

# Quick Submission

Name: PW & PF Jack

2984

Nelson

## Binding Referenda

When a law is passed in Parliament 100 days to be allowed before it is enacted so that the country has the opportunity to call for a referendum with the results binding on the Government

(Facultative Referendum)

Also a Citizens-Initiated Referendum to be binding on the Government

These binding referenda give the people some control of Government – democracy

## Treaty of Waitangi

All reference to Treaty deleted in legislation. It is outmoded and misinterpreted. Also abolish Waitangi Tribunal as it is outdated

## Maori Representation

All New Zealand citizens whatever their race to be treated equally – one law for all – no divisiveness of Maori and non Maori. Thus all special privileges or representation for the part-Maori people in Government in law on local bodies or as an indigenous people (which they are not to be abolished.

## Electoral Matters

Reduce the size of Parliament to 100 members all to represent an electorate by increasing the number of electorates to 100. For a population of nearly 5 million this would make 1 MP represent about 5000 people. The present system of list MP's with loyalty to a party leader not the people is not democratic and too costly. Separate Maori seats are not now warranted and should be abolished. Parliamentary term increased to 4 years would give more time to effect policies. However, unless binding referenda were introduced giving the people more control over Government, then the term should remain at 3 year

27.6.13

P.S. It has been very disappointing  
that no information about  
constitution discussions has been in  
our local papers, the Dominion Post or  
the evening TV news. Consequently  
anyone we have spoken to has  
been completely unaware of the  
subject & what is involved

## Privacy and Confidentiality

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

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

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

1718

**From:** <webmaster@ourconstitution.org.nz>  
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**Date:** 29/06/2013 11:49 a.m.  
**Subject:** <http://www.ourconstitution.org.nz/> form submission  
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Sent from The Constitution Conversation #link:<http://www.ourconstitution.org.nz/>.

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Submission: Submission Upload: 2013-06-29 Constitution Submission.docx

Sent on the 29 June 2013 at 11:47





## **Submission on the Constitution of New Zealand**

The idea of combining all legislation into a **single constitutional document** is a good one. That Constitution should then become our Supreme Legislation.

It must work to the **benefit of all New Zealanders** and not widen the gap between rich and poor which is at risk of causing unrest.

Who decides is complex...

The issue of Head of State will raise its head within the next decade or two when our Queen eventually dies or hands the succession on. The choice of Prince Charles or a Republic will be a hard one and it will be valuable to have a second House – a **bi-cameral legislation** to keep a check on the power of Parliament, especially if a President were to replace Her Majesty as Head of State.

It is a pity that New Zealand has decided not to have the Privy Council as a court of last resort. It would be useful if there were an external court which could produce final rulings. Asking an overseas judge to look at a case (eg David Bain) and ignoring the suggestion made, makes a mockery of us all. We need something more robust.

I have more faith in the Courts than the Parliament because the Courts are more permanent and government changes every few years but would like to see a **final external Court of Appeal**.

**The Bill of Rights** needs to include rights to privacy, and not just for the rich who can afford to arrange “gagging orders” and name suppression. There needs to be limits to the free range of the Security Services invading privacy. Clearly those Services need the right to protect the safety of citizens but should not be used to keep track of people for political purposes, whatever government has control. The Courts should be the final arbiter. It would be valuable to ensure that “The Media” is honest and accurate, whilst able to “protect their sources”.

**The Treaty of Waitangi** is a founding document and so should be at the core of any Constitution.

I would hope that in future, **Māori views will be expressed** by any Member of Parliament, irrespective of his/her race/ethnicity as MPs seek to represent their electorates fairly. I do not think that there should be any special need for Māori seats or Muslim seats or any other sort. Local Government can stimulate participation and if there is a high proportion of Māori in a region it is to be hoped that they will be politically active and make their voice heard for the benefit of the community. There should be no need for tokenism with the Treaty embedded, consultation with all interested groups should be given. We need to see ourselves as New Zealanders working for the common good, rather than this or that representing personal interests.

**Electoral Matters** have been recommended by the Electoral Commission and that group should be listened to. A **four year term** is to be preferred, with a changed **threshold to 4%**



for allocating party seats. It is not fair to use Parliamentary funds to distribute electioneering material as this will always keep minority parties in the shadow, there needs to be clear rules about spending on elections and **donations to parties** as inevitably there will be an expectation of advantage in future from such donations. If they are truly altruistic donations to the democratic process they can be donated to Parliament and distributed equally to all parties represented. If a **Member of Parliament parts ways** with their party and the party expels them, they should leave the Parliament as a matter of course and not have to be pressured to leave, which is degrading for the person and the Parliament. A by-election is then necessary.

Members representing physically large areas (such as rural South Island) need to be allowed to have a **smaller number of electors in their electorate** as the opportunity to move between places to meet people is compromised. Even with modern technology, MPs need to be seen face-to-face and be physically involved in community affairs so as to be truly representative.

Thank you for the opportunity to make these points.

Alan Jackson

DUNEDIN

4842

**From:** Bert Jackson  
**To:** "constitutionalreview@justice.govt.nz" <constitutionalreview@justice.govt.nz>  
**Date:** 31/07/2013 4:49 p.m.  
**Subject:** Constitutional review - Submission

Dear Review Staff,

I write to make a submission on one aspect of the review of New Zealand's Constitution.

Speaking as a Pakeha, I urge that the Treaty of Waitangi be incorporated into any new Constitution, so that its principles can help guide the way our country is run.

As presently understood by the Waitangi Commission, the Treaty enshrines two major principles: Partnership between Maori and non-Maori, and Protection of things important to Maori. The Commission also detects two supporting principles: Good faith by both sides when legal or policy matters are being worked out; and Mutual consultation between the two sides.

We should also seek to understand the Treaty, not as a static document, but as a living relationship between Maori and non-Maori.

I believe all this would help create an excellent basis upon which to build a nation of dissimilar peoples.. It would help solve many of our current social problems, and it would harness the best from both the Maori and non-Maori worlds to strengthen our nation.

Yours sincerely,

Bert Jackson,

Hamilton

3589

**From:** <webmaster@ourconstitution.org.nz>  
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**Date:** 15/07/2013 3:12 p.m.  
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conversation.docx

Sent on the 15 July 2013 at 15:11



### Electoral

I believe that the current three year term of parliament is too short. as an inordinate amount of time is devoted to campaigning compared to actual governing. This is a significant waste of resources and a distraction away from policy implementation and development. I believe a four or five year term would benefit New Zealanders as this would allow greater potential for strategic changes to bear fruit, and prove or disprove that the governing party(s) deserve another term.

I believe that if a member defects or is ejected from their party then they should be relieved of any ministerial portfolio and have their salary halved and privileges suspended, until they join a different party or successfully form their own party.

I believe that all life -long privileges such as cheap air travel etc for former MP's should be stopped immediately if possible, or at least phased out.

I wish that MP's could be strongly encouraged to take a brief annual sabbatical into a programme something like Outward Bound or the Spirit of Adventure!

### Local Government

I believe that local government should be further pushed to restrict spending growth on anything besides core economically beneficial infrastructure development. Such projects should also be vetted through an independent third party to confirm they are not a complete debacle ie Mangawai Sewage Scheme.

All local councils need their power around building consents to be modified, and clear national standards put in place around promoting the options for residential housing, for example a standardised house design could be nationally approved for weather zones X and Y, with minor upgrades for zone Z... this could streamline building consent process for developers and individuals alike.

Again, affordable housing is at crisis levels now and will be worse if the idealistic perfectionists at BRANZ (and anyone else who was involved with taking building projects out of the hands of the home owner and firmly into the hands of the 'professional builder') and the council get to continue in their creation of endless regulation and decree. Both my sets of Grandparents built their own homes after work and over weekends, with the family living in a caravan as it went up... this made them proud, and they stayed in those communities for life. Not to be nostalgic, but such independence and ingenuity helped form them. And if the house leaked, they fixed it themselves.

4611

Auckland,  
26 July 2013

The Secretary,  
Constitutional Review Panel  
Parliament.  
Wellington.

Dear Madam,

+ Basic submissions will be posted to you.

As we have all been misled, I send this  
package with some sympathy.

When the time comes, my Affidavits can go  
to you also, or be in court.

Yours faithfully

Jean Jackson aka Elkins.

Bolivia - Index attached.

Wellesley St.  
Auckland,

26 July 2013

The Secretary,  
Constitutional Review Panel  
Parliament.  
Wellington.

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Yours faithfully

From Jean Jackson :

F. 11.10 '12

My Maori and non-Maori legal advisors, also the Ethnologists of Australia and N.Z. HAVE AUTHORITY to recognise the 1835 partial-Confederation as THE major founding document of N.Z.  
The N.Z. Ethnologist, David Simmons understands that the 1835 Deed is 'ratified' by the 1840 Treaty.

The sequence of documents begins in 1787 with N.Z. 'nominally' part of N.S.W., and goes to 1814 when N.Z. was a Dependency of N.S.W., next the 1828 adoption by N.S.W. ON BEHALF of all entities, of 'all relevant laws and COURTS of the U.K.' *Paritā.*

All pre-Treaty contracts by chiefs and their chosen buyers were registered in the N.S.W. Supreme Court in Sydney.. awaiting court hearings which DID take place, when most contracts were found insufficient and estates returned to sellers, if they accepted.

There is no Treaty without a Charter - quote 1847 case in Auckland, R. v Symonds (re McIntosh?). The founding Charter then 'ratifies' both the 1835 deed AND the Treaty. It provided the proper limitations.

Legal demands were written into Ordinances and a FULL Constitution was allowed and new Charter came, 1855 ? when Gov Gore Browne was named as Vice-Admiral for N.Z.

The Const. Review Panel have failed to find :

1. N.Z. is under the Admiralty laws that include coasts and all creeks... *Bolivia also*
2. Most Maori chiefs who sold lands willingly for various purposes, two-thirds of N.Z. up to and in



Chiefs ritually giving their lands in 1859, to Te Whero Whero of the Tainui. There were no confiscations in the S.I. because our chiefs and ring-ins at whaling stations sold and re-sold so often, there was a Presumption of Intent to sell, that was too plain to ignore. Waikato-Ngatitoo freed hundreds of S.I. slaves, from 1840 to the 1850s, whose status was not appreciated by my Otago – Southland survivors of the pre-1840 invasions, i.e. demoted.

4. There was 'ahi kaa,' with two Ngatitoo who had farmlets at Kaiapoi, also numerous Half-castes. Te Rauparaha's grandson resided in Southland. It was similar around most regions, Far North, Auckland or Taranaki, Wellington, Nelson-Marlborough and other twice-sold places that can be pinpointed around the N.I. So many Half-castes were French Maori, (especially since the King of France's SON took a false name Laffitte and apart from adventuring in the West Indies, was in N.Z. and other future colonies 'marrying' scores of native women) it seems plain (a). that one of the King's grandsons, Wharepurakau was made a trustee of the N.Z branch of the Papally inspired 'Bank of Awaroa;' and (b). that one of the reasons for creating the 1844 Half-Caste Ordinance, was to allow the French half-caste Roman Catholics to have 'natural' rights. At Auckland's 'spirituality' conference we were told 86% of migrants are R.C.s.

5. Rumour has it that other Bank of Awaroa trustees were Kush Levi Boradov, the Count de Mortain and Duc de Noailles – families registered, in archives. Are they of the same ilk whose fathers set up France's Revolution, after practicing in the American Revolution under masonic hands. The dark arts prevailed?

6. The King of France's GODSON Baron Charles de Thierry came to N.Z. to claim a 'realm' said to be given him by Hongi Hika in 1821, when they met at Cambridge University and Hongi Hika sold him 40,000 ac. in Hokianga. The 'realm' the Chief offered according to Rex Bennet's works, was from North Cape to ca. Whaingaroa and across to the East Coast. The Tainui king had de Thierry advisors. It went on to now. A serious issue today is the Maori king's ancestry – not pure Maori. Due to de Thierry's 'army' trained over in Tahiti and brought here where they cut loose, added to the 'foreign' blood throughout N.Z. They told some chiefs not to sign the Treaty. Our Ngai Tahu had lost so many initiated chiefs up to 1840 only a few had status to sign the Treaty – or own fishing or trading vessels.

7. French priests, 'minor nobles,' were posted around the Pacific and N.Z. who left heirs when, almost magically they were replaced by the Irish sector. Dr James Belich, in his 'The New Zealand Wars,' p. 316, suggests that 'foreign priests' fostered the wars. C. of E.'s Hadfield, a nervous man befriended by mainly Catholic Wellingtonians, fostered the Land League that took over in half the N.I. He also didn't detect the remarkable 'spiritual' duplicity of the witty 'tohunga' or priest, Wiremu King /Whiti of Waitara. He helped to train Te Whiti of Parihaka who used tribal 'cult' methods including native sedatives for 'Peace' in their protests. Men/women were high on corn liquor, brewed in pits chiefs hadn't wanted, and sold 'illegally.' By chance I wasn't far away when a large German faction held initiations in Dunedin – some descend from the hardy gold-miners since the 1860s. Not many were early land buyers.

8. Maori chiefs deliberately encouraged outbreeding for health and to lessen the blemishes caused by the inbreeding and such semi-toxic foods etc, as Fernroot and frond. Our family have the last mutations. Chiefs begged for access to common law classes, attained after the new Representative Parliament could sit and pass statutes. They changed partly to a new (private) court process by two laws, and 'Bill of Rights' Punishments.. Capital cases went to open court. Good changes occurred at and after the 1860 Conference.

9. Deliberately early Maori leaders GAVE AWAY to the Crown, for the happiness of the Treaty in 1840 Most of their Fishery RIGHTS 'for all to benefit.' WATERS, even creeks, and coasts belong to the nation/public by ADMIRALTY LAW. It also includes the British Commonwealth. And Bolivia whose systems they want N.Z. to COPY.

10. Waitangi Tribunal is selective in whom they hear. Some judgments are woolly. And dishonest. A PLOT. Two months ago, Hon Koro Wetere boasted/confessed 'Maori can bypass public records, Maori Land Court by claiming 'State-owned Enterprises' – created so Maori can take over N.Z. . 'they' plan to bless and to certificate all IMMIGRANTS – making them 'honorary' or 'de facto' Maori. But we're mainly 'Coloureds.'



Part-

## BOLIVIA'S CONSTITUTION

### 'ABROGATING the 1967 Constitution'.

Cryptically in the final pages, the authors of the Bolivian Constitution explain its status. By comparison with New Zealand, a maritime nation, Bolivia is *land-locked* and relies on waterways and Naval powers in indirect routes. Upper reaches of the Amazon River allow access, through other countries' territories. Other river sources lead elsewhere. Note 'Pacific.' In the Spanish language with much of the Iberian idiom, not only does the document not translate readily in non-Spanish languages, noun endings have 'male' and 'female' values. Expressions and word order are 'foreign.' Note also Castilian is the first language for Bolivians for public needs, while public servants are mandated to include a second language from territories.

Though New Zealand attracted whalers and sealers, and explorers or scientists saw the first early settlers and traders - 'Lost' and 'Found' around the long, entire coastlines - Bolivia challenged all strangers. Hence the expression, 'Geographical realities.'

Their Constitution reflects that. One of the best research manuals or books comes from 'Lonely Planet.' Attached are a few pages, adding to general knowledge. Several classes of the peoples, plural, were 'Lost' or never found in recent times since Columbus in 1492, until Spanish adventurers and religious leaders arrived. Invaders found it difficult to 'civil-ise' some of the peoples.

For Book Twenty-two, 'South Africa,' I used material from the *Blaustein Series*, Constitutions of the World, 1980s. Colonising nations who were granted (really ordered) to *take, or continue responsibility* for developing nations, are listed on Page 1 of the 'INDEX' in this booklet.

Without enough access to 'tribal' or 'village' law and systems, it's easy to believe Bolivian tribes, 'nations,' 'peasants' or groups have developed faster than the Bantu Home States did in South Africa. The above Constitution says that Election is by a *UNIVERSAL and DIRECT* vote.

At first when learning about the Home States' cultures, I thought it was wrong that the ten tribes asked Queen Elizabeth II for private legal systems, without the 'DIRECT' vote with other S.A. citizens - after all, 'everyone' came together for annual Sports. HOWEVER the *NEW CONSTITUTION* of South Africa still has to follow the *INDIRECT* and *LOCAL SYSTEM*! It's very ancient. The ancient system 'allows' - insists upon - an 'electoral college.' Instead of having 'one man one vote,' most rely on 'One village, one vote.' Or depending upon population (how many men were initiated ritually even circumcised), it could be 'One village two votes - or three.'

My Maori ancestors lived under that rule. It's *BIBLICAL*. And *UNIVERSAL* with local variations - Asian, Pacific, African, South or North American ...

In modern times, hundreds of tribes use that rule, UNTIL their chiefs ask for (gradual) changes to common law. Aren't we all related, but live and work at a totally different pace? S.A.'s tribes followed the true, ancient Biblical - and Roman - 'apartheid,' as it's '*natural justice*' in Western countries and dependencies - the British and the Dutch simply followed the sequence and development firstly of Roman Law then Christian societies. Dependencies were 'recognised' if the tribes were not as unsettled and overlapping as most of N.Z.'s Maori chiefs were. Maori 'ariki' and 'rangatira' helped Government reorganise their realms by freeing half their 'serfs'. They sold TWO-THIRDS of N.Z. to FOREIGNERS but much had to be given back, especially the largest estates. So gradually chiefs resold to the Crown and quit large chunks of their liabilities, that stemmed from terrible behaviour to other tribes. Back in 1814, N.Z. was made a dependency of New South Wales. Good common law was available from 1828. That continued until 1841, so it 'covered' the 1835 Maori Confederation, the 1840 Treaty of Waitangi (which 'ratified' the 1835 status) and in turn was 'ratified' by the November Royal Charter. Every such treaty cannot be valid until a charter is signed and accepted. Acceptance was in May, 1840.

When Government helped chiefs to restructure their 'kainga' or 'heiden,' the chiefs also begged for access to some common law training. Almost overnight and through a whole month's legal training at the 1860 Conference, they adopted a new, private court process (and 'Bill of Rights' punishments), arranged EXTRA laws for Half-castes, benefits for most of their people and asked for help in learning English (or made it mandatory IN SCHOOLS). Roman and Frankish-Dutch Law made 'heerlijk-heiden' an honour for their noblemen... their 'heer.' Each held land in a 'heid' - or in a series of districts there were 'heiden.' Home-lands.



While Maori asked for changes as early as 1820 - too soon - chiefs arranged an essential Half-caste law in 1844, not long after the Treaty in 1840. In Australia, separation or 'apartheid' can change by the time 'private punishments' and other customs slip out of sight. Mainly in remote country areas of S.A. private punishments seem to be organised by a series or 'jury' of the harshest 'herbalists' etc.

N.Z. Law Schools don't deal with Comparative Law at tribal levels - that's been left more practically at the levels of Anthropology and Pharmacy. It's still rather soon, because of the traditional medicines woven in with fortune telling or politics. Religion?

The authors of Bolivia's Constitution say firmly the State is 'independent of religion,' often with the Roman Catholic Church in mind. On the other hand the document shows that Religion in Schools is needed. Teachers of religion - in any given area - must not use classes etc. for 'personal' profit. Quite clever isn't it?

By comparison with *the British Commonwealth whose mainstream religion separated earlier from Catholicism than in Bolivia*, Church-and-State rules make very sure there is little fear of domination. Various political cults dominate otherwise, in financial realms, where mystique crosses borders among female and/or male oath-taking, incense-using members. Sometimes the mind may belong elsewhere, in the wrong places.

Since the Catholic Church's PLAN for N.Z. began in the 1820s, and let half of the Maori tribes accept indirect leadership but made certain mistakes, Life was hard. Lately the Press released more facts. How fortunate - more libraries feel free to follow.

One of the many, many sticking points over the Catholic Church's PLAN, is the gradual removal of Local Government toward provincial republics as in Auckland. Instead of boroughs and counties, where folk vote for people they know, and immigrants may more easily find assistance, there's confusion. ANOTHER POINT is that the Pope is privately crowned as sort of 'king' of the world, yet Queen Elizabeth II was seen, heard and acclaimed publicly - blessed for a 'free' Commonwealth. So when will all tribal leaders confess that most of them switched to freedoms for all?

Since the 1950s, Maori leaders 'civil-ised' tribes and lifted their 'peasant' equivalent to a citizenship level. Bolivia's Indigenous peoples are looking ahead.

One of the features that might need positive expression is 'trusteeship.' This is clear in New Zealand's 1840 Charter. Once details were in new N.Z. Ordinances, there had to be a fresh charter in 1855. Statutes came next. Another feature 'developing countries' are talking about is 'private punishments.' Both in S.A. and Australia's Northern Territory a few groups maintain 'cultural' or 'spiritual' (cult / craft) methods.

The Bolivian Constitution is a 'republic' yet with a system of separation AND unity, may we appreciate status more as a remarkably interesting 'commonwealth'? In my view Spain is just as interesting. Germany, USA, Canada and other realms have quite vital 'commonwealth' obligations, comparably.



# THE BOLIVIAN CONSTITUTION PAGE 2

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**From:** Jean Jackson  
**To:** <constitutionalreview@justice.govt.nz>  
**Date:** 26/07/2013 4:36 p.m.  
**Subject:** CAP Submission

4611a)

To the CRP, WELLINGTON

Dear panel members,

As email is not quite sufficient for special submissions to pass from me to you, I am sending more by land post.

My Maori and non-Maori mentors claim the 1835 partial- Confederation as New Zealand's founding document, being valid partly due to their invitation to 'other tribes' to join; also because everything was valid conditionally that was done since N.Z was a dependency of NSW from 1814 to 1841, and under the Supreme Court Act 1828.

Australian professors of law are interested, also students. It appears fitting to attach all reviews to the Australian authorities, whose libraries send documents not known or maybe not used here.

NZ is under Admiralty law, even creeks as well as coasts. So is Bolivia... Attached will be our INDEX of most of the Bolivian Constitution.

Due to the foreign, even French and Vatican influences in your deliberations, our researchers see it as fitting for you to bring out the real history of Commonwealth laws; and follow with reasons for Maori criticisms.

We've located reasons for the 'Confiscations' - coming largely from the 1859 'giving' to Te Whero Whero, of Taranaki and Waikato. The 'takings' therefore were RESUMPTIONS, I've given Te Tuheitia's office all my books, the churches etc. etc. I'm sorry.

Yours faithfully, Jean Jackson aka Elkind.



## 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.

Jruth Jackson  
Auckland  
New Zealand

3612

**From:** <webmaster@ourconstitution.org.nz>  
**To:** <constitutionalreview@justice.govt.nz>  
**Date:** 15/07/2013 10:16 p.m.  
**Subject:** http://www.ourconstitution.org.nz/ form submission

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

Full Name: Lydie Faye Jackson Organisation Name: Email:  
Phone: Postal AddressA: Postal AddressB:  
Postal City: Porirua Postal Region: Wellington Postal Post Code: Postal Country:  
New Zealand Submission: Q1. I believe the constitution should indeed be written in one document  
so that it is clearer to Parliament, The Courts and The People what the constitution states to avoid  
misunderstandings in the future about what is legal or not legal for Parliament  
to pass, The Courts to rule or The people to challenge. However I also think that it would be wise for  
the constitution to be open to review on a regular schedule of time (every x many years, to fall on a  
non census and non election year).

Q2. I absolutely agree that the constitution should be a supreme law under which other legislation  
must abide. It is with utter disgust that this year alone we have seen several laws changed or created  
to protect the government of fair scrutiny from the people.

The main and most upsetting example of this is the legislation that has been made to prevent parents  
of disabled adults being able to take legal action against the government. The case that was fought  
and won by the people revealed that it is against human

rights to deny parents that are full-time caregivers of their disabled children the same payments that  
the government would otherwise pay to home care providers or residential care units. The parents of  
such children have no real options but to remain the

main carer regardless of what payment they might receive and even if they were to find suitable care  
they are still considered unemployable by the general job market because they might be called away  
from their job at anytime to care for their child if they

become unwell or have hospital appointments (which is all the time). The way that the issue has  
been dealt with scares me as I have a young child with disabilities and I am concerned that I might  
never be able to get a job so I can begin making KiwiSaver installments

and I am worried about what might happen if the Pension scheme is removed before I reach  
retirement (this is highly likely as I am only in my early 30's) and I will have no options but extreme  
poverty for me and my son if my husband were to die before me all

because the laws the government broke when they made that legislation are not supreme. Most New  
Zealanders have no idea of what the future consequences of that legislation will be and they will likely  
turn a blind eye to it but to me it says the Parliament

denies me and my family it's human rights and so does the legal system by not rectifying what is a  
grossly humiliating miscarriage of justice. Yes, the constitution should be supreme and Parliaments  
should be held to account for illegal legislation not just  
told they should know better.

Q3. The Courts should be given the power to rule on what is consistent with the constitution.  
Parliament has far too much bias to be able to manage that power effectively where as The Courts  
are bound to stick to the facts and legalities surrounding the constitution.

It is easy enough to set up specific Courts to deal with specific problems where as Parliament has far  
too many outside influences that would be likely to cause skepticism of the fairness of it's decisions.

Sent on the 15 July 2013 at 22:14

3988

**From:** <webmaster@ourconstitution.org.nz>  
**To:** <constitutionalreview@justice.govt.nz>  
**Date:** 28/07/2013 9:59 p.m.

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

---

Full Name: Michael Jackson Organisation Name: Email: Phone:  
Postal AddressA: Postal AddressB: Postal City: Auckland Postal Region: Postal Post  
Code: Postal Country: New Zealand Submission: How should Māori views be represented in  
Parliament?

As they are now, no change.

How could Māori electoral participation be improved?

Continue advertising.

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

As they are now, no change.

Submitted on the 28 July 2013 at 21:58



2673

REC: 16/7/13

## Quick Submission

Your name:

Maureen Yvonne Jackson.

Name of the organisation you represent (if applicable):

NA.

Postal address or email address:

Tauranga  
New Zealand

It is a great deal of concern that I read of the strong possibility that the Treaty of Waitangi may be imbedded in our institution. Maori is not the cultural heritage of all NZers but only a very small minority who elect to call themselves Maori even though they are in it half casts. The Maori customs they choose to adopt have permeated into our society @ so many levels to the extent it has become intrusive.

It is time to take a very serious <sup>look</sup> at what is happening in our society & consider the majority of our population who regard themselves New Zealanders & a variety

of nationalities & cultures to be celebrated. Singapore is a good example of this.

The billions the taxpayers have given in the way of "Treaty Settlements" have not filtered down to those so called Tribal Members who are in need. The Govt continues to be expected to assist.

If we are EVER to become one nation, one people we have to give equal opportunities in everything to all nationalities who make up New Zealand.

The fact that apartheid is now alive & well in NZ is an absolute tragedy. This must be addressed NOW by not allowing the "Treaty" to play any part in New Zealand's new Constitution.

### Privacy and Confidentiality

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

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

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

## Submission to the New Zealand Constitutional Advisory Panel 2013

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

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

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

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

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

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

I therefore submit the following recommendations:

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- The 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.

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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.

Patrick Jackson  
Auckland  
New Zealand



922

**From:**  
**To:** <constitutionalreview@justice.govt.nz>  
**Date:** 27/05/2013 9:20 p.m.  
**Subject:** <http://www.ourconstitution.org.nz/> form submission

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

Full Names: Peter Mark Jackson Organisation Name: Personal/Self Email:  
Phone: Postal AddressA: Postal AddressB: Postal  
City: Auckland Postal Region: Auckland Postal Post Code: Postal Country: New  
Zealand Submission: 27 May 2013

To the Ministry of Justice and the Constitutional Advisory Panel.

It concerns me that the Constitutional Advisory Panel is made up of a disproportionate number of Maori representatives. The Panel is imbalanced in its representation.

I am suspicious that some of the panel will be pursuing personal and/or cultural agendas.

I therefore charge the members of the panel, especially the Maori members, to put aside your prejudices, especially for your own Maori culture and your bigoted racial prejudices against the British, the English people, their descendants in New Zealand, and our Anglo Saxon heritage that made this country a first world nation.

If the panel is not completely neutral and unbiased it will be at odds with human rights and democracy.

I would like this submission to be brought to the whole panel's attention and for the Ministry of Justice to be put on notice that the Panel is indeed imbalanced and that caution should be taken in evaluating any findings and recommendations from this panel.

Sincerely

Jackson

(My electorates Member of Parliament)

Sent on the 27 May 2013 at 21:19



922a

**From:** <webmaster@ourconstitution.org.nz>  
**To:** <constitutionalreview@justice.govt.nz>  
**Date:** 28/06/2013 10:44 p.m.  
**Subject:** [http://www.ourconstitution.org.nz/ form submission](http://www.ourconstitution.org.nz/form submission)  
**Attachments:** What are your aspirations for Aotearoa New Zealand.doc

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

Full Names: Peter Mark Jackson Organisation Name: Individual Email:  
Phone: Postal AddressA: Postal AddressB: Postal  
City: Auckland Postal Region: Auckland Postal Post Code: Postal Country: New  
Zealand Submission: Submission Upload: What are your aspirations for Aotearoa New  
Zealand.doc

Sent on the 28 June 2013 at 22:43





What are your aspirations for Aotearoa New Zealand?

### **My aspirations for New Zealand.**

Firstly drop the Aotearoa as a dual name with New Zealand.

New Zealand is known as New Zealand all around the world, to try and brand it Aotearoa New Zealand to appease the Maori heightened sense of entitlement is wrong, it will be costly for New Zealand and this duality has not been approved by the New Zealand electorate that puts the Crown in power and to whom the Maori are subject as prescribed in the Treaty of Waitangi.

So drop the Aotearoa, no one else the world gives a shit about it, they know and trade and esteem New Zealand. Leave it that way. Why confuse the rest of the world and lose more of the world's confidence in this nation.

The Maori can call it Aotearoa amongst their own as agreed in the Treaty of Waitangi.

### **Aspirations:**

#### **1. For New Zealand to be called/referred to as New Zealand.**

(not a double barrel name that includes Aotearoa )

Because for almost 200 years value and esteem has been built around this nation known as New Zealand. We now have wealth and esteem built on our nations name New Zealand.

#### **New Zealand has;**

Trade value  
Sporting value  
Historical value  
Cultural value

#### **2. For Christianity to be New Zealand State Religion.**

New Zealand used to be a first world nation. Now it is teetering on becoming a third world nation. We have third world diseases in our hospitals and communities, poverty and poor education in people groups that shouldn't be under achieving, namely the Maori and Pacific Island communities. And our economic, trade deficit etc is pretty grim.

This has happened because we have lost our moral compass, over the last 40 years we have smashed our historical foundations that built this nation. Now we are reaping the results.

So, what could we or should we do?

A solid base, foundation to build on.

**What is New Zealand?**

New Zealand is a British Commonwealth Country, with the Monarch as our head of state. The British Monarch is also the head of the Church of England (Anglican), so that makes New Zealand a Christian Nation. Our laws, parliamentary prayers, national anthem are established on Christian principles and honour the Christian God.

Our aspiration should be to make law that New Zealand's **state religion is Christianity**. And that our laws, customs, values be aligned with Christian values and guidelines. This will mean that Maori will have to accept that their Gods, ancestral spirits and customs will be subject and submitted under the Christian God as outlined in the Treaty of Waitangi.

### 3. Who is a New Zealander?

A New Zealander is a person who recognises the British Anglo Saxon heritage of this country, believes in it, celebrates it and looks for ways to strengthen and continue the values and ingenuity that comes from that base.

A New Zealander recognises and acknowledges that the Maori were the dominant primitive people group in this country. A New Zealander acknowledges that Maori have a history and can practice their culture amongst their own people, as prescribed in the Treaty of Waitangi, without Maori imposing their customs on other New Zealanders.

Maori are New Zealanders, treated the same as other New Zealanders, with no special rights or privileges or extra resource as agreed in the Treaty of Waitangi.

Just being born in New Zealand does not make you a New Zealander. To be a New Zealander is to be assimilated into the New Zealand culture, familiar with our history, customs and values. Immigrants, New Zealand born children of immigrants should be expected to assimilate to the New Zealand culture.

**New Zealand Culture** with many other cultures.

Many politically correct\* communists like to celebrate that New Zealand is Multi Cultural. This is a wrong way to express, celebrate, build New Zealand. Being Multi Cultural weakens our national identity. It weakens who we are, it weakens the Maori too. A better way to view it and to express it, is to say that is New Zealand has our own culture and there are many other cultures that live here too who a progressively assimilating to our culture and way of life to build a strong nation.

*\*Political Correctness has its origins in communism. It is about conforming to political and social ideologies and scorning, ridiculing, restricting, restraining and public humiliating those with opposing views. (Check the history yourself, it's true and this is what is now happening in New Zealand)*

To summarise we need a strong foundation based on our:

Christian heritage, the 10 commandments etc

British heritage, its laws, industry, values and work ethic etc (based on the 10 commandments).

A strong New Zealand national identity that other cultures are expected to assimilate into to be New Zealanders.



Post Script: Immigrants have left their country of origin because it was basically shit there, they come to New Zealand because it is basically better here. So immigrants should have no special human rights for their culture in New Zealand, if they insist on their rights, tell them to go back to whence they came from. Really bloody simple.

#### **4. Education**

Primary. A better core, basic education, fundamentals.

Secondary – Keep repeating the core fundamentals, basics... Continue with most of the diverse range of subjects and interests.

Tertiary – I have read in recent times that some European country of similar population size and GDP has half the number of Tertiary subjects and qualifications available to their students as does New Zealand.

New Universities and Tech's need to trim the number of subjects and working with industry and the Government plan for what New Zealand needs and what we can contribute to the world. Sometimes less is more.

Our students need jobs at the end of their qualifications too.

#### **4. Industry**

Subjects, qualifications, jobs.

More than two decades ago it was mooted that New Zealand needs to add value to our products and exports. To move our products from primary products to secondary products with added value. My observation is that has not happened at all, or to an significant degree.

Add value, get with it. We are an isolated country, expensive to get to, expensive to export from. What can we give the world that they haven't got yet.

And Research and Development.

It would be nice in New Zealand was more than primary products, forestry, tourism and the Haka (that is no longer unique because the other pacific island countries do their versions now)

(NB: Running out of time to give this the time it deserves, Have submitted on all other aspects of the Conversation)

#### **5. Laws**

A Bill of Responsibilities (that supersedes the Bill of Rights)

**6. Sports Identity** – Would like to see New Zealand known for more than being a good Rugby playing nation. The high performance sports funding is okay but it only supports what we are already good at. And some of those sports don't rank all that highly worldwide. I'd like to see some funding and effort into glamour sports that will lift New Zealand's profile as well when a sports person excels in an important sport.

8. Government – Ah fuck, ain't got time to expand on this .

#### 9. Immigration

Plan and Manage Immigration. Return to country of preference based immigration. And plan immigration, i.e. Whangarei needs boat builders and marine specialist, send those skilled people there, Wellington needs civil engineers for major roading, send those sort of skilled worker there. Invercargill needs scientist and deep sea drilling experts – send those skilled immigrants there etc, etc.

I'm sick of living in Auckland where Indian and African groups have settled in Mt Albert and Mt Roskill, South Africans are now become a dominant ethnic group on the North Shore. The Asians are out East Auckland. And with Pacific Island groups down south Auckland. They should have been told to go to different provincial towns and cities and jobs available to them. Instead of the majority of immigrants flocking to Auckland. It is a disgrace that recent successive governments have allowed this to happen.

During the 1950's when there was a large number of English immigrants to NZ, they were directed to provincial towns etc and were bonded for 2 to 3 years to stay in those towns. And we should do something similar again – because it's this country's human right to plan and build this country to a blue print for success

### **How do you want the country run in the Future?**

#### **Government** Continue MMP

Conscience votes of MP's must follow that of what their constituency wants. (Party List MP's to follow the constituency of the area where they live) MP's are representatives of their local electorates, there should not be individual conscience votes for the MP's themselves. They must follow what the conscience of their constituency directs them to do. This info can be gathered by polls, public meetings, etc. But MP's must follow what their Constituency directs them to do. End of story.

Hui's – the Pakeha voters of NZ should have a voice on Maori issues. The Crown is voted in by the people, the Crown should have Hui's with the Pakeha people in regards to Maori issues as well.

More Referendum on contentious issues instead of Government parties and pressure

groups grinding their axes to get what they want. The Switzerland model might be an interesting place to start looking at alternative models to what NZ employs.

### **Maori**

It's a shame the French didn't invade New Zealand and take over New Zealand Really. Enough said.

### **Treaty of Waitangi**

The Principles of the Treaty: Partnership, participation, protection – need revisiting and a complete overhaul. If you bother to read the treaty the Maori are guaranteed protection and partnership the same as other subjects of the Monarchy, that's all.

No Partnership – it's not there in the Treaty and scant info in other material.

I do not want the Principle of the Treaty of Waitangi to be part of the NZ Constitution. As stated on the conversation site – the Principles evolve and change, so the Principles have no place in the Constitution.

That's it – I've run out of time. I've said my bit to try and make New Zealand a better place. At this point I'm pretty discouraged with where NZ is at and the direction it is taking. Ask yourself, why are so many people leaving NZ? It is not just because of job opportunities, it is the social, political bullshit that is going down (including political correct communism). And it has to be shouted out that a lot of people in New Zealand are sick of the Maori bullshit and Treaty crap that is also going down. And I am not racist. It is just the facts, so wake up and smell the coffee.





922b

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

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

Submission: Electoral Matters

1. How many members of Parliament should we have?

100 to 110 MP's (i.e. 63 to 70 electorate, 7 Maori about right, 23 to 30 list MP's)

Why? I support MMP and want it to continue. I think that the number of list MP's could be and should be reduced and perhaps the number of electorate MP's increased a bit. MP's should reflect and represent the wishes of their electorate, currently with 51 list

members there is a concern that these members are pushing their own/parties agendas, with no accountability to an electorate.

2. How long should the term of Parliament be?

3 years is about right.

Why? If you have a good government they'll get re-elected anyway, if you have a bad government a 3 year term is long enough and gives the electorate the opportunity to vote them out. To much damage can be during a 4 year term if you have a poor performing government.

3. How should the election date be decided?

By consensus. Under normal circumstances, towards the end of the 3 year term, The Prime Minister to advises parliament of 3 or 4 dates as an option and then parliament takes a vote. If a Prime Minister and/or government finds they can no longer govern, I think

that a consensus vote is still appropriate.

Why? It's democratic. Stops an unethical Prime Minister from "blindsiding" the opposition with an unexpected or a disadvantaging date.

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

Population size and Geographical size.

Why? In urban areas the dominating variable is population size and geographical size would be relative similar. In rural areas the catchment area for the same number of people is obviously much greater, but I think that in rural areas the geographical size

should be smaller, with a smaller population representation. This could work with a minimum and maximum population representation formula and a minimum and maximum geographic area formula too.

5. What should happen if a member of Parliament parts ways with the party from which he or she was elected? Depends: (A) If a member rebels and voluntarily leaves a party, he/she should stand down/resign from parliament and leave the seat vacant for another member

of the party he/she previously belonged to. (B) If a member is sacked/stood down by the party's leader or executive I believe they can still stand as an independent member. Unless they've committed a significant criminal act.

Examples:

Winston Peters / NZ First expels Brendan Horan from their own Caucus over alleged financial shit surrounding his dead mother's estate, leaving Horan little option but to declare himself an independent MP. (or resign) NB. to my knowledge there was no police

action taken against Horan, so his leader treated him poorly, so I think he should stay as an MP.

Nationals list MP Aaron Gilmore, although he acted in a disgraceful manner, he did apologise, he was and probably still is a cock. It was the media and the politically correct faction that forced him out. His party didn't ask him to leave, it was pressure from

media cocks and the weak minded politically correct.



United Future: Peter Dunne and alleged leaked emails and party leadership status etc. He has stood down as a minister, but once again it is the media that is interfering in politics. There should be boundaries against the media launching media assassinations

and trials by media. Fucking disgraceful. Fuck the media. Where has objective journalism gone?

He (Dunne) can and should still be an MP for his electorate until his electorate decides at the next election.

Postal Country: New Zealand Full Names: Peter Mark Jackson Organisation Name:  
Individual Email: Phone: Postal AddressA:  
Postal AddressB: Postal City: Auckland Postal Region: Auckland Postal Post  
Code:

Submitted on the 16 June 2013 at 18:51



922c

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

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

Full Names: Peter Mark Jackson Submission:

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

No. I'm supposed to have freedom of religion, and that my religious beliefs have rights too. But that's not the case if you're a Christian.

Why? Well, when you all read (or heard that) you all rolled your eyes, wrinkled your noses and snorted, didn't you!.

I rest my case.

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

I think "rights" are over protected now as it is, to the point where some peoples or groups rights are usurping other peoples or groups rights.

3. Do you think the Act should have a higher legal status than other laws (supreme law)? Hell NO. No, No, No.

Why? There is an over emphasis on Rights, rights, rights. My rights, stamp my feet, throw a tantrum until I get my selfish rights meet. A lot of "Rights" are self centered, self serving.

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

Both parliament and the courts.



Why? checks and balances.

5. What additional rights, if any, could be added to the Act? That a National / collective / community has a right over that of an individuals or small groups rights. (expect basic - life, food, water, warmth, health, family/community contact rights).

Post Script: A thought.

I would like to see a - Human Responsibility Act.

Swap it around from "Rights" to "Responsibilities"

An adult/parent is responsible to feed, cloth, protect their children adequately.

An adult/parent is responsible to make sure their children receives an appropriate education.

Heterosexuals who have sex and conceive are responsible for the child from go to woe. Not the government, not the taxpayer.

An employee is responsible to put in an honest days work.

An employer is responsible to treat employees with respect and dignity etc. And to pay them the highest they can, not the lowest they can get away with.

And so on...

Organisation Name:	Individual	Email:	Phone:	Postal
AddressA:	Postal AddressB:	..	Postal City: Auckland	Postal
Region: Auckland	Postal Post Code:	Postal Country: New Zealand		

Submitted on the 16 June 2013 at 19:25

922d

**From:** <webmaster@ourconstitution.org.nz>  
**To:** <constitutionalreview@justice.govt.nz>  
**Date:** 7/08/2013 3:40 p.m.

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

Full Names: Peter Mark Jackson Organisation Name: Individual Email:  
Phone: Postal AddressA: Postal AddressB: Postal  
City: Auckland Postal Region: Auckland Postal Post Code: Postal Country: New  
Zealand Submission: Maori Representation

1. How should Maori views be represented in Parliament?

I think the Maori representation in parliament is about right. Maori can vote on the general roll or on the Maori roll (Maori seats in Parliament), the number of seats being 7 at the last election. That seems fair.

Maori have equal right to vote. They also have an extra right (not allowed for under the treaty of Waitangi) to vote on the Maori roll.

Who is Maori?

I am 1/2 English, 1/4 German, 1/8 Swiss, a 16th Scottish and Irish, born in New Zealand. If I wanted, automatically, to get German citizenship and rights they'd laugh at me. If I wanted a Swiss passport I'd be declined, wouldn't even pass the first hurdle.

I might get an English passport based on my Grandparents. Might. That's because I'm half English and a New Zealand Citizen (part of the Commonwealth). It's not a given though. So what determines of distinguishes a Maori? I think and believe that if someone

is less than a 1/4 of a specific people group (Maori) they should not be automatically considered Maori. I believe that if someone is less than a quarter they should have to be subjected to questions and criteria to determine their commitment and involvement

in Maori affairs and culture before they be given the right to call themselves Maori. It is absurd that 1/8, 1/16 and 1/32 etc consider themselves Maori, it just means they are much, much more some other culture first. This is a practice that must stop.

## 2. How could Maori electoral participation be improved?

Preferential Maori representation and participation should be discouraged. Maori now have equal rights to vote in general elections (as laid down in the Treaty of Waitangi - Article 3 - All the rights will be given to them the same as her doings to the people

of England). Any special treatment or representation is a breach of the Treaty.

That being said that the Maori are in breach of the Treaty, it is an established way and forum for the needs of this people group to be expressed.

But the Maori are pretty stupid, ignorant, thick and usually end up imploding and shooting themselves in the foot. E.G. NZ First and its Maori members! (2 or 3 elections back). The Maori Party now and their in-fighting! Honi Harawira!

A helpful suggestion: Why don't the Maori MP's vote/select a "speaker", endorsed and recognized by parliament. Who could collectively, across the different political divides, (Labour, Maori Party, NZ First, Mana Party etc), speak on behalf of all Maori on really

important, passionate Maori issues, but still retain Party identities and ideologies. Strength in numbers, strength in unity.

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

I think that is adequately covered by existing legislation. Where local governments can appoint Wards or get consultation from local Maori etc.

Don't forget the Treaty only allows Maori to practice there culture amongst themselves, not to impose



their culture, practices and beliefs on Her Majesties people.

Submitted on the 16 June 2013 at 20:42



922e

**From:** <webmaster@ourconstitution.org.nz>  
**To:** <constitutionalreview@justice.govt.nz>  
**Date:** 7/08/2013 3:40 p.m.

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

Full Names: Peter Mark Jackson Organisation Name: Individual Email:  
Phone: Postal AddressA: Postal AddressB: Postal  
City: Auckland Postal Region: Auckland Postal Post Code: Postal Country: New  
Zealand Submission: Treaty of Waitangi

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

The Treaty of Waitangi should be part of our constitution.

Just the treaty itself, not the principles, because as stated the principles are not definitive and are evolving depending on what Maori want next.

The only principle in the Treaty is - Protection.

Participation is only equal to other citizens of Her Majesty.

Partnership? I don't know who or how that was dreamed up. It just isn't in the Treaty. It's not there. The emperor has no clothes!

The Treaty is a legal document that gives the Monarch sovereignty and government of New Zealand. In both the English and Maori text, the Maori signed and gave up Sovereignty and Government of their land. Without a shot the Maori had been conquered and this

is no longer their land.



In exchange they received protection from the Crown, and the right to participate the same as other English citizens, no more, no less, they were also extended the right to practice there own culture beliefs and practices amongst their own people on their Marae's,

and/or land. But not to impose those beliefs or primitive culture onto Her Majesties people. If you read the treaty it's all there.

So the Treaty protects English European settlers and their descendents, and guarantees them an English Anglo Saxon, commonwealth country with a peaceful, conquered pacific Island peoples.

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

Yes. But only the Treaty itself. As stated, to demonstrate that the English have sovereignty over this land called New Zealand. That Maori can live here in peace, with protection in what was formally their land.

The so called principles should not have any part in any constitution, because they are ill advised and the principle interpretations perverted from the original intent of the Treaty.

The Principles are overdue for a major review.

Submitted on the 16 June 2013 at 22:14

1825

R. A. Jackson

Rapamoa

17 June 2013

The Secretariat  
Constitutional Advisory Board  
Of Ministry of Justice  
DX XS 10088  
Wellington

Dear Sir/Madam, I would like it known  
that I am totally opposed to a written  
constitution and especially one that has  
the Treaty of Waitangi as its cornerstone.  
The Treaty while being a worthy document  
in its time seems to have almost served its  
purpose. What I want to see is a free  
New Zealand where every citizen irrespective  
of ethnic background has an inalienable  
democratic right to free expression and  
participation in the process of government.  
No country can afford to have two or  
more sets of rules because of ethnicity.  
History shows us clearly that "apartheid"  
can only fail. Having said that I have

3.

to say that the righting of past wrongs  
has been and still is absolutely necessary.

We can and need  
to build a prosperous nation based on  
trust, cooperation, common sense and  
common law and in the process quietly  
remove the need for greed and selfishness.

One land, many peoples, one law.

yours faithfully

5240

**From:** "Robyn Jackson" <  
**To:** <constitutionalreview@justice.govt.nz>  
**Date:** 31/07/2013 3:27 p.m.  
**Subject:** submission

Below is my brief submission.

Any new constitution for New Zealand should have as many checks and balances on all positions of governmental power.

These should include:

- 1/ The retaining of the Monarchy and the Governor General.
- 3/ A legislative body outside NZ that NZ citizens can appeal to such as the Privy Council (not the United Nations which currently includes some countries with serious human rights abuses.)
- 4/ An Upper House
- 5/ The three year term for governments being retained.

Any new constitution must also include the Treaty of Waitangi.

Yours Sincerely

Robyn Jackson

Hamilton



4741

**From:** <webmaster@ourconstitution.org.nz>  
**To:** <constitutionalreview@justice.govt.nz>  
**Date:** 31/07/2013 2:36 p.m.  
**Attachments:** WJ ConstitutionConversation.docx

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

Full Names: Winifred Beth JACKSON & Barry JACKSON Organisation Name: Email:  
z Phone: Postal AddressA: Postal  
AddressB: Postal City: Palmerston North Postal Region: Manawatu Postal Post Code:  
Postal Country: New Zealand Submission: Submission Upload: WJ Constitution  
Conversation.docx

Submitted on the 31 July 2013 at 14:35



28 July 2013

Palmerston North

Our names are Barry and Winifred Jackson. We are both retired university lecturers. We would like to make a submission to the NZ Constitution Conversation.

As New Zealanders we are proud of our country and its reputation on the world stage. The stand taken to prevent nuclear-powered vessels coming to our harbours, and the protests about nuclear testing in the Pacific, and against racism in sport are examples that come to mind.

However, New Zealand now faces a future where pressures of the global market, and the influences of other countries in trading and security partnerships, and the rapid advances being made in digital communications all work to make it harder to sustain a principled independence. There seems to be an increasing tendency to make reactive legislation without proper thought to how it might impinge on human rights and the expected principles of government.

We have two main areas of concern, firstly the secure protection of human rights and, linked to that, the need for entrenched checks and balances on the exercise of the powers of the three branches of government.

The New Zealand Law society has recently reported to the United Nations that in New Zealand a number of recent legislative measures are fundamentally in conflict with the rule of law.

The Law Society president Chris Moore said

"Without a supreme bill of rights or entrenched constitution it is crucial that human rights protection mechanisms operate effectively to forestall breaches of human rights. Unfortunately on a number of recent occasions legislation has been passed despite conflicting with the rule of law and human rights.

There have been 12 pieces of legislation in recent years that have been identified as inconsistent with the rights and freedoms protected in the New Zealand Bill of Rights, and on a number of occasions urgency has been used in Parliament to limit or bypass select committee scrutiny," he says (Law Society website, item dated 19 July 2013).

Dame Anne Salmond writes "The Executive has used regulation to override Parliament, to deny citizens their right to legal representation and to cancel their right to appeal to the courts to uphold their rights under the law" (Manawatu Standard 29 July 2013).

We consider the current move to pass the Government Communications and Security Bill under urgency, is an example of misuse of process. The intention of the Bill that the only effective controls would be in the hands of politicians is another worrying aspect and we submit that this is a situation where separation of powers should be enforced, with the judiciary, rather than the Attorney General being responsible for monitoring.

To enable successive New Zealand governments to stand firm on matters of principle, we think that a Constitution which provides firm guidance would be valuable for maintaining the rights and freedoms of the citizens.

The New Zealand Bill of Rights (1990) covers human rights and political rights and is an admirable document. We should like to see it entrenched in the New Zealand Constitution so that these important rights can be recognised as principles that guide our government for the benefit of all its citizens. The widespread use of digital media means that privacy and security of information are increasingly vulnerable to misuse. Those at risk are the citizens, and the press who inform the citizens.

In relation to the issues we have raised we would suggest that there be set up a Commission or Commissioner for Human Rights who is independent of the legislative and executive branches of government. This would respond in part to the need for checks on use or misuse of power.

We hope you will consider our submissions favourably.

Yours sincerely

Winifred Jackson  
Barry Jackson



## 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.

Sandra Jacobs  
Auckland  
New Zealand

1465

**From:** <  
**To:** <constitutionalreview@justice.govt.nz>  
**Date:** 19/06/2013 2:02 p.m.  
**Subject:** DISCOURSE - O'REGAN 17. 6. 13.doc  
**Attachments:** DISCOURSE - O'REGAN 17. 6. 13.doc

Personal letter - offered as submission.

Brian J







17 June 2013

Tipene O'Regan

### **CONSTITUTIONAL DISCOURSE**

Steven,

It was a pleasure to meet and hear you tonight at St Heliers Ex- Services Hall. As I remarked, I had a distorted view of you from insufficient media information – but was pleased to listen to a thinking man. The Constitution Project is in good hands between yourself & John Burrows.

You are some years younger than I, but we have much else in common. I am the first born son of Seventh Day Adventist Missionaries; qualified as a teacher at Epsom Teachers College in 1953, went on to architecture and a career in 'planning' and acting as a defender of last choice: with design of transport corridors as a specialty.

My ethnic background is typical of the human race's biology – complex. I'm from Anglo Saxon, Celtic, Danish, French, Greek, Irish, Norman, Samoan, Scots, Welsh, and Yugoslav origins that I know of. My culture is from Hindi, Persian, Greek, Roman, Latin and other sources.

Among clients now friends, are people with Maori blood of un-established degree: such as (retired from NZ Army), (widow and victim of the Education Department), and his sons (builders and fishing from Mangonui) – with whom I have one thing in particular in common. We have all been victims of Government – the institution. It has never occurred to me to ask if they are Octaroons, Quadroons or Mulatos, (in the unattractive racist language of the southern United States). I know Winston as a loudmouth Portuguese friend.

What the bloodline issue does raise is a circumstance that I find disturbing or comical. A woman acquaintance who has no Maori in her (apart at times from a husband of Maori-mixed origins), has been pressured by her husband and four children (of lesser-part Maori blood) to enrol on the Maori Roll. Controlling how she votes will be a more difficult exercise. Several words come to mind – corruption, dysfunction, irrelevance.

This strikes me as an exercise in pretending to confirm someone's rights. Unless there is a bloodline percentage nominated, it is irrelevant – and if there was an ethnic specification, it would still be irrelevant.

2/

### **RACE / CULTURE:**

An early experience that has shaped my attitude to ethnic status to the degree that when I am asked: "Have you met Steven O'Regan?" I would say: "Yes. *Fascinating. Much more intellectual than I had presumed.*" "What is he?" "Late middle age." It would not occur to me to say: 'Maori'.

In mid 1943, with my father, mother, and younger sister we arrived at the jetty at Buca (Mbuta) Bay on Vanua Levu in Fiji. There were three missionary families on the jetty. Two names I forget, but the were different. They were a family of husband & wife plus a seven year old daughter, small for her age. was nearly as dark as my black shoes. When finally I was introduced to her, she said in impeccable upper-class English: "Pleased to meet you. What are your interests?"

To which I bumbled some incomprehensible reply about warplanes or what. She said: "Do you like poetry? Keats, Philip Sydney, Herrick, Brooke?" I knew right then that I was a colonial dropout in the presence of a young upper-class English lady. Her mother had died giving birth: the rescued her from the village to sustain her on cow's milk, augmented by New Zealand canned milk. The relatives in the village were astounded when the sought to return her, prospering at age one. Every Fijian knows what is proper – when you take responsibility for a child, it is for life: so they adopted her: and educated her.

Later at Epsom College I learned all about Nature & Nurture, and theories of the time. I have my own ideas: that we're all born savages with more capacity than our surroundings harness. Those who don't learn the basics may spend life in Paremoremo – no matter what bloodline. Those with deficient self-image input from birth to three years have disadvantages.

### **BILL OF RIGHTS:**

At the core of the Constitution project are Magna Carta and the Imperial laws that established individual rights – leading as a consequence of Eleanor Roosevelt's input at United Nations to New Zealand's eventual passing of our Bill of Rights Act in 1990.

Section 3 of the Act states that the Bill of Rights applies ONLY to acts done: (a) . . by the Legislative, Executive or Judicial branches of the New Zealand government: OR (b) Any person or body performing any function, power or duty conferred or imposed . . by law.

Is this UNIQUE in our statutes? That the Government is prohibited from being a predator to its citizens. I believe it is – which with adjustments



makes it the shortest, most succinct written constitution in the world.

3/

The status of law in New Zealand is appalling. Take for example The Building Act 2004 – which we could presume would be benign.

Section 388: . . . *"in a prosecution for an offence of contravening or permitting a contravention of this Act, it is not necessary to prove that the defendant intended to commit the offence."* (Intent for murder – not for revenue)

Section 389 continues: . . . *"A court must order that a fine imposed . . . be paid to the territorial authority or . . . the regional authority that laid the information . . ."* So this is what Councils are for?

Section 390 delivers the final insult. First, it lists everyone in any council, then it continues: *"(2) No civil proceedings may be brought against a person to whom this section applies for any act done or omitted to be done by that person in good faith under this Act."*

If Council staff intended to screw you, and succeeded, that's fair. Please don't be insulted for being described as *'political livestock'*. We need to understand what the game is about. There is a conflict of interest between citizens and anyone who can legally take our money. Part of their trick is to make us appear to be immoral law breakers.

Don't even start on the Land Transport Act, Resource Management Act, and a host of punitive laws with repressive conflict of interest objectives.

Amendment of the Bill of Rights Act may reduce revenue, but will allow liberties that increase living standards, productivity and prosperity.

### **B o R AMENDMENTS:**

My Draft Amended Bill of Rights inserts editing, plus 5 further clauses.

**Clause 4: Effect on other Enactments.** Is the initial edit which seeks to avoid the common mistake of seeking to solve what is perceived as a problem. My stance is to attempt to create a rule for solving conflict of interest which will be a continuing human condition. Without Clause 4, the Act is partially disabled as it allows laws to conflict with secured rights. There will be continuing differences of view – which is good news for the Law profession, and well conceived arguments to continue.

**Clause 7: Reporting Bills to Parliament.** Is extended to allow a move towards reviewing statutes to remove conflicts with the B o R. There is no gain from a B o R that is ineffective in restraining predatory official acts.

**Clause 8: Amendment.** This is a new clause that moves the clause numbers forward. It entrenches the B o R at 66%.

**Clause 13: Rights of Asylum.** Is a new clause.

4/

**Clause 14: Right to own property.** Is a new clause – limiting rights involved to real, chattel, and intellectual property by inference, being listed: the intent is to deny reverse-sensitivity claims as a prescribed right.

**Clause 15: Right to not be arbitrarily deprived of property.** A new clause that establishes simple global rules relating to compensation.

**Clause 16: Right to gift, dispose or transfer property.** Doesn't prohibit imposition of duties, but prevents obstruction of liberty and choice.

The 5 new clauses extends the powers of the Act to effectively restrain Government, and with editing of Clause 24 (was 19), 30 (was 25), and an extension to 32 (was 27) – makes the Bill of Rights more effective as a Constitutional restraint.

### **THE TREATY:**

I have traversed this subject in more detail previously, and will submit that item direct to the panel secretariat. One global comment begs statement:

There are books arguing to and fro – presuming bad faith on behalf of the Colonial Office in their empowerment of Hobson – and this from London where Wilberforce had led the charge to outlaw slavery: to those who applaud the Treaty as a unique peaceful effort. I don't believe a case can be made for bad faith. Conflict-of-interest and views perhaps: but the objective of a settled form of civil government cannot be denied. For me, self interest of those seeking to take what they could does not undermine the unique intent of the Treaty – whatever the race of the perpetrators.

But the issue is that the Treaty **IS**. (True, in several hand copied documents each the original of the signatories – plus un-authenticated English originals or copies or re-translations). But nothing can change history. All attempts to change its meaning end in conflict.

The Treaty is not a Constitutional document – it is an agreement to adopt the Constitutional format of Her Majesty Victoria, which is the transfer of sovereign power in the First Article. The rest is expensive detail.

**THE ANSWER IS TO REPEAL THE TREATY AND DRAFT A NEW ONE – AND THE TEN COMMANDMENTS WHILE WE ARE AT IT. JOKE!**

The Treaty has served its purpose and has no Constitutional function.

### **OTHER ISSUES:**

You spoke of individual (pakeha) title as being in conflict with communal (maori) title. The only difference as I see it is failure to produce a receipt



and Certificate of Incorporation. (and a Constitution?)

5/

To suggest a mental construct does not exist because of a lack of paper work is at best mischievous. The official position that Directors of finance companies who did not foresee the drying up of replacement funds for those who called their deposits at due date, begs the question: did the state know this was a likely outcome, or did they go ahead with Kiwi Saver and other liquidity mop-up enterprises anyway.

One of my associates is \_\_\_\_\_ who set up (and trained \_\_\_\_\_), which collapsed under the dictates of Muldoon. This is a country where the global problem of being lawful when your relatively unlimited competitor writes the rules is a real challenge.

No one has mentioned that over 130,000 homes were built under the 1991 Building Act that became 'Leaking Homes' that rotted due to the untreated timber regime – but everyone else got the blame. How many billions were lost by kiwis whose only mistake was to buy a new home that had a certificate of compliance from council – which turned to dust.

Is there a statistical source for those who committed suicide as a result?

### **THE OPTIMIST:**

The greatest change that could come out of the Constitutional Review is the liberty to make our economy work. Being Maori, or Sikh, or Samoan, or Irish (it hasn't done you much harm) is not the challenge. The fight is to regain the freedom that Sovereign States are increasingly taking from us.

The Bill of Rights review needs a rider Act requiring a sunset clause for revision of the entire legislative list for compliance with a new Bill of Rights.

Every proposal that an entrepreneur seeks to promote needs to factor a month's delay for simple information from Council. Then at each step of the process another obstacle is raised: not to mention big costs.

I sold the plans for the SH-20 Western Ring Route to \_\_\_\_\_ at Transit in 1990. The total q/s'd cost was \$380 million. It's got to Maoro for \$207 million (instead of \$72), and may reach SH-16 for \$3,000 million and be dysfunctional. Victoria Park was crossed for \$345 million (instead of \$62 million) when a kilometre of Britomart cost \$205?

A pessimist sees the difficulty in every opportunity, an optimist sees the the opportunity in every difficulty. Its hard work being an optimist.

**Brian J**

P/S The Draft B o R was mine from 2004. I have Act membership, but have not yet got accord that Act will promote it.



1465a

**From:**  
**To:** <constitutionalreview@justice.govt.nz>  
**Date:** 19/06/2013 2:05 p.m.  
**Subject:** DRAFT Bill of Rights Act 30. 3. 13.doc  
**Attachments:** DRAFT Bill of Rights Act 30. 3. 13.doc

First item referenced in submission.

Brian J

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100



*New Zealand Bill of Rights*

1.

**New Zealand**  
**BILL of RIGHTS Act**  
**2013**

**ANALYSIS**

## 1. Short Title and commencement

PART I  
 General Provisions

2. Rights affirmed **assured**

## 3. Application

4. **Effect on other enactments**

## 5. Justified limitations

## 6. Interpretations consistent with Bill of Rights to be preferred

## 7. Attorney General to report to Parliament where Bill appears to be inconsistent with Bill of Rights

8. **Amendment**

PART II  
 Civil and Political Rights  
*Life and Security of the Person*

## 9. Right not to be deprived of life

## 10. Right not to be subjected to torture or cruel treatment

## 11. Right not to be subjected to medical or scientific experimentation

## 12. Right to refuse to undergo medical treatment

13. **Rights of asylum***Property and Intellectual Property of the Person*14. **Right to own property**15. **Right not to be arbitrarily deprived of property**16. **Right to gift, dispose or transfer property***Democratic and Civil Rights*

## 17. Electoral rights

## 18. Freedom of thought, conscience and religion

## 19. Freedom of expression

## 20. Manifestation of religion and belief

## 21. Freedom of peaceful assembly

## 22. Freedom of association

## 23. Freedom of movement

*Non-discrimination and Minority Rights*

## 24. Freedom from discrimination

## 25. Rights of Minorities

*Search, Arrest and Detention*

## 26. Unreasonable search and seizure

## 27. Liberty of the person

## 28. Rights of persons arrested or detained

## 29. Rights of persons charged

## 30. Minimum standards of criminal procedure

## 31. Retroactive penalties and double jeopardy

## 32. Right to justice

PART III  
 Miscellaneous Provisions

## 33. Other rights and freedoms not effected

## 34. Application to legal persons

*New Zealand Bill of Rights*

2.

**REVISED DRAFT**

Proposed amendments to the 1990 Act  
In BLUE, 30 March 2013

**New Zealand**  
**BILL of RIGHTS Act**  
**2013**

An Act –

- (a) To affirm, protect, and ~~(promote)~~ assure human rights and fundamental freedoms in New Zealand; and
- (b) To affirm New Zealand's commitment to the International Covenant on Civil and Political Rights

BE IT ENACTED by the Parliament of New Zealand as follows:

1. **Short Title and commencement –**

- (1) This Act may be cited as the New Zealand Bill of Rights Act 2013.
- (2) This Act shall come into force on the 28th day after the date on which it receives the Royal assent.

**PART I**  
**General Provisions**

2. **Rights ~~(affirmed)~~ assured –**

The rights and freedoms contained in this Bill of Rights are **assured**.

3. **Application –** this Bill of Rights applies only to acts done –

- (a) By the legislative, executive, or judicial branches of the government of New Zealand; or
- (b) By any person or body in the performance of any public function, power, or duty conferred or imposed on that person or body by or pursuant to law.

4. **Effect on other enactments –**

No court shall, in relation to any enactment **made before the commencement** of this Bill of Rights, –

- (a) Hold any provision of the enactment to be impliedly repealed or revoked, or to be in any way invalid or ineffective; or
- (b) Decline to apply any provision of the enactment – by reason only that the provision is inconsistent with any provision of this Bill of Rights.
- (c) Failure of legislation to conform to this Bill of Rights constitutes a valid defense.

*New Zealand Bill of Rights*

3.

5. **Justified Limitations –**  
Subject to section 4 of this Bill of Rights, the rights and freedoms contained in this Bill of Rights may be subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.
6. **Interpretation consistent with Bill of Rights to be preferred –**  
Wherever an enactment can be given a meaning that is consistent with the rights and freedoms contained in this Bill of Rights, that meaning shall be preferred to any other meaning.
7. **Attorney-General to report to Parliament where a Bill appears to be inconsistent with Bill of Rights –** Where any Bill is introduced into the House of Representatives, the Attorney-General –
- (a) In all cases will, as a function of the first reading of the Bill, report to Parliament any provision in the Bill that is inconsistent with, or may breach any of the rights or freedoms assured by this Bill of Rights.
  - (b) Upon the commencement of this Bill of Rights, Parliament shall not make any enactment that denies, reduces, or conflicts with the rights assured by this Bill of Rights.
  - (c) Subsequent subordinate law and regulation will secure the rights assured in this Bill of Rights.
  - (d) This Bill of Rights has the status of prime law dominant to subsequent legislation, subordinate law, and regulation.
8. **Amendment –**  
This Bill of Rights shall not be amended, varied or revoked with less than 66% of the vote of Parliament.

**PART II***Civil and Political Rights  
Life and Security of the Person*

9. **Right not to be deprived of life –**  
(8) No one shall be deprived of life except on such grounds as are established by law and are consistent with the principles of fundamental justice.
10. **Right not to be subjected to torture or cruel treatment –**  
(9) Everyone has the right not to be subjected to torture or to cruel, degrading, or disproportionately severe treatment or punishment.
11. **Right not to be subjected to medical or scientific experimentation –**  
(40) Every person has the right not to be subjected to medical or scientific experimentation without that person's informed consent.
12. **Right to refuse to undergo medical treatment –**  
(44) Everyone has the right to refuse to undergo any medical treatment.



*New Zealand Bill of Rights*

4.

**13. Rights of asylum –**

Everyone has the right to seek asylum from persecution or prosecution for acts that are not chargeable under New Zealand law.

*Property and Intellectual Property of the Person***14. Right to own property –**

Everyone has the right to own (without limitation) real chattel or intellectual property; whether alone or in association with others.

**15. Right not to be arbitrarily deprived of property –**

No person is to be deprived of the use, benefit, or enjoyment of that person's property without due process of law and just compensation.

**16. Right to gift, dispose or transfer property –**

Everyone entitled to own any property has the right to gift, transfer, will, or dispose of such property on such terms and conditions as they may designate to whomsoever they nominate; while living, or after their death by testamentary instruction.

*Democratic and Civil Rights***17. Electoral rights –**

(42) Every New Zealand citizen who is of or over the age of 18 years –

(a) Has the right to vote in genuine periodic elections of members of the House of Representatives, which elections shall be by equal, universal suffrage and by secret ballot; and

(b) Is qualified for membership of the House of Representatives.

**18. Freedom of thought, conscience, and religion –**

(43) Everyone has the right to freedom of thought, conscience, religion, and belief; including the right to adopt and to hold opinions without interference.

**19. Freedom of expression –**

(44) Everyone has the right to freedom of expression, including the freedom to seek, receive and impart information and opinions of any kind in any form.

**20. Manifestation of religion and belief –**

(45) Every person has the right to manifest that person's religion or belief in worship, observance, practice, or teaching either individually or in community with others, and either in public or in private.

**21. Freedom of peaceful assembly –**

(46) Everyone has the right to freedom of peaceful assembly.

*New Zealand Bill of Rights*



5.

**22. Freedom of association –**

(47) Everyone has the right to freedom of association.

**23. Freedom of movement –**

(48)

(1) Everyone lawfully in New Zealand has the right to freedom of movement and residence in New Zealand.

(2) Every New Zealand citizen has the right to enter New Zealand.

(3) Everyone has the right to leave New Zealand.

(4) No one who is not a New Zealand Citizen and who is lawfully in New Zealand shall be required to leave New Zealand except under a decision taken on grounds prescribed by law.

*Non-Discrimination and Minority Rights***24. Freedom from discrimination –**

(49)

(1) Everyone has the right to freedom from discrimination on the grounds of colour, race, ethnic or national origins, **gender, sexual orientation, marital status, or religious or ethical belief as set out in the Human Rights Act 1993.**

(2) Measures taken in good faith for the purpose of assisting or advancing persons or groups of persons disadvantaged **on the grounds** of colour, race, ethnic or national origins, **gender, sexual orientation, marital status, or religious or ethical belief (otherwise unlawful by virtue of Part II of the Human Rights Act 1993)** do not constitute discrimination.

**25. Rights of Minorities –**

(20)

A person who belongs to an ethnic, religious, or linguistic minority in New Zealand shall not be denied the right in community with other members of that minority, to enjoy the culture, to profess and practice the religion, or to use the language of that minority.

*Search, Arrest, and Detention***26. Unreasonable search and seizure –**

(24)

Everyone has the right to be secure against unreasonable search or seizure, whether of the person, property, or correspondence or otherwise.

**27. Liberty of the person –**

(22)

Everyone has the right not to be arbitrarily arrested or detained.

**28. Rights of persons arrested or detained –**

(23)

(1) Everyone who is arrested or who is detained under any enactment –

*New Zealand Bill of Rights*

6.

- (a) Shall be informed at the time of arrest or detention of the reason for it; and
  - (b) Shall have the right to consult and instruct a lawyer without delay and to be informed of that right; and
  - (c) Shall have the right to have the validity of the arrest or detention determined without delay by way of *habeus corpus* and to be released if the arrest or detention is not lawful.
- (2) Everyone who is arrested for an offence has the right to be charged promptly or to be released.
- (3) Everyone who is arrested for an offence and is not released shall be brought as soon as possible before a court or competent tribunal.
- (4) Everyone who is –
- (a) Arrested; or
  - (b) Detained under any enactment –
- for any offence or suspected offence shall have the right to refrain from making any statement and to be informed of that right.
- (5) Everyone deprived of liberty shall be treated with humanity and with respect for the inherent dignity of the person.

**29. Rights of persons charged –**

(24) Everyone who is charged with an offence –

- (a) Shall be informed promptly and in detail of the nature and cause of the charge; and
- (b) Shall be released on reasonable terms and conditions unless there is just cause for continued detention; and
- (c) Shall have the right to consult and instruct a lawyer; and
- (d) Shall have the right to adequate time and facilities to prepare a defence; and
- (e) Shall have the right, except in the case of an offence under military law tried before a military tribunal, to the benefit of a trial by jury when the penalty for the offence is or includes imprisonment for more than 3 months; and
- (f) Shall have the right to receive legal assistance without cost if the interests of justice so require and the person does not have sufficient means to provide for that assistance; and
- (g) Shall have the right to have the free assistance of an interpreter if the person cannot understand or speak the language used in court.

*New Zealand Bill of Rights*

7.

**30. Minimum standards of criminal procedure –**

(25) Everyone who is charged with an offence has, in relation to the determination of the charge, the following minimum rights:

- (a) The right to a fair and public hearing by an independent and impartial court:
- (b) The right to be tried without **undue** delay:
- (c) The right to be presumed innocent until proved guilty according to law:
- (d) The right not to be compelled to be a witness or to confess guilt:
- (e) The right to be present **and to be properly represented** at the trial **or appeal** and to present a defence:
- (f) The right to examine the witnesses for the prosecution **and any complainant** and to obtain the attendance and examination of witnesses for the defence under the same conditions as the prosecution:
- (g) The right, if convicted of an offence in respect of which the penalty has been varied between the commission of the offence and sentencing, to the benefit of the lesser penalty:
- (h) The right, if convicted of the offence, to appeal according to law to a higher court against the conviction or against the sentence or both:
- (i) The right, in the case of a child, to be dealt with in a manner that takes account of the child's age.

**31. Retroactive penalties and double jeopardy –**

- (26)
- (1) No one shall be liable to conviction of any offence on account of any act or omission **that** did not constitute an offence by such person under the law of New Zealand at the time it occurred.
  - (2) No one who has been finally acquitted or convicted of, or pardoned for an offence, shall be tried or punished for it again.

**32. Right to justice –**

(27)

- (1) Every person has the right to the observance of the principles of natural justice by any tribunal or other public authority, which has the power to make determination in respect of that person's rights, obligations, or interests protected or recognized by law.
- (2) Every person whose rights, obligations, or interests protected or recognized by law have been affected by a determination of any tribunal or other public authority **or officer** has the right to apply, in accordance with law, for judicial review of that determination.

*New Zealand Bill of Rights*

8.

- (3) Every person has the right to bring civil proceedings against, and to defend civil proceedings brought by the Crown, and to have those proceedings heard, according to law, in the same way as civil proceedings between individuals.
- (4) Assurance of the rights set out in this Bill of Rights is the duty of government and those authorities it empowers by law, giving cause and validation for government's existence.
- (5) Government shall promote and assure the aforesaid rights by legislation endorsing rights and liberties – as established in this Bill of Rights.

PART III  
Miscellaneous Provisions

**33. Other rights and freedoms not affected –**

(28) An existing right or freedom shall not be held to be abrogated or restricted by reason only that the right or freedom is not included in this Bill of Rights or is included only in part.

**34. Application to legal persons –**

(29) Except where the provisions of this Bill of Rights otherwise provides, the provisions of this Bill of Rights apply, so far as practicable, for the benefit of all legal persons as well as for the benefit of all natural persons.

DRAFT OF AMENDED  
**'BILL OF RIGHTS ACT'**

Being the basis of the objectives to establish an accord in law, between government and residents of New Zealand: comprising a constitutional statement of the rights of the people, establishing the duty of those elected to govern, to assure those rights. The intent of this Bill of Rights Act review is to create a primacy to which future legislation is subject, without undermining present case law, legislation or procedures.

30 March 2013

Brian Jacobson,



1465b

**From:** >  
**To:** <Constitutionalreview@justice.govt.nz>  
**Date:** 19/06/2013 2:09 p.m.  
**Subject:** CONSTITUTIONx.docx  
**Attachments:** CONSTITUTIONx.docx

Second item referenced in submission.

Brian J



## **CONSTITUTIONAL ADVISORY PANEL A CRITIQUE OF ITS OBJECTIVES**

Brian Jacobson  
May 2013

Establishment of a functional constitutional structure is a commendable objective. Too many democracies with inadequate constraints on the actions of government have poor living standards and fail to provide the liberties that citizens need for fulfilling lives. Having the right to replace figureheads of a powerful state having its own interests as a first priority is all that a democracy can do: a benign regime is another matter.

It is in the nature of all living things – and in this sense the corporate entity of State is a living thing capable of growing into a more productive regime, or of being overthrown and disappearing. This is the nature of reality: that living things must have self interest to survive: but in the case of a State, it ought not to survive at the expense of its citizens.

---

The New Zealand Government has seen fit to investigate the prospects of revising our constitutional structure. The review mechanism is selection of a group of 12 appointees given terms of reference including instruction on page 54 of the *Conversation* document that the terms may be varied with the agreement of relevant Ministers and Co-chairs; but may require Cabinet agreement to any proposed changes.

Has “*New Zealand’s Constitution: the conversation so far*” (the initial public document) the shape of a fait-accompli? Variation is not intended to be easy. The apparent purpose of the Constitutional Advisory Panel is to present a political objective as the will of the citizens. Can we ascertain that purpose by studying the document? And is that purpose of benefit to all the public, or only to some politicians and the select?

To be constructive, we will follow the order of the official document:

1. Invitation
2. Our constitution
3. Electoral matters
4. Crown – Maori relationships
5. Other Constitutional matters
6. Terms of reference
7. **SUMMARY**

2/

### **1. INVITATION:**

An invitation is made to the public to make submissions to the Advisory Panel – to ascertain the wishes of the population. The impression intended is that this is a process without bias. It even states that:

*“We will reflect your views fairly and accurately in our report to the Ministers.”*

Panel Members are named, with qualification of most members related to Maori culture. On the previous page it states that those claiming some Maori ethnic origin presently comprise 15% of the population.

### **2. OUR CONSTITUTION:**

Is described as governance rules set out in legislation, including the Constitution Act 1986, the Electoral Act 1993, the New Zealand Bill of Rights Act 1990, the Imperial Laws Application Act 1988, and Letters Patent empowering the Governor General as agent of the Monarch.

The structure created by legislation is a representative democracy; which empowers three divisions of Government: the Legislative, executive and judiciary branches: with representatives elected to the first two functions

**THE TREATY OF WAITANGI** is described as a component of constitution, which is a doubtful claim. It certainly was the founding document that authorized constitutional inauguration. The ‘Conversation’ proceeds to describe functions fulfilled by those involved in government: briefly traverses Local Government; and the right of individuals to be informed, and to be heard in the process of government.

### **3. ELECTORAL MATTERS:**

The size of Parliament is canvassed. The prospect is that the present 120 seat nominal capacity will remain until more members are required as a result of population growth.

**THE TERM OF PARLIAMENT** being extended is canvassed – along with the mechanism for setting election dates – and the number and size of electorates, and reinstatement of the Electoral Integrity Act 2001.

### **4. CROWN – MAORI RELATIONSHIPS:**

The history of Maori electorates is well covered; arising from the electoral law of the time requiring individual land ownership as a prerequisite to the right to vote. This disenfranchised Maori who held land communally in the tribe. In 1852, four Maori seats were established – which gave Maori voting rights well before landless European immigrants. The 1987 Royal Commission proposed Maori voters be placed on the General Roll:



3/

Thus removing Maori seats. The argument was that MMP provides opportunities for Maori representation. At present this is the case, as 2 of the 8 Parties in Parliament (25% by number) are Maori based, and other parties also actively court Maori interests. Likewise, the need for separate Maori representation in Local Bodies is less than a priority.

There are two reasons this is the case. **a)** We have been blessed with a society with little if any racism: people of all ethnic origins being accepted at face value. **b)** We are fortunate that the racist attitudes of the southern US States – as partly adopted in 19th century Australia, leave us in need of a dictionary for words used in their legal denial of citizenship rights.

Words like 'mulato', 'quadroon', 'octaroon': meaning 1 negro or aborigine parent, or 1 of 4 grand-parents, or 1 of 8 great-grand parents. Realistically, since 1799, Maori history is such that a requirement to be a quadroon (with 1 of 4 Maori grandparents) could leave the Maori roll with insufficient entries to justify 1 MP. It is time to fulfil the undertaking of Article 3 of the Treaty, for all citizens to concede they hold the rights of subjects: nor are there limitations on ethnicity preventing membership of the house to be contemplated.

**THE ROLE OF THE TREATY** - has been so warped that there is a whole industry based on the distortions. There is no mention in the Treaty of '**PRINCIPLES**', '**PARTNERSHIP**' nor any other intent than is found in the directly worded text. **THE TREATY SAYS:**

**INTRODUCTION** the purpose is: "*a settled form of civil government*".

**FIRST ARTICLE** cedes to Her Majesty the Queen of England "*absolutely and without reservation all the rights and powers of Sovereignty* . . . "

**SECOND ARTICLE** recognizes individual and collective property rights.

**THIRD ARTICLE** "*extends to the Natives . . . all the Rights and Privileges of British Subjects.*"

It takes an enormous wilful conflict of interest to misinterpret so direct a document. It isn't surprising the Waitangi Tribunal supports a change of interpretation. They don't want their trough taken away.

Nor is there any mention of the recently found English draft of the Treaty or any attempt to verify the authenticity of the document from which the Treaty was developed for execution in Te Reo Maori. Not that any real case has been presented that the translations are in conflict.

4/

Since the 1975 enactment of the Treaty of Waitangi Act, a huge industry was developed to state "*Principles of the Treaty*" – procedures for filing grievances for Treaty breaches, and settlement of around \$40 billion, taken from taxpayers for the benefit of Corporate Maori Entities.

► The whole subject is so comical and dysfunctional that a cynical proposal is justified. As Maori descendants are among the taxpayers looted to pay booty sought by Maori institutional claimants who make no or little distribution to Maori individuals – taxpayers who have elected Maori identity on the Electoral Roll should be granted lifetime relief from tax liabilities. More on this subject in the SUMMARY section?

**SHOULD THE TREATY BE ENTRENCHED?** Is a strange question. The Treaty is archived in some 8 copies of the Maori text on parchment and paper and one a re-translation into English, as distributed around the country for execution. There are differences of idiom & typographic errors which do not materially affect meaning. The documented Treaty is the subject of history. Anything written about it now, is fiction or commentary that doesn't change the Treaty, its effectiveness, nor its objectives. The only change that could be made to the Treaty now, is a new Act to repeal or amend it – using powers granted by the Treaty?

What is more relevant is the prospect of repealing the 1975 Treaty of Waitangi Act. This Act is a recent divisive empowerment of actions that are in conflict with the intent of the Treaty. Breaches are acknowledged.

Entrenching the Treaty makes no sense: repealing the 1975 Act does.

## **5. OTHER CONSTITUTIONAL MATTERS:**

**BILL OF RIGHTS ISSUES:** Our 1990 Act arose from the requirements for membership of the United Nations – and recognition of the Universal Declaration of Human Rights. If by *CONSTITUTION* we mean constraint of Government powers to better serve society, the 1990 Bill of Rights Act is as close as we come to such a law. It is concise, comprising some 2,200 words – but sadly it has defects that make it less effective than it should be. It hasn't included some issues from the Universal Declaration, such as Rights of Asylum, and Property Rights.

More debilitating is insufficient restriction on legislation in conflict with rights allegedly assured by Government. Amendment of the Act adding some 300 words may be sufficient to make the Bill of Rights effective, and to entrench it with a higher requirement for removal or amendment.

As prime law to justify and validate the existence of Government, the Bill of Rights Act should be entrenched after amendment – with perhaps



a two year delay for commencement of the Entrenchment clause.

5/

**WRITTEN CONSTITUTION:** The case for a written constitution is strong, with ONE overriding caution – The nature of Government is that of an independent corporate entity with its own interests, which places it in a conflict of interest with the population it was formed to serve.

If a written constitution is drafted, the document must place the State at a disadvantage to the interests of citizens. The strength of the State should arise from the strength of the people: the alternative of the State enjoying power at the cost of the people spells doom for the population: and in time, for the State. The Bill of Rights could fulfil this need.

A factor that could be constructive is to make commencement of the Written Constitution Entrenchment clause a later date than that of the Constitution: as proposed above for the Bill of Rights Act. It is always easier to be wise after the event, if fine tuning is required.

## **6. TERMS OF REFERENCE:**

Origin of a Constitutional Review Project from a supply and confidence agreement in November 2008, between National Party and Maori Party is acknowledged. The restrictive structure for considering change to the Terms of Reference are necessary for the project to achieve the effects sought by the 2 parties to the agreement. Like so many things in life, worthy objectives especially need goodwill and integrity.

## **7. SUMMARY:**

New Zealand has slipped from its former position at the start of the 20th century. In the last century we've gone from the highest end of income per capita to a position at the low end of OECD membership: caused by the high proportion of societal productivity taken by Government in its conflict of interest with citizens. Government is the problem, not the solution. Burdens placed on citizens apply regardless of ethnic origin.

The number of businesses liquidated as a consequence of RMA litigation is a travesty. Judgements that find a respondent guilty of not taking steps to prevent pollution that did not occur are a joke that justifies renaming the Department – The Ministry of Injustice.

Media rightly despises members of society who robbed hundreds of depositors in Ponzi schemes: but they were mere amateurs compared to Government's involvement in the '*Leaky (Rotting) Homes*' debacle, which left some 130,000 home owners along with some 20,000 public buildings needing repair or replacement after receiving a Certificate of Compliance with building codes. The attitude of authorities that they are right because they have the might is despicable.

6/

The context in which the Treaty was developed and executed needs brief mention. In 1800, some 150,000 Maori outnumbered an estimated 50 immigrants living ashore. Maori culture had no written language, no glass, no pottery, no metals, no cooking utensils; it was a stone-age culture with life expectancy in the 30's. Between 1805 / 1830, Maori found the power of the musket, which reduced their numbers by over 50,000 due to inter-tribal battles which spared not the children, women nor the aged: nor were immigrant settlers safe from massacre. Those Chiefs who had befriended missionaries sought peace by seeking the protection of King William IV as 'parent' in the 1835 *Declaration of Independence*. In 1837 King William was succeeded by Victoria.

In a large slow-communication world, the Colonial Office responded as promptly as possible sending Captain Hobson in 1839 with instructions that led to those with local knowledge in New Zealand drafting the Treaty in English to be translated into Maori: for execution four days before 21 year old Victoria married Prince Albert.

There is no inference that Victoria wished to steal or own these islands.

The function of the Treaty wasn't to establish our Constitution. It was a simple agreement to do so, with indigenous Maori as participants.

Part of the conflict of logic that surrounds the Treaty Industry is failure to accept that all humans are born savages. Absorption of our culture only begins at birth: for each individual. At age 9, I was out-classed and shamed in my English pronunciation and literary knowledge by a 7 year old native girl adopted at birth by well educated missionaries.

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In response to the invitation (1), the description of our Constitution (2) is accepted subject to acknowledgement that the Treaty is not a part of it.

Electoral matters (3) need to be kept under review, but are not pivotal.

Crown - Maori relationships (4) are erroneously inferred to provide special status different to citizens of other ethnic origins. The Treaty is unique in global governance, and should be celebrated for its intent to provide 'a settled form of civil government' **without bias**. **The Treaty of Waitangi Act 1975** should be repealed, and the Electoral Act amended to remove Maori electorates and the Maori Roll.

Other Constitutional Matters (5) includes the Bill of Rights Act 1990, needing revision to be the Prime Act in our Constitution & legislation. This could effectively fulfil the place of a Written Constitution.



Terms of Reference: (6) Treaty revisionists display a grasp for power.

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## **WHAT OPTIONS ARE RELEVANT?**

This submission is a response to the invitation made in the initial official document. Subject to the Panel listening to the views of the public, this invitation may be a valuable contribution to functional democracy.

Public desires for individual liberties to be confirmed could be lost in the push for power. This country has its residents under constraint of laws designed to place authority ahead in any conflict of interest – as a prime objective. Even as apparently benign a law as the Building Act 2004 has the public vulnerable and at a disadvantage.

Section 388: . . . *“in a prosecution for an offence of contravening or permitting a contravention of this Act, it is not necessary to prove that the defendant intended to commit the offence.”* (Intent for murder – not for revenue)

Section 389 continues: . . . *“A court must order that a fine imposed . . . be paid to the territorial authority or . . . the regional authority that laid the information . . .”* Is this what Councils are for?

Section 390 delivers the final insult. First, it lists everyone in any council, then it continues: *“(2) No civil proceedings may be brought against a person to whom this section applies for any act done or omitted to be done by that person in good faith under this Act.”*

If Council staff intended to screw you, and succeeded, that's fair. Please don't be insulted for being described as *'political livestock'*. We need to understand what the game is about. There is a conflict of interest between citizens and anyone who can legally take our money. Part of their trick is to make us appear to be immoral law breakers.

Don't even start on the Land Transport Act, Resource Management Act, and a host of punitive laws with repressive objectives.

## **2. OUR CONSTITUTION:**

Is much as described in the *CONVERSATION* document: except that the Treaty of Waitangi does not fulfil a constitutional role.

## **3. ELECTORAL MATTERS:**

Details of the threshold for Party vote to count, and a host of minor items are interesting: but nowhere as relevant as the line between the State and the citizen. Opinions will differ, and they should, but less sleep should be lost here than on the fundamental issues of constitution.

8/

#### **4. CROWN – MAORI RELATIONSHIPS:**

The temptation to treat this subject as the poisoned chalice must be addressed rather than let it contaminate the logic of worthy objectives. This project – of reviewing our constitution – arises from an agreement between the Maori Party & National Party in 2008. National sought to have enough friends to form a government under MMP, Maori Party wished to get enough traction to be on the Ministerial side of salaries.

For the parties to have the courage to tackle so dangerous a subject may be a sign of great integrity, or a sign of great deviousness. If the result is more liberty for all Kiwis: it's integrity. If it leads to additional billions for a group who operate corporations – by taxes from all, including Maori with as much Tangata blood as the manipulators: it's deviousness.

Yes, there were breaches of the Treaty. Among these were immigrant farmers slaughtered by Maori who did not understand what they were awakening. The problem with the Treaty was the presumption that having signed, it would be honoured – or ignored and unenforced. There were not any Redcoats or soldiers at the start – not until later.

Before the Treaty a third of the Maori population had been butchered by their own kind in the 'Musket Wars'. A decade after the Treaty, warriors tried to take advantage of those with little defence. That is when the real bloodletting began. Who seeks restitution for butchered settlers? Did two wrongs ever create a right? The past is best left to be the past.

Most Maori are now 7 parts other bloodlines which makes it irrelevant. Each person's culture is 7 or 23 years old, or whatever their age. In a world of i-phones and technology, there is no future in being divisive.

#### **5. OTHER CONSTITUTIONAL MATTERS:**

The **Bill of Rights** could have the power to defend us from those who would control our lives. Changes needed come from the Bill of Rights.

#### **FINAL WORD**

Look at our constitution: Is it broken? If so, fix it. If not, leave it alone.

Look at our Electoral Act: Is it tarnished? Then polish it.

Look at Maori citizens: Are they lost? Then let them join us.

Look at our laws: Do they hobble us? Then fix them.

**For supporters of inverted apartheid, first define what is an Electoral Maori: mulato, quadroon, octoroon? Or what?**

**Brian**



Jacobson

## OBSERVATIONS ON CRITIQUE OF CONSTITUTIONAL ADVISORY PANEL

18 May 2013 – 14:30

The critique document as drafted and revised on 18 May 2013, may need expansion and revision to more succinctly present the intended view that the Treaty of Waitangi is not a component of New Zealand's Constitution. It was an agreement to establish a Constitution to:

- a) Establish a settled form of civil government – as the objective:
- b) Cede sovereignty to the Crown (Queen as figurehead):
- c) Recognize personal and communal property rights:
- d) Extend to Natives the rights and privileges of British Subjects.

It follows that the Treaty offers no superior or inferior status to Maori than is the right of all or any subjects. The clear intent of the Treaty is taken at face value: to be applauded as a unique, worthy document.

### CONSTITUTIONAL CRISIS:

More critical is the fact that New Zealand has many advantages, having been a world leader in productivity per head of population. The problem of declining living standard arises from the fact that our Government is a world leader in denying personal liberties. A step towards correcting this came in the form of the Bill of Rights Act 1990.

One difficulty is that some important issues identified in the 1948 Universal Declaration of Human Rights are missing. These matters have been addressed in the appended draft Revised Bill of Rights Act – but at least one further issue arises. Principle among these is the conflict that arises between:

Sec. 4 *Effect on other enactments* (as enacted) AND

Sec.7 *Attorney General to report* . . (as amended)

Sec. 4 (a) states that the Courts . . *shall not hold any enactment to be invalid or repealed due to conflict with the Bill of Rights*: AND Sec. 4 (b) . . *shall not decline to enforce other laws by reason of conflict with the Bill of Rights*. Has this interesting defence been legislated dead?

This begs the question – **why bother with a Bill of Rights?**

The answer is that to allow and document breach of the Bill of Rights as an absolute defence could overturn much of historic case law and make a shambles of court procedures. An adjustment period left to discretion



of the Court is one possibility – or a “sunset” period during which the body of legislation must be reviewed to comply with the Bill of Rights.

2/

Sec. 7 (as revised) Requires the Attorney General to report to the House where a Bill appears to be inconsistent with the Bill of Rights.

Sec. 7 (a) Attorney General will report inconsistency with Bill of Rights.

Sec. 7 (b) Prohibits enactments in conflict with the Bill of Rights.

Sec. 7 (c) Subsequent subordinate law & regulation will comply.

Sec. 7 (d) Bill of Rights has the status of Prime Law, and is dominant to subsequent legislation, subordinate law, and regulation.

### **THIS RAISES ANOTHER LARGE HURDLE:**

It may be required that the body of enforceable legislation may need to be identified and scheduled for retirement date; at which time it expires or must be revised and re-enacted. There is no point in simply reinstating what may be defective law that is in conflict with the Bill of Rights. This is a large problem to fix; but would be constructive.

The alternative of a body of law that allows Government to breach the rights of citizens & residents is not good public relations, nor logical.

There is no doubt that defence lawyers would enjoy the defence of a breach of the Bill of Rights to be set out in the Act. If the Bill is intended to actually assure the rights it purports to protect, this assures justice.

The problem is that there is a need for a transitional period until each enactment contains a clause saying that it has been amended to assure ‘principles of justice’ are not challenged by the subject legislation, being in compliance with the Bill of Rights.

This is perhaps too tidy, as lawyers and courts make their livelihood at present arguing the intent and priority of legislation containing conflict.

To assure the integrity of the Bill of Rights, perhaps Sec. 4 should read:

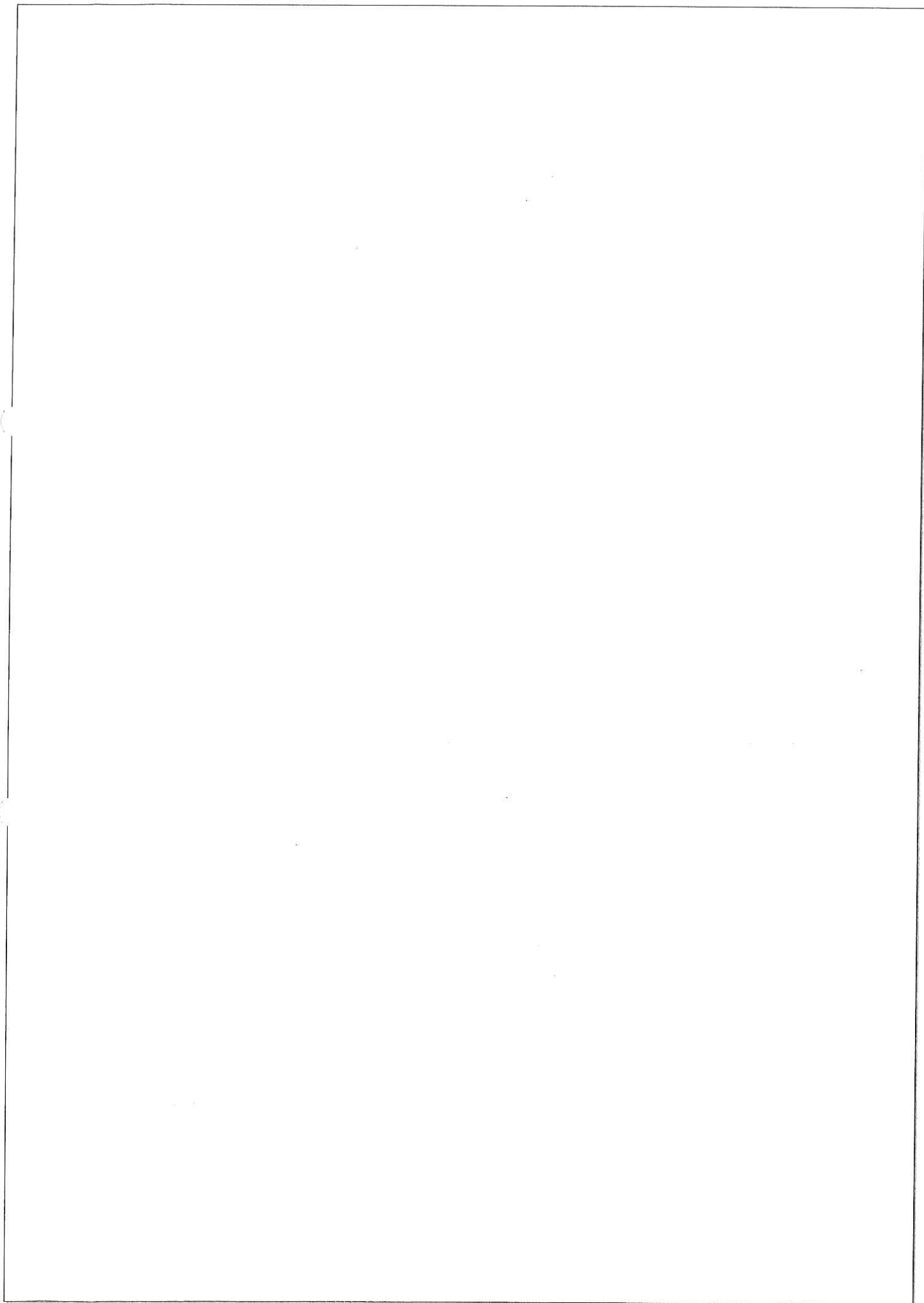
#### **4. Effect on other enactments –**

From the commencement of this Bill of Rights, where there is irreconcilable conflict – this Bill of Rights shall prevail.

REMEMBER: Instability is the substance of Liberty & Freedom, and of creative societies. MMP is intended to allow a variety of views.

## **PROBLEM SOLVED**

Brian Jacobson







291

**From:**  
**To:** <constitutionalreview@justice.govt.nz>  
**Date:** 13/04/2013 8:44 p.m.  
**Subject:** <http://www.ourconstitution.org.nz/> form submission

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

Full Names: Patricia Jacobson Olga Jacobson. Organisation Name: Email:  
Phone: Postal AddressA: Postal  
AddressB: Postal City: Postal Region: Wairarapa Postal Post Code  
Postal Country: New Zealand Submission: I do not think we need a written constitution. ie in one document.

We have a set of guiding principles in the Treaty of Waitangi and the other constitutional laws.

The reason is that circumstances and life changes and as we live in a constantly changing world and need to keep up with technological changes it is better not to have a written constitution.

2. Yes. Other laws should not transgress the constitutional laws. The highest law should be "Love thy neighbour as thyself" and govern the country in accordance with that.

3. Courts should decide. Parliamentarians do not always have the understanding or the overall 'big picture' They are too focussed on popular opinion and the next election.

Sent on the 13 April 2013 at 20:43

29/a

**From:** <webmaster@ourconstitution.org.nz>  
**To:** <constitutionalreview@justice.govt.nz>  
**Date:** 23/06/2013 1:01 p.m.  
**Subject:** <http://www.ourconstitution.org.nz/> form submission

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

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Full Names: Pat Jacobson Organisation Name: Email: Phone:  
Postal AddressA: Postal AddressB: Postal City:  
Postal Region: WAIRARAPA Postal Post Code: Postal Country: New  
Zealand Submission: •In 1968 NZ signed the International Covenant on Economic, Social and  
Cultural Rights and ratified it 10 years later. But those rights have never been explicitly incorporated  
into the NZ Bill of Rights Act.

THESE SHOULD BE INCORPORATED INTO THE BILL OF RIGHTS ACT.

My concern is the way that Governments are using internet traffic and allowing it to be used and intercepted when there is no specific court order for this to happen. I am also concerned that the USA has the right to eavesdrop on all our internet and phone conversations. This is not freedom of Speech which is one of our basic freedoms.

Sent on the 23 June 2013 at 13:01

2011b

**From:** <webmaster@ourconstitution.org.nz>  
**To:** <constitutionalreview@justice.govt.nz>  
**Date:** 7/08/2013 3:00 p.m.

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

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Full Names: Pat Jacobson	Email:	Phone:	Postal
AddressA:	Postal City:	Postal Region: WAIRARAPA	
Postal Post Code:	Postal Country: New Zealand	Submission:	In 1968 NZ signed the
International Covenant on Economic, Social and Cultural Rights and ratified it 10 years later. But			
those rights have never been explicitly incorporated into the NZ Bill of Rights Act.			

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conversations. This is not freedom of Speech which is one of our basic freedoms.

Submitted on the 23 June 2013 at 13:01