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DRAFT CONSTITUTION

Presented at Parliament on 29 August 2012

Ti Hei Mauri Ora

He aha te mea nui o te nei ao?

He tangata, he tangata, he tangata.

People, people above all.

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KUPU WHAKATAKI PREAMBLE

Our whenua, Aotearoa New Zealand, exists to preserve and protect the interests of the People in equal dignity, promoting our life in this land, through:

1. Mana, dignity and tolerance;
2. Kaitiakitanga, sustainability, durability and continuity;
3. Fairness, equality and accessibility;
4. Accountability, transparency, respect and legitimacy;
5. Liberty, freedom and opportunity.

These values, we agree, shall never be infringed upon by prejudice, fashion or ideology.

Acknowledging our whakapapa, we give life to and endorse this, our Constitution.

**MANA
KAITIAKITANGA
FAIRNESS
ACCOUNTABILITY
LIBERTY**

IN AFFIRMING, PROTECTING,
AND PROMOTING
**HUMAN RIGHTS AND
FUNDAMENTAL
FREEDOMS**
IN NEW ZEALAND, OUR
CONSTITUTION ACKNOWLEDGES
AND FORTIFIES OUR VALUES OF
**MANA,
KAITIAKITANGA,
FAIRNESS,
ACCOUNTABILITY
AND LIBERTY.**



1. NGĀ TIKANGA TANGATA RIGHTS AND RESPONSIBILITIES

- 1.1 This Constitution adopts the rights encompassed in Part 2 of the New Zealand Bill of Rights Act 1990.
- 1.2 We further adopt the following rights and responsibilities:
 - a. Every person has the right to access, without exception or discrimination:
 - i. adequate housing and sanitation;
 - ii. a reasonable standard of healthcare;
 - iii. basic education; and
 - iv. adequate food and clean water.The Government must take reasonable legislative and other measures within its available resources to achieve progressive realisation of the rights contained in this provision;
 - b. The right to open and transparent government;
 - c. The right to freedom from discrimination on the basis of gender identity;
 - d. The Government is responsible for ensuring the protection of children and the vulnerable, including the aged and people with disabilities;
 - e. The Government will respect and promote, through law, the principles of kaitiakitanga in relation to the environment. The principles of kaitiakitanga are defined in the Resource Management Act 1991; and
 - f. The right to academic freedom.

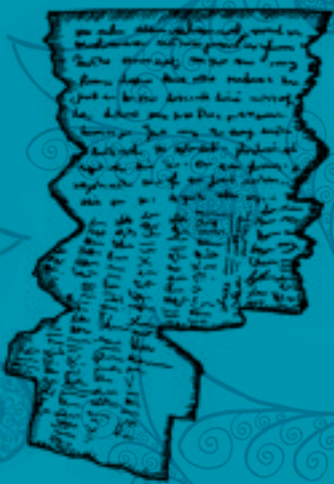
CONSTITUTIONAL COMMISSION

- 1.3 An independent Constitutional Commission made up of experts is established, whose function is to assess whether legislation and policy is consistent with the rights enshrined in this Constitution. The commission must report any inconsistencies to the House of Representatives as they arise.
- 1.4 The commission must report any inconsistencies at the first and third readings of every Bill. Parliament must consider these inconsistencies.

JUDICIAL RESPONSIBILITIES

- 1.5 All enactments must be interpreted and applied consistently with the rights enshrined in this Constitution. If consistency is impossible, the Judiciary can declare the relevant provision(s) unconstitutional (provided that such a declaration does not affect the validity or operation of any enactment or law). The Legislature is obliged to respond to any declaration of unconstitutionality.
- 1.6 The rights and freedoms contained in this Constitution may be subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.

Te Tiriti o Waitangi



TE TIRITI O WAITANGI IS A
FUNDAMENTAL
DOCUMENT OF AOTEAROA,
AND IS **ALWAYS**
SPEAKING:
HE IWI KOTAHI TATOU.



2. MĀORI ME TE KARAUNA MĀORI-CROWN RELATIONSHIP

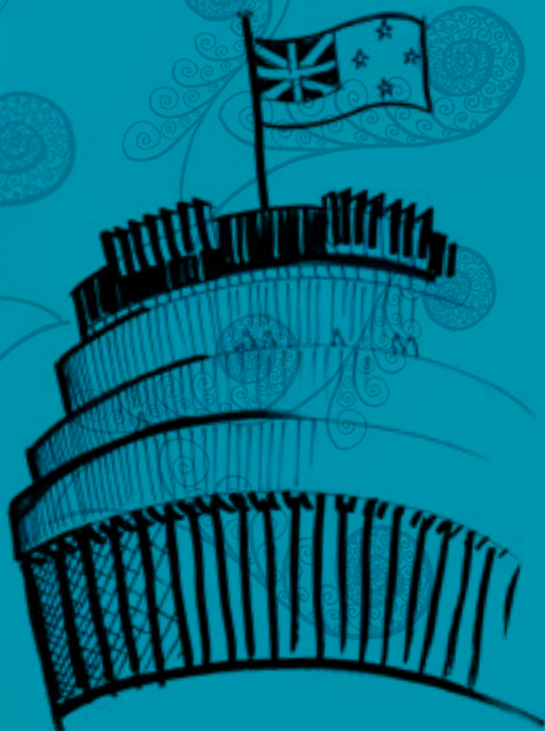
- 2.1 This Constitution operates to give effect to the principles of Te Tiriti o Waitangi.
- 2.2 The People of Aotearoa recognise that there was a system of governance, customs and traditions in place that preceded the present Westminster system.
- 2.3 The Declaration of Independence 1835 is the first official document of New Zealand that affirmed Māori sovereignty.

TE TIRITI

- 2.4 The purpose of this part is to give effect to the spirit and intent of Te Tiriti o Waitangi.
- 2.5 In order to fulfil this purpose the indigenous rights within Te Tiriti are hereby affirmed.
- 2.6 The Waitangi Tribunal shall be responsible for periodically undertaking an inquiry into indigenous rights flowing from Te Tiriti. By this process, the Tribunal shall investigate and promulgate these respective rights and responsibilities.
- 2.7 The right to bring a claim under section 6 of the Treaty of Waitangi Act 1975 is affirmed.
- 2.8 The Tribunal may provide a remedy to a claimant if a breach of a right arises from a breach of the principles of Te Tiriti.



IN ESTABLISHING THE
**ORGANS OF
GOVERNMENT**
IN NEW ZEALAND, OUR
CONSTITUTION
RECOGNISES THAT
PUBLIC POWER
IS DERIVED FROM
THE PEOPLE
AND IS EXERCISED FOR THE
BETTERMENT
OF NEW ZEALANDERS, AND TO
ADVANCE THE **VALUES**
OF OUR CONSTITUTION.



3. NGĀ RINGA O TE KĀWANATANGA ORGANS OF GOVERNMENT

REPUBLIC OF AOTEAROA NEW ZEALAND

- 3.1 Recognising that:
- We are an independent nation;
 - We were founded on Te Tiriti o Waitangi;
 - We have historical connections to the United Kingdom;
 - We have an important role to play in the Asia Pacific region;
 - We support the considered and progressive evolution of our constitutional arrangements; and
 - We wish to move boldly forward into the future:
- We create a Republic of Aotearoa New Zealand.
- 3.2 All obligations owed to Māori by the Crown under Te Tiriti o Waitangi are now transferred to the state of the Republic of Aotearoa New Zealand.

HEAD OF STATE

- 3.3 The Head of State is the Kaitiaki.
- 3.4 The Kaitiaki shall:
- Be elected by 75% majority of the House of Representatives; and
 - Exercise the existing powers of the Governor-General not otherwise expressly revoked by this Constitution on behalf of New Zealand.

ORGANS OF GOVERNMENT

- 3.5 The organs of government exist and operate to serve the People.
- 3.6 The three organs of government are:
- The Legislature;
 - The Executive; and
 - The Judiciary.

LEGISLATURE

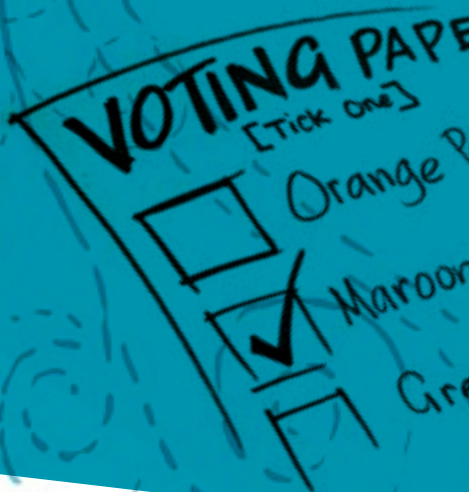
- 3.7 The Legislature consists of a unicameral house made up of representatives elected in accordance with the provisions of the Electoral Act 1993.
- 3.8 The House of Representatives has a fixed term of four years.
- 3.9 Within the Legislature, we value:
- Proportional representation;
 - Transparent and accountable process;
 - Equal access;
 - Voice of the People;
 - Diversity; and
 - Democracy.

EXECUTIVE

- 3.10 The Executive is made up of the Executive bodies set out in Part 2 of the Constitution Act 1986, except as otherwise provided by this Constitution.



**IN KEEPING WITH THE
SOVEREIGNTY OF NEW ZEALAND'S
TANGATA, OUR CONSTITUTION
PROMOTES
AND PROTECTS
THE INTEGRITY OF OUR
DEMOCRATIC PROCESS
BY ENSURING
REPRESENTATIVE,
TRANSPARENT,
AND ACCOUNTABLE
GOVERNMENT.**



- 3.11 The Executive will be accountable and transparent. It will operate in a fair and transparent manner, and be responsible for its decisions.
- 3.12 The Prime Minister shall be appointed by Parliament, and will be known as Tumuaki.
- 3.13 The Tumuaki will be a member of the Government.
- 3.14 The Tumuaki is head of the Executive branch of government.
- 3.15 The Government must have the confidence of the House of Representatives.
- 3.16 Ministers must fulfil their responsibilities to their electorate, their party and their portfolios.

JUDICIARY

- 3.17 The Judiciary must be independent and free of interference.
- 3.18 The Attorney-General will appoint judges based on the recommendations of an independent Judicial Commission.
- 3.19 The Judicial Commission shall be comprised of judges, lawyers and other experts, appointed in an open and transparent manner.

4. MĀNGAI O TE MOTU THE VOICE OF THE PEOPLE

PROVISIONS PERTAINING TO LEGISLATIVE POWER

- 4.1 The Legislature shall continue to operate in accordance with the provisions in Part 3 of the Constitution Act 1986 subject to any contrary provisions contained in this Constitution.
- 4.2 The Legislature shall operate in accordance with an open and transparent process for the betterment of the People.
- 4.3 The Legislature shall act in a democratic manner, as the voice of the People.

PROVISIONS PERTAINING TO ELECTORAL PROCESS

- 4.4 The parliamentary term shall be four years and the electoral term shall be fixed. This clause may be amended only by 75% majority in the House of Representatives or on acceptance by a majority in a national referendum (see clause 5.3).
- 4.5 Section 45 of the Electoral Act 1993, providing for Māori seats in the House of Representatives, and the entrenched provisions of section 268 of the Electoral Act 1993, shall continue to have effect.
- 4.6 This Constitution shall ensure that the electoral system is based on the principles of democracy and proportional representation.
- 4.7 The People of New Zealand shall have equal access to the democratic process.

THE COLLECTION OF
**CONSTITUTIONAL
PRINCIPLES**
IN A SINGLE DOCUMENT
IS A POWERFUL
MESSAGE TO THE PEOPLE OF
NEW ZEALAND ABOUT THE
SANCTITY OF
THEIR **RIGHTS** AND
RESPONSIBILITIES.



5. NGĀ WHAKARITENGA OPERATIONAL ELEMENTS

ADOPTION

- 5.1 This Constitution has been adopted through:
- A Citizens' Assembly confirming the text of the Constitution; and
 - A referendum that secured 60% of approval of registered electors.

REVIEW

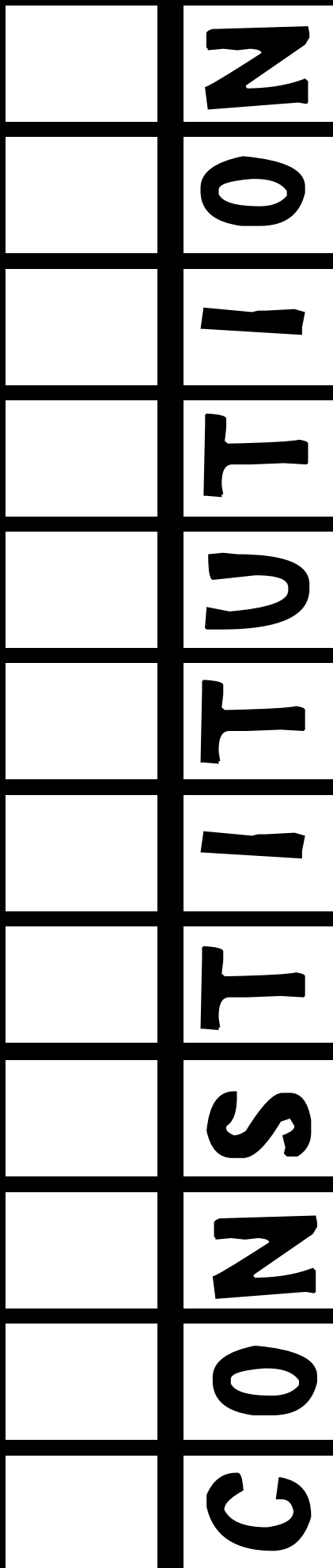
- 5.2 This Constitution shall be reviewed at 20-year intervals from the date of adoption by:
- A meeting of a representative constitutional assembly whose purpose is to review the entire Constitution and determine whether changes may be necessary; and
 - If there are recommended changes to Part 1, 2 and 5 (other than clause 5.3), that those changes will come into effect on acceptance by a 60% majority in a national referendum; all other changes must be in accordance with clause 5.3 of this constitution.

ENTRENCHMENT

- 5.3 The Part establishing the Organs of Government (Part 3), the Voice of the People (Part 4) and this clause (clause 5.3) shall not be repealed or amended unless that repeal or amendment:
- Is passed by a majority of 75% of all members of the House of Representatives; or
 - Has been carried by a majority of the valid votes cast at a poll of all electors eligible to vote in New Zealand.

PRIVATIVE CLAUSE

- 5.4 Nothing in this Constitution gives the Judiciary the power to declare any enactment to be invalid. For the avoidance of doubt, this means that breach of this Constitution is not a justification for declaring any legislation to be invalid.



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Special Thanks To

Paul Goldsmith MP, for hosting this workshop
Emeritus Professor John Burrows
Charles Chauvel MP
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Hon Jim McLay
Sir Tipene O'Regan
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Hon Justice Joseph Williams
Dame Dr Claudia Orange, and
Te Papa Tongarewa for their ongoing support.

Fifty participants between the ages of 16 and 28 came to Parliament from throughout New Zealand to draft this Constitution at the EmpowerNZ Workshop on 28 and 29 August 2012.

Learn more about this initiative at www.empowernz.org
Read the interactive constitution at www.empowernzconstitution.org
EmpowerNZ is an initiative of the McGuinness Institute

© McGuinness Institute Limited 2012
ISBN 978-1-98-851815-2 (paperback)
ISBN 978-1-98-851816-9 (PDF)
PO Box 24222, Wellington 6142, New Zealand
www.mcguinnessinstitute.org