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Editorial Note

Welcome to the fourth issue of *Policy Quarterly* (*PQ*). Politically, the past three months in New Zealand have been dominated by a vigorous election campaign (the fourth under proportional representation), an intensive round of inter-party negotiations over the formation of a new government, the establishment of a third-term Labour-led administration, and the opening of the new Parliament. The outcome of the government formation process has resulted in a number of unusual arrangements in the way the new administration is constructed and in the manner that it is expected to operate.

First, two of the four parties with ministers in the government (New Zealand First and United Future) are not represented in the cabinet, and officially are not part of the “coalition government” (comprising Labour and the Progressives). Two-tier, multi-party governments of this nature are relatively rare internationally. Having said this, the nature of the relationship between the parties in multi-party governments differs from case to case, and the more parties involved, the more varied and complex the pattern of interactions is likely to be.

Second, it appears that the doctrine of collective responsibility will be applied rather differently to the various parties that form part of the government, with the leaders of New Zealand First and United Future being given more freedom than has hitherto been the case under coalition-type arrangements to disagree with the “coalition government” – at least in areas outside their immediate portfolio responsibilities. Again, ‘loose’ coalition discipline is uncommon in parliamentary democracies, largely because of the strong political incentives for governments to present a relatively united front in Parliament and to the public.

Third, the “co-operation” agreement between the Green party and the “coalition government” contains provisions under which Green MPs will be designated spokespersons for the government in specific policy areas. In these areas the relevant MPs will have direct access to government officials, be able to request reports from officials and be able to attend the relevant cabinet committee. Such arrangements are unprecedented thus far in New Zealand.

Collectively, such developments represent an important evolution in the nature of inter-party relationships under MMP and deserve close attention. To this end, Nicola White – in the first of the five articles in this issue of *PQ* – provides a careful analysis of the various agreements that led to the formation of the new government and explores their constitutional and practical implications. Her argument, in brief, is that there is nothing unconstitutional nor outrageous about these new “cubist” arrangements. They do, however, pose various political and administrative challenges. The proof of the pudding, as they say, will be in the eating.

While those interested in process-type issues will find plenty to stir the mind (and perhaps also accelerate the heart!) in Nicola’s careful dissection of the meaning of the new administrative arrangements, policy wonks need to read Colin James’ thoughtful and engaging analysis of the likely policy landscape over the coming parliamentary term. Particularly interesting is Colin’s delineation of policy into four types – platform policy, platform management policy, management policy (including technical or administrative policy), and the management of shocks – and his analysis of the prospects for each type over the next three years. A key conclusion emerging from this analysis is that it will be a relatively crowded policy agenda, notwithstanding the fact that this is now a third-term government. What is less clear is whether the ‘shocks’ that the government encounters will be primarily exogenous or endogenous. We shall see.

Critical to effective political and policy management under multi-party governments are the roles played by ministerial advisers. It is thus timely to include in this issue of *PQ* an article on the subject by Chris Eichbaum and Richard Shaw. While acknowledging that political advisers can be controversial and can, at times, complicate politico-bureaucratic relations, their fundamental thesis is that ministerial advisers assist, rather than hinder, the constitutional functions of the public service. It is worth noting that Chris has served as a ministerial adviser on two occasions and thus brings a wealth of practical experience and knowledge to an assessment of their role.

PQ 3 included an article by Karen Baehler that addressed a number of critical issues surrounding the nature of, and limits to, the advisory role of public officials. Drawing upon the so-called 'liberal restraint principle', she advanced the proposition that public officials, when tendering advice to ministers, should focus on 'public argument' advising. That is to say, they should seek to distinguish between public and non-public policy rationales and should focus upon the provision of arguments that reasonable people would regard as "legitimate and worthy of discussion, even if they disagree with the premises and conclusions". Karen's argument forms part of a much broader and longer conversation with her colleague Robert (Bob) Gregory about the nature of policy advice and the role of advisers.

As foreshadowed in *PQ* 3, this issue of *PQ* contains a response by Bob to Karen's theses. As Bob observes, "The liberal academic mindset places great value on the role of reason in public policymaking, and the policy analysis industry is predicated on the belief that the application of reason will inevitably lead to 'better policy outcomes'". Against this, Bob argues that much of what constitutes policy reasoning is ideological rather than scientific and that there are major constraints upon "the extent to which 'reasonable people' can reason together to resolve society's most compelling conflicts of political interest". What matters, he contends, is the "alignment of power relations", not the "application of analytical skill". No doubt the dialogue will continue.

This issue of *PQ* concludes with a short piece on 'Diversity and Public Policy', co-authored by myself and Paul Callister. The article is drawn largely from a forthcoming IPS book (co-authored with Amanda Wolf) on 'The Policy Implications of Diversity', which is the product of a three-year study by the IPS, sponsored by a group of public service chief executives. The article highlights some of the ways in which New Zealand society is becoming more diverse and explores the relevance of these changes for the design and implementation of policy. It is argued that increasing diversity – social, cultural, ethnic, religious, attitudinal, and so forth – affects the context for public debate about a wide range of vital issues and poses many new challenges for policy makers.

Jonathan Boston

Managing Editor

Deconstructing Cabinet Collective Responsibility

Nicola White

New Zealand politics is getting very post-modern. In artistic terms, the new government arrangements are decidedly cubist – all the key elements are there, but it's just not put together in the way you expect. Does it matter? Is the nation going to learn to like Picasso, or at least to live with it?

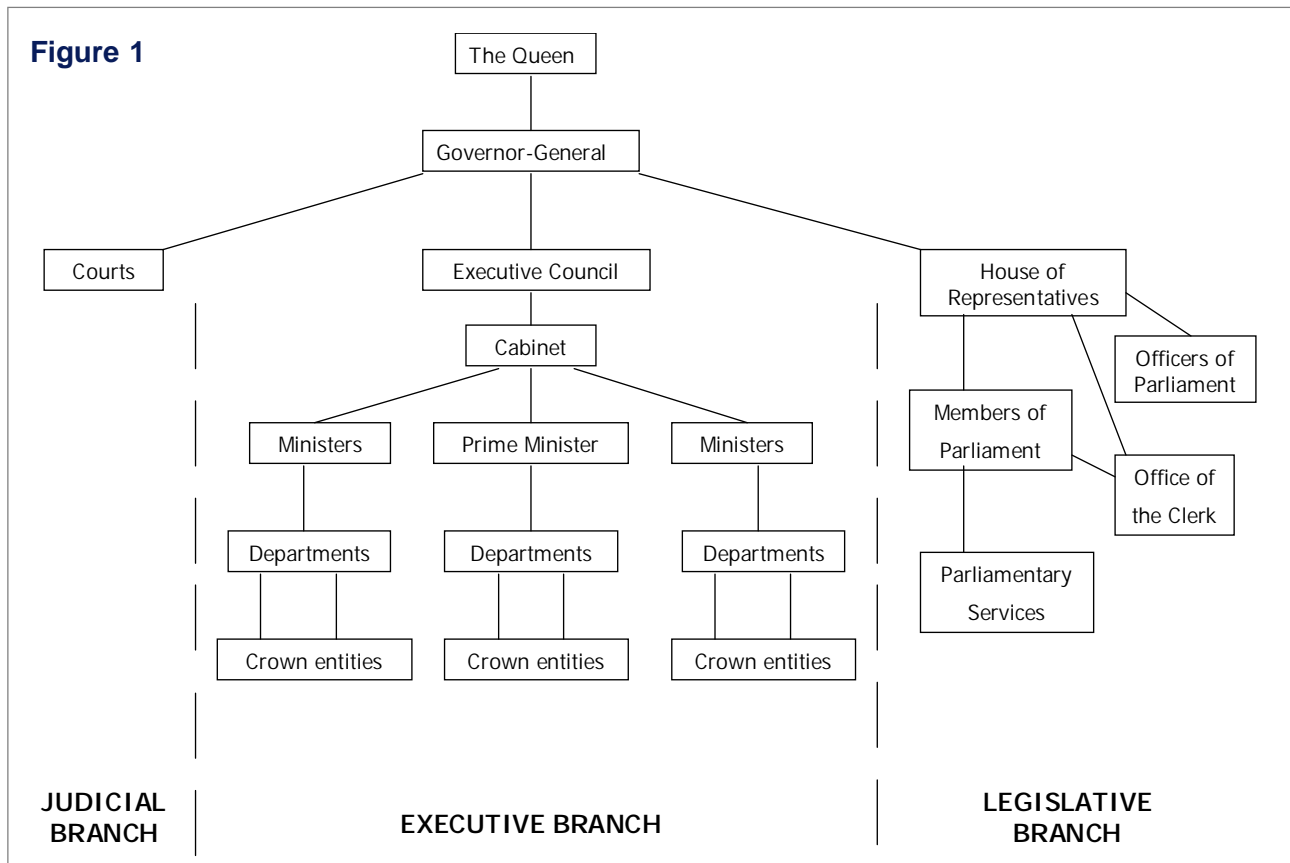
The past

To look first at the status quo until now, I have used the diagramme in Figure 1 to teach constitutional and governmental structure in recent years. The key feature is the separation of powers beneath the sovereign into three branches of government: the judiciary, the executive and the legislature.

At the core of the system are the twin concepts of representative and responsible government. That is, those who are supported by at least a simple majority of the elected Parliament are entitled to be appointed to executive office, where they will advise on and control the use of the sovereign authority of the state. And those holding executive office must regularly and systematically account back to the Parliament for the way in which that authority is used, and the business of government is conducted. That democratic constraint on the exercise of sovereign power is the result of many centuries of constitutional evolution and, at times, battle.

In the New Zealand system, therefore, Ministers heading the executive are also Members of Parliament (MPs) –

Figure 1



they derive their democratic mandate by having the support of the elected House of Representatives, and must account back to it for the way in which they are managing public funds and public power. To date, therefore, the following have always been able to be used as rough synonyms: being a member of the executive, being a member of the government, and being a Minister.

Ministers always hold two warrants: one as a Minister, and one as a member of the Executive Council. The Executive Council is the formal body that advises the head of state or her representative and it is the legal actor for many executive government actions. But sitting behind it is the effective decision making body for the executive – Cabinet. It is important that the Executive Council presents unified advice to the Governor-General, and so Cabinet and its committees provide the forum for deciding what that collective advice will be.

Equally, it has always been seen as critical for the executive to present a united front to Parliament, and to the public. This discipline can be explained both in arid constitutional terms (as in the previous paragraph), or as a matter of brute political survival. Benjamin Franklin captured the point most succinctly at the Declaration of Independence in 1776: “Yes, we must, indeed, all hang together or, most assuredly, we shall all hang separately”. (Quoted in Palmer and Palmer, 2004, p.87). Again, it is the Cabinet decision making system that brings individual Ministers together and binds them into a collective decision making process, as Figure 1 illustrates.

Cabinet itself has no legal status or formal power – it is an administrative or politically defined body and its processes constantly adapt to suit the current needs of government. Yet it is at the heart of the modern system of representative and responsible government in Westminster democracies. Bagehot described Cabinet in 1945 as “a *hyphen* which joins, a *buckle* which fastens, the legislative part of the state to the executive part of the state” (quoted in Palmer and Palmer, 2004, p.76).

The discipline at the core of the Cabinet system is the convention of Cabinet collective responsibility. Conventions are not law: no court would ever take a role in enforcing compliance with collective responsibility. A convention is a political or administrative rule about the exercise of public power that is recognised and followed by all the relevant actors.

As the Cabinet’s own summary of its rules, the *Cabinet Manual* is the most authoritative source of guidance on this convention. It is worth reproducing the full text of the discussion of collective responsibility in the current (2001) edition:

- 3.20 The principle of collective responsibility underpins the system of Cabinet government. It reflects democratic principle: the House expresses its confidence in the collective whole of government, rather than in individual Ministers. Similarly, the Governor-General, in acting on ministerial advice, needs to be confident that individual Ministers represent official government policy. In all areas of their work, therefore, Ministers represent and implement government policy.
- 3.21 Acceptance of ministerial office requires acceptance of collective responsibility. Issues are often debated vigorously within the confidential setting of Cabinet meetings, although consensus is usually reached and votes are rarely taken. Once Cabinet makes a decision, then (except as provided in paragraph 3.23) Ministers must support it, regardless of their personal views and whether or not they were at the meeting concerned.
- 3.22 In a coalition government, Ministers are expected to show careful judgement when referring to party policy that differs from government policy. Subject to paragraph 3.23, a Minister’s support and responsibility for the collective government position must always be clear.
- 3.23 Coalition governments may decide to establish “agree to disagree” processes, which may allow Ministers to maintain, in public, different party positions on particular issues or policies. Once the final outcome of any “agree to disagree” issue or policy has been determined (either at the Cabinet level or through some other agreed process), Ministers must implement the resulting decision or legislation, regardless of their position throughout the decision making process.
- 3.24 “Agree to disagree” processes may only be used in relation to different party positions. Any public dissociation from Cabinet decisions by individual Ministers outside the agreed processes is unacceptable.

The last three paragraphs were introduced into the *Cabinet Manual* as a result of the formation of the Labour-Alliance coalition government in 1999. The development of this agree to disagree process has been a significant evolution of the convention to take account of mixed member proportional representation (MMP), and the political needs of the parties in coalition governments to maintain distinct public profiles within the umbrella of a collective government. The previous *Cabinet Office Manual* of 1996 simply stated that “Ministers whose opposition to a Cabinet decision is such that they wish to publicly dissociate themselves from it must first resign from the Cabinet.” (paragraph 3.5)

The point that clearly emerges is that, although it has long been recognised as a constitutional convention, Cabinet collective responsibility in effect is a tool for political discipline. It is not a core constitutional principle in itself. It is a discipline that makes it easier for a group of individuals to demonstrate that they have the numbers, or the mandate, to continue to hold executive office, and it is a self-protective political shield that enables the government to withstand the constant onslaught of arrows that a parliamentary opposition fires, looking for weakness. It gives political discipline and efficiency, and accordingly it gives political strength. But it is ultimately a means to an end, not an end in itself.

The convention has already been evolving for some time. Constitutional textbooks talk of three traditional elements: confidence (of the House), unanimity and confidentiality. The full version of Cabinet confidentiality has been eroding for some time, with the advent of open government. Academic conferences now regularly discuss whether this strand is still relevant at all.

The requirement of public unanimity has never been absolute; its enforcement has always been a matter of political judgment by Prime Ministers according to circumstance.

The introduction of the agree to disagree provisions extended that reality from implicit flexibility about the application of this political discipline to individuals, to explicit flexibility about how it operates between political parties in a multi-party coalition environment.

The present

So what has changed now? The new government, formed in October 2005, is built on four separate agreements between political parties, and each one includes undertakings that are significant for the basic operation of Cabinet, collective responsibility, government processes, and the relationship between the executive and the legislature. In other words, they develop some reasonably fundamental parts of our constitutional system.

Labour and the Progressive Party: a coalition agreement

New Zealand is now well used to coalition agreements. They are agreements between two political parties who agree to form a coalition government together. That is, both parties are inside the executive, and work together within the disciplines of the Cabinet system.

Predecessors to this coalition developed the agree to disagree provisions of the *Cabinet Manual*. This latest agreement builds on the experience of the last six years of coalition and includes a clear signal that we should expect further evolution of the discipline of Cabinet collective responsibility, as follows:

Both parties recognise the need for parties to be able to maintain distinctive political identities in government and in Parliament. This applies particularly to the smaller party and during this term of Parliament we will further develop processes for:

- Ensuring appropriate credit for and recognition of the policy achievements of the smaller party; and
- The expression of different views publicly and in Parliament.

This acknowledgement, of the need to keep working on ways to manage the need for parties to maintain separate public political identities alongside the system of Cabinet government, in some ways sets the scene for the other three agreements.

Labour and the Greens: a cooperation agreement

The Greens have agreed not to oppose the government on confidence and supply in order to provide stability. In return they are to be consulted on

a wide range of topics and to have substantial involvement in a number of policy topics as well as input into the budget process. That in itself is not exceptional. But the way in which the Greens will participate on what are termed “level 1” topics does arguably break new ground. In particular:

- Once the initial scope of the work has been agreed with the Minister, the agreed Green Party representative on that topic will have direct access to officials and will be able to request reports from officials;
- The Green Party representative will report regularly to the Minister on progress, which implies that the Minister will, at least to some extent, be delegating day to day control to the Green representative;
- Although any Cabinet committee papers will be presented at the committee by the Minister, the Green Party representative will be able to attend and take part in the discussion; and
- The Green Party representative will be “a designated spokesperson” in the area – it is possible that this could mean that the person is able to speak on behalf of the government on the topic, although political reality suggests that it is more likely that the Green Party comments will be firmly branded as separate, but will sit seamlessly alongside government’s public utterances.

Arising from this agreement we therefore have officials working directly to a non-Ministerial (and non-government) MP, albeit under the broad auspices of a Minister, and non-government MPs being able to participate in core government decision making processes. The practice of substantial collaboration with non-government parties had already developed a long way in the previous Parliament (particularly with United Future and Green MPs), but this agreement foreshadows a further deepening of those relationships, with more substantial blurring of the line between executive government and parliamentary roles.

Labour and NZ First, Labour and United Future: Confidence and supply agreements

We have had confidence and supply agreements before. They have made clear that the support party will stay outside government, but will back the government on

votes of confidence. In exchange there is a reasonable measure of consultation and cooperation with the support party on the development of key policy matters, including aspects of the budget. But these two agreements break new ground.

The opening sections of both agreements suggest that the parties are not regarded as being part of the “coalition government”. Both parties agree to provide confidence and supply for the term of this Parliament to a “Labour-led government”. There are provisions establishing that there will be a substantial measure of consultation and cooperation with each supporting party on a wide range of matters. And there is agreement that the support parties will, by and large, vote with the government on procedural motions in the House. So far, so good.

But both agreements go on to give the leader of each supporting party a ministerial position. They also apply the *Cabinet Manual* provisions on collective responsibility to the Minister, but only in relation to the portfolio area. “In other areas ‘agree to disagree’ provisions will be applied as necessary”.

So we now have two Ministers, who do not describe themselves as part of the “coalition government”, and who are apparently only partially bound by collective responsibility. In media comment, the leaders of the Labour and NZ First parties have indicated that the NZ First Minister does not intend to attend Cabinet or committee meetings: other Ministers will present papers from that portfolio on his behalf. The Ministerial List now has a new category of “Ministers Outside Cabinet from other Parties with Confidence and Supply Agreements.”

In the days immediately after the agreements were signed, there was some suggestion that these two Ministers were not in government at all: some NZ First members even described themselves as being an opposition party. That particular debate was relatively quickly resolved, however, with the Prime Minister’s public confirmation that holding a ministerial warrant did mean that a person was part of the executive government.

The fact that the agreements say that the parties are not part of the “coalition government” leaves a semantic debate only about whether there is any difference between executive government and the coalition government. There is no difference in constitutional and legal terms (witness section 7 of the Constitution Act, which makes clear that

in the eyes of the law all Ministers are interchangeable). But as ever in this field, the formal law is only part of the story. There is clearly a difference in terms of the nature and closeness of the political relationships, and we can see these linguistic refinements as a genuine attempt to find language to reflect that. (A less charitable view would be that these contortions are no more than a political fig leaf for those concerned about reconciling their current ministerial positions with pre-election promises.)

What does it all mean?

What it means is that I need to redo my teaching diagramme, to take account of the fact that we have MPs who aren't Ministers directing policy and attending Cabinet committees, and Ministers who are somewhat coy about their governmental status and apparently will not attend Cabinet or committee meetings.

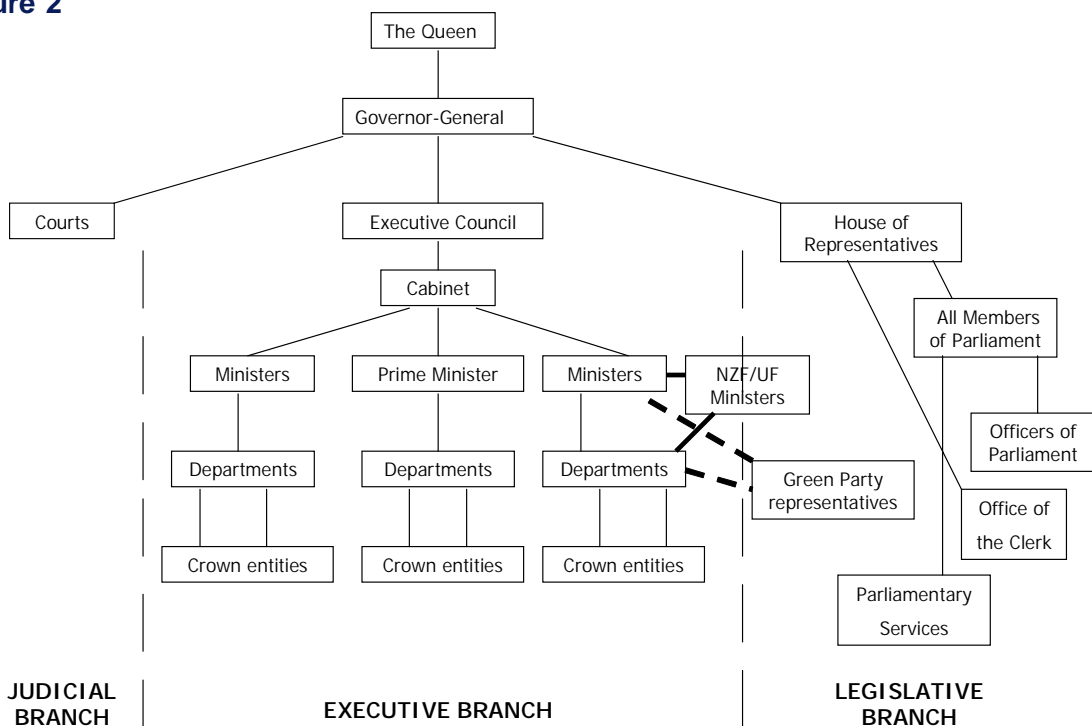
Figure 2 is my first attempt to represent the constitutionally more complex world that the new government arrangements have introduced. The key changes are some new lines (indicated in bold) that hover around and even cross the divide between the executive and the legislature.

For NZ First and United Future, those new lines are solid, as they represent the definite reporting and accountability lines that follow inevitably from holding a ministerial warrant. Officials do report to these Ministers, and their activities do ultimately feed back into collective decision making, even if the mechanisms for achieving that end may be different.

For the Greens, the lines are dotted. They are not formal accountability lines, but are more in the nature of new lines of communication and working relationships. The formal lines still go from officials to the relevant Minister, and through to Cabinet.

Whether any of these new lines are important may depend on whether you are a purist or a pragmatist, and whether you focus more on form or function. From a purist point of view, you can pick your adjective to describe what has now been created: unorthodox, weird – some opposition MPs have even suggested that it is a “constitutional outrage”. For this camp, it is a black and white world and a Minister is either in or out of government, with no shades of grey.

Figure 2



For the pragmatists among us, however, the question is of course how it works in practice. We have a long tradition in New Zealand, and in the New Zealand public service in particular, of making things work no matter how strange they look at first sight. And as noted, in practice it was rapidly clarified that the two Ministers are in government, but that they are participating on different and more distant terms than other Ministers. The success of the arrangements will depend on the working relationships that develop, and how closely in practice the 'second tier' Ministers get woven into the executive.

The important question in practice is whether all of these people – Labour/Progressive Ministers, NZ First and United Future Ministers, and Green Party spokespeople – can develop ways of working together sufficiently closely for government business to be carried out. If they do, it will almost certainly require lots of time, and lots of talking. But it could work. To bring some current (but dubious) fashion into Bagehot's famous metaphor, it may be that rather than the firm clasp of the Cabinet buckle binding the legislature and the executive together, they would be joined by something that looks more like a macramé belt.

On the other hand, if the individuals concerned do not develop close and effective working relationships, and choose instead to demonstrate regularly and publicly that there are significant points of difference between the various political parties, then the situation may prove too unstable to endure for long.

The key is the agree to disagree process, combined with the language of "good faith" and "no surprises" that peppers the political agreements. The point, of course, is that the parties have to **agree** to disagree. Over the past six years of coalition government, this procedure has meant that all issues have been well worked through in discussion first. If there was to be public differentiation, that was well understood by all concerned and the steps that each would take were clearly signalled in advance. The process was also used sparingly. In that way, the stability of the overall government, and its ability to work collectively, was not jeopardised by the occasional issue where the parties were not able to support the same position in public.

This refinement to Cabinet collective responsibility has been shown to work, at least on an issue by issue basis. It is much too early to say how it will be used by NZ

First and United Future, but one interpretation of the agreements and comments so far (including statements in the Speech from the Throne) is that there is an expectation that it will be available in a much more blanket way, potentially across entire sections of government activity. If so, that would provide much more of a challenge to the political discipline that arises from the convention of collective responsibility, and so would also increase the challenge to the cohesion and stability of the government. Even if such a broad application is contemplated now, in practice the parties may relatively rapidly pull back to a more sparing use if there is a sense that political stability is being threatened.

So are the changes good, bad, or neutral?

It is possible to argue that these new developments are simply some further steps along the same path of gradual change that New Zealand has been following over the last decade, both in relation to the nature of discipline of Cabinet collective responsibility, and the relationship between the legislature and the executive. These include:

- The development of the agree to disagree process within the convention of collective responsibility;
- The changing nature of party discipline, as evidenced by the growing strength and independence of select committees no longer dominated by the chain of majority government and Cabinet control of the governing party caucus;
- The growing use of collaborative relationships with other parties as part of the management of minority government and the practice of building of support for particular initiatives wherever possible across Parliament, irrespective of the general government/opposition divide;
- The development of new roles, such as parliamentary private secretaries, who are non-executive ministerial assistants, drawn from the Parliament (but so far within the government caucus); and
- The occasional but increasing practice of officials working with non-Ministerial MPs on legislation (albeit so far with government MPs and under close Ministerial supervision).

It is notable that in some respects, New Zealand was 'more Westminster than Westminster' in the way it operated Cabinet government by the second half of last century. The combination of a single chamber Parliament and a very tight system of party discipline, or 'whipping' of the party caucuses, meant that the Cabinet was able to exert very strong control over the system as a whole. For many years the relationship between the Cabinet and the Parliament, mediated through the caucuses, was tightly authoritative (hence the prevalence of phrases such as "elective dictatorship" and "unbridled power").

These days, the relationships are much more about discussion and persuasion than dictates from on high. This development brings us closer to the working reality of the United Kingdom Parliament, where there has always been a much higher incidence of open debate and disagreement, and where governments have had to work harder to build sufficient support for controversial reforms, even within their own caucuses.

Minority government has seen the evolution of the practice of building support for reforms on an issue by issue basis. Different groups form around different policies. The relationship between the executive and Parliament therefore has somewhat less of a tribal 'them and us' flavour – this morning's 'them' could be part of 'us' in a meeting after lunch. And isn't that what MMP was meant to be about? There was always the suggestion that proportionality, and the likelihood of more smaller parties in Parliament, might result in the adoption of more consistent, consultative and broadly supported policies. (See for example, the Report of the Royal Commission on the Electoral System, 1986, paragraph 2.182.)

It is important not to overstate this phenomenon – politics is still a blood sport – but defining the teams for any individual contest has certainly become more complex.

In summary, these changes to the way in which parliamentary and executive relationships operate, and as a consequence to the way in which Cabinet operates, need to be assessed as part of the ebb and flow of these relationships over decades and even centuries. They do not threaten the basic principles of representative and responsible government that are at the heart of our democracy. Whether they are able to

be reconciled with the political disciplines needed to make democracy function relatively smoothly remains to be seen. But that is a political challenge, not a constitutional problem.

It is likely to be a significant political challenge, too. Such loosely based governing coalitions are highly unusual internationally, which suggests that they are not the first choice for many political and governmental leaders.

What does it mean for the conduct of government business?

More problematic may be the forensic detail of the governmental, public service and parliamentary processes that sit underneath these high level constitutional and political relationships. There are a thousand detailed rules, procedures, understandings and systems that let the bureaucracy function. Many of those are built on assumptions about how those big picture political relationships are structured. Accordingly, some of them may need to be revisited in light of the new government arrangements. Here I simply mention three examples.

First, it is standard practice for officials to consult widely across the government as they develop advice for Cabinet on a particular policy topic. Most issues have implications for several government agencies, and the strong expectation is that all relevant perspectives will have been brought together in a single piece of advice for the central and collective decision making body of Cabinet. Alongside that process for developing the Cabinet paper is the expectation that each agency will brief their own Minister on their perspective, and their contribution to the issue, as the paper comes to Cabinet.

Thus information flows within government are not just vertical – up and down between officials and their own Ministers – they are also horizontal, across government agencies and around the Cabinet table. If someone is effectively a Minister for some purposes and not for others (i.e. for their own portfolio only), do officials brief them on the agency's contributions on other issues? Or will they keep secrets from their own Minister, if the Minister is not involved in the particular policy? The pull of these processes is likely to mean that over time the NZ First and United Future Ministers will become more and more closely bound into the broad range of government business, by 1000 tiny threads across 1000 different issues.

Second, it has always been clear that public servants serve the government of the day. They provide advice to and are directed by Ministers. Public service dealings with other MPs, whether from government or opposition caucuses, have always been strictly controlled. Meetings occur only at the direction of the Minister and usually in the presence of his or her office staff, in order to keep the relationships clear. Meetings are in general briefings to provide information – any negotiation or brokering of policy agreements across party lines is the preserve of Ministers and ministerial advisers, not the job of a public servant. The closer involvement of Green MPs with government processes and the development of government policy seems likely to require some revision of these rules. No doubt the basic principle will be maintained, but the protocols that protect public service neutrality and lines of accountability may need to adapt to accommodate new working relationships.

Third, and building on the previous point, the Official Information Act (OIA) sets out grounds for withholding information in order to protect government decision making processes. These are written in broad terms, in order to give flexibility over time, but even so it is possible that they may not have sufficient flexibility to cope with officials working to non-Ministerial MPs. This will be an issue in relation to:

- section 9(2)(f)(iv), which enables information to be withheld “to maintain the constitutional conventions for the time being which protect the confidentiality of advice tendered by Ministers of the Crown and officials”; and
- section 9(2)(g)(i), which enables information to be withheld “to maintain the effective conduct of public affairs through the free and frank expression of opinions by or between or to Ministers of the Crown or members of an organisation or officers and employees of any Department or organisation in the course of their duty”.

If the constitutional conventions are manifestly evolving, will the established understandings of the scope of the OIA provisions evolve also?

No doubt there will be answers to these and the many other procedural questions that will arise. Administrative systems are always flexible, and adapt. But it will take time to discover where old systems don't fit new relationships,

and to work out new protocols and systems that continue to protect core values while accommodating new needs. As ever, we will learn by doing.

Conclusion

In the last Parliament, the Constitutional Arrangements Committee was established to describe New Zealand's constitutional development and to consider processes for future reform. The Committee's report records that it encountered an early problem in compiling such a description. In the absence of a written constitution,

the primary difficulty was deciding what was and was not a significant event in New Zealand's *constitutional* development. There were many events that were clearly socially and politically significant ... But were these events constitutional? (paragraph 20)

Although the characterisation of New Zealand's constitutional history did not come easily to us, we rapidly agreed on the characteristic qualities of New Zealand's approach to constitutional change throughout its modern history. We adopted the tag of “pragmatic evolution”. By this we mean New Zealanders' instinct to fix things when they need fixing, when they can fix them, without necessarily relating them to any grand philosophical scheme. (paragraph 26)

The agreements that enabled the new government to form are certainly pragmatic. Whether they endure, and become another step in New Zealand's constitutional development, is up to the individuals in the current Parliament. If it turns out that these new arrangements truly are a modern artistic masterpiece, who will claim to have painted it?

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Nicola White is a Senior Research Fellow at the IPS

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.

Why We Should all be Nicer to Ministerial Advisers

Chris Eichbaum and Richard Shaw¹

Introduction

Karen Baehler's contribution to the previous edition of this journal was a stimulating one in several respects (Baehler, 2005). It provided a reminder of the timelessness of the debate about the rationality of policy-making, gave us something new to think about (the public argument test), and offered a number of thoughtful points on the subject of how far policy analysts should go in their endeavours to do the right thing.

It also prompted the two of us to offer a modest contribution of our own, not so much in relation to the substantive points Baehler makes as in the interests of further illuminating a particular aspect of them. One way of approaching the substance of Baehler's piece is to see it as a commentary on the knotty matter of reconciling Westminster conventions of public service neutrality with the brute political realities of executive decision-making. The traditional protagonists, of course, have been ministers and officials. But these days, whether in Wellington or Westminster – or, for that matter, in Canberra, Dublin or Ottawa – a third element is increasingly in view: the political adviser.²

Ministerial advisers, as they are typically called in New Zealand, are increasingly a feature of the executive landscape. While there might be a tendency to assume that they have popped out of the thickets of MMP unannounced, in fact their advent in larger numbers was anticipated – and planned for – in advance of the first MMP election. Amongst others, Shroff (1995), Smith (1995) and the State Services Commission (1994; 1995) all forecast a growing demand from ministers for advice sourced from beyond the public service.

One or two notes of caution were sounded. The Commission wondered how the relationship between political staff and public servants would be managed, and whether the former would be bound by the

conventions governing the collective interest of the government of the day (State Services Commission, 1995, pp.73-74). But on the whole, the prospect was considered an opportunity as much as a risk. Shroff (1994, p.25), for instance, made the point that political appointees in the Swedish Prime Minister's Department played an important role in co-ordinating the policies of parties in coalition.

Whatever the etymology, the data indicate that as recently as 1998 there were just 24 political staff (none of whom were formally classified as ministerial advisers); by 2003 their number had risen to 43.³

Ministerial advisers generally attract a pretty poor press. The stereotype is that of a partisan lackey intent on advancing the minister's political agenda at any and all costs, and who is correspondingly immune to reasoned policy debate, which is itself generally advanced by equally reasoned public servants. Doubtless some ministerial advisers may be like this, at least some of the time. (Equally, there may be public service advisers who are selective in the advice they tender, or who craft advice around a pre-determined policy

¹ We gratefully acknowledge the contribution of the Marsden Fund, administered by the Royal Society of New Zealand, whose support enabled us to undertake the research referred to in this article.

² Various jurisdictions use different terms to describe advisers employed to provide a partisan perspective to ministers. Australians talk about ministerial staff; in the United Kingdom (UK) references are to special advisers. Here in New Zealand they are called political advisers (Wintringham, 2002) or personal appointees (James, 2002). Our preference is for ministerial advisers, which is the formal classification most likely to attach to staff employed by the Ministerial Services unit of the Department of Internal Affairs to furnish advice, including advice of a partisan nature. When we use the term 'adviser', we are referring to ministerial advisers.

³ Data were obtained under the Official Information Act 1982, and cover all those employed by Ministerial Services on events-based contracts. They include senior advisers, advisers, press secretaries and media assistants, but exclude executive assistants, who generally perform administrative functions. A request for more recent data is pending a response.

preference.) But that is far from the whole story, and the proposition advanced here is that advisers can assist public servants to negotiate the tension between theoretically rigorous and empirically informed advice, which may be rejected for being insufficiently sensitive to political imperatives, and inappropriately partisan advice, which offends against core constitutional conventions.

While we anticipate a measure of scepticism as an inevitable response to this suggestion, there is evidence to substantiate it. What is more, it comes from the upper echelons of the official family in Wellington, courtesy of a large-scale survey undertaken in early 2005.⁴ Amongst other things that exercise explored the extent of contact between senior officials and ministerial advisers (a great deal), assessed officials' overall disposition towards advisers (generally positive), and sought officials' views on the regulation of advisers (no limits on total numbers, but a dedicated Code of Conduct, thanks). It also confirmed what we had thought in a vaguely theoretical sense might be the case, but had previously possessed no empirical support for: that there is a solid core of senior officials inclined to the view that ministerial advisers not only add value to the policy process, but can be of considerable assistance in maintaining and protecting the neutrality of public servants.

Setting the scene

Given the political imperatives which influence cabinet decision-making, one of the challenges facing public service advisers is the need to ensure that advice is sensitive to ministers' requirements without tipping over into hopeless partisanship.

Baehler (2005) comes at this same issue from a particular direction. In a discussion of the utility of the 'public argument test' as a sort of decision-making criterion for officials, she raises doubts as to whether – in the heat of the policy kitchen – it is possible, much less desirable, for officials to both divine their ministers' political motives and retain an appropriate degree of detachment. (Parenthetically, we might add that care should be taken that the public argument test satisfies the Westminster commitment to 'a constitutional bureaucracy with a non-partisan and expert civil service' (Rhodes and Weller, 2005, p.7). There is a sense in which the public argument test may sit more easily in Washington than in Westminster.⁵)

Baehler is prompted to put the question as a result of Gregory's position on the relevance of policy analysis. Ostensibly, Gregory's view is that in order to be relevant – which Baehler interprets as meaning being capable of 'swaying policy makers and carrying the day politically' (Baehler, 2005, p.4), policy analysis – and presumably by extension the officials who produce it – must be able to engage with:

the dark recesses of political motivation, not only where hidden agendas need to be rationalised by publicly acceptable justifications, but where ultimate motivation depends far less on logical reasoning and much more on tacit beliefs and convictions (Gregory, 2004, p.302. cited in Baehler, 2005, p.4).

Baehler duly demurs, suggesting that any attempt to 'connect analysis to the complex, untidy, and usually opaque domain of political motivation' (Gregory, 2004, p.303; cited in Baehler, 2005, p.4) must necessarily diminish the capacity of public servants to serve future governments in an impartial and professional manner.

It is not clear to us that this is, in fact, what Gregory is saying. Our reading of Gregory's case is that he is simply

⁴ The questionnaire was a 68-item instrument comprising a composite measure of officials' disposition towards ministerial advisers, and a mix of forced-choice and open-ended questions. With the considerable assistance of the Leadership Development Centre, it was distributed to 546 senior officials (i.e. tier 1-4) in 20 government departments and the New Zealand Police, who have or have had at some point since 1990 contact with ministerial advisers. We had a response rate of 34.4% (n=188). Just on 3.8% of respondents were chief executives; 26.3% were tier 2 officials; 57.5% were tier 3 officials, and the balance tier 4 or other officials. For a more detailed analysis of results, see Eichbaum and Shaw (2005).

⁵ On this matter we have reservations about the application of 'public argument advising' within a Westminster system of government. Baehler asserts that 'the policy advice supplied to the fourth Labour government was a stellar example of public argument advising' (2005: 5). The rejoinder to this is to pose the question: Was this kind of 'advising' consistent with the constitutional obligations and responsibilities attendant upon the Westminster conventions within which the public service must operate? Moreover, in the absence of the constitutional and institutional checks and balances that have been instituted since the days of the fourth Labour government (MMP being the most obvious, but changes to the Cabinet Manual and the Step by Step guide being no less significant for the public service), one might advance the argument that the constitutional obligations on the public service, and more specifically the need to tender free, frank and *comprehensive* advice were all the more pressing at the time of the fourth Labour government. Indeed, the demand for greater contestability in policy advice may be seen as a reaction against public argument advising, and the move to MMP may be seen as providing a constitutional buffer against an administrative and political executive that was *selective* in proposing, and far too efficient in disposing. Put somewhat starkly, we have serious doubts that 'public argument advising' is consistent with the Westminster notion of a 'constitutional bureaucracy'.

raising questions regarding the likely efficacy of any policy analysis which is predicated upon the assumption that, by virtue of its 'rationality', it will be listened to and acted on by political decision-makers. He does not seem to be calling for public servants to connect the political dots. Rather, he is making the point that the political context of decision-making is such that there is no necessary causal relationship between policy analysis and the decisions which such analysis informs. Which raises the question we wish to address here: within existing institutional arrangements in New Zealand, is it possible to reconcile the politics of policy-making and the imperatives of public service impartiality?

The theoretical case for ministerial advisers

Enter the ministerial adviser.

In the universe of executive government, ministerial advisers tend to hover in a close orbit around their ministers. While on occasion this may be perceived as having ramifications for public servants which are less than helpful, it also represents an opportunity, or perhaps a resource, for officials who work in an intensely political environment but who must do so without being burnt.

The core of the case for ministerial advisers is that precisely *because* they interpolate themselves between ministers and officials, they are able to help the latter understand the political motives and preferences of the former without having to second-guess them. In the words of one of our respondents, ministerial advisers can happily 'go places officials cannot go' (011). These places – negotiations around the formation of a government, conversations amongst coalition partners, relations between minority governments and parliamentary support parties, and so on – may be off limits to officials (unless otherwise authorised by the minister), but our respondents indicated that an understanding of them is tremendously useful to officials.

In other words, a good ministerial adviser can diminish the need for guesswork on the part of public servants by clarifying the minister's wishes, and by 'provid[ing] useful advice on the minister's commitments and priorities, which helps in deciding what issues to bring to a minister's attention' (025). Clearly, a ministerial adviser's views on what counts should not dissuade officials from raising other issues they feel the minister ought to be made aware of. The

point is that the adviser's contribution allows officials to exercise their judgment on such matters at one remove: i.e. the former functions as a sort of insulation device, absorbing or deflecting the political heat so that the latter can get on with the business of providing advice in a free, frank and fearless manner.⁶

That is not to understate the risk that by occupying the space between ministers and their officials, advisers can distort instructions from the former to the latter, and 'contaminate' the advice from the latter to the former. Indeed, one of our respondents reported having experienced 'increasing pressure on departmental staff to capitulate to particular political positions and write advice supportive of such positions' (006).

On the other hand, ministerial advisers can shield officials from pressures which might otherwise result in politicisation. As Lynelle Briggs, the Australian public service commissioner, has noted, across the Tasman it is increasingly recognised that political staff can reduce the chances of ministers asking public servants 'to do things that are verging on the political' (Briggs, 2005: 7). (What is not explained is the curious – to us, anyway – practice at the federal level of drawing ministers' political staff directly from the Australian public service, and allowing them to return there once the tour of duty is finished.) Much the same point was made by one of our respondents, who suggested that ministerial advisers can 'help ensure this [political] dimension is part of the decision-making process and, in doing so, help keep departments apolitical' (087).

There are risks here, including that officials are left unclear as to the extent to which an adviser is conveying the *minister's* wishes rather than simply communicating their *own* interpretation of what should be done. Robust procedures and clear protocols amongst ministers, chief executives and ministerial advisers can go some way to guarding against this risk, as might greater codification of the nature of the delegations ministers can make, as occurs in the UK. It is in the nature of things, however, that the risk can never be fully banished.

As an aside, it should not be assumed that ministerial advisers are only possessed of ulterior motives. The

⁶ It is drawing a rather long bow, admittedly, but the function is not unlike that served by the arrangements which mediated contact between the public service and the political parties in negotiations following the 1996 general election.

rational choice presumption of self-interest has fallen from the giddy heights of orthodoxy it occupied in the latter part of the 20th century, now that we're all aware of the methodological flaws and predictive shortcomings associated with it. In our view, that uniquely arid explanation of the motives of social actors should not be exhumed and deployed to impute exclusively nefarious motives to ministerial advisers. It is certainly not unreasonable to infer – from the very nature of the job – a partisan inclination. It *is* unreasonable, however, to proceed from first principles to a conclusion that self-interest motivates all conduct by ministerial advisers. In fact, there is a good deal of evidence from our respondents to the effect that relationships between advisers and officials are in the main collaborative rather than competitive; and mutually beneficial – from the point of view of the quality of advice they jointly work on – rather than zero-sum. Indeed, it may be argued – and this is at the core of debates over the accountability of ministerial advisers – that both advisers and officials share a duty *pro bono publico*.

In any event, whatever the threats ministerial advisers pose to officials – and we certainly do not dismiss them – they should not blind us to the possibility that, in certain circumstances, the roles of ministerial advisers and officials are complementary: partisan dimension + professional expertise = policy advice which is informed, reflexive and cognisant of political realities.

So much for the case for a better press for advisers. What evidence is there, if any, which demonstrates that the complementarity we propose is anything other than a naïve theoretical construct?

The empirical case for ministerial advisers

It seems reasonable to propose that certain preconditions must exist in order for the sort of relationship we are asserting to exist. These might include a fair measure of contact between the two parties; working relationships which are on the whole functional; and a sense amongst officials that advisers have a legitimate contribution to offer.

As it happens, there is a good deal of contact between senior officials and ministerial advisers (Table 1). That in itself will come as little surprise, and is consistent with the anecdotal evidence to that effect which has been about for some years now. To some extent it is likely simply to be a function of the increase in the number of ministerial advisers. It may also speak to officials' growing willingness to engage as advisers have increasingly gained the requisite experience, identified those areas in which they can add value, and sharpened their contributions.

In addition, the data in Table 1 probably reflect the increasing seniority of our respondents over time. Other things being equal, the more senior an individual becomes, the more likely he or she is to come into contact with ministerial advisers. However, although our data don't allow us to control for individuals' career paths, even when all public servants *other* than those with 21 years of service or more are excluded from calculations, thereby restricting analysis to the only cohort in the study which has had the opportunity to be in contact with each government since 1990, the overall trend is clearly towards greater contact with ministerial advisers.

Those caveats aside, the extent of the contact reported by our respondents, and the rate at which its frequency has increased in the last decade or so, are worth briefly

Table 1: Contact between officials and ministerial advisers⁷

	1990-93	1993-96	1996-99	1999-02	2002-05
very frequent	7.3%	11.2%	9.7%	19.4%	24.4%
frequent	11.9	14.4	19	27.7	33.7
occasional	17.4	17.8	26.3	29	27.9
rare	18.3	18.1	20.1	14	11.6
never	45	37.9	24.8	9	2.3
N	109	114	129	155	172

pausing on. Just under 20% of respondents reported having had either frequent or very frequent contact with ministerial advisers during the fourth National government (1990-93). That figure has since nearly trebled to 58.1% (2002-05). Looked at another way, where 45% of respondents recall having no contact at all with ministerial advisers 15 or so years ago, only 2.3% say that that is the case these days.

This familiarity does not, however, seem to have bred contempt: fully 70.1% of respondents agreed or strongly agreed with the proposition that 'ministerial advisers are a legitimate feature of executive government' (17.9% neither agreed nor disagreed, while only 4.9% took issue with the statement).⁸

By acknowledging this status, our respondents may also have been ceding the presence of ministerial advisers in a domain over which officials have traditionally enjoyed a near-monopoly. But rather than resisting this development, most seem to be getting on and making the best of things. Indeed, when asked to describe the state of their personal relationships with ministerial advisers, over two-thirds (72.7%) of respondents described matters as generally positive. Only 4.8% indicated that, overall, things weren't going that well, while a sizeable minority (22.4%) reserved judgement on the issue.⁹

At least in the experience of our respondents, then, the broad preconditions for a functional relationship between officials and ministerial advisers appear to be in place. Whether or not they are sufficient is clearly another matter, although a more detailed exploration of what respondents had to say suggests that they may well be.

Participants' responses to two clusters of questions are especially apposite here. The first asked for their views on whether the advent of ministerial advisers is a positive or negative development. While 57.9% regarded it as positive, only 8.7% saw it as a negative (and 33.3% were undecided).¹⁰ When invited to elaborate at greater length, those who feel positively about advisers tended to make observations which clustered around two themes. The first is that ministerial advisers help keep officials away from the overtly partisan aspects of policy-making. The following two comments largely sum up this type of response:

[Ministerial advisers] are able to undertake negotiations and broker agreements on

legislation that would compromise the political neutrality of officials. If they do this supported by advice from officials that provides a 'negotiating brief', this can be a very valuable role. (086)

Ministerial advisers are important in ensuring departments understand ministers' expectations and views. They provide clarity and a degree of transparency which is important to achieving good communication between departments and ministers. They also provide a mechanism to reinforce the distinction between departmental and political advice if ministers so choose. (041)

Suggestive of the importance of MMP, responses of this kind tended to come arm-in-arm with observations regarding the value ministerial advisers add in the sorts of policy-making conditions generated under the current electoral arrangements. For instance, many more senior officials agree that ministerial advisers make a positive contribution under multi-party and/or minority conditions than disagree with this (52.6% vs. 7.3%); equally, more agree that advisers play a positive role in facilitating relations between minority governments and their parliamentary support parties than do not (42.9% vs. 3.4%).¹¹

The second (and related) theme concerns respondents' perceptions of the contribution ministerial advisers make to the policy process. Some of the literature on this issue is sceptical that advisers have much to offer at all (see Anderson, 2005; Mountfield, 2002; Tiernan, 2005). But over half (52.2%) of our respondents agreed or strongly agreed that the contribution made by ministerial advisers is a positive one: only 10.3% disagreed to a greater or lesser extent that this is so, and the remaining 37.5% sat on the fence.¹²

⁷ Respondents were asked to indicate frequency of contact on a five-point scale: very frequent; frequent; occasional; rare; never. The data for (a) 1993-96 and (b) 1996-99 are averages of the contact reported for the following governments: (a) National (Nov. 1993-Sept. 1994); National/right of centre (Sept. 1994-Aug. 1995); National (Aug. 1995-Feb. 1996); National/United (Feb. 1996-Dec. 1996); (b) National/New Zealand First (Dec. 1996-Aug. 1998); National/Independents (Aug. 1998-Nov. 1999).

⁸ n=184; missing=4.

⁹ n=165; missing=23.

¹⁰ n=183; missing=5.

¹¹ The percentage of respondents who neither agreed nor disagreed with these two statements was 40.2% and 53.7% respectively.

¹² n=184; missing=4.

Again, when pushed on the particulars of that contribution, responses could be grouped into various categories. For 6.2% of respondents the injection of an element of contestability into the policy process is the key contribution made by ministerial advisers. Some have had negative experiences of this, in which ‘advisers have blocked advice from officials to ministers, compromising the policy process’ (147); others are of the more positive view that advisers are able to ‘provide a “reality check” for options presented by officials’ (151).

Other comments drew attention to the political perspective which ministerial advisers bring to the policy table. If it is the case that advisers care little for the niceties of the policy process, then one might expect observations from officials in which the terms ‘politicisation’ and ‘political perspective’ are essentially interchangeable. And while there certainly were accounts of obstructive conduct by advisers, officials also volunteered that:

[Ministerial advisers] can facilitate the flow of information to and from busy ministers, exercising judgment and synthesising information so that ministers can be informed efficiently and in an up to date way. [Advisers] can integrate information from different sources, which aids ministers, but can also help to inform the policy process by incorporating different perspectives. (179)

[Ministerial advisers] can provide clear guidance of what is acceptable to the minister so unacceptable options are not pursued. [They] assist in establishing the policy programme between ministers and departments. (023)

The most significant role of ministerial advisers in the policy process is their role in relaying and clarifying ministers’ expectations and views to senior departmental managers. Clear and blunt explanations about ministers’ opinions and interpretation of issues is invaluable for senior staff, in particular. (041)

Conclusion

In this brief contribution we have consciously sought to make a particular point, which is that there are aspects of the ministerial adviser’s role which can facilitate, rather than hinder, the core constitutional function of the public service.

That does not blind us to other, less positive dimensions of the relationship between advisers and officials. As noted by a number of commentators (James, 2002; Mountfield, 2002; Scott, 2005; Wintringham, 2002), relations between ministerial advisers and public servants can be fraught. Much of that stems from the core *raison d’être* of ministerial advisers. Thus, some of our respondents reported experiences in which advisers failed to convey advice to ministers, intervened inappropriately in the relationship between a minister and officials, or delayed the release of departments’ policy initiatives which advisers felt were politically unfavourable.

We are conscious, too, that although we have chosen to focus in this paper on the nexus between officials and ministerial advisers, ministers themselves are central to the playing out of relationships within the executive. For one thing, their expectations can determine the particular work a ministerial adviser undertakes. Thus:

some ministers use their advisers just for certain issues, some for all areas of the portfolio; some take a co-ordination role, others are elbow deep in policy development; some work closely with officials, others independently. [It] depends on the relationship between ministers and advisers. (034)

Ministers can also set the tone of relations between advisers and officials. Indeed, many of our respondents stressed the point that functional, productive relationships in ministerial offices depend far more on the aptitude of ministers than they do on the disposition of either advisers or officials. In particular, experienced, senior ministers are felt to be ‘as aware of their advisers’ foibles as of [those of] officials’ (011), and can therefore ensure that relations within the office are managed in an even-handed manner. Conversely, junior and/or less capable ministers sometimes fail to discriminate between the respective roles and responsibilities of advisers and officials. As one respondent put it:

Capable ministers are more able to ‘arms-length’ the political decisions from the provision of objective advice, and understand the value of such an approach. Poor ministers give almost unbridled power to ministerial advisers. (006)

As ever, it is often a bit of both. Some officials have had contact with both ‘highly opinionated and deceitful advisers who were a danger to the policy process [and]

very able and skilled advisers who could very insightfully guide issues and spot difficulties/broker solutions' (031). Others explained that while advisers 'can add value by inserting viewpoints that might be overlooked by public sector advisers, they [can] also inhibit the policy process by seeking to rule out options deemed politically unacceptable' (081).

Our purpose has not been to come down firmly on one side of the fence or the other. Neither has it been to suggest that the advent of ministerial advisers has somehow diminished the need for officials to be appropriately sensitive to the political contexts in which they offer advice.

Instead, it has been to propose that, other things being equal, ministerial advisers can be of use to officials in assisting them to make sense of and negotiate the fluid contours of the political landscape. In short, they may be part of a wider response to the challenge of connecting '[policy] analysis to the complex, untidy, and usually opaque domain of political motivation' (Gregory, 2004: 303). Further, we find it telling that amongst senior advisers themselves – those ostensibly at most risk from the predations of ministerial advisers – there are clear signs of support for this view.

At another level, we are making the case that ministerial advisers can no longer be left out of studies of the core executive. They are here in numbers; many more senior officials are having much more contact with them than was the case even two parliamentary terms ago; and the indications are that they are accepted by many senior officials as a legitimate feature of executive government.

If these are the circumstances practitioners are reporting, it is incumbent upon scholars to better understand the effects and influence of ministerial advisers on relations within government. Properly illuminating the circumstances of policy-making within the contemporary New Zealand state sector requires this. And, as Scott observes, in a normative sense, creating additional value in policy analysis and advising requires public sector advisers to network with 'other key contributors to public policy analysis and advising (Scott, 2005: 14). Looking ahead, more effective networking within the core executive is clearly seen by our respondents as a key element in good Westminster-styled governance.

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Chris Eichbaum is a Senior Lecturer in Public Policy in the School of Government. He has worked as a union official, a policy analyst in Canberra and Wellington, and a ministerial adviser in two New Zealand governments, most recently as Senior Ministerial Adviser to the Hon. Steve Maharey (1999-2002) and as a Senior Policy Advisor in the Prime Minister's Office (2002-2003). His research interests include the institutions of central banking, public sector governance, the roles and responsibilities of ministerial advisers, and contemporary social democratic politics and theory.

Richard Shaw is a Senior Lecturer in the School of Sociology, Social Policy and Social Work at Massey University, Palmerston North. In 2004 he was the recipient of a National Tertiary Teaching Excellence Award. He received (with Chris Eichbaum) a grant from the Marsden Fund in 2003 to conduct research on the roles and responsibilities of political advisers in ministers' offices.

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Politics, Power and Public Policy-making: A Response to Karen Baehler

Robert Gregory

Talking past each other

Karen Baehler's (2005) interpretation of my articles (Gregory, 1998, 2002, 2004) indicates that we are largely talking past each other. I believe we make a fundamentally different assumption about the nature of politics in what she refers to as 'a healthy democratic polity' (p.3), and about the nature of a capitalist political-economic system. Whereas Baehler acknowledges the importance of the political dimensions of policy analysis and public policymaking, I believe that these elements are more than just important but essential, omnipresent, ineluctable and conclusive in shaping public policy and its effects.

At the heart of Baehler's (2005, p.3) critique of my less sanguine views about rationality in public policy-making is her argument – drawing on theoretical input from other theorists – that the most appropriate role for the policy analyst in a liberal democracy is 'public argument advising'. A public argument is 'a coherent set of propositions that lead from premises to a policy conclusion', and 'presents the case for a particular policy choice, including reasons why the policy should be favoured'. It 'presents the kind of policy case that citizens will recognise as legitimate and worthy of discussion, even if they disagree with the premises and conclusions'. Baehler illustrates her advocacy of public argument with reference to two examples from my cited articles – the American government's decision to invade Iraq in 2003, and the application in New Zealand of 'Rogernomics' in the 1980s.

Moral dilemmas for the policy adviser on Iraq

The essence of my argument regarding the role of a policy analyst advising George W. Bush and his colleagues in regard to the decision to invade Iraq was that formal policy analysis (in that case, employing the

techniques of 'intervention logic') confronts the paradox of analytical rigour and political relevance. Analysis can be rigorous (but of course it sometimes/often is not) but it may also be rigorously irrelevant (to actual policy-making) if it does not speak constructively to the agendas that are driving decision makers. These agendas, as Baehler fully acknowledges, may be overt or covert. That is, they may be expressible as the sort of public arguments she advocates, with which people may agree or disagree, or they may not be expressible as such, since many if not a majority of people would find them obviously unacceptable, if not offensive – if they were made aware of them. In the case of the invasion, public debate could legitimately swirl around the acceptability of such justifications as 'regime change' and/or 'weapons of mass destruction', or 'bringing democracy to Iraq'. But strategic control of Iraqi oil resources or (as Baehler puts it,) 'exacting revenge for old Bush family grievances or distributing lucrative post-war reconstruction contracts to business cronies' (p.4) would hardly be viable public justifications.

Baehler argues that:

The best of Bush's defence and foreign policy advisers under the circumstances would have been aware of these possible motivations but also kept their distance. *They would have focused exclusively on the kinds of arguments that could be vetted in public*. They would have constructed these arguments, tested them, and presented their strengths and weaknesses, *in the full knowledge that their advice was unlikely to influence policy choice but was nonetheless an important part of the historical record* (pp.4-5, emphasis added).

Would not this hypothetical policy adviser/analyst face a compelling moral choice – to be willingly complicit in an act of public deception (since he or she would know the real reasons for the decision to invade), or to

refuse to be complicit in decisions that they might even think constituted war crimes? If not, then the policy adviser's moral horizons seem purely Tennysonian – 'Ours not to reason why, ours but to do and die' – except that in this case thousands of others have been doing the dying. If the 'professionalism' of policy analysts is to be gauged (at least in part) by their dutiful willingness to serve, no matter how duplicitously, the political interests of their sponsors then we should, I believe, be extremely wary of constructing such 'professional' role expectations. The distinction between 'spin doctoring' and 'public argument advising' may be a very fine one in many cases.

Government officials as individuals must retain, even nurture, a capacity for personal reflective judgement, even as they work in contexts and in roles which by their nature insidiously limit that capacity. As Brian Chapman (1959, p.275) observed:

Neutrality in public office tends in the end to moral corruption. If all governments are to be served with equal impartiality and loyalty there are no grounds at all for criticizing the German official who served Hitler to the best of his ability. In any profession other than government such people would be regarded as dangerous cynics or weaklings.

So what should the policy analyst actually do? To ask this question is to presuppose that there is some clear course of action that an adviser ought to take. However, any such clarity can be found only in the adviser's own mind, cannot necessarily be prescribed in some code of professional conduct, and will depend heavily on the circumstances of each case. It is ultimately a matter of individual moral choice. In some instances advisers might resign and publicly blow the whistle – thus making 'the undiscussable discussable' – while in others they might decide to do what the decision makers want and say nothing to anyone, or they make choices that lie somewhere in between. (The first option has the great virtue of leaving its mark on the public record for historical consideration.)

Public argument advice in the age of 'Rogernomics': stellar or sterile?

Baehler rejects my argument (Gregory, 1998) that especially between 1984 and 1987 New Zealand's liberal democracy became highly technocratic, its main features

being policy-making by an elite group which determinedly 'crashed through' political institutions and processes, the better to implement economic policies that were profoundly ideological yet publicly paraded as being 'scientifically' rigorous. Instead, she claims that the policy advice given to David Lange's government was 'a stellar example of public argument advising' (p.5).

She concedes that key planks of the policy agenda were rushed through Parliament in urgency, and that many discussions were held behind closed doors. But, 'the advice itself was eminently presentable and, *if presented*, would have sparked a healthy, vigorous public debate in almost any other democratic country with a more heavily contested political environment and longer experience with ideas of deregulation, privatisation, and rolling back the state' (p.5, emphasis added).

The conditional statement here – 'if presented' – is surely contradictory. How can an example of 'public argument advising' be considered 'stellar', if in fact there is little or no public (as distinct from private discussions among the elite) argument that results from it? If, in other words, the advice is democratically sterile? Baehler lauds the 'superb political skills of the people driving the agenda and their ability to wield the strong executive powers granted by the pre-MMP, first-past-the-post parliamentary system' (p. 6). But this is to praise them for the abilities to close off, rather than to foster, public debate on the policy advice which they offered and/or received.

It is true that much of the policy advice in those heady times was made publicly available, efficiently and enthusiastically – notably the briefing papers to ministers, *Economic Management* (1984) and *Government Management* (1987). Yet it was ironic that the scope for public discussion of this material was severely constrained, by the political strategy of 'crashing through'. Contrary to what Baehler asserts, there were at the time (and have been since) some academics who were publicly critical of what was happening, but I would be very surprised if their concerns were sought out and listened to by those in the policy-making inner circle. Only the views of cheer-leaders were listened to, and they were not needed in any case.

As I noted in my original article, one of the people driving the agenda, Sir Geoffrey Palmer (1992, p. 13), later observed:

What has developed in New Zealand is something of a disjunction between the

polycymaking process and the political process. The decision-makers are a select few politicians who decide things, not on the basis of what the political process of representative democracy tells them, but on the basis of what some varieties of economic or policy theory tell them.

While I would reject the implication that 'the policy-making process' (whatever that is) is not itself political I would agree that Palmer here offers a sketch of the strong technocratic tendencies that emerged during the 1980s, and which – by popular demand – were only really rolled back by the push for a system of proportional representation, the better to bring politics more squarely back into this central arena of public policy argument and deliberation. If the years of 'Rogernomics' constitute a 'stellar example of public argument advising', then I for one would hate to see a bad case of it.

Baehler goes on to say that, 'Had the election of 1990 gone differently, yet more streams of thinking could have been incorporated [in the advisers' "policy architecture"], including perhaps a more social democratic approach to social policy, which, combined with the economic and state sector reforms, would have constituted New Zealand's unique brand of third-way governance' (p.6). A principal reason why the 1990 election did not go differently was that the Labour government had imploded by then – largely because of overt ideological and political fissures, which could not be surmounted by any appeal to the virtues of public argument advice. In fact, it is worth noting that both the Lange government which came into office in 1984 and the Bolger administration that was elected in 1990 pursued radical economic and social policies, respectively, which had not really been foreshadowed in their election campaigns. There is little or no evidence that the drastic social welfare policies revealed in Ruth Richardson's 'Mother of All Budgets' in 1991 were widely anticipated by the New Zealand electorate. While the policy advice which lay behind them might also be regarded as a 'stellar' case of public argument advising, the overwhelming emphasis – as with 'Rogernomics' – was on the advising rather than the public argument. Certainly strong public debate occurred after the policies had been announced and pursued, and was a major factor in Richardson being dropped as finance minister after the National Party had won the 1993 election. But

the experiences of both the 1980s and early 1990s were crucial in the subsequent moves, culminating in the adoption of the MMP electoral system, to bring parliamentary politics back to the centre of the public policy process.

Some may complain that as a consequence New Zealand governments now lack the flexibility of response that was more readily available to them under first-past-the-post, but others – myself among them – would value more highly the democratic constraints that have now been applied to the exercise of power by the political executive. Is it not inconceivable that the need to bargain and negotiate the security of parliamentary votes of confidence and supply may carry more democratic virtue than public argument advice formulated by policy analysts locked in bureaucratic ivory towers?

Power and reason

I agree with Baehler that the concept of 'public argument advising' is a valuable idea in the quest to define a legitimate role for policy analysts in a modern democracy. However, I do not find anything new in it, apart from the terminology itself.

Policy-makers – whether elected politicians, senior public servants, political appointees in ministerial offices, or the policy analysts who inhabit today's departments and ministries – have always engaged in the profoundly political task of crafting coherent public justifications for policy preferences. (Eichbaum and Shaw argue in this issue of *Policy Quarterly* that the relationships among these different players are evolving in subtle ways.) But an emergent discipline like public policy gives rise to more and more scholarly activity, and the best of its enduring theoretical insights – usually provided by the field's best and earliest luminaries – tend to get recycled in a new vocabulary, and academic effort is invested in developing refinements at the conceptual and theoretical margins. This is no bad thing, as it provides us academics with a style of life to which we feel entitled, and keeps us off the streets, out of harm's way. (Some might say that the only harm involved befalls an unsuspecting public, which bears the brunt of the practical consequences of academic ideas.)

The liberal academic mind-set places great value on the role of reason in public policy-making, and the policy

analysis industry is predicated on the belief that the application of reason will inevitably lead to 'better policy outcomes'. For my part, however, I am deeply sceptical about the extent to which such reasoning is scientific rather than ideological, and about the extent to which 'reasonable people' can reason together to resolve society's most compelling conflicts of political interest. These conflicts are resolved through the alignment of power relations rather than through the application of analytical skill, and the enduring question in the quest for 'better policy outcomes' remains unaddressed – that is, better for whom? If reason prevailed by the force of logic and scientific conclusiveness in the vast domain of public policy-making then it would hardly matter which political parties were elected to office. (Some would say that it does not matter much in any case.)

In a capitalist political economy a Marxian approach to policy analysis would throw these underlying conflicts, and the nature of economic and political inequality, into much sharper relief than will the mainstream analysis produced in establishment bastions like the Treasury or the Reserve Bank. When analysing, say, the problem of poverty, either locally or internationally, why should such an analytical framework be eschewed? Marx may have placed far too much weight on a class-based interpretation of historical social change, but his insights into the basic conflict between capital and labour in a capitalist international political economy continue to illuminate the structural landscape of poverty and economic inequality.

In regard to the central conflict between capital and labour, it is interesting to contrast political language used at the time of the 1951 industrial conflict in New Zealand and the debate surrounding the introduction of the Employment Contracts Act 40 years later. In the former, the conflict was represented in nakedly honest terms – 'smashing the power of the militant unions' or 'fighting for a fair go from exploitative employers', or whatever. In 1991, however, while still lying at the heart of this issue of public policy, it was spoken of by policy elites as if the quest for what was now called 'labour market flexibility' was essentially a technical issue, around which all 'reasonable' people might sooner or later arrive at a 'reasonable' consensus. One of the crucial changes in the intervening 40 years had been the rise of labour market economics and its impact on the way in which mainstream policy analysis framed, verbalised – and

sanitised – the conflict. The thought that policy analysts employing predominantly Marxian frames of reference within which to fashion their 'policy argument advice' could be taken at all seriously within the citadels of policy orthodoxy such as the Treasury and the Reserve Bank, or in the wider community for that matter, is almost laughingly incongruous.

Of course, in a liberal democracy like New Zealand the dominant political economy is grounded in popular legitimacy. What we might call 'mainstream policy analysis' in governmental agencies reflects and supports this concentration of power at the political centre. Few, if any, New Zealanders are clamouring for some sort of neo-Marxian revolution. But this is only to acknowledge the fact that conventional policy analysis largely serves the predominant political forces in society. In so doing it also serves to ensure that the scope of options remains very limited: power is aligned in ways that ensure many alternatives never get onto the policy-making agenda, which was seldom more limited in the 1980s when the policy elite insisted that 'there is no alternative'.

The reason that is most highly valued in government is the 'reasonableness' defined by those in positions of political and economic privilege. Take, for example, the economic and state sector reforms of the 1980s. These were promoted in the name of the public interest, yet why was it that thousands of New Zealanders were severely hurt by these changes while most if not all members of the policy elite that drove them did not themselves bear the financial brunt of the changes, and in some notable cases subsequently did very nicely out of them? The political and ideological character of neo-classical economics (in fact of any brand of economic theory, including Keynesian theory) was confirmed when two of the main policy advisers behind the radical economic changes of the 1980s – Don Brash and Graham Scott – decided to become *overtly* political players. The former, of course, left his job as Governor of the Reserve Bank (a position in which he had enjoyed a high degree of 'political independence' yet had delivered a number of profoundly political speeches of neo-liberal policy advocacy) to enter Parliament and later become leader of the National Party, and the latter stood for Parliament in this year's election as a member of ACT. Such overt declarations of political faith by highly influential technocrats – of whatever ideological stripe –

are rare in New Zealand, and in my view are to be applauded and encouraged. There is, after all, no such thing as political neutrality in policy analysis.

Building capability?

The old saying that knowledge is power is trite, and it is far less persuasive than the recognition that it is power that generally governs, not knowledge. Only massive shifts in power alignments, domestically and internationally, would open up real possibilities for 'solving' problems of world poverty, not a further burgeoning of the policy analysis industry (or rock concerts organised in the name of Bob Geldof). What is commonly overlooked is that one person's 'problem' is another's 'solution', and reasoned argument will usually do little to change that. (Years ago, in New Zealand two or three people out of work constituted an unemployment problem. Then from the mid-1970s increasing levels of structural unemployment became a 'problem' mainly for those who were out of work, while in more recent times there has emerged the 'rational' argument that there is a 'natural level of unemployment'. As if political, social and economic relations in society are somehow shaped by general laws analogous to those which determine the physical world.)

The current fad called 'evidence-based policy' is the latest attempt to fudge the reality of power relations, and those who buy into it should remember the pitifully symbolic sight of the former American Secretary of State, Colin Powell, presenting 'evidence' to the United Nations in February 2003 of Saddam Hussein's 'weapons of mass destruction'. Even though such an example of power trumping evidence is not typical in common-or-garden policy analysis conducted on matters far less spectacular than criminal aggression against another country, what passes as 'evidence' is itself politically determined, not necessarily in any party partisan sense (although that can be so) but because in public policy-making the 'facts' are always selectively chosen and never speak for themselves.

Consider, for example, Simon Chapple's (2000) critical analysis of the statistical evidence germane to the former 'Closing the Gaps' policy on 'Māori socio-economic disparity'.¹ His paper was highly contentious politically, his analysis was strongly contested by other researchers (Alexander and Williams, 2001), and probably no one today can say conclusively what the 'true' evidence actually

is. Generally, it is doubtful if there can be any evidence that is politically authoritative by virtue of its manifest conclusiveness, especially in the highly ambiguous arena of social policy (Lindblom and Cohen, 1979). All evidence is politically (and academically) contestable, which is why democratic norms and values should hold sway over technocratic ones.

Whether we know it or not, and whether we like it or not, those of us who research and teach in academic institutions like the School of Government at Victoria University of Wellington and the Australia and New Zealand School of Government (ANZSOG) serve power as much as knowledge. If we do not know it, or do not acknowledge it, we are deceiving ourselves in the name of 'education', or these days in our endeavours to produce 'learning outcomes'. We become less genuinely critical in our thinking, and are less able to see that the public sector 'capability' we seek to help build is not primarily a technical but a political capacity. And we simply become – for the most rational of instrumental reasons – servants of the establishment, though probably well rewarded for our earnest compliance.

Inherent in all policy analysis in a liberal democracy is the tension between the desire to enhance the political dimensions of policy discussion and debate, and at the same time to search for modes of analysis which can better inform such contestation. I refer to this as the relationship between what can perhaps loosely be called 'experiential knowledge', on the one hand, and 'experimental knowledge', on the other. Karen Baehler's promotion of the idea of 'public argument advice' clearly acknowledges this relationship. Where we part company, I believe, and as demonstrated in her belief in the utility of 'intervention logic', is that I would assert the primacy of politics and power, rather than of analytical calculation, in determining winners and losers in the polity – what some others may call, less provocatively, the distribution of policy costs and benefits.

I think this difference is apparent in Baehler's (2005, p.9) sidebar discussion of 'How to Treat Policy Whiplash' – the 'effects of sudden policy starts, stops, and reversals' that are borne by public servants and public agencies. This could be expected if the election were to have resulted in a centre-right government replacing the centre-

¹ Chapple criticised the view that socio-economic gaps between Māori and Pākehā were widening, arguing that contrary to popular rhetoric Māori did not share a common experience of disadvantage.

left one. In her view, 'In addition to producing these stresses, the habit of reverting to previous policies rather than advancing new ideas may indicate stale policy thinking and a lack of continuous improvement in policy formulation.' She advocates that advisers should try to be familiar with the fullest range of possible arguments and ideas in their policy areas and be able to learn from past policies, rather than be 'trapped in ideological stereotypes' or be 'dazzled by the next new policy fashion being marketed as best practice'.

Three cheers for all that. But given the powerful institutional constraints – which may be subsumed under the term 'bureaucratic politics' – that act on policy advisers, we should not underestimate the real difficulties they would face in trying to follow this advice. Notwithstanding this, the metaphor of 'policy whiplash' connotes a strongly negative interpretation of policy change (who thinks of whiplash as being something desirable?), whereas from a political – indeed, democratic – standpoint it may be a great virtue. Although I do not attribute it to Baehler, there could be a suggestion in the idea of 'whiplash' that policy – formulated largely by 'experts' – needs a measure of protection against the capricious behaviour of elected politicians. Yet one person's 'whiplash' is another's democratic responsiveness. (Many Māori would certainly welcome some 'whiplash' on the foreshore and seabed policy.)

It would also be interesting to know how a policy analyst using the tool of intervention logic could build into his or her calculations the consequences of 'whiplash' without at the same time undermining the utility of their analysis. The only way to do it would be to factor in a change in government as a policy 'risk', but the idea of risk in this context must also address the question: a risk for whom? Again, one person's policy risk is another's political opportunity.

Conclusion

Whether or not there was any sort of general social and political consensus that held together in New Zealand during most of the 1950s (after the 'militant' unions had been dealt to) and 60s, it is certainly true that by the mid-1970s any such consensus was being put under great strain as adverse economic conditions hit home. This situation made underlying conflicts more apparent at the level of everyday politics, and

governments' attempts to forge some new social and political agreement were manifest in the efforts of the New Zealand Planning Council. Reasonable people could talk reasonably together. Yet, political power in the form of authoritarian Muldoonism controlled the public policy agenda, and when that was swept aside by a disillusioned electorate, David Lange's government quickly cast aside the pretence of consultation and planning, and went for broke in its efforts to impose solutions from above. An autocrat was cast aside in favour of a group of technocrats.

Policy analysis played its role in all of this, especially under the Lange government. But it was the appeal to the authority of theoretical knowledge that carried the day politically, not the theoretical knowledge itself, since it was not produced in a political vacuum. In this way, knowledge – or what passed as knowledge – was given the legitimacy of power.

The trouble with rationalist interpretations of public policy-making is that they fail, continually, to properly acknowledge the centrality of political power. Of course, it is not that an intellectual or practical choice has to be made between the application of social science research, on the one hand, and the exercise of political power, on the other. What is always at issue is the ongoing relationship between the two (Gregory, 1998). The rational wheel of policy analysis is reinvented in various new guises, as if little or nothing is learned from earlier policy nostrums and failed expectations. The worst outcome of this is not so much policy failure (itself a politically subjective term), but the continued tendency to attribute the blame for such failures to politicians, often considered to be obtuse, opportunistic, or plain stupid. For these reasons any adequate education for those whose business it is to apply their intelligence to the quest for 'better' public policy should include an appreciation of the nature of power and politics and how it provides the dynamic of policy choice. Simply acknowledging the importance of politics then proceeding as if it were ultimately decisive simply will not do. I have used here for illustrative purposes a simple reference to one of history's great political and economic thinkers, Karl Marx. But we do not have to be, or be considered to be, Marxists if we acknowledge that one of the great virtues in his writings was to identify squarely the conflictual nature of a capitalist political economy. Call this 'realism', if you like, but if

those who work in government do not have an adequate understanding of the dynamics of politics and political institutions, and believe that somehow they can be circumvented in the pursuit of rational policy-making, then they will continue to be frustrated.

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Robert Gregory is an Associate Professor of Public Policy and Administration in the School of Government at Victoria University of Wellington. His research interests include state sector reform, issues of accountability and responsibility in government, and public policy making theory.

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Diversity and Public Policy

Jonathan Boston and Paul Callister

Diversity is a potential source of vitality, creativity and growth. At the same time, diversity can be a source of conflict ...

Levin and Rittel (1994)

Diversity is what makes life interesting, but also difficult.

Workshop participant¹

Introduction

The issues surrounding the nature and impact of diversity – and especially ethnic and social diversity – have attracted growing interest in many countries during the past decade. For the purposes of this discussion the term ‘social diversity’ is used to embrace diversity in values, religious beliefs, life circumstances, lifestyles and other aspects of the human condition.

In the academic world, the literature on diversity has mushroomed, particularly that dealing with the issues of multiculturalism, pluralism, minority and indigenous rights, cultural justice and special treatment (i.e. affirmative action/positive discrimination). There is also a burgeoning literature on the geographic dimensions of diversity, not to mention the increasing diversity of social values and attitudes. For their part, governments across the globe have been taking an increasing interest in the broad-ranging policy issues generated by diversity – prompted partly by changing migration patterns, changes in family structures, ethnic conflicts, the rise of religious fundamentalism and the growing risk of terrorist attacks.

In New Zealand, for example, a comprehensive Diversity Action Programme was launched at a Citizens Forum at Parliament on 23 August 2004. This programme, which is designed to recognise and celebrate cultural diversity and encourage racial and cultural harmony, is a citizens’ initiative facilitated by the Human Rights Commission and the race relations

conciliator. The Citizens Forum endorsed a series of ten steps to strengthen New Zealand’s cultural diversity, including the establishment of an electronic forum, encouraging research on cultural diversity and promoting diversity via the media. Subsequently, on 23 August 2005, a national Diversity Forum on the challenges of cultural diversity was held at Te Papa attended by around 500 people.

Within the public sector, in April 2005 the Ministry of Women’s Affairs and the Treasury hosted a joint workshop attended by officials from 13 government agencies to discuss issues associated with developing and delivering public policies in the context of diverse population groups. The workshop identified a number of issues requiring further attention. These include how diversity is affecting the statistical data required for policy purposes and the necessity for a coordinated, whole-of-government approach if the needs of diverse population groups are to be addressed effectively.

For its part, the Institute of Policy Studies (IPS) has been undertaking a project on issues relating to diversity since 2002, prompted by a request from departmental chief executives (via the Chief Executives Forum). This has included the holding of workshops and discussions to promote debate amongst policy advisers and decision-makers on the significance and potential implications of changes and trends in social groupings, identities and life circumstances. Particular attention has been given to the consequences of the nation’s increasing economic, ethnic, cultural and social diversity for policy design and implementation. As part of this project, the IPS will be publishing a co-authored book in early 2006 on *The Policy Implications of Diversity*.

¹ This quote is drawn from views expressed at one of two workshops held in September 2002 at Victoria University of Wellington. The participants in the workshops included departmental chief executives, other senior officials, and staff and students from Victoria University

The purpose of this article is to highlight just a few of the issues of importance to policy makers arising from recent discussions and debates in New Zealand over diversity. First, why is diversity of relevance to policy makers? Second, how should governments respond to diversity? Third, how does diversity affect policy implementation and service delivery? And finally, what are the implications of diversity for policy research and evaluation? Clearly, this is a complex area and readers wanting to delve more deeply into the debates are encouraged to read the main report.

Defining diversity

But first, a few words about meanings and definitions. The words 'diverse' and 'diversity' have multiple meanings and invoke many different connotations and associations. As with numerous other words, the meanings and connotations vary depending on the context. The word 'diversity', for instance, is used descriptively and prescriptively – as a term to depict or explain particular empirical phenomena and as a principle or criterion to guide action and policy.

As a descriptive term, 'diversity' is often used interchangeably with words such as heterogeneity, variety, variegated, multiplicity, multifarious, mixture and difference, sometimes with divisions, divergence, dissimilarity, disparities, polarisation and inequality and occasionally with discrepancy or inconsistency. In keeping with this, a diverse state of affairs is typically contrasted with uniformity, homogeneity, sameness and standardisation, and sometimes with conformity, convergence, equality or consistency. Sometimes diversity is simply shorthand for that which is not the norm.

In recent decades, 'diversity' has increasingly been used as a shorthand way of referring to social and cultural diversity, and more specifically to ethnic or racial diversity. More specifically, as Wood (2003, p.87) has argued, in a North American context "when people speak of diversity, they tend to think first of racial issues. Race remains the focal meaning of diversity ...". While the term 'ethnicity' rather than 'race' is generally used by researchers and policy makers in New Zealand, the situation in this country is probably similar. But of course the word diversity also refers to many other phenomena and is invoked in many other contexts.

Why is diversity of relevance for policy makers?

Why should policy advisers and policy makers take diversity seriously? There are at least three reasons. First, diversity is relevant to the *context* in which policy-making occurs, and thus affects the design, delivery and effectiveness of many policies; second, diversity raises important questions about the *design of public institutions*; and third, diversity is increasingly being advanced as a *policy principle* – if not in New Zealand, then certainly in other jurisdictions.

Diversity as context

Various kinds of diversity, together with changes in the degree or level of this diversity, have potentially major implications for the policy-making environment. For instance, as social and cultural diversity increases there are likely to be implications for all aspects of the policy process or policy cycle – agenda setting, research, policy formulation, consultation, decision-making, implementation and service delivery, and evaluation.

To illustrate, other things being equal, a more diverse society will mean a wider variety of preferences, needs and aspirations. There will be more and different agendas (or policy demands). And many of the agendas will be incompatible, thus posing harder and sharper questions for policy makers. For instance, how do policy makers foster social cohesion and national unity in a context of increasing cultural pluralism and conflicting values? Further, what are the limits to tolerance? What kinds of diversity are simply unacceptable, and thus not to be tolerated, in a free and democratic society?

The relevance of such questions is evident in many areas of public life. Various cultural and religious traditions, for instance, do not accept that women should have full equality with men. How should the state respond in such situations? To be more specific:

- What kind of head covering, if any, should female students be allowed to wear in school?
- Should female students be required to undertake physical education programmes and dress

² This issue was raised in early 2005 when a Corrections Department probation officer, Josie Bullock, refused to sit at the back at a Corrections Department poroporoaki. There has been much subsequent debate in the media about this matter (for example, Rata, 2005).

appropriately, irrespective of their religious convictions?

- Should a woman, for religious reasons, be allowed to cover her face in court?
- Should women be required to sit behind men in poroporoaki being held in government institutions?²

Further, there is the question whether customs associated with a particular culture have a place in government institutions and public life more generally. Another issue is whether particular customs should take precedence over individual human rights. For example, Māori and non-Māori alike may practise gender role differentiation in private settings – on marae, in cultural groups, and in places where people agree to operate according to those customs – but whether it is acceptable in the public realm is a question all New Zealanders, not just Māori, need to debate.

Or to take some different examples: how should policy makers respond in a context where there are very diverse views – arising from different religious and philosophical traditions – concerning such matters as the merits of stem cell research, cloning, genetic modification, voluntary euthanasia, the smacking of children, the adoption of children by same-sex couples or the claimed spiritual value of particular sites? Is it acceptable for development projects to be thwarted because the proposals in question are believed to threaten the well-being of a *taniwha* (the existence of which is not open to scientific investigation)?

Equally controversial, diversity may well generate demands for ‘special measures’ or programmes of affirmative action for certain (disadvantaged) groups. Such initiatives have been common in many jurisdictions, especially those with large ethnic inequalities and/or disadvantaged indigenous peoples. Whatever the rationale for, and efficacy of, such programmes – and the debate on this continues to rage (see Bowen and Bok, 1998) – there can be no doubt that preferential treatment is a difficult concept to ‘sell’. The strong public endorsement of the Orewa speech in February 2004 by Dr Don Brash (the leader of the National party) in which he criticised special measures to assist Māori highlighted the sensitivity of such initiatives in New Zealand.

At another level, a more diverse society poses questions about how policies should be formulated. How should

diversity affect the way government departments and agencies consult with stakeholders over the development of new policies and programmes? More specifically, how much effort should be put into consulting with very small ethnic communities (given that there are now many dozens of such communities in New Zealand)? A key point here, of course, is that consultation can be costly – both in time and resources – and can create a very wide set of views that are difficult to reconcile. Against this, as diversity increases there is a risk that smaller minority groups will find it increasingly difficult to have their voices heard and taken seriously.

In terms of policy design, diversity poses other kinds of questions. When and how should the design of policies be changed to meet the needs of more diverse populations? Or, to put it differently, how do we ensure the achievement of similar outcomes (or common standards or common levels of compliance) when implementing policies in a context where the target population is very diverse? Indeed, should we actually seek similar outcomes at all, or should we tailor the desired outcomes to suit the requirements of the different subsets of the target population?

Furthermore, what specific types of diversity count (or should count) for policy purposes? What characteristics of a population or group actually matter and when are differences important and why? Is religious belief as important, or as relevant, as gender and ethnicity? How much within-group diversity is there and to what extent should this shape the formulation and design of public policies?

Answers to such questions are likely to be highly context-dependent. For example, a particular social difference or cleavage may be of little political importance at one point in time, only to become highly salient at another. Factors that may influence the political salience of social differences will include changes in the distribution or relative size of the respective population subsets and widely-reported, ‘critical’ events that draw public attention to particular differences (e.g. major acts of violence by, or against, members of an ethnic minority). While changes in population distributions and proportions are, at least to some degree, possible to predict (e.g. based on demographic trends and migration flows), ‘critical’ events typically are not.

There are other reasons, too, why diversity is of relevance to policy makers. Increasing diversity of certain kinds

(e.g. income disparities, health inequalities or religious pluralism) may well generate demands for a government to take action to halt, or reverse, this state of affairs. For some citizens, greater ethnic diversity may be regarded as a threat to their particular culture or sense of national identity. Alternatively, there may be concerns about the fiscal costs of meeting the needs of certain immigrant groups (e.g. non-English speaking refugees). In short, certain types of diversity, and in particular changes in the nature or degree of diversity, may create political pressure for government intervention.

Diversity and institutional design

Another set of questions that diversity poses for policy makers is the design of public institutions. At the political level, for instance, there is the issue of whether there should be separate seats in the legislature (and/or at the local government level) for specific ethnic communities. In New Zealand, there has been separate parliamentary representation for Māori since the nineteenth century. In recent years, this has become increasingly contentious, with the National and ACT parties at the 2005 general election calling for their abolition. Against this, the Māori party campaigned on a platform to have these seats entrenched – and succeeded in winning four of the current seven seats. Given the composition of the new Parliament, it is highly unlikely that either group will achieve its ambitions. But there can be no doubt that the matter will remain of high political salience.

Within the public service, social diversity has contributed to the creation of specific population-based ministries. But the practice in New Zealand has been far from consistent, and the effectiveness of such ministries remains a matter of contention. Currently, there are three population-based ministries:

- Te Puni Kōkiri (The Ministry of Māori Development);
- The Ministry of Pacific Island Affairs; and
- The Ministry of Women's Affairs.

Also, within the Ministry of Social Development there are a number of separate population-based sub-groups, including the Office for Senior Citizens, the Office for Disability Issues and the Ministry of Youth Affairs, while there is an Office of Ethnic Affairs within the Department of Internal Affairs. Additionally, there are a number of non-departmental bodies that are designed

to serve the needs of particular population groups, such as the Children's Commissioner, the Families Commission and the Māori Language Commission.³

Against this, there are no separate agencies with a specific mandate to consider the needs and interests of a number of distinctive population groups, namely Asian peoples, other 'new settlers' and refugees. And while there is a Ministry of Women's Affairs, there is no separate agency for men. It may well be that the case for establishing additional population-based agencies is weak, while others may have outlived their usefulness. Nevertheless, in considering the overall design of the machinery of government there is an issue of whether, and under what circumstances, there is a case for establishing a population-based agency, as opposed to having organisations based on specific functions, services or policy objectives. At present, there appears to be no agreed set of criteria for addressing such matters.

Diversity as a policy principle

Diversity is also of relevance to policy makers because it is sometimes advocated as a policy principle or criterion, particularly in relation to the practices of specific institutions. For example, the achievement of a more diverse staff is often advanced as a desirable goal within both public and private sector organisations, and diversity has been promoted as an important criterion for the selection of students by many leading universities, especially in the United States (see Barry, 2001; Kymlicka, 1995; Bowen and Bok, 1998). Indeed, it has been suggested that the attention, weight and significance attached to diversity has given it the hallmarks of an ideology (Wood, 2003, p.92). Against this, critics of the diversity thesis – as it is sometimes called – maintain that diversity is a subsidiary and contingent ethical principle and that it is only valuable to the extent that it represents an expression of human endeavour, ingenuity and individuality, and/or contributes to human well-being.

As an ethical principle, diversity is defined, applied and justified in a number of different ways. A relatively common argument is that diversity is desirable because it "enhances the quality of life, by enriching our experience, expanding cultural resources" (Falk quoted in Kymlicka, 1995, p.121). The basic proposition, in

³ There is often an overlap between these population groups.

other words, is that diversity creates of more varied, vibrant and interesting world. In so doing it expands the lifestyle options and choices available to individuals, families and groups. Examples include the positive impact of a diverse cultural environment on the choice of restaurants, exhibitions, musical performances, sporting fixtures and other leisure activities. Related to this, it is argued that diversity brings various aesthetic and educational benefits, thereby enriching human knowledge and understanding and enhancing overall well-being.

Alternatively, an analogy is sometimes drawn between the case for biodiversity and the case for social diversity. In the same way that diversity in the natural world enhances the resilience of ecosystems and their ability to adapt to change, so too it is argued that social diversity creates the conditions for greater social and economic resilience. For instance, faced with rapid technological or environmental changes, some patterns of social organisation may be more adaptable, and thus durable, than others. Societies with more varied social arrangements may thus prove to be more resilient and sustainable (in some sense) than those that are relatively homogeneous. In the business world, it might be argued that firms with more diverse staff, including having a range of cultural backgrounds and language skills, may be more flexible and thus better able to 'read' and adapt to changing market conditions both internally and within the international market place.

To the extent that diversity enriches human life and/or contributes to greater societal resilience, it might be contended that governments should encourage various kinds of diversity. For instance, it is sometimes argued, on the basis of the diversity thesis, that governments should give particular attention to promoting and fostering the interests of minority groups, such as indigenous and cultural minorities. Likewise, it is suggested that state funding for the creative and performing arts should be biased in favour of artist endeavours that attract only limited followings. The aim, in this context, is not simply to encourage and reward those of high artistic talent but also to nurture and keep alive a wide range of artistic pursuits and traditions.

Yet even strong supporters of the diversity thesis generally acknowledge that diversity is not an unqualified good, and that the principle of diversity, however defined and specified, is not universally applicable. Diversity may be valuable (and thus a desirable objective

or outcome) in some circumstances, but not in others. A key question, therefore, concerns the circumstances under which diversity is morally relevant and the conditions under which the pursuit of *more* diversity is an ethical imperative. These are questions that policy makers cannot ignore.

Finally, in New Zealand, discussions concerning diversity and its relevance for public policy necessarily intersect as some point with the Treaty of Waitangi. Previous issues of the *Policy Quarterly* have already dealt in some depth with the nature, role and significance of the Treaty for contemporary policy-making (see Ladley, 2005; White and Ladley, 2005), so we will not discuss this matter in detail here.

How should governments respond to diversity?

The question of how governments ought to respond to (increasing) diversity raises many issues. First, some types (or levels) of diversity are, at least partly, the result of government policies. For instance, migration policies affect the ethnic and cultural mix of a population. Likewise, tax and social policies influence the pattern and distribution of income. Thus, to some extent they are matters over which governments have a (modest) degree of control.

Second, changes to the nature and level of diversity may be an unintended (and possibly undesired) outcome of a particular government invention or policy setting. Migration policies, for instance, are not usually motivated primarily by considerations of diversity. However, they may well contribute to changes in the population mix that have significant implications for other areas of government policy, such as education, health care, housing and social services.

Third, attempts to influence one particular type of diversity may well affect another type (or types). For instance, efforts to facilitate a more diverse range of services in the interests of extending consumer choice may generate a more diverse range of outcomes (e.g. in terms of quality or standards).

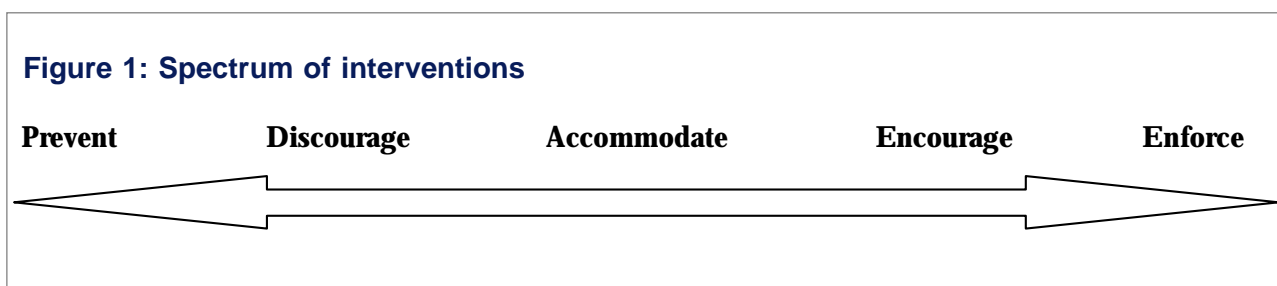
Fourth, with respect to the specific policy options available to governments, responses to diversity can range from enforcement at one extreme to complete prevention at the other, with neutral or tolerant responses in between, as depicted in Figure 1. The response in a particular context is very likely to reflect

views about the benefits or otherwise of the type of diversity in question. If the benefits are seen to be extremely valuable or fundamental to national identity, for example, then the response may be strong legal enforcement. By contrast, where diversity is considered harmful, either to individuals or society as a whole, then the responses will endeavour to minimise or constrain its extent or its effects. In between, there are a number of other responses, which could include encouraging, discouraging or tolerating diversity. In addition to the possible options depicted along the continuum in Figure 1, in some cases the government may decide that a mix

the implications of social cohesion, the speed of implementation, and the likely effectiveness of the intervention.

The implications of diversity for policy implementation and service delivery

Greater diversity has obvious implications for the provision of publicly-funded services – whether these take the form of accident compensation, housing, counselling, child care, education, health care, income



of responses is needed. Alternatively, diversity may be deemed irrelevant for policy purposes.

In determining the appropriate course of action, it is important to bear in mind that there are likely to be differences of view, both within New Zealand and beyond, about the benefits or otherwise of diversity. Some types of diversity are widely regarded as positive, some are widely regarded as negative, while yet others are strongly disputed. Examples of these different views are highlighted in Table 1. Moreover, in deciding an appropriate response to different types of diversity, a range of criteria need to be considered, including the fiscal costs, considerations of fairness or equity,

support (and other kinds of financial assistance) or social work services. In short, as the community becomes more socially diverse, so too do the concerns, needs, preferences and aspirations of clients (or service users).

Greater cultural diversity has implications for such matters as:

- the nature of the information supplied to users (e.g. the number of languages into which material needs to be translated);
- the cultural appropriateness of the services being provided;
- the knowledge, cultural competence, skills and attributes of staff;

Table 1: Views on different types of diversity in New Zealand

Positive	Disputed	Negative
Wide range of consumer goods	Family types (same sex relationships, etc.)	Age-related mortality (premature mortality amongst some groups)
Choice of television channels	Diversity of sources of migration	Extremes of income
Choice of ethnic restaurants	Different types of religious fundamentalism	Ethnic differences in educational achievement
Choice of tertiary education provision	Differing cultural attitudes towards women	Extremes in housing standards

- the range of services (and choices) available to users; and
- the kind of consultation undertaken.

Plainly, the implications will vary significantly across different policy domains: the massive increase in international students in tertiary education organisations since the late 1990s generates rather different challenges to those posed for social policy as a result of increasing family diversity. As a general rule, however, greater diversity can be expected to require more *flexibility* in the nature of the services provided and the manner of their provision. Hence, a uniform or one-size-fits-all approach is most unlikely to be satisfactory.

What precisely this means in relation to the kind of flexibility built into programmes will depend on the services in question. Nevertheless, service providers may well require more discretion over what kind of assistance is supplied so that the services can be tailored to suit the specific requirements of different clients (or client groups). In some contexts, this may entail a form of case management, rather than standardised, rule-based approaches.

In practical terms, such approaches are likely to require not only additional training and cultural sensitivity, but also the recruitment of different types of staff (including, for instance, translators and interpreters, and staff from a more diverse range of ethnic and cultural backgrounds). While this will probably impose somewhat higher costs on providers, particularly in the short run, over the longer term organisations may become more effective and efficient and the quality of the services can be expected to improve.

Equally, greater diversity (or new forms of diversity) may entail more reliance upon private providers (or perhaps a wider range of such providers). This, of course, raises all the usual questions surrounding contracting, governance and accountability. Alternatively, consideration may need to be given to whether greater diversity provides a justification for the devolution of certain responsibilities to a lower level of government (or at least a larger role for local and/or regional government in the actual delivery of certain services).

Both contracting out and devolution pose issues pertaining to social justice, especially if there is any

suggestion that different groups of the population (perhaps on an ethnic or regional basis) are receiving more favourable treatment than others without this being clearly justified on the basis of need (or desert). Reliance on a greater range of providers and more varied forms of provision can raise other kinds of issues, not least the problem of ensuring that services are appropriately integrated or joined-up, so that individuals are treated as *whole persons*. This is important on a number of counts – firstly, for minimising the compliance and other transaction costs faced by service users, and secondly, for ensuring that those with multiple needs receive the appropriate forms of assistance.

Diversity poses a number of other challenges for service delivery. One of the key features of the increasing diversity of New Zealand society is the fact that often-used social categories and distinctions no longer seem to be appropriate, or at least they fail to recognise the complexity and variegated texture of social reality. To take but one example: suppose that, for the sake of argument, individuals can be divided neatly into two distinctive ethnic groups with similarly distinctive cultural perspectives. Next suppose that the aim is to make some types of service delivery culturally appropriate. Now, this may be possible if individuals are dealt with separately and *individually*. But note the complications that arise when the service is focused upon *families* rather than individuals. Families, after all, matter. They are a fundamental social institution. But, due to the relatively high rates of ethnic intermarriage in New Zealand, they often comprise individuals from different ethnic backgrounds.

Interestingly, in this regard, the Family Court is investigating ways to become more sensitive to the needs of Māori families. This is appropriate and overdue. Yet many of the couples in strife consist of an individual who identifies himself or herself as ethnically Māori and the other who does not. Hence, while one parent may feel they “have no exclusive rights to possession of their children – they hold them in trust for the whānau, and the wider hapu and iwi” (Law Commission, 2004, p.3) – the other parent may not. Differences in cultural values could even be part of the reason for separation for some couples. Similarly, reducing Māori infant mortality is an important goal. Yet, a policy of “by Māori for Māori” may not always be appropriate in those situations where the mother of

the Māori infant identifies herself as ethnically non-Māori. Reflecting the difficulties of defining families rather than individuals by ethnic group, Statistics New Zealand (2004) has already abandoned the ethnic classification of both households and families.

Finally, and related to this, diversity raises important issues about the relative merits of targeted versus universal forms of social assistance. At first sight, it might appear that the greater the degree of diversity the greater the potential merits of targeted or selective forms of assistance, whether these be targeted on the basis of income (and/or wealth) or on the basis of other attributes (e.g. age, ethnicity, etc.). Paradoxically, however, the greater the diversity of the population, particularly in terms of family circumstances, the more difficult it becomes to target social assistance (and other forms of social support) in an equitable, efficient and effective manner. For instance, the Labour-led government in 2004 announced a major package of proposals – *Working for Families* – to improve the incomes of low-income families, particularly those where one or more parent is involved in paid employment. In order to target assistance in a manner deemed to be effective, the package needed to take into account many different considerations and ended up being highly complex, thus adding additional complexity to an already complicated system of social assistance. Given the increasingly varied nature of work and family arrangements, it could be argued that a simple, universal child benefit, of the kind introduced in the 1940s, might well be a more appropriate way of providing social assistance. It would minimise administrative and compliance costs. It would guarantee a high take-up rate. And it would help avoid the high effective marginal tax rates (and related incentive problems) associated with targeted forms of social assistance.

What are the implications of diversity for policy research and evaluation?

The tools used by researchers and policy makers have a major influence on how we conceptualise, measure and report diversity. Moreover, diversity influences the types of policy research and evaluation that are, or should be, carried out in New Zealand, and the manner of carrying out such research and evaluation.

Understanding diversity has implications for the type of data collected, what methodologies and disciplinary approaches are used to analyse these data and who might be involved in the research process.

In New Zealand, a considerable amount of time, effort and money goes into collecting quantitative data in the form of official statistics, administrative data gathered by government agencies and data collected by the research community. Much effort also goes into continually improving and expanding data collections. Yet, despite our existing rich datasets, in order to better understand diversity new approaches are sometimes needed.

Particular types of data can disguise the complexity of people's lives. For instance, in measures of poverty it is well known that longitudinal data provide a better understanding of the dynamics of poverty. Some people have only a short period in poverty, while for others this is a state they cannot easily escape. It is important to understand this diversity of experience when considering ways to reduce poverty. However, a shift from cross-sectional to longitudinal studies is costly and creates a major response burden for respondents.

At times, a greater use of qualitative research can inform policy makers about the real diversity that exists underneath relatively simple quantitative measures. Despite the potential value of qualitative research to shed light on people's reasons and choices, as well as to assist in interpreting quantitative information, researchers and policy makers have struggled to find ways of bridging the worlds between deep and rich qualitative research and wide but reductionist quantitative research. Often the quantitative researchers see qualitative research as unrepresentative, while qualitative researchers find simple measures misleading of the true complexity of life. Nevertheless, recent scholarship highlights promising methodological solutions to these problems (Wolf, 2004).

Analysing social problems from a variety of disciplinary perspectives may also assist in the recognition of diversity. Increasingly, multi-disciplinary, multi-method research is being promoted in the social sciences. But this requires large, complex and expensive projects. There is always going to be a tension between funding a few large, long-term projects and funding a more diverse set of smaller research projects. Diversity in social science approaches may be as important as diversity in other areas of life. Given

the small number of public research funders, and the very limited research resources in New Zealand, there is not much potential for diverse projects, premised on quite different assumptions, methodologies and analytical techniques, being supported.

However, there are some relatively simple ways of ensuring diversity in the data, and the underlying populations, is identified by all researchers. These include:

- not focusing on averages but on distributions;
- not overly emphasising small differences in the data; small differences can quickly become group stereotypes;
- giving more attention to ‘controlling’ for variables – for example, considering the independent effect of, say, age, ethnicity and gender from education when considering employment outcomes; and
- creating and analysing ‘fuzzy datasets’ (e.g. Ragin, 2000). This allows a person to be ‘more in’ or ‘more out’ or ‘barely more out than in’ of a group rather than being assigned either in or out of a group.

However, even some of these relatively simple ways of ensuring diversity is identified require researchers to be able to handle more complex quantitative data. As discussed in many reports on social science in New Zealand, this requires a higher level of skills in institutions such as universities and policy-making agencies. It also means that researchers need to be able to present results in terms of ‘simplified complexity’ rather than ‘overwhelming complexity’ to diverse audiences.

Finally, there is a strong view within parts of the New Zealand social science and policy-making community that diversity of *researcher* is of great importance when undertaking social science research. In recent decades, three key target populations for policy research in New Zealand have been women, Māori, and Pacific Peoples.

The idea that, if at all possible, Māori should play a key part in researching Māori, that women should ideally be involved in researching women, and that, where possible, Pacific Peoples should be involved in Pacific research has been promoted in New Zealand by some social scientists. If research on women has been traditionally dominated by men, and research on Māori and Pacific Peoples has not included researchers from within these groups, on one measure there has not been

a diversity of researchers. Yet, there is also the potential to reduce diversity of approaches and methodologies if the identity of the researcher becomes the key consideration in the research process. Perhaps even more importantly, however, the call for the characteristics of the researcher to closely match the characteristics of those being researched often focuses on variables that are not easy to define and, when defined, often disguise much heterogeneity.

While defining women seems relatively easy, defining Māori, Pacific Peoples and New Zealand Europeans and other ethnic groups gets more difficult. Issues of ethnic intermarriage, multiple ethnicities, multiple ancestries and questions of whether ancestry or culture defines an ethnic group, add some major complexity in these processes. The issue of who should research whom would become even more difficult if issues such as class, education, sexual orientation and power relations within groups were brought into the analysis. For example, there is a wide diversity of lived experiences and viewpoints within ethnic groups and amongst women. There can be unacknowledged complexities in the identity of both those doing the studying and those being studied.

Conclusion

The policy implications of diversity range widely. For many of those involved in the policy-making process, the primary challenge posed by diversity relates to the greater variety of preferences, needs and aspirations that have to be taken into account in the design and delivery of public services. In practical terms, this raises questions over whether, how and the extent to which the goals and parameters of the policy may need to be changed to accommodate a more diverse range of users, and how the needs of different groups can best be met.

At a more fundamental level, however, the subject of diversity resonates in important ways with broader questions about national identity and the role of the Treaty of Waitangi in public life. To the extent that New Zealand is becoming more diverse, especially in cultural and ethnic terms, then the character of the society is changing. This in turn is altering, albeit often in subtle and complex ways, how New Zealanders view themselves (and others). And

this, of course, affects the context in which policy debates are structured, the nature of the discourse, the range of voices wishing to be heard and the nature of the demands upon the political system.

Diversity thus affects the context for public debate about a wide range of vital issues. Whether directly or indirectly, it takes us to questions that lie at the heart of contemporary New Zealand politics and society.

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Jonathan Boston is Professor of Public Policy in the School of Government and Deputy Director of the Institute of Policy Studies. His research interests include public management, government formation and coalition management, tertiary education, and welfare state issues.

Paul Callister is a Senior Research Fellow in the Institute of Policy Studies. His main research interests lie in broad area of social policy and include issues relating to ethnicity, work-life balance, parental leave, migration patterns, and labour market behaviour.

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