

# Human Rights Commission-Treaty

Contributed by Steven Young  
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## HUMAN RIGHTS AND THE TREATY OF WAITANGI

A view from the Asian Community

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The Asian

community can be broadly divided into two groups: firstly the Chinese and other "new" migrants who have been in New Zealand less than 20 years andÂ secondly the "old" Chinese who have been here for several generations.

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I think it is fair

to say that at the present time, the implications of the Treaty are not well understood by the new migrants. This is because the countries where they come from (China, Taiwan, Hong Kong and Korea)

indigenous peoples' rights are not a major issue and certainly not a constitutional issue.Â Members of this group already have many other matters related to relocation which they need to spend their time on, and as new arrivals are likely to accept the decision of the general community in such matters.

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Among the "old"

Chinese, Maori being an integral and fundamental part of New Zealand is well-accepted and the importance of the Treaty is reasonably well-understood, and as well-accepted as in the general non-Maori populations.

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Within both the

new and old migrant communities there is still not complete acceptance of "biculturalism" as theÂ constitutional bedrock of New Zealand and hence there is some support for "multi-culturalism" as an alternative.Â

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(Unfortunately, in the Asian community, as well as in the wider community, the difference between a bicultural state and a multi-cultural society is still not clearly understood. State multi-culturalism is NOT a constitutional alternative until such time as NZ becomes a republic and we acquire a new written constitution. Much more work needs to be done thinking through how a multi-cultural state would be organised, and articulating the model as a constitutional alternative.)

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Both groups are acutely aware that although they are theoretically part of the general (non-Maori) community, they are not accepted as such. This is reflected in the common question (often put to Chinese third and fourth generation New Zealanders): "Where are you from?" meaning "What country did you emigrate from?" The (friendly) implication is that "You can't be a New Zealander because you are not of European or Maori stock, so where do come from?"

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The Treaty discussions over the past 20 years have been between "Maori" and "the Crown" with the Crown supposedly representing all non-Maori people.Â In practice however, the Crown has represented the position of the majority "white" New Zealanders with little acknowledgement of its non-white citizens - who now comprise 11% of the population.

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If the Treaty negotiations were simply a matter of settling old grievances and righting past wrongs, this role of the Crown would be accepted by migrant and ethnic communities.Â These minority communities have themselves, in various ways, suffered discrimination and institutional racism in the past and can readily agree that the wrongs inflicted on the Maori should be put right.

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However, in recent times, the Treaty has become specifically incorporated into legislation often with words to the effect that "the administration of this Act shall have regard to principles inherent in the Treaty of Waitangi."

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The question of what exactly these Treaty Principles consist of is a question to be answered at another time in another forum.

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However, it is increasingly obvious from evolution of the law, that the Treaty of Waitangi is not simply a treaty between the Crown and the indigenous population of New Zealand, with PAST matters to be resolved, but is becoming a constitutional document which will greatly affect the FUTURE of New Zealand.

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If the Treaty has de facto become a constitutional document, then the citizens of ethnic (non-white, Asian and other) communities should have access to it to the same extent that the Maori and the general (white, Euro-centric) communities have access to it as a constitutional document.

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This is in accordance with basic democratic and human rights principles (that citizens should have equal access to their laws).

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As a matter of principle, ethnic communities support the Treaty of Waitangi. The Treaty gives them, along with the other non-Maori people, the historical, constitutional and legal basis for being in New Zealand.

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As groups which have suffered from discrimination in the past (throughout the world), the ethnic communities should make common cause with the Maori community in their fight to put right past injustices and for recognition of their unique cultural identity.

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At the same time, members of ethnic communities should have equal access to the laws and constitution of New Zealand including the Treaty of Waitangi - if it has become a constitutional instrument which affects the shape and form of New Zealand in the future.

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Apart from the legal implications, the current "re-negotiation" of the Treaty is also about national identity - "what is a New Zealander?" The answer needs to include an Asian component.

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