

5092

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 7/08/2013 3:33 p.m.
Attachments: Submission.docx

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

Full Names: Amelia Goodall Email: Phone:
Postal AddressA: Postal City: Hamilton Postal Region: Waikato Postal Post
Code: Postal Country: New Zealand Submission Upload: Submission.docx

Submitted on the 17 June 2013 at 13:07

My name is Amelia Goodall and I am a law student at Victoria University of Wellington. This is a submission on the Bill of Rights Act 1990 and it was written as part of an assessment for a course on the Bill of Rights Act. The views expressed were formed in light of the material that I studied.

Summary of Submissions

1. The Bill of Rights Act has played an important role in improving human rights protection in New Zealand. Nevertheless, it is important not to overstate its impact as it has not significantly changed how, or what laws Parliament make.
2. Adopting a supreme law bill of rights is neither desirable nor sufficient to better protect the fundamental human rights of New Zealanders.
3. Human rights are best protected by robust engagement and deliberation in both the judicial and legislative spheres. Amending the Bill of Rights Act to allow the courts to issue declarations of incompatibility and amending section 7 can achieve this.
4. It is submitted that no additional rights should be added to the Bill of Rights. Attempting to do so would result in judicially unmanageable standards.

1. The Bill of Rights Act has played an important role in improving human rights protection in New Zealand. Nevertheless, it is important not to overstate its impact as it has not significantly changed how, or what laws Parliament make.

1.1 The Bill of Rights Act 1990 (BORA) was introduced to the New Zealand statute books with very little fanfare. This is because it was seen as not really changing anything. In particular, it did not purport to override Parliament's legislative supremacy. This meant that Parliament could continue to pass any law that it chose irrespective of the rights affirmed in the Act, and the courts must continue to apply that law.

1.2 Despite this, BORA has played an important part in improving human rights protection in New Zealand. In particular, the courts have used their interpretive power under section 6 to read statutes consistently with the rights affirmed in the Act wherever a consistent meaning is "fairly open and tenable."¹ Significantly, the courts

have vindicated rights by awarding compensation or allowing the exclusion of evidence where it was seen as necessary to remedy a breach.

1.3. BORA also exerts an important influence over the policy formation and drafting stages of the legislative process.

1.4 Nevertheless it is important not to overstate the legislations impact. Parliament does legislate inconsistently with rights and the courts continue to apply the law. Moreover, Parliament routinely ignores section 7 reports tabled by the Attorney-General proving that there is very little political cost attached to doing so.

2. Adopting a supreme law bill of rights is neither desirable nor sufficient to better protect the fundamental rights and freedoms of New Zealanders.

2.1. When BORA was first proposed it was in the form of supreme law. However the proposal was met with strong public opposition. This opposition indicates that New Zealanders like leaving the final decisions on the laws that govern us in the hands of people who can be punished if they get things wrong. With MMP causing some of the potency of the Executive government to be reduced, it seems unlikely that this sentiment will have changed.

2.2. Furthermore, constitutionalizing rights is undesirable because it would result in verbal rigidity and loss of flexibility of rights. Also rights are not obvious concepts and can give rise to legitimate disagreements about scope. Therefore it is best that a democratic body is given the task of enforcing and protecting them.

2.3. Moreover, the court's interpretive powers under section 6 mean that in many cases judges can form the same judgments and grant the same remedy that they could under a supreme law system. When the courts have not been able to remedy the breach through interpretation, Parliament has sometimes repealed the law generating the same outcome that judicial review would achieve. This indicates that legislative supremacy and the protection of human rights are not necessarily incompatible.

¹ *R v Hansen* [2007] 3 NZLR 1 (NZSC).

2.4. Finally, moving the responsibility of rights protection to the judiciary will mean that important human rights issues will be removed from popular debate. This is because Parliament will no longer engage with these issues in the expectation that they will be litigated in court anyway.

3. Human rights are best protected by robust engagement and deliberation in both the judicial and legislative spheres. Amending the Bill of Rights Act to allow courts to issue declarations of incompatibility and amending section 7 can achieve this.

3.1 The courts should be given a greater role in conversations about what limits are justifiable while allowing Parliament to have the final say. Sharing the responsibility of protecting human rights will create a dialogue between the two institutions, creating better thought out and deliberated democratic solutions to breaches.

3.2 It is recommended that BORA should be amended to give courts the power to make declarations of incompatibility. This would allow the courts to clearly indicate to the legislature when they think that an Act unjustifiably breaches a right. Parliament can then decide whether or not to act and form its own view on the inconsistency, one that may differ from the Court.

3.3 It is also recommended that the Attorney-General's obligation under section 7 should not just apply when a Bill is introduced but extend to amendments made to the Bill as well. A special select committee should also be set up to ensure that issues of consistency are examined in detail.

4. It is submitted that no additional rights should be added to the Bill of Rights Act. Attempting to do so would result in judicially unmanageable standards.

4.1. Rights such as the right to privacy and the right to property should not be added because they are broad and undefined concepts. Allowing these rights to be litigated will lead the courts to substantive policy decisions, a role that should be left to the

legislature.

4.2 Moreover, these rights are already effectively protected in New Zealand and are best suited to focused regulatory regimes rather than broad guarantees.

317

From: "Dave"
To: <constitutionalreview@justice.govt.nz>
Date: 14/04/2013 3:53 p.m.
Subject: constitution

My submission regarding the NZ Constitutional Review is that I want no change to NZ's unwritten constitution as 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 run by the F.B's

DAVE GOODMAN

3619

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 16/07/2013 9:27 a.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

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

Full Name: Jonathan Goodson Organisation Name: Email:
Phone: Postal AddressA: Postal AddressB: Postal
City: Wellington Postal Region: Wellington Postal Post Code: Postal Country: New
Zealand Submission: 1) I believe that the Treaty of Waitangi is no longer relevant in modern New
Zealand and has simply become a highly divisive document, often extorted by maori groups seeking
money or land from the government. The Treaty of Waitangi has no role to play
in a future New Zealand constitution. We need to move beyond racial divisions and move towards
becoming a more unified country.

2) As above, the Treaty of Waitangi should not be included in a future constitution. It is outdated and
divisive.

Sent on the 16 July 2013 at 09:26

20891

From: Paul Goodyer <
To: <constitutionalreview@justice.govt.nz>
Date: 2/07/2013 10:13 p.m.
Subject: CAP Submission

Dear Sir/Madam

I believe it is time we the people of NZ take notice of the leverage being applied to our constitution. It is time our Government reinstates the true meaning of the treaty and implements it. If the Maori Party and their people are aloud to manipulate the treaty as witnessed over recent years, we as a nation are in grave danger of loosing our identity. "One law for all" We cannot continue to appease every challenge in an endeavour to satisfy the now hundreds of claims made by Maori. This will in time bring the nation to its knees. If the Maori seats are allowed to increase, the Tax provider will pay. So NO to any more Maori seats in Parliament.
regards
Paul Goodyer

4587

From:
To: <constitutionalreview@justice.govt.nz>
Date: 5/08/2013 1:04 p.m.
Subject: Corrected final submission by Cherry Gordon to the Constitutional Review Panel
Attachments: Constitutional conversation - response from C. Gordon - final.doc

Dear Constitutional Review Secretariat,

From a phone conversation I had with a member of the Ministry on 1 August 2013, when I rang to follow up on my emails of 12.05 and 12.49 a.m. of that day, I was given to understand that the Panel would be accepting submissions up to the 5.8.2013.

In that event, I would ask that you substitute the attached final version in place of the 12.05 a.m. original and amended version supplied with an ineffective recall message at 12. 49 a.m. on 1.8.2013. If the two earlier submissions may be deleted, I would be appreciative. Thank you.

Please advise if this request is accepted.

Thank you,

Cherry Gordon

Palmerston North

Submission from:

Cherry Gordon

Palmerston North

New Zealand

With reference to the following terms of reference for the Constitutional Review:

Electoral matters:

1. The size of Parliament

Would not like to see any increase in size.

2. The length of term of Parliament and whether or not the term should be fixed.

Prefer to see a three year term rather than a four year or longer term, as long as:

a) referenda are not legally binding;

b) there are limited options under present conventions and party requirement for politicians to make conscience votes that would, enable them to put the interests of the country before partisan interests;

c) those who disagree with and resign from their parties are allowed to continue as independents until the next general election;

d) Cabinet decisions about content of Orders in Council / regulations / legal instruments are not discussed and agreed to by the House as a whole;

e) governments ignore the balance of submissions to select committee and previously established sunset clauses, to suit their ideological ends or political convenience; and

f) the projected calendar of legislation for the forthcoming session is not required to allow adequate periods of consultation and review before passage of legislation.

The size and number of electorates, including the method for calculating size

I have some reservations about the way electorates are decided, and think the Swiss system in many ways has a lot to recommend it. For want of that system in place here, to avoid undue bias and party horse-trading, I believe national political parties should not be represented on a panel determining electorate boundaries, but rather local government chief executives in conjunction with the Department of Statistics, with oversight from the Audit Office.

Given that economic policies and job opportunities since the 1950s have encouraged movement of population to urban districts, and given that New Zealand's rural areas are unique, as well as providing significant resources that make New Zealand prosperous, care may need to be taken to ensure that

rural electorates do not become so few in number that prompt and fair representation is not easy for politicians, nor ready face-to-face access for constituents to representatives.

3. Electoral integrity legislation.

I have no problem with candidates who may not have been successful in gaining their electorate vote being included in party lists, as not everyone can win an electorate. An unsuccessful electorate candidate's background may enable them to offer insight(s) or skill(s) that would make them valuable in helping increase their party understanding of particular local, sectoral, or national conditions and thereby shape policy with greater understanding of citizens' needs.

Consider parliamentarians who quit parties prior to general elections should be required to test their continued participation in parliament at a by-election.

Have a preference for limited tax-payer election funds, to avoid undue influence by well-heeled pressure groups. (History has shown that wealth and influence tend to go hand in hand. Regrettably, statistics over the last few decades have shown increasing disparity in distribution of wealth here and overseas. As long as this is the case, and election or special interest funding is relatively unconstrained, there is no guarantee that the interests of New Zealand as a whole will be taken into account in legislation).

Alternatively, there should be limits to party election funding and amounts provided for the latter should be transparently recorded and be subject to verification by a public sector agency or agencies.

For example, I would like to see legislation requiring transparency with regard to all party funding of \$1000 or above (including separate sums to different candidates of the same party matching or exceeding \$1000 in total). A requirement to provide real-time disclosure of external financial support of would-be members of the House of Representatives and their parties in publicly available registers would enable the voter to assess potential influence on policy decisions by those able to use more disposable income than others to promote their interests and thereby influence election advertising, polling and outcomes.

To ensure full transparency, steps should also be taken to change the rules allowing financial support to be hidden via trust, or politicians to deny awareness of significant sources of funding as these practices also enable groups and individual donors to wield invisible power over policies and elections.

Aggregated and overseas ownership of newspapers; rapidly shrinking numbers of paid journalists; abandonment of the New Zealand Press Association collaborative network, and proliferation of corporate as opposed to public sector funded broadcasting, mean that the population is receiving less investigative and effective journalism operating as a critical element observing and bringing to light otherwise unrecognised issues observable in government policy-making or operations.

The need to keep advertisers happy patently constrains views expressed by journalists in the corporate media.

New Zealand governments have failed to maintain or put effective, non-partisan policies in place to ensure truly independent, public broadcasting free long-term of fear of budget cuts or conflicting commercial demands. Resources for independent public broadcasting have been shrunk to a point at

which fundamental infrastructure for quality output and historical content archives have been sold or licensed to commercial entities for their on-going exclusive use along with channels for digital use and democratic expression. With that loss of historical evidence, goes ability to make accurate analogies for the present and future, from evidence of the past.

Furthermore, government desire to keep its party and business interests uncritical of its broadcasting or film content or practice, (e.g. projection of a documentary on poverty, not long before the 2011 election,) would appear to be influencing broadcasting by Radio New Zealand, and policies of New Zealand on Air, judging from carefully hedged broadcasting question and comments and appointments to boards overseeing such entities, as leading journalists have noted..

A free society needs editorially and advertisement-free broadcasting of news. A society brought up to expect otherwise, cannot expect basic human values and rights to be acknowledged and expressed.

Inclusion of Archives New Zealand in the Department of Internal Affairs removed necessary independence of public sector archive management from potential government interference. This needs to be reversed, to avoid interference with official record-keeping of government affair and potential distortion of history.

I have some concerns with the Westminster system with its formal opposition and processes involving confidence and supply and prefer the Swiss system which facilitates focus on what the population wishes to resolve in the country's interest, rather than opposition for the sake of opposition.

Crown-Māori relationship matters:

- 1. Māori representation including: the Māori Electoral Option; Māori electoral participation; and Māori seats in Parliament and local government.**

Perceive that Māori should retain the option of choosing to vote on a Māori, or general electoral roll as desired.

- 2. The role of the Treaty of Waitangi within New Zealand's constitutional arrangements.**

I believe retention of the Sovereign as Head of State has benefits in assisting Treaty of Waitangi undertakings to Maori whose interests in important ways (for example, respecting the land as a shared resource) is also important to the country and for other New Zealanders.

Other constitutional matters:

- 1. Whether New Zealand should have a written constitution.**

Would prefer an amended New Zealand Bill of Rights Act 1993 to be supreme law, as along with the Law Society I perceive that there is not always "enough consideration given to human, social and cultural values and rights in many processes determining legislation put through the house."

This shortcoming is exemplified by public reactions to the intrinsic loss of privacy and brief time allowed for consultation on the Government Communications Security Bureau and Related Rights Bill.

Likewise in weighting of civil interests in diplomatic dealings that affect economic, social, cultural and human rights and the environment in negotiations such as those involved latterly in the Trans-Pacific Partnership negotiations.

Consider that for true democracy, with regard to treaties, with the possible exception of those concluded for defence, the Cabinet should obtain prior approval of the House of Representatives, and this to be with at least a two-thirds majority.

Given aggregation of world powers; gradually shrinking world resources; complementarity of natural features, regional focus, and primary language of most of the population, in the longer term, I think there may be possible advantage in New Zealand's taking up the potential found in Australia's constitution of either being incorporated as a state of Australia or better still, carefully negotiating to form part of a renamed, greater entity: Australasia.

There are elements in the Japanese constitution (excerpts quoted in an Appendix) that I think would be worthy of consideration in any potential New Zealand Constitution.

It would be a major step forward for humankind if New Zealand and every other country were to adopt the content of "Chapter II: Renunciation of war" in Japan's constitution as a matter of principle.

I think a particular rider in Article 14 of that Constitution would translate well into our situation: "No privilege shall accompany any award of honor, decoration or any distinction, nor shall any such award be valid beyond the lifetime of the individual who now holds or hereafter may receive it."

However if the New Zealand Bill of Rights Act 1993 was not made supreme law, I would be open to the development of a constitution for New Zealand. I would ask however how this would be developed to take into account Pacific Island interests for which New Zealand is responsible.

2. Bill of Rights issues.

Would like other legislation to be subordinate to the New Zealand Bill of Rights Act 1993, amended to take human, cultural and social values into greater consideration. See above.

Concur with the New Zealand Law Society "Submission to the 18th Session of the Human Rights Council: Shadow Report to New Zealand's Universal Periodic Review" re their generic application recommendations: R1, 3-7, 9-11.

3. Aspirations for New Zealand

You have asked what kind of a country we would like to live in. A recent commentator to the New Zealand Herald put it well:

"Wiseacre (New Zealand)

<http://www.nzherald.co.nz/profile/comments-by.cfm?user=53491&page=0>

11:15 AM Friday, 2 Aug 2013

"I want to live in an egalitarian New Zealand.

...

A New Zealand that doesn't blame unemployment on the unemployed; that doesn't blame poverty on the poor; that doesn't punish the poor for being poor.

A New Zealand that considers money spent on helping people as an investment, not a cost.

A New Zealand where the public good takes precedence over the corporate good.

A New Zealand where profits don't take precedence over people.

A New Zealand that recognises the true contribution working people make by paying living wages, providing good working conditions, and showing a little respect.

A New Zealand that doesn't screw down wages & conditions for workers while gifting CEO's with obscene salary hikes and bonuses.

A New Zealand that recognises that we are all in this together, and that nobody gets rich alone."

This fits well with points made by the Secretary-General of the OECD and encapsulated in a speech by the Director General of the International Monetary Fund in 2011 (italics mine):

"IMF research suggests that inequality can make countries more prone to financial crises, especially if associated with a large financial sector. IMF research also shows that sustainable growth over □ is associated with a more equal income distribution. *We need policies to reduce inequality, and to ensure a fairer distribution of opportunities and resources.*"

"Strong social safety nets combined with progressive taxation can dampen market-driven inequality. A few thousand years ago, Aristotle wrote that 'The best partnership in a state is the one which operates through the middle people. *Those states in which the middle element is large have every chance of having a well-run constitution.*'"

"This was true in the time of Aristotle, it was true in the time of Keynes, and it is true today. Stability depends on a strong middle class that can propel demand. We will not see this if growth does not lead to decent jobs, or if growth rewards the favored few over the marginalized many."

"Ultimately, employment and equity are building blocks of economic stability and prosperity, of political stability and peace."

APPENDIX – Excerpts from the Japanese Constitution, for easy reference.

From the Constitution of Japan promulgated November 3 1946

Preamble

Government is a sacred trust of the people, the authority for which is derived from the people, the powers of which are exercised by the representatives of the people, and the benefits of which are enjoyed by the people

We, the Japanese people, desire peace for all time and are deeply conscious of the high ideals controlling human relationship, and we have determined to preserve our security and existence, trusting in the justice and faith of the peace-loving peoples of the world. We desire to occupy an honored place in an international society striving for the preservation of peace, and the banishment of tyranny and slavery, oppression and intolerance for all time from the earth. We recognize that all peoples of the world have the right to live in peace, free from fear and want.

We believe that no nation is responsible to itself alone, but that laws of political morality are universal; and that obedience to such laws is incumbent upon all nations who would sustain their own sovereignty and justify their sovereign relationship with other nations.

We, the Japanese people, pledge our national honor to accomplish these high ideals and purposes with all our resources.

Chapter 1

Article 1. [The Queen/King] shall be the symbol of the State and of the unity of the People, deriving his[/her] position from the will of the people with whom resides sovereign power.

Article 4. The [Queen/King] shall perform only such acts in matters of state as are provided for in this Constitution and he/she shall not have powers related to government.

The [Queen/King] may delegate the performance of his[/her] acts in matters of state as may be provided by law

...

Article 7. The [The Queen/King], with the advice and approval of the Cabinet, shall perform the following acts in matters of state on behalf of the people:

Promulgation of amendments of the constitution, laws, cabinet orders and treaties.

Convocation of the Diet.

Dissolution of the House of Representatives.

Proclamation of general election of members of the Diet.

Attestation of the appointment and dismissal of Ministers of State and other officials as provided for by law, and of full powers and credentials of Ambassadors and Ministers.

Attestation of general and special amnesty, commutation of punishment, reprieve, and restoration of rights.

Awarding of honors.

Attestation of instruments of ratification and other diplomatic documents as provided for by law.

Receiving foreign ambassadors and ministers.

Performance of ceremonial functions.

Chapter II: RENUNCIATION OF WAR

"Article 9. Aspiring sincerely to an international peace based on justice and order, the Japanese people forever renounce war as a sovereign right of the nation and the threat or use of force as means of settling international disputes.

In order to accomplish the aim of the preceding paragraph, land, sea, and air forces, as well as other war potential, will never be maintained. The right of belligerency of the state will not be recognized. "

Chapter III: RIGHTS AND DUTIES OF THE PEOPLE

Like most of this chapter, but in respect of Article 14, accept the offering of peers and peerage, but like the rider:

"No privilege shall accompany any award of honor, decoration or any distinction, nor shall any such award be valid beyond the lifetime of the individual who now holds or hereafter may receive it."

Article 11. The people shall not be prevented from enjoying any of the fundamental human rights. These fundamental human rights guaranteed to the people by this Constitution shall be conferred upon the people of this and future generations as eternal and inviolate rights.

Article 12. The freedoms and rights guaranteed to the people by this Constitution shall be maintained by the constant endeavor of the people, who shall refrain from any abuse of these freedoms and rights and shall always be responsible for utilizing them for the public welfare.

Article 13. All of the people shall be respected as individuals. Their right to life, liberty, and the pursuit of happiness shall, to the extent that it does not interfere with the public welfare, be the supreme consideration in legislation and in other governmental affairs.

Article 14. All of the people are equal under the law and there shall be no discrimination in political, economic or social relations because of race, creed, sex, social status or family origin.

Peers and peerage shall not be recognized.

No privilege shall accompany any award of honor, decoration or any distinction, nor shall any such award be valid beyond the lifetime of the individual who now holds or hereafter may receive it.

Article 15. The people have the inalienable right to choose their public officials and to dismiss them.

All public officials are servants of the whole community and not of any group thereof.

Universal adult suffrage is guaranteed with regard to the election of public officials.

In all elections, secrecy of the ballot shall not be violated. A voter shall not be answerable, publicly or privately, for the choice he has made.

Article 16. Every person shall have the right of peaceful petition for the redress of damage, for the removal of public officials, for the enactment, repeal or amendment of laws, ordinances or regulations and for other matters; nor shall any person be in any way discriminated against for sponsoring such a petition.

Article 17. Every person may sue for redress as provided by law from the State or a public entity, in case he has suffered damage through illegal act of any public official.

Article 18. No person shall be held in bondage of any kind. Involuntary servitude, except as punishment for crime, is prohibited.

Article 19. Freedom of thought and conscience shall not be violated.

Article 20. Freedom of religion is guaranteed to all. No religious organization shall receive any privileges from the State, nor exercise any political authority.

No person shall be compelled to take part in any religious act, celebration, rite or practice.

The State and its organs shall refrain from religious education or any other religious activity.

Article 21. Freedom of assembly and association as well as speech, press and all other forms of expression are guaranteed.

No censorship shall be maintained, nor shall the secrecy of any means of communication be violated.

Article 22. Every person shall have freedom to choose and change his residence and to choose his occupation to the extent that it does not interfere with the public welfare.

Freedom of all persons to move to a foreign country and to divest themselves of their nationality shall be inviolate.

Article 23. Academic freedom is guaranteed.

Article 24. Marriage shall be based only on the mutual consent of both sexes and it shall be maintained through mutual cooperation with the equal rights of husband and wife as a basis.

With regard to choice of spouse, property rights, inheritance, choice of domicile, divorce and other matters pertaining to marriage and the family, laws shall be enacted from the standpoint of individual dignity and the essential equality of the sexes.

Article 25. All people shall have the right to maintain the minimum standards of wholesome and cultured living. In all spheres of life, the State shall use its endeavors for the promotion and extension of social welfare and security, and of public health.

Article 26. All people shall have the right to receive an equal education correspondent to their ability, as provided by law.

All people shall be obligated to have all boys and girls under their protection receive ordinary education as provided for by law. Such compulsory education shall be free.

Article 27. All people shall have the right and the obligation to work.

Standards for wages, hours, rest and other working conditions shall be fixed by law.

Children shall not be exploited.

Article 28. The right of workers to organize and to bargain and act collectively is guaranteed.

Article 29. The right to own or to hold property is inviolable.

Property rights shall be defined by law, in conformity with the public welfare.

Private property may be taken for public use upon just compensation therefor.

Article 30. The people shall be liable to taxation as provided by law.

Article 31. No person shall be deprived of life or liberty, nor shall any other criminal penalty be imposed, except according to procedure established by law.

Article 32. No person shall be denied the right of access to the courts.

Article 33. No person shall be apprehended except upon warrant issued by a competent judicial officer which specifies the offense with which the person is charged, unless he is apprehended, the offense being committed.

Article 34. No person shall be arrested or detained without being at once informed of the charges against him or without the immediate privilege of counsel; nor shall he be detained without adequate cause; and upon demand of any person such cause must be immediately shown in open court in his presence and the presence of his counsel.

Article 35. The right of all persons to be secure in their homes, papers and effects against entries, searches and seizures shall not be impaired except upon warrant issued for adequate cause and particularly describing the place to be searched and things to be seized, or except as provided by Article 33.

Each search or seizure shall be made upon separate warrant issued by a competent judicial officer.

Article 36. The infliction of torture by any public officer and cruel punishments are absolutely forbidden.

Article 37. In all criminal cases the accused shall enjoy the right to a speedy and public trial by an impartial tribunal.

He shall be permitted full opportunity to examine all witnesses, and he shall have the right of compulsory process

for obtaining witnesses on his behalf at public expense.

At all times the accused shall have the assistance of competent counsel who shall, if the accused is unable to secure the same by his own efforts, be assigned to his use by the State.

Article 38. No person shall be compelled to testify against himself.

Confession made under compulsion, torture or threat, or after prolonged arrest or detention shall not be admitted in evidence.

No person shall be convicted or punished in cases where the only proof against him is his own confession.

Article 39. No person shall be held criminally liable for an act which was lawful at the time it was committed, or of which he has been acquitted, nor shall he be placed in double jeopardy.

Article 40. Any person, in case he is acquitted after he has been arrested or detained, may sue the State for redress as provided by law.

84

From:
To: ~constitutionalreview@justice.govt.nz>
Date: 8/04/2013 11:45 a.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

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

Full Names: Craig Gordon Organisation Name: Email:
Phone: Postal AddressA: Postal AddressB: Postal City: Auckland Postal Region:
Postal Post Code: Postal Country: New Zealand Submission: Remove compulsory business
closures on days like Christmas and Easter, remove Maori electorate seats and remove religion in the
education system such as the 'bible in schools' programme.

All of which are contrary to the Bill of Rights and a fair and democratic society, something New
Zealand should be.

Sent on the 8 April 2013 at 10:43

1692

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 28/06/2013 1:11 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

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

Full Names: Glenn Gordon Organisation Name: Email: Phone:
Postal AddressA: Postal AddressB: Postal City: Auckland Postal Region:
Postal Post Code: Postal Country: New Zealand Submission: 1. What we have now as a so
called constitution is Ok but needs to be altered in a way that it will stop judges & clever dick
lawyers from over ruling laws etc on an overlooked technicality. Any changes to waht we have now
should be carried out by a binding
referendum that is set up so that everyone can understand easily what the referendum is actually
about unlike the farce that was the MMP referendum which needed to be read a few times to get your
head around it, to the point that a lot of people I know did
not know what they were voting for. Common sense should be considered when altering or changing
any laws, constitution etc & everything debated, reviewed or changed should take into account
common sense which does not happen now. Furthermore if the constitution
is altered the farce which we call the treaty that was reinterpreted to line the pockets of maori needs
to be returned to it's original meaning & translation where we are all equal & under one rule.
I can only assume that because maori are more than willing
to take all the treaty settlements (even those that did not sign the treaty) that they will then honour
their side of the treaty & give their soverienty to the crown.

As this review was brought about by maori why is there no mention as to the intention of the people
that will report back the government. The three questions that you would like feedback on are very
misleading as there is no mention of what the questions relate
to in terms of the treaty, & if there was reference to the treaty then people would & could
look at it from a different angle.

2. As long as the constitution treats everyone equally then it should have a higher status than other
laws. If any mention of the treaty is included then by default it will allow a judges personal opinion
& someones interpretation of any given scenario to change
the meaning. The treaty is a classic example of a simple document (that was enacted to create an
environment where all people in a very primitive & savage NZ could live in peace) which was
reinterpreted by stealth which is not unlike what is happening now
in this review.

3. The people by way of an easily understood referendum should have the power to decide if
legislation is consistant with the constitution is the only fair way of doing it as we cannot leave it up to
elected politians or judges to make the decision as they
do not allow for common sense & all have their own views & agendas so why should so
few be able to make decisions that affect so many. the only other way would be to campaign on it at
election time.

Sent on the 28 June 2013 at 13:10

2829

From: Ken Gordon
To: "constitutionalreview@justice.govt.nz" <constitutionalreview@justice.gov...
Date: 5/07/2013 3:47 p.m.
Subject: CAP Submission

Hi

The Maori seats should be abolished as this is a policy based on racism(apartheid).the retention is also against the UN charter on human rights.

Sent from my iPad

319

From:
To: <constitutionalreview@justice.govt.nz>
Date: 14/04/2013 4:34 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

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

Full Names: Dick Antoine GORIS Organisation Name: Email: Phone:
Postal AddressA: Postal AddressB:
Postal City: Auckland Postal Region: Auckland Postal Post Code: Postal Country:
New Zealand Submission: 1. Aspirations for Aotearoa New Zealand?

Has the name of our country changed to this or will it change to this? I notice in all your documents when it comes to the future of our nation you refer to it as Aotearoa New Zealand or ANZ for short are you being PC or is the name of our nation changing to reflect bi / dual cultural-ism which our country is not. It is multicultural. Or is this just going to happen automatically without consultation? New Zealand was named by Abel Tasman and thus know to the rest of the world it would be rewriting history. It would be an insult to the people of the Netherlands who are very proud of this name and have contributed greatly to this nation and are still represented some how 10 pc of the population. Maori may not all be happy with the name Aotearoa as they are people of the land Tanga Te Whenua and had no concept of "land of the long white cloud" in early times, this concept is only visible since being observed by an aeroplane.

Thus NEW ZEALAND should be

Multicultural Peaceful Safe Prosperous

Independent Democratic Monarchy - Commonwealth Country

Equity across every sector of Society

Respectful and proud of it's traditions embracing the future

Respectful of it's environment "truly green and clean"

Innovative Unique Leader

The Treaty of Waitangi should be a stand alone founding document the laws of our country supporting case law as they are now. The constitution should be fundamental not open to miss use. E.g. At the moment in the USA the gun lobby can hide behind the 2nd amendment of the America Constitution the right to bear and keep arms.

2. Our country should be run in a similar way it is done now. With a few important changes:

Maori seats are a form of apartheid and have now well and truly served their purpose. Maori are now well represented by MMP. I am not Maori but am never unable to vote for certain Maori leaders I wish to vote for because of my colour or heritage even though I am a NZ citizen. Maori have the strategic unfair advantage of casting a possibility of 4 votes before they decide what roll they will be on. It is also unconstitutional that non Maori only have a 2 vote possibility to vote Maori and where there is no Maori in your local electorate seat only 1 party vote to vote Maori. Perhaps we should all be declared Maori people of this land when we are born here or become a New Zealand citizen. Then we would have equity in rights and land.

Our 3 year term is perfect for a small country and if an electorate MP resigns there should not be a by election until all next on the list have been exhausted. We should never give up our independence and become a Federation of Australia or become a Republic because that country does. We are also too small to be a Republic and there is not enough depth in this country to find a suitable candidate for President and go back to two houses of representatives. We have enough layers of national and local government. Also Presidential elections are costly and a waste of money.

Sent on the 14 April 2013 at 16:33

1518

From: Eileen Gotlieb
To: <constitutionalreview@justice.govt.nz>
Date: 22/06/2013 11:57 a.m.
Subject: Equal rules for all New Zealanders

As New Zealand is a very small populated country in an isolated part of the world. I believe that creating a swift in power to a few tribal elite Moari will not benefit all New Zealanders.

Moari have the ability to become government staff along with all other New Zealanders creating positions by right of race denotes racial inequality. By right of area is acceptable.

I believe that having all Moari claims settled by 2010 was stressed by previous governments and to hear there are still claims crippling the economy is disturbing in view of world economic situation and the domestic situation. eg the Christchurch earthquake. To hear politicians saying that these claims eg (to airwaves over the country) could not be stopped in the future or any other claim to sovereignty is disturbing.

I personally accept that the wrongs of the historical governments during colonisation be put more on a equal footing but now it is wrongly going to extremes the other way.

Equal tax laws
Equal rights to New Zealand without paying fees to live in New Zealand apart of tax fees.
A end to all claims it is crippling the country for all New Zealanders.

Regards
Eileen Gotlieb

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.

Campbell Gough
Auckland
New Zealand

4810

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 31/07/2013 4:19 p.m.

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

Full Names: MacDonald Paul Gourlie Organisation Name: Email:
Phone: Postal AddressA: Postal AddressB:
Postal City: Postal Region: OTAGO Postal Post Code: Postal
Country: New Zealand Submission: Kia Ora Whanau Family Friends, Always trust and Pray you
are enjoying all the benefits promised in Te Tiri o Waitangi Treaty of Waitangi and our countries
Anthem Aotearoa God Defend New Zealand.

A single constitution as endorsed and understood by New Zealanders whanau family friends that
include our Values of manakitanga Care and Respect of all People, kaitiakianga Care of our
Environment, Maturanga Oranga Access to our Education and Health, Mahitanga
Enterprise and Employment transparent and accountable, Te Tiri o Waitangi The Treaty of Waitangi
Living the Partnership with Tangata Whenua and all the people who have and will follow the Crown,
Wairuatanga Spiritual Respect

The constitution need to protect our unique culture from the eldest members to the youngest family
members who have arrived in Aotearoa New Zealand. to give recognition to us as diverse peoples
respecting each others believes and cultures which in turn unify
us in our own Culture which belongs to the land and people of this country. To maintain and respect
Tangata Whenua as the elderst members of our Country whanau family friends in relationship to
healthy Governance.

The Constitution must hold all people to account with equity and be easily understood, written on one
side of one peace of paper and easily upheld.

The Constitution must recognized Te Tiri o Waitangi The Treaty of Waitangi as our foundation
document and uphold as ongoing our partnership. When it is good for Tangata Whenua it is good for
All.

I wish to be heard before the Select Committee to give voice as a New Zealander and fuller
explanation as one who grows here day by day, learning the importance of my responsibilities and
rights in our country and the world as a whole.

With Respect

to manawa e toku manawa

MacDonald Paul Gourlie

New Zealander

Kia Ora ano

4810a

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 31/07/2013 4:23 p.m.

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

Full Names: MacDonald Paul Gourlie Organisation Name: Email:
Phone: Postal AddressA: Central Post Office Postal AddressB:
Postal City: Postal Region: Otago Postal Post Code: Postal Country:
New Zealand Submission: Kia Ora Whanau Family Friends, Always trust and Pray you are
enjoying all the benefits promised in Te Tiri o Waitangi Treaty of Waitangi and our countries Antheme
Aotearoa God Defend New Zealand.

A single constitution as endorsed and understood by New Zealanders whanau family friends that
include our Values of manakitangata Care and Respect of all People, kaitiakianga Care of our
Environment, Matauranga Oranga Access to our Education and Health, Mahitanga
Enterprise and Employment transparent and accountable, Te Tiri o Waitangi The Treaty of Waitangi
Living the Partnership with Tangata Whenua and all the people who have and will follow the Crown,
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us in our own Culture which belongs to the land and people of this country. To maintain and respect
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explanation as one who grows here day by day, learning the importance of my responsibilities and
rights in our country and the world as a whole.

With Respect

to manawa e toku manawa

MacDonald Paul Gourlie

New Zealander

Kia Ora ano

48106

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 31/07/2013 4:46 p.m.

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

Full Names: MacDonald Paul Gourlie Organisation Name: Email:
Phone: Postal AddressA: Postal AddressB:
Postal City: Postal Region: Otago Postal Post Code: Postal Country:
New Zealand Submission: Kia Ora Whanau Family Friends, Always trust and Pray you are
enjoying all the benefits promised in Te Tiri o Waitangi Treaty of Waitangi and our countries Antheme
Aotearoa God Defend New Zealand.

A single constitution as endorsed and understood by New Zealanders whanau family friends that
include our Values of manakitanga Care and Respect of all People, kaitiakianga Care of our
Environment, Matauranga Oranga Access to our Education and Health, Mahitanga
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Living the Partnership with Tangata Whenua and all the people who have and will follow the Crown,
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respecting each others believes and cultures which in turn unify
us in our own Culture which belongs to the land and people of this country. To maintain and respect
Tangata Whenua as the elderst members of our Country whanau family friends in relationship to
healthy Governance.

The Constitution must hold all people to account with equity and be easily understood, written on one
side of one peace of paper and easily upheld.

The Constitution must recognized Te Tiri o Waitangi The Treaty of Waitangi as our foundation
document and uphold as ongoing our partnership. When it is good for Tangata Whenua it is good for
All.

I wish to be heard before the Select Committee to give voice as a New Zealander and fuller
explanation as one who grows here day by day, learning the importance of my responsibilities and
rights in our country and the world as a whole.

With Respect

to manawa e toku manawa

MacDonald Paul Gourlie

New Zealander

Kia Ora ano

4418¹¹

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 31/07/2013 11:47 a.m.
Attachments: Constitution 5a.rtf

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

Full Names: Alexander James Govan Organisation Name: Email:
Phone: Postal AddressA: Postal AddressB: Postal City: Dunedin Postal Region:
Postal Post Code: Postal Country: New Zealand Submission: Submission Upload:
Constitution 5a.rtf

Submitted on the 31 July 2013 at 11:46

Constitutional Advisory Panel Submission
[Author requests name confidentiality.]

While I welcome the chance to participate in this constitutional conversation, it is my opinion that there are many New Zealand voices left unheard, given; the constraints of the terms of reference, submission format, and particularly the timeframe involved. Of those with whom I have recently discussed the Constituion, only one is likely to make their own submission and they didn't realise the submission date had been extended to the end of July. Thus I do not believe that the recommendations of this Constitutional Advisory Panel should be binding or lead immediately to the drafting of a new constitution of New Zealand.

I have attempted to address each of the question points in the submission guide, but so far many of my answers are little more than notes lacking references or extended explanations. I have placed these replies at the end of my submission.

Firstly, we have to consider what kind of country this constitution is for. Are we to remain part of the Commonwealth, federalise with Australia, become a Republic, or some other form of Nation? Until that question is answered we should be cautious about proceeding too quickly in crafting a new constitution.

The main thing that our system of government seems to presently lack is an upper house since the government abolished the Legislative Council of New Zealand in 1950. The UK has their House of Lords, the USA their Senate – all we have is an empty room.

Replies to Submission Guide Questions:

NZ Constitution

Eventually consolidate into a Single Document after further discussion followed by referendum on text alternatives, maintain status quo for now.

Supreme Law – requiring supermajority to amend. If one existed, an upper house would also have to pass the amendment too.

Court determination of constitutionality. Parliament's task is to craft good laws, they should not also be the ones to test those laws' effectiveness.

Bill of Rights

Inadequate at present as it can be so easily ignored by lawmakers.

[other rights protection] Probably desirable (especially Privacy rights), but lets get what we've got working first.

Supreme Law

Court determination

[additional rights] See other rights.

Treaty of Waitangi

[role in constitution] Yes – but also 1835 Declaration of Independence recognition.

[formality] Incorporate into constitution as appendix in both languages. Quote in single main page of constitution: Succinctness being a virtue when it comes to teaching people (particularly children) to remember a text.

Maori Representation

[views] I wish one general roll was enough to assure Maori participation in government. As things actually are, the Maori seats are an essential guarantee of Maori inclusion in parliament.

However, the defining of Maori solely as descendants of Maori does exclude those who have been accepted into whanau through marriage, or Iwi through other actions. There should be some way for non-Maori to become Maori for the purposes of the electoral roll even if the number of people wanting to do so is small. I suggest that representatives of each Iwi (probably Kaumatua &/ or Rangatira) be allowed to declare at each Maori/ General decision point new members of the tribe who have been recognised as Maori since the last roll update. Plus this decision should be better coordinated with the voting cycle; say in the leadup to an election when general roll enrollments are being encouraged. Also, I feel this would go some way to defusing the accusations of racism that are too frequently leveled at the Maori roll.

[participation] Something has to be done to improve Maori roll participation, perhaps some education/ publicity campaign to get people to enroll and vote in the right electorate (and maybe to avoid casting special votes).

For the 11,222 votes counted in the recent Ikaroa Rawhiti by-election, a further 861 special votes were disallowed (7% of the combined total of 12083, with 53% of special votes being disallowed!); making Disallowed Special Votes the 5th biggest voting block - a mere 390 votes behind the Green Party candidate vote.

This is worse than the special vote disallowal in the same electorate of 630 out of 2826 (22%) at the 2011 election. Which was higher than the Maori roll overall special vote disallowal of 17% that was itself markedly higher than the General roll's special vote disallowal rate of 7% (by contrast, this was 4.4% in Epsom).

This is not the image of a healthy voting system.

[local government] Continue with Maori Wards as an option when wider community accepts. Iwi consultation is also a good thing – kaitiakitanga and treaty principles being relevant to most council decisions.

Electoral Matters

120 lower house, [30?] upper house

3 year term in parliament (lower house).

Election date by Government consensus/ PM announcement. As they would have best information on viability of current coalition. Minimum warning time for snap election of a couple of months.

[Electorate size and number] Depending on population – say 1 MP: 33,333 voters (guesstimate: 120 X 33333 = 4 million). Compulsary voting (with possibility of fine for non-compliance - as per census), including provision for no-confidence for those inclined so to vote.

Party split should vacate list seat, Constituent seat should force by-election unless in last year of term then optional.

Other Issues

Constitution to be written in ANZ by and for ANZers.

Aotearoa/ New Zealand (ANZ) should become Aotearoa/ Zealand (AZ) [idea from a friend who won't make a submission himself. Azerbaijan already has the Country Code though.]

Upper House representatives to be proportionally elected for longer term (6 years) [requiring possibility of citizen initiated recall?].

Upper house primary function to error check and assess performance of existing & new law.

President/ Kiwi head of state at time of constitutional consolidation [Maori King constitutional monarchy?]?

Upper house/ president veto?

Limits on use of urgency.

Select Committee requirement to pay attention to submissions when overwhelming consensus evident.

If a party gathers sufficient votes to win 2 seats worth of party vote, then they should get them. 1 seat is not a parliamentary party – so constituency only.

Referenda thresholds reduced. Include in 3 yearly vote as optional supplement (with voting in main election only being compulsory). Binding with supermajority of total votes.

88

From:
To: <constitutionalreview@justice.govt.nz>
Date: 8/04/2013 1:43 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

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

Full Names: Hayley Gowan Organisation Name: Email: Phone:
Postal AddressA Postal AddressB: Postal City:
Postal Region: North Island Postal Post Code: Postal Country: New
Zealand Submission: 1. NZ should be fair and treat all citizens equally, no one person, group, or
race should receive preferential treatment over the majority. The treaty of Waitangi has no place in
the future of NZ, it has been misused and misinterpreted to the detriment
of all people in NZ and has caused nothing but governmentally installed apartheid.

2. The country should be run by a board of directors - maximum of 12 people who are held
accountable to the citizens of NZ. If they stuff up, they are fired, without a huge payout. And they
should not be entitled to a massive superannuation entitlement and
other free perks such as travel at the tax payers expense for the rest of their life. Many of the people
who hold these positions are wealthy/millionaires in their own right. It should be a privilege to be part
of the running of our country not a gravy train.
No race or minority group should have special seats allowing them more say than the rest of the
population.

Sent on the 8 April 2013 at 12:41

87

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

From:
To: <constitutionalreview@justice.govt.nz>
Date: 8/04/2013 1:15 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

Sent from The Constitution Conversation.

Full Names: Shane Gowan

Organisation

Name:

Email:

Phone:

Postal

AddressA:

Postal

AddressB:

Postal City:

Postal Region:

Postal Pos

Code:

Postal New Zealand

Country:

Submission: I wish New Zealand to offer equality to all, no one race being given advantages over another. All of us need to work together to make this country successful. Looking to the past, dragging up old greivances solves nothing, it creates resentment. Offering one race advantages over another does exactly the same, creates resentment and division. In these tough times we all need to pull together. The Treaty Of Waitangi needs to be interpreted in the spirit it was written, not giving one people advantages over the other.

New Zealand needs to have a democraticallt elected government that creates laws, the current system works well, this does not need to be changed.

Sent on the 8 April 2013 at 12:13

87a

From:
To: <constitutionaireview@justice.govt.nz>
Date: 8/04/2013 1:28 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

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

Full Names: Shane Gowan Organisation Name: Email:
Phone: Postal AddressA: Postal AddressB: Postal City:
Wanganui Postal Region: Postal Post Code: Postal Country: New Zealand
Submission: The treaty of Waitangi should have absolutely no part in shaping our constitution,
should one be required. As it stands the treaty is too open to interpretation and manipulation in favour
of one race, this is unfair, and as such would slant any legislation
to the favour of one race. The treaty was originally written to guarantee equality, and equal rights, this
is not currently the case.

For the above reason, I strongly believe the Treaty should have no part in the shaping of any future
constitution.

Sent on the 8 April 2013 at 12:26

876

From:
To: <constitutionalreview@justice.govt.nz>
Date: 8/04/2013 1:22 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

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

Full Names: Shane Gowan Organisation Name: Email:
Phone: Postal AddressA: Postal AddressB: Postal City:
Wanganui Postal Region: Postal Post Code: Postal Country: New Zealand
Submission: I believe our current collection of laws are sufficient, and work well, I do not see the need for a single document to replace them, as the current collection of laws are working well, and are flexible enough to remain current.

I do not believe any constitutional document should have precedence over the relevant laws, as this will create discrepancies and other issues that could lead to an unfair system.

Parliament should be the only system to determine laws and legislation, otherwise you will end up with a system like the USA where judges are appointed depending on whether they are sympathetic to a certain cause or not. As it stands an elected parliament makes and passes legislation, which is the fairest system of all.

Sent on the 8 April 2013 at 12:20

2221

From: Rees Gowans
To: <constitutionalreview@justice.govt.nz>
Date: 3/07/2013 2:10 p.m.
Subject: CAP Submission

Abolish the seats please and get rid of race based politics

U705

Submission to the Constitutional Advisory Panel regarding Parliamentary Term

LAWS420 Assignment

Alex Gower

Student ID

1.0 Introduction

The Parliamentary term in New Zealand is three years, at which time a general election must be held¹. Limiting the term of Parliament means that we, as voters, regularly get a chance to influence who our representatives are and that they are doing a good job. We arrive at a trade-off between the competing ideals of effective government and voter sovereignty when debating how long the term ought to be.

2.0 A Brief History

New Zealand's Parliamentary term was originally five years as the Constitution Act 1852 followed English benchmark at the time. In 1879, the power of our central government was bolstered by the abolishment of provinces so the term was reduced to three years. New Zealand has had several extensions due to WWI & II and an attempt in 1934 to extend to four years by the Forbes Government. This was met with public disfavour and repealed by the following regime.

The 3 year parliamentary term has weathered two national referendums in 1967 and 1990, which both were in favour of staying at the 3 year maximum:

Sep 1967 Referendum: 70% turnout, 68.1% vote to stay at 3years

Oct 1990 Referendum: 85% turnout, 69.3% vote to stay at 3years

However, a recent opinion poll on popular news website Stuff.co.nz, during Feb 2013 asked, "Should Parliament have a four-year term?" a very different result was observed². The sample size is quite low at only 3889 surveyed, but it is possible that with the introduction of MMP, the popular view may be changing. The voting distribution was as follows:

Yes: 2394 votes, 61.6%

No: 1495 votes, 38.4%

3.0 Where does New Zealand sit in relation to the rest of the world?

The majority of developed countries have a four, or even five year term, however, comparing with other countries can be misleading since the underlying political systems are different from our one in New Zealand. Most other countries have more restraints on legislating powers such as a federal system, a bicameral system with a Second Chamber or other back-stops such as a written constitution.

Another factor is that, although other countries terms are longer, they do not always run for the full length. A commonly identified problem is that elections are often held in periods of political stability which makes for an attractive time for the current Government to be re-elected.

¹ Constitution Act 1986, Section 17(1)

² <http://www.stuff.co.nz/national/politics/8270952/Key-wants-four-year-term-for-Parliament>

4.0 Parliamentary Term Length

4.1 A Shorter Term?

The advantage of having a shorter term is that we, as voters, get an increased level of control over our Government. Politicians are more frequently accountable for their actions and less able to sweep failures under the rug. However, a term shorter than three years would significantly reduce the ability and effectiveness of new Government policies. It will unnecessarily increase the costs of election for parties and also the taxpayer. The corresponding increase in accountability is not enough to compensate for these and the Royal Commission agrees that it would 'strike the wrong balance between effective government and voter sovereignty'³. I do not believe there is any evidence that supports a decrease.

4.2 A Longer Term?

The problem with increasing our term is that, although we appear to be behind other developed countries in length, there are often other checks and balances in the democratic process that don't exist in New Zealand. We retain a unicameral legislature, we lack an entrenched Bill of Rights, we do not have primary or recall elections, and we do not have a head of state with veto power. What we do have is mixed-member proportional representation (MMP), which came into effect in 1994 and changed the stage that this argument takes place on. This is important because it is the first time that our Parliamentary term has been readdressed since New Zealand adopted MMP. Minority parties are given better representation under MMP which has meant that coalition Governments often have to be formed. This effectively limits the Government as a single party will unlikely be in a position where they have a majority vote anymore.

There are three main issues that I would like to look at; whether or not Ministers actually *are* more effective with a longer term, the short term mind-set that is caused by frequent elections and the effects of election year promises.

4.21 More effective Ministers

There are two periods during a Minister's time in office where he/she is unable to fully focus on policy implementation. Firstly, at the beginning where they have just arrived in office and are setting up. Secondly, towards the end of term where all members of parliament will turn their attention towards campaigning and maintaining public opinion. With a longer term in office, the theory is that Ministers can be more effective overall as the period between these two inefficient areas is lengthened.

Unfortunately the empirical evidence in this area is lacking. The reasons for this include the difficulty of trying to link 'Term Length' with 'Economic Well-being', in addition to the contention that economic well-being doesn't necessarily reflect the total effectiveness of Ministers. Quantifying the results becomes very complicated and the appropriate research does not yet exist, however, it does seem that Ministers will, at least, be equally effective between three and four year terms which is evidenced by the Royal Commission's statement that, "If the present term were four or five years, there would not be any compelling [economic] arguments to reduce it"⁴.

³ 1986 Royal Commission Report, Chapter 6: Term of Parliament, paragraph 6.10

⁴ 1986 Royal Commission Report, Chapter 6: Term of Parliament, paragraph 6.18

We should thus focus on creating the best possible environment that encourages Ministers to be efficient. Three years could be seen as a push for Ministers to get to work and implement their policies quickly and efficiently. My view is that rather than an incentive, it will more often result in hasty legislation. Four years would allow more time to plan, implement, test government policies and more importantly, receive credit for them. For these reasons, a longer term would be more beneficial for this aspect.

4.22 Short-term Mind-set

Although we like to think that politicians will always pursue the issues that are most important to the country with priority, the reality is, they will not. Take the simplified example of a choice between two issues, one which will show immediate/short-term results, the other (perhaps paying off national debt) is very beneficial to the country, but the results of which are largely unseen. The issue that projects a positive image which the public can link to the current government will be chosen every time. This will naturally occur on a wide range of issues, but is largely unidentifiable.

Long-term issues will take a backseat when operating under a shorter parliamentary term. Take mining for example, it is a long term policy decision which Parliament have been approaching cautiously due to the fact that they would be judged impulsively by a large portion of NZ. Short-term, all voters see is the eyesore of mining activities and the protests from the activist groups. The long-term benefits that the minerals can bring to the country will only be seen during the next Government, and will thus most likely be mis-credited to them. I believe a large bulk of the population is relatively uninformed on economic matters so, like it or not, politicians have an inherent interest to stick to 'cosmetic'⁵ issues.

Short term 'cosmetic' policies affect the commercial world by decreasing decision making certainty. If issues like tax rates and minimum wages are constantly changing it becomes harder to make informed decisions as they are less able to predict potential costs and unsure whether some avenues will remain open to them past the current Government. With a longer term, policies will change less often and function in a less cosmetic form and longer periods of stability will result. Businesses will be able to function more effectively and plan more accurately which is very desirable.

Will one extra year in office solve the problem? No. But it will bring a broader range into the sphere of issues that Parliament is willing to address while also decreasing the effects of frequent policy changes on the commercial scene in New Zealand.

⁵ Cosmetic issue: Looks good but does not materially affect much

4.23 Election Year Bribes/Promises

Every election year we run into the problem of parties making election promises which afford disproportional benefits to certain demographics of the population to 'buy' votes and this is not good governance. It is my belief that the general public will put themselves before the good of the country, and while I do not think that it should be Parliament's job to arbitrarily 'do what it deems best for us', this is a real problem. This brings me to my next point about voter responsibility. Giving people too frequent opportunity to vote will encourage irresponsible voting. For example, students will happily base their vote solely on student loan policies rather than wider issues because they get another vote in the near future.

The line is too grey to police this issue but we can lengthen the period between opportunities for this to happen. With a four year term, Parliament has an extra year in which it can focus on the issues important to the country, and not the fickle masses.

4.3 Recommendation

For the reasons outlined above and combined with the classic argument that less frequent elections would save taxpayer money, I submit that a longer term would create a better framework overall for Parliament to function under while increasing voter responsibility. The term should be increased to four years, or alternatively, pursue another approach such as the one outlined below.

5.0 What if New Zealand had a hybrid approach?

I propose a hybrid approach where by any Government entering its first term in office will enjoy a four year term, after which, if they are reelected, will drop back to three years. Since we often require the use of coalitions, this rule will become problematic when a new coalition Government includes a party from the previous regime. I thus propose that this rule be based solely on the Prime Minister's seat and when it is represented by a new party, i.e. the face of the Government changes.

There is some speculation as to whether this framework would skew the value of each vote. The Royal Commission submits that 'a vote for the opposition could be considered as 4/3 the value of a vote for the Government'⁶. This is mitigated by fact that the same advantages applied to the other side at the last election and the contention that perhaps a system that slightly favoured change would not be such a bad thing. It would promote fast/efficient implementation of policies because the Government know that they are in a weaker position going into the next election while also granting a decent period in which to initially prove themselves.

A hybrid system like this would strike a good balance with the two competing ideals of effective government and voter sovereignty. Each Government is given the opportunity at the beginning of their term in office to pursue more long-term policies while then being reigned back in and made more accountable for consecutive terms.

⁶ 1986 Royal Commission Report, Chapter 6: Term of Parliament, paragraph 6.11

6.0 Route to Change

The correct process⁷ to change the term is to either attain a 75% majority of the House of Representatives or by referendum during the next election. The latter avenue should be used or we may have a repeat of the 1934 Forbes Government, where it was seen that the term increase was an attempt by politicians to get more power. If the change is made by referendum, it would stop a public outcry because it will be ourselves who specifically decided on this issue. This is a constitutional issue, for the people, not the proxy representatives of the people to decide. Graeme Edgeler from the respected 'Legal Beagle' blog agrees with this position. He is firmly of the view that the legislative avenue exists only "to allow for a temporary extension in a time of national emergency, in circumstances where a referendum couldn't work".⁸

7.0 Early Dissolution

Parliament can be dissolved at any time by the Governor-General, on the advice of the Prime Minister. The Prime Minister has a natural incentive *not* to dissolve Parliament as he/she will then lose control of the country. However, as the parliamentary term increases, there is potential for abuse by dissolving the current term of Parliament during a politically favourable time.

Due to New Zealand's MMP system, the ability to abuse this power is somewhat limited. The Prime Minister will need the support of a coalition to form the new government, which he/she may well lose if he/she is to participate in such political games. Giving up the remainder of a term will likely be seen as less attractive than just riding the rest of it out in office however, as New Zealand has a fairly unique political structure, this issue will be best left alone until we can observe the effects of a longer term on its use.

8.0 Conclusion

The Constitutional Advisory Panel should advise that a referendum be held at the next election which puts three options to the population of New Zealand.

1. Continue under a three year term
2. Continue under a four year term
3. Continue under a hybrid term

It is my recommendation that either the four year or hybrid term option should be adopted.

⁷ Electoral Act 1993, Section 268(1)(a)

⁸ <http://publicaddress.net/legalbeagle/a-four-year-parliamentary-term/>

1621

From: Dianne Gower <
To: "constitutionalreview@justice.govt.nz" <constitutionalreview@justice.gov...
Date: 26/06/2013 2:54 p.m.
Subject: unwritten constitution, please

I am opposed to a written constitution on the grounds that an unwritten constitution is a far more workable way to run a small country such as NZ. It is a much more flexible instrument than a written document. We are small enough to talk to one another and work through solutions without having to resort to the courts as we would under a written constitution. We have a democratic parliament where we can air grievances through our elected representatives. With a written constitution we would be handing the running of the country to Judges & Lawyers rather than elected representatives. Having our views heard will be impossible unless we have sufficient funds to resort to the courts. This would put it out of the reach of ordinary citizens. Different legal personal would have different interpretations - it could be endless.

I do agree that Maori need to be listened to as they have some different perspectives from European/Pakeha. I consider Maori need seats in Parliament, local councils, company boards etc. There is only one way to learn one another's culture, needs etc is to sit down together, discuss & particularly listen, we need to compromise. This is what parliament is for. If this is left to the courts & legalist arguments it will become an antagonistic situation which solves nothing. A greater mix of gender & race in parliament, councils, boards - including business must lead to greater understanding of one another.

As an aside I fail to see what a written constitution has done for North American Indigenous populations, Black Americans or Spanish Americans

We are a small country we need to listen to one another & talk not through the courts as is proposed by a written constitution but with the flexibility to change as becomes necessary.

Dianne Gower

Mt Maunganui,

ph:

519

From: Keith Gower
To: <constitutionareview@justice.govt.nz>
Date: 17/04/2013 10:01 p.m.
Subject: Submission re - NZ Constitutional Review.

I wish to register my objection to the current NZ Constitutional Review.

I see no reason for change from our existing unwritten constitution which has served us well. While it may require some alterations in the future, we do not require a race based Constitution.

We are a democratic, multi race country and we need equality for all. One People One Nation !

Keith J Gower

Tauranga

247

From: "Norma Grice"
To: <CONSTITUTIONALREVIEW@JUSTICE.GOV.T.NZ>
Date: 12/04/2013 4:21 p.m.
Subject: Submission

My submission regarding the N.Z Constitutional Review is ---- I do not want to change New Zealand's unwritten Constitution, as it has served us well since the 1852 N.Z Constitutional Act was passed, and is our founding document.

The current proposals are a Race based constitution, and therefore unacceptable.

"We are one People," and look for equality for all.

Sincerely Yours,

Norma A.M. Grice.

841

From: Grahan
To: "constitutionalreview@justice.govt.nz" <constitutionalreview@justice.govt.nz>
Date: 14/05/2013 4:19 p.m.
Subject: Urgent
Attachments: Constitutional review May 2013

Dear Sir,

NZ Constitutional Review

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.

We are all equal.

C. Graham
12 May 2013

2219

From: "Colleen Graham"
To: <constitutionalreview@justice.govt.nz>
Date: 3/07/2013 2:06 p.m.
Subject: CAP Submission

The maori seats need to be abolished. We don't have a place for race based seats or that matter for a race based political party.

Any constitution must have equal rights for all New Zealand citizens,

Colleen Graham

1050

From:
To: <constitutionalreview@justice.govt.nz>
Date: 4/06/2013 3:04 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

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

Full Names: David Alister Graham Organisation Name: Nil Email:
Phone: Postal AddressA:
Postal AddressB: Postal City: Auckland Postal Region: Postal
Post Code: Postal Country: New Zealand Submission: Our present Government and
Parliamentary arrangement has served us well and we don't need a written constitution and certainly
the Waitangi Treaty (a historical document) should have no part in any proposed change

Sent on the 4 June 2013 at 15:01

1050a.

From: [redacted]
To: <constitutionalreview@justice.govt.nz>
Date: 4/07/2013 11:01 a.m.
Subject: CAP Submission

I support the abolition of the Maori seats in Parliament - they have outlasted their usefulness as there are now a number of elected members of Parliament of Maori ancestry on the General who have been elected and this will continue in the future. David AlisterGraham -
Auckland

3579

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 15/07/2013 11:35 a.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

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

Full Names: David Lewis Graham Organisation Name: Email:
Phone: Postal AddressA: Postal AddressB:
Postal City: Christchurch Postal Region: Canterbury Postal Post Code: Postal Country:
New Zealand Submission: ☐ 1. Bill of Rights issues

• Does the Act provide appropriate mechanisms to protect rights? If not, what additional mechanisms could be developed? Bring back Free education for all, State advances for Housing and Farms,

• Should the Act include additional rights, and if so which rights?

1. Parliament can make laws that are inconsistent with the Act and the Act does not give us a way to challenge Parliament's decision. These commentators often suggest we should be able to seek judicial review of legislation. Yes, we need one now to stop the theft of our vital power assets.

2. The Act should be supreme law It should be entrenched.. yes.

3. The Universal Declaration of Human Rights provides that "no one shall be arbitrarily deprived of his property" (Article 17(2)). Yes.

4. • Certain rights in the ICCPR not included in the Act, such as the right to privacy, and rights relating to the protection of children and families. These should be included.

5. Economic, social, and cultural rights as affirmed in the International Covenant on Economic Social and Cultural Rights, such as the rights to an adequate standard of living, to work, to social security, to health, and to education. I can't believe New Zealand doesn't include these rights? They should all be included.

6. Environmental rights. The right to Clean air to breathe, clean water to drink, healthy food provided and inspected by citizen owned councils.

2. Written constitution

The Constitution should be written and entrenched. Governments have found it too easy to change good laws into laws that steal the assets our ancestors provided.

Implementing change

A change to a longer term would require amending section 17 of the Constitution Act by replacing "three" with "four." Because section

I am well over 80 years old and I can remember many governments that passed laws against the best interest of the majority of citizens of New Zealand. These citizens need to be able to vote for a change of Government.

3 years should be a maximum. Never change this rule.

☐ The process for deciding the number and size of electorates... supports our right to free and fair elections.

I think the present arrangement is fair as long as the boundaries are drawn by impartial public servants.

4. Electoral integrity legislation

The conversation so far

Following the first MMP election, a number of list and electorate MPs left their parties, but remained as members of Parliament. These actions, known colloquially as waka-jumping or party-hopping, were seen by some people as bringing Parliament into disrepute and undermining the proportionality voted for at the General Election.

In response, the Electoral (Integrity) Amendment Act 2001 was enacted. The Act enabled the Speaker to declare vacant the seat of an MP:

- Who has notified the Speaker that he or she ceased to be a member of the political party that he or she stood for at the last election, or
- If a leader of a parliamentary party gave written notice to the Speaker that the party leader reasonably believed that the member had acted in a manner that distorted the proportionality of representation in Parliament as determined in the preceding General Election.

The legislation did not directly affect MPs' ability to cross the floor to vote with another party on particular issues, though political party rules may provide that an MP who does so can be expelled from his or her party.

The Act had a sunset clause in recognition

of the German experience which suggested defections would decline substantially as MMP became established. The Electoral (Integrity) Amendment Bill 2005 proposed to reinstate the Act following its expiry in 2005. The Bill was not passed, following the Justice and Electoral Committee's recommendation it

not proceed.

Questions and perspectives

Questions emerging in the conversation so far about election integrity legislation include:

Is the legislation necessary? Does "party-hopping" undermine the public's credibility in Parliament? Are sanctions against such actions required to protect Parliament's credibility and

proportionality; Yes, Voters were encouraged to vote the MP into parliament, believing he stood for the policy of his party; the MP should leave parliament if he/she misled the voters.

• But I have seen many cases where it is the Party that has been subverted and the MP has no choice but to stick to the values of the party when it was voted into Power.

• I think such a Party should be expelled from the Parliament. The MP should be commended.

• I think any party which changes the policy it was voted in for should be expelled from

Parliament. Electoral Legislation should apply to all MPs.

. Appropriate decision-maker

Some commentators say it is inappropriate to give anyone other than voters the power to decide that an MP should leave Parliament.

• I think only the courts would be unbiased (Should be.) enough to decide; but a bye election would be a way.

MPs' individual conscience

Some commentators say an MP should be able to leave the party they belonged to at the General Election, if the party's policies no longer reflect the member's views.

I think voters voted the MP into parliament at election time with the expectation the MP would support the Party. The MP should leave parliament if voters were misled.

BUT I have seen cases where an MP had to leave their party because the values the party had when elected were changed by cheating leaders. I think such a party should be expelled from the Parliament.

Such behavior has confirmed my cynicism. Electoral integrity legislation should apply to all MPs.

1. Māori representation in Parliament

As I am not a Maori I will not comment, except to say the present arrangement seems alright to me.

2. Māori representation in local government

Local government has extensive powers to manage the use and protection of natural resources, including management of rivers and lakes, some reserve land, and coastal marine areas.

I think it is vital for ALL New Zealanders to be represented in local government.

3. The role of the Treaty of Waitangi

The important reminder that Maori were the first settlers of Aotearoa. It should be honored as that. It should be entrenched.

Sent on the 15 July 2013 at 11:34

3579 a)

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 15/07/2013 11:40 a.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

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

Full Names: David Lewis Graham Organisation Name: Email:
Phone: Postal AddressA: Postal AddressB:
Postal City: Christchurch Postal Region: Canterbury Postal Post Code: Postal Country:
New Zealand Submission: ☐ 1. Bill of Rights issues

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2. The Act should be supreme law It should be entrenched.. yes.

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I think it is vital for ALL New Zealanders to be represented in local government.

3. The role of the Treaty of Waitangi

The important reminder that Maori were the first settlers of Aotearoa .It should be honored as that.It should be entrenched.

Sent on the 15 July 2013 at 11:39

134

From:
To: <constitutionalreview@justice.govt.nz>
Date: 8/04/2013 9:59 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

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

Full Names: Daisy Graham Organisation Name: Email: Phone:
Postal AddressA: Postal AddressB: Postal City: Thames Postal Region: Postal Post
Code: Postal Country: New Zealand Submission: New Zealanders in general are suffering
financially because of the astronomical payouts to Maori decendants. Why should we be made to
suffer for what our ancestors possibly did when they arrived in New Zealand. Some of our ancestors
also were mistreated

by the Maori when they arrived, but are we asking for compensation for that? If there were still full
blooded Maori, then possibly compensation could be understandable for them, but all
"Maori" today also have ancestors who arrived with with our ancestors.

The treaty meant something to full blooded Maori, but surely has no relevance today. We should now
be able to live together in New Zealand in equality without any racist claims on either side. As a
seventh generation New Zealander who's ancestors came, not
to harm or take from the Maori, but to help and educate them I ask that the Treaty Of Waitangi be put
where it belongs - in our history.

Sent on the 8 April 2013 at 20:57

466

From:
To: <constitutionalreview@justice.govt.nz>
Date: 15/04/2013 9:41 p.m.
Subject: [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: justin thomas graham Organisation Name: Email:
Postal City: Postal Region: Phone: Postal AddressA: Postal AddressB:
Submission: I would like to see: Postal Post Code: Postal Country: New Zealand

1. rights confirmed in a constitution similar to the United States of America, where the same are not subject to other legislation (like our BOR Act) but where they trump any inconsistent legislation (similar to US of A - so that the courts may declare the legislation as unlaful / a breach of the constitution).
2. I want recognition of the special position of Maori / treaty rights, in the constitution - addressing issues such as water rights etc.
3. I want a clause in our constitution that allows for us to join Australia, if approved by a certain percentage (80%?) of our parliament.
4. I want a financial clause in the constitution, that requires the executive to balance the books, save for in times of war.

Sent on the 15 April 2013 at 21:41

471

From:
To: <constitutionalreview@justice.govt.nz>
Date: 16/04/2013 8:27 p.m.
Subject: http://www.ourconstitution.org.nz/form_submission

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

Full Names: PETER JOHN GRAHAM Organisation Name: NOT RELEVANT Email:
Phone: Postal AddressA:
Paparangi Postal AddressB: Postal City: Wellington Postal Region: Wellington Postal
Post Code: Postal Country: New Zealand Submission: 1. Electoral reform: No increase
in size of Parliament - we are a small country. No upper House, We've done very well without one.
Present representation probably okay.

2. Treaty of Waitangi: A fundamental document for New Zealand, and needs to be taken into account socially and legally. Waitangi Day should stay as it is (its not New Zealand day).

3. Maori representation: The present policy seems okay, but over to the Maori people really. The number of Maori seats in Parliament should be governed by the number of people who consider themselves Maori.

4. Bill of Rights: No change needed.

5. Written constitution: Absolutely not - a potential minefield, and a pot of gold for lawyers.

Sent on the 16 April 2013 at 20:27

5211

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 8/08/2013 11:54 a.m.

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

Full Names: Roger Graham and Evelyn Ann Dewhirst Email: Phone:
Postal AddressA: Postal City: Postal
Region: Auckland Postal Post Code: Postal Country: New Zealand Submission: We
believe in equality for all people in New Zealand.

Submitted on the 10 June 2013 at 14:44

4281

From:
To: <constitutionalreview@justice.govt.nz>
Date: 30/07/2013 9:36 p.m.
Subject: An objection

I wish to register my objection to a constitutional review continuing until such time as this matter is presented much more clearly to the citizens of new Zealand.

We need much more transparency regarding this very important matter. It seems apparent that most people are not aware of the details and object to any review being proceeded with without them having agreed for this to take place.

A.W. Grant
Palmerston North

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 1/07/2013 8:41 a.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

2005'

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

Full Names: iohn duval vernon grant. Organisation Name: Email: ,
Phone: Postal AddressA: . Motueka. Postal
AddressB: Postal City: nelson, tasman Postal Region: tasman Postal Post Code:
Postal Country: New Zealand Submission: yes in one doument.yes to parliament,courts, but
anyone can challenge the constitution. and no, theconstitution should be a guide not a supreme
law,its up there with thelaws but it must be challengable.whats in it.?

Sent on the 1 July 2013 at 08:39

1392

From: "Bob Grant"
To: <constitutionalreview@justice.govt.nz>
Date: 17/06/2013 1:41 p.m.
Subject: Submission to Panel.

Name:- Robert B. Grant.

F , Tauranga.

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. I want equality for all New
Zealanders --- that is one law for all with no one
group getting special privileges.

1392A

From: "Bob Grant" <constitutionalreview@justice.govt.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 3/07/2013 12:00 p.m.
Subject: CAP Submission

In keeping with the intentions of the Treaty of Waitangi which said we are now one people and should live under one law for all. There should be no decisions made on a basis of race, colour of skin or religion. We are all New Zealanders and should all be treated the same, therefore I believe the parliamentary seats for Maori should be abolished.

Name:- Robert B Grant.

Address:-

Tauranga.

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 29/07/2013 12:16 p.m.

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

Full Names: William Francis Grant Organisation Name: submission on behalf of myself Email:
 Phone: 1 Postal AddressA: Postal
 AddressB: Postal City: Wellington Postal Region: Wellington Postal Post Code:
 Postal Country: New Zealand Submission: Thank you for this opportunity to contribute.

1) I would like New Zealand to continue to be a constitutional monarchy headed by the sovereign, represented here by the Governor General. My reasons are as follows:

- i. This provides for a stable democratic government, manifestly one of the most successful in the world;
- ii. Parliament will remain the supreme and sole lawmaking body, ensuring that citizens will retain the ultimate power to vote for the parliamentarians of their choice;
- iii. The current constitutional monarchy creates a clear connection with the past in terms of both our British heritage and, through Te Tiriti o Waitangi, with our Maori heritage. This is the cornerstone of the New Zealand identity.
- iv. The foundational nature of the relationship between the Crown and Maori in creating the national identity is indicated in many Coats of Arms around the country (a fine example is that of the City of Dunedin) and in no way diminishes the role of other immigrant peoples in joining and enriching this identity.

2) I do not see the need for the creation of a single written constitution for New Zealand. In my view there are many documents which collectively create our constitution and have served us very well in this respect. These start with the Magna Carta, include Te Tiriti o Waitangi, and our current Bill of Rights, as well as the various laws relating to our democratic institutions and rights and the place of the Courts and Parliament in relation to these.

There is no obvious need for this highly successful constitutional status quo to be replaced by a single document.

A single constitutional document would be likely to increase the power of the Courts relative to that of our other democratic institutions, and I would be opposed to this.

3) I believe the separate Maori seats in Parliament were introduced as a way of ensuring Maori representation at a time when the Maori political voice was not strong. This was therefore a step in the evolution of our democracy. I believe this Maori voice is now significantly stronger and we should move towards the eventual abolition of separate Maori seats. However I do not see this as urgent. Just as the introduction of Maori seats was an evolutionary step, their abolition should also be evolutionary, rather

than by some form of constitutional decree.

4) While our society is increasingly secular I would favour retaining an acknowledgement of the place of the Christian Church as an essential element in the foundational relationship between the Crown and Maori in the New Zealand identity. Without the missionaries there would have been no Tiriti o Waitangi.

No reira, kia kaha ki te mahi!

Submitted on the 29 July 2013 at 12:15

1622

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 26/06/2013 2:57 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission
Attachments: Submission on the New ZealandConstitution Dr Ben Gray.docx

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

Full Names: Ben Gray Organisation Name: Email:
Phone: Postal AddressA: Postal
AddressB: Postal City: Wellington Postal Region: Postal Post Code:
Postal Country: New Zealand Submission: Submission Upload: Submission on the New
Zealand Constitution Dr Ben Gray.docx

Sent on the 26 June 2013 at 14:55

Submission on the New Zealand Constitution Dr Ben Gray

Multiculturalism as Central to Our Governance

New Zealand is an increasingly diverse community, the fourth most diverse country based on numbers of residents born outside the country. We have increasing migration from more diverse countries. In the past it was not too far wrong to talk about New Zealand as a "Bicultural" country: Maori and "British". This is less and less accurate with the increased migration from the Pacific and Asian Countries.

There is significant literature around how to live in a diverse community. John Berry⁽¹⁾ from his experience in Canada describes that the strategy of Assimilation (we all become the same) does not work and that a policy of Multiculturalism where people can be Chinese Canadians or French Canadians. Works better. Canada has had a policy of promoting Multiculturalism at the centre of its governance for many decades, although still on the journey to achieving the ideal.

Bhikhu Parekh⁽²⁾ argues from a philosophical position that a conventional liberal democracy that "tolerates" minorities is inherently unsatisfactory for minority cultural groups and advocates the valuing of diversity and a governance focus on what policies enable us to live together, rather than trying to always get agreement.

Rosenfeld ⁽³⁾ argues for a similar approach coming from a constitutional law perspective.

In my view New Zealand has benefitted significantly from our Bicultural approach to governance. This has been slowly bedded in over the last thirty years or so. The Waitangi Tribunal has been an important forum to discuss areas of difference and to help find ways forward. In my view most New Zealanders now (possibly grudgingly) accept that on many matters there are at least two ways to do things....and that that is OK. The boundary between what is "Maori" and what is "Non-Maori" is slowly blurring with many Maori concepts entering the dominant culture (and for a long time Maori have been adopting dominant cultural practice) This approach appears to be slowly turning the tide of Maori disadvantage. Otago University has a record number of Maori students enrolled this year with increasing completion rates. For the first time last December Maori Infant Mortality Rates came down to almost the level of Non-Maori rates. These advances have in part been enabled by the existence of Kura Kaupapa Maori and Maori delivered health services...a Maori way of doing things that is different from the dominant

cultural way.

My concern is that as Maori slowly reverse the trend of disadvantage that their place as the disadvantaged minority will be taken by Pacifica peoples, a problem that is currently developing (for example Pacific rates of Rheumatic Fever are 20 times more than "European" whereas Maori are 10 times more.

In short I would like to see valuing diversity and supporting Multiculturalism at the centre of our governance.

An example of the effect of this would be how we conduct debates on difficult issues like for example Euthanasia. Currently much of the debate is arguing whether it is right or wrong. There is an expectation that we should all agree. If we put Diversity at the centre then we would expect that people would not all agree and that the task is to find the legal framework that worked the best for the largest number of people. Those groups in the community wishing to impose their views on others in matters that have little impact on them should be given less weight. This approach is exemplified by the current changes to the marriage laws to allow gay and lesbian couples to marry. The strongest argument is that such a change need have no impact on a heterosexual couple, whose rights are unchanged.

I would see the place of Maori always holding primacy, as this is the only place in the world that nurtures Maori culture.

We are a multicultural society but we have not paid attention to how best live in such a society peacefully. Majority rule is not a good recipe for harmony if there are cultural groups who end up never having a say in the way the country is run. Valuing a diversity of beliefs and views and developing the societal mechanisms for dialogue and conflict resolution is the most positive way to move forward and is at a microcosm (of New Zealand) what the whole world needs to learn to do if we are to avoid future armed conflict and work out how to avoid major climate change.

Dr Ben Gray

Senior Lecturer Primary Health Care and General Practice

University of Otago Wellington

26/6/13

1. Berry JW. Immigration, acculturation, and adaptation. *Applied psychology*. 1997;46(1):5-34.
2. Parekh BC. *Rethinking multiculturalism: Cultural diversity and political theory*: Harvard University Press; 2002.
3. Rosenfeld M. *Law, Justice, Democracy, and the Clash of Cultures A Pluralist Account*. Cambridge: Cambridge University Press; 2011. 1 online resource (338) p.

2479

From: "John Gray"
To: <constitutionalreview@justice.govt.nz>
Date: 4/07/2013 9:44 a.m.
Subject: CAP Submission

Dear Sir / Madam.

I believe the Maori seats should be abolished as it will eventually divide the country.

Regards,

John Gray.

3607

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 15/07/2013 8:13 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

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

Full Name: Lachlan Allen Gray Organisation Name: Email:
Phone: Postal AddressA: Postal AddressB: Postal City:
Roxburgh, Postal Region: Central Otago Postal Post Code: Postal Country: New
Zealand Submission: Humanity collectively is so locked into its own abstract creations, that it has
become oblivious of itself being an integral part of the living fabric of the Earth. As such, if humanity
hopes to survive, the limitations imposed by external tangible physical
(environmental) realities must take precedence over the abstractions of the culture. Put another way,
all cultural activity must operate within ecological limits. Currently, the prevailing cultural ethos is to
see limits as obstacles to be swept aside.

New Zealand, being so remote and underpopulated, is in a prime position to do this, and be an
example to the rest of the world.

The political quest of the next few decades, by default, has to be to work through and implement
political systems that allow people to live a meaningful life on a fraction of current energy expenditure,
and a fraction of current wealth and income.

Sent on the 15 July 2013 at 20:12

3607.1 a)

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 15/07/2013 8:36 p.m.
Subject: http://www.ourconstitution.org.nz/ form submission

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

Full Name: Lachlan Allen Gray Organisation Name: Email:
Phone: Postal AddressA: Postal AddressB: Postal City:
Postal Region: Central Otago Postal Post Code: Postal Country: New
Zealand Submission: One question asked is whether New Zealand should have a written
constitution.

Well, no, it shouldn't.

The difficulty with written constitutions is that they work in a mechanistic sort of way, whereas polities evolve in an organic sort of way. In New Zealand, the constitution is modified in minute amounts week by week, and is thus always adapting to evolving circumstances and values.

If a constitution is written, it is set in the concrete of the culture of the time of its writing, which is invariably the culture of the most powerful sectors of the time. Modifying such constitutions is invariably cumbersome, and always the modification has to be subservient to the original document.

The U.S. constitution, that gets much more publicity than it deserves, is a case in point. It is a constitution designed for an eighteenth century landed protestant rationalist culture. Totally different from the culture that prevails there today.

If NZ insists upon having a written constitution, can I recommend that, if it must model itself on that of other countries, that Denmark's constitution be one of the major influences, and that U.S.A.'s be one of the least influences?

Sent on the 15 July 2013 at 20:35

204

From:
To: <constitutionalreview@justice.govt.nz>
Date: 11/04/2013 9:57 a.m.
Subject: http://www.ourconstitution.org.nz/ form submission
Attachments: CONSTITUTION SUBMISSION.doc

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

Full Names: Philidia melody Jane Grav Organisation Name: Email:
Phone: Postal AddressA Postal AddressB
Postal City: Auckland Postal Region: Postal Post Code Postal Country: New
Zealand Submission: Submission Upload: CONSTITUTION SUBMISSION.doc

Sent on the 11 April 2013 at 09:56

UNEMPLOYMENT

We keep hearing the high unemployment figures in NZ but the councils are restricting numbers of employees allowed in new businesses. What is the reason for this?

Councils are also making things very difficult for people to start up new businesses. Over a year ago we applied for resource consent to build premises for three new businesses in Dairy Flat and to date this has cost us \$60,000 and we haven't even put a spade in the ground. How many people wish to start businesses but don't have this kind of money? This expense is certainly going to put restraints on our new businesses.

POLITICAL CORRECTNESS

We have recently had a complaint against us submitted to the council. We are not able to find out who lodged this complaint. How are we supposed to defend ourselves against this treatment? This means that anyone can cause trouble for someone else and cause them great expense for what we believe is a spurious complaint. Why are they being protected? Where is my protection?

WAITANGI TREATY

The Maori are less than 10% of the population of NZ. I believe that the treaty should be done away with. Giving things to people for nothing, never does them any good, they will never improve themselves.

SOCIAL SECURITY

There are too many people claiming benefits who do not deserve them. It should be made more difficult for people to claim assistance. Why can't people who have been on sickness benefits for long periods and aren't totally incapacitated be put to work in call centres etc

1806

14. 6. 2013

To Constitutional
Advisory Panel!

This is my 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.

Signed -

S. M. Gray -

1 out of 2

2566'

From: Vincent Gray
To: <constitutionalreview@justice.govt.nz>
Date: 4/07/2013 2:38 p.m.
Subject: CAP Submission

Dear Commission

I am against any constitution and the Maori Seats should ne abolished

Regards

Vincent Gray

Wellington
New Zealand

4097

From: Wilton Gray
To: "constitutionalreview@justice.govt.nz" <constitutionalreview@justice.govt.nz>
Date: 29/07/2013 8:00 p.m.
Subject: CAP

The way the world is going I think we are too late to ensure democracy with introducing a constitution. Perhaps we should join Australia as we are already in their constitution.

I would push for a binding referendums because a Constitution should not be rushed through!

Something is required because Democracy has gone from this Nation. The Prime Minister decides for three years what ever One World Government wants!

My concern is all the news I hear seems the proposed Constitution is biased and will be divisive and will divide the Maori and Pakeha. We needs it to reflect the intent of the Maori version of the Treaty of Waitangi. One people with sovereignty to one Monarchy to protect every ones interests. Not division.

H R W Gray

From: Wilton Gray ·
To: <constitutionalreview@justice.govt.nz>
Date: 30/07/2013 7:30 a.m.
Subject: CAP

The way the world is going I think we are too late to ensure democracy with introducing a constitution. Perhaps we should join Australia as we are already in their constitution.

I would push for a binding referendums because a Constitution should not be rushed through!

Something is required because Democracy has gone from this Nation. The Prime Minister decides for three years what ever One World Government wants!

My concern is all the news I hear seems the proposed Constitution is biased and will be divisive and will divide the Maori and Pakeha. We needs it to reflect the intent of the Maori version of the Treaty of Waitangi. One people with sovereignty to one Monarchy to protect every ones interests. Not division.

H R W Gray