

WIKI—A NEW APPROACH TO THE LAW

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The use of digital technology has had a revolutionary effect on how we socialise and do business. Even politicians have recognised the benefits of online media. The recent Federal election saw *youtube.com* provide fast proliferation of candidates' speeches and events on the campaign trail. Election blogs saw the emergence of new political commentators and feedback from the public.

A key feature of these emerging media is audience participation. A prominent example of audience participation technology is a wiki - a website which includes the collaboration of work from many different authors, allowing anyone to edit, delete, or modify the content on the web. *Wikipedia.com*, an online encyclopaedia where users can edit more than 9 million articles in 250 languages, is consistently ranked in the top ten websites most popular sites on the entire web.

While Australian politicians are yet to adopt wikis, the New Zealand Government has been quick to embrace the technology. There, public sector agencies have used wikis to receive public feedback on the development of resources. For example, the *Participation Wiki*, hosted by the State Services Commission.

In this article I outline New Zealand's new approach to drafting legislation via an online wiki, which is believed to be a world first.

Police Act due for a revamp

The New Zealand *Police Act* was introduced in 1958 - a time when the drug of choice was probably nicotine, pubs closed at 6pm, and 'coppers' still rode bicycles, wore black uniforms and were issued with a whistle to attract attention. Yet since then there have been just 26 amendments to the Act.

These incremental changes allowed policing practice and structures to adapt to community changes, take up new technology, and respond to government initiatives. However, the fundamental core of the legislation governing the New Zealand Police had not changed since the Act was introduced.

In September 2007, the New Zealand Police launched a wiki seeking public contributions on the drafting of a new Police Act. The wiki was seen as an opportunity for the general public to comment on five key areas:

- principles of policing;
- options for effective policing;
- personnel-related issues;
- other arrangements to support successful policing; and
- ways to anticipate the future.

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Superintendent Hamish McCardle, the officer in charge of developing the new Act, described the format as an online 'whiteboard' where the public can post their ideas - an approach which yielded some interesting and often less than serious suggestions, such as:

- opposing ticketing quotas for traffic offences: 'burglaries, car theft, stalkers, intruders, assaults, muggings and any other violent behaviour take priority over ticketing speeding motorists';
- raising the minimum police recruitment age to 25, since the human brain is not fully developed until then; and
- changing the name of police to 'The New Zealand Yum-Yum Teddy Bear Strike Force Z'.

These suggestions caused a stir within the global media, with many reports dismissing the wiki's credibility. But as *Wikipedia* states, the user-generated approach tremendously increases the chances that any particular factual error or misleading statement will be relatively promptly corrected. 'Errors to *Wikipedia* are usually corrected within seconds, rather than within months as it would be for a paper encyclopaedia. If someone sees something wrong within an article, they can simply fix it themselves.'

Despite the negative reports, the Police Act wiki ultimately echoed *Wikipedia's* position, with public suggestions in two key areas incorporated in the final Bill.

Bill reflects wiki suggestions

Governance, organisation and administration

A majority of submitters supported improved governance and administration of Police, including confirming the legal status and functions of New Zealand Police.

When the Policing Bill was introduced into the New Zealand Parliament on 15 October 2007, its Explanatory Note stated:

This Bill seeks to confirm and strengthen Police governance, accountability and organisational arrangements in a way which is suitable for a contemporary age; and to improve the Police's effectiveness, especially by updating human resource management provisions, and establishing a clear framework for the exercise of policing powers by particular Police employees.

Confirmation of the Police mandate

In 1958, the Police were really the only policing body in New Zealand. However current examples of other policing organisations include Maori and Pasifika warders who assist youth offenders, as well as fisheries, immigration and customs officers. Submissions included support for 'a function statement in new Act, with a broad, rather than a narrow, statement of Police's role' and 'effective information sharing between law enforcement agencies.'

Australia and the wiki

In Australia, digital technology has been used to receive feedback on fair trading and planning regulations in NSW and the ACT. However, wikis have not yet been utilised in the legislative process.

The Howard Government stated that the 'effective use of technology transforms government into a more efficient and client-oriented sector of the economy'. This position is likely to be

echoed by the Rudd Government, following the then opposition leader's successful *Kevin07* online campaign.

There is no doubt that the New Zealand wiki illustrates how new technology can be utilised as a means to encourage public participation in democracy and law-making. The possibility of a Commonwealth Human Rights Charter, a new referendum on the Republic and the appointment of a new Governor-General are all opportunities for the technology to be embraced by the Rudd Government.

The Policing Bill wiki is no longer accepting submissions. However the wiki can be viewed as a "document of record" : see <http://wiki.policeact.govt.nz>.

Postscript:

On 1 October 2007, the Bill was assented to and is now known as the *Wiki Policing Act 2008* and forms part of the review of the Police Act. The wiki Act has some unusual provisions, for example:

By serving the Crown (or in the event of New Zealand becoming a republic 'the people') the role of the police is that of serving all people of New Zealand not just the elected government who may only represent half of the people.