

877

From: "Margaret"
To: <constitutionalreview@justice.govt.nz>
Date: 20/05/2013 1:53 p.m.
Subject: Constitutional Review Submission

Constitutional Advisory Panel
Ministry of justice
Wellington

I want no change to the present New Zealand unwritten constitution.
We have one Treaty which gives no exclusive rights to any race.
This must continue.

Margaret Iaccarino

Tauranga

2630

From: "Ian & Annette"
To: <constitutionalreview@justice.govt.nz>
Date: 4/07/2013 10:07 p.m.
Subject: CAP Submission

There's no need for Maori seats when you already have fairly elected Maoris in parliament anyway

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.

W Ian Fleming
Mosgiel
New Zealand

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Sheila Ibbertson
Auckland
New Zealand

1182

From:
To: <constitutionalreview@justice.govt.nz>
Date: 8/06/2013 4:43 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

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

Full Name: Jonathan Salisbury Ibbotson Organisation Name:
Phone: Postal AddressA: Postal AddressB:
Postal City: Auckland Postal Region: Postal Post Code: Postal Country:
New Zealand Submission: No change is necessary. If there is a written constitution the role of
the Treaty of Waitangi should remain unchanged and it must not be allowed to dominate it The
unwritten constitution works well, as in the UK. If it isn't broken don't mess with it. It
changes gradually as needed to adapt to changing times, needs and customs. A written constitution
would need regular formal amendments (see USA) involving much time and cost.

Sent on the 8 June 2013 at 16:42

22-4-2013

Papua

My submission regarding
the New Zealand Constitutional
Review is that I want
no change to New Zealand's
unwritten constitution as it
has served us well since the
1852 New Zealand Constitutional
Act was passed, our
founding document.

It may require some alteration
in the future, but not
a race based constitution.

One people, one Nation

Yours
James G. Moffat

534

From:
To: <constitutionalreview@justice.govt.nz>
Date: 18/04/2013 8:55 a.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

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

Full Names: Ikonnikov Organisation Name: Email: Phone:
Postal AddressA: Postal AddressB: Postal City: Postal Region: Postal
Post Code: Postal Country: New Zealand Submission: Hello

New Zealand is a country with population of 4-5 million. In some countries around the world this is population of one city govern by 1 mayor.

I believe NZ should be parliamentary unitary republic. Parliament should be smaller, term of parliament extended to 5 years, less number of local councils (maybe 1 council per 500 000 people), abandon provinces/states and local community boards (so there are only 2 levels of government local councils and federal government, all functions absorbed by either of the two), make everyone equal (abandon Maori special status), make judges appointed by parliament for 1 term of 5 years (this will ensure there is new blood and rotation in judicial system). More outsourcing to private sector of back office public service operations.

Also constitution should include emphasis on R&D and potential merger.

It should be part of society fundamental goals to increase R&D. And also if in the future there is any potential for NZ to join union (like EU) to have it potentially available in constitution.

RBNZ should have powers to regulate and supervise all fin services industry. All SOE or public private partnerships should be part listed – since they are commercial entities – need to ensure there is no repeat of Solid Energy precedent and public money are managed responsibly.

Sent on the 18 April 2013 at 08:54

4035

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 29/07/2013 12:15 p.m.
Attachments: The constitution.docx

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

Full Names: Susan Louise Ineson Organisation Name: Email:
Phone: Postal AddressA: Postal
AddressB: Postal City: Otaki Postal Region: Wellington Postal Post Code:
Postal Country: New Zealand Submission: Submission Upload: The constitution.docx

Submitted on the 29 July 2013 at 12:14

The constitution

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

No – I think the situation at present is best - the body of law including that gained from the Magna Carta and beyond, The Treaty of Waitangi and the Bill of Rights and other human rights law as interpreted the Courts and Tribunals (such as Human Rights Review Tribunal) – give us protection and also flexibility to adapt over time to changing circumstances.

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

The laws that make up a constitution it should not be able to be changed easily. For example in response to a particular situation – i.e. following an adverse ruling in say the HRRT that goes against the government say in cases like the payment of allowances to parental carers for the disabled.

This then means it either needs to be above other laws (supreme law) or can only be changed by say a 75% majority of Parliament.

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

The Courts – the government passes the laws and can change the laws. The Courts should interpret the laws – this separation of powers is a safeguard for society.

The Treaty of Waitangi

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

The principles of Treaty of Waitangi could be incorporated into law –say into the Bill of Rights.

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

Yes as it is a founding document of rights of some NZers and it also needs to be able to be interpreted by the Courts- the same as our other rights law.

Maori representation

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

By election, the same as all NZ ers regardless of race, gender etc etc – I think Maori should be able to debate the review of the Maori seats i.e. should they continue or not. As it seems to me the two electoral rolls means the Maori vote is split and may be Maori could be better represented (and it would be more unifying) if we all voted for one set of seats.

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

This will only happen if they feel they can have real influence. Increasing number of Maori candidates will help.

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

It seems to me gains made in Maori representation in the national elections, these gains do not seem to have been made at local body level- perhaps there should be x number of Maori seats in local elections???

Bill of rights

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

In my experience yes – the basic civil and political rights are protected – and there is a limit to what other rights (social and other rights) we can afford i.e. right to free healthcare.

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

In my experience Tribunal like the HRRT do a good job of protecting the rights which are now in law.

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

There is an advantage of having the Courts be able to interpret rights in light of other laws- not the least because society does change and so do our approach to our rights.

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

The Courts – see above.

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

Electoral matters

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

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

Five years – 3 years pushes the country into short term thinking and planning.

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

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

Population spread, practicality for a MP to be able to relate to their constituency.

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

He /she should have to resign, have a bye election as the conditions under which they were voted in have changed.

2568"

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 4/07/2013 2:43 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

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

Full Names: Dianne Ingham Organisation Name: Email: Phone:
Postal AddressA: Postal AddressB: Postal City: Postal
Region: Postal Post Code: Postal Country: New Zealand Submission: I think our
constitution should be one single document so that everyone is treated equally with no special
privileges based on race or gender.

I don't think that the treaty of Waitangi should have any place in our constitution as it is time to move on and create a country of one people. The Treaty was not signed by all Maori and the wording in it has been twisted over the years to mean something different to what it was set up for.

Maori views should be represented in Parliament and local government the same as any other races views – by the people elected by the voting public.

Why does Maori electoral participation have to have special emphasis over that of every other New Zealander?

The number of Members of Parliament should be reduced to at most 99 and the term should remain at 3 years.

All electorates should have roughly the same number of voters so that everyone's vote is of equal value.

If a Member of Parliament leaves a party and they are a list MP, they should have to resign from Parliament because they were not elected into Parliament on their own merit.

I think the Maori seats should be abolished because they are no longer needed for the reason they were created now that everyone over 18 years of age has the right to vote.

There is too much separatism in New Zealand today with so many special privileges being granted to Maori and this is causing a big division in society.

I am a 5th generation New Zealander with my ancestors coming to New Zealand from England in 1840. They include many of the well known pioneer families around Wellington. While researching my family tree I come across members of these families that have inter-married with Maori. It seems unfair to me that their children have special privileges that my own children cannot take advantage of because we have no Maori ancestors.

I have watched my daughter be disadvantaged with obtaining scholarship grants at university because there are so many that are only available to those with Maori ancestry. Even now, in her field of expertise, funding is more readily available if she can show

that what she is working on has some benefit for Maori. Why should one race have so much preferential treatment when all people in New Zealand have the same opportunities to education, health and welfare?

A constitution needs to be all inclusive of all people who have chosen to make New Zealand their homeland with no special privileges or rights for any particular group.

Sent on the 4 July 2013 at 14:43

2122

From: Richard Ingham
To: <constitutionalreview@justice.govt.nz>
Date: 3/07/2013 8:48 a.m.
Subject: CAP Submission

New Zealand is a democratic, non-sectarian, non-racist, egalitarian,
meritocracy.

Any future constitution should ensure that these values become inalienable
rights.

There should be no special privilege given to ANY group on the grounds of
race, religion or any other premise.

Richard Ingham.

3234"

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Mary Inglis
Dunedin
New Zealand

49661

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 2/08/2013 5:15 a.m.

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

Full Names: Venita Ingram Organisation Name: Email:
Phone: Postal AddressA: Postal AddressB: Western Heights Postal
City: Rotorua Postal Region: Postal Post Code: Postal Country: New Zealand
Submission: I Want treaty of Waitangi to be included in the constitution.

Submitted on the 2 August 2013 at 05:15

1022

From:
To: <constitutionalreview@justice.govt.nz>
Date: 4/06/2013 10:21 a.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

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

Full Names: John Ashley Innes Organisation Name: Email: Phone:
Postal AddressA: Postal AddressB: Postal City:
Auckland Postal Region: Auckland Postal Post Code: Postal Country: New Zealand
Submission: The size of Parliament should be reduced to 99 in accordance with the wishes of the majority in the referendum held on the matter in 1999.

The length of term of parliament should be retained at 3 years in the absence of any checks and balances in the form of an upper house or binding citizens referendum.

There should be no Maori seats in parliament or separate Maori representation in local bodies. Racist laws enshrined in a constitution are evil no matter who the beneficiaries.

If separate preferential Maori seats are retained DNA testing should be carried out to determine at least 50% ethnicity.

The Treaty of Waitangi is an historical document and should have no place in a New Zealand constitution. There is no modern agreement on what the clauses mean. All New Zealanders should be treated equally under any constitution, irrespective of their time of arrival as immigrants to the country.

New Zealand continues to function well as a constitutional monarchy. Until this changes there is no need to consider becoming a republic.

Sent on the 4 June 2013 at 10:21

Submission to the New Zealand Constitutional Advisory Panel 2013

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Mary Innes
Eastbourne
New Zealand

1530

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 23/06/2013 3:17 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

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

Full Names: Robert Stephen Innes Organisation Name: Email:
Phone: Postal AddressA: Postal AddressB: Postal
City: Auckland Postal Region: Postal Post Code: Postal Country: New Zealand
Submission: Restoration of the principle of equity across all socio-economic and ethnic groups.

A focus on the future rather than the past.

Sent on the 23 June 2013 at 15:16

1530a

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 23/06/2013 3:19 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

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

Full Names: Robert Stephen Innes Organisation Name: Email:
Phone: Postal AddressA: Postal AddressB: Postal
City: Auckland Postal Region: Postal Post Code: Postal Country: New Zealand
Submission: 1. Do you think our constitution should be written in a single document? Why?

No. New Zealand's present constitutional arrangements consist of written statutes, conventions and common law rights, which give our elected Members of Parliament the ultimate law-making power. These arrangements have suited us perfectly well, whereas the risk with a written constitution is that it will reinforce and extend the biased interpretation of New Zealand history given effect by unelected judges over the last 20 years or so, thereby usurping parliamentary democracy.

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

No, for the reasons outlined under question 1.

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

Only Parliament, because the record of the Courts in this respect has been to entrench a biased view of 'Maori' rights in legislation.

Sent on the 23 June 2013 at 15:18

15306

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 23/06/2013 3:22 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

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

Full Names: Robert Stephen Innes Organisation Name: Email:
Phone: Postal AddressA: Postal AddressB: Postal
City: Auckland Postal Region: Postal Post Code: Postal Country: New Zealand
Submission: 1. Does the Bill of Rights Act protect your rights enough? Why?

Yes, because its effect/interpretation in legal cases has been reasonable and demonstrates it was necessary.

2. What other things could be done to protect rights?

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

No. Only the Electoral Act is entrenched. The safeguard to the Bill of Rights Act is that by convention no Parliament would change it without wide public support.

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

Parliament, because it is too important to be left to unelected judges.

Sent on the 23 June 2013 at 15:21

1530c

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 23/06/2013 3:26 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

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

Full Names: Robert Stephen Innes Organisation Name: Email:
Phone: Postal AddressA: Postal AddressB: Postal
City: Auckland Postal Region: Postal Post Code: Postal Country: New Zealand
Submission: 1. Thinking of the future, what role do you think the Treaty of Waitangi could have in our constitution?

A relatively small one, since it was only one part of the development of the modern nation whose essential characteristic is a Western European one with a Westminster parliamentary system.

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

No. It is only one part of our constitutional foundation and has been so poorly misinterpreted in judicial decisions that its entrenchment would clearly endanger the rights of all non-Maori into the future. The introduction of the concept of 'partnership' has

played a large part in this and is not supported by the historical evidence. I would dispute the above claim that the Treaty allowed Maori 'the right to continue to exercise rangatiratanga'. If we want a fair society, no one group can have pre-eminence based on race or ethnicity: we have only to look at overseas examples of countries which have been destroyed by ethnic division.

We cannot have confidence in the Waitangi Tribunal as it has become biased towards claimants' views and cannot seriously be regarded as an impartial interpreter of our history. It has promoted a one-sided view of the history of colonization as Maori as victim and Pakeha as conquerors. Unfortunately, a majority of our historians have gone along with this view, probably as a result of the climate of political correctness which has been entrenched in our universities and schools by radicals and well-meaning liberals.

Actual settlements between Maori and the Crown have in fact benefitted a relatively small tribal elite, not the mainstream, who are adversely affected by the declining fortunes of all other lower-paid New Zealanders and beneficiaries.

What we need is a society which respects the differences at the ethnic level, but can operate as a single entity at the national level – the nation state is the key goal here – not entrenching a state within a state which seems to be the main objective of principle behind tino rangatiratanga.

Sent on the 23 June 2013 at 15:25

1530d

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 23/06/2013 3:28 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

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

Full Names: Robert Stephen Innes Organisation Name: Email:
Phone: Postal AddressA: Postal AddressB: Postal
City: Auckland Postal Region: Postal Post Code: Postal Country: New Zealand
Submission: 1. How should Māori views be represented in Parliament?

Through normal electoral processes.

The Report of the Royal Commission on the Electoral System : towards a better democracy (1986) recommended the removal of Maori seats which were in any case only a temporary expedient when our franchise required property ownership. That they have survived is more a result of the self-interest of the Maori Party and National Party, rather than any need to improve Maori representation.

How could Māori electoral participation be improved?

Through Maori becoming more politically active over the issues which most affect them such as effective economic participation.

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

Through normal local government electoral processes.

Sent on the 23 June 2013 at 15:27

3942

timeforchange.co.nz submissions - 7

Name: Stuart & Stephanie Innes

E-mail:

Your submission:

A NZ head of state is an important issue because it would finally amalgamate both Maori and Pakeha to the one local identity tht both cultures can relate to. Make no mistake, the British Crown is obsolete, meaningless, expensive and unwarranted in New Zealand.

3555

From:
To: <constitutionalreview@justice.govt.nz>
Date: 13/07/2013 4:08 p.m.
Subject: CAP Submission

Dear Sir/Madam,

We are making this submission as we am totally opposed to any form of constitution based on co-governance ie. 'treaty principles'.
Our constitution should be based on the following:

The Declaration of Equality

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

- We reject any reference to the Treaty of Waitangi or its principles in any constitutional document
- We ask that such references be removed from all existing legislation
- We ask that race-based Parliamentary seats be abolished
- We ask that race-based representation on local bodies be abolished
- We ask that the Waitangi Tribunal, which has outlived its usefulness, be abolished

Your faithfully

Laurie & Cheryl Inskeep

Iauranga

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.

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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.

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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.

Claire Insley
Manukau
New Zealand

673

From:
To: <constitutionalreview@justice.govt.nz>
Date: 29/04/2013 1:25 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

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

Full Names: Robert James INSULL Organisation Name: Retired from Business Email:
Phone: Postal AddressA:
Postal AddressB: AUCKLAND Postal City: Auckland Postal Region: AUckland Postal Post
Code: Postal Country: New Zealand Submission: I submit that those drawing up the new
Constitution apply the following Rules;

1. Is it The TRUTH?
2. Is it FAIR to all Concerned?
3. Will it build GOODWILL and BETTER FRIENDSHIPS?
4. Will it be BENEFICIAL to all concerned?

This is copied from the Rotary International Four Way test (written in 1909) which its Members are supposed to use as a guide line in going about their businesses and family lives.

These simple rules will greatly contribute to a functional NZ Society and doesn't discriminate in any way by Race, Crede Rich or Poor.

Sent on the 29 April 2013 at 13:24

3237"

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Frida Inta
Buller
New Zealand

3237 a

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 31/07/2013 1:44 p.m.
Attachments: Constitution Review sub 201307 31.doc

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

Full Names: Frida Inta Organisation Name: Email: Phone:
Postal AddressA: Postal AddressB: Postal City: Westport
Postal Region: Buller Postal Post Code: Postal Country: New Zealand Submission:
Submission Upload: Constitution Review sub 2013 07 31.doc

Submitted on the 31 July 2013 at 13:43

32376

NATIONAL CONSTITUTION

REVIEW

Submission by: Frida Inta

Date: 2013 07 31

Te Tiriti O Waitangi

Te Tiriti O Waitangi should be the foundation of our constitution, no question about it. By not using this as our founding document we are being hypocrites by not honouring the original agreement of that document. The maori version is the correct version because that is the one that most maori chiefs signed in good faith. It is about time we started honouring that agreement.

Electoral Matters

Proportional representation is very important to getting a fairer representation of people on matters that count. Although there are perhaps too many parliamentarians now, if that is how proportional representation needs to be run properly then that number must stay. Numbers must reflect that needed to represent the country proportionally and fairly.

Electorate size should be based on population (that's human, not cows!).

A four year term of government would be ideal to get the country running a bit smoother but if a bad government is in place then four years would be too long.

Maori Representation

I agree with the maori representation status quo.

Constitution

I believe that the Courts should have the power to decide if legislation is consistent with the Constitution, and it should have higher legal status than other legislation, because it is founding literature.

Bill of Rights Act

This should be a founding document with the powers of jurisdiction by the Courts rather than government.

The Bill of Rights Act needs to be strengthened by including:

- economic, social and cultural rights.
- environmental matters, especially that of conservation. We should have a basic right to clean water, fresh air, unspoilt Gondwana ecosystems. Ecosystem services should have ultimate respect because they are the basis of life on earth.

Other Matters

- We need better democratic oversight of our spy agencies;
- Local government needs to honour the Resource Management Act more. Too often, Local Government will only pay lip service to environmental constraints written up within the Act, or often take the most lenient edge of the law, thus giving too much sway to development above protection of the environment. Part 2, section 5 needs to provide more protection for the environment. New Zealand is fast becoming a land where commercial enterprise overrules protection of environmental and conservation values. We are fast losing our basic ecosystem services.

=====

4044

From: michelle inwood
To: "constitutionalreview@justice.govt.nz" <constitutionalreview@justice.govt.nz>
Date: 29/07/2013 1:43 p.m.
Subject: CAP submission

It would be great to see school lunches provided to all schools starting with primary by the school/government like it is overseas.

I think the milk programme coming back in has been great so keep that up.

<http://www.sweden.se/eng/Home/Education/Basic-education/Facts/Education-in-Sweden/> has some information about school lunches etc.

Also raise the tax on people earning over \$80,000 a year and raise business tax on large corporations. No one over 25yrs old should work a 40hr week and get paid \$540 a week before tax, then someone else doing the same amount of hours but a different job can get \$1500-\$3000 a week. I have a friend that earns \$85,000 as an accountant.

Despite the study she put in she could still admit that she did not work as hard as me, the job was not as taxing physically or emotionally, the hours were not as demanding, the respect she received was higher, being able to take time off was easier and that the difference in our wages (due to 4 yrs study) was far to wide.

She also thought that businesses paid far to little tax and hated how many tax havens and loop holes there are in the system and that these rich people she was accounting for who didn't need anymore money, were the ones able to afford her services to find these holes and save them even more. (she has since quit her job as she didn't like the corruption of the rich and the advantages they seem to have over your everyday citizen)

Lets use this money from there higher tax rate to then fund a free health care check that goes around all primary schools on a 'every school gets checked once a month basis'. As many children need to see a Dr but due to poor parenting do not get seen.

CYFS needs more money, the fact that children getting molested are still in these homes or young adults or kids who have victimised children are not getting the counselling they need to change due to them not being a top priority is wrong.

Putting a stop to the rise of power prices is very important. Especially with many homes not having insulation up to the standard that should be met, the renters should not then have to get sick or pay more..... that's a sad choice to force on them.

There are plenty more things but if these simple ideas could be put in to place they would have dramatic long term and short term changes in our society.

Cheers Mich

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Catherine Iorns
Wellington
New Zealand

3238 a)

From: Catherine Iorns <constitutionalreview@justice.govt.nz>
To: "constitutionalreview@justice.govt.nz" <constitutionalreview@justice.govt.nz>
Date: 31/07/2013 11:50 p.m.
Subject: my submission via email; subject = constitutional environmental protections
Attachments: constitutional-review-Submission-2013.pdf; Constitutional-submission-email-page-reset-screen-shot.png; Constitutional-submission-email-page-reset-screen-shot.png

Kia ora,

Please find attached my submission on the constitutional review.

I am currently overseas and have had great difficulty with connecting to the internet. I could not get any NZ websites yesterday (or, rather, this was earlier today, NZ time). Thus, the constitutional conversation page would not load, nor would my email. (Screen shots attached.) I hope that you can accept my submission given these circumstances. (And I have only had to finish this while overseas as our building was closed for the whole week following the earthquake and all my work on this was in my office; I then left the country on the Monday that we opened up again.)

These factors -- being overseas without reliable internet connection -- also meant that I could not find footnote references for my submission. I would therefore appreciate it if my submission was not made public until I was able to add in these references (after my return to NZ).

Kind regards,
catherine iorns

Catherine J Iorns Magallanes
BA, LLB (Hons) Well, LLM Yale
Senior Lecturer in Law
Victoria University of Wellington
PO Box 600
Wellington
New Zealand

ph:
fax:
SSRN author page: <http://ssrn.com/author=115449>

Submission to the Constitutional Advisory Panel on

**Eco-constitutionalism:
Recognising Environmental Values, Rights and Responsibilities
in a Constitution**

Submission by Catherine J Iorns Magallanes
BA, LLB(Hons) *Well*, LLM *Yale*

The presenter:

I am a Senior Lecturer in Law at Victoria University of Wellington. This submission is made on my own behalf. I welcome questions or further correspondence on this submission, and would be more than willing to elaborate or undertake further work on this topic.

Victoria University School of Law,
PO Box 600,
Wellington.
Email:
Phone:

Executive Summary

Environmental protection

New Zealand needs to better legally protect the natural environment. It should do this at a constitutional level. To take just one, instrumental reason: without clean air, water and food, for example, our other rights are likely to become meaningless.

There are several ways that the natural environment can be better protected at a constitutional level. General provisions can be included in a written constitution; some rights can be included in a Bill of Rights; and/or a separate document can be created, such as a Charter of Environmental Rights and Responsibilities.

I suggest that New Zealand adopt a range of measures, as appropriate to the type of constitution and other laws that we have or adopt. For example, at the moment, appropriate measures would be the inclusion of a right to a healthy (natural) environment in our Bill of Rights Act, along with other procedural environmental protections. I suggest the development of an environmental Charter (or equivalent) including the full range of environmental rights and responsibilities. If a written constitution is developed, then I suggest including general preambular paragraphs recognising our dependence on the natural world and the fundamental importance of

its protection. I would also support the entrenchment of at least such fundamental constitutional provisions, and even the constitution itself.

Other constitutional matters

I also support the inclusion of a much wider range of rights in the Bill of Rights (or equivalent constitutional document), including economic, social and cultural rights. I support other submissions to this effect, such as from Amnesty International and from Diana Pickard and Natalie Baird.

I support according the Treaty of Waitangi a higher legal status.

I support a clearer separation of church and state, and inclusion of such principles in law. I suggest that this needs further investigation in the New Zealand context.

While I support a wide range of possible constitutional reforms, my submission is only focusing on environmental protections. I consider such protection fundamentally necessary for our continued future, yet it is a topic that has been neglected by most public discussion of constitutional reform.

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2. Current environmental crisis
 - 2.1 *Planetary boundaries*
 - 2.2 *Climate change*
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3. Possible Constitutional Protections
 - 3.1 *A human right to a healthy natural environment*
 - 3.2 *Rights of nature itself*
 - 3.3 *Duties upon governments or states*
 - 3.4 *Duties upon individuals*
 - 3.5 *Other aspects: preambles, future generations, procedural and other rights*
 - 3.6 *Put it all together*
4. Which measures New Zealand might adopt
 - 4.1 *New rights and rules are always difficult*
5. Conclusion
- Appendix (pp18-19)

1 Current human rights and constitutional provisions: situational remedies

I suggest that our current human rights laws – domestic and international -- are typically developed in an ad hoc way in response to problems faced at particular times. They are thus often situational remedies. I.e, if we have a particular problem then we often develop a rule or law to solve it. For example, the problem of slavery in the 1800s – both the international trade in slaves and the domestic use of them -- gave rise to both international and domestic laws against slavery.

The human rights laws that have developed over the years have been very situational specific. For example, the Bill of Rights of 1689 was developed in response to particular problems faced at the time, in relation to the rule of King James II. It sets out some particular rights of citizens such as no excessive bail or cruel and unusual punishments, and no royal interference in citizens' exercise of particular specified laws, plus rules governing the constitutional relationship between Parliament and the Crown. These particular rules were chosen because they were the things that had been a problem with the previous rule, and over which citizens were so incensed that they deposed and replaced the king.

It is the same with the United States Declaration of Independence and the subsequent Constitution and Bill of Rights in 1789. It is the same with the French Revolution and the subsequent Declaration of the Rights of Man and of the Citizen, also of 1789. Despite their similarities, all of these Constitutions and Bills of Rights have different provisions. The provisions were all devised as sets of rules that would solve the problems faced at the time and set the respective countries on the right course for the future.

It is the same in international law. For example, the Universal Declaration of Human Rights was conceived in response to the horrors of Nazi Germany. The development of a new set of rules was seen as necessary to ensure that that kind of thing never happened again. A much greater emphasis than before was placed on the fundamentals necessary for securing human dignity, with a strong focus on human equality.

There are many other examples of this problem-solving approach to the development of legal rights. For example, the development of women's and workers' rights beginning in the 1800s were both in response to problems that arose at the time. For example, claims for better rights for workers arose because of changes to work brought on by the Industrial Revolution. When the background conditions change and give rise to new problems, then these new problems give rise to new rules in solution.

The corollary of this problem-solving approach is that is that unforeseen problems are not dealt with. This is particularly noticeable for things that are simply taken for granted – as part of the normal background.

I suggest that the protections included in the Treaty of Waitangi provide an illustration. When the Treaty of Waitangi was drafted, language rights were not the subject of human rights or treaty laws. I suggest that the idea that *te reo* would either need protecting or was even the proper subject-matter for protection under the Treaty, was not thought of at the time. It was instead part of the background assumptions of how life would continue on. Yet, 150 years later *te reo* is considered squarely within the bounds of protection under the Treaty, even though not specifically provided for.

I suggest that we take the environment for granted in a similar way. We take it for granted in that we assume that we will, on the whole, continue to receive abundant and clean air, water and food. We trust that we will be able to keep our environment healthy enough for at least human purposes, and that we won't run out of what it provides us. Many of us also assume that even if a few animal and plant species might die out, our ecosystems will continue to function and exist. These have been part of our background assumptions, and the fundamental importance of our natural environment has not been thought of when, for example, new human rights have been developed.

2. Current environmental crisis

I suggest that we can't take our natural environment for granted anymore, plus that we have to explicitly accept that there is a problem with it and that we need new rules for its resolution. Indeed, I suggest that we have more than just a problem with the natural environment – we actually have an environmental crisis today, worldwide. This is not meant to be a submission on the environmental crisis so I will briefly mention three aspects.

2.1 Planetary boundaries

We are reaching and even overreaching the nine planetary boundaries. This concept was devised by scientists only a few years ago to figure out what were the limits beyond which the environment was not able to function as it has been, and possibly beyond which the environment may not be able to recover. It is represented in the diagrams in the Appendix, where progress towards reaching the limit is plotted for each boundary. They are designed to show visually that we have overreached in the two indicators concerning the loss of biodiversity and the nitrogen cycle, that we have already reached a temperature rise which is causing climate change (and we are on the way towards overreaching it), and that we are on the way towards overreaching others such as ocean acidification and the phosphorus cycle. The availability of fresh water and land are still safe for now but our current use is causing them to decline so they will not stay on the safe zone if we keep acting the way we do. Our current ecosystems will be unable to recover from such overreaching.

2.2 Climate change

It is safe to say that our whole environment – including the air, water, food and all the ecosystem services that we receive – are all under severe future threat from climate change. The science now says that we need to stay under the global rise of 1.5°C in order to keep the world habitable for us. We have already gone up over half a degree – nearly 1°C since industrialisation -- and are already seeing climate induced ocean acidification and the loss of huge amounts of ice worldwide, and especially at the poles. The most accurate of the climate change computer models show that we are on course for a +5°C or 6°C rise by the year 2100, on a business as usual scenario. [See computer models graph in Appendix.] Such a rise would end life as we know it, within 100 years.

The international commitments we have made are not enough. For example, they have pledged to keep the world at a 2°C average rise, even though the science says 1.5° is the limit. But even if we follow these commitments, they will now apparently take us to +2 to 3°C by the year 2100. [See Climate Tracker graph in Appendix.]

Unfortunately, we are not even meeting our (inadequate) international commitments. Climate gas emissions worldwide are not reducing; they continue to rise. Action is not happening fast enough and we will either have to take a really drastic reductions that will be extremely expensive and severe because of having to be taken so suddenly, or we let the earth become uninhabitable.

The law has not kept in step with the science and we don't treat climate change as a looming crisis. Indeed, when countries think that the goal is too hard, they change the goal rather than try harder to do what science says is necessary. For example, countries were unable to agree to the limit of a 1.5°C global warming at the climate convention negotiations in Copenhagen and instead settled for 2 °C, even in the face of scientific consensus on the need for a limit of 1.5°C. (This limit has since been revised downwards, as more effects are being seen at 0.8 °C rise than was predicted. The safe limit is now suggested to be closer to a 1°C rise. This limit however, is not even on the negotiating table.)

2.3 New Zealand

The statistics and information on the health and state of New Zealand's natural environment are declining. For example,

- our climate gas emissions in just the years 2009 to 2011 rose by 20%;
- the quality and quantity of New Zealand's freshwater continues to decline while our population continues to increase;
- New Zealand's Native flora and fauna populations continue to decline:¹

¹ See World Wildlife Fund, State of the Environment - Rio+20, June 2012.

- More than 60 per cent of native freshwater fish are now threatened with extinction.
- Seven of New Zealand's ten official 'indicator species' for measuring biodiversity status are threatened. One bird has suffered a 90 per cent contraction in its range since the 1970s.
- Iconic species such as Maui's dolphins and NZ sea lions are listed as 'nationally critical'. Only an estimated 55 Maui's dolphins over the age of one year remain, and NZ sea lion pup numbers have halved over the past 12 years at their main breeding area.
- Almost two-thirds of New Zealand's seabird species are listed as threatened with extinction. The main threats to seabirds are predation by introduced mammals, fishing methods and human disturbance.

- Our commercial fish stocks continue to decline, both in NZ waters and worldwide. The world is definitely running out of fish.

In summary, as part of the suggested crisis with our natural environment, there are dire predictions of the loss of species and even whole ecosystems, New Zealand and worldwide. There is also the prediction of the loss of ecosystem services – these are the benefits and services that humans receive from the environment, such as the air, water, and food that we find necessary to survive. This will affect the natural environment itself and in turn the humans who depend upon it. If these problems are not solved then we will find that our own species will be one of the ones that are lost. The planet will survive, but there will not be life on earth as we currently know it.

These potentially catastrophic problems show that we shouldn't take the existence of a healthy environment for granted any more. I suggest that this is relevant to our constitutional change in that it problematizes our natural environment: it indicates that we need to devise a new set of rules to live by, so as to better protect the environment and our place within it. I suggest that it is serious enough to warrant constitutional change.

3. Possible Constitutional Protections

There is a range of methods which many countries use in order to protect environmental rights and responsibilities at the national level. I note that New Zealand is one of a very small number of states which do not currently have such protections. For the best comparative study of such protections worldwide, see David Boyd's *The Environmental Rights Revolution*.² Boyd has examined national, constitutional-level environmental protection laws of all of the countries in the world, both their wording and their application in practice. Boyd focuses on human rights provisions relating to environmental protection and identifies four different types.

² UBC Press, 2012.

Boyd has found that 147 out of 193 States worldwide contain some level of such constitutional environmental rights and duties -- that is three quarters of the world's constitutions. Interestingly, this majority applies for all regions and all major groupings of world states, including the OECD, the Commonwealth and even OPEC states.

I note that these numbers only focus on explicit constitutional provisions; they do not include other commitments made, such as via the 'greening' of constitutional provisions or other rights by national courts, or those made at the international level. When these other types of legal recognition of environmental rights and duties and included, more than 90% of the world's states have such committed to such protection.

Further, even some countries which don't have protections at the national level do have them at sub-national levels. In Canada, for example, most environmental laws are dealt with at the provincial level and, at that level, five Canadian Provinces and Territories recognise various human rights to environmental protections. Indeed, Ontario has an Environmental Bill of Rights (1994), containing a wide range of such protections. Of the 50 US states, six recognise such a right at the state level. So the focus on nation-states is not the whole picture, especially in relation to the English-speaking common-law world. But even that picture is different from what we are used to here in New Zealand.

Interestingly, nearly all of these constitutional provisions have occurred since 1972 -- i.e. since the first major joint international activity on the environment, the Stockholm Declaration. Statements made by countries adopting such provisions in their constitutions have noted their newly realised importance. I suggest that this fits with the problematizing approach -- with increased understanding of the potential problems from not protecting our natural environment.

3.1 A human right to a healthy natural environment

Legal and constitutional recognition of a right to a healthy natural environment is increasingly popular worldwide. This is a method that has developed since 1972, with most examples arising since the early-1990s. According to Boyd, there are now 92 constitutions out of 193 worldwide that recognise a human right to a healthy environment. I stress that this is solely at the constitutional level; as with the full range of environmental protections discussed above, there are other commitments made to the human right to a healthy environment, including in international agreements, in ordinary national legislation, and at sub-national levels. Boyd notes that, when you add in recognition of the right in national legislation and international agreements that countries have ratified or otherwise supported, then 178 (out of 193)

nations recognise an individual right to a healthy environment. That is 92% of the countries in the world.³

The most common label for this right is the right to a healthy environment. It is assumed that this means a healthy natural environment. Different states use various different terms in their constitutions. The most prevalent formulation of the right focuses on an environment adequate for human health and well-being. Some stipulate the simple right to a healthy environment. Others say a right to a clean environment, or healthful, not detrimental to health or well-being, healthy and favourable, healthy and pleasant, healthy and safe, healthy and balanced, favourable for living. There are quite a few variations, but the underlying theme is certainly an environment adequate at least for human health human health and often also well-being.⁴

Some states and international agreements incorporate the concept of development, including 'An environment suitable for the development of the person' or environment that enables sustainable development. I suggest that this actually brings in other concepts – not just environmental ones but also economic and social development – and because of the changing international meaning of this concept, including a focus on the state and the group, it would be unwise to focus on this as an individual human right.

There is a surprising number of constitutions which also refer to protecting ecological equilibrium or balance. Tim Hayward rightly criticises these for indeterminacy and subsequent problems of interpretation – it is hard to tell if an ecosystem is in equilibrium. And if the yardstick of a favourable equilibrium is that it is conducive to human flourishing then we may as well refer to health and well-being.⁵ So this can be simplified or shortened to a right to a healthy environment.

Some examples of this simply-expressed right to a healthy environment are:

Stockholm Declaration (1972):

Man has the fundamental right to freedom, equality and adequate conditions of life, [and] an environment of a quality that permits a life of dignity and well-being.

United Nations' Draft Principles on Human Rights and the Environment (1994)

All persons have the right to a secure, healthy and ecologically sound environment.

³ Only 15 countries do not, although they include New Zealand, Australia, Canada and the USA. Other countries include: North Korea, Cambodia, Laos, Kuwait, Lebanon, China. Some are notable for rejecting the individual human rights approach generally, not just for this human right to a healthy environment.

⁴ Note that it is possible that some of these differences arise from interpretation, as most of these formulations are not written in English, but translated.

⁵ See Tim Hayward, *Constitutional Environmental Rights* (OUP, 2005).

Additional Protocol to the American Convention on Human Rights in Area Economic, Social and Cultural Rights (1988)

Everyone shall have the right to live in a healthy environment and to have access to basic public services.

Norway (1992)

Article 110 b: Every person has a right to an environment that is conducive to health and to natural surroundings whose productivity and diversity are preserved. Natural resources should be made use of on the basis of comprehensive long-term considerations whereby this right will be safeguarded for future generations as well.

In order to safeguard their right in accordance with the foregoing paragraph, citizens are entitled to be informed of the state of the natural environment and of the effects of any encroachments on nature that are planned or commenced.

South Africa (1996)

4. Everyone has the right
 - a. to an environment that is not harmful to their health or well-being; and
 - b. to have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures that
 - i. prevent pollution and ecological degradation;
 - ii. promote conservation; and
 - iii. secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development.

Philippines (1987):

The State shall protect and advance the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature.

Ontario Environmental Bill of Rights (1994):

The people of Ontario recognize the inherent value of the natural environment.

The people of Ontario have a right to a healthful environment.

The people of Ontario have as a common goal the protection, conservation and restoration of the natural environment for the benefit of present and future generations.

Of these more general statements of the right (eg, to a healthy environment), the most-commonly cited among Western legal systems is that of South Africa. The South African Constitutional Court has interpreted and applied the provision, so there is also academic and other commentary on it. This is worthy of further study.

Some states describe the right in slightly more detail, specifying the elements that constitute a healthy environment. See, eg, Bolivia's Constitution (2002, Amended 2009), which refers to the "right to life, biodiversity, pure water, clean air, and freedom from genetic modification and contamination."

There are some recent US examples which have taken a much more detailed approach in delineating the human right, in order to make sure that courts interpret the right expansively.⁶ See, for example, the Santa Monica provision which was adopted in April this year:⁷

Santa Monica (2013)

4.75.040 Rights of Santa Monica Residents and The Natural Environment

(a) All residents of Santa Monica possess fundamental and inalienable rights to: clean water from sustainable sources; marine waters safe for active and passive recreation; clean indoor and outdoor air; a sustainable food system that provides healthy, locally grown food; a sustainable climate that supports thriving human life and a flourishing biodiverse environment; comprehensive waste disposal systems that do not degrade the environment; and a sustainable energy future based on renewable energy sources.

(c) All residents of Santa Monica possess the right to self-governance and to a municipal government which recognizes that all power is inherent in the people, that all free governments are founded on the people's authority and consent, and that corporate entities, and their directors and managers, do not enjoy special privileges or powers under the law that subordinate the community's rights to their private interests.

The most current work on a human right to a healthy environment is being undertaken by the recently-appointed UN Special Rapporteur on Human Rights and the Environment, John Knox.⁸ The aim is to develop international legal principles on such rights, for adoption by states in international law and their domestic laws. This work is not completely new, even at the UN level. For example, there was a similar UN Rapporteur in the 1990s, Mrs. Fatma Zohra Ksentini, who recommended a set of United Nations' Draft Principles on Human Rights and the Environment in 1994.⁹ But it is significant that the UN has garnered state support for this project again. It will be instructive to see what he recommends in his final report in relation to human rights to a healthy environment.

⁶ This Santa Monica provision – indeed, a whole Sustainability Bill of Rights – arose in response to particular perceived problems, most notably an American Supreme Court case awarding corporations the same rights as individuals in relation to political donations. This was added to corporations exercising individual rights of constitutional protection in previous cases in relation to environmental degradation. (This was where corporations were authorised at a State or Federal level but their activities were objected to by inhabitants of the local towns near which the activities took place.) This gave rise to the attempt to be very clear and specific about the rights that people have, and that the rights are in favour of humans and the environment itself instead of corporate interests over that environment.

⁷ This is very similar to the wording of similar provisions adopted by other US cities and towns.

⁸ He began his work on 1 August 2012. For his first interim report, see *Report of the Independent Expert on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment*, John H. Knox - Preliminary report, UN Doc. A/HRC/22/43 (Dec 31, 2012).

⁹ *HUMAN RIGHTS AND THE ENVIRONMENT: Final report prepared by Mrs. Fatma Zohra Ksentini, Special Rapporteur*, UN Doc E/CN.4/Sub.2/1994/9 (6 July 1994).

3.2 Rights of nature itself

A human right to the environment will not necessarily protect all aspects of nature that should be protected. It would not protect nature that is not determined (legally) to contribute to human health and wellbeing. Certainly to date, much of the world's natural environment has been seen as expendable and not necessary to our existence and thus able to be destroyed for economic gain.

This view about the utility of (some of) nature to humans can be rebutted on a scientific basis: that we are interdependent on and with nature and that we need to recognise that nature functions as a system, and instead needs to be seen as indivisible. It is thus not possible to pick out bits that are necessary for human health and wellbeing and allow other parts to be destroyed. We can certainly argue that, at present, we cannot know how much we are interdependent upon or with nature because we do not know everything about nature and how all the ecosystems work and/or fit together. Thus we can justify protecting nature for the benefit of future generations, even if we cannot see how it might benefit us now.¹⁰

Many people argue that nature has an inherent and inalienable right to exist as much as we do. It is only our arrogance that says we are on top. In contrast, Eco-centric rights recognise that all of nature is interconnected – at least scientifically, if not spiritually – and that we are part of it and dependent on its proper functioning. The suggestion is that we ought to be humble enough to realise that humans are not the centre of the natural world, and that we should preserve it for its own sake. One argument is that this is not just a matter of science, but also morals, such that this is ethically the right thing to do.

This eco-centric approach fits well with indigenous philosophies that humans are part of and interdependent with nature. These philosophies stress not individual human rights but duties and responsibilities to protect. The power to destroy nature should also entail moral and legal duty to exercise that power responsibly, so as not to do irreparable damage, and so as to fulfil duties to future generations to leave them a natural environment fit for their habitation. The Maori concept of kaitiakitanga (as well as related concepts such as whanaungatanga) suggests that we recognise such duties of care and responsibilities to protect the environment, and that they are even more important than any recognition of human rights in this area.

¹⁰ See, eg, the February 2013 American Journal of Preventive Medicine article that reported a study concluding that the loss of forest cover is associated with human illness and death. (Note that the deforestation in this study was due to the ash beetle, not industrial development.) <http://www.ajpmonline.org/article/S0749-3797%2812%2900804-5/fulltext>. For a summary news release, see, eg, <http://www.fs.fed.us/pnw/news/2013/01/tree-human-health.shtml>.

In order to cater for such an eco-centric approach, it may not be necessary to accord nature rights, and it may be more realistic to instead recognise human duties of protection. However, the language of rights is often adopted, if only because that is a language that the law understands.

Eco-centric rights and duties have only begun to be recognised in law and/or national constitutions relatively recently. Yet, despite this novelty, some states have adopted such eco-centric rights of nature in their constitutions. The most well-cited example of eco-centric rights – ie, rights of nature to exist -- is probably that of the Pachamama clause in Ecuador's constitution (amended to include this in 2008):

Art. 1. Nature or Pachamama, where life is reproduced and exists, has the right to exist, persist, maintain and regenerate its vital cycles, structure, functions and its processes in evolution.

Art. 2. Nature has the right to an integral restoration. This integral restoration is independent of the obligation on natural and juridical persons or the State to indemnify the people and the collectives that depend on the natural systems.

In the cases of severe or permanent environmental impact, including the ones caused by the exploitation on non-renewable natural resources, the State will establish the most efficient mechanisms for the restoration, and will adopt the adequate measures to eliminate or mitigate the harmful environmental consequences

The Santa Monica ordinance also includes rights of nature, along with enabling individuals to enforce these rights:

(b) Natural communities and ecosystems possess fundamental and inalienable rights to exist and flourish in the City Of Santa Monica. To effectuate those rights on behalf of the environment, residents of the City may bring actions to protect these natural communities and ecosystems, defined as: groundwater aquifers, atmospheric systems, marine waters, and native species within the boundaries of the City.

3.3 Duties upon governments or states

Interestingly, the most common type of constitutional provision relating to environmental protection is a duty upon governments or states to protect the environment. Boyd calculates that there are 141 out of 193 states with such constitutional provisions. Notably, such duties are not located within an eco-centric rights approach, but coexist with the anthropocentric human rights. Some examples are:

- Colombia: “It is the duty of the State to protect the diversity and integrity of the environment, to conserve the areas of special ecological importance, and to foster education for [this].”

- Sweden: "...it shall be incumbent upon the public administration to secure the right to work, housing and education, and to promote social care and social security and a good living environment."
- Ontario: "While the government has the primary responsibility for achieving this goal, the people should have means to ensure that it is achieved in an effective, timely, open and fair manner."

A much more extensive delineation of such duties is contained in Bhutan's constitution:

2. The Royal Government shall:

- (a) Protect, conserve and improve the pristine environment and safeguard the biodiversity of the country;
- (b) Prevent pollution and ecological degradation;
- (c) Secure ecologically balanced sustainable development while promoting justifiable economic and social development; and
- (d) Ensure a safe and healthy environment.

3. The Government shall ensure that, in order to conserve the country's natural resources and to prevent degradation of the fragile mountain ecosystem, a minimum of sixty percent of Bhutan's total land shall be maintained under forest cover for all time.

4. Parliament may, in order to ensure sustainable use of natural resources, enact environmental legislation and implement environmental standards and instruments based on the precautionary principle, polluter pay principle, maintenance of intergenerational equity, and reaffirm the sovereign rights of the State over its own biological resources.

3.4 Duties upon individuals

A large number of states also have individual duties in their constitutions. A good example is that contained in France's Charter of the Environment (2004):

Art 2 - Everyone is under a duty to participate in preserving and enhancing the environment.

Art 3 - Everyone shall, in the conditions provided for by law, foresee and avoid the occurrence of any damage which he or she may cause to the environment or, failing that, limit the consequences of such damage.

Art 4 - Everyone shall be required, in the conditions provided for by law, to contribute to the making good of any damage he or she may have caused to the environment.

Some other examples:

- Cuba: "It is the duty of the citizens to contribute to the protection of the water and the atmosphere, and to the conservation of the soil, flora and fauna and all the rich potential of nature."

- Bhutan: “Article 5 – Environment: 1. **Every Bhutanese is a trustee** of the Kingdom's natural resources and environment for the benefit of the present and future generations and it is the fundamental duty of every citizen to contribute to the protection of the natural environment, conservation of the rich biodiversity and prevention of all forms of ecological degradation including noise, visual and physical pollution through the adoption of environment friendly practices and ethos.”

3.5 Other aspects: preambles, future generations, procedural and other rights

In a written constitution the Preamble often contains statements identifying fundamental principles and constitutional values. A New Zealand constitution should contain some such statements of environmental value. Some examples from overseas:

- France: The French people solemnly proclaim their attachment to the Rights of Man ..., and to the rights and duties as defined in the Charter for the Environment of 2004.
- Montenegro: Article 1:
Montenegro is a civil, democratic, ecological state with social justice, based on the rule of law.
- Bhutan: 2. The State shall strive to promote those circumstances that will enable the successful pursuit of Gross National Happiness.

In addition to preambular statements, a comprehensive statement of environmental rights and duties should contain relevant procedural rights, such as in relation to rights to information on environmental effects of activities, rights of access to justice for environmental disputes. Such matters are appropriate for inclusion in a Bill of Rights, or an Environmental Charter. For examples of statements of such procedural rights, see, eg, the Ontario Environmental Bill of Rights, Bolivia's constitution, and the Aarhus Convention.

A similar matter is the issue of enforcement, and some countries' provisions expressly refer to this. Inclusion of enforcement provisions is recommended, if only so as to be clear about what is entailed in such environmental rights and duties. For example, the Philippines constitution gives individuals the standing to enforce their environmental rights. Also see, eg, Santa Monica: “The City or any City resident may bring an action to enforce any provision of the Santa Monica Municipal Code that advances the goals identified as enforceable in the Sustainable City Plan.”

Another matter that is included in some overseas provisions is reference to the rights of future generations. See, eg, the South African Constitution (quoted above, 3.1), and the UN Draft Principles on Human Rights and the Environment. This is a key matter that I recommend be included in any New Zealand statement.

3.6 Put it all together

Some examples of constitutions which combine various different aspects are (in addition to the ones already cited):

Spain:

45(1) Everyone has the right to enjoy an environment suitable for the development of the person as well as the duty to preserve it.

(2) The public authorities shall concern themselves with the rational use of all natural resources for the purpose of protecting and improving the quality of life and protecting and restoring the environment, supporting themselves on an indispensable collective solidarity.

(3) For those who violate the provisions of the foregoing paragraph, penal or administrative sanctions, as applicable, shall be established and they shall be obliged to repair the damage caused.

Bulgaria:

Bulgaria shall ensure the protection and conservation of the environment, the sustenance of animals and the maintenance of diversity, and the rational use of natural resources...

‘While citizens have the right to a healthy and favourable environment they [also] have an obligation to protect the environment.’

4. Which measures might New Zealand adopt?

I suggest that New Zealand needs all the different levels of environmental protection discussed above. It would help to have a written constitution that grounded the powers of our human governments in reality, by explicitly recognising our dependence on our natural world. A general preambular statement on this would be appropriate, as well as a fundamental statement of rights and responsibilities.

A comprehensive Charter of Environmental Rights and Responsibilities (or sustainability charter, or similar) would be most likely to provide the most comprehensive protection. The French Charter has been enacted at the highest level, with its commitment alongside their 1789 Declaration of the Rights of Man and of the Citizen. It provides a good example.

Because we already have the Bill of Rights it would presumably be easiest to add rights to it than to create new documents. It would be appropriate to add a right to a healthy (natural) environment, as well as the related procedural rights. This would be appropriate in order to recognise the fundamental basis upon which all of our other existing rights rest.

I suggest that it is particularly appropriate in New Zealand to adopt statements of our responsibilities toward the natural environment. There are some overseas examples to emulate, but I suggest that we have our own examples from Maori cultural and spiritual concepts, and that these should guide such statements in the New Zealand context. Indeed, they provide an additional reason to adopt statements toward a different relationship with the environment. I suggest that Maori concerns relating to constitutional change should not be confined to the Treaty, but should influence any statements of fundamental values and priorities for rights and responsibilities. They should thus influence general provisions in the Constitution such as these.

Overall, I suggest that we adopt all five broad types of provisions that I have outlined in this submission.

4.1 New rights and rules are always difficult

The development and passage of new rights and rules has always been difficult. Human rights often come up against economic interests. Indeed, the only arguments against recognising slavery and workers' rights, for example, were (and are) made in the interests of economic profit. Objections to new rights-holders are often raised on that basis of inherent difference such that, for example, the argued subject of human rights is undeserving. This was the case in relation to racial equality, women's rights, and the rights of the mentally ill, to suggest just a few. Yet all of these arguments were overcome for these new categories of human rights. I suggest that they can be overcome in relation to environmental rights, and even the rights of nature or of the environment itself. These subjects are seen as different in type and quality from humans, and their relationship with humans is characterised as hierarchical or instrumental, such that we can use them for whatever we want. Indeed, this view is supported and reinforced by at least Western religions and cultural practices. But I suggest that just because it is difficult does not mean that it is impossible or that it should not be attempted. In the New Zealand context in particular, they should definitely be addressed.

5. Conclusion

In conclusion, I suggest that we currently take the natural environment for granted. If we were having to fight for food or water, for example, I doubt that we would be upholding many of the civil and political rights contained in the Bill of Rights Act. We should stop taking our natural environment for granted and recognise this fundamental importance.

Second, I suggest that we don't want the protection of the environment to be dependent on happenstance. For example, *te reo* was able to be protected under the Treaty because it was determined to fall within *taonga*. If the word "*taonga*" wasn't in *te Tiriti*, *te reo* wouldn't come under "forests, states, or fisheries", for example. The situation is similar with a right to a healthy environment. We should not have to rely for its protection on its argued coverage by other listed rights. (For example, some overseas countries have held that the right to a healthy environment is incorporated in the right to life or a right to security of the family.)

Third, there is an environmental crisis happening now, in New Zealand and worldwide, in that our natural environment is deteriorating -- and some of it is deteriorating to the point of no return.

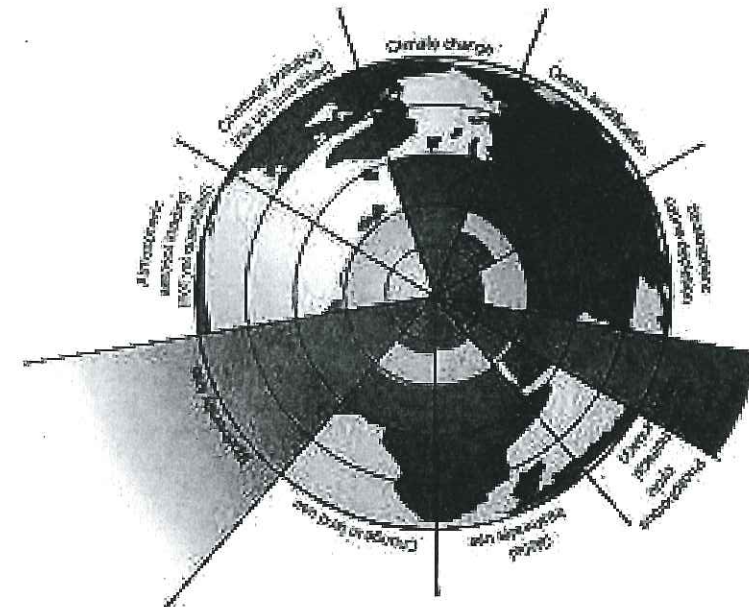
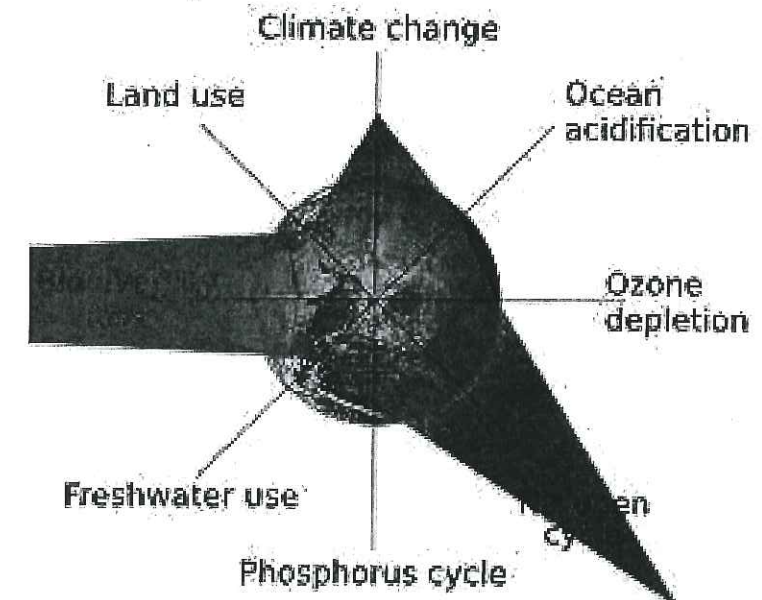
Fourth we need a strong statement of a fundamental right to a healthy environment. This needs to be for present and future generations, plus it needs the support of explicit duties to protect these rights, on the part of the state and individual.

Five, I would go so far as to say humility requires that we recognise the right of nature to exist as well as our duties as *kaitiaki* to protect it.

Finally, I suggest that if our country is committed to **any** fundamental constitutional principles, or to **any** human rights, then a commitment to a healthy environment needs to be among them, and it needs to be right up there at the top. I suggest that only the adoption at a constitutional level of all of these five types of provisions (ie, both rights and responsibilities) would achieve that.

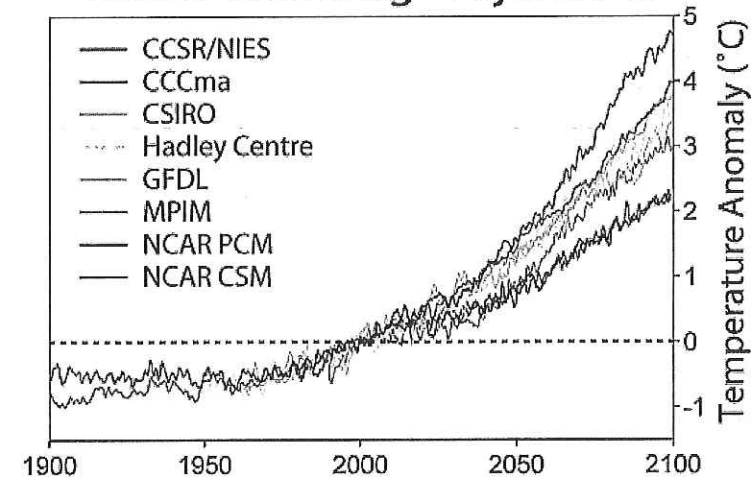
Appendix

The Planetary Boundaries:



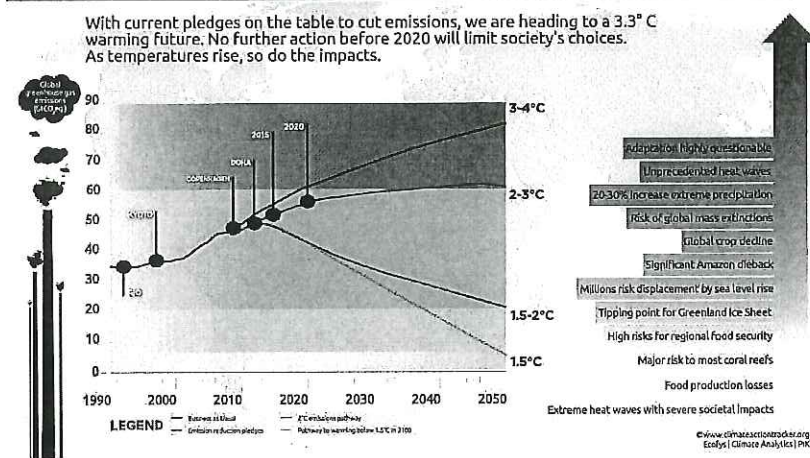
Climate Computer Models (from IPCC report):

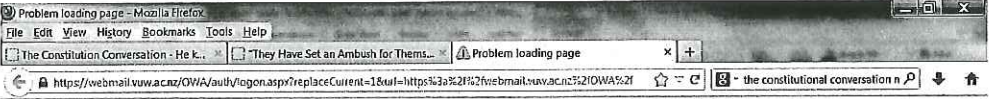
Global Warming Projections

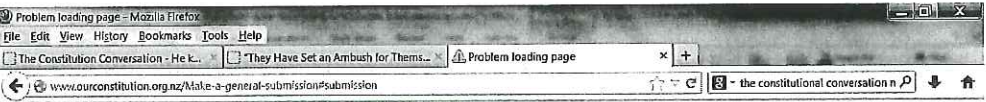


Climate Tracker Graph:

STAYING BELOW 2°C: THE CHOICES WE FACE







3993

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 28/07/2013 10:29 p.m.
Attachments: constitution.odt

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

Full Names: William Ireland Organisation Name: Email:
Phone: Postal AddressA: Postal AddressB: Postal City: hamilton Postal Region:
Postal Post Code: Postal Country: New Zealand Submission: Submission Upload:
constitution.odt

Submitted on the 28 July 2013 at 22:28

Question 1: Should our constitution be written on a single document?

Yes.

Defining our constitution in modern language would have obvious benefits such as wider understanding of its relevance to the general public and reduced issues with the interpretation of the language and meaning of the constitution. It would also provide opportunity to add important cultural values into the heart of how we conduct ourselves as a country.

A single document will give more power to the document, in part due to its ease of access and understanding. It could also give clear guidelines as to how to deal with situations where the articles within the constitution come into conflict with each other.

Question 2: Should the constitution be given higher legal status?

This would depend on the content of the constitution and how it was written. And whether it was possible for the articles in the constitution to be misinterpreted in such a way as to cause harm. It would seem obvious that this would be considered when writing the articles so essentially the answer is yes.

Advantages to giving our constitution higher legal status could include keeping other laws in check and providing guidelines when making new laws.

Question 3: Who should have the power to decide whether legislation is consistent with the constitution?

The courts.

The courts as a general rule are most interested in the correct interpretation of law, as opposed to parliament which will always have its own interests. In order for the constitution to have the greatest trust and effect for public interest, its interpretation must be as consistent and uncorruptable as possible.

3239"

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.

Mark Irving
Christchurch
New Zealand

1764

Quick Submission

Your name:

Margaret Ann Irving

Name of the organisation you represent (if applicable):

Postal address or email address:

balance has changed ^{since 1840} & we should all have to same rights

120 are more than enough seats in Parliament.

If the term of Parliament was 4 years it would give the party to implement their programmes easier without worrying about the next election from the last year of a 3 year term.

The member of Parliament that puts ways with his party should step down.

Personality is not that important.

It is important that parliamentarians listen to what people want and are not following their own agenda for power & influence.

NZ is a wonderful country but the balance between rich & poor has dire consequences the larger the gap.

Privacy and Confidentiality

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

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

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

My aspirations for New Zealand are to be peaceful and people are able to go about their lives without too much interference from Government & non law abiding people so therefore safety.

I don't think that the Constitution should be written as it would be hard to change if needed.

Courts should have the power to decide legislation taking into account our constitution.

The Treaty of Waitangi has too much influence in law making as our population

2337

From: Richard Izard
To: "constitutionalreview@justice.govt.nz" <constitutionalreview@justice.govt.nz>
Date: 3/07/2013 7:24 p.m.
Subject: CAP Submission

The seats should be abolished
Richard W V Izard

Sent from my iPad

Dear Sir / Madam,
Re the
constitutional review.

My submission regarding
the NZ Constitutional Review,
is that I want no change to
New Zealand's unwritten con-
stitution, it has served us
well since the 1852 NZ Con-
stitutional Act was passed,
our founding document.

It may require some alter-
ations in the future, but not
a race based Constitution!
"Equality for all, One people,
one nation!"

Ernest M. Izett,
Tauranga.

3981

From:
To: <constitutionalreview@justice.govt.nz>
Date: 28/07/2013 8:40 p.m.
Subject: CAP Submission
Attachments: Submission to the Constitutional Advisory Panel.docx

Dear Sir /Madam

Please find attached my submission relating to the Constitutional Review.

Regards

Brian Izzard

Cambridge

Submission to the Constitutional Advisory Panel

I have read through the "The Conversation so far" booklet with interest and there are a number of issues covered in the document that I'd like to comment on.

Electoral matters:

One area of concern that to my mind has manifested itself in many ways over the last twenty years or so is the way in which politicians can be sent a very clear message by the general populace and can just completely ignore what is being asked of them. The example in the booklet is as good as any i.e. the 1994 referendum on the size of the House where an overwhelming majority of people voted to reduce the size of parliament only for the views of that majority to be ignored. Hardly democratic!! I think there is a case to be made for binding referenda to be introduced but to avoid such referenda becoming too burdensome there should be strict guidelines associated established about what can trigger the process.

Another example was the recent decision to leave MMP as it is. I can't help but feel that this smacks of political "self-interest". I think that the decision to ignore the views of the electorate about the need to refine the electoral system when their views had been actively sought can really only be seen as self-serving and is a very good reason for taking these types of decisions away from politicians. To quote an old saying this could be seen as being a case of "putting the fox in charge of the henhouse".

The booklet also mentions the role of list MP's being misunderstood. Call me naive but I thought the roll of a politician was to represent the people. As an elector I have absolutely no say in who is on a party list so how can a list MP possibly be seen to represent me? I'm not advocating a return to FPP but somehow list MP's need to made more accountable to the electorate as a whole on a day to day basis rather than simply be in parliament to espouse party doctrine.

I also think the balance of list MP's to electorate MPs is wrong and places an unfair burden on the electorate MP who in many cases cover ridiculously large and diverse areas that frequently have little or no common points of interest.

I'm personally not in favour of an upper house – with 4.5 million people New Zealand is not big enough to justify such a body. If an upper house were it to be introduced it would simply reinforce the already widespread contention that New Zealand is over governed.

Electoral Integrity

Another aspect of MMP that needs to be addressed is the "waka-jumping" issue. How can anyone with any sort of conscience enter Parliament on a party ticket and then leave that party knowing that for at least the term of that Parliament there is nothing anyone can do about it. It is all well and good to put forward ideals such as that quoted in the booklet about the German system i.e. "... all members, once elected must be representatives of all people and must be able to act in accordance with their conscience". A noble sentiment but something that is totally unenforceable. Because it is

unenforceable any accountability to act in this way is academic.

If an MP is elected to represent a particular party then they either stay in Parliament as a member of that party or resign. That's not to say that the party should be allowed to arbitrarily remove a member on a whim. If we are to be stuck with party lists then the party has to be responsible for living with the consequences of putting people on that list.

Maori representation in Parliament

New Zealand needs to decide what sort of society it wants to be i.e.

- Mono-cultural (not likely as we are way past that point)
- Bi-cultural (Maori and the "rest")
- Multicultural (everyone treated equally)

Looking at the "Mid-range population projection by self identified ethnicity" graph on page 4 of the booklet, the ethnic makeup of New Zealand is changing and quite rapidly at that. Sooner or later there has to be recognition that regardless of a person's so called "ethnicity" once someone becomes a citizen of New Zealand they have the same rights as any other citizen.

Purely as a personal opinion this is far from the case at the moment. In support of this view I'd like to put forward two examples.

Example 1:

On Page 28 of the booklet it states:

"Candidates are elected to Maori seats by voters enrolled on a Maori roll. These voters choose whether to be on the roll through the Maori Electoral Option".

So, there is one – and only one ethnic group who have such a choice. Why? The answer that will no doubt be offered is to "honour the Treaty of Waitangi". Simplistically one could argue that on that basis there should be separate dedicated electorates for non-Maori as well. After all there were two parties to the treaty but we have a situation where one of those parties is being given options not available to the other.

Equally you could argue that to be fair to all ethnic groups there should be seats purely for Pacific Islanders, Asians and Europeans. Why should these groups be treated any differently? In a fair and democratic society shouldn't everyone be treated equally and have the same rights?

In my own view the principle that no one group in society should have exclusive rights to anything, should be applied to all levels of Government; both central and local. To assign representation on an ethnic basis should be applied across the board or not at all. So do I think Maori seats should be entrenched? No. Do I think there should be separate Maori seats in parliament or at the local government level? No. Not unless you are going to apply the same principle to all ethnic groups.

Example 2:

I recently received a newspaper supplement outlining Continuing Education courses. There was a footnote in the Supplement that says in part:

“Government Supported Student Courses

You can learn at a reduced cost if you have low level qualifications (generally below NCEA Level 2), or identify as Maori or Pacifica. Please choose a ‘gss’ course if you think you fit this category.”

The courses being offered all have course fees associated with them and if I’m of Maori or Pacific Island decent then I get a discount on those fees. If I am anything else I have to pay the full fee. Unless I’m mistaken I think there is a word for that – discrimination.

Why is it that being part of particular ethnic groups qualifies someone for access to “opportunities or privileges” not available to others on the same basis I had always thought, obviously naively, that New Zealand presented *everyone* with the same opportunities but that blatantly is not the case.

I work with both Maori and Pacific Islanders who get paid on an equivalent basis to me and yet if they wanted to do the same continuing education course as me they would be able to attend at a reduced cost. Why?

If we are to seriously think of New Zealand as “one country” then we need to start treating everyone in New Zealand on the same basis. All New Zealander’s have the same opportunity to make something of their lives. We all have the same access to education (actually we don’t as once again there are considerable financial advantages in being a Maori in the tertiary education sector as it turns out). We all have the same opportunities in the work place. So as I said above why does the fact that I am middle class New Zealander of European decent i.e. I have no Maori, Asian or Pacific Island blood in my ancestry, seemingly puts me at a disadvantage?

The role of the Treaty of Waitangi

I’ll start off with a question; what exactly is meant by the “Crown”? The reason I ask is that the Treaty is a document signed by Maori and the Crown. So who is the Crown actually representing? By implication it must be everyone except Maori.

So where does the “Crown” input to Treaty negotiations come from. I haven’t seen any effort by the “Crown” to involve non-Maori in Treaty negotiations yet there has been a long, drawn out and expensive consultation process with all levels of Maoridom. No-one is denying the wrongs of the past but hopefully these will be once and for all resolved in the near future so that all those covered by the Treaty i.e. all New Zealanders, can start looking forward rather than backwards.

Following on from that putting any reliance on a Treaty that has two versions and list of principles that are not defined or definitive and continue to evolve leaves the door wide open for ongoing divisive and frivolous interpretation. Claiming Treaty rights to the “wind” and the “radio spectrum”

are cases in point. If I were a creationist (and I'm not....) I would say that everything was created by God so the church should have first call on everything. It's the same argument.

If the Treaty is to be embedded in any Constitution then there must be a set of principles defined that serve all members of New Zealand society equally. Without that as a precept then a level of underlying antagonism will just continue on.

Bill of Rights

I'm no politician or lawyer and I haven't read the Bill of Rights. So what I am saying here is based on what is in the booklet. There are a couple of statements that seem to fly in the face of what is currently happening with the GCSB Amendment bill. The booklet states:

"So sometimes limits on rights might be justified. But the rights can be limited only to the extent demonstrably justifiable in a free and democratic society".

It also says in the Questions and perspectives section that there is the view put forward that;

"These commentators often suggest voters influence Parliaments decisions at election time".

With regards to the first statement if we were in a "free and democratic society" then the politicians would be listening to what the majority of society is reportedly saying. But no – the Government seemingly knows best. How they arrive at the "knowing best" conclusion is beyond me but then I am but a humble voter.

As far as the second statement is concerned - seriously? Do politicians really take any notice of or get influenced by voters? Call me cynical but I don't think so. If they did then the GCSB legislation would be back on the drawing board. The collection of metadata is tantamount to "unreasonable search and seizure" and the argument of "if you aren't doing anything wrong you have nothing to fear" is spurious.

The Bill of Right should protect individuals at all levels including from unwanted intrusion into individuals privacy. It is these types of principles that should be part of any constitution so that there are checks and balances on just what politicians can do.

Written constitution

Does New Zealand need a written constitution? In my opinion - yes.

Does such a constitution need to impinge on the operation of Government – no.

What it should do is provide a framework for Government to operate within and provide a system of checks and balances that are independent of the Government and the political system. There would seem to be a role for the Judiciary in enforcing a constitution as they are perceived as being independent of the political process.

In an ideal world I would say that a constitution is something that makes politicians accountable to society by establishing a set of principles and rights that cannot be changed without widespread support and agreement.

General

As I understand things the process currently underway is purely consultative as it was agreed to as part of an arrangement the current Government has with the Maori Party. I believe that there is no obligation on the Governments behalf to do anything with any outcomes or recommendations that may be produced.

One can only hope that the whole exercise doesn't just get consigned to the "nearly a good idea" bucket and that somewhere along the way a written constitution becomes a reality that is fair, balanced and equitable to all New Zealanders regardless of race, gender or beliefs.

Brian Izzard

Cambridge

