

# Deletion of Principles of Treaty of Waitangi Act

Contributed by Steven Young  
Monday, 13 August 2007  
Last Updated Monday, 13 August 2007

To  
the Justice and Electoral Committee

The New Zealand Chinese Association was established in 1935 with its own building in Wellington and 13 branches throughout New Zealand.  
It is the only Chinese community organisation with national coverage.

We wish to appear before the Committee to speak to our submission.

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WE  
OPPOSE THE INTENT OF THIS BILL BECAUSE:

1.        The  
premise on which the Bill is based is incorrect.

2.        The Bill seeks to  
delete the words "the Principles of the Treaty of Waitangi" from all  
legislation because it is claimed these words are either undefined or  
ill-defined. While these words may not  
have been defined in legislation they have been defined by various judgements  
of the Court of Appeal and by reports of the Waitangi Tribunal.

3. If the Legislature, Parliament, believes that these principles are not adequately defined by the Judiciary, it should improve their definition, not try to eliminate the principles of the Treaty by eliminating these words from legislation.

4. Also, it is not clear that eliminating the words "the principles of the Treaty of Waitangi" from legislation, as proposed in the Bill, will stop the principles of the Treaty from being applied: the judgments of the Court of Appeal stand, as do the reports of the Waitangi Tribunal, and these carry considerable weight and in some cases have binding effect on the Executive.

5. The Bill is fundamentally unconstitutional, likely to be confusing, ineffective and highly divisive. If passed, the Act would cause a constitutional crisis and promote intense social unrest.

6. The Bill seems to be an attempt at the denial, erasure or forced forgetting of New Zealand's history when what we all need is the remembering and acknowledgement of history, accountability, reconciliation and healing. The community's experience, and especially the Chinese community's experience of this latter process in the case of the Poll Tax consultation and reconciliation, has been very positive.

THE ASSOCIATION FURTHER SUBMITS THAT:

7. While the promotion of the Bill reflects concern over a range of issues including the role of Maori and other ethnicities in New Zealand social and political life, the Bill is not a positive solution that will enable all New Zealanders to move forward.

8. The current Treaty discourse has had the unintentional effect of making members of the public feel excluded from discussions whose outcomes have a serious impact on New Zealand's future.

9. Many ethnic New Zealanders, including the Chinese believe the attention and concern over Maori issues detract from the recognition of their own issues or even the place of ethnic New Zealanders in the wider New Zealand community.

10. From the above, two important concerns arise:

The place of the community in Treaty debate (the "third party" to the Treaty) and

The lack of an independent forum in which such issues are discussed.

11. Many Chinese in New Zealand recognise the clear historic injustice Maori have suffered, having been the subject of injustice ourselves over a considerable period of our history in New Zealand.

12. The way forward must be through methods that encourage alliance and agreement and not division. Safe and independent forums are needed for constructive debate not only on Treaty/Maori issues but also on race relations issues and New Zealand's multi-ethnic, multi-cultural future.

13. The Government should take a lead on this as well as communities. It is important that white New Zealanders as the dominant group should be engaged in this process so that the problem is not seen as a Maori/ethnic problem.

14. The Government should take the lead on initiatives that encourage cross-community activities. This involves not just talking but creating opportunities for active engagement with each other on common goals that have real outcomes. (The Association's Branches plan to embark on a number of such cross-community projects which would be helped along greatly by Government support.).

## IN CONCLUSION

15. The New Zealand Chinese Association recognises the Treaty as New Zealand's founding document and supports the legal processes around the Treaty including the continued recognition of the principles of the Treaty of Waitangi in existing legislation.

16. Within our community there are concerns that the Treaty of Waitangi will, by future piecemeal legislation, be conferred with influence that sets the tone for the nation's broader direction. While respecting the legal rights embodied in the Treaty, issues

relating to the nation's broad direction should be the subject of open debate &ndash; with the aim of agreeing a direction that reflects the country's bi-national founding and bi-cultural development, and increasingly multi-ethnic and multi-cultural reality and future.

KAI S.  
LUEY

President

STEVEN YOUNG

Vice-President

END OF SUBMISSION

NOTES FOR ORAL SUBMISSION TO

JUSTICE AND ELECTORAL COMMITTEE

COMMITTEE ROOM 2

BOWEN HOUSE

WELLINGTON

28 JUNE 2007

Mr Chairman,

I would like to thank the committee for this opportunity to make an oral submission on the Bill.

Firstly I would like to apologise for our National President Mr Kai Luey not being present to make these oral submissions himself.

My name is Steven Young, and I am the National vice-President of the New Zealand Chinese Association.

The New Zealand Chinese Association was incorporated in 1935.

The Association has a national executive and 13 branches active throughout the country.

Because of distance and work commitments,



not every member who would like to support this submission could attend today. However I would like to introduce:

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The members of the New Zealand Chinese Association and its branches, are by and large, members the long-established Chinese community who have been here, over several generations, since the late 1880s or earlier.

It also includes newer migrant who has here  
&ldquo;only&rdquo; 35 years or so.

Its members have become well-integrated into New Zealand society and work and interact with the wider community on a daily basis, and understand the issues of the day at least as well as the general community.

As a group of New Zealanders we have as large a stake in the future of New Zealand as anyone else.

As a previously marginalised community in what was a mono-cultural New Zealand society, we understand and share the concerns of the Maori community who were once also marginalised.

We support the Maori people in their struggle for redress for the injustices of the past.

And we accept their right to be recognised as the original people of this land.

We also recognise their special constitutional position as guaranteed under the Treaty of Waitangi.

The Bill seeks to delete the Principles of the Treaty of Waitangi from legislation on the grounds that these Principles are undefined or ill-defined, and therefore possibly open to expansion.

We oppose this Bill because its basic premise is incorrect.

In our written submission we have expanded on our reasoning.

Achieving consensus from our community to allow us to formally register our opposition to this Bill has not been an easy task.

It is fair to say that the decision was not without some dissent and disquiet.

It is the hope of our community, as in the wider community, that the outstanding Treaty claims for past injustices will be heard and settled expeditiously.

We do not believe that deleting the Principles of the Treaty from existing legislation will be helpful in this regard and we have expanded on our reasoning in our written submission.

Some claims, such as WAI 262, are rather broader and are really a debate on the future of New Zealand.

A one of the ethnic communities which now make up a large and increasing proportion of New Zealand's overall community, we are very keen to contribute to the national conversation regarding the future nature and composition of New Zealand.

To date that debate has been largely confined to the "Treaty Partners" the Crown and the Maori people.

It is said that the Crown represents all non-Maori New Zealanders.

This is accepted where the subject matter is redress of past injustices.

However where the debate on the Treaty concerns the future of New Zealand there is a legitimate role for all groups, including the "ethnic sector," to contribute.

Many ethnic groups do not feel that this has been recognised. We feel unwelcome and indeed gagged in relation to any discussion in which the Treaty is mentioned.

It is important that we be allowed a more active role in the national conversation, particularly where the Treaty intersects with New Zealand's multi-cultural future.

It is in the interest of everyone to keep working in a process that advances social justice and equity.

END

2 July 2007

Meipara (Justice and Electoral Committee office) advises that they can probably transcribe after committee meets again 19 July 2007.