

Constitutional Implications of the Proposed 1.75% Land Value Tax

From Justice Watch New Zealand <justicewatchnz@protonmail.com>

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PUBLIC OPEN LETTER

To:

The Rt Hon Christopher Luxon, Prime Minister of New Zealand
Members of the Executive Government of New Zealand

RE: Constitutional Implications of the Proposed 1.75% Land Value Tax

Contents

- A Fundamental Constitutional Erosion
 - The Constitution Must Govern Law-Making
 - Government's Own Rules Require Constitutional Scrutiny
 - Constitutional Protections at Risk
 - Constitutional Rights Are Being Eroded
 - Further Erosion Should Be Rejected
 - The Government Must Publicly State Its Constitutional Position
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Dear Prime Minister Luxon and Ministers,

We write to respectfully request that the Government publicly address the constitutional implications of The Opportunities Party's proposal to impose an annual land value tax of 1.75 per cent to fund what it describes as a universal income.

A Fundamental Constitutional Erosion

Our concern is not so much the political intentions of the proposal, though these seem worrying enough in their own right, but its constitutional implications. Every law creates legal obligations, and every legal obligation carries consequences for non-compliance. Where those consequences are capable of resulting in a person losing their home, being deprived of their property through legal process, or being unable to preserve and bequeath the full value of their assets according to their own wishes, the proposal necessarily engages fundamental constitutional protections.

A proposal that requires the State to compulsorily extract wealth from one citizen's privately owned asset for redistribution to other citizens according to governmental policy reflects a collectivist principle of State control over private property. That principle is more commonly associated with socialist and communist systems of government than with the constitutional principles upon which New Zealand is governed, namely the protection of private property, individual liberty, the rule of law, limited State power, and democratic government in which authority is exercised by the people and for the people.

In our respectful submission, such a proposition is likely to be repugnant to many New Zealanders . It should therefore be fully and publicly exposed as a constitutional issue before it is permitted to advance as an ordinary matter of taxation policy. Taxation policy cannot be permitted to determine the constitutional relationship between the citizen and the State.

The Constitution Must Govern Law-Making

Successive Governments have accepted responsibility for upholding New Zealand's constitutional framework. That responsibility begins with the making of laws. Laws should not be enacted that undermine the constitutional protections they are intended to preserve. Once Parliament authorizes conduct inconsistent with those protections, the courts are required to give effect to that law, and the constitutional protection is correspondingly weakened. Over time, the protection risks becoming little more than words while New Zealanders remain exposed to the very consequences it was intended to prevent.

Government's Own Rules Require Constitutional Scrutiny

The Government's own Legislation Design and Advisory Committee Guidelines reinforce this constitutional responsibility. They require that proposed legislation be consistent with fundamental constitutional principles and the rule of law, and that particular care be taken where legislation would reshape State power, fundamentally change the relationship between citizens and the State, or modify safeguards and limitations imposed upon the exercise of State power. The Guidelines further recognize that everyone, including the Government, is subject to the law and must act within its constitutional limits.

Constitutional Protections at Risk

New Zealand's constitutional framework contains long-established protections designed to preserve the liberty of the individual and to limit the lawful reach of State power. Those protections include:

- Magna Carta 1297 – No person shall be taken or imprisoned, disseised of their freehold or liberties, outlawed, exiled, or condemned except by the law of the land, and justice and right shall neither be denied nor delayed.

- Bill of Rights 1688 – The Government itself is subject to the law, arbitrary exercises of power are prohibited, taxation must be authorised by Parliament, and the ancient rights and liberties of the people are to be preserved.
- New Zealand Bill of Rights Act 1990 – The rights and freedoms of New Zealanders are to be affirmed, protected, and promoted, and any limitation upon those rights must be demonstrably justified in a free and democratic society.
- International Covenant on Civil and Political Rights (*to which New Zealand is a party*) – Although not itself a domestic constitutional statute, the Covenant informs New Zealand's constitutional and human rights framework. It protects individuals from arbitrary or unlawful interference with their home and affirms the equal protection of the law.

Constitutional Rights Are Being Eroded

New Zealand already has legislation capable of resulting in people losing their homes and property through State enforcement. To the extent that such legislation produces the very outcome against which Magna Carta was preserved to protect, the constitutional protection is correspondingly diminished. Further legislation of the same character risks reducing these constitutional safeguards to little more than words, leaving New Zealanders exposed to the very loss of home and freehold that those protections were intended to prevent.

Further Erosion Should Be Rejected

It is our respectful submission that proposals of this nature should be outright rejected by New Zealanders because they strike at fundamental constitutional protections that have long safeguarded the liberty, freehold, and rights of the people. We further submit that the Government ought to say so publicly. Where a proposal is capable of resulting in a citizen being deprived of their home or freehold through the enforcement of a continuing State-imposed tax, it engages constitutional principles of such fundamental importance that it should not be treated as an ordinary matter of political debate.

The Government Must Publicly State Its Constitutional Position

Because this proposal has entered public political debate and may form part of the platform of a political party seeking election to Parliament, we respectfully request that the Government publicly state its constitutional position before New Zealanders are invited to consider it as an ordinary taxation policy.

Accordingly, we respectfully request that the Government publicly explain the constitutional implications of this proposal, identify the constitutional principles it engages, explain whether it considers it consistent with New Zealand's constitutional framework, and reaffirm that the making of laws must remain faithful to the constitutional principles that protect New Zealanders from excessive intrusion by the State into their homes, property, liberties, and lawful lives.

As the Government presently responsible for the administration of New Zealand's constitutional framework, we respectfully ask that it publicly reaffirm those constitutional principles and explain why proposals capable of fundamentally altering the relationship between the citizen and the State should first be examined as constitutional questions before they are advanced as matters of ordinary political debate.

We make this request respectfully and in the public interest. Constitutional protections have been preserved over many centuries to safeguard the liberty, property, and rights of the people. Their continued preservation depends not only upon the courts, but upon Parliament's willingness to legislate consistently with those principles and upon the Government's willingness to publicly defend them when they are called into question.

Yours faithfully,

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