

THE TREATY OF WAITANGI.

English Version.

HER MAJESTY VICTORIA, Queen of the United Kingdom of Great Britain and Ireland, regarding with her Royal favour the Native chiefs and tribes of New Zealand, and anxious to protect their just rights and property, and to secure to them the enjoyment of peace and good order, has deemed it necessary, in consequence of the great number of Her Majesty's subjects who have already settled in New Zealand, and the rapid extension of emigration both from Europe and Australia which is still in progress, to constitute and appoint a functionary properly authorised to treat with the aborigines of New Zealand for the recognition of Her Majesty's sovereign authority over the whole or any part of those islands. Her Majesty, therefore, being desirous to establish a settled form of civil government with a view to avert the evil consequences which must result from the absence of the necessary laws and institutions alike to the Native population and to her subjects, has been graciously pleased to empower and authorise me, William Hobson, a captain in Her Majesty's Royal navy, Consul and Lieutenant-Governor of such parts of New Zealand as may be, or hereafter shall be, ceded to Her Majesty, to invite the confederated and independent chiefs of New Zealand to concur in the following articles and conditions:—

Article the First.

The chiefs of the Confederation of the United Tribes of New Zealand, and the separate and independent chiefs who have not become members of the confederation, cede to Her Majesty the Queen of England, absolutely and without reservation, all the rights and powers of sovereignty which the said confederation or individual chiefs respectively exercise or possess, or may be supposed to exercise or to possess, over their respective territories as the sole sovereigns thereof.

Article the Second.

Her Majesty the Queen of England confirms and guarantees to the chiefs and tribes of New Zealand, and to the respective families and individuals thereof, the full, exclusive, and undisturbed possession of their lands and estates, forests, fisheries, and other properties which they may collectively or individually possess, so long as it is their wish and desire to retain the same in their possession; but the chiefs of the United Tribes and the individual chiefs yield to Her Majesty the exclusive right of pre-emption over such lands as the proprietors thereof may be disposed to alienate, at such prices as may be agreed upon between the respective proprietors and persons appointed by Her Majesty to treat with them in that behalf.

Article the Third.

In consideration thereof, Her Majesty the Queen of England extends to the Natives of New Zealand her Royal protection, and imparts to them all the rights and privileges of British subjects.

Now, therefore, we, the chiefs of the Confederation of the United Tribes of New Zealand, being assembled in congress at Victoria, in Waitangi, and we, the separate and independent chiefs of New Zealand, claiming authority over the tribes and territories which are specified after our respective names, having been made fully to understand the provisions of the foregoing treaty, accept and enter into the same in the full spirit and meaning thereof; in witness of which we have attached our signatures or marks at the places and the dates respectively specified.

Done at Waitangi, this sixth day of February, in the year of our Lord one thousand eight hundred and forty.

W. HOBSON,
Lieutenant-Governor.

EXTRACT FROM "THE CONSTITUTION ACT, 1852" (15 AND 16 VICT., c. 72).

Her Majesty may cause laws of aboriginal native inhabitants to be maintained.

71. And whereas it may be expedient that the laws, customs, and usages of the aboriginal or native inhabitants of New Zealand, so far as they are not repugnant to the general principles of humanity, should for the present be maintained for the government of themselves in all their relations to and dealings with each other, and that particular districts should be set apart within which such laws, customs, or usages should be so observed:

It shall be lawful for Her Majesty, in and by any letters patent to be issued under the Great Seal of the United Kingdom, from time to time to make provision for the purposes aforesaid, any repugnancy of any such Native laws, customs, or usages to the law of England, or to any law, statute, or usage in force in New Zealand or in any part thereof, in anywise notwithstanding.

Power to General Assembly to regulate sales of waste lands.

72. Subject to the provisions herein contained, it shall be lawful for the said General Assembly to make laws for regulating the sale, letting, disposal, and occupation of the waste lands of the Crown in New Zealand; and all lands wherein the title of Natives shall be extinguished as herein-after mentioned, and all such other lands as are described, in an Act of the session holden in the seventh and eleventh years of Her Majesty, chapter one hundred and twelve, to promote colonisation in New Zealand and to authorise a loan to the New Zealand Company, as demesne lands of the Crown, shall be deemed and taken to be waste lands of the Crown within the meaning of this Act.

(1)

Crown Colony Government in New Zealand.
The Constitution Act of 1852.

- XIX. It shall not be lawful for the Superintendent and Provincial Council to make or ordain any Law or Ordinance for any Purposes here-after mentioned:
(That is to say,)
- (10) Affecting Lands of the Crown, or Lands to which the Title of the aboriginal Native Owners, has never been extinguished:
- (11) Inflicting any Disabilities or Restrictions on Persons of the Native Race to which Persons of European Birth or Descent would not also be subjected
- (13) Regulating the Course of Inheritance of Real or Personal Property, or affecting the Law relating to Wills.
- (LXI) It shall not be lawful for the said General Assembly to levy any Duty upon Articles imported for the supply of Her Majesty's Land or Sea Forces, or to levy any Duty, impose any Prohibition, or Restriction, or grant any Exemption, Bounty, drawback, or other Privilege upon the Importation or Exportation of any Articles, or to impose any Dues or Charges upon Shipping contrary to or at variance with any Treaty or Treaties concluded by Her Majesty with any Foreign Power.
- (LXII) The Governor is hereby authorized and required to pay out of Revenue arising from Taxes, Duties, Rates, and Imports levied under any Act or Acts of the said General Assembly, and from the disposal of Waste Lands of the Crown, all Costs, Charges, and Expenses incident to the Collection, Management, and Receipt thereof; also to pay out of the said Revenue arising from the disposal of Waste Lands of the Crown such sums as may become payable under the Provisions hereinafter contained for or on account of the Purchase of Land from the Aboriginal Natives or the Release or Extinguishment of their Rights in any Land, and such Sum as may become payable to the New Zealand Company under the Provisions of this Act in respect of the Sale or Alienation of Land: Provided always, that full and particular Accounts of all such Disbursements shall from Time to Time be laid before the said Legislative Council and House of Representatives
- (LXXI) And whereas it may be expedient that the Laws, Customs, and Usages of the aboriginal or native Inhabitants of New Zealand, so far as they are not repugnant to the general Principles of Humanity, should for the present be maintained for the Government of themselves, in all their Relations to and Dealings with each other, and that particular Acts should be so observed.
- It shall be lawful for Her Majesty, by any Letter Patent to be issued under the Great Seal of the United Kingdom, from Time to Time to make Provisions for the Purposes aforesaid any Repugnancy of any such native Laws, Customs, or Usages to the Law of England, or to any Law, Statute, or Usage in force in New Zealand, or any part thereof, in anywise notwithstanding.
- (LXXIII) It shall not be lawful for any Person other than Her Majesty, Her Heirs or Successors, to purchase or in anywise acquire or accept from the aboriginal Natives Land of or belonging to or used or occupied by them in common as Tribes or Communities, or to accept any Release or Extinguishment of the Rights of such aboriginal Natives in any such Land as aforesaid; and no Conveyance or Transfer, or Agreement for Conveyance or Transfer of any such Land, either in perpetuity or for any Term or Period, either absolutely or conditionally, and either in Fee Simple or by way of Lease or Occupancy, and no such Release or Extinguishment as aforesaid, shall be of any Validity or Effect unless the same be made to or entered into with, and approved by Her Majesty, Her

(2)

Crown Colony Government in New Zealand.
The Constitution Act of 1852

Heirs, or Successors. Provided always, that it shall be lawful for Her Majesty Her Heirs, and Successors, by Instructions under the Signet and Royal Sign Manual, as signified through One of Her Majesty's Principal Secretaries of State to delegate Her Powers of accepting such Conveyances or Agreements, Releases or Relinquishments, to the Governor of New Zealand, or the Superintendent of any Province within the Limits of such Province, and to prescribe or regulate the Terms on which such Conveyances or Agreements, Releases, or Relinquishments shall be accepted.

(LXXIV) And whereas under and by virtue of the said last-mentioned Act, and of a Statute given on the Fourth Day of July One Thousand eight Hundred and Fifty by the New Zealand Company in pursuance of such Act, the Sum of Two Hundred and Sixty eight thousand Three Hundred and Seventy Pounds Fifteen Shillings, with Interest after the yearly rate of Three Pounds Ten Shillings per Centum upon the said Sum, or so much thereof as shall from Time to Time remain unpaid, is charged upon and payable to the New Zealand Company out of Proceeds of Sales of the Wasteland of the Crown in New Zealand.

In respect of all Sales or other Alienations of any Waste Lands of the Crown in New Zealand in Fee Simple or for any less Estate or Interest (except by way of Licence for Occupation for local Purposes for any Term of Years not exceeding Seven, and not containing any Contract for the Renewal of the same, or for a further Estate, Interest, or Licence, or by way of Reservation of such Lands as may be required for public Roads or other internal Communications whether by land or Water, or for the Use or Benefit of the aboriginal Inhabitants of the Country, or for Purposes of Military Defence, or as the Sites of Places of Public Worship, Schools, or other Public Buildings, or as Places for the Interment of the Dead, or Places for the Recreation and Amusement of the Inhabitants of any Town or Village, or as the Sites of Public Quays or Landing Places on the Sea Coasts and Shores of navigable Streams, or for any other Purpose of Public Safety, Convenience, Health, or Enjoyment,) there shall be paid to the said New Zealand Company towards the Discharge of the Principle Sum and Interest charged as aforesaid, in lieu of all and every other Claim of the said Company in respect of the said Sum, except where otherwise hereinafter provided, so long as the same or any Part thereof respectively shall remain unpaid, One Fourth Part of the Sum paid by the Purchaser in respect of every such Sale or Alienation. Provided always, that it shall be lawful for the New Zealand Company, by any Resolution of a Majority of the Proprietors of the said Company present at any meeting of such Proprietors, and certified under the Common Seal of such Company, to release all or part of the said Lands from the Monies or Payment charged thereon by the said Act or this Act, or any Part of such Monies or Payment, either absolutely or on any Terms or Conditions, as such Proprietors may think fit.

(LXXV) It shall not be lawful for the said General Assembly to repeal or interfere with all or any of the Provisions of an Act of the Session holden in the Thirtieth and Thirtieth Years of Her Majesty, Chapter Seventy, intituled An Act empowering the Canterbury Association to dispose of certain Lands in New Zealand, or of an Act passed in the Session then next following, Chapter Eighty-four, to alter and amend the said first-mentioned Act: Provided always, that on the Expiration or sooner Determination of the functions, Powers, and Authorities now vested in or lawfully exercised by the said Association, the Provisions of the present Act shall come into force as regards the Lands to which the said Acts relate.

(LXXVI) It shall be lawful for the Canterbury Association, at any time after a Provincial Council shall have been constituted under the Act for the Province of Canterbury, to transfer to the said Council all such Functions, Powers, and Authorities, and the said Council is hereby empowered to accept such Transfer, upon such Terms and Conditions as shall be agreed upon between the said Council and the said Association: Provided always, that nothing contained in such Terms and Conditions shall interfere with the Rights of Her Majesty, Her Heirs, and Successors, or of the New Zealand Company respectively; and from and after such Time as shall be agreed upon between the said Council and the said Association the said Council shall have to be entitled to exercise all the said Functions, Powers, and Authorities.

(3)

Crown Colony Government in New Zealand.
The Constitution Act of 1852.

(LXXVII) Nothing in this Act or in any Act, Law, or Ordinance to be made by the General Assembly, or by any Provincial Assembly, shall affect or interfere with so much of an Act of the Session holden in the Fourteenth and Fifteenth Years of Her Majesty, Chapter Eighty-six, intitled, An Act to regulate the affairs of certain Settlements established by the New Zealand Company in New Zealand, as relates to the Administration of the Land for the public Purposes of the Settlement of Nelson.

(LXXVIII) And whereas certain Terms of Purchase and Pasturage of land in the Settlement of Otago had been issued by the New Zealand Company before the Fourth Day of July One thousand Eight Hundred and Fifty, and the said Terms, or Part of them, were in force on that Day as Contracts between the New Zealand Company and the Association of lay Members of the Free Church of Scotland, commonly called the Otago Association: and whereas by Provisions of the said Act of the Tenth and Eleventh Years of Her Majesty, and of the said Notice given by the New Zealand Company, the lands of the said Company in New Zealand severally and became vested in Her Majesty as Part of the Demesne lands of the Crown, subject nevertheless to any Contract then subsisting in regard to any of the said lands: and whereas it is expedient that Provision should be made to enable Her Majesty to fulfil the Contracts contained in such Terms of Purchase and Pasturage as aforesaid.

It shall be lawful for Her Majesty for that Purpose to make Provision, by way of Regulations to be contained in any Charter to be granted to the said Association, for the Disposal of the lands to which the said Terms of Purchase and Pasturage relate, so far as the same are still in force as aforesaid, and for varying from Time to Time such Regulations, with such Consent by or on behalf of the said Association as in any such Charter or Instructions shall be specified, and for fixing the Boundaries thereof, and for enabling the said Association to transfer its Powers to the Provincial Council for the Province of Otago: Provided always that no such Charter shall be granted or have Effect for any longer Term than Ten Years from the passing of the Act; but one of Her Majesty's Provincial Secretaries or State may at any Time during the Term for which such Charter shall be granted by Writing under his Hand, extend the Term for which such Charter shall have been granted for such further Time as in his Discretion he may think fit: Provided always, that it shall not be lawful for Her Majesty, by any such Regulations as aforesaid, to diminish the Sum now payable to the New Zealand Company in respect of all Waste Land sold under the said Terms of Purchase, unless with the Consent of the New Zealand Company, signified as herein-before provided; and during the Continuance of such Charter as aforesaid, it shall not be lawful for the said General Assembly to repeal or interfere with any such Regulations respecting lands in Otago, except with such Consent by or on behalf of the Otago Association as in any such Charter or Instructions may be provided, and (as far as the Rights of the New Zealand Company may be affected) with the Consent of such Company signified as herein-before provided; and every Bill which shall repeal or interfere with any such Regulations shall be reserved for the Signification of Her Majesty's Pleasure thereon.

(LXXIX) It shall be lawful for Her Majesty, by any such Letters Patent as aforesaid, or Instructions under Her Majesty's Signet and Sign Manual, or signified through one of Her Majesty's Principal Secretaries of State, to delegate to the Governor any of the Powers herein-before reserved to Her Majesty respecting the Removal of Superintendents of Provinces and the Regulation of the Sale, Letting, Disposal, and Occupation of Waste Lands, the Establishment of Municipal Corporations, and the Preservation of Aboriginal Laws, Customs, and Usages.

(LXXX) In the Construction of this Act, the Term "Governor" shall mean the Person for the Time being lawfully administering the Government in New Zealand; and for the Purpose of this Act "New Zealand" shall be held to include all Territories, Islands, and Countries lying between Thirty-Three Degrees of South Latitude and Fifty Degrees of South Latitude, and One hundred and Sixty-two Degrees of East Longitude and One hundred and Seventy-three Degrees of West Longitude, reckoning from the Meridian of Greenwich.

(4)

Crown Colony Government in New Zealand.
The Constitution Act of 1852.

- (LXXXI) This Act shall be proclaimed in New Zealand by the Governor thereof within six weeks after a copy of such Act shall have been received by such Governor, and, save as herein expressly provided, shall take effect in New Zealand from the day of such Proclamation thereof.
- (LXXXII) The Proclamation of this Act, and all Proclamations to be made under the Provisions thereof, shall be Published in the New Zealand Government Gazette.

THE TREATY OF WAITANGI (1)

The Text in Maori

Pre-ambble

(This text is copied from the first sheet of the treaty, dated 6 February 1840, and neither spelling nor punctuation has been altered. 1)

CHIEFS

Ko Wikitoria te Kuini o Ingarani i tana mahara atawai ki nga Rangatira me nga Hapu o Nu Tirani i tana hiahia hoki kia tohungia ki a ratou o ratou rangatiratanga me to ratou wenua. a kia mau tonu hoki te Rongo ki a ratou me te Atanoho hoki kia wakaaro ia he mea tika kea tukua mai tetahi Rangatira – hei ka wakarite ki nga Tangata maori o Nu Tirani – kia wakaaetia e nga Rangatira maori te kawanatanga o te Kuini ki nga wahikatoa o te wenua nei me nga motu – na te mea hoki he tokomaha ke nga tangata o tona Iwi Kua noho ki tenei wenua, a e haere mai nei.

HER

Na ko te Kuini e hiahia ana kia wakaritea te Kawanatanga kia kana ai nga kino e puta mai ki te tangata Maori ki te Pakeha e noho ture kore ana.

HOBSON

Na, kua pai te Kuini kia tukua a hau a Wiremu Hopihona he Kapitana i te Roiara Nawi hei Kawana mo nga wahi katoa o Nu Tirani e tukua aiane. amua atu ke te Kuini, e mea atu ana ia ki nga Rangatira o te wakaminenga o nga hapu o Nu Tirani me era Rangatira atu enei ture ka korerotia nei.

Ko te Tuatahi

CHIEFS

Ko nga Rangatira o te wakaminenga me nga Rangatira katoa hoki ki hai i uru ki taua wakaminenga ka tukuruwa atu ki te Kuini o Ingarani ake tonu atu – te Kawanatanga katoa o o ratou wenua. THEIR LAND

Ko te Tuarua

Ko te Kuini o Ingarani ka wakarite ka wakaae ki nga Rangatira ki nga hapu – ki nga tangata katoa o Nu Tirani te tino rangatiratanga o o ratou wenua o ratou kainga me o ratou taonga katoa. Otiia ko nga Rangatira o te wakaminenga me nga Rangatira katoa atu ka tuku ki te Kuini te hokonga o era wahi wenua e pai ai te tangata nona te Wenua – ki te ritenga o te utu e wakaritea ai e ratou ko te kai hoko e meatia nei e te Kuini hei kai hoko mona.

Ko te Tuatoru

HOBSON

Hei wakaritenga mai hoki tenei mo te wakaaetanga ki te Kawanatanga o te Kuini – Ka tiakina e te Kuini o Ingarani nga tangata maori katoa o Nu Tirani ka tukua ki a ratou nga tikanga katoa rite tahi ki ana mea ki nga tangata o Ingarani.

(Signed) W.Hobson
Cosul & Lieutenant Governor

CHIEFS

Na ko matou ko nga Rangatira o te Wakaminenga o nga hapu o Nu Tirani ka huihui nei ki Waitangi ko matou hoki ko nga Rangatira o Nu Tirani ka kite nei i te ritenga o enei kupu. ka tangohia ka wakaaetia katoatia e matou koia ka tohungia ai o matou ingoa o matou tohu. Ka meatia tenei ki Waitangi i te ono o nga ra o Pepueri i te tau kotahi mano, e waru rau e wa te kau o to tatou Ariki.

1. It should be borne in mind that, as the Maoris had no word for governor or sovereignty, the

THE TREATY OF WAITANGI (i)

The Text in Maori

Pre-amble

(This text is copied from the first sheet of the treaty, dated 6 February 1840, and neither spelling nor punctuation has been altered. 1)

CHIEFS

Ko Wikitoria te Kuini o Ingarani i tana mahara atawai ki nga Rangatira me nga Hapu o Nu Tirani i tana hiahia hoki kia tohungia ki a ratou o ratou rangatiratanga me to ratou wenua. a kia mau tonu hoki te Rongo ki a ratou me te Atanoho hoki kia wakaaro ia he mea tika kea tukua mai tetahi Rangatira – hei ka wakarite ki nga Tangata maori o Nu Tirani – kia wakaetia e nga Rangatira maori te kawanatanga o te Kuini ki nga wahikatoa o te wenua nei me nga motu – na te mea hoki he tokomaha ke nga tangata o tona Iwi Kua noho ki tenei wenua, a e haere mai nei.

HER

HOBSON

Na ko te Kuini e hiahia ana kia wakaritea te Kawanatanga kia kana ai nga kino e puta mai ki te tangata Maori ki te Pakeha e noho ture kore ana.

Na, kua pai te Kuini kia tukua a hau a Wiremu Hopihona he Kapitana i te Roiara Nawi hei Kawana mo nga wahi katoa o Nu Tirani e tukua aianei, amua atu ke te Kuini, e mea atu ana ia ki nga Rangatira o te wakaminenga o nga hapu o Nu Tirani me era Rangatira atu enei ture ka korerotia nei.

Ko te Tuatahi

CHIEFS

Ko, nga Rangatira o te wakaminenga me nga Rangatira katoa hoki ki hai i uru ki taua wakaminenga ka tuku rawa atu ki te Kuini o Ingarani ake tonu atu – te Kawanatanga katoa o o ratou wenua. THEIR LAND

Ko te Tuarua

Ko te Kuini o Ingarani ka wakarite ka wakaae ki nga Rangatira ki nga hapu – ki nga tangata katoa o Nu Tirani te tino rangatiratanga o o ratou wenua o ratou kainga me o ratou taonga katoa. Otiia ko nga Rangatira o te wakaminenga me nga Rangatira katoa atu ka tuku ki te Kuini te hokonga o era wahi wenua e pai ai te tangata nona te Wenua – ki te ritenga o te utu e wakaritea ai e ratou ko te kai hoko e meatia nei e te Kuini hei kai hoko mona.

HOBSON

Ko te Tuatoru

Hei wakaritenga mai hoki tenei mo te wakaetanga ki te Kawanatanga o te Kuini – Ka tiakina e te Kuini o Ingarani nga tangata maori katoa o Nu Tirani ka tukua ki a ratou nga tikanga katoa rite tahi ki ana mea ki nga tangata o Ingarani.

(Signed) W.Hobson
Cosul & Lieutenant Governor

CHIEFS

Na ko matou ko nga Rangatira o te Wakaminenga o nga hapu o Nu Tirani ka huihui nei ki Waitangi ko matou hoki ko nga Rangatira o Nu Tirani ka kite nei i te ritenga o enei kupu. ka tangohia ka wakaetia katoatia e matou koia ka tohungia ai o matou ingoa o matou tohu. Ka meatia tenei ki Waitangi i te ono o nga ra o Pepueri i te tau kotahi mano, e waru rau e wa te kau o to tatou Ariki.

1 It should be borne in mind that, as the Maoris had no word for governor or sovereignty, the

348

From:
To: <constitutionalreview@justice.govt.nz>
Date: 15/04/2013 2:27 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

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

Full Names: Karen Ann Alletson Organisation Name: Email:
Phone: Postal AddressA: Postal AddressB: Postal City:
Auckland Postal Region: Postal Post Code: Postal Country: New Zealand
Submission: 1. Yes, where possible, as it would be easier to access rather than trailing through a number of volumes and indexes.

2. No. No law can have a higher legal status than another; Law is Law. However the consequences of breaking or breaching some laws may be more severe than others.

3. The Courts. Parliament are the legislators and whilst they should be (fully) aware of the constitution; a conflict of interest would exist. The court should be non partisan, and as such judge objectively.

Sent on the 15 April 2013 at 14:27

3489

From:
To: <constitutionalreview@justice.govt.nz>
Date: 15/04/2013 2:38 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

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

Full Names: Karen Ann Alletson Organisation Name: Email:
Phone: Postal AddressA: Herald Island. Postal AddressB: Postal City:
Auckland Postal Region: Waitkere Postal Post Code: Postal Country: New Zealand
Submission: 1. The same as all other citizens, via their elected (Constituent) representative.

2. The message has to be presented (education) that only by taking an interest and understanding the issues and making an informed decision to elect a representative, can they make their voice heard; (just like anyone else).

3. Just like anyone else via their local rep's. If that is not working make a private presentation. (the same as any one else) A process exists to be used. We cannot have one thing for one section of the community and one for others. It is racist, divisive, and destructive.

Sent on the 15 April 2013 at 14:38

3486

From:
To: ~constitutionalreview@justice.govt.nz>
Date: 15/04/2013 2:50 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

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

Full Names: Karen Ann Alletson Organisation Name: Email: .
Phone: Postal AddressA: Herald Island. Postal AddressB: Postal City:
Auckland Postal Region: Postal Post Code: Postal Country: New Zealand
Submission: 1. There is no role for the treaty as such, or as a whole; no more than the Magn'a Carte
does in the UK. Many aspects of the treaty are encompassed in the constitution already.

2. No. People use the treaty to their own ends; for the most part misinterpreting it to suite their own
agenda. It is a very good document and should be nailed to a museum wall. At the moment it is used
to prevent New Zealand moving forward as one Nation.

Sent on the 15 April 2013 at 14:49

348c

From:
To: <constitutionalreview@justice.govt.nz>
Date: 15/04/2013 6:16 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

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

Full Names: Karen Ann Alletson Organisation Name: Email:
Phone: Postal AddressA: Postal AddressB: Postal City:
Auckland Postal Region: Waitkere Postal Post Code: Postal Country: New Zealand
Submission: 1. There should be one for each constituency. Why? because that is the only fair way;
each group elects a spokesperson. No person not elected by the people should be there.

2. 4 years.

3. It should be pre-set at the end of 4 years.

4. Population should be considered; so a partially populated area may be larger for electoral reasons than an urban area. Each area should elect one MP. If they are not elected they have no place in Parliament.

5. If an MP parts way with their party they should return to the electorate that put them there for reselection. They should not be allowed to simply stay on as an Independent or to cross the floor and continue to claim they represent the people.

Sent on the 15 April 2013 at 18:16

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

From:**To:** <Constitutionalreview@justice.govt.nz>**Date:** 20/03/2013 1:08 a.m.**Subject:** <http://www.ourconstitution.org.nz/> form submission

Sent from The Constitution Conversation.**Full Names:** Nick Alleyne**Organisation****Name:****Email:****Phone:****Postal****AddressA:****Postal****AddressB:****Postal City:****Postal Region:****Postal Post****Code:****Postal** New Zealand**Country:**

Submission: Throughout history persons and organisations have in their minds for justifiable and righteous causes afforded persons of different races, culture or bloodlines a varying amounts of rights, privilege and citizen participation. These people and organisations are now viewed as some of the most evil and misguided the world has seen. I implore you, not only for the future of myself and this young nation, but also for your own reputation as viewed by future generations, please do not be one these people, or belong to one of those organisations. Although it made perfect sense to those people at the time, as entrenching racial privilege into a New Zealand constitution does to this committee now, it was never acceptable, and never will be. Please do not condemn future generations to being second class citizens based solely on their bloodlines and skin tone. It actually both appals and shocks me that in this day in age after the many lessons the world has shown us that someone like myself needs to write a letter pleading to the people who ultimately are steering the direction of the country to do so in a manner that treats all people regardless of their gender, culture and bloodlines with equal rights and opportunity under the law and equal say in their community.

Sent on the 20 March 2013 at 01:06

4504

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 31/07/2013 10:04 p.m.

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

Full Names: Beryl ALLISON Organisation Name: Email:
Phone: Postal AddressA: Postal AddressB:
Postal City: New Plymouth Postal Region: Taranaki Postal Post Code: Postal Country:
New Zealand Submission: I support the idea of a single document which combines philosophy and values in one place. A Constitution makes for ease of access and also enables consistency. It should be a framework/guideline type of document which foundation philosophy and values which allows for change in detail but provides consistency in terms of history and the shared values of this country. The Constitution should begin with the Declaration of Independence 1835 and continue with the Treaty of Waitangi 1840. These documents reflect the relationship between the indigenous peoples of the land and the newcomers. The recognition of two peoples which is embedded in the Treaty of Waitangi should be recognised as a foundation for a Constitution.

I believe that the Constitution should represent supreme law. The legal process already in place whereby the people are able to appeal to the law in respect to legislation is already current in our system. The parliamentary formulation of law, particularly in recent years, has a reputation for pragmatism and often ill-thought out or slipshod. Not something one would want in regard to a Constitution. Also a Constitution should have a long term perspective, not easily changed once

there is agreement on the content.

I believe a Constitution should have the power to measure legislation against its content in terms of consistency. While there is a Bill of Individual Rights in place, it does not have status and can be disregarded by legislation.

Beryl Allison

Submitted on the 31 July 2013 at 22:04

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

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

Full Names: Lyn Allison Organisation Name: Email: Phone:
Postal AddressA: Postal AddressB: Postal City: Katikati Postal Region: Postal Post
Code: Postal Country: New Zealand Submission: All I want in our constitution is equality. Stop
New Zealand being the seperatist country it is now!

Sent on the 12 April 2013 at 11:04

Introduction

4725

1. This text aims to provide an overview as to why the term of Parliament should remain at three years as opposed to being increased the much-discussed four-year term and the benefits of introducing a qualified fixed term, which means the election takes place at the same time every year. The Royal Commission identified the underlying principle for deciding how long a government should govern for, as striking a balance between voter sovereignty and effective government.¹ It is on this premise that I submit the term should be left untouched.

1.1 The current legal description of the parliamentary term in New Zealand can be found in section 17 of The Constitution Act, Parliament may be in session for three years unless it sooner is dissolved.² This section is protected by a form provision in the Electoral Act section 268, which necessitates a super majority (75%) for the section to be changed.³

1.2 My submission is that the current three-year term is sufficient for effective government in New Zealand; therefore there is no need for the increase to four years. The Royal Commission pointed out in 1986 that there is no room to shorter the parliamentary term. Less than three years would 'significantly reduce the ability of Government to plan and implement

¹ The Royal Commission, on the Electoral System, *Towards a Better Democracy*, chapter 6, pg 155

² Constitution Act 1986 (NZ) s17

³ Electoral Act 1993 (NZ) s268

policies... [as well as putting] an unreasonable burden on political parties in planning and carrying out election campaigns at shorter intervals.’⁴ There has been much discussion in the media lately about increasing the parliamentary term to four years with many of the political parties expressing favour of this idea. However, if or when, the time comes that three years is no longer appropriate for effective governance, and a four-year term is recommended, it *must* be left to the public to decide.

Who Decides?

2. Currently, the issue may be decided in two ways. Through legislating the House with a super majority of 75%, to meet the requirement of the entrenching provision Section 268 of The Electoral Act may amend s17 Constitution Act to change the term of Parliament.. The second option is by a Government initiated referendum in which the Government puts the vote to the public and agrees to be bound by the outcome. New Zealand has had two referendums on this issue in 1967 and 1990; both showed an overwhelmingly majority against increasing the term of parliament from three to four years.⁵ However the previous referenda were taken before the introduction of MMP. The introduction of the MMP political model could arguably influence how the public would vote in such a referendum in the future. Although the tendency of the New Zealand society is more likely to favour increasing Parliament accountability over removing democratic

⁴ The Royal Commission, on the Electoral System, *Towards a Better Democracy*, chapter 6, pg 157

⁵ David G. McGee *Parliamentary Practice in New Zealand* (3rd ed, Dunmore Publications Wellington 2005) pg 111

safeguards therefore it is unlikely MMP will influence how the public votes.

2.1 The underlying understanding of a duty of good faith on those who ask to govern as our representatives is the reason why the determination of parliamentary term should be left to the public. This good faith means that any eventual change by the people could not be 'interpreted as an attempt by politicians to obtain a greater power.'⁶ The argument in favour of having the public decide how long a group of individuals should govern for can be legitimised by recognising that "a democracy is where the power of government is exercised as the people in society wish it to be – usually by people they choose as their representatives."⁸ ...Therefore the government needs to remain a democratic for the people from the people and the only way this is possible is through elections on a regular basis.

Reasons For Keeping the Status Quo

3. The main argument behind moving to a term of four years is to increase the scrutiny legislation is faced with as well as to promote long-term policy thinking. While it may be beneficial to encourage more long-term policy thinking in New Zealand this can still be done with a three-year parliamentary term. For instance the Tax Income Bill 2006 was a product of at least 15 years. The Minister of Finance at the time pointed out New

⁶ The Royal Commission, on the Electoral System, *Towards a Better Democracy*, chapter 6, pg 157

⁸ G. Palmer, *Bridled Power: New Zealand's Constitution and Government* Oxford University Press, 4th ed, pg 4

Zealand was the only jurisdiction to have completed this, although our tax law being less complicated may explain it.⁹ But the Bill is most likely going to be one of the most complicated pieces of legislation ever to face the New Zealand Government and they achieved it while having three-year terms.

3.1 Of course individuals will argue that the Government restricted by a three year term sometimes rushes law making, and not all legislation receives the same amount of scrutiny or time. The Electoral (Disqualification of Convicted Prisoners) Amendment Bill is a good example. It was declared inconsistent with the New Zealand Bill of Rights Act 1990 by the Attorney General and could not be demonstrably justified under section five¹⁰, yet it still went ahead. Hilary Calvert a member of Act during the Bill's third reading stated how this bill was not her favourite thing several times yet Act still supported the National party on this bill for absolutely no reason.¹¹ The bill was not reasonably justified by the National party particularly Paul Quinn who introduced the bill to the House and it was a human rights issue. Of course there is no way to say that if New Zealand had a four year term bills like this one would not happen because there is no evidence to suggest that the three year term was of any influence.

⁹ (21st August 2007) 641 NZPD 11271

¹⁰ Attorney General, Electoral (Disqualification of Convicted Prisoners) Amendment Bill; Consistency with the New Zealand Bill of Rights Act 1990, Published by Order of House of Representatives 2010

¹¹ (8th December 2010) 669 NZPD 15961

3.2 The substantial reason for not increasing the parliamentary term beyond three years is that without frequent national election New Zealand lacks sufficient constitutional safeguards to hold Parliament accountable. Many democracies in other jurisdictions that the Royal Commission compared New Zealand to in their report may be distinguished by their additional constitutional checks on their governments. To begin with NZ has a unicameral system we do not have two chambers like Australia and the UK, or the US, who have a different system again. Yet these are the countries New Zealand compares itself to the most. “A second chamber can scrutinise and revise the smaller print [of bills]”,¹² it is because the first chamber has already looked at the bill in a broad view. It would mean legislation gets looked at far more closely and only has a chance to come into being after much examination. In New Zealand there is the House of Representatives Standing Orders that have to be followed when enacting legislation but these can be broken and the Courts cannot look into it. A government does not need an extra year to introduce more legislation that the public may not necessarily agree with and that is on subject to limited scrutiny.

3.3 A further safeguard New Zealand lacks is a Supreme Court that can strike down legislation either inconsistent because of human right issues or because it defies the constitution. New Zealand does not have an entrenched constitution like Australia or The United States and therefore Courts cannot strike down legislation inconsistent with the constitution.

¹² Peter Archer “The House of Lords, Past, Present and Future” (2003) 70 The Political Quarterly pg 396 – 403 pg 396

Palmer has pointed out that ‘sometimes the flexibility of the constitution means that we can get nasty surprises about what our government can actually do.’¹³ More importantly New Zealand’s Bill of Rights is not entrenched and therefore Parliament can introduce legislation that is deemed inconsistent, the Attorney General may point out the inconsistencies but that is not a binding report. New Zealand Judges are often reluctant to declare legislation unlawful, like in *Belcher v Chief Executive of the Department of Correction*¹⁴ where they found the ESO (Extended Supervision Orders) to be inconsistent with the NZBoRA but for not make the declaration before giving Parliament the chance to justify themselves. In some Australian states and the UK courts can ‘issue a formal declaration – in effect an explicit and direct message to the legislature.’¹⁵ But as mentioned in *Belcher* NZ Courts are reluctant. But Parliament always has the power to just re-legislate and say the Courts cannot look at this; take for example the New Zealand Public Health and Disability Amendment Bill (No 2) section 70(2)(E) prohibits courts or any tribunal or the Human Rights Commission looking into complaints relating to the rest of the Act.¹⁶ Parliament does not need an extra year with this kind of power. The public itself operates as a safeguard and re-elect someone else before it can happen again, an extra year gives the public less of an opportunity to have a say.

¹³ G. Palmer, *Bridled Power: New Zealand's Constitution and Government* Oxford University Press, 4th ed, pg 6.

¹⁴ *Belcher v Chief Executive of the Department of Corrections* [2007] 1 NZLR 507

¹⁵ Geddis, A. (2009). The comparative irrelevance of the NZBORA to legislative practice. *New Zealand Universities Law Review*, 23, 465-488. Pg 2.

¹⁶ New Zealand Public Health and Disability Amendment Bill (No 2) (118 -1) s70 (2)(E)

3.4 Lastly although New Zealand has government-initiated referenda that are binding on the government, NZ does not have binding citizen-initiated referenda. Although citizen referendums are now available for the public to have a say the government in no way has to take any notice of what they say. If the public had a better way of directly participating in the government especially on the important issues there may be room for a four-year term. But currently there is no forum for the public to have a direct say other than the government initiated referendums. Therefore three year terms need to be kept in order to make sure the government can be accountable to the public in some way. Perhaps if citizen initiated referendums became binding or the public were allowed to have a say into legislation passed by a free or conscious vote in parliament a four-year term may become more appealing. But at present with the lack of safeguards in place and the unavailability of the public to have more of an active say it would not be an appropriate recommendation.

3.5 One may argue that a safeguard that was not around when the first two referendums on increasing the Parliamentary term were conducted was MMP. MMP came into being in 1993 and means that governments are now formed by coalitions. The argument is that if there is another party that needs to support the bigger guy would that not slow down the introduction of laws that are not adequately thought through? Well as previously discussed with the Electoral (Disqualification of Convicted Prisoners) Amendment Bill it would seem the answer is no. Quite often

parties before the election ends will make deals with one another, if you support this we will support you on your issue. This goes on behind closed doors and the public has no say into what parties form a coalition. Although the public has a general idea who may form the government there is no guarantee and therefore it is hard to see MMP as a sufficient safeguard.

Fixed Term

4. It is my submission that the three-year term should become fixed. Elections should happen on the same day every three years and the privilege should be taken away from the Prime Minister where they get to decide when to call the election. Taking this privilege away would mean that it becomes fair to all parties knowing when the election is going to be, it takes away one party having an inherent advantage. Fixed terms bring practical advantages by giving a greater degree of predictability and continuity. For example "in 2002... the government called an early election primarily to exploit good economic data and its high opinion poll ratings."¹⁷

- 4.1. In addition there are other people such as third parties who depend on the statement from the Prime Minister as to when the election is going to be. The regulated period for election is usually two years and nine months after and there are election rules that apply. One of these is that third

¹⁷ Andrew Geddis "The general election in New Zealand, September 2005" 25 Electoral Studies pg809 at pg 809

parties that are unregistered cannot spend more than \$12,200 dollars on advertising expenses. But if the Prime Minister makes an announcement as to when the election is going to take place and this is before the default period it may mean the regulated period will apply retrospectively to a third party and they may be caught for overspending because they have yet not registered and the fact that outside the regulated period third parties do not have a limit on how much money they can spend on advertising expenses.¹⁸

4.2 There would need to be a provision made for extraordinary circumstances that might require an early election. This makes the recommendation a qualified fixed term. One of these situations would be if there were no viable government that can command the confidence of the House. Therefore there would need to be a time period decided on as to when the Governor General could dissolve Parliament due to there being no government that had shown it could command the House's confidence. Another option would be if a super majority decided that there needed to be an early election. This option could be used if there was an emergency on the same scale as the Christchurch earthquakes and the Prime Minister after having 75% majority agree dissolve Parliament for an early election. This is very similar to the recommendation in the Fixed-Term Parliaments Bill 2010 -11 in the UK.¹⁹ However this brings forward the problem if an

¹⁸ Andrew Geddis, *Electoral Law in New Zealand* (2nd Edition) Wellington, New Zealand: LexisNexis Forthcoming, 9.3.2.2

¹⁹ House of Commons Political and Constitution Reform Committee, Fixed-term Parliaments Bill Second Report of Session 2010-11 9th September 2010 pg. 9.

early election is called, how long will the new government govern for and what happens to the delegated Election Day? Firstly it is unlikely that a party will lose confidence in the House, “not since 1928 has a Government been defeated on a confidence vote and thereby been obliged to resign.”²⁰ Secondly if an emergency occurs the early election may only be a few months out from the delegated election date. Therefore if an early election is called in the same year as the delegated election date, the latter should become redundant and a provision should be made to allow the newly formed government to be in session until the next delegated election date. This will reduce costs of having to hold multiple elections in a year, as well as reducing political uncertainty and having an unstable government if it was only to be re-elected in six months time. This would mean a government may end up governing for a period of 3 years and a few months but this would be a very rare occurrence and no reason to move to a four-year term.

Conclusion

5. Based on previous arguments there is sufficient reasons not to move to a three-year term. If Parliament decides to initiate more safeguards before gaining more power then a four-year term may become a conceivable plan. But until the public can have a greater *direct* say in government it is better to have more regular elections to hold the representatives accountable. The

²⁰ Office of the Clerk of The House of Representative “Parties and Governments” 14th October 2010 New Zealand Parliament, www.parliament.nz

three-year term should become a qualified fixed term to enable better predictability and to remove any unfair advantage that the party in power has but to also provide for emergencies and when the government no longer has the confidence of the House.

Bibliography

Office of the Clerk of The House of Representative “Parties and Governments” 14th October 2010 New Zealand Parliament, www.parliament.nz

Andrew Geddis, *Electoral Law in New Zealand* (2nd Edition) Wellington, New Zealand: LexisNexis Forthcoming, 9.3.2.2

Andrew Geddis “The general election in New Zealand, September 2005” 25 Electoral Studies pg809 at pg 809

Geddis, A. (2009). The comparative irrelevance of the NZBORA to legislative practice. *New Zealand Universities Law Review*, 23, 465-488. Pg 2.

House of Commons Political and Constitution Reform Committee, Fixed-term Parliaments Bill Second Report of Session 2010-11 9th September 2010 pg. 9.

G. Palmer, *Bridled Power: New Zealand's Constitution and Government* Oxford University Press, 4th ed, pg 6.

Belcher v Chief Executive of the Department of Corrections [2007] 1 NZLR 507

New Zealand Public Health and Disability Amendment Bill (No 2) (118 -1) s70 (2)(E)

Peter Archer “The House of Lords, Past, Present and Future” (2003) 70 The Political Quarterly pg 396 – 403 pg 396

The Royal Commission, on the Electoral System, *Towards a Better Democracy*, chapter 6, pg 155

Constitution Act 1986 (NZ) s17

Electoral Act 1993 (NZ) s268

David G. McGee *Parliamentary Practice in New Zealand* (3rd ed, Dunmore Publications Wellington 2005) pg 111

(21st August 2007) 641 NZPD 11271

(8th December 2010) 669 NZPD 15961

Attorney General, Electoral (Disqualification of Convicted Prisoners) Amendment Bill; Consistency with the New Zealand Bill of Rights Act 1990, Published by Order of House of Representatives 2010

1159

From: <>
To: <constitutionalreview@justice.govt.nz>
Date: 8/06/2013 9:59 a.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

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

Full Names: Tonv Raoul Allnutt Organisation Name: Email:
Phone: Postal AddressA: ; Postal AddressB: Postal City: Timaru
Postal Region: South Canterbury Postal Post Code: Postal Country: New Zealand
Submission: I say no to any and all race based representation on local bodies, same for government
any group or organisation, legislation , no to any cheap race based housing loans education anything
. Removal of the waitangi tribunal and any reference to it in

Sent on the 8 June 2013 at 09:59

4002"

From: <
To: <constitutionalreview@justice.govt.nz>
Date: 29/07/2013 12:59 a.m.
Subject: Constitutional Review Submission

Submission of Hamish W Allott (individual).

Basis of
constitutional arrangement.

http://en.wikipedia.org/wiki/Basic_Law_for_the_Federal_Republic_of_Germany
(Basic Law) I support the adopting of the German Basic Law by New Zealand with modification of the application to New Zealand (New Zealanders) from Germany (Germans) as appropriate. This arrangement should also in addition contain an article formally incorporating the Treaty of Waitangi, which I regard as being the founding document of New Zealand and therefore due formal recognition within this countries constitution.

Bill of Rights

http://en.wikipedia.org/wiki/Federal_Constitutional_Court_of_Germany
(Federal Constitutional Court of Germany) The enforcement of the rights contained within the Bill of Rights Act 1990 should rest with the courts, I submit upon the lines of the arrangement Germany uses as illustrated in the above link. This would allow the judiciary to act as a independent review mechanism of the power exercised by the government.

Composition of Parliament.

I submit that a maximum of 60% of seats in the House of Representatives are electorate seats, a minimum of 40% of seats in the House of Representatives are Party List representatives and the minimum number of seats elected proportionally in the House of Representatives is the greater of 120 or 96% of the total number of seats (balance seats being added if necessary to achieve this). The house should have at least 150 members, with a link to population growth allowing this level maintenance of representation. Additionally no electorates population should exceed 66,000. Electorates should have an average population of 60,000 with a 10% variation being allowed.

I support the establishment of an upper house modeled upon that of Australia, detailed in this link.

http://en.wikipedia.org/wiki/Australian_Senate (Senate). I submit that the New Zealand upper house has 40% of the number of seats, compared to the size of the lower house (and that it has NO fewer than 40 seats). I suggest regional elections using Proportional Representation - Single Transferable Vote, with at least 5 seats elected in any given electoral area (2 Maori plus at least 2 regions in each island), half the upper house being elected at an election except with regard to the double dissolution procedure in the circumstances I outline below. I suggest this is in regional blocks + a Maori option (ie.- a voter cannot vote in multiple regions/on the Maori option, in addition).

Timing of
elections:

Unless a government has lost a confidence or supply motion in parliament AND no alternative administration can be formed, I suggest a parliamentary general election is held upon the last Saturday in November each 3 years (except for a 2 month extension in the intended effect of regaining a November election cycle in the event where there has been an early/snap election). In the event a government has lost a confidence or supply motion (and no alternative government has been formed) a general election must be held upon the first Saturday following 29 days after the vote.

1019

From:
To: <constitutionalreview@justice.govt.nz>
Date: 3/06/2013 10:08 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

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

Full Names: Garry Allport Organisation Name: Email: Phone:
Postal AddressA: Postal AddressB: Postal City:
Auckland Postal Region: Auckland Postal Post Code: Postal Country: New Zealand
Submission: Q.1. - I believe that is important for NZ to have a single document as a written constitution. This document should summarise the other important founding documents such as the Bill of Rights and the Treaty of Waitangi.

Once a single written constitution was settled upon I believe we should then pay far less attention to the older historical documents such as the Treaty of Waitangi.

If we have a single document I believe the ideas which we decide to hold dear will be more accessible to the people of NZ. This will make these ideas more relevant simply because they are more accessible and stated in more contemporary, relevant and understandable language.

Obviously the wording of this document will be crucial. A robust public submission and debating process would need to be followed before settling upon the final wording.

Although the ideas which we choose to live by as a nation will be complex in their detail they should be simple in essence.

A well-worded single document would mean both individuals and organisations could model their thinking and their rules and law on clear constitutional values.

If a person asks "what does it mean to live in NZ under NZ ways, custom and law?" we could direct him to the document and say here is the essence, here is the beginning and when we as New Zealanders are unsure of the answer to this question ourselves, we too would have somewhere accessible to go for an answer.

Q.2. - I think that the Law courts in the form of a specialist Tribunal should have the power to decide if laws are consistent with the constitution or not. In this matter I believe Parliament would be too susceptible to political expediency and popularism to consistently make these judgements.

It may be that once a written constitution was settled upon then this Tribunal could convene to look at all the existing NZ statutes and test them for their basic consistency against the new singular constitution. In this way the Tribunal as a body would

gain significant experience in this important matter which they could then draw upon to check the constitutional consistency of newly proposed laws.

Q.3. - I do not think that the Constitution should have a higher legal status than other properly enacted laws.

However if a newly proposed law is clearly at odds with the intended spirit of the Constitution then this should be good grounds to prevent such a proposed law from being passed.

In summary I would commend and support the idea of modern NZ debating and drafting a new single constitutional document.

Submitted for consideration by:

Garry Allport

Sent on the 3 June 2013 at 22:07

942

From: Aaron Allred <
To: "constitutionalreview@justice.govt.nz" <constitutionalreview@justice.govt.nz>
Date: 29/05/2013 11:29 a.m.
Subject: My Views

Hi,

My thoughts are that everyone should be treated equally. Anything that gives one group of people more rights than another is fundamentally wrong and racist. It can only ever lead to resentment.

I am happy to fight anywhere in the world, including New Zealand to ensure that this is the case.

DO NOT CREATE A CONSTITUTION THAT DOES NOT TREAT ALL NZ CITIZENS EQUALLY. You do not have the right to agree anything else!

Regards

Aaron B Allred (CA)

F

Phone:

Email:

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945

From:
To: <constitutionalreview@justice.govt.nz>
Date: 29/05/2013 1:17 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

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

Full Names: Selwyn Arthur Allred Organisation Name: Email: Phone:
Postal AddressA: Postal AddressB: Postal City:
Methven Postal Region: Postal Post Code: Postal Country: New Zealand
Submission: The Constitution should be changed to reflect that are all New Zealanders and should all be treated equally in all respects and in all ways. There should be NO speacial treatment for any ethnic groups. The treaty claims should be finalised as soon as is possible and then all people living in this country treated equally. Everyone one living in this country at present has the opportunity to find work and advance their position within their communities although this sometimes may mean they have to shift to where the work is. There is a very bleak future ahead for NZ if the present system of giving more to one ethnic group than the other continues as it does not help them in the longer term (they become more dependent) and it creates division within commun ities.

Sent on the 29 May 2013 at 13:15

1642

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 26/06/2013 7:32 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

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

Full Names: Allwood Organisation Name: Email: Phone:
Postal AddressA: Postal AddressB: Postal City:
Hamilton Postal Region: Waikato Postal Post Code: Postal Country: New Zealand
Submission: Any constitution must not be based on race or race based document such as the Treaty
of Waitangi. Any reference to individual rights must be in a pluralistic manner. ie "new
zealanders", nz citizen etc. NOT aboriginal NZers, european nzrs, or any ethnic
identifier.

Sent on the 26 June 2013 at 19:31

1642a

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 26/06/2013 7:34 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

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

Full Names: Allwood Organisation Name: Email: Phone:
Postal AddressA: Postal AddressB: Postal City:
Hamilton Postal Region: Waikato Postal Post Code: Postal Country: New Zealand
Submission: Any constitution must not be based on race or race based document such as the Treaty of Waitangi. Any reference to individual rights must be in a pluralistic manner. ie "new zealanders", nz citizen etc. NOT aboriginal NZers, european nzrs, or any ethnic identifier.

Sent on the 26 June 2013 at 19:33

16426

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 26/06/2013 7:35 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

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

Full Names: Allwood Organisation Name: Email: Phone:
Postal AddressA: Postal AddressB: Postal City:
Hamilton Postal Region: Waikato Postal Post Code: Postal Country: New Zealand
Submission: Any constitution must not be based on race or race based document such as the Treaty of Waitangi. Any reference to individual rights must be in a pluralistic manner. ie "new zealanders", nz citizen etc. NOT aboriginal NZers, european nzrs, or any ethnic identifier.

Sent on the 26 June 2013 at 19:34

5044

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 7/08/2013 3:06 p.m.

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

Full Names: Stephen Almey Email: Phone: Postal
AddressA: Postal AddressB: Postal City: Tauranga Postal
Post Code: Postal Country: New Zealand Submission: Firstly I am shocked that all Iwi
have been consulted but no one else. I have seen one advert on TV about this process and that is all.
It is coming over very secretly where only one section of society is being talked.

I am very concerned about the country being run on race based strategies. As such I strongly say the Treaty of Waitangi has no part in our constitution.

We must be one people.

Even with our children I hear too often stories of discrimination where in the views of children it is pointless trying to be head boy/girl etc unless you are Maori.

The country is becoming more racist not less.

Submitted on the 20 June 2013 at 23:33

35 95

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 15/07/2013 3:58 p.m.
Subject: http://www.ourconstitution.org.nz/form_submission

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

Full Names: Peter Alspach Organisation Name: Email: Phone:
Postal AddressA: Postal AddressB: Postal City:
Motueka Postal Region: Tasman Postal Post Code: Postal Country: New Zealand
Submission: Tena koe

New Zealand should be an egalitarian society which values the contribution of all citizens. In recent decades the income disparity between the top and lower quartile has grown. Our constitution could set an example to counter this trend by stating that the highest paid member of any State organisation (i.e., government department, SOE, CRI, local body) cannot earn more than, say, 10 times the lowest paid member of the same organisation (on a full-time equivalent basis). Senior executives in such organisations should not receive bonus as there is a considerable body of research that indicates such bonuses are counter-productive. Similarly, the salary of politicians should be tied to the minimum wage (e.g., the Prime Minister should not get more than 15 times the minimum wage and all other MPs should receive less than the Prime Minister).

Such rules are not new. Various corporations use them (e.g., the BBC and Tridos Bank) and, I understand, it is widespread in Japan.

Naku noa, na

Peter Alspach

Sent on the 12 July 2013 at 17:41

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.

Rosalie Alter-Shaw
Palmerston North
New Zealand

545

From:
To: <constitutionalreview@justice.govt.nz>
Date: 18/04/2013 6:53 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

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

Full Names: Nathaniel Alvey Organisation Name: Email: Phone:
Postal AddressA: Postal AddressB: Postal City:
Auckland Postal Region: Auckland Postal Post Code: Postal Country: New Zealand
Submission: I would like to see 'the right to bare arms' in the Constitution, if it is that any one over the age of 21 has a register unconsecrated handgun like in Illinois usa which has the lowest crime rate in usa then why cant we have it here????

Sent on the 18 April 2013 at 18:52

256

From:
To: <constitutionalreview@justice.govt.nz>
Date: 12/04/2013 9:19 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

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

Full Names: Christine M Amery Organisation Name: Email:
Phone: Postal AddressA: Postal AddressB: Postal
City: Postal Region: Bay of Plenty Postal Post Code: Postal Country: New
Zealand Submission: Aspirations: For us all to all be one race- New Zealanders- with no
differentiation in the way we are treated relating in any way to history or racial groups.

I want the country to be run without any reference to the history and origins of it's people

Sent on the 12 April 2013 at 21:18

256a

From:
To: <constitutionalreview@justice.govt.nz>
Date: 12/04/2013 10:02 p.m.
Subject: My submissions regarding the current constitutional review

I understand that unless we the public add our views to this constitutional review, we are likely to end up with a constitution favouring one ethnic group in a multicultural society.

Please accept my submissions below as part of the constitutional review being carried out, based on the questions you have asked on your web site. Hopefully most New Zealanders will make a submission.

What are your aspirations for Aotearoa New Zealand?

To become a multicultural population of New Zealanders, with no specific ethnic group singled out for special mention or treatment

How do you want our country to be run in the future?

As a multicultural population of New Zealanders, with no specific ethnic group singled out for special mention or treatment

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

Yes- because we need to move on from the historical Treaty of Waitangi as having any relevance to our future

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

Yes- because we need one document which is overriding

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

The courts

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

No- presently our rights are readily put aside to favour Maori interests

What other things could be done to protect rights?

Make sure the new constitution does not favour any one ethnic group over others

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

Yes

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

Courts

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

No comment

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

Absolutely none at all- it's irrelevant historically and all it does is favour one ethnic group at the expense of all the other ethnic groups- this is racially discriminate thinking even to suggest the question.

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

Absolutely not- it's a historic document which has no relationship to our multicultural society today. this is racially discriminate thinking even to suggest the question.

How should Maori views be represented in Parliament?

The same as the views of all other ethnic groups- should not be represented at all. this is racially discriminate thinking even to suggest the question.

How could Maori electoral participation be improved?

It should not be a concern of this constitution in any way- this is racially discriminate thinking - why not ask how Chinese or Indian electoral participation be improved????

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

The same as all New Zealanders views, whether Chinese, European, Indian or any other races views. Again, this question shows racially discriminate thinking.

How many members of Parliament should we have? Why?

The same proportion per head of population as UK (i.e. many less than now!) Because we have too many and they are too expensive in a small country

How long should the term of Parliament be? Why?

4 years- to achieve some stability before the electioneering starts again.

How should the election date be decided? Why?

Fixed date so everyone knows where they stand in advance

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

No input to offer on this, except that racially based special seats must be abolished

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

If elected by the public- stays in parliament until the next election as an independent

If a list MP must leave parliament immediately

Richard Amery

255

From:
To: <constitutionalreview@justice.govt.nz>
Date: 12/04/2013 9:17 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

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

Full Names: Richard Thomas Amery Organisation Name: Email: .
Phone: Postal AddressA
AddressB: Postal City Postal Region: North Island Postal Post Code:
Postal Country: New Zealand Submission: Aspirations: For us all to all be one race- New Zealanders- with no differentiation in the way we are treated relating in any way to history or racial groups.

I want the country to be run without any reference to the history and origins of it's people.

Sent on the 12 April 2013 at 21:16

255a

From: "Richard Amery"
To: <constitutionalreview@justice.govt.nz>
Date: 12/04/2013 10:06 p.m.
Subject: FW: My submissions regarding the current constitutional review

I understand that unless we the public add our views to this constitutional review, we are likely to end up with a constitution favouring one ethnic group in a multicultural society.

Please accept my submissions below as part of the constitutional review being carried out, based on the questions you have asked on your web site.

Hopefully most New Zealanders will make a submission.

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How do you want our country to be run in the future?

As a multicultural population of New Zealanders, with no specific ethnic group singled out for special mention or treatment

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Yes- because we need to move on from the historical Treaty of Waitangi as having any relevance to our future

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

Yes- because we need one document which is overriding

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

The courts

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

No- presently our rights are readily put aside to favour Maori interests

What other things could be done to protect rights?

Make sure the new constitution does not favour any one ethnic group over others

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

Yes

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

Courts

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

No comment

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

Absolutely none at all- it's irrelevant historically and all it does is favour one ethnic group at the expense of all the other ethnic groups- this is racially discriminate thinking even to suggest the question.

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

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How long should the term of Parliament be? Why?

4 years- to achieve some stability before the electioneering starts again.

How should the election date be decided? Why?

Fixed date so everyone knows where they stand in advance

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

No input to offer on this, except that racially based special seats must be abolished

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

If elected by the public- stays in parliament until the next election as an independent

If a list MP must leave parliament immediately

Richard Amery

3947

From: Richa33
To: <constitutionalreview@justice.govt.nz>
Date: 13/07/2013 7:12 a.m.
Subject: CAP Submission

Maori Seats should be abolished.

I came to New Zealand and became a New Zealand citizen to live in a free country where people are treated equally. Other countries in the world are abandoning apartheid and positive discrimination as being both wrong and not working so why does New Zealand think discrimination on the basis of a hereditary link is fair.

--

Regards
Richard Ames

891

From:
To: <constitutionalreview@justice.govt.nz>
Date: 22/05/2013 1:20 a.m.
Subject: <http://www.ourconstitution.org.nz/> form submission
Attachments: Constitution Assessment 3.docx

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

Full Names: Jonathon Amtmann Organisation Name: Email:
Phone: stal AddressA: Postal AddressB:
Postal City: Postal Region: Rangiora Postal Post Code: Postal Country: New
Zealand Submission: Submission Upload: Constitution Assessment 3.docx

Sent on the 22 May 2013 at 01:20

Student ID N

1

The nature of a constitution, whether it is a single written document or 'unwritten', still remains a highly contentious issue. New Zealand's current constitutional framework explicitly conveys that of a country where there is complete parliamentary sovereignty. Whether the country would best benefit from a written constitution is now being brought into question. Since the 1970s, New Zealand has become a more individualistic society due to a lack of faith in the New Zealand Parliament which consequently leads to the need for a written constitution. While New Zealand has various constitutional documents such as the Bill of Rights Act 1990 and a Mixed Member Proportionate representation system in place, a written constitution is still needed to protect individuals within society. However, it is necessary to be aware of the disadvantages a written constitution may have on a society whereby it cannot adapt to changing social beliefs. Also, The Treaty of Waitangi is an important constitutional issue where its place in the legal system is vital but within a written constitution is still considerably uncertain.

New Zealand's current constitutional framework allows for complete parliamentary sovereignty which does not adequately protect the rights of the individual. New Zealand's 'unwritten constitution' consists of various sources such as The Rule of Law, legislation, constitutional conventions, the Constitutional Act 1986, The Bill of Rights Act 1990 as well as The Treaty of Waitangi.¹ Although each is fundamental to New Zealand's legal system, there still remains an issue where parliament has too big a concentration of power which potentially teems with risk because there is no supreme law keeping Parliament in check and due to the abolition of the Upper House in 1950.² New Zealand's unicameral legislature is fraught with risk and cannot simply provide a proportionate balance of powers within the country. It is therefore noted that the documents which currently make up New Zealand's constitution are lacking to the extent whereby a written constitution is needed.

New Zealand would benefit from a single written constitution as this would allow for more protection over the public's rights and would balance parliamentary power. According to *'The New Zealand Legal System'* by Duncan Webb, a written constitution which assumes the status

¹ Grant Morris *Law Alive the New Zealand Legal System in Context* (2nd ed, Oxford University Press, South Melbourne, DATE) at 85.

² Duncan Webb *The New Zealand Legal System. Structures and Processes* (5th ed, LexisNexis, Wellington, 2010) at 114.

Student ID No

of supreme law not only allows for the public to be more aware of their individual rights, but also defines constitutional limits on the government.³ Having a single written constitution allows for the people to easily identify when a government is acting unconstitutionally because it is readily accessible in contrast to an unwritten constitution where there are various documents which can be hard to find and understand. Legislature would also only be able pass laws which are in accordance with the written constitution and they cannot be inconsistent. As a written constitution assumes the status of higher law, legislation which is contradicting the written constitution could then be declared unconstitutional or Ultra Vires through judicial review and thus keeps Legislature power in check.

There is an inherent need for a written constitution as New Zealand's diverse society has become more individualistic due to a lack of faith in Parliament and its use of powers. Trust in parliament has declined since the 'Muldoon era' where it is clear that a member of parliament was abusing powers. In *Fitzgerald v Muldoon*⁴ Prime Minister Muldoon was conflicting with the Separation of Powers when he told employees in a PR statement to stop paying towards the superannuation fund before actually repealing the Bill. This has created unease among the New Zealand population. In addition, the constitutional crisis which occurred in 1984 has also substantially raised doubts in the NZ parliament and whether they are abusing their powers. Outgoing Prime Minister Muldoon was refusing to devalue New Zealand's currency rate as recommended by the Reserve Bank and only after National cabinet ministers threatened to have Muldoon removed, he reluctantly agreed to devalue the dollar.⁵ Even after subsequently passing the Constitution Act 1986, there is of the opinion that a written constitution is needed to decrease the possibility of such startling events taking place again where a written constitution would distinctly protect individuals from state tyranny.

New Zealand's most recent electoral reform introducing a Mixed Member Proportionate representation system has helped to separate Legislature's power to different government parties but does not dismiss the need for a written constitution. In this system adopted in 1993 by referendum, parliament now consists of more minority parties which lessen a majority

³ Webb, above n 2, at 104.

⁴ *Fitzgerald v Muldoon and Others* [1976] 2 NZLR 615 (SC).

⁵ Morris, above n 1, at 42.

Student ID f.....

party's concentration of power in swiftly passing legislation.⁶ In a sense the tyranny of a majority is avoided as political parties must now form coalitions in order to receive sufficient votes to pass any legislation. Mixed Member Proportionate representation system helps to defuse a majority party's almost unconstrained power which is seemingly more adequate than the first-past-the-post system of election. As noted in Geoff Leanne's discussion in the Human rights Quarterly, the introduction of the Mixed Member Proportionate representation system as opposed to a written constitution is due to a lack of confidence in the judiciary as the alternative protector of rights and freedoms.⁷ This in itself undermines the system of government and how it wishes to use its power in this country. Although Mixed Member Proportionate representation system seems to check and balance a majority power, the possibility of power sharing for minority parties and minor interests that can now wield disproportionate power could be prevalent.⁸ Hence there still remains a need for a written constitution which is a better alternative to constrict Parliamentary power.

The Bill of Rights Act 1990 is a tool used to constrict powers but is ineffective as a replacement to a written constitution. According to Geoffery Palmer's *Bridled Power*, The Bill of Rights Act 1990 is essentially a mere statute within the New Zealand legal system and is substantially insignificant compared to a constitutionally entrenched document.⁹ Because New Zealand's Bill of Rights is ordinary legislation and not supreme law, it could potentially be overridden when new Acts are passed in Parliament as according to the Doctrine of Implied Repeal discussed by A L Smith J in *Kurt v Phillips*.¹⁰ However, in the case *R v Pora*¹¹ where Parliament passed legislation which increased the penalty for home invasion crimes, Chief Justice Elias noted that the Doctrine of Implied Repeal may not be applicable where Parliament has sought to limit human rights. It is unclear whether The Bill of Rights Act 1990 adequately protects rights and freedoms. There should be stability and safeguards within a political system built into the structures of government in the form of a written constitution.

⁶Ryan Malone *Rebalancing the Constitution. The Challenge of Government Law-making under MMP* (Institute of Policy Studies, Wellington, 2008) at 37.

⁷ Geoff Leanne "Human Rights Quarterly. Enacting Bills of Rights" (2004) 26 Hum. Rts. Q. 165 at 176.

⁸ Malone, above n 7, at 38.

⁹ Geoffery Palmer *Bridled Power, New Zealand's Constitution and Government*. (4th ed, Oxford University Press, Melbourne, 2004) at 316.

¹⁰ *Kutner v Phillips* [1891] 2 QB 267 (QB).

¹¹ *R v Pora* [2001] 2 NZLR 37 (CA).

Student ID No.

The Bill of Rights Act 1990 is to an extent, hopelessly inadequate in terms of protecting rights and freedoms.

Nevertheless, The Bill of Rights Act 1990 is still recognised as a significant statute within New Zealand's legal system which can act as a further check on parliamentary power. The Bill of Rights Act 1990 is concerned with the protection of individual human rights and was first proposed following the abolition of the legislative council.¹² The courts can actively protect individual rights against encroachment by public bodies as The Bill of Rights sets out fundamental rights and freedoms. Parliament is required to consider the Bill of Rights when passing new law and the Attorney General must check for inconsistencies of a new Bill that may be conflicting with The Bill of Rights Act 1990.¹³ Nonetheless, it is still vital to acknowledge that The Bill of Rights Act 1990 cannot replace a written constitution.

The Treaty of Waitangi is an important constitutional issue and thus should be recognised in New Zealand law as binding force but not entrenched into a constitution until the Treaty's meaning for New Zealand is certain. According to Matthew Palmer, the Treaty of Waitangi should be directly incorporated into New Zealand law with binding force as so not to disproportionately disadvantage the rights of the Maori population.¹⁴ It is known that the Treaty of Waitangi most simply put, agreed the terms on which New Zealand would become a British Colony, and having the treaty passed as a statute would begin to recognise the partnership between the Maoris and the Crown. The Maoris would be less socially and economically disadvantaged. The Treaty's place as supreme law in the confines of a written constitution is conceivably still questionable as the Treaty's meaning is still itself uncertain due to translation differences.¹⁵

Although a written constitution is most beneficial to society, there is the possibility of freezing certain rights and freedoms which may need to be changed at a later stage. This is seen in The United States of America where the government currently in power has been struggling to pass stricter gun control laws in attempt to decrease the number of mass shootings taking

¹² Webb, above n 2, at 165.

¹³ Bill of Rights Act 1990 (NZ), s 7.

¹⁴ Matthew S.R. Palmer *Treaty of Waitangi in New Zealand Law and Constitution* (Victoria University Press, Wellington, 2008) at 24.

¹⁵ Palmer, above n 15, at 25.

Student ID N

place each year. The second amendment in the USA's written constitution consists of *the right to keep and bear arms* and this makes it tough for parliament to amend this law.¹⁶ Social beliefs have now possibly shifted and people are more aware that such a right entrenched in the constitution can have an adverse impact on society. Repercussions that certain frozen rights and freedoms have on a society are apparent overtime and thus a constitution in some cases should be able to adapt to changing social beliefs. It is essential to realise that an unwritten constitution can be more democratic like and could protect the interests of the public as social beliefs change over time¹⁷ but a written constitution can still best protect individuals within society.

New Zealand would benefit from having a written constitution which can balance Parliamentary sovereignty and this best fits the individualistic needs of the New Zealand community. A written constitution can hold Parliament accountable and subject to the laws which that they pass which is more effective than New Zealand's current various constitutional documents. Both The Bill of Rights Act 1990 and Electoral reform to the Mixed Member Proportionate representation system are good ways of constricting Parliamentary power yet both struggle to equate to a written constitution. It is important to acknowledge The Treaty of Waitangi as part of New Zealand's constitutional framework but should not be constitutionally entrenched until its implications for New Zealand are known fully. It is also imperative to understand that certain rights and freedoms that are frozen by a written constitution have consequences on society once entrenched. Nevertheless, a written constitution will be an exceptional development for New Zealand's legal system.

¹⁶ Julie Bykovicz "NRA Celebrates Gun Control Defeat, Senators Face Backlash" (4 May 2013) Bloomberg <<http://www.bloomberg.com/news/2013-05-03/nra-celebrates-gun-control-defeat-senators-face-backlash.html>>.

¹⁷ Webb, above n 2, at 116.

Student ID No.

Bibliography

Cases

Fitzgerald v Muldoon and Others [1976] 2 NZLR 615 (SC).

R v Pora [2001] 2 NZLR 37 (CA).

Kutner v Philips [1891] 2 QB 267 (QB).

Statutes

Bill of Rights Act 1990 (NZ), s 7.

Books

Grant Morris *Law Alive the New Zealand Legal System in Context* (2nd ed, Oxford University Press, South Melbourne, DATE) at 85.

Duncan Webb *The New Zealand Legal System. Structures and Processes* (5th ed, LexisNexis, Wellington, 2010) at 114.

Geoffery Palmer *Bridled Power, New Zealand's Constitution and Government*. (4th ed, Oxford University Press, Melbourne, 2004) at 316.

Matthew S.R. Palmer *Treaty of Waitangi in New Zealand Law and Constitution* (Victoria University Press, Wellington, 2008) at 24.

Ryan Malone *Rebalancing the Constitution. The Challenge of Government Law-making under MMP* (Institute of Policy Studies, Wellington, 2008) at 37.

Journal Articles

Geoff Leanne "Human Rights Quaterly. Enacting Bills of Rights" (2004) 26 Hum. Rts. Q. 165 at 176.

Internet Materials

Student ID Nc

7

Julie Bykowicz "NRA Celebrates Gun Control Defeat, Senators Face Backlash" (4 May 2013)
Bloomberg <<http://www.bloomberg.com/news/2013-05-03/nra-celebrates-gun-control-defeat-senators-face-backlash.html>>.

403

From:
To: <constitutionalreview@justice.govt.nz>
Date: 15/04/2013 9:28 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

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

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

No opinion - constitutional law should be in whatever form makes it most effective. Being in one document is not the top priority.

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

No - if constitutional law has too high a status the motivation to fix the other laws is diminished. Also future generations should be able to adjust laws appropriately and not be limited by a constitution written in a previous generation.

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

The courts should continue to decide which laws apply. It is up to the parliament to adjust the laws if they are not being used in the way they were intended.

Sent on the 15 April 2013 at 21:28

2230

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

Please remove any political specials for Maori including seats in Parliament and references to the Treaty of Waitangi. Any Constitution will only have New Zealand Citizens as a part of it.
There will be no exceptions for any ethnic group.

From Barry & Colleen Ander

4074

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 29/07/2013 5:01 p.m.
Attachments: Submission to NZConstitutional Review Panel.doc

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

Full Names: Rupert Trevor Anders Organisation Name: Email:
Phone: Postal AddressA: Postal AddressB: Postal
City: Wellington Postal Region: Postal Post Code: Postal Country: New Zealand
Submission: Submission Upload: Submission to NZ Constitutional Review Panel.doc

Submitted on the 29 July 2013 at 16:59

Submission to NZ Constitutional Review Panel
29 July 2013

My opinions, as requested:

1. I have no confidence in the Panel which appears to be very racially stacked (biased) and appears to include some very biased members
2. I think the so-called consultation process and the advertising is stacked toward an agenda consistent with the bias of the panel, even including such things as continual reference to "Aotearoa New Zealand" instead of our country's proper name of "New Zealand."
3. I would expect any person of integrity to feel deeply compromised by being associated with such a panel.
4. New Zealand's Constitution – yes, I believe we should aim to have a single document as our Constitution, realising this will take a long time to be developed and tested (refer how faulty individual legislation often is)
5. Bill of Rights – yes, we should have a Bill of Rights as a hierarchically top document – subject to revision by 75% majority of Parliament.

Prior to addressing the remaining points, please note the following.

When there is a system that provides opportunity to gain advantage over others, purely on the basis of race, or some historic association of their race, tribe or cult, then it attracts the sort of people who thrive on unfair advantage, who want something they haven't earned, and they will be vigorous, devious and unscrupulous defenders of the system. Small concessions and exceptions will easily lead to a slippery slope of ever more extreme claims. Manipulation of a well-intentioned but naïve majority will lead to that majority supporting the minority in their campaigns for privilege, ultimately to the significant demise of the majority. This particularly applies to the leaders of these campaigns, who see and seize the opportunity for them to meet their leadership aspirations on a non-level playing field. They know that they are not of the calibre to assume leadership in a fair contest, and they will use any means to gain unfair advantage.

6. Treaty of Waitangi – this belonged in the 19th century. It has no place in the 21st century. It has been grotesquely distorted and ridiculously extrapolated to suit the racist and opportunist agendas of groups of people seeking unfair advantage, including pecuniary gain.
7. Electoral Matters. One hundred seats in a small country are enough. Get rid of the racist (Maori) seats.
8. Local Politics. Protection of, and consultation with, minority groups is good. Providing one minority with special privileges compared with others is bad. Race-based seats on local government councils and committees is bad.

R T Anders

From: Trevor
To: <constitutionalreview@justice.govt.nz>
Date: 29/07/2013 5:12 p.m.
Subject: CAP Submission
Attachments: Submission to NZ Constitutional Review Panel.doc

Submitted by

Rupert Trevor Anders

Wellington

New Zealand

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.

Asha Andersen
Wellington
New Zealand

5193

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 8/08/2013 11:35 a.m.

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

Postal Post Code: Postal Country: New Zealand Submission: NO to any constitution
that fails to clarify- ONE equal Rule for all. And a binding referendum process on all issues of
importance. Full Names: Barry Charles Anderson Organisation Name: Waimarino enterprises
Email: Phone: Postal AddressA:
Tauranga Postal City: Tauranga Postal Region: B o p

Submitted on the 10 June 2013 at 21:50

2129'

From: Barbara Anderson
To: <constitutionalreview@justice.govt.nz>
Date: 3/07/2013 9:06 a.m.
Subject: CAP Submission

It is over 150 years since maori and other peoples have resided together in NZ. The maori people all have mixed blood now and have shown, by living in other parts of the world that they are able to intergrate with others so I think that the political system should not be adventageous to a singular group any more.

please get rid of the maori seats and let everybody have the same chances.
encourage everyone to vote .

2129a

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 8/08/2013 11:35 a.m.

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

Full Names: Barbara Margaret Anderson Email: Phone:
Postal AddressA: Postal AddressB: Postal City:
Tauranga Postal Post Code: Postal Country: New Zealand Submission: My
submission regarding the NZ Constitutional Review is that I want NO changes to the constitution in
NZ. The unwritten constitution as it presently stands is working. The treaty of waitangi or its principles
should not be in any constitution, now or ever.

Submitted on the 10 June 2013 at 22:04

-2129b

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 8/08/2013 11:35 a.m.

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

Full Names: Barbara Margaret Anderson Email: Phone:
Postal AddressA: Postal AddressB: Postal City:
Tauranga Postal Post Code: Postal Country: New Zealand Submission: My
submission regarding the NZ Constitutional Review is that I want NO changes to the constitution in
NZ. The unwritten constitution as it presently stands is working. The treaty of waitangi or its principles
should not be in any constitution, now or ever.

Submitted on the 10 June 2013 at 22:04

129

From:
To: <constitutionalreview@justice.govt.nz>
Date: 8/04/2013 11:02 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

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

Full Names:	Bella	Organisation Name:		Email:		Phone:	
	Postal AddressA:			Postal AddressB:		Postal City:	
Lower Hutt	Postal Region:	Postal Post Code:		Postal Country:	New Zealand		
Submission:	Question one						

No the constitution should NOT be contained in one document. I believe this could be the death knell of the treaty of Waitangi.

Sent on the 8 April 2013 at 22:00

129a

From:
To: <constitutionalreview@justice.govt.nz>
Date: 8/04/2013 10:55 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

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

Full Names: Bella Anderson Organisation Name: Email: Phone:
Postal AddressA: Postal AddressB: Postal City:
Lower Hutt Postal Region: Postal Post Code Postal Country: New Zealand
Submission: Question one

That our politicians use their power to ensure the safety of New Zealanders by:

1. Legislating strong drinking laws and policing to back it up.
2. Legislating against bullying including cyber bullying in schools.
3. Empowering adult and responsible parenting.
4. Strong penalties for those inflicting violence on anyone.
5. Fair pay for a fair days work.
6. Be smart about restructuring. Utilize existing talent. Rather than making people redundant! Find other work in other departments.
7. Really listen to the people and treat the people with respect. Just saying your consulting and then doing what the majority don't want does not exhibit respect.
8. Look after the people of Christchurch first. Don't worry about building a city when people are still living in 3rd world conditions.
9. Think more about people first and not business or economics.
10. Enough disadvantaging middle income people. They're the majority and always hit with tax increases, paying more for food, schooling for their families, insurances and the list goes on.
11. Do away with unemployment benefits. Everyone must work to get paid.

Question two

Continue with MMP. Still seems to be the fairest way but one thing I do hate about it is that many parties sell out to get a seat at the table.

Sent on the 8 April 2013 at 21:54

1991

From:
To: "constitutionalreview@justice.govt.nz" <constitutionalreview@justice.govt.nz>
Date: 30/06/2013 8:35 p.m.
Subject: "CAP submission"

The Treaty of Waitangi must become a revered ancient document to be retained as an historic part of our early history. The New Zealand people must move on as one people into the future together with equal opportunities.

Doreen Anderson

Tauranga.

d

4787''

From: Ian Anderson
To: <constitutionalreview@justice.govt.nz>
Date: 31/07/2013 3:45 p.m.
Subject: CAP Submission
Attachments: NZ Constitution Submission.pdf

Submission to the Constitutional Advisory Panel

By Ian Anderson

Wellington

New Zealand's Constitution

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

If the constitution was to become supreme law then it should either be in a single document or all the parts of it should be clearly identified in a single document. This would make it clear what is or isn't in the constitution and make it easier for the general public to understand the constitution.

On the other hand if the status of constitution were to remain as it is (with little or no higher legal status than other law) then it is probably fine as it is, as attention should be directed to the supremacy of parliament instead.

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

I'm not convinced whether it is a good idea for New Zealand to have a constitution that is supreme law. It would tend to freeze our constitutional arrangements as they are in 2013, because constitutions tend to be more difficult to change than other laws. For instance if you compare the Treaty of Waitangi as written by Hobson et al in 1840 with the Principles that the Waitangi Tribunal uses today, you can see that a lot of evolution has gone on since 1840 on that subject. This evolution would much slower once a higher status law is enacted.

On the other hand the New Zealand situation with a single house legislature, a tradition of very strong political party discipline, a cabinet that contains about half the government MPs, government domination of select committees and the ability to pass legislation under urgency means that New Zealand is vulnerable to small group getting into power and quickly changing laws to suit itself. A written constitution backed by other institutions (including powerful, independent courts) that feel empowered to face down a rouge government and including a robust Bill of Rights may protect us against such an eventuality. But so could reforming our parliamentary system and developing a culture where politicians fear that such behaviour will get them thrown out at the next election (currently the electorate and media are far too complacent of the elected dictatorship phenomenon).

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

Both, it is the duty of Parliament to ensure the laws they pass are consistent with the Constitution, it is the duty of the Courts to refer back to Parliament those laws that are

inconsistent with the Constitution (and any other laws it decides are unworkable). It is the further duty of Parliament to take the advice of the Courts seriously when considering laws sent back by the Courts.

Our unicameral system with strong party and Cabinet loyalty where the Cabinet makes up 50+% of Government is liable to pass laws quickly from time to time and without due consideration, Courts (and NZ) should not be saddled with bad law due to the fallibility of our simple Parliamentary system. Judges being equally fallible and not being elected should have limited ability to create law (this is counter to the current Common Law principle).

In theory this could lead to a circular situation where Parliament and the judges don't agree but elections can be used to break such a deadlock by changing Parliament.

Bill of Rights

If the Constitution was to become supreme law then it should include the Bill of Rights. With the same duties and powers for Parliament and the Courts to ensure that other laws are consistent with it as described above.

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

In principle people should be tried under the law as it was at the time the alleged offence committed. If obedience to the law is to be based on the concept that people know the law and are expected to make rational decisions based on that knowledge then it is against natural justice for law changes to be made retrospectively.

2422

From: Lois Anderson
To: <constitutionalreview@justice.govt.nz>
Date: 4/07/2013 8:03 a.m.
Subject: CAP Submission

abolished, we are all one people new Zealanders, not supposed to be segregated

2308

From: Liz Anderson <
To: <constitutionalreview@justice.govt.nz>
Date: 3/07/2013 5:11 p.m.
Subject: CAP Submission

I am absolutely against the retention of Maori Parliamentary seats - it is racial discrimination to have seats based on race. The country seems to be going down the road of Northern Ireland . . . discrimination, discrimination, discrimination - and we know where that led.

Wake up and start serving ALL the people of New Zealand, regardless of race, colour or anything else . . . we are ALL New Zealanders none of us is more deserving than others.

Regards

Liz Anderson

Paraparaumu

1647

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 26/06/2013 10:31 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

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

Full Names: Monica Anderson Organisation Name: Email: Phone:
Postal AddressA: Postal AddressB: Postal City:
Pukeatua Postal Region: Postal Post Code: Postal Country: New Zealand
Submission: No more Treaty claims.

Cemeteries should not be included in any settlements.

Sent on the 26 June 2013 at 22:30

3796¹

From:

To: <constitutionalreview@justice.govt.nz>
Date: 24/07/2013 11:04 a.m.
Subject: CAP Submission

CONSTITUTIONAL REVIEW SUBMISSION

1. I wish to object to the size of parliament and the waste of resources this brings about. Lets get rid of the thousands of overpaid departments and systems that 90 percent of New Zealanders do not need. Ninety nine MPs is plenty for a small country and referendums have called for this previously.

2, Treaty of Waitangi; References to this outdated , misquoted, misunderstood, degrading document need to be written out of New Zealand Law and privileges , whether in Parliament , education, laws, or any other way that effects us (New Zealanders).
(If I had Scottish decent, imagine going to Denmark and protesting about a Viking invasion.)

3. There are an increasing number of immigrants in New Zealand with all sorts of unusual and non standard rules and customs. New Zealand was settled mainly by Christian European stock and these settlers fought for law based on these beliefs. Other countries, regions have other beliefs and if new citizens wish to settle here now they need to conform to those rules. I am not religious but the TEN COMMANDMENTS have all the basis for laws and Constitution.
There is nothing wrong with our present Constitutional arrangements and should not be changed. Changing it would (once again) segregate people and give unequal rights to a select few.

4. All humans are born equal and should therefore have equal rights. This is the basis of democracy. No Maori, Muslim, Buddhist, or any other race, creed, society, should have any preference. We are all equal. A Maori seat in Parliament is an insult to the race and says MAORI ARE INFERIOR AND THEREFORE CANNOT STAND AGAINST THEIR OTHER NEW ZEALAND CITIZENS THEREFORE THEY NEED A SPECIAL ALLOCATION OF SEATS.

RODGER ANDERSON.

AUCKLAND,

3796a

From: <website@cap.govt.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 7/24/2013 11:18 a.m.
Subject: The form on your contact page has just been submitted

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

Contact Name: Rodger Anderson Phone: Email:
Comment: I object to a Constitution change,

Stop it right now and spend the money on IMPORTANT things in N.Z. Sign Up For Updates: Yes

Sent on the 24 July 2013 at 11:17

1025

From: <
To: <constitutionalreview@justice.govt.nz>
Date: 4/06/2013 11:31 a.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

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

Full Names: Stephen John Andreassend Organisation Name: Email:
Phone: Postal AddressA:
Postal AddressB: Postal City: Uccle Postal Region: Postal Post Code:
Postal Country: Belgium Submission: New Zealand has not evolved any further as a nation since the Statute of Westminster Adoption Act 1947. I would like the panel to recommend to the government to hold a referendum on New Zealand becoming a republic with a president as the head of state that is elected by the people. The republic is to be enshrined in a written constitution. And to signify our new status as a fully independent sovereign nation the silver fern emblem becomes our national flag to replace the current one with the Union Jack.
The role of the Governor-General would be abolished.

I would like to emphasize the point about the president being elected by the people. Australia held a referendum on becoming a republic where the Senate chose the president. This model was rejected by the general public because they were not given an option to become a republic with a democratically elected president. I would also like to point out that the three sitting presidents of the European Union are not elected by the people and their legitimacy is often called into question by nation states. Hence the New Zealand head of state must be elected by the people to have the mandate to govern.

Thank you for taking the time to review my submission.

Sent on the 4 June 2013 at 11:30

5164

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 7/08/2013 4:40 p.m.

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

Full Names: shirley andresen Email: Phone: Postal
AddressA Postal City: Kaikohe Postal Region: Northland Postal Post Code:
Postal Country: New Zealand Submission: I believe NZ should have one document for our
constitution and that the treaty of Waitangi be removed as any reference to our countries constitution
and law we are all descendants from somewhere ! but it is time work together we are one country one
people

time to move forward not backwards, parliament should be accountable to the people and the law,
and the law should also be accountable to the people and parliament no one person or organisation
should be above reproach,

Race based laws create racial division in the community

Submitted on the 12 June 2013 at 14:03

2436

From:
To: <constitutionalreview@justice.govt.nz>
Date: 4/07/2013 8:34 a.m.
Subject: CAP Submission

Dear Sir/Madam

I would like to make a submission to say that the time has come for Māori seats to be abolished. The very existence of these seats is blatantly racist and has no place in a liberal democracy such as New Zealand.

Regards

Howard R Andrew

Ashburton

4764

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 31/07/2013 3:17 p.m.

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

Full Names: Jennifer Anne Andrew Organisation Name: Email:
Phone: Postal AddressA:
Postal AddressB: Postal City: Auckland Postal Region: Auckland Postal Post
Code: Postal Country: New Zealand Submission: I want NZ run the way it should have
been run if the Treaty of Waitangi had been put into operation the way it should have been from 1840.
Maoris have been consistently under-represented in Parliament by only having 4 seats. The 4 seat
representation was
only a token. Those 4 seats should not be abolished. Further Maori seats should be established. It is
essential that Maori, as the Treaty Partner, be represented in Parliament in terms of the Treaty.

I want the constitution to remain as it is-largely unwritten. I fear for the consequences if the current
drafters get cracking on writing the constitution as a whole-misunderstandings, matters left out, poor
articulation of concepts, strange phraseology.

If there is to be a written constitution, then somehow the founding document, the Treaty of Waitangi,
must be embedded in it.

The process of consulting on the constitution by means of this initiative by the National Government
and including the Maori party is too politicised. An independent, objective and learned body like the
Law Commission would be much more suitable. It is unlikely
that there will be full participation in this process by New Zealanders at large so it will be unfair if
major changes are made.

The participation of Maori in MMP resulting in good numbers of Maori in Parliament is not any kind of
reason to abolish the Maori seats.

The constitution, incorporating the Bill of Rights Act should be a safeguard for our individual liberties
and our standing as citizens and members of the New Zealand community. It is objectionable that our
rights under BORA are undermined by the proposed GCSB
legislation.

Submitted on the 31 July 2013 at 15:16

2840

From:
To: <constitutionalreview@justice.govt.nz>
Date: 5/07/2013 7:53 p.m.
Subject: CAP Submission

Please abolish the Maori seats as we are one country
one people. No one has the right to expect to be treated
any better or any different than any other Kiwi no matter
what their nationality may be.

John Andrew

5173

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 7/08/2013 4:45 p.m.

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

Full Names: tony andrew mayer Email: Phone:
Postal AddressA: Postal AddressB: Postal City: auckland Postal Post
Code: Postal Country: New Zealand Submission: All persons should have the same
rights and responsibilities.No person or group of persons should be advantaged or disadvantaged
under law in new zealand.Be it race ,gender,culture or religion.

Submitted on the 11 June 2013 at 23:56

4325"

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 31/07/2013 6:14 a.m.

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

Full Names: Tom Andrew Organisation Name: Email: Phone:
Postal AddressA: Postal AddressB: Postal City: Queenstown Postal Region: Postal
Post Code: Postal Country: New Zealand Submission: 1. My aspirations are that New
Zealand becomes a more prosperous and innovative nation, with the natural environment being given
more care and protection.

2. I do not believe that New Zealand needs a written Constitution. However if one is created for the
country, I hope that it is created with a secular basis, and that it ensures that every single citizen
regardless of ethnicity, race, religion or creed is treated
equally under the law. i hope that no one group of people is treated differently due to their heritage
and that the same rights and rules apply to everyone.

Submitted on the 31 July 2013 at 06:13

1. Does incorporate the Treaty of Waitangi in the Maori version (with the best possible translation into English, Sign, and all other significant languages now spoken in Aotearoa/New Zealand.)

Why? Because history as told by the victors inevitably misrepresents the reality of the others involved. All people living in Aotearoa need to know what the Moari who signed the Treaty (after the Declaration of Independence in 1935) were signing. The role of the translators will be critical to make this knowledge available in the very many languages used for communication in this land.

2. does honour International treaties that we have signed under the auspices of the United Nations as a country. Particularly the most recent Bill of Human Rights and the Rights of Indigenous People.

Why? Because it is unavoidable that we are now a global citizen as a country and flawed though it is, the United Nations is our best effort so far at global Peace and fairness.

3. Does uphold values of fairness, equality and respect and concern for the well-being of every person including those too young and or too frail/exhausted to have a voice of their own.

Why? Stigma, infanticide, child abuse elder abuse, people living on less than a living wage; homelessness and mental illness. The headlines are all there. My own experience is primarily in the field of disability, but I have worked in the prison system and the health system over 15 years and seen and heard many distressing stories, as well as following the research when energy and time permit.

4. does respect our Natural environment which also does not have a loud English speaking voice

5. does maintain the law as an independent element in Society while being open to Maori process dealing with the same issues. What I mean is that I want the Law to be independent of Parliament so that justice and fairness are available equally and Judges are respected, and selected apolitically.

Why?

It is hard not to write from the immediate reality as I perceive it: a Prime Minister who appears to have little understanding, respect or ability to follow our unwritten Constitutional arrangements. Who furthermore seems willing to say whatever is expedient in the present moment, sometimes speaking well and movingly, but making promises he is later unwilling to remember let alone fulfil. Let Pike River stand as a representative example. I do not think a written Constitution would necessarily reign in that sort of unprincipled exercise of power, especially as his boyish style appeals to so many voters.

Democracy is a hard call when you are in the minority (ie physically disabled).

In summary, if we do chose to write a Constitution I hope

.it will give protection and a voice to the voiceless, the land and nature as having value in itself (apart from the fact that we need it for our very being alive), the young and the frail or disabled, the everyday "underclass" who are so busy trying to earn a living that they have little time or care for civic involvement

It will honour the Treaty in a way which dialogues with Maori and understands the complex history of our time together in this land.

I recognise that my view is partial and I have not had the energy to join with other people with disabilities as I have done in the past. Because the activities of daily living (washing, dressing going

to the toilet) take up so much of our energy, especially
as we age, it is all too easy for our voice to be ignored. Our voice is often muted and not supported
by flashy presentation or large organisation.

I thank the Maori Party for making this Constitutional Review part of their deal with the National Party.

Submitted on the 31 July 2013 at 05:37

2546

From: "Colin Andrews"
To: <constitutionalreview@justice.govt.nz>
Date: 4/07/2013 12:30 p.m.
Subject: CAP Submission

to Whom it may concern

I wish to add my name to the submission that:
"MAORI SEATS MUST BE ABOLISHED"

This country is becoming increasingly racist (by the Maori) and we will soon have a disasterous
aparteid state. This will create ever increasing racial intolerance with all of the disastrous effects of
this - and possibly leading to civil unrest in the near future - all because of our successive
governments desire to hold on to power by any means.

Maori already have TWO MAORI PARTIES (the MAORI PARTY AND the MANA party) that in itself is
racist but to leave the permanent maori seats is even more racist.

It seems that my family will leave NZ for Australia for mainly these reasons

Colin Andrews
Richmond
Nelson

1705

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 28/06/2013 5:00 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission
Attachments: Submission to the ConstitutionConversation.doc

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

Full Names: Gaynor Joan Andrews Organisation Name: Email:
Phone: Postal AddressA: Postal
AddressB: Postal City: URENUI Postal Region: Taranaki Postal Post Code:
Postal Country: New Zealand Submission: Submission Upload: Submission to the
Constitution Conversation.doc

Sent on the 28 June 2013 at 16:57

Submission to the Constitution Conversation.

The Constitution

Should be a single document.

Should not have a higher legal status than other laws

Courts should still decide if legislation is consistent.

Bill of Rights

The Act should stay as it is. No Changes

Treaty of Waitangi

Should not be a formal part of our constitution. It is fine where it is now.

Maori Representation

Maori have to decide for themselves. They get the opportunity to go on either roll. No need to change that.

Local Government does not need separate wards. The Councils, who do have them have very few constituents compared to the other wards. Not a fair system. Councils are better to have Maori Liaison Committees.

Electoral Matters

Unless we reduce the number of List MPs we cannot have less MPs. The rural electorates are huge now and more consideration should be given to the area and reduce the threshold for number of constituents per electorate.

Term of parliament should be 4 years and the Prime Minister should decide when the next election is.

If a member of parliament parts ways with the party in which they were elected they should leave parliament.

4605

1/3

Ian Andrews

CONSTITUTIONAL ADVISORY PANEL

HUCKLAND

28-07-2013

SUBMISSION MADE BY DESCENDENT OF CANTERBURY
SETTLERS OF ABOUT. 1880. SCOTS IRISH. ENGLISH,
CHRISTIAN CULTURE. RURAL BACKGROUND Ngāi
Māhūpoto.

I HAVE DEVOTED MUCH TIME TO THIS IMPORTANT
EXERCISE AND HAVE BEEN UNABLE TO ENGAGE
OTHERS IN THE "CONVERSATION."

WHANAU, TAMARIKI, MOKOPUNA, PEERS:
NOT INTERESTED, OR TOO CYNICAL TO BELIEVE
THAT ANY CREDABILITY WOULD GO WITH THEIR EFFORTS.

I WILL TAKE THE RISK. IT WILL BE A BIT
DISJOINTED FOR WHICH I APOLOGISE.

ASPIRATIONS:

CONTINUE TO AVOID THE SOCIAL UNREST
WHICH TAKES PLACE IN SO MANY PARTS OF THE WORLD,
BY MAINTAINING A DEMOCRACY OF ONE PERSON
ONE VOTE, UNDER OUR PRESENT WESTMINSTER SYSTEM.

SIZE OF PARLIAMENT: A DECREASE. BY OTHER
STANDARDS WE HAVE TOO MANY.

LENGTH OF TERM:

3 YEARS UNTIL SUCH TIME AS WE HAVE
THE SAME AS AN UPPERHOUSE / WHICH WE ABOLISHED.

ELECTORAL INTEGRITY:

RE INTRODUCE THE 2001 LEGISLATION

MAORI SEATS.

ABOLISH. IT IS MAKING A DISTINCTION AMONGST NEW ZEALANDERS. SOMEONE IS "DIFFERENT" EQUALS "BETTER." MAORI ARE IN PARLIAMENT WITHOUT, "MAORI" SEATS.

WHY NOT CHINESE SEATS. THE DAY COULD COME!

Mandatory Representation AS EXISTS IN AUCKLAND NO. IF YOU ARE NOT VOTED IN UNDER A DEMOCRATIC SYSTEM YOU SHOULD NOT BE THERE.

WRITTEN CONSTITUTION: NO.

WHAT IS THE POINT? WE HAVE A CONSTITUTION. I THINK IT'S CALLED THE WESTMINSTER SYSTEM. IT WORKS. IT HAS WORKED FOR A LONG TIME. IT IS NOT BROKEN. WHY FIX IT?

REPUBLIC. NO.

PRESIDENT NO.

NEITHER WOULD ALTER OUR INTERNATIONAL STATUS. THE PRESENT HEAD OF STATE, THE QUEEN, IS, FOR US, A INEXPENSIVE INSTITUTION.

THE GOVERNOR GENERAL IS AN "ORDINARY BLOKE" (PERSON) WHO DOESN'T REQUIRE SPECIAL ATTENTION IN EXECUTIVE SET.

REPUBLIC OR PRESIDENT UNNECESSARY.

Treaty. IN A CONSTITUTION WE DON'T WANT!

TREATY HAS NO PLACE IN ANY CONSTITUTION. IT IS DIVISIVE, IT IS UNDEMOCRATIC AND SMELLS OF APARTHEID. I HAVE NO PROBLEM WITH PRESENT 'SETTLEMENTS'

THE SUBJECT OF WHOM SHOULD HAVE THE POWER
TO DECIDE WHETHER LEGISLATION IS CONSISTENT
WITH OUR PRESENT CONSTITUTION;
PARLIAMENT OR THE COURTS.

I DON'T THINK WE CAN TRUST EITHER OF THESE
INSTITUTIONS. EG. THE LATEST "CONSCIENCE" VOTE IN
PARLIAMENT. WE (CLARK) ABOLISHED THE RIGHT
TO GO TO THE PRIVY COUNCIL.

As MY FATHER SAID HALF A CENTURY AGO ABOUT
OUR LEGAL PROFESSION. "THEY ALL DRINK OUT OF THE
SAME TROUGH." NOTHING HAS CHANGED.

WHAT'S LEFT, AN UPPER HOUSE

BINDING REFERENDUM

THERE HAS TO BE SOMETHING BECAUSE THE PRESENT
IS POTENTIALLY RISKY.

EVEN THE FINAL OUTCOME OF THIS CONVERSATION
SHOULD BE SUBMITTED TO A BINDING REFERENDUM.

I HAVEN'T ELUCIDATED MY COMMENTS.

I AM TIRED AND THIS HAS BEEN AN EFFORT.

I AM SAD THAT EVENTS MAY BE VISITED ON
MY MOKODUNA THAT I FORTUNATELY WILL
NOT WITNESS.

Sincerely,

Ian Andrews.

Quick Submission

26904

Your name:

John Andrews

Name of the organisation you represent (if applicable):

Maori

Postal address or email address:

Gisborne

Education for
young maori and
teach the reg and
the Tikanga and
especially the
knowledge of I.O

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**

4169

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 30/07/2013 12:01 p.m.

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

Full Names: Lesley Margaret Andrews Organisation Name: Email:
Postal AddressA: Postal AddressB:
Postal City: Paraparaumu Postal Region: Postal Post Code: Postal Country: New Zealand
Submission: The basis for a good, fair and balanced society where everyone gets a fair deal is a good, fair and balanced government.

A Constitution for New Zealand should have an unchangeable baseline for all New Zealanders. Not affected by changes in government policy. It should include basic human rights as a rule, and the treaty of Waitangi as a founding document. A constitution for New Zealand should include the right and ability to have good housing, good food, water and air, family and whanua, safety, privacy, education and aspiration. The people of New Zealand should feel safe in their own country.

Every person in New Zealand should have decent, warm and secure and affordable housing whether purchased or state provided. The Ability to earn a fair and decent wage that allows them to live healthy and long lives. Free and affordable healthcare and dentistry.
Every child should have the opportunity to learn and be educated with the ability for aspiration and higher education unhindered by financial constraints.

Every New Zealander should be able to feel safe and secure within their own country with an inspirational constitution that allows them to be free from discriminatory factors and proud of their nations heritage.

It is only a healthy and free society that brings about positive and inspirational change.

Submitted on the 30 July 2013 at 11:59

4927

From: Maurice Andrews
To: <constitutionalreview@justice.govt.nz>
Date: 25/07/2013 9:40 p.m.
Subject: CAP Submission
Attachments: CONSTITUTIONAL REVIEW ISSUES.docx

Attached is my brief submission on the above subject.

Maurice B.Andrews

Waikanae

CONSTITUTIONAL REVIEW ISSUES

Size of Parliament – The number of MPs should be reduced to less than 100 with an appropriate split between electorates and party seats.

Length of Parliamentary term – I support an increase from three years to four years. The selection of an election date should remain flexible.

Electorates – All electorates should be of approximately the same size as regards voter numbers. Increases in electorate seats should be considered at times when the numbers of eligible voters increases by 100,000 or more.

Electoral Integrity – “Party hopping should be prohibited. Any MP who resigns from a party should resign from Parliament to facilitate a by-election.

Maori Representation – The Maori electoral Option is an anachronism and should be abolished. Maori are well represented in Parliament without this option. Maori seats should be abolished and Maori representation on local bodies should be disallowed except as in an advisory capacity.

Treaty Of Waitangi – The Treaty of Waitangi must in future have no role in any constitutional arrangements. The Treaty is open to interpretation in a variety of ways and leads to disunity amongst New Zealanders rather than unity. Maori compensation claims under the Treaty are almost complete and the time has arrived for all New Zealand citizens to be treated equally with no favouritism.

Bill of Rights – No comment.

Written Constitution – Under no circumstances should a written constitution be legislated. It is of the utmost importance that Parliamentary sovereignty be retained.

Other Comments – I am in favour of a Declaration of Equality as promoted by the New Zealand Centre for Political Research recording principals of equal rights for all New Zealand citizens.

2631

From: "Richard
To: <constitutionalreview@justice.govt.nz>
Date: 4/07/2013 10:08 p.m.
Subject: CAP Submission

I feel we are all one and should NOT have Maori seats as this is splliting us up and and make us feel seperated.

Richard Andrews

4389

From: & Mike Angelo"
To: <constitutionalreview@justice.govt.nz>
Date: 31/07/2013 10:42 a.m.
Subject: CAP Submission

I wish to submit my strong views on the Constitutional Review.

1 The Treaty of Waitangi should NOT be incorporated in any New Zealand constitution whatsoever. The ToW has been reinterpreted so much over the last 30 years or so, solely for the benefit of Maori, that non Maori are having to pay out huge sums of money and transfer huge amounts of land into Maori hands. I believe that hundreds of thousands of New Zealanders have had enough of this and if the ToW is incorporated in a constitution which will give Maori more and more power and control it will be a very sad day for the ordinary decent New Zealander and will eventually lead to serious conflict between different factions of our society

2 Maori only Parliamentary seats should be abolished as they are totally unnecessary in this MMP environment. It would appear from different writings that they were to be only a temporary measure anyway and should have been terminated in the 1800's. As for the numbers of seats in Parliament they should be reduced to below 100 at least mainly because New Zealand has a very small population and is severely over represented by politicians

3 I would just like to add that in New Zealand everyone is supposed to have equal rights and privileges and currently that is not so. Incorporating the ToW in a constitution would only make the situation worse. Just remember that the Treaty was signed for the country to be run under the auspices of the Govt of Great Britain and not as a partnership between Maori and others.

Yours faithfully,

Mike Angelo

Waipu

Phone #