

will be a source of serious conflict and justified grievance into the future. As well, your readiness to violate the basic human rights of one group of New Zealanders is threatening to us all.

We endorse the stand taken by those few Labour Members of Parliament who are opposing the foreshore and seabed legislation.

We call on you to vote against this inherently unfair, unjust and unnecessary legislation. Its fundamental flaws are clearly outlined in the Waitangi Tribunal WAI 1071 Report. We urge you to read the Report and to follow the Tribunal's "primary and strong" recommendation - go back to the drawing board and engage in proper negotiations with Maori about the way forward.

If you follow this path, you will be remembered by future generations as someone who stood against this gross travesty of justice and who acted with integrity to ensure a peaceful future for us all.

If you would like to add your details to the list of people who have signed the Open Letter - online at [www.converge.org.nz/pma/hksigs](http://www.converge.org.nz/pma/hksigs) - please send your name, title / occupation / position and organisation (optional), and town or city by email or post to Peace Movement Aotearoa.

### **Foreshore and Seabed Bill Submissions**

It is extremely important that Pakeha / Taiuiwi who oppose the foreshore and seabed legislation because it is unfair, unjust and unnecessary make their views known to the Select Committee considering the Bill.

Articles, papers, analysis and comment on the August 2003 proposals, the December 2003 policy framework, the Waitangi Tribunal Report and the legislation are available on the Foreshore and Seabed Information page at [www.converge.org.nz/pma/fsinfo.htm](http://www.converge.org.nz/pma/fsinfo.htm) If you would like any advice or assistance when writing your submission, we are happy to help, just email or phone Peace Movement Aotearoa. We would appreciate a copy of any submission you write to add to the files archiving opposition to this legislation. Thank you.



*Peace Movement Aotearoa*

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# **Foreshore and seabed - moving forward or going backwards?**

In June 2003 the Court of Appeal ruled that the nature and extent of Maori common law 'customary rights and title' could be investigated by the Maori Land Court as they had never been legally extinguished. The government's response was to say they would override the legal process and introduce legislation to vest ownership of the foreshore and seabed in the Crown.

In August 2003 the government released their foreshore and seabed proposals, and invited public submissions for a "sincere consultation process" which ran for six weeks. In December 2003, they released their foreshore and seabed policy framework.

At four national meetings, and the government's 'consultation' hui, Maori have totally rejected the government's proposals.

So have a considerable number of Pakeha / Taiuiwi who see the government's reaction as reflecting a colonial mind set and way of behaving which is simply not acceptable in this day and age.

In March 2004 the Waitangi Tribunal Report on the Urgent Hearings into the Crown's Foreshore and Seabed Policy (WAI 1071) was released. The Tribunal found that the policy breaches the Treaty of Waitangi in "*fundamental and serious*" ways that give rise to "*serious prejudice*". They also found that ... "*the policy fails in terms of wider norms of domestic and international law that underpin good government in a modern, democratic state. These include the rule of law, and the principles of fairness and non-discrimination.*"

The Tribunal did not seek *"to suggest changes to the details of the policy, as we think changes to details would not redeem it."* Their *"primary and strong"* recommendation to the government was that they should *"go back to the drawing board and engage in proper negotiations about the way forward"*. The government has ignored the Tribunal's recommendations.

The government has also ignored proposals for resolving this in a fair and just way. For example, at the hui last year and the Waitangi Tribunal hearings earlier this year, Hapu and Iwi representatives said that covenants of access and non-saleability, consistent with tikanga, could be negotiated in their respective areas - this would guarantee both public access and local ownership. In contrast, under the legislation the government could sell the foreshore and seabed by an Act of Parliament - this would be easy for a majority government to arrange, and provides little guarantee for the future.

In April 2004 the foreshore and seabed legislation was introduced to parliament. As Ngahiwi Tomoana (Chairman, Ngati Kahungunu Iwi Incorporated) said at the time: *"The legislation is regrettably even worse than feared. It ignores all of the concerns which Maori have raised about the issue and involves not just a taking of the coastline from Maori but also a very real restriction on our tikanga and our rights under international law and the common law."*

On 5 May 2004 more than 20,000 people joined the foreshore and seabed hikoi in Wellington to show their opposition to the legislation.

On 6 May the Foreshore and Seabed Bill had its first reading in parliament, and was subsequently referred to Select Committee for consideration and public submissions.

As part of the Pakeha / Tauwiwi response to the legislation, an Open Letter signed by 576 people was sent to MPs on the day before the foreshore and seabed hikoi arrived at parliament. The text is included here to provide a summary overview of the reasons we are opposed to the Bill.

### **To all Labour, Progressive Coalition, and New Zealand First Members of Parliament,**

As the foreshore and seabed hikoi moves towards Wellington, we the undersigned Pakeha / Tauwiwi add our voices to those of Ngati Kahungunu and others who are opposed to the foreshore and seabed legislation.

We support the hikoi, and all peaceful protest by Maori acting to protect what is rightfully theirs.

The foreshore and seabed legislation is a confiscation, no different than the confiscations inflicted by colonial administrations in the nineteenth century. The harm caused by those past confiscations has been acknowledged in recent years, apologies have been made, and settlements have been negotiated in recognition of those historical injustices. Repeating the mistakes of the past cannot be a productive way forward.

Furthermore, the legislation violates basic human rights including the right of access to, and protection of, the law; the right to own property and not be arbitrarily deprived of it; the right to freedom from racial discrimination; the right to enjoy one's own culture; the right to development; and the right to self-determination.

The legislation is a serious breach of Articles II and III of the Treaty of Waitangi. It is a violation of domestic law including the Bill of Rights Act and Human Rights Act; and of international human rights standards and conventions including the Universal Declaration of Human Rights, the International Convention on the Elimination of All Forms of Racial Discrimination and the International Covenant on Civil and Political Rights. It clearly goes against developing international human rights law with respect to the human rights and fundamental freedoms of Indigenous Peoples, as articulated for example in General Recommendation XXIII of the United Nations Committee on the Elimination of Racial Discrimination.

We do not agree with your claims that the legislation is in the best interest of all New Zealanders - clearly it is not in the best interests of Maori, nor do we consider it to be in our best interests. If passed, it