The NZ Constitutional Review

Submission from the Common Good Project

**Submission to the New Zealand Constitutional Review from the Common Good Project**

To Submissions Secretariat,

Constitutional Advisory Panel

C/o Ministry of Justice, DX SX10088

Wellington

**Contact**

Dr Betsan Martin

Public Issues Network, Methodist Church

PO Box 12 297

Email: betsan@publicquestions.org.nz

Ph. 64 (0) 21 388 337

**August 2013**

*Executive Summary*

# This submission supports an approach of the Common Good to constitutional development in Aotearoa New Zealand.

# The Common Good focuses on collective wellbeing, with emphasis on assurances of social equity and inclusion and participation for all, and includes spirituality as integral to wellbeing, to relational life with respect for the sacred, and for known and unknown dimensions of life and the universe. Common Good takes account of human and ecological and spiritual interdependence.

# Prioritizing the Common Good brings a shift in world view from the prevailing individualised human centred interests in property, ownership, entitlement and the divided geopolitical globe to an ecological world view that recognizes planetary boundaries and earth’s common goods of air and atmosphere, oceans, forests, biodiversity, and interests of people and communities in these ecological common goods.

# Religious traditions share understandings of the Common Good, including Judaism and Christianity. These sit alongside, and have profoundly contributed to, Western philosophical developments in ethics, indigenous world views of human interdependence with nature and of a ‘woven universe’, and more recent developments in ethics associated with eco-philosophy.

# An ethics for the Common Good includes a paradigm of responsibility, duty or obligation as a complement to the existing rights focus for justice. Responsibility and obligation go some way towards a proposal for the state having duties to protect ecosystems.

# The Common Good ethic supports the Treaty of Waitangi/Te Tiriti o Waitangi as an agreement to be upheld in higher law as having confirmed Constitutional status

# In this submission the Common Good is suggested as a framework for further discussion in relation to New Zealand’s constitution.

*Introduction*

# The Common Good Project had an inaugural meeting in October 2012, and a subsequent meeting in July 2013. This submission is inspired by contributions to, and discussions on the Common Good at these conferences and it represents extensive support for this theological and philosophical theme. Further theological and academic analysis of the Common Good is articulated in public theology such as by Professor Andrew Bradstock (2013)[[1]](#footnote-1). It is expressed in Catholic Social Teaching traditions, such as Pope Benedict’s *Caritas in Veritate*[[2]](#footnote-2)*,* and recently expressed in the New Zealand Catholic Bishops submission to the Constitutional Advisory Panel[[3]](#footnote-3). The notion of the Common Good is expressed in Methodist tradition in the teaching and practices of John Wesley (Stuart 2008)[[4]](#footnote-4). The Common Good generally identifies principles of inclusion and participation, equity, social responsibility with relational values, and here, includes an view which takes account of ecological integrity and associated issues such as climate destabilization.

# The Common Good project includes indigenous thought to enhance understanding of the Common Good. Tangata whenua and Pacific participants at the July 2013 Conference contributed to thinking on the Common Good with reference to Iwi traditions, and Pasifika approaches to common wellbeing and economies sourced in ecological and intergenerational guardianship. A reference for indigenous thought relevant to this area is to be found in the concept of a ‘Woven Universe’ and the writings of Rev. Maori Marsden (Royal 2003)[[5]](#footnote-5). Pacific, or specifically Samoan tradition, with a custodial approach to human and environmental wellbeing is to be found in the work of Tui Atua Tupua Tamasese (2009)[[6]](#footnote-6). Eco-philosophy, with the examples of leaders such as Thomas Berry, inspire an expanded notion of the Common Good. Berry, ‘earth scholar’ and writer uses the concept of ‘earth community’ to chart our way personally and collectively into the future (Berry 1999)[[7]](#footnote-7).

# Further development of principles and parameters of the Common Good will be of interest to the Common Good project.

# People engaged in this project are from Christian churches and justice networks in and beyond churches with interests in ethics and the Common Good. They include Maori with theological expertise, and Pacific academic leaders. Members have a range of theological positions such as conservative, liberal and evangelical.

# This submission has been prepared with the engagement of the Common Good Project participants; it does not represent the views of all participants in the Common Good Project.

# The Common Good articulates a theological and ethical framework for addressing issues of social exclusion (such as inequality and child poverty), and the global and local issues of climate change, ecological degradation, and human and ecological interdependence.

# Theological traditions support social inclusion for all; they affirm that the marginalized are to be given privileged consideration and support on the basis that all are equal in the sight of God. The Old Testament refers to care and justice for the orphan, the widow and the sojourner, and expresses the imperative of offering hospitality and refuge and providing for those who are marginalized on religious or ethnic grounds (Deuteronomy 24:17-21).

# The New Testament places an emphasis in the ministry of Jesus on care for the neighbor and stranger, on physical and spiritual healing and on social restoration for the poor, the sick and disabled, and on dignity for women (challenging the marginal status of women). The writers of the epistles emphasise a principle of non discrimination in the well known phrase: ‘neither Jew nor Greek, male nor female, nor slave nor free shall be separated from the love of God’. These principles of inclusion and non-discrimination are expressed in concepts such as “submit to one another” and also in the Letter to Philemon where Paul admonishes the powerful to treat even the slave as if they were a brother or a sister.

# The over-emphasis on economic development at the expense of social wellbeing for all, and without due regard for ecological integrity, has set us on a trajectory of climate change and destabilization of earth’s ecososystems. This concern is at the heart of a remedial and restorative impetus of the Common Good Project.

# Most often, rights are seen as the remedial pathway to correct the wrongs of inequality, environmental damage and the excesses of economic development. It is submitted that because rights are individualized in conception, and in law, and because they often embody many competing interests, they can be a source of conflict. They do not provide an adequate reference for the Common Good

# There is a case to be made that the Common Good is capable of being accorded status as a guiding Constitutional ethical principle. The Common Good is derived from the realm of ethics and morality, and is able to be embodied in law.

*Rights and responsibilities for the Common Good*

# One of the strongest articulations of Common Good is to be found in Catholic Social Teaching. We refer to Catholic Social teaching for its ‘catholic’ quality, and not in a partisan sense. As a current example, Pope Francis uses the common good in the course of talks, homilies and interviews. Citations indicate thinking on the concept of the Common Good, although the do not provide a definition.  Examples include:

* …authority comes from God and is meant for the service of the common good. (Lumen Fidei #55)
* Persevere in the dialogue with cultural, social and political institutions, in order to make your contribution to the formation of citizens as well, so that they may have at heart the good of all and work for the common good. (Address to La Civilta Catholica, June 2013)
* Involvement in politics is an obligation for a Christian. We Christians cannot “play the role of Pilate”, washing our hands of it; we cannot. We must be involved in politics because politics is one of the highest forms of charity for it seeks the common good. (Address to Students of Jesuit schools, June 2010.
* We have forgotten and are still forgetting that over and above business, logic and the parameters of the market is the human being; and that something is men and women in as much as they are human beings by virtue of their profound dignity: to offer them the possibility of living a dignified life and of actively participating in the common good. (Address to Centesimus Annus Foundation, May 2013)

# A further example from Catholic Social Teaching is from *The Common Good and the Catholic Church’s Social Teaching* issued by the Catholic Bishops’ Conference of England and Wales in the run-up to the 1997 General Election in the UK. In that document the bishops observe

# that the concept implies that every individual, no matter how high or low, has a duty to share in promoting the welfare of the community as well as a right to benefit from that welfare.[[8]](#footnote-8)

The Bishops affirm a close identity between the terms ‘common’ and ‘all-inclusive’:

the Common Good cannot exclude or exempt any section of the population. If any section of the population is in fact excluded from participation in the life of the community, even at a minimal level, then that is a contradiction of the concept of the common good and calls for rectification[[9]](#footnote-9) (cited in Bradstock 2013).[[10]](#footnote-10)

# Expressing a trend away from rights-based justice, for example, a House of Lords judge, Sir John Laws, has observed extra-judicially:[[11]](#footnote-11)

… A society whose values are defined by reference to individual rights is by that very fact already impoverished. Its culture says nothing about individual duty – nothing about virtue … accordingly rights must be put in their proper place.

# On a similar note, Harvard philosopher Michael Sandel has criticised the tendency among politicians to rely on economic rationales in forming policy in order to avoid moral arguments. In his calls for “a new politics of the common good” and his encouragement of a more morality based politics, he clearly means more than a discussion of “rights”. For example, in his Reith lectures in 2009, he observes:

…Consider health. Britain was able to create a taxpayer financed national health system because of a widely shared sense of social solidarity that said access to health care should not depend on a person’s ability to pay. The United States has not yet been able to summon that solidarity. If President Obama succeeds in getting universal health care, it will not only be because people conclude that the present system is too costly and inefficient. It will happen if and when Americans are persuaded that providing for the health of everyone is among the mutual responsibility of citizenship

# One of the most cogent accounts of human responsibility is found in the work of the German philosopher, Hans Jonas, in ’*The Imperative of Responsibility: In Search of an Ethics for the Technological Age*.[[12]](#footnote-12) In this book, Jonas argues that the great power which modern technological advances have brought humanity, has also brought with it a responsibility to contain that power and to protect both fellow human beings, and the environment. He goes on to argue that humanity or “human dignity” depends on the survival of nature beyond mankind’s own needs. Humans are so much a part of nature that the destruction of the environment denies us the full experience of being human.[[13]](#footnote-13)

# Prue Taylor (2012)[[14]](#footnote-14) offers an important critique of the devlopment of moral theory from the work of Hans Jonas, a German philosopher. Jonas recognized that technological advancement was extending the reach of human power into the future in a way that over-reached our capacity to foresee the impacts or manage the effects. Taylor, a New Zealand law academic says “ [r]ights [for nature] will not liberate the environment or force us to value it more – what they do is ‘allow for’ the environment to engage in flawed legal institutions, the arena in which other rights-holders must battle. This is not true valuing.”[[15]](#footnote-15) Baird Callicott argues that nature’s rights creates a form of moral pluralism which leads to ridiculous results as we pick and choose between competing moral norms.[[16]](#footnote-16)

# The notion of individualized interests in rights is embedded in a corresponding value of freedom. Rights of property, rights to knowledge and the freedom of scientific research, rights in corporate law also have an underlying principle of freedom. Individualized freedom is deeply embedded in western liberal traditions, and is an extremely important value to protect in the Common Good. However, an overweighted, or exaggerated notion of individual freedom can be in tension with the Common Good and may even run counter to considerations of responsibility and duty for the Common Good. The philosopher Emmanual Levinas offers one of the most radical accounts of relational ethics arising from responsibility, and ventures to suggest that freedom, when it is self interested, stands in the way of the common good dimension of justice. Freedom, as we have come to know it, without a well articulated idea of responsibility or obligation underlies entitlements that allow for over-exploitation, of disparity and ecological disintegration (Martin, 2013)[[17]](#footnote-17). Responsibility, transposed as response-ability4 is relational5 and ‘other centred’6; it grows in importance as ‘the life of freedom discovers itself to be unjust.’[[18]](#footnote-18)

# The Common Good refers to the responsibility to ensure the sustainability of the environment as opposed to a property right to exploit it. The Common Good is oriented to custodial or stewardship understandings of land tenure; as a member of the Common Good project said, we are tenants on the land, not owners (Kelderman 2013).[[19]](#footnote-19) In theological tradition, ‘creation’ is to be allowed to flourish, as expressed in Genesis 1-2, which gives guidance on ensuring that land has its Sabbaths for sustainability

# It is submitted that an Aotearoa New Zealand Constitution consider and include indigenous world views, many of which resonate with principles encompassed in the Common Good. Indigenous cultures emphasise humanity’s custodial role in taking care of the land. Tangata whenua/Maori concepts such as kaitiakitanga, manaakitanga, tapu, whakapapa and aroha suggest some of the ideas central to this discussion.[[20]](#footnote-20) Pasifika Peoples identify similar values and priorities in concepts such as fa’aloalo (respect) , matangi kolo (resonsibility for the future), haihanisiga (love for the land), qarauna (care and respect for land).

Eminent Maori philosopher Maori Marsden explains:

Man is the conscious mind of Mother Earth and plays a vital part in the regulation of her life support systems and man’s duty is to enhance and sustain those systems. … Until we learn the lesson that man is an integral part of the natural order and that he has obligations not only to society but to the environment so long will he abuse the earth.”[[21]](#footnote-21)

# The ideas that these writers and groups are concerned with suggest a much broader constitutional framework than that of the traditionally narrow bills of rights, of which New Zealand’s Bill of Rights Act is a good example. National health care is important, not just because people have a right to it, but because we have a duty to provide it. Belonging to a community brings responsibilities to care for others in that community. Any genuine constitutional conversation needs to include consideration of these responsibilities as well as individual rights.

*International Initiatives for Common Good*

# A Charter for Unversal Responsibility is intended to facilitate the introduction of ideas of common good and shared responsibility into national and international dialogues. It is hoped that it might provide an alternative to human rights as the controlling paradigm, as highlighted in the Charter of the United Nations and the Universal Declaration of Human Rights. A copy of the text of the Charter is appended to these submissions.

# The collective orientation of Common Good values is intended to complement, not undermine, those human rights already recognised. The very first responsibility proposed is that “we are all responsible for making sure that Human Rights are affirmed in our ways of thinking and in our actions”. However, the recognition of human responsibilities goes beyond rights, by emphasising that humans are responsible for helping each other to flourish

# The Earth Charter is a similar international initiative, using a community of life orientation.[[22]](#footnote-22) The Earth Charter creates an ethical framework for a just, sustainable and peaceful world for the community of all life. It sets out an ethical framework (a shared vision of basic values) and a range of interdependent principles for the realisation of these values. Although this document does not have legal status in international law, it is rapidly gaining international recognition and is influencing a growing number of declaratory and binding legal agreements.[[23]](#footnote-23) Furthermore, it is an intention that nation states: “support the implementation of the Earth Charter principles with an international legally binding instrument on environment and development.”[[24]](#footnote-24)

# The Charter for Human Responsibility and the Earth Charter are based on the unity of human and non-human life, the shared destiny of all and universal responsibility: “[W]e are one human family and one Earth community with a common destiny. We must join together to bring forth a sustainable global society founded on respect for nature, universal human rights, economic justice and a culture of peace. Towards this end, it is imperative that we, the peoples of Earth, declare our *responsibility to one another, to the greater community of life, and to future generations*. (Preamble, Earth Charter), (Taylor 2012).

# In 2008, Dr Gonzi, Prime Minister of Malta, introduced a draft Universal Declaration on Human Duties to the UN General Assembly.

# The Finnish Constitution includes a freedom of religion section which is of interest to the Common Good project:

*Section 11 – Freedom of religion and conscience*

Everyone has the freedom of religion and conscience.

Freedom of religion and conscience entails the right to profess and practice a religion, the right to express one’s convictions and the right to be a member of, or decline to be a member of a religious community. No one is under the obligation, against his or her conscience, to participate in the practice of religion.

# 28. The Finnish Constitution has an explicit statement of environmental protection:

*Section 20 – Responsibility for the environment*

Nature and its biodiversity, the environment and the national heritage are the responsibility of everyone. The public authorities shall endeavour to guarantee for everyone the fight to a healthy environment and for everyone the possiblity to influence decisions tht concern their own living environment.

# *The Bill of Rights: Rights, Responsibilities and Common Good*

# 29. It is submitted that:

## The Bill of Rights identifies human rights protections against abuses of power. Most of the rights are individualized. There needs to be a corresponding ethic for accountability for and assessment of the exercise of power. This may be applicable to states, corporates and to those with governance responsibilities.

## The Bill of Rights be enlarged to include collective rights such as those embodied in social and economic rights, including a right to shelter; to work, to wellbeing, social inclusion and participation

## The Act be enlarged to include Common Good values, duties and responsibilities, including to the environment.

## The Act be enlarged to include the protection of New Zealand’s indigenous people;

## The Act should include recognition of the Crown’s responsibility to protect ecological common goods;

## New Zealand’s Bill of Rights Act (amended to include principles of the common good be enshrined as supreme law along with Te Tiriti o Waitangi;

*Social, Economic and Cultural Rights*

# Social and economic rights are collective rights to health, a reasonable standard of living, and include housing, water, food, education, work rights, social security, cultural rights. The best known promulgation of these rights is the International Covenant on Economic, Social and Cultural Rights (ICESCR). Although there is no statutory equivalent to the Convention in New Zealand[[25]](#footnote-25) (unlike the Bill of Rights Act, which is related to the International Covenant on Civil and Political Rights), the ICESCR has been influential: see, for example, Baragwanath J’s decision in *Te Mata Properties Ltd v Hastings District Council*.[[26]](#footnote-26)

# We submit that the following collective economic, social and cultural rights be included in the Bill of Rights:

## A right to social security;

## Education which is free, compulsory, accessible and affordable;

## Health services which are adequate and accessible to all;

## Housing which is available to all.

# Issues that undermine wellbeing in Aotearoa NZ, and which could be addressed by economic, social and cultural rights, include: child poverty; domestic violence and child abuse, high rates of incarceration, low wages; restrictions on collective bargaining; inequalities between rich and poor , disparity between Māori, Pacific people and others in education, healthcare and housing; the treatment of refugees and asylum seekers.

*Fundamental Duties and Responsibilities*

In any discussion of fundamental rights and freedoms in a future constitution of New Zealand, it is submitted that it would be appropriate for the general community, and particularly for those sectors of New Zealand society with a strong community ethic, that consideration be given to including a statement of Common Good and fundamental duties.

# Precedents for this can be found in constitutions like the Constitution of Vanuatu, which includes a section titled “Fundamental Duties”, just after the section “Fundamental Rights”.[[27]](#footnote-27)

# We, therefore, consider that an expanded view of rights with an account of collective rights, and that a principle of Common Good with corresponding duties, be accommodated in an amended Bill of Rights.

# *Environmental Custody and Safeguards*

# New Zealand could enshrine commitment to environmental protection and to its citizens’ standard of living through:

## the granting of constitutional status to a healthy atmosphere and to land, water and marine environment; and

## the creation of a positive responsibility or obligation on the State to protect ecological common goods.

# Protection of New Zealand’s land and marine ecosystems resonates with tikanga Maori, which recognises that tangata whenua have a kaitiakitanga role in relation to the land.

# New Zealand’s concerns with Common Goods have a special interest in water, given the country’s extensive resources in fresh water, coastal marine areas, and its large Exclusive Economic Zone, for which it is responsible at international law.

# On an international level, the United Nations Commissioner for Human Rights has instructed governments to treat the right to a healthy environment as a fundamental human right.  The principle is also present in both the Stockholm and Rio Declarations, to which New Zealand is party.

# There is evidence that there are Common Good benefits from constitutional entrenchment of environmental rights and responsibilities and environmental laws,[[28]](#footnote-28) through an enhanced role for citizens in sharing responsibility for improved environmental performance.

# There are currently proposals to amend parts of the Resource Management Act. However, the amendments do not go far enough and may risk the lowering of environmental standards and creating further inter-generational injustice. Ecosystem protection must be placed at a constitutional level. Twenty years of the RMA and managing effects on the “environment” have seen a steady decline in a range of environmental indicators. When humans are defined as holding rights over property as objects to be owned, the conditions are set for a system of exploitative use of nature’s resources. We wish to see the sustainability provisions and ecological safeguards re-instated in legislation.

*Other matters: written constitutions, amendments to the constitution*

# There are good arguments for and against a written constitution. Considerations of the Common Good interest include:

## Ensuring the constitutional status of Te Tiriti o Waitangi

## A set of principles, such as those identified as the Common Good, is unifying and accessible to the peoples of Aotearoa New Zealand;

## An accessible Constitution is in itself a Common Good as a public statement that represents social cohesion and a common mind, and reflects a process of public engagement in the future of Aotearoa New Zealand that takes account of our history and our context as a Pacific nation. The Common Good project expresses interest in a constitutional arrangement that provides accessibility and affords protection against inaccessible, and therefore elitist knowledge of constitutional provisions.

# The Common Good project submits that amendments to the constitution should require a majority vote of greater than 75%. This would provide a brake on the susceptibility of policy to political changes.

*Conclusion*

# For this review, it is requested that the Common Good be considered as a guiding framework that accommodates the following:

# Te Tiriti o Waitangi be accorded Constitutional status

# that Responsibilities and duties be given consideration in an amended Bill of Rights;

# that guiding principles of ecological integrity and kaitiakitanga be upheld as part of the Common Good approach to constitutional development

# It is suggested that the Common Good aligns with UN goals for Sustainable development. Sustainable development encompasses social wellbeing and economic activity nested within life supporting ecolosystems. Social wellbeing includes reducing inequality, eliminating poverty and ensuring basic needs are met for all citizens and residents.

The Common Good Project thanks the Review Panel for granting an extension of time for this submission. This submission has been prepared following the Common Good Conference in July 2013. There has not been time for comprehensive work to ensure all views are represented, however there is widespread support for the themes outlined in this document.

The Common Good Project would welcome any further opportunities for engagement with the Constitutional Review Panel as recommendations are further developed.

With appreciation for the opportunity to present the views outlined above.

Prepared for the Common Good Project by Dr. Betsan Martin in consultation with people involved in this initiative. The themes of this submission and its recommendations receive support from the following participants

Mr Warren John Brookbanks. Professor of LawThe University of Auckland

Dr. John Kleinsman, Director, The Nathaniel Centre

Pastor Martein Kelderman

Molly Melhuish, Consumer and Environmental Advocate

Rev. Peter Stuart

Rev. Charles Waldegrave, Family Centre Social Policy Research Unit

Dr. David Williams, Professor of Law, University of Auckland

Dr. Bill Atkin, Professor of Law, Victoria University

Paul Barber, Senior Policy Advisor, new Zealand Council of Christian Social Services

Gordon Copeland

Alan Cameron

Analiese Johnston, Policy Analyst

Dr. Ivan Snook. Emeritus Professor of Education, Massey University

# **APPENDIX**

# **2007 logo charte**

# LogoFinalJPG

# ***Charter for Human Responsability*** *International*

# 

# *Charter of Human Responsibilities*

# *New challenges: new dimensions of Responsibility*

At present, international life is underpinned by two agreements: the Universal Declaration of Human Rights, which focuses on the *dignity and entitlements of people as individuals* and on the defence of their rights, and the Charter of the United Nations, which focuses on *peace* and *development*. These two agreements have been a framework for undeniable progress in the organisation of international relations. But the last fifty years have seen radical global changes. Humankind now confronts new challenges; in particular, the imperative to safeguard the environment for future generations has come into view. It is clear that the two initial agreements need a further dimension to respond to current and future challenges of survival. 'Responsibility' is proposed as an ethical concept which builds on Rights and Peace as well as the emergence of a relational worldview that ensures the viability of planet earth and its peoples.

***Preamble***

*Never before have human beings had such far-reaching impacts on one another’s social, political, economic, and cultural lives. Never before have they possessed so much knowledge and so much power to change their environment. In spite of the immense possibilities opened up by these ever-increasing inter-relationships, and in spite of the new skills which humankind has acquired, unprecedented crises are emerging in many areas.*

*The growing interdependence among individuals, among societies, and between human beings and nature heightens the impacts of individual and collective human actions on their social and natural environments, in the short and long run.*

*And yet, the social institutions which should enable the new challenges of the 21st century to be met, are increasingly ineffective. The pervasive power of international markets is undermining the traditional role of states. Scientific institutions, pursuing specialized interests, are less likely to confront the global issues which challenge humanity. International economic institutions have failed to turn the rising tide of inequality. Business has often pursued its profit goals at the expense of social and environmental concerns. Religious institutions have not adequately fulfilled their role to provide responses to the new challenges faced by our societies.*

*In this context, every one of us must take up his or her responsibilities at both the individual and the collective level. New possibilities are opening up to play a role in the new challenges that face humankind: every human being has a role to play in redefining responsibility and has responsibilities to assume. The feeling of being powerless can be lessened and even overcome by linking up with others to forge a collective strength.*

*Although all people have an equal entitlement to human rights, their responsibilities are proportionate to the possibilities open to them. Freedom, access to information, knowledge, wealth, and power all increase the capacity for exercising responsibilities and the duty to account for one’s actions.*

*Responsibilities are related to the present and the future, as well as to past actions. The burden of collectively-caused damage must be morally acknowledged by the group concerned, and put right in practical terms as far as possible. Since we can only partially understand the consequences of our actions now and in the future, our responsibility demands that we must act with great humility and demonstrate caution.*

## **Principles to Guide the Exercise of Human Responsibilities**

1. *We are all responsible for making sure that Human Rights are affirmed in our ways of thinking and in our actions.*
2. *Every person's dignity involves contributing to the freedom and dignity of others.*
3. *Responsibilities include ensuring the fulfilment of human potential, inclusive of material needs and non-material aspirations, as well as obligations to support the common good.*
4. *Lasting peace can only be expected from freedom, justice, and processes for reconciliation which are respectful of human dignity and human rights.*
5. *Development and consumption of natural resources to meet human needs, and the quest for prosperity must be backed by a commitment to sustainability and the principle of precaution, assuring pro-active protection of the environment, careful management of its diversity, and equitable sharing of wealth.*
6. *The full potential of knowledge and know-how is achieved through valuing different knowledge systems and ways of knowing, sharing them, and applying them in the service of unifying solidarity and a pluralistic culture of peace.*
7. *Freedom of scientific research implies being guided by ethical criteria such as enhancement of biodiversity, respect for human dignity and non-human forms of life, and regard for the limitations of human knowledge.*
8. *The exercise of power is legitimate where it serves the common good, and if it is accountable to those over whom it is exercised.*
9. *In reaching decisions about short-term priorities, evaluation of long-term consequences must concur with ethical priorities of justice and inter-generational environmental stewardship, taking into account both risks and uncertainties.*
10. *To face the challenges of today and of tomorrow, uniting in action must be balanced with respect for cultural specificities.*

**Responsibility: a key notion for the 21st century**

Widening economic gaps within and between nations, the concentration of economic and political power in ever-fewer hands, threats to cultural diversity, and the over-exploitation of natural resources are creating unrest and conflicts world-wide and giving rise to deep concerns about the future of our planet. We are at a crossroads in human history.

Human beings are part of a 'woven universe' which is balanced and integrated in ways that are still far beyond human knowledge. Given the growing appreciation that human well-being is interdependent with earth systems, a re-definition of responsibility is needed in order to extend personal responsibility in the present to collective responsibility for the future.

We can express responsibility in many ways, among them accepting responsibility for the direct and indirect consequences of our actions in the short as well as the long run, joining with others and uniting for effective action. The fact that responsibility is proportionally linked to knowledge and the exercise of power does not mean that those with limited resources and influence would not be in a position to exercise responsibility at their own level and link up with others to forge a collective strength.

Responsibility is more than an ethical principle to be used at the personal level; rather, it is a commitment we make as citizens who are part of a social identity. The initiative of the Charter of Human Responsibilities encourages the exploration of the values that underpin this identity.

**Values and practices: unity and diversity**

Throughout human history, traditions of wisdom - religious and otherwise - have taught values, to guide human behaviour towards a responsible attitude. Their basic premise, still relevant today, has been that individual and social valuesinfluence practices. In fact, practices and values mutually influence each other**.** Such values include the right to a life of dignity and respect for non-human forms of life, a preference for dialogue rather than violence, compassion and consideration for others, solidarity and hospitality, truthfulness and sincerity, peace and harmony, justice and equity, and a preference for the common good rather than self-interest.

And yet, there may be times when these values have to be weighed against each other, when an individual or a society faces dilemmas, such as the need to encourage economic development while protecting the environment and respecting human rights. These issues are all interconnected and cannot be addressed separately. Overall responsible action implies that different categories of human activity have to be integrated. It requires the need for judgment with clarity of thought on values and competing imperatives. Everyone must be aware of the interconnectedness of these imperatives; and even if people's priorities may differ due to their own histories and present circumstances, those priorities cannot be used as an excuse for ignoring the other issues at stake.

Although the sense of responsibility is found among all human groups, there are differences in the ways in which responsibility is assumed. In some societies responsibility is assigned by the group to an individual, rather than taken up at his or her own initiative. In practice, the way in which people are held responsible for their actions varies. Cultural differences play an important role when it comes to giving a legal context to the concept of responsibility.

Just as the world’s nations have accepted the idea of 'Human Rights', the time has now come to introduce the concept of 'Human Responsibilities'. Global co-operation and global governance, indeed, are inconceivable without certain universally accepted ideas and principles which, whatever their origins, can be considered beneficial to all humankind, non-human life forms and the eco-systems of life.

**The Charter: its history and its present**

**How it began**

After some six years of discussions at various levels within the Alliance for a Responsible, Plural and United World, the Charter of Human Responsibilities [[29]](#footnote-29)was launched in 2001 at the World Assembly of Citizens, organized by the Charles Léopold Mayer Foundation. The idea was to encourage an international effort of renewed reflection on the relevance of individual and collective responsibility for the future of humankind and the planet, respect for Human Rights and the achievement of Peace. Subsequently an International Charter Facilitation Committee for the promotion of this Charter was created.

**Who is involved**

Charter activities worldwide are coordinated by members of the International Charter Facilitation Committee and their national or regional Charter committees. They comprise reflection and action with *social groups* at various levels of society and with *professional groups*. Core funding has been provided by the Charles Léopold Mayer Foundation (Paris), while local activities are also financially supported by a variety of local organisations and voluntary contributions.

**A text and a pre-text for dialogue, reflection and action**

The guiding Principles of the Charter are the outcome of a process of intercultural and interdisciplinary dialogue that began in 1998. Those who participated in the discussions obviously did not represent humanity as a whole. The Charter is proposed as a tool for *dialogue*, a starting point, within reach of everyone, towards a reconsideration of the essential meaning and place of responsibility in our societies. The guiding principles serve as a common nucleus, to be transferred and adapted into different fields of human endeavour and through translation into culturally appropriate forms.

The Charter provides both a pre-text and a text for reflection and action. As a *pre-text,* the Charter's assertion of a universal principle of human responsibility encourages *reflection* on meanings of individual and collective responsibility and invites us to consider how to act responsibly towards one another and towards the planet. As a *text,* the Charter does not lay down rules; rather it proposes priorities and expresses commitments in our everyday lives. The Charter's principles challenge us to be thoughtful and intentional in our *policies and practices.*

**An ongoing process**

The Charter has been translated into some 25 languages expressing its content in culturally appropriate versions. Locally, people are invited to re-define responsibility in their own social and professional context at a time when our interdependence has become both inevitable and necessary. Reflection is expressed in community forums, workshops, cross-cultural and interfaith conversations, dialogue with local businesses on social responsibility, publications, lesson plans, and also in art, drama, dance and music. The principles of the Charter are reference points, from which all social and professional spheres may draw up their own guidelines for responsibilities. These guidelines are the foundation of a social agreement that links these sectors to the rest of society. Thus, the emergence of a worldwide consciousness, based on the notion of responsibility, will lead to an international social agreement that responds to the needs of the 21st century.

**Reflection and action**

Organisations and individuals around the world are using the Charter of Human Responsibilities to reflect on their own situations and inform their actions. The range of interpretations, meanings and cultural opportunities has inspired a great diversity of projects in different countries. All information is to be found on the Charter web-site : http://www.charter-human-responsibilities.net

1. Bradstock, A. (2013) ‘Recovering the Common Good: the key to a truly prosperous society?’ (VUW Law Review) [↑](#footnote-ref-1)
2. *http://www.vatican.va/holy\_father/benedict\_xvi/encyclicals/documents/hf\_ben-xvi\_enc\_20090629\_caritas-in-veritate\_en.html* [↑](#footnote-ref-2)
3. http://www.nzcatholic.org.nz/2013/08/06/nz-catholic-bishops-submission-to-constitution-advisory-panel [↑](#footnote-ref-3)
4. Stuart, J. (2008) *The Wesley Code.* *Finding a Faith that Matters.* Philip Garside Publishing [↑](#footnote-ref-4)
5. * Royal, Te Ahukaramu, C. (ed) (2003) *The woven universe : selected writings of Rev. Maori Marsden*. Estate of Rev. Maori Marsden. Otaki, N.Z.

   [↑](#footnote-ref-5)
6. Sualalii-Sauni T.M.; Tuagalu L.; Kirifi-Alau T.; Fuamatu N. (2009) *Su’esu’e Manogi. In search of Fragrance. Tui Atua Tupua Tamasese Ta’isi and the Samoan Indigenous Reference*. Centre for Samoan Studies, National University of Samoa [↑](#footnote-ref-6)
7. Berry, T. (1999) *The Great Work: Our Way into the Future*. Broadway Books [↑](#footnote-ref-7)
8. Catholic Bishops’ Conference of England and Wales, *The Common Good and the Catholic Church’s Social Teaching* (London, 1996) #70, 17. [↑](#footnote-ref-8)
9. Ibid. [↑](#footnote-ref-9)
10. Bradstock, A. (2013) ‘Recovering the Common Good: the key to a truly prosperous society?’ (VUW Law Review) [↑](#footnote-ref-10)
11. Laws, Sir John “The limitations of human rights” [1998] PL 254. [↑](#footnote-ref-11)
12. Jonas, H. (1984) *The Imperative of Responsibility: In Search of an Ethics for the Technological Age.*

    University of Chicago Press. [↑](#footnote-ref-12)
13. For further discussion of Jonas’ book and these points see Prue Taylor “Ecological Integrity, Responsibilities and Rights: Insights from ‘The Imperative of Responsibility’ by Hans Jonas” [↑](#footnote-ref-13)
14. Taylor, P. (2012) ‘Ecological Integrity, Responsibilities and Rights: Insights from *The Imperative of Responsibilit*y’ by Hans Jonas’ Paper for Global Ecological Integrity Conference. [↑](#footnote-ref-14)
15. Cited in P. Taylor ‘From environmental to ecological human rights: A dynamic in international law’ The Georgetown International Environmental Law Review, vol 10, issue 2, 309, 377. [↑](#footnote-ref-15)
16. Cited in P. Taylor ‘From environmental to ecological human rights: A dynamic in international law’ The Georgetown International Environmental Law Review, vol 10, issue 2, 309, 377. [↑](#footnote-ref-16)
17. Martin, B (2013) Responsibility –an ethic for Interdependence’ Paper for Global Ecological Integrity Conference. Costa Rica. June. [↑](#footnote-ref-17)
18. Levinas, E. (1987). *Collected philosophical papers* (A. Lingis, Trans.). Pittsburgh, PA: Duquesne University Press, p. 58. [↑](#footnote-ref-18)
19. Kelderman, M. 2013) Personal communication on the Common Good submission to the Constitutional Review. [↑](#footnote-ref-19)
20. See Te Ahukaramu Charles Royal and Betsan Martin “Responsibility in Aotearoa-New Zealand” in Edith Sizoo (ed) *Responsibility and Cultures of the World* (Peter Lang, 2010). [↑](#footnote-ref-20)
21. M. Marsden and T. A. Henare *Kaitiakitanga: A Definitive Introduction to the Holistic World View of the Maori* (1992, NZ Ministry for the Environment) 18. [↑](#footnote-ref-21)
22. See <http://www.earthcharterinaction.org/content/> (last accessed 4 June 2009). [↑](#footnote-ref-22)
23. K. Bosselmann ‘In Search of Global Law: The Significance of the Earth Charter’ (2004) vol 8, issue 1 Worldviews: Environment, Culture, Religion 62. K. Bosselmann and P. Taylor The Significance of the Earth Charter in International Law in P.B. Corcoran (ed) *The Earth Charter in Action* (KIT Publishers, 2005) 171. [↑](#footnote-ref-23)
24. Earth Charter, ‘The Way Forward’. See <http://www.earthcharterinaction.org/content/> (last accessed 4 June 2009). [↑](#footnote-ref-24)
25. # The UN recently (2008) agreed to an Optional Protocol, which provides for a complaint mechanism directly to the UN Committee on Economic, Social and Cultural Rights. New Zealand ratified the ICESCR in 1978 (Bedggood, M. (2013) ‘Making Human Rights a Keystone to New Zealand’s Constitutional Conversation.’ Paper for Amnesty International Conference).

    [↑](#footnote-ref-25)
26. [2009] 1 NZLR 460. [↑](#footnote-ref-26)
27. **7. Fundamental duties**

    Every person has the following fundamental duties to himself and his descendants and to others –

    (a) to respect and to act in the spirit of the Constitution;

    (b) to recognise that he can fully develop his abilities and advance his true interests only by active participation in the development of the national community;

    (c) to exercise the rights guaranteed or conferred by the Constitution and to use the opportunities made available to him under it to participate fully in the government of the Republic of Vanuatu;

    (d) to protect the Republic of Vanuatu and to safeguard the national wealth, resources and environment in the interests of the present generation and of future generations;

    (e) to work according to his talents in socially useful employment and, if necessary, to create for himself legitimate opportunities for such employment;

    (f) to respect the rights and freedoms of others and to cooperate fully with others in the interests of interdependence and solidarity;

    (g) to contribute, as required by law, according to his means, to the revenues required for the advancement of the Republic of Vanuatu and the attainment of national objectives;

    (h) in the case of a parent, to support, assist and educate all his children, legitimate and illegitimate, and in particular to give them a true understanding of their fundamental rights and duties and of the national objectives and of the culture and customs of the people of Vanuatu;

    (i) in the case of a child, to respect his parents.

    **8. Fundamental duties non-justiciable but public authorities to encourage compliance**

    Except as provided by law, the fundamental duties are non-justiciable. Nevertheless it is the duty of all public authorities to encourage compliance with them so far as lies within their respective powers. [↑](#footnote-ref-27)
28. (Equal Justice Project [http://equaljusticeproject.co.nz](http://equaljusticeproject.co.nz/)) [↑](#footnote-ref-28)
29. http://www.charter-human-responsibilities.net [↑](#footnote-ref-29)