnic considerations involving issues surrounding culture and identity should be taken into account. Māori culture is fundamentally different from European. Policies implemented by the Labour Party between 2002 and 2005 which were "colour-blind" had the effect of ignoring issues relating directly to

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<sup>1</sup> M. J Durie, *Te Mana Te Kāwanatanga: The Politics of Māori Self-Determination*, (Auckland, NZ: Oxford University Press, 1998), 4.

<sup>2</sup> Ranginui Walker, "The Māori Minority and the Democratic Process", in *Improving New Zealand's Democracy* ed. J. Stephen Hoadley (Auckland, NZ: New Zealand Foundation for Peace Studies, 1979), 124.

<sup>3</sup> Ann Sullivan, "Māori Participation", in Miller (ed) 5<sup>th</sup> ed, *NZ Government & Policy*, (South Melbourne, Victoria: Oxford University Press, 2010), 540.



ethnicity.<sup>4</sup> Insistence on egalitarianism ignores the diverse nature of New Zealand society and the benefits that fostering distinct cultural recognition could bring.

Separate representation should also be thought of in the constitutional context of the Treaty of Waitangi which acknowledges Māori as being indigenous.<sup>5</sup>

Sir Geoffrey Palmer emphasised the foundational nature of the Treaty arguing that the legitimacy of our current system of government rests upon it.<sup>6</sup> The Treaty is currently a 'floating' constitutional document, not formally set down in law other than in provisions of legislation, and debate about whether it should be entrenched has been addressed in the past. The Labour Government in 1986 proposed the Bill of Rights White Paper in which the Treaty would become 'supreme' constitutional law. However this was met with a strong negative reaction in light of the ability to determine its meaning being handed over to an unelected judiciary. In my view, the best option at this stage would be to leave the Treaty in its current form as it already acts as an influential force in the political process.

The relationship created between Māori and Pakeha by the Treaty of Waitangi was defined by our Court of Appeal as a 'partnership'.<sup>7</sup> It is this principle of equality underlying the Treaty which legitimises Māori having a right to separate representation in the pursuit of self-determination. Māori seats are a unique feature of Aotearoa/New Zealand's political system as upheld internationally in terms of being a shining example of preservation of indigenous rights. I argue that Māori seats should be entrenched to ensure that there is formal recognition of Māori views in a forum that is exclusively dedicated to Māori interests.

Māori seats have a strong symbolic significance for Māori as they represent the concept of a Treaty 'partnership'. The number of seats in recent years have increased

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<sup>4</sup> Ibid.

<sup>5</sup> Constitutional Review Debates, 'Debating the Constitution 3: Māori aspirations', recorded 28 April 2013, radio podcast, <http://www.radionz.co.nz/national/lecturesandforums/constitutional-review> Dr Maria Barge

<sup>6</sup> Geoffrey Palmer and Matthew Palmer, *Bridled Power: New Zealand Government under MMP*, 3<sup>rd</sup> ed. (Auckland, NZ: Oxford University Press, 1997), 287.

<sup>7</sup> *New Zealand Māori Council v Attorney-General* [1987] 1 NZLR 641 Held that the s9 of the State Owned Enterprises Act which stated the Crown was unable to act in contradiction to "the principles of the Treaty"

with more Māori choosing to be on the Māori roll.<sup>8</sup> The Royal Commission recommended in 1986 that the seats be abolished with the view that they harmed Māori as a social group by not making Māori issues a concern for all electorate MPs. A concern was that Māori would be effectively stranded without enough Māori representatives to have their views heard and progress might be only achieved if they succeeded in getting the attention and backing of the rest of Parliament.<sup>9</sup> Since that time however the Electoral Act has been adapted to allow for the number of Māori seats to increase or decrease depending on the number of Māori on the Electoral Roll. With control of the Māori Seats and the nature of a Mixed-member Proportional (MMP) system of government whereby coalition governments rather than majorities have become the norm, Māori issues have more weight.

There is currently a coalition government between the Māori Party and the National Party which results in Māori views being given substantial force due to the National government's reliance on the Māori Party's support. Due to the competitive nature of MMP it can be argued that Māori therefore have their voices heard meaning if the seats were abolished there would still be security for Māori views because parties and individual candidates would be vying for the Māori vote. However the removal of the seats would be a step away from guaranteeing self-representation because it assimilates Māori into the majority view ignoring their right to *tino rangatiratanga*. There needs to be a designated outlet exclusive to Māori interests to recognise the right to self-determination which would not be possible if the seats were removed.

A Senior Lecturer at the Faculty of Law at the University of Otago, Andrew Geddis, argues that Māori seats should be described as “dedicated” representation rather than ‘separate’ as they provide a guaranteed presence in Parliament for MPs directly elected by Māori who wish to enrol and vote in the electoral process as Māori.<sup>10</sup> The word ‘separate’ in this context implies that the process by which Maori MPs are elected is different when in reality it is exactly the same as for the General Roll. The

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<sup>8</sup> Geddis, *Dual Track Democracy*, 356.

<sup>9</sup> A. Geddis, “A Dual Track Democracy? The Symbolic Role of the Māori Seats in New Zealand’s Electoral System”, *Election Law Journal* 5, no.4 (2006), 351.

<sup>10</sup> A. Geddis, *Electoral Law in New Zealand: Practice and Policy*, (Wellington, NZ: LexisNexis NZ, 2007), 108.



only difference is that these seats ensure Māori MPs are elected directly by Māori and are accountable solely to Māori for their actions.<sup>11</sup>

Currently the Māori seats can easily be abolished by a majority vote of MPs amending the sections which create them in the Electoral Act 1993.<sup>12</sup> Entrenchment would guarantee protection and would reflect the seriousness with which New Zealand facilitates Māori self-determination. Dr Maria Barge, a Māori academic and advocate for constitutional change, has argued that entrenchment would only be effective as a short-term option due to there being a need for a broader change in engagement with Māori political concerns.<sup>13</sup>

Separate representation is necessary to protect and foster Māori cultural heritage due to the fundamental differences *tikanga maori* has to a Europeanised society and Westminster Government. It is also can be seen to be a fiction to say that the two cultures are completely discrete with Māori symbols, icons and rituals such as the haka and the koru, as used by the national airline, being representative of the nation as a whole, Aotearoa/New Zealand is effectively 'bi-cultural', but it could be argued that this position for Māori is due to being forced to function and learn in two different cultures.<sup>14</sup> It is possible for biculturalism to exist while promoting and institutionalising Māori control of Māori affairs and the best way to facilitate integration and co-operation is by recognising the unique nature of Māori culture. By fostering the growth of Māori culture, Māori are given faith in the political system with the reassurance that their culture is recognised as unique. It is possible to co-exist in, what Ranginui Walker termed, a "symbiotic relationship."<sup>15</sup>

Adaption can however go both ways. The benefits of incorporating *tikanga maori* into New Zealand's political system even further would be felt not only by Māori communities but also non-Māori, for example, Maori approaches to protection of the environment. Increased Māori participation is a key objective with the current

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<sup>11</sup> Geddis, *Dual Track Democracy*, 365.

<sup>12</sup> Geddis, *Electoral Law in New Zealand*, 94.

<sup>13</sup> Constitutional Review Debates, 'Debating the Constitution 3: Māori aspirations', recorded 28 April 2013, radio podcast, <http://www.radionz.co.nz/national/lecturesandforums/constitutional-review> Dr Maria Barge

<sup>14</sup> Ranginui Walker

<sup>15</sup> Ranginui Walker, *Struggle Without End*, p. 389.

restructuring of the Resource Management Act.<sup>16</sup> Within *tikanga maori* protection of the environment for the benefit of future generations is a vital focus and it is arguable that within non-Maori culture in Aotearoa/New Zealand this kind of long-term outlook is absent. Due to *whakapapa*, Māori have a deep connection with the environment as it is intrinsically linked with their identity. Historical knowledge passed down through generations is also invaluable.

### **How could Māori electoral participation be improved?**

What is arguably the most important issue when considering Māori representation in politics is the need to address Māori electoral under-participation. Without stimulating a drive to be more politically active amongst Māori communities, particularly in the youth population, attempts at improving representation are futile.

The Māori Electoral Option determines who will represent Māori in Parliament. The total number of Māori who elect to be on the Māori roll also affects the number of Māori electorates, which as a result determines who will represent Māori in parliament; therefore it is a vitally important aspect of Māori representation. An example of an occasion when its importance was demonstrated was the legal challenge to the first Māori Electoral Option in 1994 when Maori protested that there hadn't been sufficient effort by the National Government to publicise its existence and to highlight the influence the process had on the number of Māori seats.

Making the Maori Electoral Option voluntary is consistent with the democratic principle of a right to personal choice whereby Māori can decide which roll best fits their cultural identity.<sup>17</sup> Therefore this provides a straightforward process in which Māori can engage to have their voices heard in a Māori forum. Since the introduction of MMP however, no more than two out of every three registered Māori voters cast a vote with Māori interest in participation noticeably declining.<sup>18</sup> In the 2011 elections

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<sup>16</sup> beehive.govt.nz, <http://beehive.govt.nz/speech/improving-our-resource-management-system>, 20.5.13

<sup>17</sup> Geddis, *Dual Track Democracy*, 355.

<sup>18</sup> Sullivan, "Māori Participation", 540.



only 33% of Māori enrolled on the Māori roll voted.<sup>19</sup> There is a need for participation to be actively encouraged.

Low numbers of votes in Māori communities is a way of protesting against the political institutions which they believe fail to respond to their views.<sup>20</sup>

It is possible to take interest in political debates and acknowledge the symbolic value of mechanisms like Maori seats while not being inspired to actively politically engage in the process because the effects do not seem to be directly felt. This is a general problem not only amongst Māori voters and declining voter participation is both a national and international issue.<sup>21</sup> The Electoral Commission has identified the inadequacy of civics education in New Zealand's secondary schools as a possible cause. Robert Peden, the Chief Electoral Officer, has stated that improving education in civics would give young people the knowledge of how to use the political system to have their voices heard.<sup>22</sup>

Seeking ways to improve Māori electoral participation should be focused on inspiring political will and putting greater investment into education about how mechanisms already in place can be used to advantage. Increased education in the past has impacted the numbers of Māori enrolled with extensive *kanohi kit e kanohi* (face-to-face) education carried out by Māori organisations.<sup>23</sup> A possible effective option is to make the teaching of civics in schools compulsory.

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

Section 4 (1) (a) of the Local Electoral Act embodies a requirement for local government to recognise the diversity of its communities a key objective being to

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<sup>19</sup> Election Results, accessed 17 May 2013,

[http://www.electionresults.govt.nz/electionresults\\_2011/e9/html/e9\\_part9\\_1.html](http://www.electionresults.govt.nz/electionresults_2011/e9/html/e9_part9_1.html)

<sup>20</sup> Constitutional Review Debates, 'Debating the Constitution 3: Māori aspirations', Dr Maria Barge

<sup>21</sup> "Electoral Commission Report on the 2011 General Election and Referendum", Elections: Electoral Commission, last modified 14 January 2013, <http://www.elections.org.nz/events/past-events-0/2011-general-election/reports-and-surveys-2011-general-election/electoral-0>

<sup>22</sup> "The Electoral Commission says civics education in New Zealand's Secondary schools is inadequate", Radio New Zealand, last modified 28 December 2012,

<http://www.radionz.co.nz/news/political/124428/future-voters-eyed-in-run-up-to-2014-election>

<sup>23</sup> Geddis, *Dual Track Democracy*, 356.

ensure effective and fair representation for individuals and communities.<sup>24</sup> This should be extended to having designated Māori representation. Relatively recently the Local Electoral Amendment Act 2002 allowed “a local government to create local Māori wards and Māori constituencies” which would replicate the model of Māori representation currently in the House of Representatives.<sup>25</sup> However this option has rarely been implemented. With the restructuring of the Auckland City Council in 2010 a Royal Commission recommendation to introduce guaranteed Māori representation was rejected by the Crown resulting in continued Māori under-representation after the 2010 elections. Dr Maria Barge argued on Radio New Zealand’s Constitutional Review Panel Debate that the Royal Commission’s recommendation should be implemented in all local authorities.<sup>26</sup> She pointed out the need for a model of local governance which balances the recognition of *mana* of individual *iwi* in traditional areas with the reality of many Māori living in areas outside of their *iwi*.<sup>27</sup>

Local government holds authority delegated from the national government over what happens to Māori resources. A vital aspect of a ‘partnership’ between Māori and Pakeha is therefore the ability for Māori to self-govern at local level being recognised. Although there has been progress in co-management with Māori communities such as participation in making decisions under the Resource Management Act, Māori are not being elected to councils.<sup>28</sup>

Education on how Treaty breaches occur on a micro as well as a macro level could cultivate a greater willingness to change the current way Māori are represented in local governments. As a gauge on the potential success of establishing designated Māori representation it is possible to look at the Environment Bay of Plenty regional council where Māori wards were created in 2001 through the Bay of Plenty Regional Council (Māori Constituency Empowering) Act guaranteeing Māori two seats.

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<sup>24</sup> Sullivan, “Māori Participation”, 542.

<sup>25</sup> J. Hayward, “Mandatory Māori wards in local government: Active Crown protection of Māori Treaty rights”, 186.

<sup>26</sup> Constitutional Review Debates, ‘Debating the Constitution 3: Māori aspirations’, Dr Maria Barge

<sup>27</sup> Ibid.

<sup>28</sup> J. Hayward, “Mandatory Māori wards in local government: Active Crown protection of Māori Treaty rights”, *Political Science*, vol. 63, no. 2, 188.

In order to advance Māori self-determination there needs to be self-management at a local as well as national level. Devolution would provide for Māori self-government satisfactorily at a local government level and enabling Māori communities to directly feel benefits from decisions they have more control in making. Having Māori governance concentrated at a local level also recognises that Māori are not homogenous but rather are tribally oriented. Mason Durie argues “Tribal identities and tribal management of resources remain vital for an understanding of contemporary Māori society.”<sup>29</sup> Although not all Māori have active links with tribes, and of course individuals may define themselves as ‘Māori’ in varying ways, incorporation of *tikanga maori* generally in local government would be progress.<sup>30</sup>

It is possible to envision a New Zealand where Māori and Pakeha cultures can productively co-exist, individually and collectively operating according to their own views and customs and learning from each other. However this can only be achieved by formalising and expanding Māori self-determination and by facilitating Māori to function according to *tikanga maori* at all levels of Aotearoa/New Zealand’s political structure – local and national - through creating separate and guaranteed representation.

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<sup>29</sup> M. Durie, *The Politics of Māori Self-Determination*, 5.

<sup>30</sup> Ibid.

739

**From:**  
**To:** <constitutionalreview@justice.govt.nz>  
**Date:** 4/05/2013 11:54 a.m.  
**Subject:** <http://www.ourconstitution.org.nz/> form submission

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

Full Names: Judith Doyle Organisation Name: Email:  
Phone: Postal AddressA:  
Postal AddressB: Postal City: Wellington Postal Region: Wellington Postal Post  
Code: Postal Country: New Zealand Submission: I do not think New Zealand should  
have a written constitution because the present system has worked fine all this time and because  
times change and you are stuck with an outdated set of rules.

Look at the troubles the United States is experiencing with gun mayhem because of their outdated  
Second Amendment on the right to carry guns. This was added because, at the time, they were a  
relatively lawless pioneer society. But it is interpreted as being  
'writ in stone'. We do not want the same inflexibility.

Sent on the 4 May 2013 at 11:54



# Quick Submission

739a

Your name:

Judith Doyle

Name of the organisation you represent (if applicable):

N/A

Postal address or email address:

Wellington

1. do not believe we need a written constitution cause we have Treaty of Waitangi

2) We have a bill of rights we have had no situation when one was needed.

I think it sets concerns of the day concrete when flexibility is more important & useful.

America's 2nd amendment which was written in 1791 when S. was a pioneering

Society as yet lawless and wild. Now, they are not and yet the original attachment to guns continues with the excuse that it's "in the constitution".

So no thanks.

## Privacy and Confidentiality

Your personal information will be held in accordance with the Privacy Act 1993. This Act outlines the requirements for transparent collection, ethical use and secure storage of personal information.

The personal information you provide in this submission form will be used for the purposes of the Consideration of Constitutional Issues only.

**You can also make a submission online at [www.ourconstitution.org.nz](http://www.ourconstitution.org.nz)**

## 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.

Charles Drace  
Christchurch  
New Zealand

3160A

**From:** Charles Drace  
**To:** <constitutionalreview@justice.govt.nz>  
**Date:** 29/07/2013 11:11 p.m.  
**Subject:** Constitution review

---

It is vital that the review process be continued and given the  
highest priority.  
Charles Drace  
Christchurch





4593

**From:** <webmaster@ourconstitution.org.nz>  
**To:** <constitutionalreview@justice.govt.nz>  
**Date:** 5/08/2013 9:22 p.m.  
**Attachments:** Constitution Submission.docx

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

Full Names:	Dr Jean Drage	Organisation Name:		Email:		Phone:	
	Postal AddressA:			Postal AddressB:		Postal City:	
Christchurch	Postal Region:	Canterbury	Postal Post Code:		Postal Country:	New	
Zealand	Submission:		Submission Upload:	Constitution Submission.docx			

Submitted-on the 5 August 2013 at 21:21 -



Secretariat  
Constitutional Advisory panel  
C/o Ministry of Justice  
DX SX10088  
**WELLINGTON**

#### Submission to the Constitutional Conversation

I write to endorse Local Government New Zealand's submission (representing all 78 local authorities in New Zealand) that the constitutional position of local government in New Zealand be strengthened either through a written constitution or through entrenchment to ensure that any future changes to this level of representative government are supported by 75 per cent of parliamentarians.

As a political scientist with more than twenty years of research into local government and politics, I am extremely concerned by the relentless drive for reform by the current National-led government, reform that is largely unexplained, nor justified or rational.

Whilst New Zealand has a highly centralised political system (when compared with many other developed countries), local government plays an increasingly vital role in the provision of local services, in the management of natural resources and in working for the social, economic, environmental and cultural well-being of local communities.

In addition, the taxation and regulatory powers exercised by local authorities have significant influence on New Zealand's economy at both local and national levels as local authorities are large employers and local government activity accounts for almost four per cent of New Zealand's GDP.

Despite this, the local/central government relationship is an uneasy one in which central government political ideology can reform and dismiss local concerns with little reference to local government and local communities (as seen through the process of creating the Auckland unitary authority, recent legislative amendments to the Local Government Act 2002 that have reduced the role of local councils to core services [despite other legislation such as the RMA continuing to define their role in relation to these well-beings], and the dismissal of democratically elected local government in Canterbury).

It must be remembered that local government is an important part of our democracy as it ensures that power is spread throughout that democracy rather than concentrating it in one institution.

Local government is also based on the ideas inherent in local democracy that allows people to participate as citizens in decisions that affect them and their communities. Citizens today look increasingly to local government to protect their interests and to provide services and facilities that build and maintain a sense of community. As such local government provides a form of checks and balance on the role of central government.

Therefore I would endorse Local Government New Zealand's submission that the decision-making authority of locally elected members is protected and a consistent legislative framework for local government be strengthened through a written constitution or through an entrenched statute that cannot be changed unless supported by 75 per cent of parliamentarians.

I would also urge the Constitutional Advisory panel to establish a dialogue on the constitutional status of local government in New Zealand for further debate and inclusion in its report to Government.



I would be happy to expand on this submission if wished.

Dr Jean Drage

CHRISTCHURCH

## 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.

Belinda Drake  
Auckland  
New Zealand

3919

**From:** <webmaster@ourconstitution.org.nz>  
**To:** <constitutionalreview@justice.govt.nz>  
**Date:** 28/07/2013 10:41 a.m.

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

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Full Names: Graeme Draper Organisation Name: Email: Phone:  
Postal AddressA: Postal AddressB: Postal City: Taupo Postal Region:  
Waikato Postal Post Code: Postal Country: New Zealand Submission: Under a new  
constitution for New Zealand, we cannot continue with the Treaty if NZ decides it wants to become  
independent of the British Crown. The Treaty is between the British Crown and Maori. If we no longer  
acknowledge the British Crown, we no longer  
acknowledge the Treaty.

All New Zealanders need to have a say with any new constitutional changes to this Country. At present, there seems to be little push from the govt to make sure all New Zealanders are well informed. Maori have had a lot of money spent on making sure they are well aware of this new Constitutional Review. I have not seen the same for the rest of the Citizens of this country. Lets keep things fair and transparent.

Submitted on the 28 July 2013 at 10:40



4424<sup>1</sup>

**From:** <webmaster@ourconstitution.org.nz>  
**To:** <constitutionalreview@justice.govt.nz>  
**Date:** 31/07/2013 11:52 a.m.

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

Full Names: John Draper Organisation Name: Email: Phone:  
Postal AddressA: Postal AddressB: Postal City: Waipu Postal  
Region: Northland Postal Post Code: Postal Country: New Zealand Submission: Q1:  
Yes, to keep things simple.

Q2: Yes, it will be the basis of how the country is run.

Q3: The Courts, they are independent from Parliament who make legislation.

Submitted on the 31 July 2013 at 11:52

4424a

**From:** <webmaster@ourconstitution.org.nz>  
**To:** <constitutionalreview@justice.govt.nz>  
**Date:** 31/07/2013 12:16 p.m.

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

Full Names: John Draper Organisation Name: Email: Phone:  
Postal AddressA: Postal AddressB: Postal City: Waipu Postal  
Region: Northland Postal Post Code: Postal Country: New Zealand Submission: Q1:  
the Treaty of Waitangi has NO role in the constitution.

Q2: the Treaty of Waitangi should NOT be made a formal part of the constitution because it is between Moari and the Crown that existed in 1840 (read The Great Divide by Ian Wishart) and is not relevant in a generic constitution for all citizens of the country.

The constitution should not recognise any citizens over others, inclusion of the Treaty would do this. Inclusion of the Treaty would create a nation of two peoples - Moari and non-Moari which goes against the constitution being 'for all citizens as equals'.

Inclusion of the Treaty will mean non-Moari have to consult with Moari but Moari would not be required to consult with non-Moari - a double standard and a form of racism.

Submitted on the 31 July 2013 at 12:14

44-245

**From:** <webmaster@ourconstitution.org.nz>  
**To:** <constitutionalreview@justice.govt.nz>  
**Date:** 31/07/2013 12:56 p.m.

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

Full Names: John Draper Organisation Name: Email: Phone:  
Postal AddressA: Postal AddressB: Postal City: Waipu Postal  
Region: Northland Postal Post Code: Postal Country: New Zealand Submission: Q1:  
like any other race/ethnicity: on merit in the General roll

Q2: by discontinuing the separatism brought about by the out-dated Moari seats and Moari roll. Stop treating Moari as 'different' and participation will increase.

Q3: like any other race/ethnicity. Why should Moari have more privileges than any other race/ethnicity in a country where all citizens are considered equal? We are all 'boat people'.

Submitted on the 31 July 2013 at 12:55

4424c

**From:** <webmaster@ourconstitution.org.nz>  
**To:** <constitutionalreview@justice.govt.nz>  
**Date:** 31/07/2013 1:42 p.m.

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

Full Names: John Draper Organisation Name: Email: Phone:  
Postal AddressA: Postal AddressB: Postal City: Waipu Postal  
Region: Northland Postal Post Code: Postal Country: New Zealand Submission: Q1:  
No, I am a 5th generation NZer and have no more rights than any Maori to live anywhere else in the world yet I cannot be called tangata whenua. Given that we are all immigrants to this country, how long do you have to live in this land to be considered tangata whenua and is tangata whenua race based?

Q2; change the legal system to a justice system with 'the good of society' at the top of consideration down to the perpetrator/criminal being the last to be considered. At present, it is the other way round.

Q3: Yes, it is a cornerstone of all other legislation.

Q4: The Courts, Parliament examining its own work is a conflict of interest. The Courts would act as an auditor.

Q5: the right to be consulted as tangata whenua are, I have a deep affinity for this beautiful country, too.

Submitted on the 31 July 2013 at 13:40



4424d

**From:** <webmaster@ourconstitution.org.nz>  
**To:** <constitutionalreview@justice.govt.nz>  
**Date:** 1/08/2013 8:43 a.m.  
**Subject:** [RELEASED FROM QUARANTINE] [SUSPECT SPAM]

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

Full Names: John Draper Organisation Name: Email: Phone:  
Postal AddressA: Postal AddressB: Postal City: Waipu Postal  
Region: Northland Postal Post Code: Postal Country: New Zealand Submission: Q1:  
An odd number to avoid stalemates. No race/ethnicity based seats - governance should be  
race/ethnicity/sexuality 'blind' - with list seats making up to 25% of total seats.

Q2: three years unless the current checks and balances are reviewed, too.

Q3: the current way, it is a good tactical tool.

Q4: population, area, internet coverage so that each constituent has similar access to their MP.

Q5: that member should resign from Parliament and vacate their seat because they were elected  
under the auspices of the party they parted ways with. They can then contest the by-election if they  
wish, A list member should not be allowed to become an independent  
member because they were not directly elected to parliament.

Submitted on the 31 July 2013 at 13:16

4424e

**From:** <webmaster@ourconstitution.org.nz>  
**To:** <constitutionalreview@justice.govt.nz>  
**Date:** 1/08/2013 8:45 a.m.  
**Subject:** [RELEASED FROM QUARANTINE] [SUSPECT SPAM]

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

Full Names: John Draper Organisation Name: Email: Phone:  
Postal AddressA: Postal AddressB: Postal City: Waipu Postal  
Region: Northland Postal Post Code: Postal Country: New Zealand Submission: Q1:  
for all citizens to be treated as the 'same person' with the same rights and responsibilities, irrespective  
of race, sex, sexuality, colour, religion, beliefs, education, etc.

Q2: by a simple generic constitution that recognises all citizens as being equal.

Submitted on the 31 July 2013 at 11:46

2645

**From:** <webmaster@ourconstitution.org.nz>  
**To:** <constitutionalreview@justice.govt.nz>  
**Date:** 5/07/2013 9:30 a.m.  
**Subject:** <http://www.ourconstitution.org.nz/> form submission

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

Full Names: Rick Drayson Organisation Name: Email: Phone:  
Postal AddressA: Postal AddressB: Postal City:  
Postal Region: Auckland Postal Post Code: Postal Country: New Zealand  
Submission: The healthy future of New Zealand lies within the merger of the Maori people with the other multitudes of ethnic groups within this fair land. Anything less is a sign of a power grab motivated not by fairness but by greed.

It is far better that Maori influence this nation from within the same political system used by everybody else. For otherwise, having special privileges and the ability to influence the nation from outside the means of other Kiwis will surely cause future resentment and strife.

The fact that you are considering basing a new constitution upon the Treaty of Waitangi causes great concern within me as a Kiwi. This is because our existing constitution is already based upon it upon the Treaty. Remember article one? The Maori people of NZ became Crown subjects no different to anybody else.

"The Chiefs of the Confederation of the United Tribes of New Zealand and the separate and independent Chiefs who have not become members of the Confederation cede to Her Majesty the Queen of England absolutely and without reservation all the rights and powers of Sovereignty"

Which infers to me that this committee is operating under false pretences and utilizing false, revisionist history to guide it's decisions .

Look around the world at the strife caused by people who feel that their government isn't looking after their interest causes. We don't want that happening within New Zealand and it won't happen should our leaders be guided by fairness, equality and common decency.

In summary my submission recommends:

1. Leave the current constitution alone.
2. Abolish the Maori seats.
3. Disband this committee immediately.

Sent on the 5 July 2013 at 09:27

839

**From:** Rosemary Drew  
**To:** "constitutionalreview@justice.govt.nz" <constitutionalreview@justice.gov...  
**Date:** 13/05/2013 4:56 p.m.  
**Subject:** Equality for all

My submission regarding the NZ Constitutional Review is that I want no change to New Zealand's unwritten constitution it has served us well since the 1852 NZ Constitutional Act was passed, our founding document. It may require some alterations in the future, but not a race based Constitution. 'Equality for all, One People One Nation'! No apartheid please! Rosemary Drew



2884

**From:**  
**To:** <ConstitutionalReview@justice.govt.nz>  
**Date:** 7/07/2013 2:40 a.m.  
**Subject:** Secretariat, Constitutional Advisory Panel

Secretariat, Constitutional Advisory Panel

I wish to submit that Maori Seats in Parliament should be abolished

Rodney Dreyer  
Paraparaumu

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3933

**From:** <webmaster@ourconstitution.org.nz>  
**To:** <constitutionalreview@justice.govt.nz>  
**Date:** 28/07/2013 12:46 p.m.  
**Attachments:** constitution submission.docx

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

---

Full Names: Kerry Drumm Organisation Name: none Email: Phone:  
Postal AddressA: Postal AddressB: Mt maunganui Postal City:  
Tauranga Postal Region: Bay of Plenty Postal Post Code: Postal Country: New  
Zealand Submission: Submission Upload: constitution submission.docx

Submitted on the 28 July 2013 at 12:45

## The Constitutional Advisory Panel

### Some thoughts

#### Treaty of Waitangi.

The Treaty continues to cause contention, litigation, and dissatisfaction.

If it were to be integrated into a constitution the constitution itself would be litigated. Consequently demeaning the usefulness of the constitution

Is the Treaty so uncertain that it can be ignored and replaced with a statement that all citizens of NZ be treated in a like manner?

#### NZ Constitution

Is there sufficient reason to have a written constitution?

NZ is a parliamentary democracy with supreme law making power given to elected members of the parliament. Is it important that any constitutional change does not alter this power?

#### Maori Representation

Is it correct that Maori seats in Parliament date back to 1867? Were they introduced only because most Maori were not landowners and consequently were unable to vote?

Is it still relevant to have Maori seats?

Should democracy be based on citizenship rather than ethnicity?

#### Bill of Rights

Can we also have a Bill of Responsibilities'?

#### Electoral Matters

As an example, if the election results are Labour 30%, Greens 12%, NZ First 10% and National 48% which party has the mandate to govern?

We could say a coalition, but who coalesces with whom and at what cost to good government.

2608

**From:** <webmaster@ourconstitution.org.nz>  
**To:** <constitutionalreview@justice.govt.nz>  
**Date:** 4/07/2013 7:10 p.m.  
**Subject:** <http://www.ourconstitution.org.nz/> form submission  
**Attachments:** Emil Dryburgh and Ophelia King- Submission.doc

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

Full Names: Emil Dryburgh and Ophelia King Organisation Name: Email:  
Phone: Postal AddressA  
Postal AddressB: Postal City: Postal Region: Auckland  
Postal Post Code: Postal Country: New Zealand Submission: Submission Upload: Emil  
Dryburgh and Ophelia King - Submission.doc

Sent on the 4 July 2013 at 19:09





Emil Dryburgh and Ophelia King:

What follows are our recommendations to the Constitutional Advisory Panel. This submission does not represent all of our thinking with regards to a Constitution for Aotearoa New Zealand, rather the three key principles that we consider vital to the future of our nation.

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### *Ethics of Sustainability*

Our aspiration for New Zealand is that we might build a legal system that recognises and provides for social and environmental flourishing, as well as economic stability. We advocate the *Draft Universal Declaration of the Rights of Mother Earth 2010*, which contains a number of rights beyond those in the *Bill of Rights Act 1990*. These rights might be used to place our law within a wider framework – and help to address the current fixation on economic goals as the one valid outcome of a society.

Included in this document is Article 2, which states: “Mother Earth has the right to exist, to persist and to continue the vital cycles, structures, functions and processes that sustain all beings.” This is matched by Article 6, which states that human beings have fundamental duties to ensure the protection of Mother Earth. The inclusion of principles such as these would go a long way towards addressing the current individualistic rights-oriented focus and provide some much needed balance within our legal framework.

### *A Meaningful Education*

The other principle addition we would suggest is an inalienable right of education, regardless of socio-economic standing or legal status. We believe that this education should be meaningful, and as such must cultivate not only the mind, but also the heart. By educating New Zealanders in respect for life, non-violence, and the peaceful negotiation of conflict, we can enshrine the tenants of democracy as morally right. This is a belief embodied in the UN *Declaration on a Culture of Peace*, in which governments acknowledge their role in promoting and strengthening a culture of peace. We propose ‘peace education’ is adopted from intermediate schooling, assuring that every New Zealander becomes a positive and active participant in our democracy. This shift toward a populace educated in the rights and duties of citizenship would allow for compulsory political participation to be enshrined in the constitution.

### *Safety from Poverty*

Poverty is a social injustice. Its causes are social, historical and structural in nature, and as such our government and society must take full responsibility to alleviate it. We advocate the principles enshrined in the UN *Millennium Declaration*, in which individual freedom is upheld through economic solidarity and shared responsibility. Within a free market economy, it is essential that government act as a comprehensive safe guard for those that struggle in a competitive economic system. Wealth propagated upon the economic exploitation of an underclass living in subsistent conditions, should be understood as immoral.

626

**From:**  
**To:** <constitutionalreview@justice.govt.nz>  
**Date:** 24/04/2013 2:05 p.m.  
**Subject:** <http://www.ourconstitution.org.nz/> form submission

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

Full Names: Patrick Neal O'Malley Drysdale Organisation Name: Email:  
Phone: Postal AddressA:  
Postal AddressB: Postal City: Postal Region: Wellington Postal Post  
Code: Postal Country: New Zealand Submission: I believe a New Zealand Head of State  
is an important issue because it would improve our democracy to have a democratically elected and  
accountable head of state. Our Head of State should be a New Zealander who understands our  
country and what it means  
to be a New Zealander, this would better reflect our national identity and also our independence as a  
nation.

Sent on the 24 April 2013 at 14:04



3903

**From:**

**To:** "constitutionalreview@justice.govt.nz" <constitutionalreview@justice.govt.nz>

**Date:** 27/07/2013 5:41 p.m.

**Subject:** CAP submission

I believe there should be no change to our unwritten Constitution

Yours sincerely, Jan Duane

---

5001

**From:** "Lloyd Duane"  
**To:** <constitutionalreview@justice.govt.nz>  
**Date:** 27/07/2013 5:24 p.m.  
**Subject:** CAP submission

I believe there should be no change to our unwritten Constitution  
Regards Lloyd Duane

3593

**From:** <webmaster@ourconstitution.org.nz>  
**To:** <constitutionalreview@justice.govt.nz>  
**Date:** 15/07/2013 3:56 p.m.  
**Subject:** <http://www.ourconstitution.org.nz/> form submission  
**Attachments:** Constitution Review SubmissionAPD.docx

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

Full Names: Adam Dubas Organisation Name: Email: Phone:  
Postal AddressA: Postal AddressB: Postal City: Wellington Postal Region: Postal Post  
Code: Postal Country: New Zealand Submission: Submission Upload: Constitution  
Review Submission APD.docx

Sent on the 14 July 2013 at 03:49





## **Submission on Adam Dubas to Constitutional Advisory Panel**

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

The IRB publishes the Laws of the Game for Rugby Union. All the laws are easily accessible in a single downloadable document with apps for a smart phone.

I suggest that more people understand the laws of Rugby Union than the NZ constitution and that we could learn from other rule-base competitive activities.

A single document (written in plain English) may go a ways in making the governance of NZ more accessible to all.

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

Yes, but the real question here is how to amend the laws with higher legal status. The advantage of an ordinary law constitution that we have (outside of the few entrenched provisions) is that they can be easily changed.

I suggest that there be a range of entrenchment and supremacy provisions (like a 1-5 ranking). An example of this is low-level entrenchment at one end and entrenched, supreme and super-majority amending provisions at the other end of the range.

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

Again, this is a misleading question. The real question is who has an effective remedy for legislation inconsistent with the constitution.

Some say there is a dialogue between Parliament and the courts on constitutional matters. Given the bluntness of our current constitutional laws, it is the dialogue between a hammer and a nail.

For a true dialogue to occur, a sliding scale of remedies would be useful. Each branch of government would have the remedies that accord with the level of competency of that branch. An example would be public policy matters would be reviewable by the court but accorded significant deference and limited remedies. Conversely, in matters of pure law, the court would have significant powers to review and strike down actions of Parliament.

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

No. The New Zealand Public Health and Disability Amendment Bill (No 2) is a perfect example. The Bill became law even though it unjustifiably discriminated against people with disabilities and was passed through Parliament in one day. The information parliamentarians needed to effectively debate the limiting of fundamental rights was withheld from them under the Official Information Act. The Executive bypassed or subverted all the safeguards in the present Bill of Rights Act.

**What other things could be done to protect rights?**

Effective remedies for the breach of fundamental rights should be added to the Bill of Rights Act. Remedies could be complimentary to the rights protected and the manner in which the government limits the right. In addition, greater transparency for the justification of the limiting of rights, before they are litigated, would give the public a better picture on the actions of the government in this area.

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

Yes. Fundamental rights are the foundation of a vibrant democracy. They should have a greater status than the Gore Public Library Vesting Act 1908. Fundamental rights should not be subject to the bare majority of Parliament.

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

The decision on the consistency of legislation with the Bill of Rights Act should not be an "either-or" proposition. In addition, the value of whether the Courts or Parliament makes the decision is wholly dependent on what remedies are available to the particular branch of government.

A sliding scale of remedies would be useful. Each branch of government would have the remedies that accord with the level of competency of that branch. An example would be public policy matters would be reviewable by the court but accorded significant deference and limited remedies. Conversely, in matters of pure law, the court would have significant powers to review and strike down actions of Parliament.

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

In general, economic, social and cultural rights should be added to the Bill of Rights Act. More specifically, the rights to property and privacy should be explicitly added.

The ability to challenge laws and policy under new rights would require some thought as to what remedies would be available for breaches of the Bill of Rights Act.

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

The Treaty of Waitangi should be treated as other national founding documents such as Magna Carta, Bill of Rights Act 1688 and Act of Settlement 1701. Founding documents are useful for interpreting present law, but are ill-suited as actionable law by themselves.

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

The treaty itself should not be made a formal part of the Constitution, but agreements between the Crown and Maori from after the signing of the Treaty should receive constitutional protection. That is, these agreements should be recognised as having greater status and greater scrutiny by the Courts.

**How should Māori views be represented in Parliament?**

The Maori seats should remain as long as there are a super-majority of total Maori seeking to be put on the Maori roll or participating in central elections. Once it drops below this level, a national referendum should decide on the fate of the Maori seats.

**How could Māori electoral participation be improved?**

Both Maori and Pakeha participation is slipping. While mandatory voting with the offence of not voting should be avoided, other ways of encouraging voting may be implemented.

I suggest a system of greater taxation where no representation. Everyone who does not vote in a general election will pay 1% greater income tax until the next general election (or by-election where relevant). People should pay for the choice not to participate in representative democracy.

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

Participation rates in local body elections are so low it would be charitable to call it representative democracy. Maori view and perspectives would be better represented if more people overall voted in these elections.

**How many members of Parliament should we have? Why?**

The size of Parliament is wrapped up in the realities of political parties (and their whips), MMP, Cabinet conventions (re: collective responsibility) and the lack of an upper house. Therefore, an absolute and unchanging number of seats is a poor question.

**How long should the term of Parliament be? Why?**

A term of Parliament should be five years at the maximum with annual opportunities for the electorate



to express a super majority non-confidence vote that would force an election.

Having three-yearly general elections are a blunt and expensive instrument for implementing representative democracy.

Having an annual confidence referendum with a super majority necessary to trigger a general election would allow for the electorate to remove poorly functioning government and allow government with just under majority support to continue to govern and offer stability. These referendums could be conducted online and with minimum expense.

**How should the election date be decided? Why?**

An election date should be statutorily set for each of the quarters of the annum and the government have the discretion to call an election on any of those dates, be forced to call an election or the date closest to the date at the end of their term. This creates a good balance of flexibility for the Government and certainty for the voting public.

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

The current system in the Electoral Act is agreeable.

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

A list MP should be removed from Parliament because the basis of their presence is that voters voted for the party and not the person. Conversely, an electorate (or Maori seat) MP should remain in Parliament as they were elected primarily as a personal representative of the electorate and can still carry out that work irrespective of their party allegiance.



3631

**From:** <webmaster@ourconstitution.org.nz>  
**To:** <constitutionalreview@justice.govt.nz>  
**Date:** 16/07/2013 12:23 p.m.  
**Subject:** <http://www.ourconstitution.org.nz/> form submission

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

Full Names:	Konrad	Dubbeldam	Organisation Name:		Email:	
Address:			Postal AddressA:		Postal	
Postal City:	Tauranga	Postal Region:	BOP	Postal Post Code:		Postal
Country:	New Zealand	Submission:	Hello,			

As a New Zealander I am opposed to any kind of constitution based on "treaty of Waitangi" principles or any co-governmence. There should be 1 government for 1 people disregard race and religion. Everybody should be treated equally in this country whether your ancestors have lived here for a shorter or longer time, or whether you have only just arrived in New Zealand. The laws should be equal for everyone who lives here.

Konrad Dubbeldam

Sent on the 15 July 2013 at 11:39

' 4455.

**From:** <webmaster@ourconstitution.org.nz>  
**To:** <constitutionalreview@justice.govt.nz>  
**Date:** 31/07/2013 5:45 p.m.

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

Full Names: Elizabeth Mary Duder-Subritzky Organisation Name: Email:  
Phone: Postal AddressA: Postal AddressB: Postal City:  
Beachlands Postal Region: Auckland Postal Post Code: Postal Country: New Zealand  
Submission: NZ should be one nation and one people. It is wrong to propose introducing a two tiered  
system which will cause division.

Submitted on the 31 July 2013 at 17:44

3817'

**From:** Peter Dudfield  
**To:** <constitutionalreview@justice.govt.nz>  
**Date:** 24/07/2013 2:18 p.m.  
**Subject:** CAP Submission

To the Constitutional Review Panel

I wish to make a submission to the panel on the points of reference set for the panel to consider and hear submissions upon as follows:

1. In respect of Maori representation, including the Maori Electoral Option, Maori electoral participation, Maori seats in Parliament and local government I am against race based preferment in the electoral system and submit that the Maori Electoral Option, Maori seats in parliament and on local government should be abolished,

2. In respect of the role of the Treaty of Waitangi within our constitutional arrangements I submit that the Treaty should have no role in our future constitutional arrangements and that any move to enshrine Treaty principles in a new written constitution would be undemocratic and divisive.

3. In respect of the entrenchment of the Bill of Rights, I consider that it is not necessary to entrench the Bill of Rights as any change to the law would require wide cross party parliamentary support and therefore would adequately reflect the will of the voters.

4. In respect of a written constitution I submit that parliamentary sovereignty would be severely compromised and that law making would be taken out of the hands of our elected representatives and placed in the hands of unelected members of the legal profession and therefore a healthy democracy would be irrevocably compromised.

5. In respect of other matters that could be considered by the Panel I submit that in order to have the matter of a written constitution considered democratically and with the seriousness that constitutional matters of this gravity deserve and in fact demand, the only way to legitimately make a definitive decision on this matter is by way of public referendum.

In my view a parliamentary vote on changing the constitution of New Zealand is clearly an affront to democracy and should not be considered legitimate.

Submitter: Peter Richard Dudfield

Email:

Address:

Katikati  
Bay of Plenty  
New Zealand

Phone:

Dated:

1372

**From:** "Rob Dudley"  
**To:** <constitutionalreview@justice.govt.nz>  
**Date:** 17/06/2013 7:35 a.m.  
**Subject:** Re. Constitutional review.

We the named senders advise;

New Zealand does not need a written constitution and we strongly oppose any legislation or references to the "Treaty of Waitangi" in same should one be drafted now or in the future. We are satisfied with the legislation that has sufficed for well over a hundred years and consider the "Constitution Conversation" which we attended in Tauranga to be too one sided. It is our wish to live in a democracy and not in a two tiered separatist system where one group take precedence over another.

Robert H Dudley  
Julie A Dudley  
Blair A Dudley



1372 a

**From:** "Rob Dudley" <  
**To:** <constitutionalreview@justice.govt.nz>  
**Date:** 4/07/2013 3:48 p.m.  
**Subject:** CAP Submission

Abolish the Maori seats in Parliament

1372b

**From:** <webmaster@ourconstitution.org.nz>  
**To:** <constitutionalreview@justice.govt.nz>  
**Date:** 7/08/2013 3:49 p.m.

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

Full Names: Robert & Julie Dudley Organisation Name: Retirees Email:  
Phone: Postal AddressA: I Postal  
AddressB: Postal City: Tauranga Postal Region: Bay of Plenty Postal Post  
Code: Postal Country: New Zealand Submission: We the above constituents say New  
Zealand does not require a formal written constitution and we strongly oppose any reference to the  
"Treaty of Waitangi" to be included should the decision be made to go forward with a  
"Constitutional Review"

Submitted on the 16 June 2013 at 12:45

661

**From:** "Rob Dudley"  
**To:** <constitutionalreview@justice.govt.nz>  
**Date:** 13/04/2013 3:50 p.m.  
**Subject:** Proposed new written constitution

My submission regarding the N Z Constitutional review is that I want no change to New Zealand's unwritten constitution which has served us well since the 1852 Act was passed. This was our founding document which may need some alterations in the future, but not a race based Constitution.

Equality for All, One people, One Nation.

Robert H Dudley

1504

**From:**  
**To:** <constitutionalreview@justice.govt.nz>  
**Date:** 21/06/2013 11:07 a.m.  
**Subject:** constitutional review  
**Attachments:** New Zealand Constitution Review.doc

To the constitutional review committee. Please find attached our submission  
Edward and Ngaire Duffill



Edward and Ngaire Duffill

Hastings.

21<sup>st</sup> June 2013

Phone

## New Zealand Constitution Review

We as New Zealand born citizens wish to register our submission regarding the proposed New Zealand Constitution Review. We want no change to the constitution as it has served us well since the 1852 NZ Constitution Act was passed. Equality for all - One People. - One Nation

Does NZ really need a Written Constitution with the "Treaty of Waitangi" enshrined in concrete to weigh the country down? Don't we have enough red tape to contend with now? There is enough dissent and division building our Nation at the moment because of the separatism that has been allowed to evolve and this is all it needs to explode anger and resentment.

We reiterate –

One law and equal opportunities for all, without exception.

## 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

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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.

Marc Duffy  
Christchurch  
New Zealand

119

**From:**  
**To:** <constitutionalreview@justice.govt.nz>  
**Date:** 8/04/2013 6:17 p.m.  
**Subject:** <http://www.ourconstitution.org.nz/> form submission

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

Full Names: Ian Duggan Organisation Name: Email: Phone:  
Postal AddressA: Postal AddressB: Postal City: Hamilton Postal Region: Postal Post  
Code: Postal Country: New Zealand Submission: I would like to see New Zealand to be seen  
as a world leader in science. I want for New Zealand to be a forward thinking, secular society. This  
would allow a freedom of religious beliefs, but also for freedom of people to hold and vocalise  
non-religious  
beliefs. All decisions by government should be made based on rational, logical, thought, and no  
decisions should be allowed in government for superstitious reasons.

Sent on the 8 April 2013 at 17:15

2886.

**From:**  
**To:** <constitutionalreview@justice.govt.nz>  
**Date:** 6/07/2013 2:19 a.m.  
**Subject:** CAP Submission

we need to abolish maori seats and stop all this division in this countryjoan dugmore



1093

**From:**   
**To:** <constitutionalreview@justice.govt.nz>  
**Date:** 5/06/2013 2:05 p.m.  
**Subject:** <http://www.ourconstitution.org.nz/> form submission

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

Full Names: joandugmore Organisation Name: Email: Phone:  
Postal AddressA: Postal AddressB: Postal City: te puke Postal  
Region: bay of plenty Postal Post Code: Postal Country: New Zealand Submission: we do  
not need a constitution .involning the treaty of Waitangi howcome a lot of people do not whats going  
on in this country, we demand to have a referenbum on this subject

Sent on the 5 June 2013 at 14:04

## 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:

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- The explicit inclusion of the power for judges to provide remedies when the Bill of Rights Act is violated;
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- 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.

Iris Duhn  
Auckland  
New Zealand