

4017"

From: Jana Hayes
To: <constitutionalreview@justice.govt.nz>
Date: 29/07/2013 9:59 a.m.
Subject: CAP submission

Hello,

I've only just found out about this through Facebook, and I'll start this email by posting what I wrote there;

In terms of society I'd like to see more people working. Agriculture is
> really important to us yet not many Kiwi's are doing it because "It's long
> hours" and "It's a gross job", yet many young kiwi's complain when farmers
> are forced to hire staff from overseas. "No jobz cuz all da imagrantz got
> dem". Yet noone wants to front up to do the "dirty work".
>
> So what I'd like to see is more young people being taught about the
> positive aspects of farming, how to get a job and how to be a good
> employee. So many young kiwi's ruin it by drinking / being late / hung over
> / doing drugs, also forcing farmers to look elsewhere.
>
> I also think people need to stop depending on welfare systems. People
> should be actively seeking work everywhere, not just in jobs they WANT to
> work in.
>

To me agriculture is very important. I'm in uni at the moment doing a B.Ag after working 4 years in the industry. I also think helping farmers become more sustainable is also very important.

Agriculture is what keeps NZ ticking but tourism and our "green" image is very important too. I think what many farmers are doing now is great - at least a start - but many "public Joes" don't understand this - What makes me angry is when people go on TV and complain about dairy farmers polluting water ways and wasting water, yet when I walk down the street there are people watering their side walk grass or washing their cars with soaps and degerents that run into the drains.

I think our water is important and after reading a few forum threads this past summer it's become apprent that kiwi's only "try" to save water when there is already a drought. Prior to that they don't care. Kiwi's (farmers and non-farmers) need to be taught more about conservation of our land and waterways.

In regards to society - I am somewhat behind that Pakeha Party, although the "leader" seems very cocky. However I think society needs to be equal; I will give an example.

My mother is a single mum of myself (although I've now lived out of home for 5 years) and my younger sister. My younger sisters dad paid nothing for child support and mum got very little through my dad.

Even though my mum is part Maori, she had to jump through hoops to get any asstance. However I have many friends who live in the same area who are obviously Maori or Polynesian who just need to ask and get what they want.

I even went into WINZ one day to ask for a work grant, I was 17 at the time living with my dad who had just lost his job. My case worker was the same as my fathers so she knew exactly the situation we where in. I was moving in Christchurch for a job but I needed some kind of assistance with

clothing or travel to get there. I got nothing. Not a cent. Yet again I have friends who can walk in and get a new TV under an "appliance" grant who don't have jobs and don't intend on getting one.

I think we all need to be treated fairly. A few weeks ago someone suggested a special grant for Maori people to get housing. While I am Maori and this would work in my favor, I believe everyone should have to work to get what they want. While what the Europeans did to the Maori wasn't fantastic, it's a lot better than what the Dutch would have done and I think many Maori have no idea what the British saved them from. We do not owe them anything. It should be a fair country for everyone.

Thanks
Jana Hayes

1222

From:
To: <constitutionalreview@justice.govt.nz>
Date: 9/06/2013 4:47 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

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

Full Names: James Hayes Organisation Name: Email:
Phone: Postal AddressA: Postal AddressB: Postal City:
Christchurch Postal Region: Canterbury Postal Post Code: Postal Country: New
Zealand Submission: Race based politics have passed thier sell by date. Democracy should have
its premise in citizenship.

Sent on the 9 June 2013 at 16:46

4957

From: "Lock and Store"
To: <constitutionalreview@justice.govt.nz>
Date: 26/07/2013 12:58 p.m.
Subject: Submission for Advisory Panel consideration

To The Constitutional Advisory Panel

I am a proud New Zealand woman who strongly believes that each and every one of us are entitled to equal rights. I want to live and belong in a country where equality is enshrined under the law with no race based preferential treatment.

I personally would like to see the Declaration of Equality be enacted by Parliament to uphold and protect every New Zealand citizen's rights equally.

Constitutional change is a matter for every voting New Zealander to put forward their views in a Referendum and not the Politicians alone to decide the future on our behalf. Anything less than a National Referendum on this issue would be totally unacceptable.

Furthermore, The Treaty of Waitangi shouldn't be used for anything other than its intended purpose, which was to simply unite both Maori and European as New Zealanders.

I am tired of hearing radical New Zealander's views professing the Treaty of Waitangi gives separate Maori sovereignty. We all know this is not true.

There are many differing opinions and interpretations of the meaning of this document and too much importance is placed on it.

For this reason I strongly oppose the Treaty of Waitangi being used as a basis for any new Constitution.

Yours sincerely

Shelley Hayes

3609

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 15/07/2013 8:48 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

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

Full Name: James Hayter Organisation Name: Email:
Phone: Postal AddressA: Postal AddressB: Postal City: auckland Postal Region:
Postal Post Code: Postal Country: New Zealand Submission: I believe there was a time when
the treaty was needed to maintain equality however that time has passed and it is time to move on
with equality for all. Using the treaty singles out maori, giving them benefits over other races. That
doesn't seem fair to
me.

Sent on the 15 July 2013 at 20:46

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 3/07/2013 9:42 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

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

Full Names: Alexander Charles Hayward Organisation Name: I am a private individual Email:
 Phone: Postal AddressA: Postal
 AddressB: Postal City: Postal Region: Marlborough Postal Post Code:
 Postal Country: New Zealand Submission: I was born in a country where racial
 disharmony was entrenched in the laws of the land and enforced by a racial minority. My parents
 wisely foresaw the disaster that policy would have on that nation and we immigrated to New Zealand.
 As a child I was granted
 citizenship of this country and I am now a fiercely proud New Zealander, and am acutely aware of the
 privilege of that status. I have been able to grow from a refugee into a solid citizen and am
 contributing daily through my own business efforts to enhance
 not only my own and my family's future, but also the future of the nation in my own small way.

I am dismayed though to see, almost daily, New Zealand gradually being pulled into a race based
 society and am extremely concerned to witness the relentless incremental transfer of money, power
 and public resources through new rights, new privileges, new funding,
 new settlements - all being granted to a racially based minority, often on the basis of some historical
 grievance, but it never seems enough to satisfy that minority.

I am not convinced we need any constitutional review because I cannot see where the current
 situation of constitutional instruments is broken and in pressing need of a fix. I certainly oppose any
 laws which establish or promote racial distinction or division.

Every citizen of this nation has the same opportunities as every other. There must be one law for all
 citizens of this country and I oppose a constitution which might establish race based principles in any
 form.

Sent on the 3 July 2013 at 21:41

3739

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 22/07/2013 3:02 p.m.
Attachments: Submission%20to%20the%20Constitutional%20Advisory%20Panel.docx

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

Full Names: Janine Hayward Organisation Name: University of Otago Email:
Phone: Postal AddressA: Politics, University of
Otago, Postal AddressB: Postal City: Dunedin Postal Region: Otago Postal
Post Code: Postal Country: New Zealand Submission: Submission Upload:
Submission%20to%20the%20Constitutional%20Advisory%20Panel.docx

Submitted on the 22 July 2013 at 15:00

Submission to the Constitutional Advisory Panel

22 July 2013

Associate Professor Janine Hayward
Department of Politics
University of Otago
Dunedin

It is wonderful to have the opportunity to think and talk about New Zealand's constitution. I teach Politics at the University of Otago, and I have researched and written about various constitutional issues, particularly Treaty issues, over the years. It is refreshing to have the chance to step back from all the scholarship and talk about how I think things ought to look in the future. I have tried to be uncharacteristically brief, and have given references to work when I have provided much more detail.

Overall, my vision for New Zealand strikes a balance between retaining the Constitution Act in its current form (as non-entrenched law) and strengthening the status of the Bill of Rights (as supreme law). More importantly, within this I wish to see greater reference to the Treaty of Waitangi (in the constitution) and the rights of Māori as tangata whenua (in the entrenched Bill of Rights). This is important, I believe, as New Zealand moves into a 'post-Treaty settlement' era, in which tolerance for the Treaty and questions of Māori rights may be viewed with impatience by a New Zealand public which considers these issues 'settled'. In reality, there is a long way to go in the Crown's relationship with Maori, and the Treaty will 'always be speaking'. These are the most important and pressing matters of our time, and our future constitutional arrangements must reflect.

Should New Zealand's constitution be supreme law?

No. I am confident that New Zealand may adopt an entrenched constitution in the future, but there does not seem to be a 'groundswell' of support for an entrenched constitution at present. Nor, I believe, is there a need for one. New Zealanders, for better or worse, appear to wish to retain the notion of Parliamentary Sovereignty at the core of their constitutional culture.

As discussed further below, the Treaty of Waitangi ought to be a formal part of New Zealand's constitution. The Constitution Act (non-entrenched) ought to contain a reference to signify the important place of the Treaty.

Should the Bill of Rights Act be supreme law?

Yes. Despite a sense that Parliament ought to be supreme, there is (and ought to be) increasing public concern about government actions that discriminate against New Zealanders' fundamental rights. The BORA ought to be entrenched to allow the courts greater opportunity to limit government in regard to human rights.

And more importantly, (see below) the BORA ought to also include recognition of the rights of Māori as indigenous peoples. For example, it could include the following provision: “The rights of Maori, as tangata whenua o Aotearoa, are hereby recognised and affirmed.”

What role could the Treaty have in the New Zealand constitution?

The Treaty of Waitangi established an agreement between Māori and ‘government’ that has stood the test of time. It is as relevant today as when it was signed in 1840. It ought to stand at the centre of our constitution: it is the source of legitimate ‘Crown’ authority in New Zealand, and the source of pre-existing Māori rights / tino rangatiratanga which continue today.

I have written more about the contemporary relevance of the Treaty at:

Hayward, J. ‘Te Tiriti o Waitangi – The Treaty of Waitangi’ in T. Ka’ai et al. (eds), *Ki Te Whaiao: An Introduction to Maori Culture and Society*, Pearson Longman, Auckland (2004) 151–162

The Treaty of Waitangi ought to be a formal part of New Zealand’s constitution. The Constitution Act (non-entrenched) ought to contain a reference to the Treaty to signify the important place of the Treaty. It should say, for example:

“The Treaty of Waitangi shall be regarded as always speaking and shall be applied to circumstances as they arise so that effect may be given to its spirit and true intent.”

I have said more about the options for the Treaty in the constitution at:

Hayward, J. ‘The Treaty and the Constitution’ in R. Miller (ed) *New Zealand Government and Politics* (5th Edition), Oxford University Press, Melbourne, 2010, 105–113

How should Maori views be represented in Parliament?

The Māori seats in Parliament ought to be retained and entrenched. The most important feature of the seats is not the Māori MPs in Parliament (legally those MPs are not required to be Māori), but rather the constituencies of Māori voters those seats represent (legally you have to be Māori to vote in those seats). The MPs who represent Māori voters provide an opportunity, in keeping with the spirit of the Treaty, for Māori voters to have their views represented in Parliament.

I have said more about the value of the Māori seats at:

Hayward, J., ‘Guaranteed Maori Local and National Representation: The Crown’s duty of active protection, in Institute of Policy Studies, *Post-Treaty Settlements Project*, Victoria University of Wellington, available at <http://posttreatysettlements.org.nz/guaranteed-national-and-local-maori-representation/>

Sullivan, A and J. Hayward, ‘The Maori Seats and Agency Theory: refocussing debates about Maori Representation’, in M. Bargh (ed), *Maori and Parliament: Diverse Strategies and Compromises*, Huia Publishers, Wellington, 2010

How should Māori be represented in local government?

Māori wards ought to be established in all local government in order to address the chronic under-representation of Māori on council. In a post-settlement environment the relationship between Māori and councils is so important; it is a loss of community as a whole if Māori are not effectively engaged in local government decision-making. It is also a breach of the Crown's duty of active protection that Māori are not guaranteed representation in local government.

I have said more about the need for guaranteed Māori representation in local government at:
Hayward, J., 'Mandatory Maori Wards in Local Government: Active Crown Protection of Maori Interests', *Political Science*, 63(2): 186–204 (2011)
Hayward, J., 'In Search of Certainty: Local Government Policy and the Treaty of Waitangi', in Veronica M.H. Tawhai and Katarina Gray-Sharp (eds), *Always Speaking: The Treaty of Waitangi and Public Policy*, Huia Publishers, Wellington, 2011, 79–94

Furthermore, the Crown ought to legislate to introduce the single transferable vote (STV) to all local governments, as a way to increase the diversity of local government representatives. The lack of diversity in local councils is out of step with the tremendous increase in diversity amongst our MPs, and is likely to be contributing to the declining voter turnout in local government elections.

How many MPs should Parliament have?

The current number of MPs (120) ought to be retained. A reduction in the number of MPs would compromise the blend of list/electoral seats, and reduce the capacity for diversity in the House. A reduction in MPs would also reduce the pool of expertise and experience in the House, and increase the influence of Cabinet relative to the government and more importantly the opposition. For a strong, effective, representative Parliament, at least 120 MPs is appropriate.

How should the election date be decided?

The current method (three years after the return of the writs for the preceding election date) is satisfactory.

How long should the Parliamentary term be?

Three years. Elections are the only effective check New Zealand voters have on government. In the absence of other checks on executive power (such as entrenched Bill of Rights/Constitution, or an upper chamber) it would be reckless to lengthen the parliamentary term.

How should the size and number of electorates be decided?

The current system, based on the South Island having 16 seats is satisfactory in calculating the size and number of electorates across the country. The challenge is in the ratio of electorate to list seats. As the population increases, the number of list seats will gradually decrease, eroding the proportionality of Parliament. The Electoral Commission considered this matter in its recent recommendations (which the government has chosen to ignore.) I agree with its recommendation that:

“On the basis of current information, it would be prudent to identify 76 electorate seats (in a 120 seat Parliament) as the point at which the risk to proportionality from insufficient list seats becomes unacceptable.”

What should happen to MPs ‘part ways’ with their party while elected?

They should remain as an independent MP. There are a few high profile examples of MPs who would argue that their party abandoned them (as opposed to the other way round). It is the role of electors, not political parties, to remove MPs from Parliament.

2214

From: Terry Hayward
To: "constitutionalreview@justice.govt.nz" <constitutionalreview@justice.gov...
Date: 3/07/2013 1:30 p.m.
Subject: Maori Seats

Maori Parliamentary and other seats should be abolished. We should be one people.....New Zealanders. Special seats create a type of Apartheid. The Chinese, Australian

Filipino and Pacific Island people living in New Zealand don't have special seats. They think of themselves as New Zealanders. Special seats for Maori are things from the past like "No Votes for Women", "Hanging" and "Corporal Punishment" The seats should be abolished.
Terry Hayward

1221

From:
To: <constitutionalreview@justice.govt.nz>
Date: 9/06/2013 4:33 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

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

Full Names: Thomas Alfred Hayward Organisation Name: Email:
Phon Postal AddressA: Postal AddressB: Postal
City: Tauranga Postal Region: Postal Post Code: Postal Country: New Zealand
Submission: After seeing the chaos in America with their outdated gunlaws and not being able to change them,who in their right mind would want to bind us to an outdated treaty giving some New Zealandes more rights than others. Hobson said WE ARE ALL EQUAL NOW. Brash also said it but was savaged by the press and discontented Maori activists. I am part Maori but believe firmly that I have provided for my family without hand outs from the ordinary taxpayer.Lets complete theTreaty Settlements and put it firmly behind us where it belongs.

Sent on the 9 June 2013 at 16:32

Submission to the New Zealand Constitutional Advisory Panel 2013

As a supporter of Amnesty International, I write to add my voice in support of its submission to the current constitutional conversation.

I am concerned that all our human rights are not adequately protected in New Zealand law.

For example, our Bill of Rights Act 1990 only incorporates civil and political rights. Yet, it is widely recognised that human rights are interrelated, interdependent and indivisible; this means that one set of rights cannot be enjoyed in a meaningful way if the other set of rights is not also adequately protected and respected too.

I believe civil and political rights, such as the right to life, cannot truly be achieved without the equal right to work, accessible health care, adequate housing and education, which are enshrined in the concepts of economic, social and cultural rights.

Despite having ratified the International Covenant on Economic, Social and Cultural Rights in 1978, successive New Zealand Governments have failed to fulfill their obligations to respect, promote and fulfil these human rights.

While the Government says economic, social and cultural rights are currently protected by subject specific statutes, current issues involving these rights, such as child poverty, show that the current system is not working to adequately protect our rights. The maze of laws and policies around economic, social and cultural rights make it difficult for New Zealanders to understand and access their rights.

Without a clear framework to guide legislation and policy it also makes it difficult to see if laws policies are actually working to recognise New Zealanders rights. In addition many human rights in New Zealand lack avenues to remedies if they are breached, which limit New Zealanders' access to justice - an essential right of victims of all human rights violations.

I therefore submit the following recommendations:

- The incorporation of economic, social and cultural rights into the Bill of Rights Act 1990;
- The entrenchment of the Bill of Rights Act 1990 so that the weight and importance of these rights is adequately recognised;
- The explicit inclusion of the power for judges to provide remedies when the Bill of Rights Act is violated;
- That New Zealand ratify the Optional Protocol for International Covenant of Economic Social and Cultural Rights, including opting in to its inquiry and inter-state mechanisms, so that New Zealanders have access to an international remedy;
- The establishment of a Human Rights Select Committee to ensure that the impact of legislation on human rights is sufficiently considered;
- The requirement of all levels of Government to take a human rights approach to addressing human rights issues; and
- Increased human rights education initiatives to increase awareness of economic, social and cultural rights.

I believe these recommendations will provide for stronger protections within our constitutional framework for economic, social and cultural rights.

Taking these measures will ensure a strong legal framework in which all rights are equally protected. It will ensure that the Government can take a rights-based approach to addressing rights issues in New Zealand such as child poverty.

New Zealand has an obligation to take steps to progressively realise such rights as the rights to health, education, and adequate housing. Ensuring they are explicitly protected in New Zealand law is a significant step in ensuring that New Zealand is a place where human rights are protected, respected and fulfilled.

Susan Hayworth
Wellington
New Zealand

2862

From: Vivian Head <
To: <constitutionalreview@justice.govt.nz>
Date: 6/07/2013 10:39 a.m.
Subject: CAP Submission

It is most unnecessary to have racially selected seats.
I consider that Maori seats are not democratic because this gives special advantages to a minority group who can exercise their vote to any of the other parties.

Are we not meant to be one people? New Zealanders! So why create this racial division?

Vivian Head

184

From:
To: <constitutionalreview@justice.govt.nz>
Date: 10/04/2013 11:53 a.m.
Subject: The form on your contact page has just been submitted

Sent from Constitutional Advisory Panel #link:<http://www.cap.govt.nz/>.

Contact Name: Toby Heale Phone: Email:

Comment: I do not know if this is the correct box for my submission, but I am profoundly disturbed by your proposal at this time. We have produced a generation that cannot tell the difference between a citizen and a subject and who cannot appreciate that rights

(as they are understood today) and freedom are mutually exclusive. Freedom comes with a responsibility to society, while rights make demands of society. This is a terrible time in history to be making this exercise and I fear there may be activists lurking with an agenda to pervert freedom in New Zealand. You may think I am alarmist, but no one expected the disastrous 2000 Declaration that turned The European Court of Human Rights into the monster it is today. I will write more elsewhere, but this is serious and there are enemies out there. Sign Up For Updates: Yes

Sent on the 10 April 2013 at 11:52

309

From:
To: ~constitutionalreview@justice.govt.nz>
Date: 14/04/2013 2:08 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

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

Full Names: joseph james healey Organisation Name: joe healey Email:
Phone: Postal AddressA Postal AddressB:
Postal City: Postal Region: Postal Post Code: Postal Country: New Zealand
Submission: 1 Why is a referendum not binding for the government? it really should be...

2 Stop selling things that are owed by all new zealanders to single new zealanders or even worse foreigners.

3 no more list MPs riding into parliament if they dont get the votes they dont get in.

Sent on the 14 April 2013 at 14:07

3828

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 24/07/2013 4:15 p.m.
Attachments: Constitutional Conversation SHealy contribution.doc

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

Full Names: Susan Mary Healy Organisation Name: Email: Phone:
Postal AddressA: Postal AddressB: Postal City:
Auckland Postal Region: Postal Post Code: Postal Country: New Zealand
Submission: Submission Upload: Constitutional Conversation S Healy contribution.doc

Submitted on the 24 July 2013 at 16:14

Constitutional Conversation, Dr Susan Healy contribution

To Members of the Constitutional Review Panel

Tēnā koutou.

Thank you for the opportunity to enter this constitutional conversation. My particular interest is the place of and meaning of Te Tiriti o Waitangi in our constitution.

I am a Pākehā New Zealander who is passionate about our country. I believe that our relationships with one another and the land need to be based on what is truthful and right. My concern is that our country faces up to its constitutional history, because knowledge of this history is vital to informed conversation about the constitution. In particular, we must recognise the constitutional arrangements of hapū and iwi prior to the imposition of Crown sovereignty, acknowledge the falsity of the premise that Māori ceded their sovereignty to the Crown, and officially recognise the one authentic treaty, Te Tiriti o Waitangi.

My comments are based on research into the Crown's relationship with Iwi Māori and consideration of the evidence from the hearing of the Ngāpuhi Nui Tonu initial claim to the Waitangi Tribunal, which focused on He Wakaputanga o te Rangatiratanga o Nu Tireni (Declaration of Independence 1835) and Te Tiriti o Waitangi (1840). Since this is a conversation, I will not reference my comments as in an academic piece of work. I am happy to provide fuller references if requested. In general, I will use "Māori" as shorthand for hapū and iwi, as well as for Māori people as a whole.

The starting point for my observations is the background you provided in "The Conversation So Far", which is probably a fair resumé of current liberal thinking about the constitution. I will refer to this as the "Backgrounder".

Points are made under the following headings.

1. The need to appreciate the historical sources of the right to govern
2. Te Tiriti o Waitangi is the one authentic treaty
3. "Single, undivided sovereignty" fatally undermines "Treaty partnership"
4. Exclusion and racism in our constitution
5. Shared power and government

Each section opens with a general observation, followed by a number of points, and ends with recommendations as to what needs to happen. Summary reflections are italicised.

1. The need to appreciate the historical sources of the right to govern

General Observation

The Backgrounder lacks an outline of the history of New Zealand's constitutional arrangements and, in particular, fails to pinpoint clearly the historical sources of the

present Government's right to govern. Knowledge of the country's constitutional history is vital to informed discussion about our constitution.

Point 1.1

The Backgrounder is written for the general public. The section on "Our Constitution" (pp. 7ff.) does not show the historical basis for our present constitution. The New Zealand Constitution Act 1852 is not even mentioned. The fact that this Act was put in place by the British (Imperial) Government and was modeled on the British governing system is not stated. Nor the fact that Section 71 of this Act did at least allow for Māori self-governing areas.

Constitutions have histories. Knowledge of the history of a constitution is essential to informed constitutional conversation.

Point 1.2

The Backgrounder completely ignores the constitutional arrangements of the Māori world: history, philosophy and practice. Yet, these are the indigenous constitutional arrangements of our country, long preceding any systems introduced by the British. Information about these arrangements can be found in the writing of Moana Jackson, some writing by Sir Edward Durie, evidence given to the Waitangi Tribunal, and in *Ngāpuhi Speaks*.

A constitutional conversation becomes enormously enriched when there is real dialogue between peoples coming from different constitutional traditions. What is more, there is enormous ignorance and prejudice in much of the Pākehā world about the traditional systems of Māori government. These systems are based in local participation, consensus decision-making and the face-to-face accountability of leaders to their people: many things people in our contemporary world are asking for. Too often we hear uninformed but vocal people writing off the Māori systems of government as "undemocratic".

Point 1.3

The Backgrounder does not mention He Wakaputanga o te Rangatiratanga o Nu Tireni (the Declaration of Independence). It was through He Wakaputanga that New Zealand gained international recognition as a sovereign nation. Although the mana (sovereignty) of hapū and iwi existed without the declaration, He Wakaminenga (the United Assembly of Hapū) made the written Declaration in order to advance the developing international interests of the hapū.

He Wakaputanga clearly shows the thinking and intentions of the rangatira (Māori leaders) leading up to the signing of Te Tiriti (*Ngāpuhi Speaks*, 4.3). It provides an essential context for understanding Te Tiriti; without this context the articles of Te Tiriti can be and have been misunderstood.

Through He Wakaputanga (the Declaration) New Zealand was internationally recognised as an independent Māori nation. This declaration set a crucial political and ethical basis for the accommodation of foreign (that is, non-Māori) authority. Failure to

acknowledge He Wakaputanga and its constitutional significance is undermining to the mana of Māori, and does a disservice to us all by suppressing an important part of our country's history. An understanding of the terms of He Wakaputanga is essential to a correct appreciation of terms used in Te Tiriti o Waitangi.

Point 1.4

The Backgrounder says: "The New Zealand constitution increasingly reflects the fact that the Treaty of Waitangi is "regarded as" a founding document of government in New Zealand".

I am wondering why the words "regarded as" are used? This seems to diminish the fact that the Treaty *is* a founding document of government in New Zealand. The awareness of that fact is not anything recent. Lord Normanby, Captain Hobson and other British officials in 1839 knew that Māori assent was needed for the British Crown to have legitimate authority in New Zealand (*Ngāpuhi Speaks*, 5.2, citing Dr Paul McHugh and others). That was why the Crown negotiated a treaty with Māori.

It is true that Hobson chose to interpret Māori assent to the Treaty as a "cession of sovereignty". His interpretation was a myth of convenience, tailored to suit British imperial interests. The early Governors and Parliaments reinforced the notion of "cession of sovereignty" to justify their authority.

There is one positive thing about the colonisers' "cession of sovereignty" claim: it contains an acknowledgement that their right to govern came from Māori assent.

Recommendation

That a panel of Māori and non-Māori experts is commissioned to draw up a text outlining the history of the constitutional arrangements of this country. And that this text:

- explains the values and cultural histories that inform the differing Māori and British-heritage constitutional arrangements;
- includes an authentic account of He Wakaputanga o te Rangatiratanga o Nu Tirenī (1835 Declaration of Independence), that is, one based on reliable Māori sources;
- highlights the foundational basis of He Wakaputanga in allowing for non-Māori participation in government;
- is unambiguous about the place of Te Tiriti o Waitangi as a founding document of national government in New Zealand;
- becomes a basis for wide-ranging education about government in New Zealand and its constitutional history.

2. Te Tiriti o Waitangi is the one authentic treaty

General Observation

The time has come for accuracy about the treaty agreement assented to by Māori. This is

Te Tiriti o Waitangi.

Point 2.1

The Backgrounder slides round the issue of the treaty text, merely noting (p. 36) “Because of the difference between the two texts of the Treaty [principles have been distilled]”. This could be interpreted as accepting that the “English text” is as valid as the “Māori text”, which is not correct. The evidence given to the Waitangi Tribunal in the hearing of the Ngāpuhi Nui Tonu initial claim made it very clear that the rangatira who assented to the treaty were agreeing to Te Tiriti o Waitangi (*Ngāpuhi Speaks*, 4.3, 4.4). Moreover, the document signed at Waitangi by the rangatira and Hobson was Te Tiriti o Waitangi. Hobson always held to the fact that this was the most significant signing. British official sources referred to Te Tiriti as “The Treaty” and the English version as “Translation”.

Māori assent is fundamental to the legitimacy of the right of the Crown to govern. Māori who signed the treaty assented to Te Tiriti o Waitangi.

At the Ngāpuhi Nui Tonu hearing, evidence from Māori and Pākehā sources showed that there is one authentic treaty, that is, Te Tiriti o Waitangi (Ngāpuhi Speaks, 4.3).

Point 2.2

Te Tiriti o Waitangi and the Crown’s English-language version are irreconcilable on how the powers of government were to be held after the signing of the treaty (*Ngāpuhi Speaks*, 4.3.5). In Te Tiriti, the paramount authority (te tino rangatiratanga) of the rangatira and hapū is affirmed and protected. The Queen’s governor is granted the right to exercise a limited authority over British subjects. Contrary to this, the English-language version states that Māori cede their sovereignty to the Queen.

It is intellectually dishonest to pretend that the Crown’s English-language version of the Treaty is equivalent to, or reconcilable with, Te Tiriti o Waitangi. And yet this is what has been happening in official circles since at least the 1970s. The effect is to obscure the issues around Crown authority vis-à-vis the authority of hapū and iwi and Māori as a whole.

In its brief to inquire into breaches by the Crown of the Treaty promises, the Waitangi Tribunal is required to work from the Māori and English texts of the treaty. The inherent contradiction in the texts has meant that the Tribunal has been constrained in its efforts to pronounce on issues of authority, rights to govern and rights to manage resources. This has meant the Tribunal has been unable to address some of the underlying causes of injustice to Māori and, thus, hampered in fulfilling its mandate.

Te Tiriti o Waitangi needs to be officially recognised as the one authentic treaty.

Point 2.3

Experts presenting evidence at the hearing of the Ngāpuhi Nui Tonu initial claim were consistent in their view that it was philosophically, legally and culturally impossible for rangatira to cede their mana (sovereignty) and that of their hapū (see quotes below from

Ngāpuhi Speaks, 4.1, and further explanation in 4.2.4):

For the Crown to say that this mana was given to the Crown by the signing of Te Tiriti is a fundamental misunderstanding of mana itself. You cannot separate yourself from your mana *tuku iho* [mana held from time immemorial]. This would be to extinguish your *whakapapa*, your connection to your *tupuna*, your *whenua* and your identity.

Buck Korewha, Ngāti Kaharau, Ngāti Hau ki Omanaia

It would have been impossible for the Rangatira to knowingly sign away their mana within one day. Their mana is intrinsically bound into their entire world view and into the entire Maori social structure. How could they have signed it over to somebody else? How could they have decided to do this within a matter of a few hours?

Rima Edwards, Ngāpuhi Nui Tonu

I take the view that the very nature of mana and the nature of a rangatira was such that they would not agree en masse to give away all their chiefly powers and authority—in essence their mana rangatira—to the Queen of England.

Manuka Henare, Māori historian

The British claim that Māori ceded their sovereignty through the Treaty of Waitangi was based in profound ignorance of the Māori world, and racist notions of the superiority of British and European institutions vis-à-vis “native” institutions (Ngāpuhi Speaks, 2.2, 5.2).

Point 2.4

The Backgrounder says (p. 8): “The Treaty records an agreement that enabled the British to establish a government in New Zealand”.

It is not accurate to say that the treaty agreement enabled the British to establish a government in New Zealand. In Te Tiriti o Waitangi—the treaty signed by Hobson and the rangatira at Waitangi—the agreement was that the Queen’s Governor would be allowed to exercise authority over the Queen’s people. This is the authority that Hobson requested from the rangatira when he addressed them at the beginning of the treaty discussions at Waitangi on 5 February 1840. Moreover, “Colenso’s record of the treaty discussions shows that what was proposed and discussed was the presence of a governor, not the institution of a British-style government with its encompassing legislative and judicial capacities” (*Ngāpuhi Speaks*, p. 221, citing M. Belgrave, *Historical Frictions*, pp. 59–60).

For too long, the Pākehā sense of national identity and the Crown’s justification for its authority in New Zealand have been built on an untruth: that by signing the treaty Māori ceded their sovereignty to the British Crown and thereby agreed to British government. There is a younger generation of New Zealanders who are learning a more accurate

history and are talking about building our constitution on recognition of Te Tiriti o Waitangi. No favours are done to them or race relations in the future by continuing to collude in the false notion that Māori ceded their sovereignty to the Crown.

Recommendations

(These align closely with Recommendations 2–4 in Ngāpuhi Speaks.)

That the Crown formally acknowledges that Te Tiriti o Waitangi is the one authentic treaty.

That the Crown acknowledges that its English-language rendition of the treaty—the version promulgated by the British and New Zealand Governments as the official treaty—is an incorrect interpretation of Te Tiriti o Waitangi and wrongly conveys that Māori agreed to cede their sovereignty to the British Queen.

That there is an amendment to the Treaty of Waitangi Act stating that Te Tiriti o Waitangi is the authoritative text of the treaty agreement.

3. “Single, undivided sovereignty” fatally undermines “Treaty partnership”

General Observation

The Backgrounder (p. 37) cites the 1987 Court of Appeal judgment in which the judges: “Commented on the differences between the English and Māori versions of the Treaty affirming the right of the Crown to govern, subject to the balancing of duties of good faith and partnership”. It is significant that the judges put the Crown’s right to govern as contingent on good faith and partnership. However, the judges failed to recognise that the Crown has constituted itself with an absolute sovereignty, rendering itself incapable of true partnership with Māori. Partners have between them a power balance, meaning that decisions about matters in common are reached by negotiation.

Point 3.1

The doctrine informing the constitution of Crown power in New Zealand has been succinctly described by Dr Paul McHugh (1996, p. 302):

The Crown’s sovereignty is regarded as absolute, unitary and unaccountable, the ultimate expression of this supreme power being the enactment of legislation (the Crown in parliament). Being absolute, this sovereignty is viewed as undivided and indivisible—it can never be shared with any other sovereign entity. It is also unaccountable. The Courts will recognise no law-giving power other than the Crown and will not call the sovereign to account for the exercise of its legislative power.

The implications of this in relation to the Treaty were touched on by the late Professor Jock Brookfield (Valedictory Lecture, 1993) when he said:

But whatever the chiefs individually intended, it is impossible to believe that any

of them consented to the claims of absolute and unlimited power, even over the Treaty itself, which, under the doctrine of parliamentary sovereignty, were made by Queen Victoria's Parliament and are made today by the New Zealand Parliament as its successor.

Brookfield's point about the Crown's "absolute and unlimited power, even over the Treaty itself" is a telling one. It explains why the Crown's efforts at "partnership" are less than satisfactory.

Point 3.2

The Crown's exercise of power over the Treaty itself is manifest in the processes for the settlement of Treaty grievances, which are based on "terms of engagement" determined by the Crown. They are not processes developed through a partnership arrangement. This issue of terms of engagement and how they are developed is critical, and was brought to the fore at the Ngāpuhi Nui Tonu hearing by the kaumatua and scholar, Nuki Aldridge (*Ngāpuhi Speaks*, Appendix 9). A partnership is fatally undermined where only one party sets the rules for how agreement is to be reached.

If we are to move towards a form of government that is truly and rightly based on partnership between tangata whenua and the Crown, and the upholding of te tino rangatiratanga of hapū and Māori as a whole, then terms of engagement for mapping a way forward will have to be developed and agreed by Māori and the Crown, and not by the Crown acting alone.

Recommendations

That there is official recognition that the absolute and unitary authority that the Crown has taken to itself is a breach of the intent and promises contained in Te Tiriti o Waitangi.

That the Crown work with hapū representatives from across the country to develop rules of engagement between Crown and Māori based on true bilateral arrangements, the rules to apply in the advancing and resolution of treaty-related issues and all matters affecting the well being of Māori (see *Recommendation 10 in Ngāpuhi Speaks*).

4. Exclusion and racism in our constitution

General Observation

New Zealand's constitution has been established on an exclusive and racist base. The rationales used to justify this order are built on notions that are detrimental to Māori; they are also undermining to healthy race relations.

Point 4.1

The evidence given by Ngāpuhi Nui Tonu at their hearing showed that the rangatira who signed Te Tiriti o Waitangi had an *inclusive* vision (see *Ngāpuhi Speaks*, 4.1, 4.4). They agreed to the Queen's people having their own recognised leader, who would sit as one

with them in making decisions on matters of common concern. For them, Te Tiriti established “a framework of understanding, which outlined respective responsibilities and duties to ensure good order into the future” (*Ngāpuhi Speaks*, p. 241). In He Wakaminenga (the United Assembly of Hapū) there was an established model of confederated government, one based solidly on the maintenance of hapū autonomy. Embracing the governor and the Queen’s people within this established order was the hapū’s and their rangatira’s intention; they had no intention of ceding their authority to the governor or the Crown he represented.

Point 4.2

It was the imposition of the British model of government that allowed for privileged and *exclusive* holding of power in this country. The legislative powers given by the British Crown to the Governors from 1840 and to the New Zealand Parliament from 1852 excluded hapū and their leaders from decision making at the provincial and national levels. The Crown claimed the right to do this on the basis that Māori had ceded their sovereignty, a false premise. This premise was based on ignorance of Māori, their language, philosophy, culture and government; an ignorance deriving from profoundly racist notions of the superiority of the British social order. At the Ngāpuhi Nui Tonu hearing, Ngāpuhi, Tribunal and Crown witnesses gave evidence that showed the racist notions that informed the reasoning of the British Crown and its agents in the nineteenth century (*Ngāpuhi Speaks*, 2.2, 5.2).

Point 4.3

The English version of the Treaty articulates the notion that Māori ceded their sovereignty to the Crown. This notion is not only false; it is also denigratory of Māori mana. Of particular concern is its harm to young Māori people, because it promulgates the idea that their ancestors gave away their mana—their authority in the land—to a foreign people. It is also harmful to all other young people in our country because it reinforces the notion of European superiority and thus, on a subtle level, undermines their potential for engaging with tangata whenua on the basis of true respect and mutuality.

Recommendation

That the Government funds the collation and development of teaching resources, with the oversight of hapū and iwi experts: on mana Māori and the basis on which hapū and iwi came to the Treaty agreement, and other agreements with the Crown.

5. Shared power and government

General Observation

The intention of the rangatira who assented to Te Tiriti o Waitangi was shared power and government, according to tikanga (*Ngāpuhi Speaks*, 4.3, 4.4). Contrary to this, the British Crown imposed a constitutional order that established the Crown as the single, supreme governing authority. The Crown thus overrode the will and intent of those from whom it sought a right to govern in the first place. Our efforts as a country to address a history of grave injustice to Māori have not, to this point, dealt with the wrongs to hapū and iwi

My thanks to Margaret Haworth who read this submission in its draft form and provided helpful comment.

In the list below I include documents referred to in this contribution and relevant work from my research.

References and Relevant Research

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- (1998). Self-determination: the principle and the process. *Indigenous Affairs*, 3, 57–61, 1998.
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authority that are contained in the present constitution of state power.

Point 5.1

It is significant that the Government's 2004 select committee recognised "it is difficult to identify significant constitutional questions that do not touch on the Treaty to a material extent" (cited in Backgrounder, p. 39). I doubt that a randomly-selected group of the general public would reach this conclusion; and I think this reflects the fact that the history behind the constitutional arrangements in this country have not been taught, or where taught, the history has been fudged. It is time to face up to the truth of our history.

Point 5.2

The 2004 select committee went on to indicate that a move towards constitutional arrangements that were truly in line with the Treaty "would require deliberate effort to engage with hapū and iwi as part of the process of public debate". The committee decided that this would be too difficult because there was not enough "consensus on what is wrong". This seems a pretty weak-kneed conclusion. I am quite sure hapū and iwi would have a good deal of consensus on what is wrong, and important insight on how to move towards a more just sharing of power. In any situation of injustice or abuse, it is the abusing partner who has difficulty in seeing what is wrong. It is through listening to and conversing with tangata whenua that our country has come to some measure of appreciation of the injustices they have suffered at the hands of the Crown. Moreover, in the end the rectification of injustice is of benefit to all.

Recommendations

(The first two align with Recommendation 9 in Ngāpuhi Speaks.)

That the Crown work with hapū representatives from across the country towards a constitutional framework for Aotearoa based on He Wakaputanga o te Rangatiratanga o Nu Tirenī and Te Tiriti o Waitangi.

That the work currently being undertaken by the iwi and hapū-mandated Independent Working Group on Constitutional Transformation (Matike Mai Aotearoa) is recognised, and that its findings (to be published in late 2013) are accepted as an essential framework for constitutional reform.

(This last recommendation is specifically addressed to you as the Constitutional Review Panel.)

That in making your report you advise the necessity for a next and essential stage of Constitutional Review in which there is official engagement with hapū and iwi about how to establish a just order in our constitutional arrangements.

Thanking you once again.

Ngā mihi ki a koutou.

Susan Healy, PhD in Māori Studies, University of Auckland

1511

From: ben heath <
To: <constitutionalreview@justice.govt.nz>
Date: 21/06/2013 3:52 p.m.
Subject: Fw: NZ Constitution Submission

----- Original Message -----

From: ben heath
To: constitutionalreview@justice.govt.nz
Sent: Friday, June 21, 2013 3:02 PM
Subject: NZ Constitution Submission

New Zealand does not need a written constitution and I strongly oppose any legislation or reference to the Treaty of Waitangi should one be drafted now or in the future.
Ben Heath

Tauranga.

2004'

From: Lawrence Heath <
To: "constitutionalreview@justice.govt.nz" <constitutionalreview@justice.gov...
Date: 1/07/2013 7:44 a.m.
Subject: Constitutional Review

The Constitution should uphold and protect the principles of democracy. Each individual should have equal rights no matter what race, creed or when they arrived in New Zealand. The "Treaty of Waitangi" should not be mentioned.

I do not regard New Zealand as a fully democratic country while we have separation between Maori and the rest of New Zealanders. The Constitution must uphold equal rights for all people. The constitution must not mention any specific race or creed, but outline rules that apply equally to every person. Whilst we have Biculturalism under the Treaty we do not have democracy. I want the Constitution to uphold democracy with equal rights for all.

Lawrence Heath

Canterbury

420

From:
To: <constitutionaireview@justice.govt.nz>
Date: 16/04/2013 8:41 a.m.
Subject: http://www.ourconstitution.org.nz/form_submission

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

Full Names: Stephen Crain Heathcote Organisation Name: Email:
Phone: Postal AddressA:
Postal AddressB: Postal City: Postal Region: Wellington Postal Post
Code: Postal Country: New Zealand Submission: I do not believe New Zealand
(Aotearoa) needs single written document outlining our constitution. Our Consitution is based on a
number of documents detailing what we as citizens can expect from the crown and the law of this
land.

We need desperately to move forward as one nation and not impose more racially based policies on
the people. One Nation , One People - lets embrace this!

Maori will always have cultural signifigance in this land and do not need to have this enshrined in law
or a consitution.

The Crown is settling all outstanding grievances for perceived past wrongs and the abolishing of
Maori seats in Parliment and on local councils along with the Waitangi tribunial is long overdue.

The Supreme lawmakers in the land is the government, elected by the whole country for the benefit of
the whole country. I do not believe that laws should be defined by judges that answer to nobody.

Lastly, any changes to the consitution will require a binding public referendum, to ensure visibility,
transparency and a binding mandate on the government.

Sent on the 16 April 2013 at 08:40

Submission to the New Zealand Constitutional Advisory Panel 2013

As a supporter of Amnesty International, I write to add my voice in support of its submission to the current constitutional conversation.

~~I am concerned that all our human rights are not adequately protected in New Zealand law.~~

For example, our Bill of Rights Act 1990 only incorporates civil and political rights. Yet, it is widely recognised that human rights are interrelated, interdependent and indivisible; this means that one set of rights cannot be enjoyed in a meaningful way if the other set of rights is not also adequately protected and respected too.

I believe civil and political rights, such as the right to life, cannot truly be achieved without the equal right to work, accessible health care, adequate housing and education, which are enshrined in the concepts of economic, social and cultural rights.

Despite having ratified the International Covenant on Economic, Social and Cultural Rights in 1978, successive New Zealand Governments have failed to fulfill their obligations to respect, promote and fulfil these human rights.

While the Government says economic, social and cultural rights are currently protected by subject specific statutes, current issues involving these rights, such as child poverty, show that the current system is not working to adequately protect our rights. The maze of laws and policies around economic, social and cultural rights make it difficult for New Zealanders to understand and access their rights.

Without a clear framework to guide legislation and policy it also makes it difficult to see if laws policies are actually working to recognise New Zealanders rights. In addition many human rights in New Zealand lack avenues to remedies if they are breached, which limit New Zealanders' access to justice - an essential right of victims of all human rights violations.

I therefore submit the following recommendations:

- The incorporation of economic, social and cultural rights into the Bill of Rights Act 1990;
- The entrenchment of the Bill of Rights Act 1990 so that the weight and importance of these rights is adequately recognised;
- The explicit inclusion of the power for judges to provide remedies when the Bill of Rights Act is violated;
- That New Zealand ratify the Optional Protocol for International Covenant of Economic Social and Cultural Rights, including opting in to its inquiry and inter-state mechanisms, so that New Zealanders have access to an international remedy;
- The establishment of a Human Rights Select Committee to ensure that the impact of legislation on human rights is sufficiently considered;
- The requirement of all levels of Government to take a human rights approach to addressing human rights issues; and
- Increased human rights education initiatives to increase awareness of economic, social and cultural rights.

I believe these recommendations will provide for stronger protections within our constitutional framework for economic, social and cultural rights.

Taking these measures will ensure a strong legal framework in which all rights are equally protected. It will ensure that the Government can take a rights-based approach to addressing rights issues in New Zealand such as child poverty.

New Zealand has an obligation to take steps to progressively realise such rights as the rights to health, education, and adequate housing. Ensuring they are explicitly protected in New Zealand law is a significant step in ensuring that New Zealand is a place where human rights are protected, respected and fulfilled.

Suer Heathwaite
North Shore City
New Zealand

1631

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 26/06/2013 4:24 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

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

Full Names: karen margaret heaven Organisation Name: Email:
Phone: Postal AddressA: Postal AddressB: pokeno Postal City: pokeno
Postal Region: Postal Post Code: Postal Country: New Zealand Submission: 1) yes. one
well thought out and well discussed should be sufficient

2)yes Our constitution should be above the law

3)Parliament Because that is the people's only voice. The constitution should not be gender, racially or religiously specific. All people should be treated equal, not one group of people should hold any real or perceived rights over any other group of people

Sent on the 26 June 2013 at 16:23

3802

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 24/07/2013 11:48 a.m.
Attachments: NZ Constitution.docx

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

Full Names: Bruce Hebbard Organisation Name: Email: Phone:
Postal AddressA: Postal AddressB: Postal City: Wanaka
Postal Region: Postal Post Code: Postal Country: New Zealand Submission:
Submission Upload: NZ Constitution.docx

Submitted on the 24 July 2013 at 11:47

Comments on the proposed Constitutional Changes by Bruce Hebbard

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

I believe that New Zealand and its Government have operated since colonisation to the present day without any great problems so why change a system that works.

In the event it is decided to proceed with a new Constitution I offer the following opinions.

The adoption of the Constitution should be by a binding referendum.

Any changes to the Constitution, once adopted, should only be changed by a binding referendum.

Any reference to the Citizens of New Zealand in the Constitution should be, **New Zealanders**, and all clauses and conditions within the document should apply to all equally without fear or favour.

Explanation: New Zealand's population is made up of people from many countries the major groups being of European, Maori Pacific Island or Asian origin. I believe that no group of New Zealanders should be referred to or separated by the country (or geographical area) of their origin or that of their ancestors.

The Treaty of Waitangi recognised extended to all Maori the Rights and Privileges of British Subjects. In return Maori ceded to the Crown absolutely and without reservation all the rights and powers of Sovereignty. This is the reason that I believe in any Maori should be referred to as New Zealanders and not separated into a separate ethnic group.

I also note that the historical grievances of various Maori Tribes (and there are, and were, many) are being dealt with by the Waitangi Tribunal. Quite possibly by the time any Constitution is adopted those grievances will have been addressed. If some are still in progress they can still be dealt with outside the Constitution by the Tribunal.

Governance

I believe our system of a Constitutional Monarchy a democratically elected House of Representatives, has served our Country well from its inception until the present day.

Our Head of State Queen Elizabeth II (or her successor) plays no active part in the governance of New Zealand and her representative in New Zealand, the Governor-General is selected by the government of the day. The changeover from one Governor-General to the next is a relatively simple low key process. The cost and trauma of electing a President (or similar position) does not bear thinking about.

Any change to this way of governance should only be done after a referendum.

Government

There should be one Government for all New Zealanders voted for in a General Election every three years. Three years long enough for a Government to introduce their policy, and if found good enough in the eyes of the electorate they will get an additional term. If their policy is found to be unpopular they will be replaced.

Self-Government for any minority group should not be entertained under any circumstances. All New Zealanders should be administered by one Government acting for all. This provision should also apply to the Court System.

Similarly any legislation which allows special privileges for any group of New Zealanders should not be allowed and any existing legislation should be likewise amended. Some of the special legislation to enact the Treaty of Waitangi Settlements may have to be excluded from this.

Members of Parliament

New Zealand held a Citizens Initiated Referendum in 1999 with the question asked should the Parliament be reduced from 120 to 99 Members of Parliament. 81.5% of the voters said yes (84.8% Turnout). This is the last accurate form of public opinion available.

In Great Britain there are 659 M.Ps. (House of Commons) making one M.P. per 95.000 people approx.

New Zealand has 121 M.Ps. making one M.P per 36.000 people approx.

I believe there is certainly scope for a reduction to 99 M.Ps. With a corresponding drop in parliamentary staff, government could be delivered in a much more cost efficient manner without any loss of service.

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

If an electorate MP resigns from their party (or is expelled under the terms of their party's Constitution) mid-term their seat should be declared vacant and a bi-election called. The majority of voters have elected that MP based on the party they have stood for so their "contract" with the voter has been broken. If that MP is very popular with the electorate they will be re-elected for their new party or as an independent MP.

If a list MP resigns from their party (or is expelled under the terms of their party's Constitution) they are no longer on that party's list so the next person on that party's list automatically takes over.

Questions about Maori Representation

When the legislation enabling Maori Representatives in Parliament was enacted when Maori had little or no voice in Government, and exclusive Maori MP's were introduced to address this imbalance. In 2013 Maori have the ability to stand in any electorate and win a seat on their merits. I believe that having exclusive seats for Maori, or any other ethnic group, is no longer necessary and could be considered a form of racism.

How should Maori views be represented in Parliament?

Maori would be represented by their MPs voted for in a General election as any other citizen.

How could Maori electoral participation be improved?

By education and encourage Maori (and all other groups of the population) to take an interest and to take part in how we are governed.

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

The same as above, by education and encourage all groups of the population to take an interest and to take part in how we are governed in our local area as well as nationally.

No special places on councils should be set aside for any ethnic or minority groups. Councillors should be elected on their qualifications or merits for their place on Councils, Community Boards or Hospital Boards. As mentioned above I believe that having exclusive seats for or any ethnic group could be considered a form of racism. Places on Councils elected should be on merit not appointed by race alone.

Maori Electoral Roll

The Maori Roll as it currently stands is a nonsense. Until a degree of Maori ancestry is specified the Roll it will not reflect the correct number of genuine Maori voters in New Zealand. I know of two people (and there are most likely many others) who are registered on the Maori Roll who have no Maori Ancestry whatsoever. If the current rules were to continue it is possible for every New Zealander to register on the Maori Roll. Remember once a person is 49% Maori Ancestry they are 51%, or the greater part something else.

Footnote

On the Ministry of Social Development Website graphs show the Maori Population is currently 15% of New Zealand's Population and those of Asian origin are 10%. By 2026 they predict that both these groups will be 16%. Does this mean the Asian Group will then receive the same electoral treatment as Maori currently enjoy- I think not!

New Zealand's Flag

Our Flag was adopted in 1902 and the Union Jack represents the country of our origin, the Southern Cross indicates our place in the world, and the Blue Background represents the oceans that surround us. The Silver Fern could be added below the Union Jack to give a uniquely New Zealand emblem to the Flag.

It has been carried by many New Zealanders overseas including many of my relatives through two world wars some of which never returned.

To suggest that there is confusion with the Australian Flag shows that those people are not really observant as they are quite different. It should be noted that Australia only gazetted the current form of its flag in 1934 and legally defined it by Act of Parliament in 1953 well after New Zealand adopted it..

Any change of the flag, or the current design, should only be done by referendum.

2850

From: john hebberd
To: <constitutionalreview@justice.govt.nz>
Date: 5/07/2013 9:41 p.m.
Subject: CAP Submission

The rasists maori seats should be abolished .It now kooks like the labour party will have women only seats and when will there be Chinese seats and seats for all other nationality's we are one country and all politicians should be elected on there merit .

767

From:
To: <constitutionalreview@justice.govt.nz>
Date: 6/05/2013 9:16 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

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

Full Names: Ross Hebner Organisation Name: Email: Phone:
2 Postal AddressA: Postal AddressB: Postal City:
Auckland Postal Region: Auckland Postal Post Code: Postal Country: New Zealand
Submission: NZ law is OK as is. It is based on 1000 Yrs of Common Law which has stood the test of time. The existing common law system works well and easily adapts to future trends. There is no need to change what already works.

Sent on the 6 May 2013 at 21:15

4223

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 30/07/2013 4:46 p.m.
Subject: [RELEASED FROM QUARANTINE] [SUSPECT SPAM]

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

Full Names: Duncan Iain Hedderley Organisation Name: Email:
Phone: Postal AddressA: Postal AddressB: Postal City: Palmerston
North Postal Region: Postal Post Code. Postal Country: New Zealand Submission:
Having grown up in Britain, I'm wary of the idea of a written constitution; the people writing really need to know what they're doing. NZ introduced some reforms in the 1990s (GST, MMP) which have worked well; and some which haven't (the late 90s alcohol law reforms). It would be good to learn from what worked.

There has been some talk of an aspirational constitution; I'm not sure what that means, except that it means people don't need to figure out how things would work. I think it would be good for the country to have some agreed aims; I'm not sure it would be good for them to have force of law or be called a constitution.

Submitted on the 30 July 2013 at 08:23

1478

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 20/06/2013 7:24 a.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

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

Full Names: Hugh John Heenev Organisation Name: Email: Phone:
Postal AddressA: Postal AddressB: Postal City:
Auckland Postal Region: Auckland Postal Post Code: Postal Country: New Zealand
Submission: The Maori seats abolished, The treaty to viewed as a historical document only. The
ability of elected M.Ps to make and remove laws, not diluted by a written constution, which this country
does not require

Sent on the 20 June 2013 at 07:23

1479a

From: Hugh John Heeney
To: "constitutionalreview@justice.govt.nz" <constitutionalreview@justice.gov...
Date: 4/07/2013 7:18 a.m.
Subject: CAP Submission

I belive the Maori seats should be Abolished.

Hugh John Heeney

4104

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 29/07/2013 8:47 p.m.

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

Full Names: Emma Heke Organisation Name: Email: Phone:
Postal AddressA: Postal AddressB: Postal City: Nelson Postal
Region: Nelson Postal Post Code: Postal Country: New Zealand Submission:
Aspirations?

**For New Zealand to be a fossil fuel dependent nation no longer - immediate change to clean, viable, sustainable alternatives with thousands of 'green' technology jobs and to be a world leader with our amazing 'can do' attitude to making this work.

**For New Zealand to clean up all waterways, enforce massive change in the dairy industries pollution of waterways, hit big companies in the pocket with huge taxes for dumping waste and great incentives to clean up their act.

**For a New Zealand education system that values the individual and is a world leader in democratic, holistic education.

**For a New Zealand where everyone has a healthy, warm and dry home and good food.

** For a New Zealand welfare system that is actually fair and a Paula Bennett style change is not allowed.

**For a New Zealand where a government cannot make mandatory changes in education or welfare without massive public consultation.

**For a New Zealand where we can all afford to buy our own houses again, where we know our neighbours, buy local and rebuild communities.

How New Zealand is run?

**With people and the environment as a priority, so from the political parties available I'd have to say Green Party with Labour and Maori Party help.

Submitted on the 29 July 2013 at 20:46

~~1760~~ 1760

Submission to Constitutional Panel

"The conversation so far" has no doubt resulted in the Panel being weighed down by a mantle of white guilt imposed by Messers Walker and O'Regan to the point that the Panel would gladly enshrine the Treaty of Waitangi into a written constitution. Furthermore, the racial makeup of the panel is not truly representative of our country's population. There is no representation on the panel for Asian and Pacific Island peoples. For your panel to be truly representative, these races should be included, that they are not raises credibility issues for the panel.

We believe that having a written constitution is becoming more imperative as time goes on. We are seeing abuses of political process e.g, the Sky City Casino deal, Police process e.g, the Urewera raids, intelligence agencies e.g, Dot Com. Illegal spying on New Zealand citizens, Insecure storage and careless handling of personal information by government departments are also abuses of process. We believe that a written constitution must ensure that those responsible for effective management of our justice, law, and security systems should be made to realise their responsibilities under a written constitution.

We believe a written constitution should only be implemented following a binding referendum where more than 50% of eligible voters have voted in favour and that those that fail to vote should not be counted either way.

Any changes to a written constitution should only be effected following a binding referendum where more than 50% of eligible voters have voted in favour. Failure to vote should not be counted either way.

A written constitution should have provision for binding citizens initiated referenda and recall to protect people from the various parliamentary abuses we have witnessed recently and some of which are listed above.

The Bill of Rights Act less any reference to the Treaty of Waitangi should be enshrined in a written constitution. The Bill of Rights Act should be widened to include all forms of discrimination including the state agencies favourite "positive discrimination".

We believe that the Treaty of Waitangi should be confined to Te Papa. It's role is as a historic document that had relevance in the mid-nineteenth and early twentieth centuries. It should have no role in a written constitution. We believe the Treaty of Waitangi to be only an instrument that brought two races together to form a nation thus saving the Maori race from self extinction. If the treaty gets enshrined in a written constitution it will lay the way open for a bunch of greedy Maori surrounded and assisted by a multitude of unctuous lawyers claiming the nations water resources, mineral wealth, the seabed, and anything else not secured by statute.

We do not want the treaty enshrined in a written constitution!

With advent of an MMP electoral system there is no need for Maori seats in parliament nor is there a need for Maori seats in local government.

There are Maori-led political parties that represent Maori values and opinion without there being a need for a race based allowance for Maori but an exclusion for other races

in parliament. The services of local government are made available to all regardless of race and all races have the right to stand for local government. There is no need for race based seats in local government.

We believe that the Electoral Commission is competent in managing the size of parliament.

The length of the parliamentary term of three years should remain until there are such controls on the political process that result in a more ethical attitude within the halls of power.

A written constitution if written with future aims and ideals for a united nation of New Zealand citizens regardless of race, if it can be implemented without the meddling of parliamentarians should have far reaching and lasting appeal. It remains to be seen if the panel can achieve this without the ubiquitous parliamentary interference.

P. J. HELLYER

D. W. & B. I. Drummond

4209

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 30/07/2013 3:36 p.m.

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

Full Names: Andre Hemara Organisation Name: Email: : Phone:
Postal AddressA: Postal AddressB: Postal City: Whangarei Postal Region:
Postal Post Code: Postal Country: New Zealand Submission: My submission is a generalised
submission for all the topics that were discussed. I feel the Tiriti o Waitangi/Treaty of Waitangi is a key
component and should provide a basis for the constitution. It's value and mana it has provided for
Maori has been
part of the catalyst for Maori resurgence, especially in social, cultural, environmental and economic
well beings. Maori representation is a highly debated topic that has been in the forefront for Maori at
the national and local governance arena. Again a revitalising
of Maori independence to be more of a positive contirbution to society rather than poor statistics.
Maori are slowly being empowered to the "once were proud peoples".

Submitted on the 30 July 2013 at 15:35

5149

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 7/08/2013 4:24 p.m.

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

Full Names: Ian Campbell Hemingway Email: Phone: ...
Postal AddressA: Postal AddressB: Postal City: Hamilton
Postal Region: Waikato Postal Post Code: Postal Country: New Zealand Submission:
NZ Constitution Conversation

- New Zealand deserves far better than a governmental system evolved by the privileged in a class based society.
- New Zealand needs to be governed by a form of Direct Democracy.
- New Zealand must have Government "By the People for the People"
- M.Ps must present the majority opinion of the people in their electorate to Parliament
- Elected MPs must have superior standing to appointed (list) MPs
- List MPs must never outnumber elected MPs
- The number of sitting MPs should be reduced to 100 (If a total 93MPs from all parties can sit in the house and pass legislation, it is obvious that the rest of them are superfluous or are not interested in their core duty)
- Parliamentary rules regarding passing legislation under urgency need to be tightened
- eg Unless a state of emergency exists legislation passed under urgency will be invalid
- MPs must present a personal, legally binding written employment contract to the voters of their electorate prior to their election or appointment
- Some mechanism for the electorate to impeach errant MPs should be implemented
- The government must abide by the wishes of the country's majority (the voice of the majority is a cornerstone of democracy)

- Citizen Initiated Referenda should be binding (trigger points to be set by referendum).
- The term of Government to remain at three years (unless changed by referendum)
- Parliament to be the supreme authority (by the will of the people)
- The Attorney General should advise parliament if legislation is in conflict with the laws
- A written constitution gathering together all the relevant pieces of legislation etc. which form the present constitution should be gathered together in one document for public assessment
- A constitution written in plain language and agreed to by majority citizens (by vote) should exist
- The Treaty of Waitangi has no place in a racially free constitution
- Abolish the parliamentary seats reserved for Maori
- All citizens must have equal rights regardless of wealth, race or religion
- The English Monarchy should remain as the head of state of NZ until the a majority of the NZ voters decide otherwise
- The question of a new national flag should be put to the nation

All citizens should be able to easily access reference to their rights and responsibilities

Having a written constitution that is hidden in multiple documents and varying acts that only the well educated can access and maybe understand is not the way to inspire trust in the present "democratic" process from the general populace..

"Any person denied responsibility will tend to act irresponsibly"

NZ has a history of egalitarianism this should be fostered

People immigrating to NZ must be made aware of our laws, cultural values and expectations and encouraged to assimilate.

Immigration must be restricted to the support and infrastructure available to adequately assist migrants to assimilate into the community without disadvantaging NZ citizens

Submitted on the 13 June 2013 at 16:22

Submission to the New Zealand Constitutional Advisory Panel 2013

As a supporter of Amnesty International, I write to add my voice in support of its submission to the current constitutional conversation.

~~I am concerned that all our human rights are not adequately protected in New Zealand law.~~

For example, our Bill of Rights Act 1990 only incorporates civil and political rights. Yet, it is widely recognised that human rights are interrelated, interdependent and indivisible; this means that one set of rights cannot be enjoyed in a meaningful way if the other set of rights is not also adequately protected and respected too.

I believe civil and political rights, such as the right to life, cannot truly be achieved without the equal right to work, accessible health care, adequate housing and education, which are enshrined in the concepts of economic, social and cultural rights.

Despite having ratified the International Covenant on Economic, Social and Cultural Rights in 1978, successive New Zealand Governments have failed to fulfill their obligations to respect, promote and fulfil these human rights.

While the Government says economic, social and cultural rights are currently protected by subject specific statutes, current issues involving these rights, such as child poverty, show that the current system is not working to adequately protect our rights. The maze of laws and policies around economic, social and cultural rights make it difficult for New Zealanders to understand and access their rights.

Without a clear framework to guide legislation and policy it also makes it difficult to see if laws policies are actually working to recognise New Zealanders rights. In addition many human rights in New Zealand lack avenues to remedies if they are breached, which limit New Zealanders' access to justice - an essential right of victims of all human rights violations.

I therefore submit the following recommendations:

- The incorporation of economic, social and cultural rights into the Bill of Rights Act 1990;
- The entrenchment of the Bill of Rights Act 1990 so that the weight and importance of these rights is adequately recognised;
- The explicit inclusion of the power for judges to provide remedies when the Bill of Rights Act is violated;
- That New Zealand ratify the Optional Protocol for International Covenant of Economic Social and Cultural Rights, including opting in to its inquiry and inter-state mechanisms, so that New Zealanders have access to an international remedy;
- The establishment of a Human Rights Select Committee to ensure that the impact of legislation on human rights is sufficiently considered;
- The requirement of all levels of Government to take a human rights approach to addressing human rights issues; and
- Increased human rights education initiatives to increase awareness of economic, social and cultural rights.

I believe these recommendations will provide for stronger protections within our constitutional framework for economic, social and cultural rights.

Taking these measures will ensure a strong legal framework in which all rights are equally protected. It will ensure that the Government can take a rights-based approach to addressing rights issues in New Zealand such as child poverty.

New Zealand has an obligation to take steps to progressively realise such rights as the rights to health, education, and adequate housing. Ensuring they are explicitly protected in New Zealand law is a significant step in ensuring that New Zealand is a place where human rights are protected, respected and fulfilled.

Jacqueline Hemmingson
Wellington
New Zealand

1469

From: Dallas Hemphill ·
To: "constitutionalreview@justice.govt.nz" <constitutionalreview@justice.govt.nz>
Date: 19/06/2013 3:51 p.m.
Subject: CAP Submission
Attachments: Constitution_Comments.doc

The attached is for your review and consideration.

Thank you.

Dallas Hemphill
Pelorus Sound

Treaty of Waitangi

I believe that the Treaty should not form part of a Constitution or be the basis of a Constitution.

The Treaty was written by amateurs, not seasoned diplomats or lawyers. Multiple, differing copies were signed. It was imperfectly translated, and was ambiguous in any case. Consequently, it will forever be a basis for litigation and conflict (and a gravy train for those with clever lawyers). We need to get past it, not incorporate it in a Constitution.

Maori Representation

Maori representation should be exactly the same as for all other ethnicities.

I believe that separate Maori representation in Parliament is abhorrent, being tantamount to apartheid and at odds with mainstream Kiwi values.. No one racial group should have special representation. That may have been a good idea 150 years ago, but not today, when Maori and pakeha are so inter-married and assimilated with each other.

Apartheid should have no place in New Zealand.

Relationship with Britain

The Republican-Monarchist debate must be allowed to continue, and not be stifled by a Constitution. Many of my forefathers were British, but they came to New Zealand long ago--between 1840 and 1880. While I admire the British as a nation for all that they have achieved through history, I am not British, and have not the slightest affinity with Britain. I am a New Zealander. If there is to be a Constitution, it must be written in such a way that we are not tied irretrievably to Britain.

The Need for a Constitution

I am not qualified to say whether it's a good idea to have a formal constitution. However, if there is to be one it should be subject to a public referendum requiring a super-majority to be enacted.

I am concerned that the time for public consultation is so short.

Respectfully submitted,

Dallas Hemphill
Pelorus Sound



Office of Hon Judith Collins

Minister of Justice
Minister Responsible for the Law Commission
Minister for ACC
Minister for Ethnic Affairs

With Compliments

3046¹



Received in the Minister's
office 23-July-13.

, Wellington

Telephone

Facsimile

Submission for the Constitution Conversation

Your name:

Rose G Henaghan

Name of the organisation you represent (if applicable):

—

Postal address or email address:

Whitake Island NZ

SUBMISSION: I am concerned that the New Zealand Bill of Rights does not appear to cover the economic, social and cultural rights, that should be our heritage. Therefore, I believe the phrase should be included.

17 July 2013

3870 .

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 25/07/2013 11:34 a.m.
Attachments: My aspirations for AotearoaNew Zealand is simple.docx

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

Full Names:	Sol Henare	Organisation Name:	Email:	Phone:	
Postal AddressA:	Postal AddressB:	Postal City:	Cambridge	Postal Region:	Waikato
Postal Post Code:	Postal Country:	New Zealand	Submission:	Submission Upload:	My
aspirations for Aotearoa New Zealand is simple.docx					

Submitted on the 25 July 2013 at 11:32

Kia Ora,

My aspirations for Aotearoa New Zealand is simple; for all people living here to be responsible, respectful citizens and to make a real difference in our world.

To help do this, there needs to be a paradigm shift in education, where we need to invest heavily as I believe we can truly be a world leader. Hard questions need to be asked of our education system which I believe is following a dangerous path similar to that of the U.K. I am aware of this as I have been teaching in the U.K for the last 10 years and am starting to see similarities that just do not work. Eg: League tables, SATS & Grammar exams. A school system where inquiry, creativity, curiosity and problem solving are encouraged would be a start. However, the whole teaching training process would need a total make over which I believe is long overdue. Like with anything, you could start small where 100 'educators graduate after 4 years of training and be placed in special schools, some new and some converted.

With regards to the N.Z Constitution, I believe this document could have the potential to unite and galvanize us as a country. There is too much misinformation tinged with 'toxicity' surrounding the Treaty and the meaning of this from Maori and New Zealanders. The Treaty still has relevance today, but I think a new constitution, while taking into account the Treaty through being interwoven throughout it, would allow New Zealanders to have a fresh perspective. Obviously, people from throughout New Zealand will need to be a part of this process in formulating a constitution which is crucial. This would be a lot more powerful if it was taught throughout children's schooling years so the future generations would come to appreciate, respect and ultimately, make it their own. The Treaty will need to be a part of this Constitution if it is truly to be all inclusive and would be a blueprint for the rest of the world to follow.

Maori views in parliament should be earned, not through allocation of seats, but through the democratic process that we have. This just makes sense. Maori electoral participation could be improved through education. Another powerful way is through making community connections. Eg: My Dad and I have recently volunteered our services to the Red Cross – Refugee services for 6 months. My Dad is helping an Afghan interpreter who told my Dad that Afghan electoral participation is 99%! People apparently walk for days from the mountains to vote. We don't know how lucky we have it. Connections like this, where we share our similarities rather than look at our differences are imperative.

Healthcare needs to be free to all children as they are the future. This is another no brainer!

I've always thought that not having a job in New Zealand is unacceptable. There are always jobs out there. However people's pride sometimes gets in the way and decide it's better to not work than say clean toilets. Through my extensive travels, I have seen real poverty and often hear stories how people, against all odds turn their dire situations around. Often though, those desperate people from impoverished backgrounds that do do well, often have a role model – someone to look up to. There are not enough role models in our poorest societies in New Zealand – that despite our wonderful country, we are not providing for them – whether it be through poor schooling, poor health care or plain old neglect – New Zealand isn't achieving to its potential.

Sol Henare

3629

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 16/07/2013 12:20 p.m.
Subject:
<http://www.ourconstitution.org.nz/> form submission

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

Full Names: Shane Patrick Henare Organisation Name: Individual Email:
Phone: Postal AddressA: Postal AddressB:
Tikipunga Postal City: vvnangarei Postal Region: Northland Postal Post Code: Postal
Country: New Zealand Submission: Honour the Treaty ...

Sent on the 15 July 2013 at 21:30

1580

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 25/06/2013 6:32 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

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

Full Names: Sylvia Evelyn Hencke Organisation Name: Email:
Phone: Postal AddressA: Postal AddressB: Postal City:
Sanson Postal Region: Manawatu Postal Post Code: Postal Country: New Zealand
Submission: 1. Maori seats should be abolished - race-based and divisive.

2. Waitangi Tribunal should be wound up - race-based and divisive.
3. There should be no mention of the Treaty of Waitangi in any constitution.
4. All claims should be settled fully and finally - no exceptions.

This country can never go forward while the racial divide is constantly being widened. Equality must be guaranteed for all regardless of race. Enshrining racism in our constitution would make this country a laughing stock.

Sent on the 25 June 2013 at 18:31

4907

Kevin H. Henderson

1st August 2013

Paraparaumu

Secretariat

Constitutional Advisory Panel

c/o Ministry of Justice

DX SX 10088

Wellington

Dear Sir/Madam,

"Re - Submission on Constitution"

Please find attached a completed submission, originally filled out on my computer at 8pm last night (31/07/13), but your "link" would not accept my submission on-line.

I was only made aware of the "Constitutional Advisory Panel" project, by a close friend yesterday, hence my effort to make a submission on a subject critical to the long-term interests of "All New Zealanders"

Yours Faithfully



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New Zealand's Constitution

SHARE THIS TOPIC WITH FRIENDS

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- **» Make a submission**

Make a submission

New Zealand has a constitution – it's just not all written down in a single document. Our constitutional rules include legislation such as the New Zealand Bill of Rights Act 1990 and the Constitution Act 1986, foundational documents such as the Treaty of Waitangi signed in 1840 and established constitutional principles.

Our constitution determines who exercises power in our country, and the checks and balances on that power. It also protects the rights of the people.

These are the questions we would like your feedback on:

1. Do you think our constitution should be written in a single document? Why?
2. Do you think our constitution should have a higher legal status than other laws (supreme law)? Why?
3. Who should have the power to decide whether legislation is consistent with the constitution: Parliament or the Courts? Why?

If you do not wish to make an online submission you can email your completed submission to **constitutionalreview@justice.govt.nz** or post it to:

Secretariat

Constitutional Advisory Panel

C/o Ministry of Justice

DX SX10088

Wellington

Please submit your comments by 5pm 31 July 2013. If you are sending your submission to us by mail, you should put it into the post by 5pm, 30 July 2013.

To make a valid submission you must supply your name. If you are submitting on behalf of an organisation please supply the name of the organisation.

Public submissions are official information under the Official Information Act 1982. Your submission and your name are likely to be made public if requested under the Act. The Panel may publish your submission, or extracts, on the website, in social media and in reports.

Be part of it!

Submitter Details

My/Our Full Name(s)*:

Kevin Harvey Henderson

Organisation Name:

Email*:

Contact Phone Number:

Postal Address:

Address:

City/Town*:

Region:

Post Code:

Country:

Submission:

Your submission (submission may be a url):

Or upload a text file (txt,rtf,doc,docx,pages,odt,pdf):

Browse...

A NZ Constitution should. be in one single document so that NZ citizens can easily understand its key points.

I consider that all NZ citizens should be treated equally in all aspect of daily life. i.e,Health Care,Justice, etc. Currently the emphasis on injecting into all aspects of NZ activity the supposed interpretations of the "Treaty of Waitangi" is in my opinion , laying the foundations for future racial disharmony in future generations of New Zealanders (Note: I have had for many years,for my own reference, copies of the Treaty in both English & Maori) While I accept that the principles of the treaty should be respected in dealing with matters of un-just lands taken since 1840,and protecting Maori Cultural Heritage,, the first principle of any Constitution is equality for All New Zealand Citizens, regardless of Race, Colour, Religion (all citizens are in the same Waka, and we should be steering it on the same course for the benefit of All the crew.) New Zealand today, is populated by many citizens of different colour & race, and therefore the use of the word "Pakeha" (whiteman) is in today's world, inappropriate, and to many New Zealand Citizens, the term is racial.

I was born a New Zealander, as was 3 generations of my forebearers, and I consider that the first principal of any Constitution is that All New Zealanders are Born "equal" regardless of race or colour.

The great American President Abraham Lincoln stated "All Men are Created Equal" and we must ensure that in formulating a revised single New Zealand Constitution, that this critical democratic principal is embodied in the revised Constitution.

Kevin Harvey Henderson QFSM.
2000hours on 31st July 2013

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newzealand.govt.nz

3701

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 19/07/2013 3:26 p.m.

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

Full Names: Murrav Henderson Organisation Name: Email:
Phone: Postal AddressA: Postal AddressB:
Postal City: Masterton Postal Region: Postal Post Code: Postal Country: New Zealand
Submission:

I am of the opinion that New Zealand does not need a written Constitution for the following reason.

1 There is an old saying, "If it ain't broke , don't fix it".

New Zealand has sufficient "other" legislation to adequately cover and protect what needs protecting under a constitution. The Bill of Rights, the Human Rights Act, Privacy Act to name but a few. I would rather current legislation was used or amended to reflect societies protection than bringing in a whole new piece of legislation such as a Constitution.

2 Just because New Zealand is only one of three or four country's around the world that doesn't have a written Constitution IS NOT reason for us to have one.....It does however mean the likes of Syria, Russia, Afghanistan, North Korea, Iran, Iraq etc etc etc. do have Constitutions.....and what has that done for them in terms of human rights????

3 Once entrenched, Constitutions are hugely difficult to amend.....Good example being the Second Amendment to the US Constitution that gives the right to bear arms. If you get it wrong, the consequences can be undesirable (to say the least) and long term.

Submitted on the 19 July 2013 at 15:25

3701a

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 19/07/2013 3:55 p.m.

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

Full Names: Murray Henderson Organisation Name: Email:
Phone: Postal AddressA: Postal AddressB: Postal
City: Masterton Postal Region: Postal Post Code: Postal Country: New Zealand
Submission: The length of term of Parliament

I am of the opinion the length of term of Parliament should be four years. Whilst I dislike most politicians and the thort of any of them being in power for any length of time is an anathema to me, the current three year term can often make for rushed, bad legislation. Only for this reason do I support a four year term.

If a LIST MP parts ways with their party, they should be kicked out of Parliament and replaced by the next list nomination as they were voted on to support the particular policy's of that party.

If an Electorate MP parts ways with their party, I would give them the benefit of the doubt, accept that the voters voted for them and not the party, so allow them to stay in Parliament as an Independent MP.

Submitted on the 19 July 2013 at 15:54

4371"

From: "Neil Henderson"
To: <constitutionalreview@justice.govt.nz>
Date: 31/07/2013 10:14 a.m.
Subject: Submission on Constitution
Attachments: Submission on the Constitutional Review.docx

Dear Sirs and Madams

Please find attached my submission on the Review of the Constitution.

Yours sincerely

Neil Henderson

Submission on the Constitutional Review

Introduction

I do not believe that a review of the Constitution should be taking place at all. The first question that should be asked is 'Do we need to review the Constitution?' Unless, or until a majority of eligible voters agrees that it should be reviewed, then we stick with the status quo.

However since the review has been set up I would like to make several points.

Should the review suggest changes to the Constitution I strongly submit that it must be endorsed by a referendum with a minimum of a two thirds majority before the changes are implemented.

1. Size of Parliament

I believe that Parliament should have no more than 80 electorate seats. I consider that these should all be general seats.

I believe that the current Parliament has far more list MPs than necessary. I recommend allocating List MPs as follows: The party that has the lowest number of Party Votes per elected MP is not assigned any List MPs. The other parties will then be allocated List MPs in order to give them the same ratio of MPs to Party Vote as the one with the lowest ratio. Let me provide an example. Party A wins 40 electorates and gets one million Party Votes. This means they have 25,000 Party Votes per elected MP. Party B wins 30 electorates and gets 900,000 Party Votes. This is 30,000 Party Votes per elected MP. To take this ratio down to 25,000 per MP they would be allocated 6 List MPs and have 36 MPs in Parliament. ($36 \times 25,000 = 900,000$.)

I further recommend that List MPs be calculated in the following manner: The List MPs will be those unsuccessful candidates that have the highest ratio of electorate votes to Party Votes cast in their electorate. Again, I shall provide an example. One unsuccessful candidate for Party B won 1000 electorate votes, but only 800 Party Votes were cast for Party B in that electorate. This candidate has a ratio of 1.25. Another unsuccessful candidate for the same Party won 1600 electorate votes, but there were 1760 Party Votes for Party B in this electorate. This means that this candidate has a ratio of only 1.1, so the first candidate is the highest ranking List MP of the two, even though they received less votes, as they are relatively more popular than the Party. This will ensure that the List MPs are popular with voters and ensure that there is some semblance of democratic selection in their election.

2. Parliament accountability

A Parliament with only one house runs the risk of unaccountability, save at the election every three years, as there are no other checks and balances. However I most definitely do not wish to see the courts take over this role of accountability, because we have no way to influence them. Rather, I recommend the Swiss system, whereby the people have 100 days after legislation is passed to gather enough signatures of those opposed to the legislation to force a referendum, the result of this referendum being binding. See

<http://www.100days.co.nz> Under this system the anti smacking law would have been thrown out. It would be interesting to know whether other controversial legislation such as the Foreshore and Seabed Act, the recent Same Sex Marriage Act or even the State Asset Sales Act would have survived these tests.

I do not believe that we would be voting in a referendum every few weeks because it would not take long for politicians to realise they need to ensure they get it right the first time. We would at last return to democracy and away from the current system which is essentially little better than a three year dictatorship by the Prime Minister and his tight inner circle of cabinet members.

3. The place of the Treaty of Waitangi in our Constitution

I have no problem accepting that the Treaty of Waitangi is the foundation document of this Nation. However I am equally compelled to state that the current interpretation of the Treaty is a very long way from the intent of those that signed it. A reading of speeches made by Chiefs at the signing of the Treaty make it clear they knew they were ceding sovereignty. This is what they were initially afraid of doing, until they realised that major changes had occurred in society and that there was no going back. Some, such as Tamiti Waaka Nene and Hone Heke persuaded their colleagues that ceding sovereignty to the Queen was essential to their survival. Hone Heke said 'It is even as the word of God'. This raises an interesting but very relevant issue. The gospel of Christ was first introduced by Samuel Marsden 26 years before the Treaty was signed. The Maori themselves helped spread the good news of Jesus Christ so that when European missionaries ventured into other parts of the country they found there was already a knowledge of the Gospel. It is likely that the Chiefs signing the treaty had a better understanding of the Gospel than many people do today. The Judeo Christian principles this nation was founded on are the best possible foundation for the harmonious existence of all the people of this nation as one people united by one law, under one flag and honouring one God. The greatest hope for this nation is to return to these forgotten principles.

A meeting was held at Kohimarama in 1860 to review the first twenty years of life under the Treaty and it revealed very clearly that all people were united under one law. Wikiriwhi Matchenoa of Ngati Porou said 'we are all under the sovereignty of the Queen, but there are also other authorities over us sanctioned by God and the Queen, namely, our Ministers.' Te Ahukaramu said 'First, God: secondly, the Queen: thirdly, the Governor. Let there be one Queen for us. Make known to us all the laws, that we may all dwell under one law.' Chief Hamuera of Ngaterangi said 'Let me make use of an illustration from the scriptures. Jesus Christ said he was above Satan. So the Governor says he is above both Pakeha and Maori- that he alone is Chief. Now when Satan said I am the greatest, Christ trampled him under foot. So the Queen says that she will be chief for all men. Therefore I say let her be the protector of all the people.' These examples, and there are many more, clearly show that Maori were well aware they had ceded sovereignty to the Queen and that we are all one united people.

Before anyone considers how the Treaty should be enshrined in any change to our Constitution it is essential they read 'The Great Divide' by Ian Wishart. I therefore state that all members of the Constitutional Review Panel need to read the book as an integral part of this submission of mine, if they have not already done so.

I fully agree that injustices were done. These need to be rectified as far as possible. But there is no basis for separate Maori representation in national or local government, nor for special treatment of one race over another in access to the foreshore and seabed, to the electromagnetic radiation network, to the waterways and hydro lakes and so on. We are all one people under one law in one country.

Neil Henderson

Te Karaka

1386

From:
To: <constitutionalreview@justice.govt.nz>
Date: 17/06/2013 11:13 a.m.
Subject: New Zealand Constitution

New Zealand does not need a wrtten constitution and I am strongly opposed to any legislation or reference to the Treaty of Waitangi should one be drafted now or in the future.

Wayne Henderson

463

From:
To: <constitutionalreview@justice.govt.nz>
Date: 16/04/2013 7:12 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

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

Full Names: Richard & Lorna Hendriks. Organisation Name: Email:
Phone: Postal AddressA: Postal
AddressB: Postal City: Postal Region: Waikato Postal Post Code:
Postal Country: New Zealand Submission: The Treaty already has plenty of inclusion in every
facet of life of life in NZ. It has become an industry in its own right and like the RMA the vagueness
and broadness involved has become an unaffordable burden on NZ's taxpayers. Another huge gravy
train
where the stakeholders make sure there is controversy at every turn ensuring they all keep their
overpaid jobs.

So we most definatelyDO NOT want this opportunity for further reaming enshrined in our constitution.

Sent on the 16 April 2013 at 19:11

463a

From:
To: <constitutionalreview@justice.govt.nz>
Date: 16/04/2013 7:21 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

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

Full Names: Richard & Lorna Hendriks Organisation Name: Email:
Phone: Postal AddressA: Postal
AddressB: Postal City: Postal Region: Waikato Postal Post Code:
Postal Country: New Zealand Submission: Maori inclusion and decision making should be based
on the percentage of population that Maori make up in our country. It totally lacks logic and common
sense for Maori to have a 50% share of the say in issues if they make up 15% of the population. That
goes for central Govt, local Govt Councils and any other body where democracy is involved.

Sent on the 16 April 2013 at 19:21

4636

From:
To: <constitutionalreview@justice.govt.nz>
Date: 16/04/2013 7:29 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

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

Full Names: Lorna and Richard Hendriks Organisation Name: Email:
Phone: Postal AddressA: Postal
AddressB Postal City: Postal Region: Waikato Postal Post Code:
Postal Country: New Zealand Submission: Q5. An inordinate amount of money is spent on
reducing the road toll, and work related accidents. Combined the death toll although tragic sits at less
than 500 for the two. The most lethal place to be in NZ is in the womb, where 18,000+ murders
occur annually.
Human life begins at conception and this should be recognised in the Bill of Rights.

Sent on the 16 April 2013 at 19:28

3214

Submission to the New Zealand Constitutional Advisory Panel 2013

As a supporter of Amnesty International, I write to add my voice in support of its submission to the current constitutional conversation.

I am concerned that all our human rights are not adequately protected in New Zealand law.

For example, our Bill of Rights Act 1990 only incorporates civil and political rights. Yet, it is widely recognised that human rights are interrelated, interdependent and indivisible; this means that one set of rights cannot be enjoyed in a meaningful way if the other set of rights is not also adequately protected and respected too.

I believe civil and political rights, such as the right to life, cannot truly be achieved without the equal right to work, accessible health care, adequate housing and education, which are enshrined in the concepts of economic, social and cultural rights.

Despite having ratified the International Covenant on Economic, Social and Cultural Rights in 1978, successive New Zealand Governments have failed to fulfill their obligations to respect, promote and fulfil these human rights.

While the Government says economic, social and cultural rights are currently protected by subject specific statutes, current issues involving these rights, such as child poverty, show that the current system is not working to adequately protect our rights. The maze of laws and policies around economic, social and cultural rights make it difficult for New Zealanders to understand and access their rights.

Without a clear framework to guide legislation and policy it also makes it difficult to see if laws policies are actually working to recognise New Zealanders rights. In addition many human rights in New Zealand lack avenues to remedies if they are breached, which limit New Zealanders' access to justice - an essential right of victims of all human rights violations.

I therefore submit the following recommendations:

- The incorporation of economic, social and cultural rights into the Bill of Rights Act 1990;
- The entrenchment of the Bill of Rights Act 1990 so that the weight and importance of these rights is adequately recognised;
- The explicit inclusion of the power for judges to provide remedies when the Bill of Rights Act is violated;
- That New Zealand ratify the Optional Protocol for International Covenant of Economic Social and Cultural Rights, including opting in to its inquiry and inter-state mechanisms, so that New Zealanders have access to an international remedy;
- The establishment of a Human Rights Select Committee to ensure that the impact of legislation on human rights is sufficiently considered;
- The requirement of all levels of Government to take a human rights approach to addressing human rights issues; and
- Increased human rights education initiatives to increase awareness of economic, social and cultural rights.

I believe these recommendations will provide for stronger protections within our constitutional framework for economic, social and cultural rights.

Taking these measures will ensure a strong legal framework in which all rights are equally protected. It will ensure that the Government can take a rights-based approach to addressing rights issues in New Zealand such as child poverty.

New Zealand has an obligation to take steps to progressively realise such rights as the rights to health, education, and adequate housing. Ensuring they are explicitly protected in New Zealand law is a significant step in ensuring that New Zealand is a place where human rights are protected, respected and fulfilled.

Dwayne Henshilwood
Hamilton
New Zealand

265

From:
To: <constitutionalreview@justice.govt.nz>
Date: 12/04/2013 11:41 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

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

Full Name: Wayne Henwood Organisation Name: Email:
Phone: Postal AddressA: Postal AddressB: Postal City:
Postal Region: Waikato Postal Post Code: Postal Country: New Zealand
Submission: There can be no constitution formed until it is accepted that all New Zealand citizens have the same electoral path. The "racially based" Maori seats can therefore no longer exist. They have passed there use by date especially once the first past the post system was replaced by the MMP voting system.

Note I preferred the STV option.

Sent on the 12 April 2013 at 23:40

556

From:
To: <constitutionalreview@justice.govt.nz>
Date: 19/04/2013 2:51 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

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

Full Names: Anthony Peter Herbert Organisation Name: N/A Email:
Phone: Postal AddressA: Postal AddressB: Postal
City: TAUPO Postal Region: S. Waikato Postal Post Code: Postal Country: New
Zealand Submission: NZ needs a written constitution as the overarching document setting out
everybody's rights and responsibilities, and which can only be amended by a two-thirds majority in a
national binding referendum.


(P. S. What the hell is an url??? Perhaps techno jargon should be banned under the constitution!)

Sent on the 19 April 2013 at 14:50

556a

From: .
To: <constitutionalreview@justice.govt.nz>
Date: 19/04/2013 3:08 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

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

Full Names: Anthony Peter Herbert Organisation Name: N/A Email: 
Phone:) Postal AddressA: Postal AddressB:
City: TAUPU Postal Region: S Waikato Postal Post Code: Postal Country: New
Zealand Submission: For the sake of the future of the country a way has to be found to treat all its
citizens as equals in all respects - as part of their constitutional rights, and a finite end put to Maori
grievance settlements.

Sent on the 19 April 2013 at 15:07

4043

From: Luke Herbert
To: <constitutionareview@justice.govt.nz>
Date: 29/07/2013 1:42 p.m.
Subject: submission
Attachments: submission.docx

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Freedom is one of the deepest and noblest aspirations of the human spirit.
Ronald Reagan.

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

No because Parliament can alter the Act and pass laws as it pleases.

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

For the reason mentioned above.

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

Self defence the right not to face criminal charges for defending one's self or property.

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

The Supreme Court should decide if legislation is consistent with the Bill of Rights or not.

4043a

From: Luke Herbert
To: <constitutionalreview@justice.govt.nz>
Date: 29/07/2013 2:34 p.m.
Subject: Re: submission
Attachments: submission 1.docx

Rest of my basic submission

On Mon, Jul 29, 2013 at 1:41 PM, Luke Herbert ·

wrote:

>
>
> --
> Freedom is one of the deepest and noblest aspirations of the human spirit.
> Ronald Reagan.
>

--
Freedom is one of the deepest and noblest aspirations of the human spirit.
Ronald Reagan.

Luke Herbert

Loburn

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

Yes because it should be a bible by what our Supreme Rights in the bill rights. Other aspects such as how often elections are held should be located in a single document.

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

None what so ever after Treaty pay outs have finished. All Kiwis should have equal bidding rights on natural resources and land.

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

No it has no reason to exist once treaty payouts of stopped.

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

By Māori going out to vote when elections are held. No unelected officials should serve in parliament or on local councils.

How many members of Parliament should we have?

The same we have now spilt between an upper and lower house.

How should the election date be decided?

By a sitting government within the constitutional laid out parliamentary terms.

How long should the term of Parliament be?

Four years this allows governments to make decisions and for voters to chuck out a incompetent government.

3766

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 23/07/2013 2:03 p.m.

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

Full Name: Shane Herbert Organisation Name: Email:
Phone: Postal AddressA: PO Box Postal AddressB: Postal City:
Postal Region: Taranaki Postal Post Code: Postal Country: New Zealand
Submission: Freedom from religion is a cornerstone of our secular society. Government must not be
involved in any form of religion, not even funding church based schools.

Religion as a ground for charity must be abolished. Religion as a ground for income tax exemption
must be repealed.

It is religion and religious dogmatism which retards the emergence of an ethical humanist society and
foments intolerance of minorities and historically marginalised parts of society, eg. women,
homosexuals, (across that spectrum), & racial demographics.

We have come a long way, already. If we can entrench our progress with constitutionally rational
organs of state of some kind, we can continue to lead the world as a society based on human values
including respect for rational discussion and debate.

Submitted on the 23 July 2013 at 14:02

2015"

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 1/07/2013 1:52 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

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

Full Names: Roman Franz Herbst Organisation Name: none Email: r
Phone: Postal AddressA: Postal AddressB: Postal
City: Wellington Postal Region: Wellington Postal Post Code: Postal Country: New
Zealand Submission: New Zealand should have its own constitution. As a starting point, we have
the Constitution Act 1986, but this is the bare outline. The conversation should also include discussion
on whether or not we should be a republic, with a New Zealander (not an
Englishwoman) as Head of State, we need a President, not a monarch or her deputy, the
Governor-general.

I do not favour a simple incorporation of the Treaty of Waitangi into a new constitution. The Treaty
was written back in 1840, has two different versions, with significant differences about what the Maori
and Pakeha version mean. Instead, as part of the constitution,
a new conversation on what it means to be a New Zealander (or Aotearoa), needs to occur. The
debate would consider what elements of the Treaty we agree on, and should be incorporated, and
which should not.

Many elements of our constitution are already in place (see, for example, Matthew SR Palmer,
"What is NZ's Constitution and who interprets it? Constitutional realism and the importance of
public office holders" (2006))

I believe a constitution should stick to the basics and amplify the Constitution Act 1986: identify the
Executive, the Legislature and the Judiciary, codify the conventions and elements of the Cabinet
Manual, and consider an update of the Bill of Rights. It
would also include the Electoral Act, and make the Electoral Commission a separate and
independent office of state. We should avoid overly prescriptive constitutions such as the
well-intentioned Brazilian constitution, which even gets down to issues such as
minimum wage levels etc.

Our constitution should define who governs, and why, and how "power" is accountable to
the citizens. It should define citizenship, how is it earned, what does it mean, and what are its rights
and responsibilities.

As you will see my view is that our constitution avoids old pitfalls such as Tangata Whenua debates,
and instead looks at the bigger picture: we are citizens of Aotearoa (I prefer that to New Zealand), so
what does that mean?

What are our instruments of power and how are they exercised, on behalf of, and for the good of us
all.

Sent on the 1 July 2013 at 13:51

2015a

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 31/07/2013 8:44 p.m.

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

Full Name: Roman Franz Herbst Organisation Name: none Email:
Phone: Postal AddressA: Postal AddressB: Postal
City: Wellington Postal Region: Wellington Postal Post Code: Postal Country: New
Zealand Submission: I wish to make a submission about electoral matters.

The term of Parliament in New Zealand is fixed at three years from the date fixed for the return of the writs issued for the previous general election. This provision is contained in section 17 of the Constitution Act 1986. I note that this Act was passed by a simple majority of the House, and can be amended by a future Parliament in the same way.

Many features of how elections are conducted in New Zealand are determined according to the Electoral Act 1993. The Act is an 'entrenched' provision, meaning it would require a vote of two-thirds of Parliament, or a binding referendum, to amend. Accordingly, I support the term of 3 years being fixed, and recommend that the Electoral Act be amended to confirm this provision.

Elections are an important part of the New Zealand constitution, and provide a three yearly opportunity for eligible voters to have their say on the government. It is important that the entrenched provisions remain.

New Zealand is also somewhat unusual in that we have a unicameral legislature (one house) and no federal system. In other countries, the existence of a second chamber (sometimes called a 'senate') acts as a check on the House passing legislation. It allows for controversial legislation to be amended or blocked. Similarly, in a federal system, such as Australia, the Commonwealth government is required to consult with the states on a range of issues. This requires the Commonwealth government to consult, and perhaps to amend, policy proposals.

New Zealand had an upper house, the Legislative Chamber, until it was abolished by a vote of the House in 1951. It was seen as ineffectual and was unelected, and was mainly composed of retired politicians, many of whom were 'promoted' to the Chamber, as they were seen by their party leaders to have outlived their effectiveness in the House. The Chamber was perceived as a 'block' or restraint on the House passing legislation.

In 1993, then prime minister Jim Bolger belatedly sought to blunt the referendum on MMP by advocating that a Senate be created, to be elected by a proportional representation system, while the House continued to be elected by the First Past the Post electoral system. There was no discernible public interest in Mr Bolger's proposal.

New Zealand voters supported electoral reform and the Mixed Member Proportional (MMP) system in 2 referenda, as a check on the House. There had been criticism that under the Muldoon National government, and subsequent Lange-Douglas Labour Government that radical policy changes, whether of Muldoon's strong state intervention (1975-1984) or market reforms (1984-1990) were imposed on the country, contrary to election promises, and with little or no say by the public. When the Labour government was voted out in 1990, the Bolger-Richardson one that replaced it, continued and extended market reforms.

It could be argued that public support in 2 referenda of a change from the FPP electoral system to MMP was a reaction against the 'elected dictatorship' of a unicameral legislature (under FPP, if a party had a majority in the House, they could—and did—pass any legislation they chose, subject only to the three-year electoral cycle). It can also be argued that by and large, the MMP system has succeeded in preventing extreme policy decisions, as governments need to obtain majority support in the House, particularly

on contentious legislation. The current Government Security Communications Bill is a good example of this requirement.

For the reasons above, I support continuation of the three-year term of government. While it does not allow for governments to take a longer term view of policies and their impacts, extending the term to 4 or 5 years would also not achieve this intention. I

believe New Zealand voters would not support a term of longer than 3 years. The MMP electoral system obliges most governments to either form a majority coalition, or to govern as a minority government, as Labour did from 2002-2005, with public agreements of

confidence and supply from the NZ First and United Future parties to build majority support.

Legislation has to be passed with majority support, and this requires the Government to consult, and where necessary, negotiate with other parties to pass legislation

that may be contentious. This is democratic and ensures that contentious policy decisions of the 1975-1993 period are mitigated.

Submitted on the 31 July 2013 at 20:43

660

From:
To: <constitutionalreview@justice.govt.nz>
Date: 29/04/2013 7:32 a.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

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

Full Name: linka herewini Organisation Name: Email: Phone:
Postal AddressA: Postal AddressB: Postal City:
Postal Region: auckland Postal Post Code: J Postal Country: New Zealand
Submission: I believe referendums should be actioned by law, and not ignored.

Sent on the 29 April 2013 at 07:31