

The Treaty is important, but it is not the only constitutional conversation New Zealanders must have

Recent McGuinness Institute report outlines way forward

The two-day *EmpowerNZ* workshop in late August 2012 brought together 50 young people to draft a constitution for the 21st century. The McGuinness Institute's Report 14, *Empower NZ: Drafting a Constitution for the 21st Century* documents and reflects on the *EmpowerNZ* workshop.

Wendy McGuinness, Chief Executive of the McGuinness Institute, which organised the workshop, says, 'The current constitutional review is a rare opportunity to have a broad discussion about the future of New Zealand; it is the first time in New Zealand's history that the public have been invited to comment on our constitutional framework. The workshop showed that young people want to seize this opportunity; they are passionate about our country and are keen to engage in constitutional conversations.'

McGuinness says, 'The purpose of the workshop was to create a space for young New Zealanders to explore the nation's future constitution, to sharpen their constitutional literacy, and to inspire them to be engaged in future constitutional conversations in their communities.' The workshop had much broader terms of reference than those used by the Constitutional Advisory Panel that is currently reviewing our constitution. The McGuinness Institute worked hard to ensure participants were not constrained by the past and the present; instead they were asked to focus on the future. The workshop was specifically aimed at law and history students and members of youth networks. These 50 young leaders, who ranged from 16 to 28 years of age, and were from throughout New Zealand, were asked to be bold and produce in two days a draft constitution for the 21st century.

At the start of the workshop the participants were given a blank canvas inside a glass baton. The challenge was to fill the glass baton with their discussions and present their thinking at a finale in two days' time. The baton, now containing their *Draft Constitution*, was passed to Dame Dr Claudia Orange. She received the glass baton and ran with it. On 31 January, Dame Claudia arranged for four young people from *EmpowerNZ* to be interviewed by Kim Hill at Te Papa as part of the museum's series of Treaty debates. Reed Fleming, Duran Moy, Mihiata Pirini and Julia Whaipooti gave their views on complex constitutional issues and proved once again that youth are both determined and highly capable of having well-considered constitutional conversations.

High-level observations

McGuinness notes two high-level observations contained within the report that are particularly relevant as we celebrate Waitangi Day.

Firstly, New Zealand has arguably taken a short-term approach to resolving the Treaty issue. We have taught our youth that the Treaty is the founding document of New Zealand, but we have not recognised it as such in either our constitutional framework, which is described in the *Cabinet Manual*, or in our *Oath of Allegiance*. Currently, to be permitted to sit or vote in the House of Representatives, a Member of Parliament is only required to swear allegiance to Her Majesty the Queen. There is no requirement to swear allegiance to New Zealand or to the Treaty. Further, and more importantly, we have committed youth to a treaty signed in 1840

without providing the language or the thinking that underlies our current legal approach, which embraces (in part) an ongoing relationship. Teaching the Treaty's existence as a founding document is not enough; we must also find a way to teach New Zealanders what this means (and does not mean) in 2013 and beyond.

Secondly, and of particular relevance to the ongoing constitutional review, McGuinness believes that where you begin a process of writing a constitution is very important, as it will significantly affect the outcome. In other words, different approaches will deliver different outputs. At the *EmpowerNZ* workshop the focus was initially around values and vision, which led to a lively and challenging conversation around a shared set of values and a common vision for New Zealand. McGuinness reflects that, 'In contrast, I suspect that a conversation that begins with the 1840 Treaty would likely produce a very different constitution based on the relationship between two peoples and their responsibilities to the land we live on and the Pacific Ocean that surrounds us. Another approach could start from a legal perspective, exploring New Zealand's constitutional journey to date in terms of systems, laws and institutions. This approach is likely to suggest ways in which the current system could be improved, removing obstacles and adding new instruments, laws or institutions so that more effective and efficient decisions are made in terms of time, costs and outcomes. A fourth approach could be to start a conversation about the rights and responsibilities of New Zealanders today and in the future. This approach is likely to lead to a more globally aligned, multicultural constitution evolving from a much deeper discussion of the social contract between New Zealand citizens, government and the international community. There are bound to be numerous other ways of beginning a constitutional conversation, with no one way necessarily being any better than another. However, seen together, they should provide a mix of perspectives and ideas that, when reviewed against an agreed statement of purpose, is likely to produce an optimal constitutional framework fit for the 21st century.'

McGuinness concludes, 'Constitutional conversations are tough, but they are also a great way to learn more about this nation, each other and ourselves – it is truly a conversation that matters. To do this well requires the ability to listen, question, reflect and, most importantly, trust each other; traits these young people demonstrated in abundance!'

[ENDS]

About Report 14: *EmpowerNZ: Drafting a Constitution for the 21st century*. The report, published February 2013, forms part of the Institute's flagship project, *Project 2058*. The report records and shares the experience of the two-day *EmpowerNZ* workshop held at Parliament on 28 and 29 August 2012. It provides participants and other interested people with a resource that they can use to revisit the inputs, process, outputs and outcomes, in order to share the lessons learnt. See www.empowernz.org or www.mcguinnessinstitute.org

About the *EmpowerNZ* Workshop: The workshop was held at Parliament on 28 and 29 August 2012, hosted by National MP Paul Goldsmith. The Hon. Jim McLay was the keynote speaker and his insights into New Zealand's last constitutional crisis proved extremely insightful, demonstrating why our constitution is so important. His full speech is included in the report. Other speakers at the workshop included Sir Tipene O'Regan, Dame Dr Claudia Orange, Professor Philip Joseph, Emeritus Professor John Burrows, and MPs Te Ururoa Flavell, Charles Chauvel, Peter Dunne, Paul Goldsmith, Hone Harawira and Metiria Turei. The lead facilitator was Dean Knight, supported by Carwyn Jones and six other facilitators, all of whom are law graduates in their late twenties and early thirties. Learn more about the *workshop* and the *Draft Constitution* that

participants placed in the glass baton before passing it to Dame Dr Claudia Orange at the finale on the website here: www.empowernz.org

About Kim Hill interview with *EmpowerNZ* participants – Treaty Debate 2: The radio interview can be found here - <http://www.radionz.co.nz/national/lecturesandforums/thetreatydebates>

Photos: Four photos are attached; all photos contained in report 14 are available from Hannah Steiner, phone 04 4998888 or email hs@mcguinnessinstitute.org

Links of interest:

EmpowerNZ website: www.empowernz.org

McGuinness Institute website: www.mcguinnessinstitute.org

Constitutional Advisory Panel website: www.cap.govt.nz

For further information please contact:

Wendy McGuinness

Chief Executive

McGuinness Institute

+64 4 499 8888

+021 781 200

wmcg@mcguinnessinstitute.org

www.mcguinnessinstitute.org

Louis Chambers

EmpowerNZ Participant

Tel: 027 424 7968

louchambers@gmail.com