'Selling off New Zealand'

. . . and claiming it back

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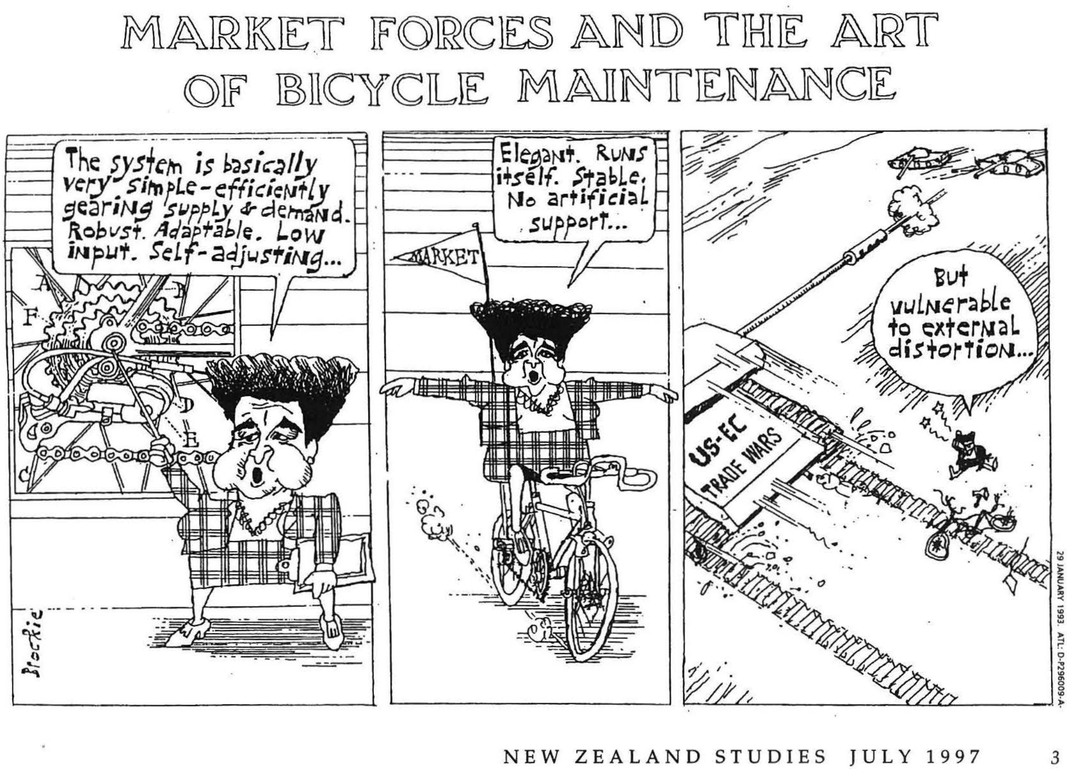
'SELLING OFF NEW ZEALAND' implies a sense of finality and irreversibility which I am determined to resist. It becomes too tempting simply to catalogue and bemoan the events of the past decade, and the betrayal of those who, despite their promises, continue to sell the country's heritage to the highest bidder. That kind of response is not enough any more. We know what has happened, how it was done, what the effects have been for rich and poor. The challenge now is to move forward and work out how to reclaim some greater degree of control over the resources, decisions, language and values that shape our lives.

That requires, to quote a popular maxim from Gramsci, 'pessimism of the intellect and optimism of the will'. It means being realistic and recognising that some things have indeed changed irreversibly. Some of the power and resources that have been transferred to private and foreign hands cannot be retrieved. The Keynesian welfare state cannot be rebuilt, even if we wanted it back. Nor can we turn our backs on global reality and on our changing place in the world. Our perceptions of such relationships have changed. It sounds trite these days to observe that the locus of power has become even more diffused, with greater limitations on what the nation-state can do. Yet, as that perception becomes more widely understood there is also the danger of it being overplayed. We need to maintain a healthy scepticism about claims that transnational capital, international institutions and agencies control our lives and there is nothing we can do.

The past 12 years have dramatically altered the concrete realities of our daily lives and our consciousness of the world. For some – I suspect many – it has fostered an unhealthy introspection, and the kind of insecurity that encourages xenophobia and racism. In the later 1980s, the resurgence of Maori claims over resources and political power was met with assertions of Pakeha nationalism and the unity of the (colonial) nation state. The mid-1990s saw a renewed backlash against 'political correctness' and Maori nationalism, this time accompanied by anti-Asian racism – reflecting, I suspect, the fear of Pakeha that they too are losing control of their lives to faceless, self-interested, and mainly alien, individuals and enterprises.



Ironically, beneath that seemingly unbridgeable antagonism lay a unifying theme. Maori nationalists have increasingly focused their analysis and strategies on the international arena. For over a decade they have attacked the government's refusal to support indigenous self-determination at the meetings on the Draft Declaration on Indigenous Peoples in Geneva, and more recently its record on the treatment of young Maori before the United Nations Committee on the Rights of the Child. They are helping to lead the indigenous campaign against global trade treaties, such as the intellectual property provisions (TRIPS) of the GATT. They have warned foreign investors of the risks of not seeking approval from tangata whenua, and campaigned against privatisations on the land and in the courts. Many Tauiwi share these concerns in relation to themselves, but cannot get past the legacy of racism and supremacism which paints Maori as the enemy. This paradox was encapsulated in the appeal which the anti-foreign investment, anti-immigration and anti-privatisation policies of (the opportunistically-named) New Zealand First held for both Maori and Pakeha, who together helped the party secure the political balance of power in the 1996 election.

The concerns that many share go beyond what might be dismissed as instinctive or popular nationalism. In 1995, farmers, media, Maori, conservationists and other rather unlikely allies joined forces to resist attempts to loosen foreign investment laws relating to land and impose greater secrecy on the application process. The issue has permeated academia too. Otago University's Foreign Policy School chose the topic of 'State and Sovereignty: is the State in retreat?' for its 1996 programme, with contributors reflecting divergent voices and views. Even Reserve Bank Governor Don Brash recently felt impelled to deliver reassuring speeches entitled 'Foreign Investment in New Zealand: Does it threaten our prosperity or our sovereignty?'[1] and 'New Zealand and International Financial Markets: Have we lost control of our own destiny?'[2].

DEFINING SOVEREIGNTY

These diverse, often divergent, actions, statements and sentiments tend to converge around the meta-narrative of 'sovereignty' – a term easily invoked, but rarely defined and full of contradiction. The formal legal definition, according to *Black's Law Dictionary*, is:

> The supreme, absolute and uncontrollable power by which any independent state is governed; supreme political authority; the supreme will; paramount control of the constitution and frame of government and its administration; the self-sufficient source of political power, from which all specific political powers are derived; the international independence of a state, combined with the right and power of regulating its internal affairs without foreign dictation; also a political society, or state, which is sovereign and independent.

On that definition, this country has not experienced true sovereignty since the Crown usurped the (shared and contested) power of genuinely sovereign Iwi and Hapu in 1840. But the fiction of sovereignty is nevertheless real in its effect. So long as it is broadly accepted, or ineffectively challenged, it in practice legitimates the system of government and law through which economic, social and human relations have historically been regulated, and through which coercive power is exercised. When that fiction is exposed, the legitimacy of the state's power is at risk of being undermined. So the meta-narrative of sovereignty is staunchly maintained in the face of the leverage exercised by the international financial institutions, the binding nature of multilateral trade agreements, the de facto political power exercised by finance capital and transnational enterprise, and the glaring inequality between rich and poor states.

Whether maintaining the fiction is good or bad must be left for another time. What I want to explore further today is the extent to which the New Zealand state has lost its ability to exercise 'supreme' control. In doing so I want to distinguish between formal legal sovereignty of the kind Black defines and *state autonomy*, which David Held has defined as 'the state's actual capacity to act independently in the articulations and pursuit of domestic and international policy objectives'.[3]

In a formal sense, there has been relatively little diminution of legal sovereignty. Perhaps the most significant constraints are the commitments in relation to the global economy under the Closer Economic Relations (CER) trade agreement with Australia, and the Uruguay Round of the GATT, both of which tie the hands of future governments in relation to border protection, intellectual property, services and investment measures under threat of economic sanctions for breach. As the World Trade Organisation (WTO) moves to extend the already-expanded agenda of the GATT to areas like information technology, foreign investment and environment, its significance, and the corresponding erosion of legal sovereignty, will continue to grow. Technically, however, a government can still refuse to comply with the rulings of a WTO dispute panel or ultimately withdraw from the agreement altogether.

We would expect, however, that there would be severe economic and political consequences for refusal to comply with such commitments. This suggests that it is the *autonomy* of the state in practice to make policy and law which has been more dramatically undermined. That, in turn, raises the question of how real those consequences need to be, or whether it is enough that they exist as constraints in our minds.

CONSOLIDATING THE PRIVATISATION OF POWER

The New Zealand 'revolution' was intended progressively to shift the locus of economic, and consequently social, employment, environmental and cultural, decision-making permanently from public to private control. This privatisation of power is often said to be permanent and irreversible. I want to argue that we have been encouraged to believe this, but it is not necessarily so.

Convincing those who exercise power to accept the new parameters as given, and propose only changes within that paradigm is a strategic goal of the structural adjustment process. In a study published in 1992 Stephen Haggard and Robert Kaufman identified two stages – the *initiation* and the *consolidation* of structural change – with significant differences in the political logic of each. The *initiation* phase, they suggest, is best secured through relatively autonomous, free-floating, technocratic 'change teams', and requires a more activist and capable state than classical liberal theory contemplates; paradoxically, the state needs to be strengthened before the government can reduce its role in the economy and extend market forces. This means creating new bureaucratic structures or significantly reorganising existing ones to operate outside routine decision-making channels. The authors conclude that 'reform initiatives are more likely where and when political institutions insulate politicians and their technocratic allies from particular interest group constraints, at least in the short run'.[4]

Some, like John Williamson from the Institute for International Economics in Washington, believe that *consolidation* follows naturally from the successful initiation of change. Initiation requires strong leadership, unconstrained by the need for social consensus – reflecting the oft-expressed view that people cannot appreciate what is good for them until it is done. Once those changes have been made, social consensus and ideological convergence should inevitably emerge.

Others believe that consolidation requires considerably more sophistication, skill and engagement with social reality. Haggard and Kaufman point to the importance of:

> stabilising expectations around a new set of incentives and convincing economic agents that they cannot be reversed at the discretion of individual decision makers. Consolidation is most likely where governments have constructed relatively stable coalitions of political support that encompass major private sector beneficiaries, and have secured at least the acquiescence of the major political forces competing within the political system. Without such tacit or explicit alliances between politicians, technocratic elites, and those gaining from the policy change, reform attempts will necessarily falter. [5]

Alongside this comes a wider need for 'social learning', which they describe as the:

> evolution of a broader ideational consensus among leaders, interest groups, party elites and attentive publics that sets some boundaries on the range of economic debate. Such a consensus does not imply stasis or the absence of conflict; distributive struggles will always arise over policy. Nonetheless, it is possible that the long-term sustainability of policy choices will depend on a convergence of thinking about fundamental means-ends relationships in the economy. If so, then the formation of elite preferences, ideas, and ideology, as well as the evolution of public opinion, are potential important explanatory variables.[6]

Beyond this consensus of the elite, a broader adjustment of popular expectations is also required whereby the wider populace believe 'there is no alternative'. Citizens and firms are encouraged to lower their expectations and make individual, non-political adjustments, such as sending more family members into the work force, entering into informal sector activities and reducing consumption. Even if their demands for relief become politicised, they are more likely to be directed at the government in power than at the system as a whole.[7] This does not require a high degree of popular support for the new regime. Joan Nelson suggests that a 'durable grumbling acquiescence' is enough, although achieving even that requires positive effort.[8]

In New Zealand the consolidation phase is well advanced and, despite a new electoral system and a new government, very little seems likely to change. The National/New Zealand First coalition agreement is committed to 'implementing orthodox economic policies in line with or better than the best international practice'. Particularly ominous are proposed reviews on key areas of 'unfinished business', such as the employment courts and employment-related laws, the minimum wage, producer boards and universities. Meanwhile privatisations continue at central and local government level, irrespective of electoral mandate.

The naive who believed that an MMP electoral system would produce a more accountable, responsive and representative government overnight, and soften or reverse the changes of the past 12 years, feel betrayed. But they should not have been surprised. The key elements of the structural adjustment programme – sale of state assets and operations, the deep infiltration of foreign capital, the binding commitments to freer trade under the GATT/WTO, dismantling the institutional structures of the welfare state, and dispersing former government functions, powers and funds across a wide range of public, quasi-autonomous and private agencies – were designed to outlast a shift in political power. Most parties and politicians have come to consider the verdict of the market to be as important, if not more important, than that of the electorate, and have tailored their policies accordingly – Michael Laws performed that role for New Zealand First in the months preceding the election. A significant ideological and cultural shift has also taken place. For the beneficiaries of restructuring and the generation of 'children of the market', the neo-liberal paradigm is now the norm and what used to be called the 'left' seems depressingly devoid of credible alternatives.

Moving out of this paradigm will not be easy. It is supported by new techniques and discourses of governance centred around economic science, managerialism and contract law. The centralised bureaucratic state has been replaced by a market-driven regime where the self-maximising individual transacts under the regulatory umbrella of contract law. The theoretical justifications provided by public choice, agency, transaction cost economics and new public management seek to control behaviours, circumscribe options and exclude participants and ideas. Fundamental changes – how we regulate markets, control inflation, order labour relations, deliver education, health or housing, levy taxes, provide policy advice or ensure accountability – are conveyed as shifts of technique. Previously contestable arenas of constitutional law, political philosophy and administrative theory give way to the one-dimensional quasi-scientism of economic and managerial theory. 'Restructuring' or 'structural adjustment' is portrayed as instrumental, devoid of culture, context or power.

This has erected an intellectual barrier which seeks to insulate the change agents and guardians of the new regime from critique and constrain any debate on alternatives to variations within the theme. 'Credible' debate about options is confined within their paradigm. Social structure is acknowledged only so far as it can be logically reduced to the rational self-interest or (ir)responsibility of individuals. Maori can participate in policy debate provided they accept the primacy of the atomised, self-interested individual, the commodification of nature, knowledge and human endeavour, and the property rights created under colonial law. Women, too, can engage – on condition that the paradox of the self-maximising 'market man' and altruistic, hence irrational, 'family woman' on which the market model depends remains unexplored.

The voices of the market have systematically portrayed this new template as international orthodoxy to which there is no alternative. Reflecting on the neo-liberal model, British theorist John Toye explains that:

> no one feels the need to test it empirically because the facts are too obvious; no one really wants to delve into welfare economics because its results are vulnerable to a whole raft of academic quibbles; and no one is really going to call in the Spanish Inquisition if the occasional economics harbours sincere doubts about, say, the privatization proposition. We are ... in the realm of the Empowering Myth.[9]

He observes how this process of 'consensus-mongering' conflates:

> what economists believe with what is economic truth. We ought to question what other people believe, not believe it because they believe it. That, at least, is how we got where we are now. Truth is always provisional, and it is the product of criticism just as much as the attempt to promote 'economic correctness'.[10]

The fetish with the economically correct seeks to freeze or concretise ideas. It loses sight of the fact that ideas are always in flux, always embedded in critical debate. The learning process disappears, so that people continue to believe there is no alternative and nothing they can do, even where it is clear that neo-liberalism has failed.

I would suggest we are nearing that stage now. The cheer brigade claim that by getting the economic fundamentals right they have produced a stable, internationally competitive economy. In practice, their strategy has caused sharp peaks and troughs of economic activity, uncertainty and instability in the real economy, and deep insecurity among people who are forced to plan extensively (and expensively) for their future lives. Developments during 1996 and early 1997 show how vulnerable the economy is to shifts in international markets, interest and exchange rates, and speculative forays of foreign capital. The balance of payments deficit and foreign debt burden are both threatening to blow out. The market-oriented social infrastructure of health, education and housing, and core government agencies, face chronic systems failures. Job growth has fallen, as has labour productivity, with a mass of low-skilled workers engaged in low-quality, part-time and low-paid work. Poverty, inequality, and un- and under-employment are predicted to increase once more. As market failures continue it should become difficult to argue for more of the same. There are windows of opportunity to rethink the 'fundamentals' for the first time in 12 years. Yet we seem politically and intellectually paralysed.

WHERE DOES THE POWER LIE?

To move beyond that paralysis and open the windows to change we have to demolish the hold that TINA (there is no alternative) has over us. Two inter-related sets of questions need to be raised, the second of which is dependent on the first. Firstly, if we believe there is the possibility of change, what realistically we can do? Has New Zealand been irretrievably sold down the neo-liberal line? Can authority over at least part of those resources and decisions be retrieved? If so how, by and for whom, at what cost? Secondly, given those constraints and those opportunities, what are the alternatives?

Power which was primarily exercised within and between territorial states for at least the bulk of this century is now exercised through overlapping realms of economic and political space. In attempting to 'map' this John Ruggie has described the emergence of:

> a nonterritorial 'region' in the world economy – a decentred yet integrated space-of-flows, operating in real time, which exists alongside the spaces-of-places that we call national economies. These conventional spaces-of-places continue to engage in external economic relations with one another, which we continue to call trade, foreign investment and the like, and which are more or less effectively mediated by the state. In the non-territorial global economic regions, however, the conventional distinctions between internal and external once again are exceedingly problematic, and any given state is but one constraint in corporate global strategic calculations.[11]

Ruggie's imagery allows us to map the dimension of transnational enterprise and capital flows onto geographically-configurated national economies. In New Zealand's case we are told the country's deep exposure to international flows of capital means any significant change to Reserve Bank policy or re-regulation in areas like finance, industry, agriculture, employment or environment – indeed, even standing still – would have dire economic consequences. Specific threats include capital flight by international and local investors, credit rating downgrades and increased cost of debt, runs on the dollar, deep recession, loss of jobs, falling tax revenue, cuts to government spending and services, and the relegation of New Zealand once more to the periphery. These claims need to be met with careful assessments of the benefits that various forms of foreign investment bring, the likely responses of each to changes in different areas of regulation, and the consequences of those responses, not in aggregate economic terms, but in the relative distribution of costs and benefits across the social landscape.

While Ruggie's 'multi-perspectival polity' is a useful start, it offers only a partial understanding of constraints on the state's autonomy. It makes no provision for those formal and informal, state and non-state sources of regulatory power which do not coincide with the territorial boundaries of the national economy, and hence the nation state. What I will call 'spaces-of-regulation' include federations of states (such as the EU), federal agreements (like NAFTA), international agreements between states (such as the GATT/WTO), informal agreements between 'economies' (such as APEC). All of these seek, through various legal and persuasive techniques, to delimit what individual states can do. Complicating that further are the transborder administrative and legal jurisdictions (like the Transmanche Euroregion that links Kent, Calais and three parts of Belgium, or the Singapore-Johor-Riau Triangle that integrates parts of Singapore, Malaysia and Indonsesia) which have begun to emerge.

In New Zealand's case this 'space-of-regulation' centres around CER, the GATT/WTO and APEC. In some cases, such as the GATT and CER, potentially severe penalties could result if we refused to comply, although the extend to which the costs may outweigh the benefits needs to be carefully assessed. Any future extension of those commitments will impose a further constraint on state autonomy – hence the increasing demands even from within government for open debate and intensive scrutiny of these agreements. At present such negotiations are shrouded in secrecy.

In most countries expanding these spaces-of-regulation requires a mandate, or at least formal ratification by the domestic legislature. In New Zealand, Australia and the United Kingdom, however, international treaties and agreements are designated 'acts of state' which require neither mandate nor ratification. Several years ago the Law Commission expressed concern about this form of extra-territorial law-making.[12] In October last year Clerk of the House David McGee echoed these views, calling the situation 'not just unsatisfactory' but 'unsupportable and anti-democratic'. Drawing on an Australian Senate report that proposed consultation of their Parliament before any international treaty is ratified,[13] McGee placed a similar proposal before the New Zealand's Standing Orders Committee for consideration.[14] The Ministry of Justice's 1996 post-election briefing paper has recommended greater public participation in treaty-making, formal approval in parliament before ratification, select committee oversight, and the publication of reports on the effects and values of treaties for New Zealanders. The proposed OECD multilateral agreement on investment, which is intended ultimately to remove virtually all restrictions on foreign investment, is fuelling demands to change the way these decisions are made.

While these international constraints are real, pro-liberalisation forces also have an interest in overstating their nature and effect. This process of 'talking up' the constraints was exposed recently in relation to APEC. At Osaka in 1995, New Zealand ministers and officials described it as their mission to 'eliminate the wriggle room' and ensure that members could not evade the commitments to trade and investment liberalisation made within APEC. That posed a dilemma for them in 1996. The main APEC meeting in Manila took place in November, while there was only a caretaker government. A leaked August 1996 draft of the Individual Action Plan which New Zealand's representatives intended to table at that meeting showed commitments on privatisation, foreign investment and deregulation which conflicted with the pre-election promises of New Zealand First. A remarkable turnaround then took place. The previously maligned 'wriggle-room' re-emerged, with National's caretaker ministers insisting that APEC was only morally binding and that future governments could alter those commitments if they wanted to. The economic and diplomatic consequences of doing so – the practical autonomy of the state – were not, however, addressed.

Beyond these international agreements lie more subtle ideological influences exerted by the international financial institutions (like the IMF, World Bank and ADB), rich countries' clubs (like the OECD and Group of 7), the credit rating firms (especially Moody's and Standard and Poor's), globally-linked neo-liberal think-tanks (like the World Economic Forum and Mont Pelerin Society), transnational accounting and consultancy firms (such as Price Waterhouse, CS First Boston, Ernst Young) and networks of academics, consultants, advisers and officials who cross-fertilise ideas and implement their common agenda across the globe. These voices of the market, and the interests they serve, need to be demystified so that people can weigh up the value of what they say about the achievements of neo-liberal 'orthodoxy' and the impossibility of change. People need to know, for example, that the wording of the regular OECD reports of the New Zealand economy is negotiated bilaterally with the New Zealand government; that the credit rating agencies are businesses which serve the international investment community who profit from these policies; that the World Economic Forum operates as a dating agency between its members – the world's richest 1,000 companies – and accommodating governments, and its World Competitiveness Reports hail policies which maximise profits for those companies.

Still missing from this imagery, and much more difficult to 'map', is the cultural dimension. In arguing the case that nationally-focused industrial policy is both feasible and desirable, former New Zealander Robert Wade argues that nationally-specific cultural systems of education, finance, and corporate management influence the development of technology and entrepreneurship and differentiate countries from each other.[15] At the same time, as Roland Robertson points out, economic matters, including transnational relations, are subject to cultural contingencies and cultural coding which do not always coincide with national boundaries:

> Cultural pluralism is itself a constitutive feature of the contemporary global circumstance and ... conceptions of the world-system, including symbolic responses to and interpretations of globalization, are themselves important factors in determining trajectories of that very process.[16]

While this sort of multi-dimensional mapping exercise is conceptually useful, it also has dangers. Taken alone it presents a complex picture of the distribution of power which can appear overwhelming, irresistible and disempowering. That need not be so. First, it shows that while the factors that constrain state autonomy are diverse and diffused, the state does still have a role. Despite talk by some of a borderless world, states are still the primary locus for regulating the activities of capital and markets, and social reproduction of labour, education and dominant mores. They are also the agencies which enter into these international agreements, determine the policy and provide the funds for these international organisations, pass the laws and make the policies that divest future governments of power. Despite pressure to further erode their authority and autonomy, they will continue to play a critical role. Regulation is not like any other product, and regulatory markets are not self-executing. Policies need to be embraced, and rules implemented, by the governments of national states – states which are subject to their own domestic constraints and influences, some of which will concur and other of which will resist the continue erosion of economic and political controls. In the process these governments will act selectively and often opportunistically to advance their own political, ideological and strategic concerns. So there is still a point to mobilisation and to politics directed at the national state.

Second, it is vital to treat this map as only one static representation of a highly contested global dynamic. The ascendant era of global capitalism is as much a contested terrain as was the colonial and imperial capitalism that it builds upon yet supersedes. Both operate through exploitation, dispossession and oppression, and give rise to struggle and resistance. For those in the South (both the South in the South and in the North) the new distribution of power is a variation on the old. Their analyses and strategies for liberation build on, supersede and sometimes dispense with those of the past. New potential alliances and opportunities for collaboration emerge in new forums. In some of these, the victims of the old imperial globalisation are joined by the new victims of neo-imperialism.

The enormity of finding effective, innovative and practical strategies to address these challenges cannot be denied. But such alliances can be build in New Zealand, provided that we, as Tauiwi:

1. can turn our backs on the self-interested racism of the past and see Maori nationalists as allies;
2. move beyond the paralysis of the past 12 years by recognising the manufactured and disempowering effects of 'TINAism' (there is no alternative);
3. demystify those agencies, institutions and activities through which global forces are represented so we can understand how, why and to what extend they effect what the state can do;
4. identify how much room there is to move and how to prevent that being further eroded;
5. articulate a range of alternatives which might improve the quality of life for the mass of people, rather than the elite, and assess the costs and benefits of pursing those options; and
6. develop strategies to implement those alternatives in diverse arenas in the most effective ways.

My new book, *Islands of the Future: Globalisation, Sovereignty and Identity in Aotearoa/New Zealand* will, I hope, open the door to these possibilities.

NOTES

1 Speech to the Wellington Rotary Club, 20 November 1995.

2 Speech to the 31st Otago Foreign Policy School, 29 June 1996.

3 D Held, 'Democracy, the Nation-State and the Global System' in D Held, ed. *Political Theory Today*, Polity Press, Oxford, 1991, p.197 at 213.

4 S Haggard and R Kaufman, 'Institution and Economic Adjustment' in S Haggard and R Kaufman (eds), *The Politics of Economic Adjustment*, Princeton University Press, New Jersey, 1992, p.19.

5 Haggard and Kaufman, pp. 19-20.

6 Haggard and Kaufman, p 36.

7 S Haggard and R Kaufman, 'The Prospects for Democracy', in Haggard and Kaufman, p.349.

8 J Nelson, 'Poverty and Equity', in Haggard and Kaufman, p.222.

9 J Toye, 'Comments', in Williamson (ed), p.39, in J Williamson *The Political Economy of Policy Reform*, Institute for International Economics, Washington, 1994.

10 Toye, pp.39-40

11 Ministry of Justice, *Briefing Paper for the Minister of Justice*, October 1996, p.61.

12 *The making and implementation of treaties: Three issues for consideration*, New Zealand Law Commission, August 1993.

13 *Trick or Treaty? Commonwealth Power to Make and Implement Treaties.* Report by the Senate Legal & Constitutional Reference Committee, Parliament of the Commonwealth of Australia, November 1995.

14 D McGee, speech to the Australasian Study of Parliament Group, reported in *NZ Herald*, 1 Nov. 1996; see also 'Treaties: A Role for Parliament?', *Public Sector* 20(1) March 1997, p.2.

15 R Wade, 'Globalization and its limits: Reports of the death of the national economy are greatly exaggerated', in S Berger and R Dore, eds, *National Diversity and Global Capitalism*, Cornell University Press, New York, 1996, p.60.

16 R Robertson, *Globalization: Social Theory and Global Culture*, Sage, London, 1992, p.61.