

4709

Submission from Campbell Harding, student at the University of Otago Law Faculty

In New Zealand's current electoral system, a certain number of electoral seats are set aside for those who are registered on the Māori Electoral Roll. The state of these electorates and whether they should be retained or abolished is one of the issues that the Constitutional Review process must look at.

The original purpose of the Māori Electorates when they were created in 1867 was simply to ensure that the Māori had some representation in Parliament. Because the vote was only provided to landowners, few Māori were able to take part in elections, as they tended to own land communally and by custom rather than having the land registered. To give them some voice in Parliament, they were given four dedicated Māori seats and suffrage was granted to all Māori males over 21 without regard for how much property they owned. Although this was intended to be a temporary measure, a stopgap until Māori land was converted into private title, this transfer did not happen rapidly and the duration of the Māori seats was extended, first for five years and then indefinitely. The inclusion of Māori MPs went a long way to soothing tensions between Māori and Pākehā, despite the fact that the Māori were underrepresented and often marginalised in Parliament.

The purpose of the Māori Electoral Roll is not the same now as it was back then. It was first created to act as a sort of representational 'safety net' to ensure there would always someone to speak for the interests of Māori in Parliament despite their lack of land-owning men, "a measure of justice to our brethren of the Native race" as one MP put it¹. But with the advent of our Mixed-Member Proportional system, this has become much less the case. MMP ensures that there is much greater proportionality in the House of Representatives than the old First Past the Post system afforded, and because the party or list vote is much more important than each individual electorate vote – and there is no distinction between General roll and Māori roll party votes – a large minority like Māori voters *will* have representation in Parliament. The electoral seats have been made basically irrelevant in the grand scheme of things (for although they do have impact on a local level, that is not the real purpose of the Māori electoral seats) and even if a Māori interest party doesn't manage to win a single electorate, they will still be represented in Parliament because as Māori make up almost 15% of the population a party representing them will surely reach the 5% of the party vote necessary to take a list seat in the House of Representatives.

The purposes now, therefore, are not so much to do with actual representation but symbolism and the partner relationship under the Treaty of Waitangi. The seats are regarded by Māori as an "important concession to, and the principal expression of, their constitutional position under the Treaty"². They are a concession to *tino rangatiratanga*, Māori sovereignty, and are a reflection of claims that Māori representation in Parliament should be decided by Māori alone.

This follows on from the concept of partnership under the Treaty. Instead of merging us together into one system, we are two cultures and peoples with reciprocal rights and responsibilities, founded on the notions of "reasonableness, mutual cooperation and trust"³. *Tangata Whenua* and *tangata tiriti* (that is, people of the land, Māori, and people of the Treaty, non-Māori) should not, by this view, be represented as one group. Instead the sovereignty of Māori stipulates that the mere fact Māori will be represented proportionally in Parliament is not enough – their accountability must be to other Māori alone rather than the general public. To give real weight to the promises of *tino*

¹ "Parliamentary Support Research Papers: The Origins of the Māori Seats" (20003) New Zealand Parliament <www.parliament.nz/en-NZ/ParlSupport/ResearchPapers/5/b/e/00PLLawRP03141-Origins-of-the-M-ori-seats.htm>

² *Royal Commission on the Electoral System: Towards a Better Democracy* (1986) at 86

³ *New Zealand Maori Council v Attorney-General (Broadcasting Assets case)* [1994] 1 NZLR 513, 517 (PC).

rangatiratanga, Māori must be represented on their own terms, as partners, rather than just as a part of the whole⁴.

There is also the second claim based on the Treaty of Waitangi that the separate Māori representation in Parliament is a requirement under the Crown's duty to actively protect Māori interests⁵. Some claim that the duty of active protection is purely to do with economic and property interests, and that electoral issues are exclusively dealt with in the Treaty by the provisions granting Māori "all the rights and privileges of British subjects", which obviously would not include special treatment in the electoral system⁶. However, the Waitangi Tribunal and the Courts have established that the duty of active protection includes: "to protect the position of Māori under the Treaty and the expression from time to time of that position ... Māori representation – Māori seats – have become part of that representation. Adding this together, for my own part I consider the Crown was and is under a Treaty obligation to protect and facilitate Māori representation."⁷ I'm not sure that this argument is as strong as the former one though, as Māori political interests might be better 'actively protected' by the abolishment of the Māori seats, for reasons I shall now explain.

There are both conceptual and practical issues created by a separate Māori electoral system, which might lead one to conclude that New Zealand as a whole and Māori in specific would be better off without it. Firstly, there's the obvious problem that despite being an egalitarian society based on democratic ideals of equality, we have a portion of our society treated differently when it comes to elections, purely on the basis of their race. This seems to offend the sensibilities of a democratic society where each person's vote should be treated the same way and given the same weight. Still, it's not necessarily true to say that just because people are treated differently that means one group is advantaged at the expense of the other. This comes back to the idea of two sovereign peoples living in one country. From that view, the Māori are not a minority gaining an unfair advantage over pākehā and other minorities, but a partner in a system that makes them equal with all *tangata tiriti*.

But is this a good reason to treat Māori differently? Some proponents of abolishing the Māori seats claim that the view of two peoples in one country is wrong, outdated or simply harmful to the functioning of our society. The separatist view of two races in one land can only exacerbate tensions between the elements of society, and on top of that, it will make it much more difficult for government to deal with problems that arise from this tension. The problem with this view is that while it might be true that we would be better off as one combined culture, taking our heritage from both Māori and European sources, you cannot force people to do that. The Māori Electoral Option, which allows a person who can prove they have any measure of Māori blood to choose whether to be counted on the Māori electoral roll or the General one, is a frequent test of this, allowing people to determine for themselves if they want to identify with a distinct, divergent sector of society. When people do take this option it must be seen as them choosing to be separate, to keep their culture distinct from 'Kiwi' culture.

Another problem that could be brought up is whether it is correct to say that there is a single "Māori interest" that can be served by a single Māori party. Māori people are not one homogenous bloc that all share the same values and political ideologies. While it can be said that there are some factors most Māori value - the desire for the preservation of their culture and language for instance -

⁴ Andrew Geddis 'A Dual Track Democracy? The Symbolic Role of the Māori Seats in New Zealand's Electoral System' *Election Law Journal*, 5/4, at 348

⁵ Janine Hayward "Guaranteed national and local Māori representation: the Crown's duty of active protection" (2011) *Post Treaty Settlements* < <http://posttreatysettlements.org.nz/guaranteed-national-and-local-maori-representation/>>. The duty to actively protect was stated in *New Zealand Māori Council v Attorney-General* [1987] 1 NZLR, p.642

⁶ Philip Joseph *The Māori Seats in Parliament*, Working Paper 2, New Zealand Business Roundtable (2008) at 18

⁷ McGechan J in *Taiaroa v Minister of Justice*, unreported, 29 August 1994, HC Wellington, at 69

this should be something that all political parties have to give consideration to, in order to woo Māori voters. Instead, because all those voters with strong Māori interests are on their own separate electoral roll, the MPs standing for election in the general electorates do not feel they have to pay any attention to what those people care about. Why would a local MP be concerned about the desires of people whose vote has no impact on him or her? Removing Māori issues from the mainstream political agenda and creating their own little category can only be bad for Māori, giving them fewer options and meaning that other 'mainstream' parties take their views less seriously. And vice versa, Māori MPs can be pigeonholed as others expect them to have concern only for Māori issues⁸ and no political stance elsewhere.

From a more practical standpoint, the geographical size of the Māori electorates causes difficulties for all involved. Voters on the Māori roll may have to travel much further than those on the General roll as there are fewer polling booths and returning officers⁹. This may account for the dramatically lower voter turnout from those on the Māori roll compared with those on the General roll (58% compared to 76% at the last election¹⁰).

Finally, there is the issue of overhang – that is, when a party wins more electorate seats than their share of the party vote, resulting in a larger Parliament than 120 MPs and a distortion of the proportionality that MMP strives to achieve. This could hypothetically happen with any party, but is most likely to do so with the Māori Party, which has strong support in the Māori seats but less in the party vote¹¹. It could have the unfortunate effect of causing a situation where a party or coalition has a greater than 50% share of the list vote (and therefore the population's support) but less than 50% of the seats in the House. This issue, however, can be dealt with by changing other electoral rules and is not the fault of the Māori electorates, so it should not greatly influence the decision on this matter, but should rather be considered on its own merits.

At their most fundamental level, the Māori Seats are based on the idea that Māori and Pākehā are two distinct, sovereign peoples, bound in partnership by the Treaty, and that they ought to be represented differently, or at least separately, at a national level. Whether this is efficient, democratic or desirable is up for debate, but the fact of the matter is that this partnership arrangement cannot (or rather *should not*, since Parliament is sovereign and *can* do what it likes) be unilaterally ended by one party to the Treaty. Even if a country-wide referendum to abolish the Māori seats should pass, it would be unjust to do so against the will of one of the parties to the arrangement. Māori would see it as an attack on Māoridom as a whole, and the actual motives of a government making this rule, whether benevolent or for partisan advantage, would be irrelevant compared to what would appear to be an attempt to return Parliament to the control of Pākehā dominated parties, and to once again marginalise Māori now that they (finally) have a way to seriously influence politics and advocate for their issues.

⁸ Yvonne Tahana "National to Dump Māori Seats in 2014" *The New Zealand Herald* (New Zealand, 29 September 2008)

⁹ "Parliamentary Support Research Papers: The Origins of the Māori Seats" (20003) New Zealand Parliament <<http://www.parliament.nz/en-NZ/ParlSupport/ResearchPapers/5/b/e/00PLLawRP03141-Origins-of-the-M-ori-seats.htm>>

¹⁰ "Party Votes and Turnout by Electorate" (2011) Election Results

<http://www.electionresults.govt.nz/electionresults_2011/e9/html/e9_part9_1.html>

¹¹ Philip A Joseph *The Māori Seats in Parliament*, Working Paper 2, New Zealand Business Roundtable (2008) at 20

2937

From: Tim Harding <
To: <constitutionalreview@justice.govt.nz>
Date: 9/07/2013 10:32 a.m.
Subject: CAP Submission

I am totally opposed to having Maori parliamentary seats separate from the general seats. Maori are well represented at present amongst the array of general seats and I see that as enough.

I have lived through all the protests over 'Separate' development in Sth Africa and yet here we are trying the same stupid idea here.

When I put this issue to a Maori work mate recently she said "What about my Irish, Scottish, Italian and English heritage?"

Maori party, yes, Maori seats, No.

As for the roll of the Treaty. I say "Learn from the past but do not dwell in it." We must move on and face an exciting future as one people but many races all living as equals with no special privileges for any one group.

Thank you,
Tim Harding

Waipukurau
I do not wish to appear before the committee.

Quick Submission

969

Received 10 May 2013

Your name:

L. Hardy

Name of the organisation you represent (if applicable):

Postal address or email address:

1, ...

South Glendora

The most important issue facing this country is the massive numbers of people out of work and nothing being done about it. It is only that also a number of people in the scrap heap for economic imbalance which we will see in examples homeless people poverty unemployment

which we should not have.

I will come this up by saying what I think

there has got to be more help for those people on the Economic Scrap heap

my aspiration for this country is for the Government to start listening to the people for once

Party is blighting a society that produces enough for everyone but fails to share it fairly also the Economy fails to make best use of the skills and experience of its workforce by excluding most of them from meaningful participation

Privacy and Confidentiality

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

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

You can also make a submission online at www.ourconstitution.org.nz

Quick Submission

2685

Your name:

Melanie Harema

Name of the organisation you represent (if applicable):

EIT STUDENT

Postal address or email address:

I want New Zealand
to be smoke free,
drug free and
alcohol free at least
by the year of 2020

HOW? STOP selling
smokes in shops and
stop selling alcohol
more

Jobs available to us
lower course fees
or no course fees.

Privacy and Confidentiality

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

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

**You can also make a submission online
at www.ourconstitution.org.nz**

1654

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 27/06/2013 7:23 a.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

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

Full Names: Keith Barry hargis Organisation Name: Email: Phone:
Postal AddressA: Postal AddressB: Postal City:
Auckland Postal Region: Postal Post Code: Postal Country: New Zealand
Submission: My understanding is that the constitution of NZ is formed by various pieces of legislation, founding documents, case law, offices and by other such means. I believe that this is an entirely appropriate way to develop and maintain a constitution. It means that it is a living concept that will reflect societal mores, yet has the gravitas of history and governance to balance anomalies of fashion or a particular time.

It seems to me that we actually do, by and large, have a written constitution. It clearly isn't enshrined in one document, but instead is spread across various documents and protocols that reflect the past and present building blocks of who we are. It is comprehensive, adaptable, honourable, and nuanced. How could a single document hope to be so profound without diving into depths of detail that might render it incomprehensible? On the other hand, a glib, high level document would simply be unable to capture the depth and richness of our current arrangement, and would probably create a further layer of bureaucracy to overlay the current arrangement and lead to endless interpretational debates.

I am opposed to a 'written' constitution, i.e. a constitution in one document, written at one time. This would tend to freeze its concepts in time and could make appropriate change difficult. A case in point is the Constitution of the USA which enables people to bear arms; this may have been relevant at the 18th century, but today is quite wrong, certainly in terms of it being a right. It appears to have led to an unduly violent society.

I therefore submit that our constitution should continue as it is.

Sent on the 27 June 2013 at 07:22

2231

From: "Grant Hargrave"
To: <constitutionalreview@justice.govt.nz>
Date: 3/07/2013 2:32 p.m.
Subject: CAP Submission

Having Maori seats is unfair and this is racism !

natures/HJG_1.jpg?201306101

Attention: - This message and any attached files may contain confidential and privileged information. If you have received this message in error please notify the sender immediately and delete all copies of the message and attachments. You are not authorized to use, disseminate, or reproduce any files or content. Any comments or opinions expressed in this message are those of the individual sender NOT Barfoot & Thompson.

121

From:
To: <constitutionalreview@justice.govt.nz>
Date: 8/04/2013 9:47 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

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

Full Names: Sally Victoria Hargraves Organisation Name: Email:
Phone: Postal AddressA:
Postal AddressB: Postal City: Postal Region: Bay of Plenty Postal Post
Code: Postal Country: New Zealand Submission: I disagree with any reference to the
Treaty or waitangi document in the development of a constitution. There are too many opportunities
for mis-interpretation. This is repeatedly demonstrated in political decision making which tends to result
in over-representation
of minority groups.

I disagree with decisions based on race and the Treaty creates disagreement and polarises society,
even though that was not its purpose when written.

To me, the Treaty is a historical document with very little value in today's society.

I want one rule for all New Zealanders regardless of colour of skin, gender or other distinguishing
feature.

Sent on the 8 April 2013 at 20:45

121a

From:
To: <constitutionalreview@justice.govt.nz>
Date: 8/04/2013 9:46 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

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

Full Names: Sally Victoria Hargraves Organisation Name: Email:
Phone: Postal AddressA:
Postal AddressB: Postal City: Postal Region: Bay of Plenty Postal Post
Code: Postal Country: New Zealand Submission: I disagree with any reference to the
Treaty of Waitangi document in the development of a constitution. There are too many opportunities
for mis-interpretation. This is repeatedly demonstrated in political decision making which tends to result
in over-representation
of minority groups.

I disagree with decisions based on race and the Treaty creates disagreement and polarises society,
even though that was not its purpose when written.

To me, the Treaty is a historical document with very little value in today's society.

I want one rule for all New Zealanders regardless of colour of skin, gender or other distinguishing
feature.

Sent on the 8 April 2013 at 20:44

2435

From:
To: <constitutionalreview@justice.govt.nz>
Date: 4/07/2013 8:32 a.m.
Subject: CAP Submission

To whom it may Concern,

The Maori Seats should be abolished.

These seats are past their usefulness as Maori can and do get elected into Parliament through normal electoral means.

With MMP Maori can elect their own racial selected party if they so wish
-the same as anyone can have their own flavoured party e.g. The Greens.

Maori are not a second rated people and it is getting harder and harder to identify who is or is not Maori as New Zealand's many cultures merge into a New Zealand people.

We are changing as a country, as we have always changed, and all people who are citizens should be given the same electoral rights as each other, there should be no exclusive people. We are all Kiwis.

Thank You

Colin Harkness

, Hastings

2203¹

From: Mike Harnett
To: <constitutionalreview@justice.govt.nz>
Date: 3/07/2013 12:34 p.m.
Subject: CAP Submission

I believe that all New Zealanders need to decide who they are first and foremost - we are New Zealanders, First I am a New Zealander then I am Irish and Highland Scots. This should also be the case for all Maori those who do not choose the pathway cannot receive any of the benefits of New Zealand nor that of the treaty.

Regards

Mike Harnett

NOTICE OF CONFIDENTIAL INFORMATION

The information contained in this email message is CONFIDENTIAL and may be LEGALLY PRIVILEGED. It is intended for the individual or entity, you must not disseminate, copy or take any action in reliance on the information. If you have received this email message when it was not intended for you, please immediately notify us and delete this email message.

5100

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 7/08/2013 3:38 p.m.

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

Full Names: HARONGA - TAUKAMO FAMILY Organisation Name: KOHIMARAMA WHANAU
TRUST Email: Phone: Postal AddressA:
Postal AddressB: Postal City: NAPIER Postal Region: HAWKES
BAY Postal Post Code: Postal Country: New Zealand Submission: WHAT IS WRONG
WITH THE WAY THINGS ARE NOW? WHY IS THERE A NEED TO CHANGE THE WAY THINGS
ARE ALREADY BEEN SET OUT. WE HAVE BEEN UNDER THE UMBRELLA OF THE TREATY OF
WAITANGI SINCE 1840 AND IT HAS WORKED SINCE THEN, WHY IS THERE A NEED TO
CHANGE THINGS? WHO

WILL BE THE ONES WRITING THE CONSTITUTION? WHAT WOULD IT MEAN FOR TANGATA
WHENUA IF THIS CONSTITUTION IS TO REPLACE THE TREATY OF WAITANGI WHICH 'IS' AN
AGREEMENT/CONTRACT BETWEEN MAORI AND THE ENGLISH. NOW THERE IS A PROBLEM
WITH THE WAY THINGS ARE RUN? FOR

WHOM IS THERE A PROBLEM WITH HOW THINGS ARE RUN?

Submitted on the 17 June 2013 at 00:50

1900'

The Secretariat,
Constitutional Advisory Panel,
C/- Ministry of Justice,
DX SX 10088,
Wellington.

(Mrs) C.J. Harper,
Bay of Plenty.
18/6/2013

Dear Sir / Madam,

My submission to the Government on the proposed
Written Constitution for New Zealand is as follows:-

.....

" 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. It is imperative for New
Zealand to remain a democracy and there must be one law for all,
regardless of race, gender or religion. "

.....

Thank you,

Yours faithfully,

.....
(Mrs) C.J. Harper

365

From:
To: <constitutionalreview@justice.govt.nz>
Date: 15/04/2013 12:39 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

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

Full Names: Geoffrev&Jillian Harper Organisation Name: Email:
Phone: Postal AddressA: Postal
AddressB: Postal City: Postal Region: BAY OF PLENTY Postal Post
Code: Postal Country: New Zealand Submission: We are strongly against a constitution
that is based on the treaty of Waitanga

The constitutional review Committee is totally undalanced and baied towards a favourable recommendation of adopting a consitution based on the Principles of the Treaty.

New zealand is meant to be a democracy so any adoption should be by referendum and majority vote.

Also consultation has been a sham.lwi have been briefed and consulted up and down the country-where has been the average Kiwis consultation?

This Parliament has not relected the wishes of the majority of New Zealanders.

We know that the agreement of the 1840 Treaty has been distorted and here will be another example of Tanata Phenua trying to establish superior rights over other races.

it is obvious that the outcome of the review is predetermined

This will lead to further friction between the diverse races of New Zealand

Sent on the 15 April 2013 at 12:37

2193

From: Neil Harrap
To: <constitutionalreview@justice.govt.nz>
Date: 3/07/2013 11:54 a.m.
Subject: Maori Seats

NZ Constitutional Review.

Dear Reviewers,

I wish to state my opposition to continuing the race-based practice of separate seats for one of New Zealand's many racial groups. The facts show that Maori are slightly over-represented in Parliament at this time and that separate seats are no longer required to provide Maori with representation.

Add to this the fact that the overwhelming majority of 'Maori' are predominately European racially and the case for separate seats is even less valid. A close friend of mine is considered is 'Maori' even though she's fair-skinned, blond and blue-eyed.

Let's recognise New Zealanders as one people, regardless of their race.

Sincerely,

Neil Harrap

Wellington
New Zealand

550

From: --
To: <constitutionalreview@justice.govt.nz>
Date: 19/04/2013 7:19 a.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

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

Full Names: Brendon Harre Organisation Name: private person Email:
Phone: Postal AddressA: Postal AddressB:
Parklands Postal City: Christchurch Postal Region: Postal Post Code: Postal
Country: New Zealand Submission: Our wealth and prosperity as a people come from our
political freedoms. The right to elect those who govern us. The right to be treated equally by the
courts.

My vision of the future is that New Zealand continues to be a free and fair land.

I hope that the institutions protecting our freedom are made stronger because it is this that will get us
through difficult times.

In the spirit of our gradually evolving constitution I would like to make two small changes that will
protect our freedoms.

Firstly that the Speaker of the House be appointed by a 75% majority. Parliament in my eyes is the
ultimate authority in the land and there is a need for him or her to be a 'neutral ref' so that our voices
are truly heard.

Secondly that the next Governor General instead of being suggested in secret by the Prime Minister
should get the approval of 75% of parliament before being appointed by the Queen. That would make
our highest official a genuine partnership between the people
of New Zealand and the Crown.

The appointment of the Governor General made little sense under FPP but under MMP it is an even
greater weakness in our constitutional system. Why should one person who under MMP should be
consulting and discussing through parliament all aspects of governance
be given such dictatorial patronage powers?

I believe that the biggest danger to New Zealand is that a small band of 'elite' using patronage
gradually weaken our freedoms with the result we become slaves in a country that no longer serves
us.

Although the risk of this happening may appear small, the catastrophic consequences of that outcome mean that it is prudent to take sensible measures like I have outlined to ensure that the generations to come have the same freedom we currently enjoy.

Sent on the 19 April 2013 at 07:19

5093

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 7/08/2013 3:35 p.m.

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

Full Names: Stewart Harrex Email: Phone: day Postal
AddressA: Postal City: Palmerston North Postal Region: Manawatu Postal
Post Code: Postal Country: New Zealand Submission: If there is to be a constitution then
it is essential that it include an inherent protection for our natural environment and native flora and
fauna.

My reason being that these are far too important to us in every sense, for their survival and
maintenance to be negotiable or tradeable on a political level.

The Courts should be the decider on whether or not something is consistent with the Counstitution.

Submitted on the 17 June 2013 at 12:50

4142''

From: "john harrhy" <constitutionalreview@justice.govt.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 30/07/2013 9:48 a.m.
Subject: CAP Submission by T & J HARRHY
Attachments: Constitution Advisory Panel.pdf

Please find attached our submission to the Panel.

Business Card 3

Submission to the Constitution Advisory Panel

Please record and take notice of our statements below:

1 Size of Parliament.

WE support fewer MPs as clearly supported by the National referendum held a few years ago, and support the number being reduced to 99 in principle.

2 The length of the term of Parliament and whether the term should be fixed ?

(2a) **WE support the a length of term of Parliament being increased to 4 years**

(2b) **WE prefer the status quo**

3. Size and number of electorates, and method for calculating size

(3.a) *Should the number of electorate stay the same?*

WE have no opinion except that we do not support the concept of racially or list based seats.

(3.b) *Should the method of calculating the size of electorates be changed?*

WE have no opinion

4. Electoral integrity legislation

Should electoral integrity legislation be re-introduced?

"Party hopping" laws prevent MPs leaving a party and distorting the proportionality of Parliament by declaring their seat vacant and forcing them to quit. New Zealand had such a law in 2001 but it expired in 2005. A select committee was not convinced that replacement legislation was needed

WE believe that "Party hopping" laws preventing MPs leaving a party are required

5. Maori representation, including Māori Electoral Option, Maori electoral participation, Maori seats in Parliament and local government:

(5.a) *Should the Maori electoral option (separate Maori roll) be retained or abolished?*

We believe in one law for all citizens of New Zealand and that there should be no special rights for one race.

WE are certain that the Maori Electoral option MUST be abolished.

(5.b) *Should the parliamentary Maori seats be retained or abolished?*

WE are certain that the Maori parliamentary seats MUST be abolished.

(5.c) *Should local government Maori seats be retained or abolished?*

WE agree that the local government Maori seats MUST be abolished.

6. The role of the Treaty of Waitangi within our constitutional arrangements

Should the Treaty of Waitangi have a more central role in our constitutional arrangements?

WE agree that the Treaty MUST have no role in our future constitutional arrangements.

7. Bill of Rights issues (for example, property rights, entrenchment)

(7.a) *Should the protection of property rights be included in Bill of Rights?*

WE state that private property rights MUST NOT have added protection of being included in the Bill of Rights

(7.b) Should the Bill of Rights be entrenched?

The Electoral Act is the only New Zealand statute containing entrenched provisions, which means that it can only be changed through a 75% vote in Parliament or a majority vote in a public referendum. The Bill of Rights does not need to be entrenched since by convention no government would change such a law without wide cross-party parliamentary support.

We state that The Bill of Rights should be entrenched and changed only by public referendum

8. Written constitution

Should New Zealand retain our present flexible constitutional arrangements with the ultimate law-making power held by elected Members of Parliament, or should a new written constitution, which gives the ultimate law-making power to judges, be introduced?

WE state that a "written" constitution MUST be avoided and we MUST retain our flexible Constitutional arrangements

9. Any other comments

(9.a) Should the DECLARATION OF EQUALITY be enacted by Parliament?

WE agree that with a Declaration of Equality which states:

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

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

2 We ask that such references be removed from all existing legislation.

3 We ask that race-based Parliamentary seats be abolished.

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

5 We ask that the Waitangi Tribunal be abolished. Therefore in the interests of New Zealand we call on the members of the House of Representatives to implement the principles of this Declaration of Equality to ensure that there is one law for all."

(9.b) Should constitutional change be dictated by MPs or subjected to a public referendum?

The only legitimate democratic way to enact major constitutional change is through a public referendum process. Any attempts by MPs to change the constitution by way of a parliamentary vote should be regarded as illegitimate and strongly opposed by all citizens.

WE state that there MUST be no constitutional change by MPs.

(9.c) Other issues ...

We do not accept that the seemingly politically appointed body of the Treaty of Waitangi Tribunal are basing their decisions on the correct interpretation of the Treaty. The 1840 Treaty- the Maori translation and the Littlewood document- is inclusive to all New Zealanders.

Maori ceded sovereignty and recognized that this was essential to overcome their continual tribal conflict and cannibalism.

Maori, more importantly, understood the concept of sovereignty.

After the Treaty signing Maori had the opportunity to disagree but did not. In the 1860 ratification of the Treaty at Kohimarama before a congress of Maori leaders opened by Governor Thomas Gore Brown, Maori reaffirmed their understanding of sovereignty with majority acceptance.

Maori retained the full exclusive and undisturbed possession of their lands and estates, forests, fisheries and other properties which they may collectively or individually possess so long it is their wish to retain them. These are tangible rather than intangibles such as airwaves.

We do not want a racially based New Zealand which is leading to chaos and is counter to the principle of equality of human rights.

Signed 29th July 2013

Patricia Harrhy

Auckland

John Harrhy

Auckland

4543

From: "Gavin Harris"
To: <ConstitutionalReview@justice.govt.nz>
Date: 1/08/2013 9:29 a.m.
Subject: Re NZ Constitution Submission

I wish to make a submission on the potential preparation of a constitution for New Zealand. My concern is that any constitution recognise the founding of our country in terms of its Christian heritage as reflected in our national anthem and other founding documents, and the values and freedoms inherited from that basis. Secondly recognition that all women and men that are citizens of NZ be treated as equals. Any constitution for our nation should be widely assessed in terms of effects on existing law and society structure and potential unforeseen implications. Adoption of a new constitution should be subject to a vote with a requirement of at least 75% approval for adoption of a constitution or subsequent change. Any panel preparing the constitution or procedure for adoption should also be subject to public election. No political party based appointment procedures.

The above are of course very broad brush submissions. The reality is for me as for many "normal" working New Zealanders, with a family to support, is that we do not have significant amounts of time to delve into the many Government submission procedures. The constitution process will more substantially affect our nation and futures than many people realise. As a New Zealander of at least 6 generations on all sides of my family I am passionate about my country and am concerned that any constitution recognise we provincial, relatively unfashionable people, and our hopes and aspirations as equals, rather than just the prevailing political/academic view of this small part of the world.

Gavin Harris

Matamata

Matamata

Note; This email is private and is intended exclusively for the recipient only. If you are not the intended recipient please advise the sender and destroy the email.

4607

From: "John Harris" ·
To: <constitutionalreview@justice.govt.nz>
Date: 5/08/2013 12:45 a.m.
Subject: FW: New Zealand Constitutional Review
Attachments: Irene's Submission on Constitutional Review 30 July 13.pdf; John's Submission on Constitutional Review 30 July 13.pdf

Dear Sir / Madam

I sent these two submissions on the 30th July 2013 and requested a confirmation of receipt of the submissions.

No confirmation was received and it would be appreciated if you could confirm that these two submissions were received prior to the closing date & time.

Regards

John

From: John Harris
Sent: Tuesday, 30 July 2013 9:16 p.m.
To: constitutionalreview@justice.govt.nz
Subject: New Zealand Constitutional Review

Dear Sir/Madam

Attached are two submissions for the New Zealand Constitutional Review

It would be appreciated if you could confirm receipt of this email.

Regards

John Harris

Te Aroha

Phone/fax: _____

Mobile: _____

Email: _____

Email disclaimer: This email message and any attached files may contain confidential information, and may be subject to legal professional privilege. If you have received this message in error, please notify the sender immediately and destroy the original message. If you are not the intended recipient, do not copy, disclose or use the contents of the message and attached files(s) in any way.

Any views expressed in this message and attached file(s) are those of the individual sender and may not reflect the organisation(s) that the sender is representing. The sender is not responsible for any changes made to this message and attached file(s) after sending.

The sender has made reasonable efforts to ensure that the email has been scanned and is free of viruses. However, the sender can make no warranty that this email or any attachments to it are free from viruses.

Te Aroha

30 July 2013

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

Dear Sir / Madam,

Submission on the New Zealand Constitutional Review:

Thank you for the opportunity to make submissions on this far reaching review which affects all New Zealanders, regardless of ethnicity or country of origin.

I am a 60 year old self-employed administrator with a family, and while constitutional changes may not impact greatly on me, I must do everything I can to make this country a better place for my children, their children and so on. I do not have many options to make this happen, apart from my single voice and the hope that other single voices will combine and respond in a like and loud manner.

My submission will follow the layout of the Terms of Reference with a general statement at the end:

Electoral matters:

- Size of Parliament – There should be little need for comment on this specific issue as, anecdotally the majority of the public have wanted a reduction and this was clearly verified by the 81.5% result in the 1999 referendum. To use, however, the 146 public submissions received two years later in the MMP Review Select Committee, with 62.3% favouring the retention of 120 seats is a bit mischievous, particularly as the numerous subsequent polls indicate overwhelming support for reduced central government representation. My own desire is for 92 elected representatives but would settle for 99.

In terms of workability with reduced numbers, I agree with both the 1988 Electoral Law Committee's suggestion of making select committees more politically influential and more responsive to the public, and the re-introduction of a second legislative chamber to provide more effective oversight, similar to the current public and legal concerns about the GCSB legislation.

- Length of the term of Parliament – Similar to my comments above, the public have been overwhelmingly against any increase to the current three year term. In my opinion, the various advantages of longer periods being to test policies, more certainty, etc. have some credence but lack of trust of elected representatives is one of the primary motives of

retaining the shorter term. My desire would be for more bipartisan politics for such major issues as superannuation and welfare and would certainly increase the public's confidence in its elected representatives. Having worked for 46 years and trying to plan a retirement system that would last, it is difficult not to be cynical when you have been through a 25 year+ cycle, with Labour's compulsory saving scheme, refunded by National and now the National Kiwisaver scheme and which has been fiddled with already. This type of cooperation does not need a longer electoral term, but it does need a desire to work together for the common good.

- Whether or not the electoral date should be fixed – the current system is fine as it provides a degree of flexibility but I believe that there should be a long notice requirement to avoid using it for political advantage. The ability to dissolve parliament should be mandatory but would require a minimum vote of 75%.
- The size and number of electorates – Retain the current population quota system, based on the South Island's 16 electorates, but remove Māori seats, refer below, which would reduce the number of electorates and the current 50 list seats should be reduced to 36.
- Electoral integrity legislation – to the lay person, a list MP who denounces the party that they were elected on should have to leave parliament automatically as they are there solely because of the party vote. They were not elected as individuals and one has to wonder whether legislation is required when commonsense dictates that if they are not a member of the party they cannot be a member of parliament.

If legislation is required, it should be for list MPs only, as electorate MPs are often elected as individuals, not parties, and they should retain the right to a conscience vote, even if they have to cross the floor. If the conscience vote was disallowed for electorate MPs, one would have to wonder why we have list MPs.

Crown-Māori relationship matters:

- Māori representation in Parliament – I am reminded of the saying about 'a week in parliament' with the excerpts from two newspaper clippings about a month apart.
"National confirms policy to abolish Maori seats: NZPA | Sunday September 28, 2008

The National Party has confirmed it wants to see the eventual abolition of the Maori seats in Parliament. The party today released its Maori Affairs and Treaty Negotiations policies, promising to "devote fresh energy and leadership" to advancing Treaty settlements. It wants to settle all historic claims by 2014, a deadline it has set in the past. "Linked to the settlement of historic Treaty claims is our policy on the Maori seats," Party leader John Key said. "At the conclusion of the settlement of historic Treaty claims, National will begin a constitutional process to abolish the Maori seats. National wishes to see all New Zealanders on the same electoral roll."

"Key not ruling out entrenching Maori seats: NZPA | Sunday November 02, 2008

National leader John Key told supporters in Upper Hutt today the public had to choose whether they wanted a National, United Future, Act Government or not – but he did not mention the Maori Party.

He railed against state interference in private lives.

Labour last week said it did not have a problem with entrenching the Maori seats and Miss Clark today said Labour would look at the issue. Entrenching means a 75 percent majority vote in Parliament would be needed to abolish the seats, which is a bottom line for the Maori Party in any post-election negotiations. Getting rid of the seats is a National policy.

Mr Key said the move showed desperation on Labour's behalf.

"I have made it dear to the Maori Party in the discussions that we've had that abolition of the Maori seats is not a bottom line. They have never ever raised with me the issue of entrenchment now you know I'm not ruling it out but I'm not ruling it in."

Asked if it could be a deal breaker Mr Key said he was not going to prejudge negotiations and said the Maori Party had a range of priorities. There were also a range of outcomes from the Maori Party abstaining on confidence and supply through to full coalition."

This makes it very difficult to understand and believe pre-election party mandates but there is a large level of support for the abolition of Māori parliamentary seats and was one of the, now misguided, reasons that there was support by the public for National taking a positive step and finally following up on the 1986 Royal Commission on the Electoral System, which stated that MMP would produce gains for Māori in terms of political representation, and that the Māori seats should then be abolished. My personal view is that New Zealand should now look forward as one people, letting MMP do what it was designed to do, and lose the rear view mirror as looking backwards is a recipe for disaster, as you miss opportunities that you did not see coming.

- Māori representation in local government – Identical to above but the opposition is greater, particularly as they have generally been at the request of the Councils not the public. Waikato Regional Council's decision, under the guise of improved local democracy, voted for Māori seats without a mandate from the ratepayers who have to pay for it.
- Role of the Treaty of Waitangi – There is a very one sided view of the Treaty as the founding document of New Zealand and is one of the primary reasons for disharmony in New Zealand and the universal lack of interest in Waitangi Day being a unifying day for all New Zealanders.

There will never be agreement in the exact thoughts of both Iwi and Hobson, particularly Hobson in 1840, regarding the individual articles and they are now interpreted in ways it was certainly never envisaged, particularly that they had more rights than non-Māori. It is an important document in our history but should not be enshrined in legislation, as it creates a form of racism by invoking special treatment on the grounds of race, a distinction that we go to considerable lengths to convince ourselves that we do not have.

This is exacerbated by the constant reference to the treaty being between Māori and the crown. It is also unfair to non-Māori that all the tribes had the opportunity, through their respective chiefs, to sign the treaty while non-Māori were represented by only Hobson himself. It is easy to see why Māori have a closer relationship with it and why non-Māori perceive, quite understandably, that they have been and still are excluded.

Other Constitutional matters:

- Bill of Rights – I am reasonably comfortable with the Act per se, but have some concerns that the proposed GCSB bill, protection of senior civil servants and other innocuous bills that are currently being quietly passed, often under urgency, are slowly eroding these rights. The clause in the defence manual that saw journalists as a threat is just another risk to our rights as it about controlling information and the governments self-righteous indignation and looking for a source to blame rings a trifle hollow as it has been in the manual for 10 years. Labour has also to take some responsibility as it was in their watch as well.

The current Act should be reviewed to make sure that it is still effective and meets the needs of the people and would be an opportunity to include property rights.

In terms of entrenchment of the Act, I strongly believe that it should and a 75% majority vote required to change it. It is too important to risk it with anything less, particularly given the recent legislations being passed with a majority of 1.

- Written Constitution – I am not in favour of a written constitution as I believe that it may be counterproductive, by amplifying existing differences, particularly those that will have no consensus, the treaty being the major over-riding issue.

General statement:

I take my personal responsibility to assist in developing a country that we should be proud to live in very seriously and have participated in numerous submissions, not all for central government issues.

I am disappointed in this Constitutional Review as it gave the feeling that there was no effort made to canvas non-Māori participation, in fact it appeared to almost discourage it, based on the very low level of publicity.

Even the term advisory panel does not assist in providing confidence, as a review is not about seeking advice; it is about a panel, with no real or perceived conflicts of interest or bias, seeking the public's views, and reporting on these views in a balanced and impartial manner.

It is a big responsibility for the panel and I urge them to consider the future of the country as a whole when they make their recommendations.

Once again, thank you for the opportunity and wish you well in your deliberations.

I do not wish to be heard.

Yours faithfully,



Irene S. Harris

Te Aroha

30 July 2013

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

Dear Sir / Madam,

Submission on the New Zealand Constitutional Review:

Thank you for the opportunity to make submissions on this far reaching review which affects all New Zealanders, regardless of ethnicity or country of origin.

I am a 64 year old self-employed professional (with 15 years elected local government experience) with a family, and while constitutional changes may not impact greatly on me, I must do everything I can to make this country a better place for my children, their children and so on. I do not have many options to make this happen, apart from my single voice and the hope that other single voices will combine and respond in a like and loud manner.

My submission will follow the layout of the Terms of Reference with a general statement at the end:

Electoral matters:

- Size of Parliament – There should be little need for comment on this specific issue as, anecdotally the majority of the public have wanted a reduction and this was clearly verified by the 81.5% result in the 1999 referendum. To use, however, the 146 public submissions received two years later in the MMP Review Select Committee, with 62.3% favouring the retention of 120 seats is a bit mischievous, particularly as the numerous subsequent polls indicate overwhelming support for reduced central government representation. My own desire is for 92 elected representatives but would settle for 99.

In terms of workability with reduced numbers, I agree with both the 1988 Electoral Law Committee's suggestion of making select committees more politically influential and more responsive to the public, and the re-introduction of a second legislative chamber to provide more effective oversight, similar to the current public and legal concerns about the GCSB legislation.

- Length of the term of Parliament – Similar to my comments above, the public have been overwhelmingly against any increase to the current three year term. In my opinion, the various advantages of longer periods being to test policies, more certainty, etc. have some credence but lack of trust of elected representatives is one of the primary motives of

retaining the shorter term. My desire would be for more bipartisan politics for such major issues as superannuation and welfare and would certainly increase the public's confidence in its elected representatives. Having worked for 46 years and trying to plan a retirement system that would last, it is difficult not to be cynical when you have been through a 25 year+ cycle, with Labour's compulsory saving scheme, refunded by National and now the National Kiwisaver scheme and which has been fiddled with already. This type of cooperation does not need a longer electoral term, but it does need a desire to work together for the common good.

- whether or not the electoral date should be fixed – the current system is fine as it provides a degree of flexibility but I believe that there should be a long notice requirement to avoid using it for political advantage. The ability to dissolve parliament should be mandatory but would require a minimum vote of 75%.
- The size and number of electorates – Retain the current population quota system, based on the South Island's 16 electorates, but remove Māori seats, refer below, which would reduce the number of electorates and the current 50 list seats should be reduced to 36.
- Electoral integrity legislation – to the lay person, a list MP who denounces the party that they were elected on should have to leave parliament automatically as they are there solely because of the party vote. They were not elected as individuals and one has to wonder whether legislation is required when commonsense dictates that if they are not a member of the party they cannot be a member of parliament.

If legislation is required, it should be for list MPs only, as electorate MPs are often elected as individuals, not parties, and they should retain the right to a conscience vote, even if they have to cross the floor. If the conscience vote was disallowed for electorate MPs, one would have to wonder why we have list MPs.

Crown-Māori relationship matters:

- Māori representation in Parliament – I am reminded of the saying about 'a week in parliament' with the excerpts from two newspaper clippings about month apart.
"National confirms policy to abolish Maori seats: NZPA | Sunday September 28, 2008

The National Party has confirmed it wants to see the eventual abolition of the Maori seats in Parliament. The party today released its Maori Affairs and Treaty Negotiations policies, promising to "devote fresh energy and leadership" to advancing Treaty settlements. It wants to settle all historic claims by 2014, a deadline it has set in the past. "Linked to the settlement of historic Treaty claims is our policy on the Maori seats," Party leader John Key said. "At the conclusion of the settlement of historic Treaty claims, National will begin a constitutional process to abolish the Maori seats. National wishes to see all New Zealanders on the same electoral roll."

"Key not ruling out entrenching Maori seats: NZPA | Sunday November 02, 2008

National leader John Key told supporters in Upper Hutt today the public had to choose whether they wanted a National, United Future, Act Government or not --but he did not mention the Maori Party.

He railed against state interference in private lives.

Labour last week said it did not have a problem with entrenching the Maori seats and Miss Clark today said Labour would look at the issue. Entrenching means a 75 percent majority vote in Parliament would be needed to abolish the seats, which is a bottom line for the Maori Party in any post-election negotiations. Getting rid of the seats is a National policy.

Mr Key said the move showed desperation on Labour's behalf.

"I have made it clear to the Maori Party in the discussions that we've had that abolition of the Maori seats is not a bottom line. They have never ever raised with me the issue of entrenchment now you know I'm not ruling it out but I'm not ruling it in."

Asked if it could be a deal breaker Mr Key said he was not going to prejudge negotiations and said the Maori Party had a range of priorities. There were also a range of outcomes from the Maori Party abstaining on confidence and supply through to full coalition."

This makes it very difficult to understand and believe pre-election party mandates but there is a large level of support for the abolition of Māori parliamentary seats and was one of the, now misguided, reasons that there was support by the public for National taking a positive step and finally following up on the 1986 Royal Commission on the Electoral System, which stated that MMP would produce gains for Māori in terms of political representation, and that the Māori seats should then be abolished. My personal view is that New Zealand should now look forward as one people, letting MMP do what it was designed to do, and lose the rear view mirror as looking backwards is a recipe for disaster, as you miss opportunities that you did not see coming.

- Māori representation in local government – Identical to above but the opposition is greater, particularly as they have generally been at the request of the Councils not the public. Waikato Regional Council's decision, under the guise of improved local democracy, voted for Māori seats without a mandate from the ratepayers who have to pay for it.
- Role of the Treaty of Waitangi – There is a very one sided view of the Treaty as the founding document of New Zealand and is one of the primary reasons for disharmony in New Zealand and the universal lack of interest in Waitangi Day being a unifying day for all New Zealanders.

There will never be agreement in the exact thoughts of both Iwi and Hobson, particularly Hobson in 1840, regarding the individual articles and they are now interpreted in ways it was certainly never envisaged, particularly that they had more rights than non-Māori. It is an important document in our history but should not be enshrined in legislation, as it creates a form of racism by invoking special treatment on the grounds of race, a distinction that we go to considerable lengths to convince ourselves that we do not have.

This is exacerbated by the constant reference to the treaty being between Māori and the crown. It is also unfair to non-Māori that all the tribes had the opportunity, through their respective chiefs, to sign the treaty while non-Māori were represented by only Hobson himself. It is easy to see why Māori have a closer relationship with it and why non-Māori perceive, quite understandably, that they have been and still are excluded.

Other Constitutional matters:

- Bill of Rights – I am reasonably comfortable with the Act per se, but have some concerns that the proposed GCSB bill, protection of senior civil servants and other innocuous bills that are currently being quietly passed, often under urgency, are slowly eroding these rights. The clause in the defence manual that saw journalists as a threat is just another risk to our rights as it is about controlling information and the government's self-righteous indignation and looking for a source to blame rings a trifle hollow as it has been in the manual for 10 years. Labour has also to take some responsibility as it was in their watch as well.

The current Act should be reviewed to make sure that it is still effective and meets the needs of the people and would be an opportunity to include property rights.

In terms of entrenchment of the Act, I strongly believe that it should and a 75% majority vote required to change it. It is too important to risk it with anything less, particularly given the recent legislations being passed with a majority of 1.

- Written Constitution – I am not in favour of a written constitution as I believe that it may be counterproductive, by amplifying existing differences, particularly those that will have no consensus, the treaty being the major over-riding issue.

General statement.

I take my personal responsibility to assist in developing a country that we should be proud to live in very seriously and have participated in numerous submissions, not all for central government issues.

I am disappointed in this Constitutional Review as it gave the feeling that there was no effort made to canvas non-Māori participation, in fact it appeared to almost discourage it, based on the very low level of publicity.


Even the term advisory panel does not assist in providing confidence, as a review is not about seeking advice; it is about a panel, with no real or perceived conflicts of interest or bias, seeking the public's views, and reporting on these views in a balanced and impartial manner.

It is a big responsibility for the panel and I urge them to consider the future of the country as a whole when they make their recommendations.

Once again, thank you for the opportunity and wish you well in your deliberations.

I do not wish to be heard.

Yours faithfully,


John W. Harris

From: "John Harris" <>
To: <constitutionalreview@justice.govt.nz>
Date: 30/07/2013 9:16 p.m.
Subject: New Zealand Constitutional Review
Attachments: Irene's Submission on Constitutional Review 30 July 13.pdf; John's Submission on Constitutional Review 30 July 13.pdf

Dear Sir/Madam

Attached are two submissions for the New Zealand Constitutional Review

It would be appreciated if you could confirm receipt of this email.

Regards

John Harris

Te Aroha

Phone/fax

Mobile

Email:

Email disclaimer: This email message and any attached files may contain confidential information, and may be subject to legal professional privilege. If you have received this message in error, please notify the sender immediately and destroy the original message. If you are not the intended recipient, do not copy, disclose or use the contents of the message and attached files(s) in any way.

Any views expressed in this message and attached file(s) are those of the individual sender and may not reflect the organisation(s) that the sender is representing. The sender is not responsible for any changes made to this message and attached file(s) after sending.

The sender has made reasonable efforts to ensure that the email has been scanned and is free of viruses. However, the sender can make no warranty that this email or any attachments to it are free from viruses.

Te Aroha

30 July 2013

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

Dear Sir / Madam,

Submission on the New Zealand Constitutional Review:

Thank you for the opportunity to make submissions on this far reaching review which affects all New Zealanders, regardless of ethnicity or country of origin.

I am a 60 year old self-employed administrator with a family, and while constitutional changes may not impact greatly on me, I must do everything I can to make this country a better place for my children, their children and so on. I do not have many options to make this happen, apart from my single voice and the hope that other single voices will combine and respond in a like and loud manner.

My submission will follow the layout of the Terms of Reference with a general statement at the end:

Electoral matters:

- Size of Parliament – There should be little need for comment on this specific issue as, anecdotally the majority of the public have wanted a reduction and this was clearly verified by the 81.5% result in the 1999 referendum. To use, however, the 146 public submissions received two years later in the MMP Review Select Committee, with 62.3% favouring the retention of 120 seats is a bit mischievous, particularly as the numerous subsequent polls indicate overwhelming support for reduced central government representation. My own desire is for 92 elected representatives but would settle for 99.

In terms of workability with reduced numbers, I agree with both the 1988 Electoral Law Committee's suggestion of making select committees more politically influential and more responsive to the public, and the re-introduction of a second legislative chamber to provide more effective oversight, similar to the current public and legal concerns about the GCSB legislation.

- Length of the term of Parliament – Similar to my comments above, the public have been overwhelmingly against any increase to the current three year term. In my opinion, the various advantages of longer periods being to test policies, more certainty, etc. have some credence but lack of trust of elected representatives is one of the primary motives of

retaining the shorter term. My desire would be for more bipartisan politics for such major issues as superannuation and welfare and would certainly increase the public's confidence in its elected representatives. Having worked for 46 years and trying to plan a retirement system that would last, it is difficult not to be cynical when you have been through a 25 year+ cycle, with Labour's compulsory saving scheme, refunded by National and now the National Kiwisaver scheme and which has been fiddled with already. This type of cooperation does not need a longer electoral term, but it does need a desire to work together for the common good.

~~Whether or not the electoral date should be fixed~~ The current system is fine as it provides a degree of flexibility but I believe that there should be a long notice requirement to avoid using it for political advantage. The ability to dissolve parliament should be mandatory but would require a minimum vote of 75%.

- The size and number of electorates – Retain the current population quota system, based on the South Island's 16 electorates, but remove Māori seats, refer below, which would reduce the number of electorates and the current 50 list seats should be reduced to 36.
- Electoral integrity legislation – to the lay person, a list MP who denounces the party that they were elected on should have to leave parliament automatically as they are there solely because of the party vote. They were not elected as individuals and one has to wonder whether legislation is required when common sense dictates that if they are not a member of the party they cannot be a member of parliament.

If legislation is required, it should be for list MPs only, as electorate MPs are often elected as individuals, not parties, and they should retain the right to a conscience vote, even if they have to cross the floor. If the conscience vote was disallowed for electorate MPs, one would have to wonder why we have list MPs.

Crown-Māori relationship matters:

- Māori representation in Parliament – I am reminded of the saying about 'a week in parliament' with the excerpts from two newspaper clippings about a month apart.
"National confirms policy to abolish Maori seats: NZPA | Sunday September 28, 2008

The National Party has confirmed it wants to see the eventual abolition of the Maori seats in Parliament. The party today released its Maori Affairs and Treaty Negotiations policies, promising to "devote fresh energy and leadership" to advancing Treaty settlements. It wants to settle all historic claims by 2014, a deadline it has set in the past. "Linked to the settlement of historic Treaty claims is our policy on the Maori seats," Party leader John Key said. "At the conclusion of the settlement of historic Treaty claims, National will begin a constitutional process to abolish the Maori seats. National wishes to see all New Zealanders on the same electoral roll."

"Key not ruling out entrenching Maori seats: NZPA | Sunday November 02, 2008

National leader John Key told supporters in Upper Hutt today the public had to choose whether they wanted a National, United Future, Act Government or not -- but he did not mention the Maori Party.

He railed against state interference in private lives.

Labour last week said it did not have a problem with entrenching the Maori seats and Miss Clark today said Labour would look at the issue. Entrenching means a 75 percent majority vote in Parliament would be needed to abolish the seats, which is a bottom line for the Maori Party in any post-election negotiations. Getting rid of the seats is a National policy.

Mr Key said the move showed desperation on Labour's behalf.

"I have made it clear to the Maori Party in the discussions that we've had that abolition of the Maori seats is not a bottom line. They have never ever raised with me the issue of entrenchment now you know I'm not ruling it out but I'm not ruling it in."

Asked if it could be a deal breaker Mr Key said he was not going to prejudge negotiations and said the Maori Party had a range of priorities. There were also a range of outcomes from the Maori Party abstaining on confidence and supply through to full coalition.

This makes it very difficult to understand and believe pre-election party mandates but there is a large level of support for the abolition of Māori parliamentary seats and was one of the, now misguided, reasons that there was support by the public for National taking a positive step and finally following up on the 1986 Royal Commission on the Electoral System, which stated that MMP would produce gains for Māori in terms of political representation, and that the Māori seats should then be abolished. My personal view is that New Zealand should now look forward as one people, letting MMP do what it was designed to do, and lose the rear view mirror as looking backwards is a recipe for disaster, as you miss opportunities that you did not see coming.

- Māori representation in local government – Identical to above but the opposition is greater, particularly as they have generally been at the request of the Councils not the public. Waikato Regional Council's decision, under the guise of improved local democracy, voted for Māori seats without a mandate from the ratepayers who have to pay for it.
- Role of the Treaty of Waitangi – There is a very one sided view of the Treaty as the founding document of New Zealand and is one of the primary reasons for disharmony in New Zealand and the universal lack of interest in Waitangi Day being a unifying day for all New Zealanders.

There will never be agreement in the exact thoughts of both Iwi and Hobson, particularly Hobson in 1840, regarding the individual articles and they are now interpreted in ways it was certainly never envisaged, particularly that they had more rights than non-Māori. It is an important document in our history but should not be enshrined in legislation, as it creates a form of racism by invoking special treatment on the grounds of race, a distinction that we go to considerable lengths to convince ourselves that we do not have.

This is exacerbated by the constant reference to the treaty being between Māori and the crown. It is also unfair to non-Māori that all the tribes had the opportunity, through their respective chiefs, to sign the treaty while non-Māori were represented by only Hobson himself. It is easy to see why Māori have a closer relationship with it and why non-Māori perceive, quite understandably, that they have been and still are excluded.

Other Constitutional matters:

- Bill of Rights – I am reasonably comfortable with the Act per se, but have some concerns that the proposed GCSB bill, protection of senior civil servants and other innocuous bills that are currently being quietly passed, often under urgency, are slowly eroding these rights. The clause in the defence manual that saw journalists as a threat is just another risk to our rights as it is about controlling information and the government's self-righteous indignation and looking for a source to blame rings a trifle hollow as it has been in the manual for 10 years. Labour has also to take some responsibility as it was in their watch as well.

The current Act should be reviewed to make sure that it is still effective and meets the needs of the people and would be an opportunity to include property rights.

In terms of entrenchment of the Act, I strongly believe that it should and a 75% majority vote required to change it. It is too important to risk it with anything less, particularly given the recent legislations being passed with a majority of 1.

- Written Constitution—I am not in favour of a written constitution as I believe that it may be counterproductive, by amplifying existing differences, particularly those that will have no consensus, the treaty being the major over-riding issue.

General statement.

I take my personal responsibility to assist in developing a country that we should be proud to live in very seriously and have participated in numerous submissions, not all for central government issues.

I am disappointed in this Constitutional Review as it gave the feeling that there was no effort made to canvas non-Māori participation, in fact it appeared to almost discourage it, based on the very low level of publicity.

Even the term advisory panel does not assist in providing confidence, as a review is not about seeking advice; it is about a panel, with no real or perceived conflicts of interest or bias, seeking the public's views, and reporting on these views in a balanced and impartial manner.

It is a big responsibility for the panel and I urge them to consider the future of the country as a whole when they make their recommendations.

Once again, thank you for the opportunity and wish you well in your deliberations.

I do not wish to be heard.

Yours faithfully,

Irene S. Harris

Te Aroha

30 July 2013

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

Dear Sir / Madam,

Submission on the New Zealand Constitutional Review:

Thank you for the opportunity to make submissions on this far reaching review which affects all New Zealanders, regardless of ethnicity or country of origin.

I am a 64 year old self-employed professional (with 15 years elected local government experience) with a family, and while constitutional changes may not impact greatly on me, I must do everything I can to make this country a better place for my children, their children and so on. I do not have many options to make this happen, apart from my single voice and the hope that other single voices will combine and respond in a like and loud manner.

My submission will follow the layout of the Terms of Reference with a general statement at the end:

Electoral matters:

- Size of Parliament – There should be little need for comment on this specific issue as, anecdotally the majority of the public have wanted a reduction and this was clearly verified by the 81.5% result in the 1999 referendum. To use, however, the 146 public submissions received two years later in the MMP Review Select Committee, with 62.3% favouring the retention of 120 seats is a bit mischievous, particularly as the numerous subsequent polls indicate overwhelming support for reduced central government representation. My own desire is for 92 elected representatives but would settle for 99.

In terms of workability with reduced numbers, I agree with both the 1988 Electoral Law Committee's suggestion of making select committees more politically influential and more responsive to the public, and the re-introduction of a second legislative chamber to provide more effective oversight, similar to the current public and legal concerns about the GCSB legislation.

- Length of the term of Parliament – Similar to my comments above, the public have been overwhelmingly against any increase to the current three year term. In my opinion, the various advantages of longer periods being to test policies, more certainty, etc. have some credence but lack of trust of elected representatives is one of the primary motives of

retaining the shorter term. My desire would be for more bipartisan politics for such major issues as superannuation and welfare and would certainly increase the public's confidence in its elected representatives. Having worked for 46 years and trying to plan a retirement system that would last, it is difficult not to be cynical when you have been through a 25 year+ cycle, with Labour's compulsory saving scheme, refunded by National and now the National Kiwisaver scheme and which has been fiddled with already. This type of cooperation does not need a longer electoral term, but it does need a desire to work together for the common good.

~~Whether or not the Electoral Act should be fixed~~ The current system does not provide a degree of flexibility but I believe that there should be a long notice requirement to avoid using it for political advantage. The ability to dissolve parliament should be mandatory but would require a minimum vote of 75%.

- The size and number of electorates – Retain the current population quota system, based on the South Island's 16 electorates, but remove Māori seats, refer below, which would reduce the number of electorates and the current 50 list seats should be reduced to 36.
- Electoral integrity legislation – to the lay person, a list MP who denounces the party that they were elected on should have to leave parliament automatically as they are there solely because of the party vote. They were not elected as individuals and one has to wonder whether legislation is required when common sense dictates that if they are not a member of the party they cannot be a member of parliament.

If legislation is required, it should be for list MPs only, as electorate MPs are often elected as individuals, not parties, and they should retain the right to a conscience vote, even if they have to cross the floor. If the conscience vote was disallowed for electorate MPs, one would have to wonder why we have list MPs.

Crown-Māori relationship matters:

- Māori representation in Parliament – I am reminded of the saying about 'a week in parliament' with the excerpts from two newspaper clippings about a month apart.
"National confirms policy to abolish Maori seats: NZPA | Sunday September 28, 2008

The National Party has confirmed it wants to see the eventual abolition of the Maori seats in Parliament. The party today released its Maori Affairs and Treaty Negotiations policies, promising to "devote fresh energy and leadership" to advancing Treaty settlements. It wants to settle all historic claims by 2014, a deadline it has set in the past. "Linked to the settlement of historic Treaty claims is our policy on the Maori seats," Party leader John Key said. "At the conclusion of the settlement of historic Treaty claims, National will begin a constitutional process to abolish the Maori seats. National wishes to see all New Zealanders on the same electoral roll."

"Key not ruling out entrenching Maori seats: NZPA | Sunday November 02, 2008

National leader John Key told supporters in Upper Hutt today the public had to choose whether they wanted a National, United Future, Act Government or not -- but he did not mention the Maori Party.

He railed against state interference in private lives.

Labour last week said it did not have a problem with entrenching the Maori seats and Miss Clark today said Labour would look at the issue. Entrenching means a 75 percent majority vote in Parliament would be needed to abolish the seats, which is a bottom line for the Maori Party in any post-election negotiations. Getting rid of the seats is a National policy.

Mr Key said the move showed desperation on Labour's behalf.

"I have made it clear to the Maori Party in the discussions that we've had that abolition of the Maori seats is not a bottom line. They have never ever raised with me the issue of entrenchment now you know I'm not ruling it out but I'm not ruling it in."

Asked if it could be a deal breaker Mr Key said he was not going to prejudge negotiations and said the Maori Party had a range of priorities. There were also a range of outcomes from the Maori Party abstaining on confidence and supply through to full coalition.

This makes it very difficult to understand and believe pre-election party mandates but there is a large level of support for the abolition of Māori parliamentary seats and was one of the, now misguided, reasons that there was support by the public for National taking a positive step and finally following up on the 1986 Royal Commission on the Electoral System, which stated that MMP would produce gains for Māori in terms of political representation, and that the Māori seats should then be abolished. My personal view is that New Zealand should now look forward as one people, letting MMP do what it was designed to do, and lose the rear view mirror as looking backwards is a recipe for disaster, as you miss opportunities that you did not see coming.

- Māori representation in local government – Identical to above but the opposition is greater, particularly as they have generally been at the request of the Councils not the public. Waikato Regional Council's decision, under the guise of improved local democracy, voted for Māori seats without a mandate from the ratepayers who have to pay for it.
- Role of the Treaty of Waitangi – There is a very one sided view of the Treaty as the founding document of New Zealand and is one of the primary reasons for disharmony in New Zealand and the universal lack of interest in Waitangi Day being a unifying day for all New Zealanders.

There will never be agreement in the exact thoughts of both Iwi and Hobson, particularly Hobson in 1840, regarding the individual articles and they are now interpreted in ways it was certainly never envisaged, particularly that they had more rights than non-Māori. It is an important document in our history but should not be enshrined in legislation, as it creates a form of racism by invoking special treatment on the grounds of race, a distinction that we go to considerable lengths to convince ourselves that we do not have.

This is exacerbated by the constant reference to the treaty being between Māori and the crown. It is also unfair to non-Māori that all the tribes had the opportunity, through their respective chiefs, to sign the treaty while non-Māori were represented by only Hobson himself. It is easy to see why Māori have a closer relationship with it and why non-Māori perceive, quite understandably, that they have been and still are excluded.

Other Constitutional matters:

- Bill of Rights – I am reasonably comfortable with the Act per se, but have some concerns that the proposed GCSB bill, protection of senior civil servants and other innocuous bills that are currently being quietly passed, often under urgency, are slowly eroding these rights. The clause in the defence manual that saw journalists as a threat is just another risk to our rights as it is about controlling information and the government's self-righteous indignation and looking for a source to blame rings a trifle hollow as it has been in the manual for 10 years. Labour has also to take some responsibility as it was in their watch as well.

The current Act should be reviewed to make sure that it is still effective and meets the needs of the people and would be an opportunity to include property rights.

In terms of entrenchment of the Act, I strongly believe that it should and a 75% majority vote required to change it. It is too important to risk it with anything less, particularly given the recent legislations being passed with a majority of 1.

- Written Constitution— I am not in favour of a written constitution as I believe that it may be counterproductive, by amplifying existing differences, particularly those that will have no consensus, the treaty being the major over-riding issue.

General statement.

I take my personal responsibility to assist in developing a country that we should be proud to live in very seriously and have participated in numerous submissions, not all for central government issues.

I am disappointed in this Constitutional Review as it gave the feeling that there was no effort made to canvas non-Māori participation, in fact it appeared to almost discourage it, based on the very low level of publicity.

Even the term advisory panel does not assist in providing confidence, as a review is not about seeking advice; it is about a panel, with no real or perceived conflicts of interest or bias, seeking the public's views, and reporting on these views in a balanced and impartial manner.

It is a big responsibility for the panel and I urge them to consider the future of the country as a whole when they make their recommendations.

Once again, thank you for the opportunity and wish you well in your deliberations.

I do not wish to be heard.

Yours faithfully,

John W. Harris

Quick Submission ⁴⁶⁰⁰

Your name:

Ian and Jill Harris

Name of the organisation you represent (if applicable):

Ephesus in Wellington
(though not on its behalf)

Postal address or email address:

Hutt City

Submission attached

Privacy and Confidentiality

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

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

**You can also make a submission online
at www.ourconstitution.org.nz**

We have two points we wish to make in relation to the Constitution Conversation:

1. The place of the Treaty of Waitangi

We think it would be a great mistake to write the treaty into law. It did not begin as a legal document, but as a covenant between representatives of the British Crown and of iwi, and is best conceived as a kakahu covering both tangata whenua at the time of signing and all who came to New Zealand subsequently.

This covenant was an agreement to share the motu and the future in a mutually accommodating way. It is about relationships between the parties who signed and promoted it, and their descendants.

That the treaty was so often breached does not detract from that intention and that emphasis. With good will and understanding in a covenant relationship, breaches can be remedied and a new start made, as the treaty settlements witness. Converting that process into legal definitions and court procedures would strangle those desirable developments, restrict the treaty's future influence, create winners and losers, and so entrench divisiveness. The covenant kakahu is something under which all New Zealanders should be encouraged to grow together. Nailing it down in a constitution would not help that to happen. If a constitution is deemed to be necessary (which we doubt), a reference to it as covenant in a non-legalistic preamble would suffice.

2. Parliament and the courts

In recent years Parliament has enacted several measures barring any court role in reviewing its legislation. Examples are the Foreshore and Seabed Act 2004 denying Maori the right to take their objections to court, and the Public Health and Disability Amendment Bill (No. 2) 2013 doing the same for people caring for family members, including disabled children.

This undermines a key principle of democratic and participatory government, that citizens who consider themselves wronged have the right to seek a court ruling to decide whether their case stands up in the light of day. In regards to the second of the two acts above, the Attorney-General said it breached the Bill of Rights, but it was passed anyway.

This trend is disturbing. The executive is extending its power and authority by deleting the courts from the equation. As powers of surveillance of citizens seem set to be extended, and with their right to seek court redress being curbed, an incipient threat to democracy itself is emerging.

Whether we have a written constitution or not, governments must not encroach on the role of the courts in this way.

- Ian and Jill Harris, July 25, 2013

3840

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 24/07/2013 8:26 p.m.
Attachments: constitutional review.odt

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

Full Names:	John Harris	Organisation Name:	Email:	Phone:
Postal AddressA:		Postal AddressB:	Postal City:	Tarras
Postal Region:	Otago	Postal Post Code:	Postal Country:	New Zealand
Submission Upload:	constitutional review.odt			

Submitted on the 24 July 2013 at 20:25

CONSTITUTIONAL REVIEW

Thank you for the opportunity to propose items to be included in the proposed new New Zealand constitution. I should like to focus on the establishment of personal freedom as a fundamental right underlying any governmental regulation.

1. Treaty of Waitangi

- The Treaty of Waitangi should be a fundamental document in the new Constitution.
- The tribal leaders who signed the treaty, signed the Maori language version of the treaty. This is the version which should be used in any legal interpretation of its meaning. The English language version, before it was translated, may be of historical interest but is not the document to which the signatories agreed.
-

2. Freedom of information.

- All New Zealanders, as a fundamental right, should be allowed free access to information held by or generated by government bodies. If information is to be withheld, the general nature of the information, the reasons for withholding it, and the authority under which it is withheld should be public information, and subject to legal challenge.
- "Government bodies" should include organizations set up by government, government-owned corporations, and bodies advising government. These should be defined in such a way as to make it illegal to set up bodies with the aim of evading or suppressing freedom of information.
- Information held by police and security organizations should be freely available, and these organizations should be pro-active in warning possible criminal or security risk individuals or groups that they are under observation and liable to criminal prosecution. The principle to be enshrined in the constitution is that it is the primary duty of police and security organizations pro-actively to prevent crime, rather than passively wait until after it has occurred.
- If identifiable individuals are listed on a database, whether publicly or privately owned, they should be notified of the listing and given the right to challenge or amend personal details.
- Free access to electronic communication systems, such as the internet, should be a fundamental right. Freedom of information includes the right to post and access any information placed in the public domain, subject to the rule of law regulating areas such as pornography or libel.
- It should be the duty of government to support freedom of access to information, by extending public library service and public archives to electronic access, and subsidizing or funding public access to electronic journal databases.
- In any hierarchy of rights, freedom of information should normally pre-empt the right to personal privacy or commercial secrecy.
- It should be the right and duty of all citizens to publicly expose illegalities, and such exposure should be immune to prosecution on any grounds.

3. Freedom of movement.

- On the Scandinavian model, individuals should have free access to open land, whether privately or publicly owned. This right of access should be subject to keeping a minimum distance from buildings or dwellings, not interfering with farming activities, not carrying arms, not being in a vehicle, and other reasonable conditions to be regulated by law.

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 24/07/2013 8:27 p.m.
Attachments: constitutional review.odt

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

Full Name:	John Harris	Organisation Name:		Email:		Phone:	
	Postal AddressA:			Postal AddressB:		Postal City:	Tarras
	Postal Region:	Otago	Postal Post Code:		Postal Country:	New Zealand	Submission:
	Submission Upload:	constitutional review.odt					

Submitted on the 24 July 2013 at 20:26

CONSTITUTIONAL REVIEW

Thank you for the opportunity to propose items to be included in the proposed new New Zealand constitution. I should like to focus on the establishment of personal freedom as a fundamental right underlying any governmental regulation.

1. Treaty of Waitangi

- The Treaty of Waitangi should be a fundamental document in the new Constitution.
- The tribal leaders who signed the treaty, signed the Maori language version of the treaty. This is the version which should be used in any legal interpretation of its meaning. The English language version, before it was translated, may be of historical interest but is not the document to which the signatories agreed.
-

2. Freedom of information.

- All New Zealanders, as a fundamental right, should be allowed free access to information held by or generated by government bodies. If information is to be withheld, the general nature of the information, the reasons for withholding it, and the authority under which it is withheld should be public information, and subject to legal challenge.
- “Government bodies” should include organizations set up by government, government-owned corporations, and bodies advising government. These should be defined in such a way as to make it illegal to set up bodies with the aim of evading or suppressing freedom of information.
- Information held by police and security organizations should be freely available, and these organizations should be pro-active in warning possible criminal or security risk individuals or groups that they are under observation and liable to criminal prosecution. The principle to be enshrined in the constitution is that it is the primary duty of police and security organizations pro-actively to prevent crime, rather than passively wait until after it has occurred.
- If identifiable individuals are listed on a database, whether publicly or privately owned, they should be notified of the listing and given the right to challenge or amend personal details.
- Free access to electronic communication systems, such as the internet, should be a fundamental right. Freedom of information includes the right to post and access any information placed in the public domain, subject to the rule of law regulating areas such as pornography or libel.
- It should be the duty of government to support freedom of access to information, by extending public library service and public archives to electronic access, and subsidizing or funding public access to electronic journal databases.
- In any hierarchy of rights, freedom of information should normally pre-empt the right to personal privacy or commercial secrecy.
- It should be the right and duty of all citizens to publicly expose illegalities, and such exposure should be immune to prosecution on any grounds.

3. Freedom of movement.

- On the Scandinavian model, individuals should have free access to open land, whether privately or publicly owned. This right of access should be subject to keeping a minimum distance from buildings or dwellings, not interfering with farming activities, not carrying arms, not being in a vehicle, and other reasonable conditions to be regulated by law.

678

From:
To: <constitutionalreview@justice.govt.nz>
Date: 25/03/2013 2:08 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission
Attachments: RMA submission.docx

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

Full Names: Jocelyn Harris Organisation Name: Email:
Phone Postal AddressA: Postal
AddressB: Postal City: Postal Region: Otago Postal Post Code: Postal
Country: New Zealand Submission: Submission Upload: RMA submission.docx

Sent on the 25 March 2013 at 14:06

Submission on Proposed Changes to the RMA, 2013

Jocelyn Harris

I send the panel this submission, because I believe that the proposed changes to the RMA significantly weaken the protection of the environment and undermine local democracy. I hope you will include both these vital matters in the conversation about a constitution.

I strongly oppose the **short time** (five weeks) for public comment on these extremely significant changes, including:

A change in emphasis from environment to economy

- I strongly oppose the **shift of emphasis from environment to the economy**, when our economy depends utterly on the environment, as is proven by the current drought.
- I strongly oppose the claim that a so-called “**change in New Zealanders’ values**” justifies major change to what comprises sustainable management.
- There is **no evidence** that New Zealanders want urban sprawl or loss of the natural character of the coast or a down-grade of environmental matters.
- In fact, New Zealanders have become **far more aware** of the need to protect the environment.
- I therefore strongly oppose the RMA becoming an “**economic development Act**” through the rewrite of the matters of national importance in Part 2, with less weight being given to them.
- **95% of resource consent decisions are currently made on time.** There is no need to weaken the Act.
- I believe that dismantling key parts of the RMA **favours speedy decisions over quality decisions.** These changes will place the environment a firm second and will result in poor development with little consideration of the impacts on nature and neighbourhoods.
- **I strongly oppose the removal of five important environmental principles** such as the ethic of stewardship, maintaining and enhancing the quality of the environment and amenity values, and intrinsic values of ecosystems. We need to improve our environmental performance, not reduce it.
- **Part 2 of the RMA therefore needs to remain as it is.**

Environment Court

- I strongly oppose the work of the **Environment Court** being reduced to hearing cases only on points of law rather than additional evidence. This would mean largely losing the court’s deep legal and environmental knowledge, its common sense, and its ability to arbitrate outcomes satisfactory to all parties.
- I therefore strongly oppose the **proposed limits on appeal rights and reduction in the Environment Court’s role.** The independence and oversight of the Court are important checks on the quality and legality of decisions.
- Decades of case law established under the RMA will be lost.

3

- Applications for Water Conservation Orders, the National Parks of waterways, can be parked indefinitely by regional councils, none of which ever supported these when originally applied for.
- Government has shown “collaboration” to be a sham by making these changes despite agreement through LWF.
- I ask for faster progress on consolidated, nation-wide, state of the environment reporting.
- I am concerned about the impact of these proposals on our built heritage.
- I support having a standard structure for resource management plans and definitions of commonly used terms.
- I support prioritising national policy statements and national environmental standards.

Conclusion

- I ask for Part 2 of the Act to remain as it is. If changes are made, they should strengthen, not weaken, core environmental protections.
- I ask the government to provide national guidance through established systems, not give itself the power to intervene directly in planning and consent processes.
- I ask for my existing submission rights to be retained.
- I ask for the existing Environment Court process of de novo hearings for resource consent and plan appeals to be retained.

1204

From:
To: <constitutionalreview@justice.govt.nz>
Date: 9/06/2013 11:50 a.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

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

Full Names: lynnely harris david harris Organisation Name: Email:
Phone: Postal AddressA: Postal AddressB: Postal City:
katikati Postal Region: Bay of Plenty Postal Post Code: Postal Country: New Zealand
Submission: DONOT LET THIS HAPPEN TO OUR LOVELY NEW ZEALAND WE ARE ALL NEW
ZEALANDERS

Sent on the 9 June 2013 at 11:49

4672²

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 31/07/2013 1:34 p.m.
Attachments: Constitution ConversationSubmission.doc

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

Full Names: Lee Andolina Harris Organisation Name: Email: :
Phone: Postal AddressA: Postal AddressB: Postal City:
Whangarei Postal Region: Northland Postal Post Code: Postal Country: New Zealand
Submission: Submission Upload: Constitution Conversation Submission.doc

Submitted on the 31 July 2013 at 13:33

Lee Harris

Avenues
Whangarei

30 July 2013

Constitution Advisory Panel
Wellington

To whom this may concern,

RE: Public Submissions for the Constitution Conversation

Since hearing of the Constitution Conversation in 2010/11 I had been looking forward to attending a hui. While I had seen some commercials on TV about the Constitutional Advisory Panel (CAP), I had also read about another group – Matike Mai – who were also hosting hui regarding this matter. While I have unfortunately not attended any of the Matike Mai hui, it is unclear as to why there are two groups leading this kaupapa, while only one group (CAP) is being highlighted.

I attended the CAP Whangarei workshop held 01 May 2013 at Toll Stadium, which was attended by Dr Ranginui Walker and Emeritus Professor John Burrows from the panel. Overall it was a good hui, however the venue was relatively small for such an important issue - and considering that many had travelled from the surrounding districts to attend. Unfortunately we were not shown a slideshow that was screened at other hui and there were no information packs available – that I could see anyway. Instead of breaking into workshops we had one group discussion. I thoroughly enjoyed the history discussion delivered by Dr Walker and Emeritus Professor Burrows was clear and concise when answering any discussion regarding Law.

I would have preferred to have had some more in depth discussions regarding the matters up for consideration prior to these sessions being held, as I feel that would have generated a lot more contribution from the public - as people's comprehension of how these topics affect us all would be fully realised. Like many others, I am somewhat sceptical as to whether any contribution would be legitimately taken into consideration or whether there is already a preconceived notion as to the outcome of these hui.

My aspirations for Aotearoa New Zealand, firstly is that Maori will finally receive the recognition that they deserve as the hosting party of the Tiriti o Waitangi partnership. Maori have taken a 100% risk of investment in the Tiriti and so far have received a miniscule return (if any) on that investment. In fact, after over 170 years of grievance – it is common knowledge that Treaty settlements are a mere 1-2% of the actual calculated value lost, or approximately 1-2 cents in every dollar calculated. This is daylight robbery – adding further insult to injury. This is not my idea of a partnership – nor do I imagine it was our Tupuna aspirations also.

Secondly, Aotearoa New Zealand deserves a Constitution that protects its citizens ensuring that our basic human rights are not breached by others whether they are overseas corporations or even our own government. It is outright disgusting to witness our NZ Defence Forces being used against Maori Hapu/whanau protesting on their own Turangawaewae – due to the lack of recognition of Maori Customary Rights being impinged upon again. In the case of the Whanau-a-Apanui debacle where the Police, the Navy AND the Air Force were deployed to enforce our Government's ignorant issue of Mining permits to overseas Corporations is outright treasonous. This should not be allowed to continue.

Thirdly, my aspirations for Aotearoa New Zealand is that our Government will listen to the cry of its constituents – and put its own citizens needs ahead of any other agenda. The gap between the wealthy and the poor grows wider everyday and I would love to see our country actively pursue ways to reverse this situation, rather than contribute to this situation.

New Zealand's Constitution.

- It makes sense to have a single document for our Constitution, or at least one document that clearly identifies the various Acts, Statutes and Conventions that make up our Constitution. This would help to clarify our rights as NZ citizens, much in the same manner that Americans refer to their Constitutional Rights guaranteed to them through the American Declaration of Independence.
- The Constitution should have higher legal status than other laws (supreme law) as this is the foundation of which all other laws were made – therefore it must be superior over all others laws.
- The Courts should have the power to decide whether legislation is consistent with the Constitution as the Government may choose to interpret the law to its own advantage – the sitting of parliament to rush through bills under urgency and even blocking public submissions on these issues is proof of this. Where was the protection of the rights of the people in these processes?

New Zealand's Bill of Rights Act.

- While I am not overly familiar with the NZ Bill of Rights Act (this is why discussion would have brought some enlightenment prior to comment as mentioned earlier) I can't help but wonder how laws added or amended later would affect these rights. To be specific, the NZ Government have recently tinkered with the Terrorism Act – to the detriment of all New Zealanders and especially to Maori. These changes impinge upon our Freedom of Expression, should Maori choose to exercise their kaitiakitanga (guardianship) of Papatuanuku (Earth Mother) then they are in dire risk of being labelled and treated as 'Terrorists' in our own country! Again – due to the lack of Recognition of Maori Customary Rights. This is entrapment and should not be allowed to continue!

- It is not good enough to say that Maori have Customary Rights and then fail to recognize them. This issue is long overdue to be rectified.
- If the Bill of Rights is to be included in the Constitution, then it too must also have a higher legal status than other laws. The protection of our Rights MUST be protected also, and not be open for negotiation.
- Again, the Courts should have the power to decide whether legislation is consistent with the Act for the same reasons stated above for the Constitution.
- In 2010 New Zealand signed the United Nations Declaration of Indigenous Rights. Yet as the ink was drying our Prime Minister downplayed any significance stating publicly that ‘... the Declaration was non binding and would not compromise the ‘fundamentals of his governments approach to resolving Treaty claims ...’. Completely undermining the significance of the Declaration and insulting not just Maori but the entire International Indigenous Community. I think that Indigenous Rights fit appropriately within the Bill of Rights and should be included because prior to the settlement of the British – Aotearoa New Zealand was exclusively Indigenous and our Tupuna asked for our rights to be protected not extinguished.

Treaty of Waitangi.

- This remains as yet another unaddressed issue for Maori – as there are two versions; ‘The Treaty of Waitangi’ and ‘Te Tiriti o Waitangi’. Overall Maori recognise and speak of ‘Te Tiriti’ while Pakeha commonly refer to ‘The Treaty’, considering that the two parties have very different ideas as to what this document actually entails it always proves to be a difficult conversation to manage. As for the role the Treaty/Tiriti should have in our constitution – as the ‘founding document’ of our country it should play a major role in any constitution or direction that this country should take in future, as without any Treaty who knows what NZ would’ve looked like today.
- Of course the Tiriti should be made a formal part of the Constitution! Why? Because 1) it makes up the very foundation in which this country was created and 2) the International Law of ‘Contra Preferentum’ supports this stance.
- The Waitangi Tribunal’s authority needs to be strengthened. After all, if the Crown is sincere in addressing Maori grievances – why did it take so long? Also why are these concerns delegated to one of the lowest Courts in the land within a very limited scope of authority that the Government can choose to ignore anyway? The Tribunal needs to be given more substance, more authority or recognition. The general public need to be enlightened as to why the Tribunal exists and if the public were better informed of the grievances and the Settlement process this should help to improve race relations in our country which generally always takes a dip around election time.

Maori Representation.

- Maori representation must be strengthened not weakened at both national and local Government levels and the Maori seats must be entrenched in Parliament – it is outright insulting to hear of political parties even entertaining the idea of scrapping them (and then later forming a coalition government ironically with a party that got into parliament via the Maori seats – this is outright hypocrisy at its best).
- Maori should represent Maori views in Parliament and Local Government. However, as there are only seven seats available for Maori – the electorates for the elected MP is huge. Perhaps the larger regions could possibly have another candidate to share the load.
- A low participation rate by Maori for any electoral process is hardly surprising when you consider that Maori Rights have been either impinged upon or blatantly disregarded. When there is some sort of recognition of Maori rights, maybe then some trust may be rebuilt and Maori may choose to engage and participate rather than ignore and disregard these processes. However, as with any community there will always be a faction that will choose not to contribute to any processes introduced by others.
- Maori views and perspectives could be represented in local government by engaging with interested parties who make their groups known to council, and by communicating to the local Marae in their rohe. It is disappointing to read that ‘most councils consult to some degree with tangata whenua. Also, there is a big difference between consulting ‘with’ and being ‘consulted’ – the latter feels as though you are being spoken ‘at’ rather than consulted ‘with’. In fact ‘consultation’ is often referred to as a ‘ticking the boxes’ exercise by Maori as often any voiced opinions are largely ignored and any issue is continued with as though Maori had given their full blessings – when in fact they did not. With improved relations, it is bound to have a positive effect on Maori participation in this area (whether this will happen or not, still remains to be seen).
- Maori interest in Local Government is huge as it is at this level that Council have a direct effect on local hapu/marae/whanau as they are largely in charge of the management of natural resources that Maori hold so dear. It is discouraging to read ‘opportunities for hapu and iwi to form partnerships with local government agencies often arise out of treaty settlements. Again – a clear lack of recognition of Maori Customary Rights – however once a settlement is reached so is recognition by local government. One has to question, are they recognising the hapu/iwi or their bank balance? Why is interest only shown once Maori have got Treaty grievance monies? Are they in fact talking to Maori or their newly acquired bank balance?

Electoral Matters.

- We should keep the current amount of 120 members of parliament, with 63 general electorate members, however if there is a decrease in the 51 list

members then there can be an increase in the number of Maori seats. This increase can be justified because as stated in the Constitution Conversation Submission Guide booklet 'the number of electorates is determined by ensuring that all electorates have more or less the same amount of people in them. As a result, some electorates cover a larger geographic area than others'. The Taitokerau electorate covers all of the north and into parts of Auckland as well.

- It is my opinion that the term of Parliament should remain the same – at three years. This is because if we as a country are unsatisfied with their performance then we can replace. A term of four years is too long to be stuck with a 'dud' government. If Parliament is delivering good policies then the people will re-elect them.
- The election date should be the same every year – as a suggestion keep the previous election date as permanent. This allows the country to stabilise their electoral timetable and people will have anticipated the upcoming Elections, and Campaigns etc.
- Regarding the size and numbers of electorates – in an effort for fair representation the numbers would have to be relatively the same and the number of electorates would be relative to the number of Members of Parliament.
- If a Member of Parliament should part ways from the party in which he or she was elected then they should be able to complete their elected term as they were highly likely to be elected for their personal level of conduct and not just that of their particular aligned party.

While there were 5 main points for consideration it was inevitable that other issues would arise during discussions, as surely there would be more to consider than just a mere 5 issues when considering such an important document. The Treaty/Tiriti must be included in any future Constitution that may be considered for Aotearoa New Zealand.

It is interesting to note that this process will be completed by the end of 2013 and it is estimated that Parliament will take six months to complete a report regarding this matter. Meanwhile it took over 20 years for the Waitangi Tribunal to complete the WAI 262 Flora and Fauna Report. Also Ngapuhi is currently awaiting the report back from the Te Paparahi o te Raki Initial Hearings regarding our claim of Sovereignty and it is on that note that I must add that any Constitutional Conversation is premature.

I also support the following submission attached with my own.

Yours sincerely

Lee Harris.

4672a

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 31/07/2013 4:51 p.m.

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

Full Names: Lee Andolina Harris Organisation Name: Email:
Phone: Postal AddressA: Postal AddressB: Avenues Postal City:
Whangarei Postal Region: Northland Postal Post Code: Postal Country: New Zealand
Submission: <https://docs.google.com/file/d/0B8r1cPzVYEiCYTBSeKdjbmFHRHM/edit?pli=1>

Please attach the above template which I support and have mentioned to my submission filed earlier today.

Thank you.

Yours sincerely

Lee Harris.

Submitted on the 31 July 2013 at 16:51

804

From:
To: <constitutionalreview@justice.govt.nz>
Date: 9/05/2013 3:05 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

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

Full Names: Mary Harris Organisation Name: NA Email: Phone:
Postal AddressA: Postal AddressB: Postal City:
Auckland Postal Region: Auckland Postal Post Code: Postal Country: New Zealand
Submission: This Constitutional Review which is considering enshrining the Treaty of Waitangi, is a travesty of the principles of our Democracy, and the Sovereignty of our Parliament. It is being sought by a radical minority of NZlanders for their own benefit. If the Constitution becomes Treaty Based, it will further destroy Race Relations in NZ. It is proven that Maori are not Indigenous, so why should their demands receive such superiority. Certainly, NO changes to our Constitution should be made without public approval via a binding Referendum, having first educated and alerted the public to all the ramifications, including possible Maori Sovereignty.

Sent on the 9 May 2013 at 15:03

804a

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 31/07/2013 4:28 p.m.

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

Full Names: Mary Harris Organisation Name: NA Email: , hone:
Postal AddressA: Postal AddressB: Postal
City: Auckland Postal Region: Postal Post Code: Postal Country: New Zealand
Submission: -Our Constitution should be written in a single document to give unity and ease of
reference and access for all New Zealanders.

-It should have the highest legal status as the document that underpins our democratic society. Laws may be changed, but our Constitution should remain as the point of reference superceding any other Legal ruling.

-Important Legislatiion introduced by Parliament should have a substantial majority of politicians in favour, before it can be passed into Law, and any controversial issue should have to be put to a binding referendum of the people.

-The Treaty should have no central role in our Constitution. If Treaty principles were oncluded in a new written constitution it would be the end of democracy as we know it, giving unequal power and privelege to a small minority of the population.

-The Maori electoral role should be abolished for the same reason, along with the 4 Maori seats, which were relevant in 1867, but not today.

-The Declaration of Equality should be enacted by Parliament to ensure that there is one law for all.

-Private property rights should be included in the Bill of Rights.

-Parliamentary term should remain at 3 years, and the number of MPs reduced to 99 at the next election.

-List seats should be reduced and electorate seats increased.

Submitted on the 31 July 2013 at 16:27

2970

From: "Monty Harris" ..
To: <constitutionalreview@justice.govt.nz>
Date: 10/07/2013 11:58 a.m.
Subject: CAP Submission

I am strongly opposed to fostering Apartheid through following the Maori Constitution.

New Zealand is now comprised of many races, all entitled to equal rights.

Very little of the actual development of our country was done by the Maori race, and the majority of their history has been rewritten in the Waitangi Tribunal without consultation with other affected parties .

Monty Harris

2253

From: "Monty Harris" <
To: <constitutionalreview@justice.govt.nz>
Date: 3/07/2013 3:09 p.m.
Subject: CAP Submission

Definitely abolish the Maori seats, am not in favour of apartheid.

4545²

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 1/08/2013 10:09 a.m.
Attachments: Submission on New ZealandConstitution.docx

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

Full Names: Max David Noble Harris Organisation Name: Email:
Phone: Postal AddressA: Postal AddressB: Postal City: Wellington (but living overseas)
Postal Region: Postal Post Code: Postal Country: New Zealand Submission: Please find
attached my submission - it is a little late as it is submitted from overseas! Thank you for this
opportunity and for the conversations you have started. I would be happy to elaborate on any points
made in the submission. Submission Upload: Submission on New Zealand Constitution.docx

Submitted on the 1 August 2013 at 10:09

Max Harris: Submission to New Zealand Constitutional Advisory Panel

Background to my submission

I am a New Zealander living overseas with a strong interest in constitutional issues. After attending Wellington College, I completed a BA/LLB(Hons.) degree at The University of Auckland (writing my Honours dissertation on New Zealand's constitutional arrangements). I then clerked for Chief Justice Sian Elias at the Supreme Court of New Zealand for 18 months, before receiving a Rhodes Scholarship to study law and public policy at the University of Oxford. I am a Barrister and Solicitor of the High Court of New Zealand.

Submission

This submission is split into two parts: first, I discuss the form and force of New Zealand's constitution; and secondly, I discuss the possible content of that constitution, touching on the preamble, the Bill of Rights, and the Treaty of Waitangi.

- (i) The form and force of the New Zealand constitution: codification and entrenchment

Talk of New Zealand getting "a written constitution" can be misleading, not only because our constitution is already partly written down (in the form of the Constitution Act 1986, and other statutes and case law) but also because having "a written constitution" often refers to two separate issues: codification and entrenchment.

With that initial point clarified, I support both codification and entrenchment of New Zealand's constitution. Our constitution would be more accessible if it were set out in a single document (that is, for our constitution to be *codified*). While many constitutional scholars will say that New Zealand has an unwritten constitution, there is actually stark disagreement over what is in it, even amongst the most erudite constitutional law academics; this uncertainty can be minimized through the process of codification. And our constitution would be more robust if it were made more difficult to repeal (that is, if our constitution was *entrenched*). It is not legally correct to say that laws can only be struck down if they are entrenched. But it is a convention that entrenchment results in a strike-down power, and entrenchment gives symbolic force to a document as important as the New Zealand constitution.

Why are accessibility and robustness important values? A constitution must be owned by all New Zealanders, and for that to happen, it must be known by all New Zealanders – and be accessible. Further, it is inherent in the idea of a constitution that it has some higher status – some superior normative or legal force – and robustness helps to realize this ideal.

The claim that entrenchment is anti-democratic reflects a simplistic understanding of what democracy is. Democracy is not just about head-counting and box-ticking on election day every three years. It is about a combination of majoritarian-supporting process and minority-protecting values. Countries that we understand to be democracies do not hand over every decision to a majority vote: the New Zealand democracy we have at the moment allows unelected public servants to wield power, gives authority to unelected judges, and extends significant influence to the unelected Governor of the

Reserve Bank, to take just three examples. It is entirely consistent with democracy to allow for entrenchment.

So, to summarise so far: New Zealand's constitution should be set out in one document, "The New Zealand Constitution". And that document should be protected from easy legislative overhaul; I suggest that it should require a 75% majority of Parliament for any amendments to be made to the New Zealand Constitution.

- (i) The content of the New Zealand Constitution: the preamble, aspects of the Constitution Act 1986, a modified version of the New Zealand Bill of Rights Act, and the Treaty of Waitangi

The question of what should be in the New Zealand Constitution is far more difficult. But I think it is crucially important that the New Zealand Constitutional Advisory Panel offers some suggestions on this point, if it suggests a codified and entrenched constitution. For too many years academics have been encouraging "greater debate" and "more discussion". The admirable consultation process undertaken by the Constitutional Advisory Panel represents that debate and discussion. Now is the time for concrete proposals. Let me outline my personal view of a possible proposal.

The New Zealand Constitution should contain a preamble, which ought to reflect New Zealand's national values. Further consultation might reveal what those values should be, but possible contenders are: equality, fairness, biculturalism, tolerance, and dignity.

Any constitution needs to contain some "nuts and bolts" provisions with guidance for how the separation of powers, for example, should operate. I suggest that Part I of the New Zealand Constitution should contain such "nuts and bolts" provisions. These can be largely lifted out of the Constitution Act 1986.

Part II ought to contain a modified version of the Bill of Rights Act 1990. Human rights are the minority-protecting values, which I referred to earlier, that ought to complement majoritarian-supporting process. They are now almost universally acknowledged to be the natural language in which constitutions are couched and expressed. The current list of rights in the Bill of Rights is appropriate and effective, and has been well-developed by the courts. I would suggest, though, that several minor amendments are made. A provision on remedies should be added, making clear that judges have strike-down power in the event of legislation being inconsistent with the Bill of Rights, and codifying the courts' current jurisprudence on Bill of Rights damages and other remedies. (It may be that some flexibility should be built in here, and that there be reconsideration of the decision of the majority of the Supreme Court in *Chapman v Attorney-General*, which in effect restricts the scope of Bill of Rights damages.) As well, certain social and economic rights should be added: I suggest that, to begin with, these rights are the right to education, the right to health, and the right to housing. These are rights that have a strong pedigree in international law and that have been made justiciable in other jurisdictions, for instance South Africa. Moreover, most ordinary New Zealanders would suggest that shelter (housing), schooling (education), and healthcare are the basic human interests that every person deserves: so it seems odd that these interests are not currently included in the Bill of Rights. Objections about polycentricity, resource allocation, and indeterminacy are overstated and can be rebutted through careful consideration of overseas jurisdictions (such as South Africa); I would be happy to elaborate on this point if given the opportunity. I would suggest that there is no need for a right to property to

be included: this right is not so well-developed in international law and is sufficiently protected through other legislation.

What status should be given to the Treaty of Waitangi? The Treaty is New Zealand's founding document; we all would not be here without it. I suggest that it would be inappropriate to allow the Treaty to be amended, given its historical existence and force. However, it would be ignorant of our own past for the Treaty to be left out of a constitutional document altogether. The best and most innovative way to give the Treaty constitutional effect, in my opinion, would be to refer to it in the preamble of the New Zealand Constitution, and to adopt an approach used in Ireland and India: that is, to include the Treaty under a heading, "Directive Principles" (Part III). This Part would say that the Treaty is to inform the interpretation of the entirety of the Constitution. Allowing the Treaty to be implemented via "Directive Principles" would allow courts to draw on existing jurisprudence on Treaty principles, and would allow the Treaty to colour all of New Zealand's constitutional law. It would also give an indigenous New Zealand interpretation to the rights listed in Part II of the Constitution. Some worry about the power of the Treaty, and "special privileges" for Maori. However, while the Constitutional Advisory Panel ought to listen carefully to all views, it need not adopt all views; especially those which adopt scaremongering tactics or which are based on incorrect views of the law. We do not make policy, far less constitutions, for racists. The Treaty must play a role in New Zealand's constitutional arrangements, and including the Treaty – not excluding it – is the most promising route towards national pride and unity.

To recapitulate in simplified language, I suggest that the New Zealand Constitution should have a preamble; Part I, which can be lifted from the Constitution Act; Part II, a modified version of the New Zealand Bill of Rights Act 1990; and Part III, giving the Treaty of Waitangi force as "Directive Principles" (but with the Treaty appended in the constitution itself).

Conclusion

It's become a mantra to claim that New Zealanders are apathetic, especially over constitutional issues. But I've never thought this to be the case. New Zealanders have opinions, sometimes strong opinions, and how we organize power in our society is a topic that animates our minds. So it is important that we build on existing interest in our society – interest that may be growing amongst young people.

In building on that interest, I think it is important that we craft a constitution that does not play down to divisive fears, but instead lives up to our rich potential as a nation and our decent instincts as human beings. My personal view is that the best way to live up to that potential is to codify and entrench a constitution containing aspects of the Bill of Rights and the Treaty – a view that I have tried to sketch only in outline here.

23
ConstitutionalReview - <http://www.ourconstitution.org.nz/> form submission

From:
To: <constitutionalreview@justice.govt.nz>
Date: 27/02/2013 12:54 a.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

Sent from The Constitution Conversation.

Full Names: Margaret Harris
Organisation: N/A
Name:
Email:
Phone:
Postal AddressA:
Postal AddressB:
Postal City:
Postal Region: Wellington
Postal Post Code:
Postal Country: New Zealand
Submission: CURRENT LAYOUT OF LAWS

Our current constitutional arrangements are not only adequate, they provide many advantages over the rigidity of a single written constitution.

The current collection of laws reflect the character of New Zealand and what it means within this country to balance the rights and responsibilities of citizenship. This can be contrasted most prominently with the single document of the United States - an unwieldy thing, frequently no-long apt, and yet slow to change even as time marches on. With New Zealand's greater emphasis on ensuring fair treatment of all citizens, our organically grown and common-sense collection of laws militate towards both freedom and a fair go for Kiwis.

Emphasis on organic - these are laws grounded in the English common-law tradition, molded to suit the Kiwi need for a "fair go". This common-law

approach also allows Parliament and the Courts to apply their sense to a specific problem while still thinking in a general context - with the bonus that as the views of society changes over time, so can the response.

I personally worry about trying to create a single document - or two, or even three - which would seek to encapsulate our 'defining values'. This would be both difficult and also practically limited in time. The wording of such an effort might also prevent the courts from applying their common sense, as lawyers are want to interpret every line of such documents.

Our society is a breathing thing. We, before most every other nation, engage with change as a positive thing, and seek out the best of the old to mix in with the new. That is why our laws exist in their current form; they are flexible, multi-faceted, and at times deliberately vague. They allow us a familiar and hallowed framework which somehow also allows us to do bold things. The penchment for tinkering which our system allows sees us as a leading nation in social justice and transparency.

I would recommend that the laws remain in their current form. Add to them, subtract, expand on the parts that need expanding, and contract those which are not longer as important. Keeping it a living framework, as opposed to a strangler-vine.

REPUBLIC / MONARCHY

Regardless of the monarch, Constitutional Monarchies seem to be a cost-effective and stable form of government. I have no doubt you have heard arguments for the symbolic power of the Queen, which although undoubtedly true really does fail to sway the average, pragmatic New Zealander. You have probably also heard arguments about cost - having a Queen paid for by the British seems cheap at the price considering the benefits we derive from it. Having that long-term view involved in an advisory role would also seem to be a common-sense positive; not an elected person forcibly pulled into a three-year time-frame, but a person looking to secure the future for their children. I am also worried about creating a partisan fight over the head-of-state; at the moment our Head of State is both neutral and a unifier above politics. I would prefer to keep our

politics subordinated to our sense of ourselves as all in this together.

But mostly I am worried about how much of a backward step a republic would be: the general executive powers of a president were created based on the King's power of 1787. (The United States attempted with their first constitutions to create a government of loose confederation, which failed. Under international pressure, a very traditional approach to executive power was taken.) While Commonwealth constitutional monarchy countries have naturally evolved away from giving any one person unchecked executive power, republics have not. Our current system makes the PM ask parliament to make or change laws; this allows debate, and transparency. That we are the least corrupt country in the world is a reflection of our robust constitutional monarchy.

I would recommend we keep the Constitutional Monarchy.

MAORI REPRESENTATION

Maori representation is fraught. On the one hand, the Maori electoral role was intended to be a temporary solution to guarantee that Maori had a voice for themselves in parliament. On the other hand, as the number of Maori politicians has no bearing on the number of Maori on the role, it invites a voter on that role to have either "more value" in that it takes fewer votes to elect an MP, or "less value" in that it would take more. It also implies that Maori do not stand or win seats under the General electoral role, which is both false and insulting to everyone - General-role voter and politician equally. Finally, it encourages a certain "them verses us" attitude within the politicians challenging for those Maori seats, as they seek to "make hay" out of frankly legitimate grievances. Unfortunately the process of "making hay" alienates people otherwise sympathetic to those concerns.

This is genuinely the thorniest question on your terms of reference, aside from perhaps the Treaty of Waitangi (- the two are naturally linked). I would come down on the side of the idealist, in saying that I wish they worked, and perhaps we can make them work somehow. I think they do work to bring Maori concerns to the front of Parliament, and drive a lot of passionate debate on various issues. I also think they do probably the same amount of damage to Maori causes in the other direct, and are probably strictly-speaking undemocratic.

THE TREATY OF WAITANGI

I think culturally, the Treaty of Waitangi is an important cultural touchstone in attempting to strike a fair relationship between the Government and Maori. New Zealanders of all ethnicities see the Treaty as a framework broadly focused on achieving a lasting and just relationship - one which both acknowledges the past and lays a solid foundation for the future. Several attempts have been made to address issues with the Treaty, and with potential failures by both sides to comply with its tenants. People within the Ministry of Justice have attempted to map out failures - especially through the Maori Land Court, the Treaty of Waitangi Tribunal and through the Office of Treaty Settlements:

The problem is in expectations. Historically, "full and final" settlements were also negotiated in the 1950s - but because both sides had differing expectations about what was the next step in the process, the whole thing fell down (leaving a lot of papered-over bitterness in its wake.) There are stories of tribes being paid money the government believed "purchased" the rights retroactively to the land - perfectly fair and just in the western concept of ownership, and completely legitimate. The tribe believed this money actually constituted an ongoing "apology" and the first step in restitution that could only be achieved when the actual grievance had been put right, and the land returned - perfectly fair and just under the Maori concept of ownership, and also completely legitimate. The two concepts are also fundamentally at odds with one another. It was a failure of expectation - not just on the part of the government, but also by the tribes; both sides failed to make themselves clear. The "talking past" each other has led to a groundswell of unhappiness in both sides, as everyone feels taken advantage of. Everyone genuinely has been.

The settlement process has to end for the health of the relationship between Maori and New Zealanders of European decent, but also really can't for the same reason. Constant engagement is the key to making what New Zealanders are. But constant conflict is wearying. There has to be a new framework for a real partnership, based on understanding and a willingness to move forward together. I don't think the Treaty is it, full of good intentions as it may be. If you must do something, create something new here.

Naturally I am willing to talk to any of these points in person, albeit I am sure

you will have many articulate persons of various opinions whom will be submitting on this issue.

With regards, and good luck

Margaret Harris

Sent on the 27 February 2013 at 00:52

23a

From: Margaret Harris <
To: <constitutionalreview@justice.govt.nz>
Date: 2/08/2013 9:34 p.m.
Subject: CAP submission

*Dear Sir or Madam

I am aware that submissions technically closed on the 31st of July, but as the Law Society's submission was only made public today, I would like to comment. I support the points they made. This is especially true in regards to ***New Zealand amending the Bill of Rights so that any bill enacted despite a section 7 report of the Attorney-General ceases to have effect after three years (the length of the New Zealand Parliamentary term) from the date of its enactment unless re-enacted or affirmed by Parliamentary resolution before that date, following in either case consideration by a select committee with the opportunity for public submissions." This seems a valuable check on th*e powers of the parliament, which**at the moment are exceptionally strong.

Thank you for your consideration

Margaret Harris
Lower Hutt

2442.

From:
To: <constitutionalreview@justice.govt.nz>
Date: 4/07/2013 8:42 a.m.
Subject: CAP Submission

Maori seats are an anachronism and divisive. The world has moved on since 1840 and we should be striving for unity and not racial division. The path by the present govt does not bode well.

The Treaty has become an industry in itself and any settlements should be firmly linked to resolving present issues with Maori.

On the present course there will never be an end to claims and thus the division between Maori and non Maori will widen. The whole question is becoming a political cess pit.

Richard Harris

5067

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 7/08/2013 3:20 p.m.
Attachments: Submission on New Zealand's constitutional arrangements.doc

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

Full Names: Robert Harris Organisation Name: Email Address:
Phone: Postal AddressA: Postal City:
Postal Region: Nelson Postal Post Code: Postal Country: New Zealand
Submission Upload: Submission on New Zealand's constitutional arrangements.doc

Submitted on the 18 June 2013 at 06:44

Submission on New Zealand's constitutional arrangements

Preamble

New Zealand is currently going through a period of economic change, which tends to make people defensive and restive.

Despite this there appears to be little impetus for major change in terms of our constitutional base.

There is however, some desire to improve governance and oversight.

This desire mainly manifests in the review of MMP and an increasing interest in accountability of various parts of government.

This current review is being driven by a political agreement, which is driven in turn by a desire to increase the status of the Treaty of Waitangi in New Zealand law and indirectly the status of the tangata whenua under it. It has little to do with the settlement process per se, but is related to the settlement grievances in more generic kaupapa/political platform terms.

In the remainder of this submission I focus on what I think should be outcomes and outputs from this review process and try to do so through defining a number of core principles for assessing change options.

Key principles

1. A review of our working and theoretical constitutional arrangements from time to time is a good thing, as reviews enable us to test the fundamental rights, responsibilities and governance structures against contemporary reality and deal with matters that may not previously have been an issue.
2. If there is little demand to change something don't change, unless there is a problem with our current arrangements that needs resolving using that

specific approach. This principle is a variation on 'Occam's Razor' a principle of economy enunciated by William of Occam in the early 14th Century – that is, don't do, or postulate anything more than you need to.

3. All the rulers or guardians should be subject to scrutiny and specific exceptions evoked when needed to protect 'privileged information. In this respect I refer to a review of the Official Information Act coverage and its potential extension to Parliament – Oversight of the Parliamentary process is probably one of the fundamental aspects of democracy, or as the Romans put it, "who shall guard the guardians" Ideally this matter should be re-examined in this review of constitutional arrangements because it is 'constitutional' in nature. Democracy doesn't grow in the dark and Parliament's workings should with certain standardized exceptions (and associated guidelines) be exposed to the same scrutiny as anyone else in the public domain. Arguments about the superiority of Parliament are only relevant in the enacting of law and have little to do with whether there should be enhanced scrutiny over its workings.
4. The results of this particular review overlap with a previous review of MMP, which is also an aspect of the 'constitutional'. The tyranny of the majority, which is an inherent problem with large-scale western democracies, may be partially avoided by setting thresholds that allow minority and factional interests to be involved to a reasonable degree. This may not suit the majority, but then so what, democracy is democracy, and MMP is about negotiating outcomes between real communities of interest as expressed in politics. In respect to this principle the party seat threshold should be set at a level that allows minority interests to be considered within the principle of proportional representation. My suggestion is that the party list threshold be set at equivalent of 2 list seats.
5. Political stability is only partly about systems and more about political and social cultures. Voting patterns in the house have shown a credible

stability since MMP's introduction. This is as much to do with our culture as anything else. Greater democracy is usually better than lesser, and lower thresholds than at present would better provide for the electorates choices (as opposed to special interests) and recognise smaller constituencies and potentially generate more involvement in political outcomes.

6. Should there be a formalised constitution? Why? The core of the matter for any constitution is the guarantee of human rights and assuring corresponding responsibilities and constitutions are just one mechanism to bring that about. One such fundamental democratic right is the right to participate, another, the right to exert political oversight over governing institutions. Formal constitutions are not usually successful on their own in assuring those rights, witness the Russian Federation. They are also often rigid structures, continually subject to dissension (the American experience). Our hybrid system of ordinary statute and convention inherited from Great Britain has lasted and generally been flexible and responsive enough to deliver a reasonable level of democratic protection. It also reflects the sorts of nation building decisions and compromises we went through in our colonial history – we were adaptable.
7. Informal processes can be more adaptable and targeted instruments than formal constitutions, particularly when backed by a political culture that has developed alongside the law and its associated institutions. Consistency between the various arms of an informal constitution is also a core requirement for the system to be effective. Any changes to Parliamentary process are easily promulgated through ordinary legislation. Where it is necessary to retain a higher level of protection this can occur by setting in place legislation that requires a higher level of support than 51% for constitutional change to be brought about. This has been done previously in New Zealand with respect to legislation covering the process of elections.

8. When considering constitutional issues in general, also consider the effect of external agreements on sovereignty – a modern state is not separate from everywhere else. The effects of international agreements can be more insidious to the ordinary person than any formal constitutional change, because of the ability of such agreements to override domestic economic sovereignty and reduce social and environmental standards and cultural protections. The methods of agreeing to, and endorsing, such agreements, merit more scrutiny by Parliament as a whole and perhaps a wider constitutional committee that reports back to the House. This is one area where less secrecy of process is desirable because of the risks involved and difficulty of withdrawing from such external agreements.
9. As stated above, when approaching the matter of the position of Maori in the Treaty there should be a separation of the particular grievances from more general governance and constitutional issues. Any constitutional structure is ideally free from special status or special pleading. I note that sovereignty was ceded in the third article of the Treaty and therefore this qualifies any original status rights of the tangata whenua (the earlier people of the land), although the Treaty is not a law as such.
10. The size and nature of New Zealand society dictates what is feasible in contemporary terms for the type of recognition given to earlier customary lore rights. In the New Zealand case, the original tino rangitira status, offered under clause 1, of the Treaty is qualified in terms of its original scope, as we are no longer tribal in size or technology, or in economic organization, and the law covers everyone, which implies a higher level of tino rangitiratanga residing outside of the tribe or family.
11. This does not mean that Maori have no rights, merely that those rights are now similar to everyone else's. Their property rights and claims on the Crown may however, be considerably different in detail, but detailed property rights should not be confused with, or convey special constitutional rights.

12. When incorporating other documents into a constitution or legislation the references should be precise enough so that they can be understood in a meaningful operational way – everyone should be able to understand what they mean and what they can expect. The nature of the Treaty is such that as a wholesale document it is too general and too vague to be incorporated without considerable qualification, which is unsuitable for a written constitution. Placed unqualified into a constitution it could lead to special pleading unrelated to need and circumstance. If a reference in a future 'constitution' were to be to 'the principles of the Treaty' those principles should be 'spelled out' so that, again, the consequences are clear and everyone understands what they are being signed up to by their representatives.

13. Any operational principles also should not be a method of embedding unfairness even if it is a response to previous perceived unfairness.

14. Separate representation may be legitimately provided for if it accords with the same demographic and electoral principles as other representation. Given that principle I am in favour of retaining separate Maori representation, a historical adaptation to the standard Westminster model to suit local circumstances, for as long as the Maori electors themselves want it. If they walk with their feet they may bring that institution to a close themselves. Generally it offers a similar level of democratic representation to that of an ordinary electorate. There are no special rights and privileges provided, and given the history involved in the establishment of separate Maori representation and its cultural status amongst Maoridom, it merits retention as a part of our shared highly adaptive political and social culture. In this respect I am also in favour of extending the Parliamentary process covering Maori electoral constituencies to local authorities. The current system where Maori are held hostage to often quite different local mainstream electoral perspectives is fundamentally undemocratic and unfair.

15. Good systems incorporate the principle of subsidiarity; that is, the principle of providing for decision making at its most appropriate level, based on the balance of responsibility and authority. A constitutional review might establish which other bodies at each level have which powers and responsibilities. For example, local government is created by a mish mash of statutes that don't provide a coherent base of authority to adequately represent its constituents. The funding base is also inadequate and reflects the world a century ago. Providing local government with the power to levy 'local taxes', even if collected by national agencies, would serve to improve the lot of the average rate-payer, and also set up local government as a truly second tier of government with better defined responsibilities and authority. This would protect the principle of localism without derogating from the powers of the centre.

16. Any government is improved by knowing what its performance objectives are and how the nation is doing. To assist Parliament and the people that vote for its members, a clearer state of the nation report (general progress indicator) might be released on a two or three yearly basis. This would be of necessity a more balanced view of society and the economy than the presently over used GDP measures, which are limited and distort our understanding of what is happening in the nation and the costs and benefits of particular actions. This relates to a sub-principle that decisions flow from knowledge, which in turn flows from information.

17. A Parliamentary or other official term of office should be structured around the current needs of a society. The present Parliamentary term of three years is arguably a relict of history, which has no especial validity in contemporary society. I would suggest increasing the term to four years would enable an administration to more adequately implement its objectives and be marked on them by the electorate. It may also reduce the time spent on active electioneering and coming to grips with the governance structures. Four years is, I suggest, a compromise between a

longer term that may tend to imbed a government and provide less incentive to perform and three years, which encourages 'short termism' in policies and, often, ill thought out legislation and policy development.

Summary and conclusion:

Base any review around core principles – don't be ad hoc. Don't change for change's sake or necessarily to fulfill a political agreement on its own. Change should be based on pragmatism, as you want a result that is fair, practical, understandable by anyone and able to recognize and balance rights and responsibilities expected of a modern democracy.

593

From:
To: <constitutionalreview@justice.govt.nz>
Date: 22/04/2013 9:43 a.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

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

Full Names: sir christopher harris Organisation Name: me Email:
Phone: Postal AddressA: Postal AddressB: Postal City:
wellington Postal Region: wellington Postal Post Code: Postal Country: New Zealand
Submission: we must not let the waitangi treaty distort our law, we are on e people and need rules
and law that is eual for all of us, the cureent games being played are giving to maori a grossly unfair
l;arge part of nz for which they show no thanks,and allow it
to embed their disregard for the laws of nz and to enklarge their take of welfare, they are not making
an effort to belong in a modern commercial society they dont like to work just want their payouts

Sent on the 22 April 2013 at 09:41

593a

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 7/08/2013 4:28 p.m.

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

Full Names: SIR CHRISTOPHR HARRIS Organisation Name: ME Email:
Phone: Postal AddressA: wellington
Postal City: wellington Postal Region: wellington Postal Post Code: Postal Country:
New Zealand Submission: i do not want race based mps, i do want mmp changed to max of 30
mmp delegates in the house, i want all, law to treat us as equals, and no race base privelege ever, i
do not want a constitution change at all as i do want any risk of long term fighting

by maori that will cripple the nz economy, they have done very well so far and got a lot of cash and
assets, the constitution idea is very flawed and if any change made we will have endless litigation
and very heavy damage to the economy

c harris

Submitted on the 13 June 2013 at 09:39