

Policy and Politics – Expectations of the Next Three Years

Colin James

Introduction

What to do in a third term? The platform of six years ago is almost all legislated for and under way – or out of reach. So is it time to rest or retire the policy wonks?

Not if the policy wonks are in the public service. A third term is when they come into their own. As one senior minister puts it: “By the third term we have become experienced at government”. A loose translation might be: a government really only gets to know the machinery and demands and techniques of government after two terms.

This implies a value in the public service that few politicians, especially in the early stages of a government, recognise or care to acknowledge: that senior public servants do know the machinery and demands and techniques of government because they do the business of government, parliamentary term in and term out.

Politicians are constrained by the nuances and caprices of public opinion and the ever-hovering guillotine of an election 38 months at most away. The day after announcing her new government on 17 October, Helen Clark declared the campaign for the 2008 election already in process.¹

And her priority was not to advance a party-specific agenda. “I believe we need to be working for a broad national consensus on how we as New Zealanders can own our future and improve our economic performance”. That sounds like a “public servant” in the broadest sense of that term, someone aiming to serve the public as a whole, not with a menu of pre-cooked party antipasti but à la carte as the public determines.

Not quite. Clark is a politician. She has, and operates

by, a belief-system. Consequently, she set a frame for that “broad national consensus”: “more fairness, inclusion, opportunity and security”. And she stated her “aim” is to make “unthinkable and unimaginable” any “reversion to the division and despair of past Tory governments”.

So, while the 1999 platform is pretty much in place – at least insofar as it requires legislation – the third-term Labour-led government will not be ideologically agnostic between competing policy options. While Clark and her cabinet must, by agreement, accommodate some policy ambitions of the Greens, United Future and New Zealand First, she and the cabinet will primarily be driven by Labour’s worldview.

But Clark’s personal ideological leanings are muted. She is a Prime Minister who, like Margaret Thatcher, aims to “go on and on” – into a fourth term. For that she needs to command the centre and for that she needs her “broad consensus”. And, while she can in part lead the development of that consensus through speeches and action – and the longer she stays in office, the more she can potentially influence the consensus – she must also stay within the boundaries of what consensus is possible at any time.

That will make policy development and execution more cautious, less ideological, less responsive to Labour’s internal interest and identity groups and more attentive to public opinion than in the first two terms – particularly the second term, when a significant segment of voters began to accuse, or suspect, her and the government of “political correctness”. Translated into electoral politics, “political correctness” means “extreme”, eccentric (non-centrist), the politics of over-favouring minorities.

It was notable that Labour’s 2005 gender election policy (for its Rainbow group of gays, lesbians, transgenders and intersexes) was devoid of legislative initiatives.

¹ Rt Hon Helen Clark, Address to the CTU Conference, 18 October 2005, p. 5: “The campaign for the next election has already begun.” The quotations in the following paragraphs come from the same page of the same speech.

Slow legislation

Even if Labour did still have a big ideological platform agenda, it would not be easily implemented. The composition of the new Parliament gives the government even less influence (let alone control) over select committees than in the first two terms, since it will have few, if any, majorities (even with the Greens added in) and more committee chairing jobs will be held by other parties, including the National party which will be much stronger.

So there will be greater scope for those making submissions to get aspects of legislation changed and greater value in making submissions to all parties.

Among bills before the House when it was dissolved for the election that might be in for amendment were: the Climate Change Response; Energy Safety Review; Hazardous Substances and New Organisms (Approvals and Enforcement) Amendment; Marine Reserves; Protected Objects; Securities Legislation; and Taxation (Depreciation, Payment Dates Alignment FBT and Miscellaneous Provisions) Bills.

Types of policy

So what of policy this term? First, note that policy comes in many varieties.

1. There is *platform policy*: this is the policy a party comes into government on – or, in the case of a small support party, the policy it brings to an arrangement in which it has some influence on the government. This in turn is of three main sorts:
 - ideological policy, which is derived from the party's ideology or designed to reverse or neutralise the previous government's ideology;
 - policy attending to a party's internal interest or identity groups or external groups closely aligned to the party; and
 - practical policy designed to fix some perceived gap or irregularity.
2. There is *platform management policy*: this is the policy designed to develop, continue, bed in or carry through platform policy legislated and/or introduced in earlier terms. Usually this involves only executive action and/or budgetary allocations, not new legislation, though some corrective legislation may be needed.

3. There is *management policy*: this is essentially reactive to issues arising day to day or building over time or intended to correct previous management or policy failures. The realisation there was an infrastructure deficit was arguably the biggest of these issues in the government's first six years and it took until halfway through the second term to give it high policy priority. The way a government reacts may, however, reflect its ideological preferences.

A subset of this is *technical or administrative policy*: this is usually but not always non-contentious and is part of the business of government, regardless of party: for example, new law governing the internet or intellectual property, updating the law governing lawyers, accountants or veterinarians, translating the Income Tax Act into plainer language or consolidating and updating old law, such as the Animal Welfare Act.

4. And there is *management of shocks*: the biggest shock in the first term was 9/11 and the beginning of the 'war on terror'. In the second term a huge amount of the government's energy went into finding a resolution to the knotty issue of ownership and management of the foreshore and seabed in the wake of the Court of Appeal's decision in June 2003 allowing iwi and hapu to seek freehold title from the Māori Land Court.

Ideological platform policy

Six years since coming into office Labour doesn't have much of its 1999 ideological platform policy left to enact. Nor is there any of National's 1990s policy left to undo. One significant exception is Steve Maharey's single core benefit, a major rejig of the benefit payment system, dating back in concept to Michael Cullen's time as Social Welfare Minister in the late 1980s. Due to reach Parliament around May next year, it will now be in the hands of David Benson-Pope. It does not have an assured majority.

Another is the carbon tax element of its Kyoto protocol policy. While there may be a majority, given the Māori party's apparent endorsement of it pre-election, its passage (now in the hands of new cabinet minister David Parker) is not assured. In any case, there are some signals the government itself is uncertain whether or how to proceed with it.

Marine reserves are another. The Marine Reserves Bill aims to provide a generic mechanism for creating reserves and had the Greens' backing. But United Future was against it, so in the new Parliament Labour will need either the Māori party (possibly) or New Zealand First (unlikely) to back it. Expect a much pared-down version.

Labour did include some interest/identity group platform policy, principally in workforce law, in its 2005 election platform. For the most part, its workplace programme is administrative and does not involve legislation – such as improving employment and pay equity and introducing work-life balance in the public sector and trying to lift productivity through improved workplace practices. But it did support the introduction of the Greens' bill last term giving employees the right to ask for (though not insist on) flexible working hours and it did propose a raft of new workplace regulations. And it did propose to:

- 'fine tune' the Employment Relations Act (ERA);
- increase protection for dependent contractors and legislate to ensure protection for vulnerable workers in succession contracts (after an adverse Employment Court decision negated that provision in the ERA Amendment Act);
- protect and make portable workers' entitlements to leave and superannuation when they change jobs;
- strengthen protections for workers employed by temporary work agencies and labour hire companies; and
- tighten the minimum code to prevent exploitation of children and ensure meal and refreshment breaks.

Both senior ministers and senior union officials doubt whether there are majorities in the new Parliament for much or any of this. That will hang on whether the Māori party decides to back it and/or whether it appeals to New Zealand First's Peter Brown, as some workplace legislation has.

Support parties' platforms

The support parties have plenty of platform policy and some of it is in the government's programme as a result of the post-election coalition, support and cooperation agreements. Notable is the \$12 minimum wage, supported by New Zealand First and the Greens and agreed to by Clark ("if economic conditions permit").

Broadly, the Greens share the Labour party's instinctive preference for regulation over market/tax/incentive-based approaches, New Zealand First oscillates between the two and United Future favours the latter, including a strong preference for lower personal and company tax.

United Future's agreement with the government includes a "review of the current business taxation regimes with the view of ensuring the system works to give better incentives for productivity gains and improved competitiveness with Australia" – a clause also agreed with New Zealand First – a new tax rebate regime for charities, a cost-benefit analysis of the carbon tax and a discussion document on income-splitting for personal tax.

While the agreement does not specify cuts in income tax or a lift in the thresholds, there is a majority in the new Parliament for lower or lighter personal tax. That cannot be forced on the government because it can simply knock out any non-government bill or amendment that increases spending or decreases revenue or declare such bills confidence matters. But it is just possible that an initiative to reduce personal tax might succeed or that the government will concede it has to make some move.

United Future also won agreement to "non-statutory" proposals for public access across private land to rivers, lakes and the foreshore – a contentious item which hit Labour hard in Trade Minister Jim Sutton's seat and which features also in New Zealand First's agreement. And its much greater openness to private sector delivery of social services shows in Clark's agreement to the use of "appropriate" private hospital capacity to reduce operation waiting lists, and a "long-term medicines strategy", including the role of Pharmac, which has long riled the drug companies.

United Future also secured agreement to no decriminalisation of cannabis, no hate-speech laws, no downgrading of the Families Commission, improved access to student allowances (also an item in the Greens' agreement) and a review of the Prostitution Act. These reflect its conservative social positioning and its concerns about "political correctness".

New Zealand First's policy wins in its agreement with Clark reflect its core priorities:

- its special concerns with the old – a "seniors card", a lift in national superannuation to 66% (from 65%) of average ordinary-time weekly earnings and better health care;

- immigration – a “full review” of legislation and administration (already begun last term);
- crime – another 1,000 police, a review of the home detention scheme, initiatives to reduce youth offending (including select committee consideration of a bill to lower the age of criminal responsibility to 12) and gang membership, and a possible de-merger of traffic from general policing; and
- the Treaty of Waitangi – external negotiators for Treaty settlements, splitting the roles of Waitangi Tribunal chair and chief Māori Land Court judge and support for Peters’ bill to remove Treaty ‘principles’ from legislation to go to a select committee.

There are also health items – including the resurrection of the 1996-98 policy of free health care for all under-sixes – and the resurrection of the “waka-jumping” Electoral Integrity Act. Some economic items reflect New Zealand First’s economic nationalism: no “strategic asset” sales, a new tax regime for racing, 2007 to be “export year” and pressure to reduce mobile phone call charges. There is also a list of “priority issues to be addressed”, including progress on a “shipping dialogue”, moribund since the late 1990s, the removal of tolls on the second Tauranga harbour bridge and exploration of a “non-university” “university of technology”.

One place where New Zealand First and the Greens agree, apart from the \$12 minimum wage, is a ‘buy-New Zealand-made’ scheme. This is one of the two portfolio areas where the Greens are to be “spokespersons”. The other is energy efficiency, in which the Greens’ goals are to reduce the projected \$0.5 billion Kyoto deficit by 2008, meeting the government’s target of 2% a year improved energy efficiency and slowing oil imports, and for which the Greens’ initiatives are to:

- clarify the mandates, working relationships, gaps and overlaps between the Energy Efficiency and Conservation Agency, the Electricity Commission, the Climate Change Office and the Ministry for the Environment;
- build capacity in the solar water heating manufacturing and installing industry;
- significantly raise the fuel efficiency of imported vehicles with a mandatory emissions standard;

- increase and extend support for insulating and damp-proofing homes;
- urgently upgrade the building standard for new homes to reflect what is efficient at today’s electricity prices;
- change the culture of energy efficiency with a greater sense of urgency and give it whole-of-government support; and
- “move beyond research into demonstration and commercial projects in biofuels in cooperation with industry”.

Some of the other items agreed with the Greens are increased public transport capacity, higher aid spending, enhanced organics advisory services, keeping the country GM-free and “intensive habitat management for endangered species”.

Platform management policy

Labour has a lot of work in progress stemming from its 1999 platform.

An exhaustive list is beyond the scope of this article but examples include:

- getting the public health organisations (PHOs) settled in and covering the whole country;
- continued development of work plans, pressure on beneficiaries to get work-focused and into sustainable work, and reducing some of the disparities in the help given to those disabled by illness and those disabled by accident; and
- the completion of the Working For Families tax rebate and assistance package for people in work with young families (which has significant redistributive effects for the time in the life cycle when most people are under most financial pressure).

Among others are the rebalancing of some university funds into “centres of excellence” to build research capacity, increasing the proportion of Crown Research Institute funds dedicated to fundamental research, the rationalisation of tertiary courses and elimination of low-value courses, and more funding for trade skills training. And, of course, there is the raft of programmes designed to stimulate export and regional business activity, largely under the aegis of New Zealand Trade and Enterprise, which is still finding its feet.

General management policy

In its third term Labour is “the government”, rather than just “the new government”. So, besides responding to new issues as they arise, it now has a legacy of errors, lapses and oversights from its first two terms, as well as continuing management of non-ideological matters that arose in those earlier terms.

In one sense general management policy development can be ideological, even though it is responding to events, not implementation of platform policy. Labour has tended to reach for regulatory or government-agency-centred responses rather than market-based, tax-based or incentive-based ones. One example is its regulation of the utilities and networks industries. Another is tighter regulation of workplace safety instead of no-claims bonuses from ACC (and the drive to make ACC more like a department in its operations than a government insurance corporation). Another is the heavily-regulatory Building Act covering all building, in response to the relatively small, though high-profile, problem of “leaky homes”. A fourth is the tighter regulation of electricians, plumbers, gasfitters and drainlayers in the Energy Safety Review Bill, unfinished business from the last Parliament.

Whether it will be able to continue this approach in future will depend on assembling majorities for legislation, where that is the mechanism, or it becomes the subject of “consultation” with United Future and New Zealand First, which both, by and large, favour more reliance upon markets than Labour.

Top of the list is productivity growth. Labour, having set up the Growth and Innovation Advisory Board to chart a path to higher productivity growth, sees the ingredients as science and technology, investment (savings), skills (tertiary education and immigration), improved workplace practice, reducing compliance costs and tax complexities and physical infrastructure (primarily roads, energy and water).

Infrastructure emerged as top priority in 2003, with the appointment of a cabinet “group” under Michael Cullen.

A road-building programme was got under way in the second term, principally to deal with congestion in Auckland. A \$500 million windfall from tax claims on banks (not yet proved in court) was tacked on during the election campaign. The government needs this programme to be visible to Auckland voters well before

next election day. It also has to decide when and where to toll and, longer term, whether to move to more sophisticated GPS tolling. And it has to work out if it will do public-private partnerships, as in Australia, to get roads built faster. Michael Cullen’s explanation that none have been commenced because the projects were chopped up into too-small chunks won’t wash three years from now.

The regulatory structure is in place for electricity and being put in place for gas. This is beginning to cause some strain because the regulator has multiple objectives as owner and supplier as well as setting and policing the regulatory framework. Otherwise, the focus is on security of supply and transmission. The tax regime for gas exploration is now accepted by the industry.

Water – its allocation, pollution, drinking quality and waste disposal – will be a major public policy challenge this term. A report is due soon on a programme of action discussion paper issued by the Ministry for the Environment last year and taken round public meetings early this year. At the core of the debate are the relative balance between administrative and regulatory measures and the use of tradable rights. Exactly where that fetches up may depend in the final analysis on where New Zealand First goes. The Greens and the Māori party are likely to oppose tradeable rights and United Future to back them.

There is a wide range of management failures to be addressed. High on the list are the NCEA exam, the blunders on which enabled National to reduce the gap in the polls in the autumn. Close behind are the wasted money on polytechnic, wānanga and some university courses. Michael Cullen’s decision to take the tertiary education portfolio speaks volumes: he is elitist in his belief as to what universities should do and looks askance at waste and gross failures of quality control.

And, of course, Cullen has an economy to manage, one with serious imbalances: high household debt and high private dissaving – boosting private saving is one of his top preoccupations but effective policy has proved so far elusive – huge and climbing trade and balance of payments deficits, an overpriced currency and intense pressure on resources, with attendant rising inflation. He did have a healthy budget balance but that has been eroded by election promises and the cost of negotiating government support.

Internationally, trade is very high profile. For its free trade initiatives with China and in the World Trade Organisation, Labour will need National's help with legislation. Trying to make progress on the single economic market with Australia is another priority but that depends, forlornly, on (skimpy) goodwill in Canberra.

Managing shocks

In the first term there was 9/11. That in itself did not pose a great management or policy challenge – in fact, it proved a boon as repatriation by New Zealanders, an influx of other migrants and a rise in tourism followed, this country being perceived as safe. But the alarmist international, particularly American, reaction has forced policy changes in border management of exports and travellers and tighter controls on potential terrorists, eroding civil rights.

In the second term the Appeal Court's foreshore and seabed decision drove a precipitous drop in opinion pollster UMR's reading of whether the country is on the right or wrong track and then a huge reversal in party support after National leader Don Brash followed it with a tough speech on race seven months later. This prompted a review of all Māori activities funded by the state to ensure they were "needs-based" – incomplete and likely this term to have a tighter focus to meet the demands of New Zealand First and United Future and to neutralise the National party's "race-based funding" attacks – and a 2010 deadline for all historical claims under the Treaty of Waitangi to be filed with the Waitangi Tribunal, now coupled with New Zealand First's wish for external negotiators to speed up settlements.

This term there is a fear of a flu pandemic which, if it happens, will test the government's ability to respond – and coordinate its response – across many portfolios. It could also force an economic contraction of up to 8% or, if world trade is badly hit, potentially much worse. And there is the possibility of a fall in house prices, which could sharply contract spending power and so the domestic economy. And we are overdue for a big earthquake or volcanic eruption.

Battling a flu epidemic could give the government the opportunity to win plaudits. A popped house price bubble might well bring brickbats for not "doing something" in the first two terms as it was building.

Conclusion

The government will be busy but much less about "left-leaning" business than in previous terms. It will be busy managing its complex support agreements, small parties' demands and slow-moving legislation, fixing past mistakes, and responding to shocks – and there will be uncertainty over significant policy areas as small parties' positions are clarified and compromises sought. And amidst all that it will be trying to embed itself as the expert governing party, redefining and commanding the centre. Quite a programme, even though it is a third term.

Colin James is a columnist in the *New Zealand Herald* and an associate of the Institute of Policy Studies.