Kim Workman

Vagrancy, Homelessness and Policing by Consent

Abstract

This article examines the historical and contemporary politics of vagrancy, homelessness and policing in Aotearoa New Zealand, arguing that current policy debates echo the punitive cultural attitudes of the late 19th century. Drawing on historical accounts of an 'atomised' colonial society marked by high levels of vagrancy and drunkenness, the article shows how early governments relied on imprisonment and coercive legislation to preserve an image of social cohesion and civility. It then traces the evolution of policing from coercive control to the 20th-century model of 'policing by consent', grounded in public trust, discretion and community partnership. Under this model, homelessness was managed collaboratively between police and social agencies rather than through criminalisation. Since 2024, however, large-scale defunding of emergency housing and social services has produced a sharp rise in homelessness, rough sleeping and associated public tensions. The government's responses – including expanded citizens' arrest powers and proposed 'move-on orders' – represent a return to punitive, politically driven approaches that prioritise public order over social wellbeing. Such measures undermine the principles of policing by consent, erode public trust, and fail to address the structural drivers of homelessness.

Keywords vagrancy, homelessness, move-on orders, coercive control, policing by consent

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The history of vagrancy and homelessness in Aotearoa is worthy of close examination. Not only does it yield lessons for politicians, bureaucrats and legislators alike, but it tells us something of the culture in which we live, where it came from, and why it needs to change.

The community is currently wrestling with the prospect of an amendment to the Summary Offences Act 1981 which will empower police to 'issue move-on orders as a tool to deal with disorderly behaviour in public places'. It will apply to people as young as 14 who are experiencing homelessness and who 'obstruct' access to businesses, beg or sleep rough, or who display disorderly, disruptive, threatening or intimidating behaviour. Those who resist can be arrested, and are liable to a $2,000 fine or up to three months' imprisonment (Goldsmith and Mitchell, 2026).

The public kerfuffle that followed the minister of justice and minister of police's announcement of these measures was not surprising. While many Auckland city retailers were supportive, others were strongly opposed. Social service organisations, the Police Association and Māori organisations were highly critical. Aotearoa is seeing the greatest rise in vagrancy and homelessness since the latter part of the 19th century. This article argues that the cultural and political environment that prevailed then is not dissimilar from the political culture that exists today.

Vagrancy and homelessness in the 19th century

From the mid to the latter part of the 19th century we were, according to Miles Fairburn, an 'atomised' society, characterised by a high number of single, transient men and high levels of drunkenness and interpersonal violence (Fairburn, 2013, p. 248). Vagrancy was the third highest crime in the 1870s, while drunkenness made up a third of convictions (ibid., p. 206).

This was not the image that the new settlers wanted to convey to the rest of the world. Since New Zealand's colonisation by Britain in 1840, numerous commentators had noted its traits of friendliness, hospitality and informality. Its developing culture included characteristics such as social cohesion, homogeneity, security and conformity, which cumulatively were instrumental in New Zealand regularly being described as a 'paradise'. It was sometimes described as a 'Better Britain'. New settlers were determined to preserve and protect that image to present to the outside world.

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The desire to defend paradise led to a marked intolerance for those who threatened its social cohesion. Ferocious anti-vagrancy and prostitution legislation was passed in the 1870s. During World War 1, conscientious objectors were treated more harshly than in other Commonwealth countries (Belich, 2002). Just as the strong central state was there to bolster stability and security, so it was there to police morals and conduct fervently. Homogeneity was hallowed; diversity was discouraged. Outsiders were not welcome.

An 'out of sight, out of mind' mentality evolved, and imprisonment provided the answer. Prison absorbed all types of offenders from the lower strata of society: the habitual drunks, vagrants, the mentally ill, and so on. Prison provided social benefits: it hid such people from view; it allowed politicians and the courts to maintain public credibility. The recidivist nature of these low-level offenders guaranteed the long-term maintenance of the prison estate (Pratt, 2006).

This approach was influential in the government promoting indeterminate prison sentences and other forms of confinement for the socially unfit, rather than coherent proposals which would have restricted entry to prison. As was explained in the 1901 report of the inspector of prisons, 'it is needless to point out that none of the above mentioned class can in any true sense of the word be termed "criminals" but merely tend to swell the figures and create an erroneous impression as to the criminal situation of the colony' (Inspector of Prisons, 1901, p. 3). In 1902, the inspector reported that 'drunks and lunatics were similarly placed in prisons in the absence of any alternative facilities for them; … Encumbering gaols with such cases is not only inhumane and improper, but is also unjust to the patients themselves, who on account of having lost their reason – probably through no fault of their own – are branded with the prison stamp' (Inspector of Prisons, 1902, p. 1).

Drunkenness tailed off in the early part of the 20th century, and with the impact of increased social solidarity and homogeneity one would have expected a drop in the crime rate. However, the combination of high policing levels and a high rate of prosecutions for petty crime and drunkenness led in turn to a rate of imprisonment that was excessive.

By the turn of the 19th century, the tide of public opinion had begun to turn. In 1886, the Police Force Act established an unarmed police, and there was a gradual shift from coercive and oppressive tactics to a strategy of 'order maintenance'. Successive police commissioners increasingly looked to the London Metropolitan Police and Sir Robert Peel's vision of 'policing by consent'.

New Zealanders were intent on being regarded by other nations as a civilised society, and a professional police was part of the equation. They would be disciplined, organised, conspicuously impartial, under civilian control, above party politics, isolated by their uniform and authority,

and free from the corrupting influences of the local community (Miller, 1977, p. 25). Any fears of 'political control' were met by police claims to an historical constabulary independence, and to a more general 'community accountability'.[1] The 'new' police force would operate through and with the consent and support of the general public. Public acquiescence and goodwill would be gained through effective crime prevention, sobriety, restraint and discretion in law enforcement. A focus on crime and crime prevention was a significant part of the process of consent.

Policing by consent

In 1920, the police commissioner, John O'Donovan, brought the 'policing by consent' model to life (Dunstall, 1996). In his preface to a new set of police regulations, he stressed the need for police initiative and extolled the virtues of police discretion: 'we keep a baton, but seldom use it; when we do, its application should be scrupulously proportioned to the need. Consistency and firmness without harshness should be the guiding principle' (O'Donovan, 1920). He emphasised the need for the police to stand above community and factional influence and to act out their part as impartial servants of an impartial law.[2]

O'Donovan's commitment may have been the product of his passion for police professionalisation, training and organisational change. However, he may also have been motivated by the 1912 Waihī miners' strike, during which a miner was batoned so severely by police officers that he died in hospital, and the 1916 raid on Rua Kēnana's community at Maungapōhatu.

For O'Donovan, public acceptance of police authority depended on two basic attributes of the police: their legal relationship and the aloofness it gave them from the political process, and the restraint and decency of their actions (Cameron, 1986, p. 12). On the one hand, the police were the impartial, efficient agents of an impartial, consensual law. On the other, they were to use their powers and position with circumspection – using force only where necessary, sparing even serious offenders' feelings, and helping ex-convicts, strangers, women, children and ex-soldiers alike.

Vagrancy and homelessness in the 1950s

In 1958, the author began his police career in Wellington. Vagrancy and homelessness existed, but to a much lesser degree than in the 1890s. The police relied on the services of social agencies such as the Salvation Army, the City Mission and the Sisters of Compassion soup kitchen (established in 1901) to provide basic support. There were a small group of street dwellers, mostly habitual male drunks who were well known. As winter approached, and with tacit support from the local magistracy, the homeless would be arrested under the vagrancy provisions of the Police Offences Act 1927, with charges of sufficient severity to qualify for three months' imprisonment. They would be sentenced in May or June, and released from prison in August or September. For three months they were guaranteed food, accommodation and warmth, all provided in the humane environment of Mt Crawford Prison – rough and ready, but supportive.

Extreme police zealotry was discouraged. On one Sunday morning, local drunks gathered outside the public library and began to party. A police officer waited until midday, and then arrested 11 miscreants. The Monday morning magistrate was less than impressed, convicting and discharging them all, and complaining to the police superintendent about the abysmal lack of police discretion. What he may not have known was that the watchhouse keeper (the officer responsible for processing arrested persons) was required to process all prisoners received during his shift. The arresting officer wasn't fond of the watchhouse keeper in question, and by presenting him with 11 prisoners at 12.45pm, ensured that he would have to spend an extra two or three hours at the station after his shift finished at 1pm. While there was no legal provision to enable the police to 'move on' disorderly or homeless people, it did happen from time to time.

Police and community engagement

Between 1960 and 2000, policing styles fluctuated. The late 1960s saw a focus on 'reactive' policing and developing a rapid and efficient response to the public. It rapidly transitioned into a form of policing where confrontation rather than persuasion became the order of the day' (Mainwaring-White, 1983). The discussions that followed favoured proactive policing, which recognised that the sources of crime and disorder lay in the deeper social conditions of the community. It was seen as critical to identify those social problems which generate crime, and work collectively with social agencies to prevent and reduce it.

By the 80s and 90s the view that developed internationally focused on the role that the community should play. Rather than the community being passive recipients of police services, it was argued that there should be a 'social contract' between the police and their communities – a framework for working together in the pursuit of crime prevention and peace-keeping – an approach often referred to as 'active citizenship' or 'community engagement' (Marinetto, 2003, pp. 39–40, 1). The police were expected to show leadership in mobilising the community to achieve common goals (Alderson, 1979, pp. 177, 179).

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Central to the police future was the issue of accountability: a police service which was widely seen as being responsive and accountable was in a good position to both initiate and influence change. There was a need to broaden formal local input into policing, and for the building of relationships with significant local organisations, including iwi and tribal entities. Māori and other minority groups needed to be specifically targeted; they were likely to opt out of structures which they could not influence. It was acknowledged that what was needed was a genuine effort to locate concepts and forms of consultation and accountability that were generated by and culturally appropriate to specific local situations.

Rather than invest in addressing the social causes of homelessness, the government decided to address the problem by increasing the enforcement powers of both the citizenry and the police.

In 1995, Commissioner Peter Doone became concerned about the police relationship with iwi and Māori. Police embarked on a journey of bringing the voice of Māori into policing as a means of working towards reconciling past grievances, and recognising the importance of policing in partnership with Māori in New Zealand society.

Successive commissioners' formal commitment to community-oriented policing from 2000 onwards has served society well. There has been sufficient momentum for the police to develop strong partnerships with key social services. In turn, that has meant that, until recently, vagrancy, homelessness and disorder have been managed by the police in partnership with community organisations.

The turning of the tide

Why, then, have vagrancy, homelessness and public disorder reached a level not witnessed since the 1880s? Is it a 'perfect storm', one of those rare situations where multiple independent scenarios or events converge simultaneously to create a disastrous outcome?

Since September 2025, the government has funded some additional Housing First and community housing places, and additional outreach and support workers and programmes. At the same time, it encouraged Ministry of Social Development staff to 'use greater discretion when assessing emergency housing (EH) applications', a euphemism which encouraged a more stringent approach.[3] As a result, the number of government emergency housing grants to people who are homeless declined (Salvation Army, 2025). By June 2025 more than one in three applications (36%) were being turned down, compared with one in 25 (4%) in March 2024. The effect was to reduce the financial assistance to people facing homelessness from $24.4 million to just $3.2 million per month. Funding available through government budget allocations for homelessness support has reduced by $79 million in the year to June 2026 compared with 2025 (ibid., p. 6).

In the 17 months to November 2025, the government cut funding for emergency accommodation by 81% and reduced the number of homeless living in motels by 82%. Systemic exclusion of emergency housing applications continued, resulting in higher levels of unrecorded need and a growing loss of confidence in accessing the system (ibid.).

By late 2025, it was clear that social services were struggling to cope with the reduced funding and increasing homelessness. Out of a total of 21 services in 10 centres, 14 reported increases, and 7 reported no change. Mental health and addiction support services were urgently needed, including supportive accommodation for those with higher needs (ibid.).

Increase in retail crime

The increase in homelessness and rough sleeping had a negative impact on retailers, particularly in Auckland. A late 2025 survey by Heart of the City found that 91% of central city business owners believed rough sleeping and begging were actively harming their trade (Heart of the City, n.d.; Dillane, 2025). Social agencies urged the government to address the underlying factors that were driving the increase in rough sleeping and retail crime. Auckland City Council's morning 'wake-up' patrol was regarded as an example of an alternative approach that produced a more positive result (Scott, 2026).[4]

Rather than invest in addressing the social causes of homelessness, the government decided to address the problem by increasing the enforcement powers of both the citizenry and the police. In doing so, it relied on political power and influence rather than community engagement.

At the centre of the strategy was Sunny Kaushal – someone who had been deeply involved in Auckland's homelessness and retail crime debates for years, and who also had a long history of political ambition. After two unsuccessful attempts to become a Labour MP, he switched to National and built a public profile arguing for tougher penalties, broader citizens' arrest powers, and stronger responses to shoplifting (Chapman, 2026). During their years in opposition (2017–23), National MPs regularly attended Kaushal's Crime Prevention Group meetings and accepted his petitions at Parliament. Once National came to power in 2023, those same relationships shifted into the Beehive. Suddenly Kaushal wasn't just lobbying ministers, he was appearing alongside them in Facebook posts and community meetings.

In mid-2024, the National-led government created a five-person Ministerial Advisory Group for Victims of Retail Crime and appointed Kaushal as a full-time member and chair, with a $1.8 million budget. The

other members included people with strong retail or political ties: Ash Parmar (former ACT candidate in Hamilton and owner of three liquor stores), Michael Bell (Michael Hill Jeweller), Lindsay Rowles (Foodstuffs) and Carolyn Young (Retail NZ). According to Young, the group never really agreed on its purpose or direction (Collins, 2026). Members repeatedly asked the chair, Kaushal, to draft a basic document outlining what the group was trying to achieve, but this never happened. Without that foundation, the agenda ended up being driven almost entirely by Kaushal and the ideas he'd been promoting for years: expanding citizens' arrest powers, changing trespass laws and increasing penalties for shoplifting.

The group's first major report, sent to the minister of justice in late 2024, proposed a significant expansion of citizens' arrest powers – essentially allowing any adult to detain someone they believed was committing a crime. Kaushal's foreword to the report admitted there were differing views, with small business owners supposedly more supportive of stronger detention powers and arming security guards. But the submissions attached to the report show a much more divided picture: some small business groups backed the changes, while others – including the New Zealand Security Association, the Motor Trade Association, Hospitality New Zealand and Retail NZ – warned that the proposal was unsafe, ineffective, or a step backwards.

Despite that lack of consensus, the government accepted the recommendations. In February 2025, Justice Minister Paul Goldsmith announced that the Crimes Act would be amended to allow citizens to detain offenders at any time. The backlash was immediate: the Police Association criticised the move, Retail NZ called it dangerous, and many community groups expressed concern for staff safety. Some supporters – including Destiny Church leader Brian Tamaki – celebrated the increased powers.

The impact of citizen's arrest rights on policing

Promoting citizen's arrest rights, particularly through expanded legislation, creates significant operational and safety challenges for policing, with law enforcement officials warning that it may worsen public safety. First, promoting these rights can lead to more violent confrontations, as offenders may carry weapons or use greater force if they expect to be detained by untrained civilians. Second, police may be forced to investigate and potentially charge citizens who use 'unreasonable force' or unlawfully detain people. Citizens are not trained and lack clear guidelines as to what constitutes 'reasonable force'. Third, expanded powers require citizens to call the police immediately, potentially overwhelming the police with low-priority calls (New Zealand Police Association, 2026).

Housing advocates reacted adversely to the idea of 'move-on' legislation, including Auckland City Mission, Visionwest Community Trust, Lifewise, Kāhui Tū Kaha, Te Matapihi, Community Housing Aotearoa and Housing First (Crimp, 2025).

Political expectations of the police

Operational matters have traditionally been a matter for the police commissioner. In the absence of any comment from the police, politicians spelt out their expectations. The prime minister told RNZ's *Morning Report* police were capable of dealing with the issues and that the orders gave the police another tool to address anti-social behaviour (RNZ, 2026). Paul Goldsmith's office said that it had been made very clear that police are expected to connect people given 'move-on' orders with the support they may need. Both Goldsmith and Mitchell said that 'it will be left to police officers to decide what support a person needs, if any'. The police minister did qualify his initial response: '[I]n terms of the rough sleepers, no, police are not the lead agency on that, but they have the skills and the training and the powers to be able to deal with these people who often have mental health issues' (Williams, 2026).

At the time of writing it was still unclear who the lead agency is supposed to be. All the potential lead agencies oppose the 'move-on' proposals and are clear that they do not have the resources to address the issues.

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Introducing 'move-on' legislation

At the end of 2025, the government introduced 'move-on' legislation via amendment of the Summary Offences Act 1981. Prime Minister Christopher Luxon told reporters the government was in discussion with 'lots of different stakeholders' in Auckland to improve the state of the city centre. The justice minister said he had been tasked with ensuring that police had the tools they needed to tackle public disorder, and that 'We're open to some new suggestions in that area.' Police Minister Mark Mitchell said he supported giving police more tools to move homeless people on from public areas: 'You're not just going to pick up someone that's in a vulnerable position and drop them off in another vulnerable position. You're actually going to take them to a place of safety. That's the whole idea of it' (McCulloch, 2025).

Mounting opposition

Social agencies have widely condemned the move, saying shifting people around cities would do nothing to solve homelessness or the mental health and addiction problems that many rough sleepers were dealing with. Likewise, Retail NZ chief executive Carolyn Young took the view that 'without wider social support, Retail NZ didn't believe they would make a difference in the long run' (Baker-Wilson et al., 2026).

When the Police Association spokesperson spoke out against the proposal, explaining that it was a drain on resources, he was publicly chastised by Mitchell: 'they're completely out of touch. They need to get out on the beat with their officers, because often, rough sleepers, police are having to deal with it anyway' (Williams, 2026).

In March 2026 it was revealed that officials from the Ministry of Justice and the Ministry of Housing and Urban Development opposed the proposed legislation. A regulatory impact statement, which included the views of a range of government agencies, criticised the proposed 'move-on orders', saying they could deepen the social and financial hardship experienced by beggars and rough sleepers, and push housing further out of reach (Laughton, 2026). Justice officials noted a 'lack of empirical evidence' that the orders would reduce crime rates, and said they were 'highly likely' to merely shift begging or rough sleeping to different locations. Goldsmith noted the advice from officials, but said it was for the elected government to determine how it moved forward (McCulloch, 2026).

There has always been a strong populist tradition in New Zealand politics, and an attendant scepticism of expert knowledge. As Jackson and Harre commented, 'the preference for the opinion of the ordinary man over that of the expert is but one aspect of the uncompromising assertion of the principle of equality which is a national fetish' (Jackson and Harre, 1969, p. 71). On this occasion, however, the 'national fetish' reached an unhealthy extreme. Not only were the opinions of in-house experts ignored, but also those of charitable organisations, entities and individuals with a lifetime of experience and expertise. Instead, the government relied on the advice of their own political appointee.

On this occasion, however, it would seem that the government had seriously miscalculated the level of public support for the proposed legislation. On 29 March, communities from across the country mobilised as part of a 'national day of action' – Kia Tū Kotahu: Move on the Move on Orders. Events were held in Auckland, Tauranga, Wellington, Blenheim, Christchurch and Dunedin (Conchie, 2026; Palmer, 2026). Those opposing the proposal argued that:

- the legislation would simply shift the problem to one of law enforcement, without addressing the underlying problems of homelessness, poverty and mental health;
- targeting non-violent behaviours such as rough sleeping or begging criminalised poverty and vulnerability;
- the legislation potentially breached the New Zealand Bill of Rights Act in regard to the right of freedom of movement and protection against 'cruel and degrading treatment';[5]
- the new powers could stretch resources, potentially delaying responses to more serious incidents;
- imposing fines of up to $2,000 on homeless people who do not have the ability to pay leads to increased incarceration and increased taxpayer costs;
- the law disproportionately affects Māori, Pasifika and at-risk youth and increases their vulnerability.

> … the motivating driver behind the 2025 'move-on' proposal … was the consequence of a massive defunding of social services in the housing sector, followed by a major exodus of those with housing needs from emergency housing onto the streets.

Political response to vagrancy and homelessness

Are there any similarities between the political response to vagrancy and homelessness in the 1870s and the government's response over the last two years? While the origins of vagrancy and homeless in the two periods are very different, the prevailing political inclinations bear remarkable similarities.

In the earlier period, New Zealand wanted to present itself to the world as a civilised society, one in a stage of advanced social and cultural development. Widespread drunkenness, vagrancy and homelessness undermined this vision. An 'out of sight, out of mind' mentality developed and prisons and institutions provided a ready answer. What was the motivating driver behind the 2025 'move-on' proposal? It was the consequence of a massive defunding of social services in the housing sector, followed by a major exodus of those with housing needs from emergency housing onto the streets.

When Prime Minster Christopher Luxon was asked about impact of the 'move-on' orders for the homeless in the Auckland CBD, he replied, 'The bigger issue is like Chuck and Mary coming in for their once-in-a-lifetime trip' and 'getting intimidated because someone's sitting on the doorstep of a shop they're trying to get into, threatening, shouting at them, abusing them'. In response, columnist Verity Johnson posed the following questions: 'Did he actually say that? Does he seriously mean the country's rising homeless, and the citizens whose lives it destroys, *were less of an issue* than tourists trying to get into a store?' She pointed out that in the 17 months to November 2025, the government cut funding for emergency accommodation by 81% and reduced the number of homelessness in motels by 82% (Johnson, 2026).

Revisiting policing by consent

O'Donovan's seminal work in the 1930s set the foundation for the future of democratic policing in New Zealand, and 'policing by consent' was a critical component. Policing by consent meant establishing trust and confidence between the police and the public, with public approval of the force's philosophy and actions based on that mutual respect. Public acceptance of police authority depended on both their political independence and the restraint and decency of their actions. For 'policing by consent' to survive, two factors were required: police autonomy and public consent. Autonomy entailed a clear separation from political influence; consent was about an ongoing relationship with the 'law abiding' public.

The concept has taken a battering in recent years. When the National Party announced its law and order policies in 2023, the police spokesperson, Mark Mitchell, declared that it would scrap Labour's 'policing by consent' model and encourage a '"back to basics" policing model'. He later denied making that statement, and explained what he meant.

> We never said we were scrapping any policing by consent; we said that Labour had … somehow adopted their own perverse approach to policing by consent ... creating an environment where it's very permissive, for example, organised crime and gangs go out there and do what they want to do and act as if they've got complete impunity. (Mitchell, 2023; Quinlivan, 2023)

In November 2024 the incoming police commissioner was pressed about his stated pivot away from 'policing by consent' to focusing on 'trust and confidence' in law enforcement. He responded:

> 'Policing by consent is not part of my vocabulary, frankly. I don't believe that sufficient people actually understand what it means. I struggle with it, right?' he told Q+A. 'I don't think too hard about policing by consent, because it's something that I've personally been confused by. There's not too many people that I've come across that understand what it actually means.' (Hu, 2025)

The 'principles' of policing by consent

The concept of policing by consent is not political property, to be reshaped at ministerial whim. Nor is it synonymous with gaining public trust and confidence, although that is certainly part of it. It is a concept that has informed democratic policing for nearly 200 years. While attributed to Sir Robert Peel in the UK, it was probably codified by the first commissioners of the London Metropolitan Police, Charles Rowan and Richard Mayne, and issued as a general instruction to police officers following the passage of the 1829 Metropolitan Policing Act.

The nine original principles can be summarised under five headings:

- Public approval and co-operation: the ability of the police to do their job depends on the public's approval of their actions and willingness to co-operate.
- Minimum force: police should only use physical force when persuasion, advice and warnings have failed, and then only the minimum degree necessary.
- 'The police are the public': this principle suggests that the police are simply members of the community who are paid to give full-time attention to duties that are incumbent on every citizen.
- Impartial service: public favour is maintained by demonstrating impartial service to an impartial law, regardless of the person's status or the popularity of a specific law.
- Prevention as success: the true test of police efficiency is the absence of crime and disorder, not visible evidence of police action.

There is a clear similarity between these principles and section 8 of the Policing Act 2008, which states that the Act is based on the following principles:

(a) principled, effective, and efficient policing services are a cornerstone of a free and democratic society under the rule of law:
(b) effective policing relies on a wide measure of public support and confidence:
(c) policing services are provided under a national framework but also have a local community focus:
(d) policing services are provided in a manner that respects human rights:
(e) policing services are provided independently and impartially:
(f) in providing policing services every Police employee is required to act professionally, ethically, and with integrity.

> If the New Zealand community had been fully consulted, then it is almost certain that it would have advised against the police having additional powers to arrest and imprison vagrants and the homeless.

How does the proposed 'move-on' legislation measure up?

It is instructive to consider the way in which the proposed legislation was first conceived, who was consulted, the level of political involvement, the degree of public support and confidence, and whether the principles inherent in the concept of policing by consent or section 8 of the Policing Act were observed.

Public approval and cooperation

There is no evidence of wide public approval or support. The political decision to defund emergency housing eligibility and housing support was followed by the appointment of a politically aligned chairperson – Sunny Kaushal – to the Ministerial Advisory Group for Victims of Retail Crime, and the introduction of

ideas he had been promoting for a decade by way of ministerial fiat. Consultation was confined to city retailers.

Policing operates under a national framework but also has a local community focus

Consultation was mainly limited to Auckland CBD retailers, not all of whom were supportive. Nationally, local communities, industrial organisations and unions, social service providers and Māori organisations were strongly opposed. Every indication is that the legislation will result in a loss of trust and confidence in the police. There was no consultation with Māori.

Minimum force

According the principles, police should only use physical force when persuasion, advice and warnings have failed, and then only the minimum degree necessary. This principle is breached in both the proposed move-on orders and amendment to the Crimes Act. Citizen's arrests would likely lead to an increase in unnecessary violence by untrained members of the public. Targeting non-violent behaviours such as rough sleeping or begging criminalises poverty and vulnerability. Social agencies argued that the law simply shifts the problem to one of law enforcement without addressing the underlying problems of homelessness, poverty and mental health.

The police are the public

This principle is turned on its head with the proposal that citizens should have a power of arrest. Law enforcement officials warned that it may worsen public safety and lead to violent confrontation. The public have been critical of the proposal.

Impartial service

Public favour is maintained by 'demonstrating impartial service to an impartial law'. This principle is ensconced in the Police Oath, which requires police officers to swear on oath that they will act 'without favour or affection, malice or ill-will'. But what does a police officer do when the law is neither impartial nor consensual? In such a case, the public may well encourage the police to ignore it. If that is so, then it is bad law.

Prevention as success

The true test of police efficiency is the absence of crime and disorder, not visible evidence of police action. This is a critical issue. The police minister and the commissioner have emphasised the importance of core policing, meaning the essential, fundamental duties of law enforcement: protecting life and property, preserving public order, preventing crime, and enforcing the law. If legislation is introduced which increases the level of police activity without reducing crime and disorder, and also lowers the level of public trust and confidence in the police, it does not meet the criteria.

The police minister's contention that 'the best way to police by consent is by maintaining the trust and confidence for the people that you serve' is a truism (Palmer, 2024). But if legislation is introduced without public consent and negatively affects public trust and confidence, then it is time to review police policy and procedures.

Conclusion

The coalition government's proposed 'move-on' legislation constitutes a significant departure from the 'policing by consent' tradition that has held fast for the last 75 years. It poses major risks. It would require the police to 'move on' vagrants and the homeless, without fulfilling any other purpose than that of 'clearing the streets' to make them acceptable for tourists with money. If enacted, the police will no longer be, in the words of O'Donovan, 'impartial servants of an impartial law'. Instead, the police will be seen as political servants, there to do the work of a government whose preference is to treat those in poverty and dire need in an inhumane way, rather than address their social needs.

This approach runs counter to O'Donovan's call in 1920 for police officers to use their powers and position with circumspection, using force only when necessary, helping ex-convicts, strangers, women, children and ex-soldiers.

If the New Zealand community had been fully consulted, then it is almost certain that it would have advised against the police having additional powers to arrest and imprison vagrants and the homeless. It would have instead sought increased resources for social services and housing support.

A final issue is whether the proposed legislation is likely to increase public trust and confidence in the police. The evidence suggests that it will receive support from a small group of retailers, mostly in Auckland. It is clear that the general public are not in favour. For those who are vulnerable and in need of support, it will lower their trust levels further. For groups who already have low trust in the police, it could turn distrust into hatred. This is not O'Donovan's vision; nor is it 'policing by consent'.

1 The 'police still retained the capacity for maximum coercive response', as seen in the joint police–military response to the 'dog tax rebellion' in 1898 and the police suppression of Rua Kenana's movement in 1916, and more recently the 1976 dawn raids and the 2009 Operation Eight at Ruatoki, both of which, along with the raid on Rua Kenana, have been the subject of a police apology (Hill, 2003, pp. 2–3; Hill, 1989, p.365).

2 The author recalls that when he joined the Police in 1958, he was issued with a tattered manual containing the Police Act, Police Regulations and a manual of instructions. The foreword by Commissioner O'Donovan was part of the issue.

3 Interpretation and application of whether people have 'contributed to their own homelessness' remains a major reason for declining access to emergency housing grants. It is unclear how this test is used in practice, including how the ministry considers circumstances such as mental or physical health issues and addictions.

4 Auckland City Council employs 34 'community compliance' officers, who wake up rough sleepers every morning to make way for businesses to operate, and that the footpaths are clear. With community support, they address individual issues over time. The emphasis is on empathy before enforcement.

5 NZ Council for Civil Liberties, 2026 February 23, 'Move on' Orders an Over-reaction'

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