



# Women's International League for Peace and Freedom

United Nations Consultative status with ECOSOC, UNESCO and UNCTAD  
Special relations with the ILO, FAO, UNICEF, and other organisations and agencies

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## **Submission on the Consultation document 'Reviewing the Foreshore and Seabed Act 2004'**

29 April 2010

Womens International League for Peace and Freedom Aotearoa Section has three branches and it part of a much wider international organisation which works for peace, justice, human rights and the rights of indigenous peoples.

In Aotearoa we are a mainly Pakeha/Tauiwi organisation but we do have some Maori members who are involved in our activities and support our aims. We believe it is not possible to have a peaceful world when there is injustice, oppression, exploitation and inequality.

The Womens International League for Peace and Freedom (WILPF) maintains the same the viewpoint that has always held that the Foreshore and Seabed Act 2004 must be repealed because it creates and imposes a massive injustice to Maori. The legislation is unfair, unjust, discriminatory and unnecessary. The Act includes substantial breaches of Te Tiriti o Waitangi, of human rights protected in domestic legislation and international law and removes the possibility of recognition of the full extent of Maori title and rights in the foreshore and seabed.

WILPF supports the proposal in the Consultation document to repeal the Foreshore and Seabed Act 2004; the restoration of rights which the Act tried to remove and the restoration of due process.

The only option WILPF can support is the third - vesting ownership of the foreshore and seabed(except land in private title) in Maori, with a process for determining who would hold ownership in any given area, and the rights of others.

Other proposals in this Consultation document do not provide a substantial remedy to the Foreshore and Seabed Act and are unduly complicated.

The Crowns preferred option is conceptually flawed and limits the possibility that any resolution will actually promote an equality of rights.

The concept of no ownership or public domain will provide a new set of problems. In terms of Pakeha law it revives the colonising doctrine of terra nullius or empty land which

allowed the colonisers to take indigenous land because there were apparently no people there.

Our understanding is that as far as tangata whenua are concerned the land must belong to someone otherwise it diminishes the relationship Iwi and Hapu have with the land and with their origins.

The concept of public domain implies Crown control. The No ownership concept is also problematic because it gives the Crown the right to determine whatever Maori customary rights might arise from the regime because they will of necessity be subject to, or have to be exercised in relation to existing statutory bodies.

Iwi and Hapu with customary rights and title have to guarantee public access and they have always agreed to do so. However the likely outcome is that customary rights and title would be lesser rights than those enjoyed by others. Even if Iwi and Hapu do have customary rights and title there is still a fundamental inequality because others with freehold title to land on the foreshore do not need to grant access, and this comprises 80% of the foreshore.

WILPF does not consider it is helpful that the government has stated that if Maori do not accept its preferred option the 2004 Act will remain in place.

WILPF has always supported the Waitangi Tribunals recommendation that there needs to be a longer conversation, a proper dialogue between Maori and the Crown. The consultations so far have not met this requirement. It is better to take the time to get an outcome that is satisfactory for all.

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