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Committee Secretariat
Justice Committee
Parliament Buildings
Wellington

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Tēnā koutou

Submission on the Electoral Amendment Bill

1. I am writing on behalf of Trust Democracy (TD), which was established as a non-partisan, non-profit incorporated society in 2019. Our purpose is to foster democratic innovation for a fair, just and inclusive society.
2. We would like to speak to the Committee about this submission.

Summary

3. TD supports the Bill's stated aims of strengthening the integrity, resilience, and efficiency of electoral law but is concerned that its development lacked the open, inclusive, and independent process appropriate for legislation that is constitutional in nature. The Bill proposes measures that risk undermining fundamental democratic rights and long-standing progress in extending the franchise.
4. We oppose the proposed 13-day registration deadline, which the Attorney-General has already found to be an unjustified limit on the right to vote, and instead recommend automatic enrolment supported by inter-agency data sharing. We further recommend that the franchise be extended to 16- and 17-year-olds, as it has been in Austria and Norway, and that civics education be a compulsory element of the secondary school curriculum for students in all year groups.
5. TD strongly opposes extending the prisoner voting ban and recommends that the current prisoner voting ban be repealed. We also oppose the proposed restrictions on treating, which risk discouraging participation, and urge stronger regulation of donations, in line with the Independent Electoral Review Panel's 2023 recommendations.

Introduction

6. Before setting out our response to the Bill, TD would like to publicly record our concerns about the way it was developed and introduced to Parliament.
7. Given that elections are a fundamental democratic institution and that the laws governing them are constitutional in nature, an open and inclusive public process should have been used to consider the issues and possible improvements before any bill was drafted. At least part of such a process should be overseen by an independent body as the interests of politicians and their parties may not align with the public interest in the context of elections. As far as TD can ascertain, no such process was used for the development of this Bill. Consultation with the public on a Bill through a select committee is not sufficient as it is far harder to get things changed this late in the process.

8. The use of open, inclusive and independent processes to develop electoral law is particularly important at the present moment when electoral democracies around the world are struggling to maintain public trust in both their elected representatives and democratic institutions.¹ Recent surveys show that New Zealand is not immune from this phenomenon.²
9. One of the main ways that electoral democracies globally have overcome periods of public disillusionment in the past is by extending the vote to more citizens – e.g., non-landowners, women, younger cohorts, etc.³ Since New Zealand’s first election in 1853, the trajectory of New Zealand’s electoral system has been of extending the franchise and making it easier for citizens to exercise their right to vote. As noted by the Attorney-General⁴ and others,⁵ the Bill, as currently drafted, does not sustain this progress or uphold fundamental rights such as the right to vote, the right to freedom of expression and, if convicted of an offence in respect of which the penalty has been varied between the commission of the offence and sentencing, to the benefit of the lesser penalty.
10. In addition to these concerns, TD notes that the Government did not comply with Standing Orders when it introduced the Bill to the House by not tabling the Attorney-General’s advice on the Bill’s alignment with the New Zealand Bill of Rights at the same time. This delay may have adversely affected the public’s consideration of the Bill and raises questions relating to process, intent and integrity.

Support for integrity, resilience and efficiency objectives.

11. TD supports the Bill’s objectives of improving the integrity, resilience and efficiency of electoral law and administration. In particular, we support provisions that will enable the electronic delivery of the registration process through information sharing between government agencies, advanced polling and special vote counting.

However, the timeliness of election results is a non-problem ...

12. While the Bill proposes amendments to improve the timeliness of declaration of final results, TD does not consider that the time currently taken to declare results is a serious problem. New Zealand’s caretaker conventions work well and provide for good governance through until the election result is declared and the next government formed.

and cannot justify measures likely to seriously impact participation in the election.

13. TD does not, therefore, support the proposal for a 13-day registration deadline, which according to the Attorney-General is an unjustified breach of the Bill of Rights and would have a material effect on participation in the election.⁴ Solving a non-problem – the time taken to declare an election result – cannot justify a measure that is likely to reduce voter participation.

Voter registration should be automatic ...

14. While the Attorney-General suggests that a shorter deadline for registration might be a justifiable breach of the Bill of Rights, TD questions whether registration is necessary at all. In

¹ OECD (2024). OECD Survey on Drivers of Trust in Public Institutions–2024 Results. https://www.oecd.org/en/publications/oecd-survey-on-drivers-of-trust-in-public-institutions-2024-results_9a20554b-en.html.

² See, for example, ‘[New Zealand broken and in decline - new survey](#)’ by Marc Daalder, Newsroom, 18 April 2024 and ‘[NZ’s trust crisis – A Revolt against oligarchy](#)’, Integrity Institute, 30 March 2025.

³ See, for example, David Runciman (2018), *How democracy ends*, Profile Books, London.

⁴ Report of the Attorney-General under the New Zealand Bill of Rights Act 1990 on the Electoral Matters Legislation Amendment Bill [PCO 26217/7.2].

⁵ See ‘[Sounding the bugles of democratic retreat](#)’ by Sir Geoffrey Palmer, Newsroom, 12 August 2025.

our 2022 submission to the Independent Electoral Review Panel, TD suggested that people should be enrolled automatically when they become eligible. The Bill already includes proposals for enabling the Electoral Commission to update an elector's details based on information shared by other government agencies. Data sharing should be used to enable automatic enrolment. This mechanism would further the objective of increased efficiency and make it easier for citizens to exercise their right to vote.

and the Electoral Commission must improve how it maintains the rolls.

15. In 2025 there has been public frustration that some voters who had recently registered or updated their details have been placed on the 'dormant roll'. This situation arose during the period when voters were opting to change to or from the Māori roll. This suggests that the registration system is under stress and that there is a risk that voters who have strictly followed the required registration process could be denied the vote on Election Day.
16. While this risk should be mitigated by the new information sharing provisions, such systems will not be perfect. For this reason, TD recommends that the Electoral Commission develops rigorous processes for managing and addressing this risk. In particular the public needs to be reminded regularly to update their addresses and the public needs to be assured that every effort is being made to contact voters on the dormant roll. This will be particularly important should the proposed changes to limit voter registration be enacted. A publicity campaign about this must start as soon as possible.
17. TD believes that all eligible people should be able to cast a party vote, even if their address has not been verified by the Electoral Commission, and recommends that the law be amended to enable this objective, if not already provided for.

Expanding the franchise to people 16 and over

18. Trust Democracy believes that the solution to the trust and confidence problems referred to in paragraph 5 is more and better democracy. To this end, we recommend that the franchise be extended to citizens and residents who are 16 and 17 by amending the definition of an adult in section 4(1) of the Bill. Such a response would align with the critical points made in paragraph 6 and:
 - a. end the unjustified age discrimination currently set out in the Electoral Act 1993 and the Local Electoral Act 2001⁶
 - b. provide better representation of 16- and 17-year-olds in Parliament
 - c. improve the ability of 16- and 17-year-olds to shape the political agenda and visions for the future
 - d. probably improve voter turnout amongst young people, especially if reducing the voting age is accompanied by a supportive school-based civics education programme.
19. TD considers that the age at which people should become eligible to vote is 16 years, as this would remove the present inconsistency between the voting age and many other legal indicators of adulthood, such as the:
 - a. ability to leave school;
 - b. obligation to pay income tax;
 - c. age of consent for sex;
 - d. ability to get married;

⁶ Make It 16 Incorporated v Attorney-General [2022] NZSC 134

- e. ability to hold a driver's licence; and
- f. ability to hold a gun license.⁷

20. TD recommends that a civics education programme be a compulsory element of the secondary school curriculum for students in all year groups.

21. Some OECD countries have reduced their voting age to 16. In Austria and Norway voters aged 16 and 17 years have higher turnout than older voters.⁸

22. TD notes that the current UK government, in an attempt to boost public trust in democracy, is in the process of lowering the UK voting age to include 16- and 17-year olds.⁹

The prisoner voting ban should be repealed not extended

23. TD does not support the extension of the current prisoner voting ban. TD's position is that all prisoners should be able to exercise the franchise as a fundamental human right, which should not be expunged as part of a punishment.

24. Article 21(3) of the United Nations Declaration of Human Rights, to which New Zealand is a signatory, states that:

- "The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures."¹⁰
- Article 25 of the International Covenant on Civil and Political Rights, which New Zealand has ratified, states that "Every citizen shall have the right and the opportunity ... to vote."¹¹
- Section 12 of NZBORA states that "Every New Zealand citizen who is of or over the age of 18 years has the right to vote."¹²
- The rights and freedoms set out in NZBORA may only be limited under Section 5 of the Act where it is 'reasonable', 'prescribed in law' and where the limitation 'can be demonstrably justified in a free and democratic society.'

25. In 2010, the Electoral Act 1993 was amended by the Electoral (Disqualification of Convicted Prisoners) Amendment Bill, to add section 80(1)(d), the prisoner voting ban.

- The NZ Council of Civil Liberties opposed the prisoner voting ban before the Select Committee in 2010, on the grounds that it violated section 12 of NZBORA.¹³ This is a position TD agrees with.
- The Attorney-General at the time, Hon Chris Finlayson MP, declared the 2010 Bill inconsistent with the NZBORA, stating, "I consider that the Bill appears to be

⁷ Community Law Manual Online. 'Legal ages: when you can do what'. Community Law. Accessed from: <http://youthlaw.co.nz/rights/legal-ages/>.

⁸ School Leavers' toolkit, <https://school-leavers-toolkit.education.govt.nz/>.

⁹ 'UK to lower voting age to 16 in landmark electoral reform' Sam Tabahrity, Reuters, published by RNZ, 18 July 2025, <https://www.rnz.co.nz/news/world/567245/uk-to-lower-voting-age-to-16-in-landmark-electoral-reform>.

¹⁰ United Nations, Universal Declaration of Human Rights, UN General Assembly, 10 December 1948. Available at: <https://www.un.org/en/universal-declaration-human-rights/index.html>.

¹¹ United Nations, International Covenant on Civil and Political Rights, 16 December 1966, United Nations Treaty Series, vol 999, p 171. Available at: <https://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx>.

¹² New Zealand Bill of Rights Act 1990. Public Act 1990 No 109. Available at: <http://www.legislation.govt.nz/act/public/1990/0109/latest/DLM225511.html>.

¹³ New Zealand Parliament, Law and Order Committee, Evidence on the Electoral (Disqualification of Sentenced Prisoners) Amendment Bill (2010). Available at: https://www.parliament.nz/resource/en-NZ/49SCLO_EVI_00DBHOH_BILL9745_1_A53637/ff89116c49922623ce2b9d510a3836ca5ad12fcb.

unjustifiably inconsistent with the electoral rights affirmed by section 12 of the Bill of Rights Act.”¹⁴

- In 2015 the High Court, in *Taylor v Attorney-General*, declared that: “Section 80(1)(d) of the Electoral Act 1993 (as amended by the Electoral (Disqualification of Sentenced Prisoners) Amendment Act 2010) is inconsistent with the right to vote affirmed and guaranteed in s12(a) of the New Zealand Bill of Rights Act 1990, and cannot be justified under s5 of that Act.”¹⁵
- In 2017, the Attorney General’s appeal of the High Court decision was dismissed by the Court of Appeal, indicating that the Court of Appeal agreed with the High Court.¹⁶
- In 2018, the Attorney General appealed again to the Supreme Court, who also agreed with the High Court.¹⁷
- In 2019, the Waitangi Tribunal ruled that: “Section 80(1)(d) of the Electoral Act 1993 breached the principles of the Treaty. The Tribunal further found that the Crown has failed in its duty to actively protect the right of Māori to equitably participate in the electoral process and exercise their tino rangatiratanga individually and collectively.”¹⁸

26. We therefore recommend the Bill be amended to repeal the current ban.¹⁹

Treating that encourages voter participation should not be prohibited

27. We do not support the proposed provisions to strengthen the application of the offence of treating by prohibiting the provision of free food, drink, or entertainment within 100 metres of a voting place. While we are aware of concerns that treating was used to influence how people voted in the 2023 general election at the Manurewa Marae,²⁰ food and entertainment are usually provided to encourage people to vote and to support community causes, rather than to influence voters.
28. TD considers that measures are already in place to mitigate any attempts to influence how people vote. These include controls on political advertising, a secret ballot that ensures that no one other than the voter knows how that voter voted, and scrutineering provisions.
29. TD notes the Ministry of Justice advice that “a key drawback of this option is that it is a blunt tool which does not exclusively capture harmful or corrupt behaviour. It draws a superficial line around voting places which may be arbitrary if the influencing behaviour occurs just outside the controlled area.”²¹

¹⁴ Report of the Attorney-General under the New Zealand Bill of Rights Act 1990 on the Electoral (Disqualification of Convicted Prisoners) Amendment Bill.

¹⁵ *Taylor v Attorney-General*[2015] NZHC 1706, [2015] 3 NZLR 791 [Taylor(HC)] at [79]

¹⁶ *Attorney-General v Taylor*[2017] NZCA 215, [2017] 3 NZLR 24 (Kós P, Randerson, Wild, French and Miller JJ) [Taylor(CA)].

¹⁷ *Attorney-General v Taylor* [2018] NZSC 104.

¹⁸ Waitangi Tribunal, He Aha i Pēra Ai: The Māori Prisoners’ Voting Report (Wai 2870, 2019). Available at: https://forms.justice.govt.nz/search/Documents/WT/wt_DOC_160697181/He%20Aha%20i%20Pera%20Ai%20W.pdf.

¹⁹ See Trust Democracy’s [submission](#) to the Independent Electoral Review Panel of 21 November 2022 for detailed arguments to support this position.

²⁰ Catherine McGregor, “Government under fire over sweeping changes to voting rules” *The Spinoff* (25 July 2025). Available at: <https://thespinoff.co.nz/the-bulletin/25-07-2025/government-under-fire-over-sweeping-changes-to-voting-rules>.

²¹ “Blunt tool’: Government to strengthen election ‘treating’ offences’, Giles Dexter, RNZ, 25 July 2025, <https://www.rnz.co.nz/news/political/568032/blunt-tool-government-to-strengthen-election-treating-offences>.

Donations

30. The Bill's proposals regarding donations are inadequate given that concerns about the use of political donations to gain influence have increased in recent years.^{22,23} TD considers that the Independent Electoral Review Panel's recommendations struck a good balance between the rights of citizens and the needs of candidates and political parties, while protecting against undue influence. TD therefore recommends that the Bill be amended in line with the Independent Electoral Review Panel's recommendations on donations.²⁴

²² Farah Hancock, Why New Zealand political donations have more than tripled, 29 July 2024, <https://www.rnz.co.nz/news/in-depth/523415/why-new-zealand-political-donations-have-more-than-tripled>.

²³ Marriott, L., & Rashbrooke, M. (2024). Motivations for political donations in Aotearoa New Zealand. *International Political Science Review*, 46(3), 406-421. <https://doi.org/10.1177/01925121241283531>

²⁴ See Chapter 13 on Political Financing of the Final Report of Independent Electoral Review Panel: Our recommendations for a fairer, clearer, and more accessible electoral system, November 2023, <https://www.justice.govt.nz/assets/Documents/Publications/Independent-Electoral-Review-Final-Report-November-2023.pdf>.