This session of the *Reconstituting the Constitution* conference was devoted to examining three key aspects of New Zealand’s constitutional future: whether New Zealand should adopt a supreme law constitution, the future of the New Zealand Bill of Rights Act, and the status and nature of the Treaty of Waitangi. These quite disparate topics were brought together through the common theme of the New Zealand people – it is who we are, on so many levels, that will determine the process, speed, direction, and content of any constitutional change in the future.

The first and more general question is explored in Chap. 8 by Mai Chen, a notable practitioner of public law. She opened her presentation by asking whether this was the right question to be asking, for it is not in most New Zealanders’ nature to be particularly engaged with constitutional questions; our approach is pragmatic, evolutionary, and low-key. Nor is there any constitutional crisis or problem afoot that might justify such a dramatic change. Nevertheless, enacting a supreme law constitution could lead to a process where constitutional change is properly debated and change is agreed to by the public. Ms. Chen concludes that this would not only address the concerns that New Zealand’s current constitutional arrangements are unclear and uncertain, it would also serve to educate and engage the public on constitutional matters.

In Chap. 9, Drs. Andrew and Petra Butler, a practising lawyer and an academic lawyer, respectively, acknowledge the positive effects of the Bill of Rights Act 1990 on freedom of speech, the criminal law, and the spheres of equality and discrimination law. But, they claim, much remains to be done if the Bill of Rights is to fulfil its societal and constitutional potential: the lack of a remedies provision, the inability of the courts to invalidate rights-breaching legislation and deficiencies in the vetting procedure are concerning from a procedural perspective. Moreover, the Bill of Rights provides no protection for privacy rights, social and economic rights, or the right to property, which leaves citizens vulnerable to government action that does not secure to them minimum entitlements that ensure the upholding of human dignity. The Drs. Butler then engage with the session questions, arguing that the Treaty of Waitangi should be dealt with as an issue outside the Bill...
of Rights Act while a written constitution would enhance New Zealanders’ understandings of their rights.

Finally, in Chap. 10, His Honour Justice Joe Williams echoes Mai Chen’s approach of questioning the question. As he began his speech, His Honour said that the two questions he had been asked to consider: “do we need a written constitution? And should it include the Treaty if the answer to the first question is ‘yes’?”, were simply the wrong questions to be asking. The Treaty is a partnership, and therefore the real and prior question was “how do we perfect our partnership”?

His Honour noted the changes in New Zealand society with respect to the position of Māori through the stages of partnership past, present and future, and concluded that as New Zealand’s demographics continues to change and our society becomes more diverse, perhaps then will Māori identity become “the core aspect of national identity and culture; of the way in which we position ourselves globally; and the way in which we run our economy.” Once we have perfected our partnership, then we can consider the nature and status of the Treaty.