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Editorial Note

This is the largest issue yet of *Policy Quarterly*, with six separate articles tackling a diverse range of important policy concerns, together with a response to a piece by Ann Brower in a previous issue. Leading this issue is an article by Professor Gary Hawke, who retired from Victoria University of Wellington at the end of 2007 after almost 40 years of service, most recently as Head of the School of Government. Based on a earlier speech, he reflects on some of the key policy issues that he and other members of the School have been grappling with in recent years and makes a strong plea for the School to give greater attention to Asia, including Asian modes of thinking.

Next, Maureen Baker explores, from a comparative perspective, the social policy implications of relationship breakdown in New Zealand, giving particular attention to the issues of child custody and support. She highlights how the complexity and seriousness of such issues has been exacerbated by high separation rates, growing maternal employment and increased migration flows – the last of which makes custody and the enforcement of child support arrangements all the more difficult.

Paul Callister tackles a very different but no less sensitive issue, namely whether and under what circumstances skin colour may matter. He also considers why New Zealand researchers and policy makers have been reluctant to address the issues surrounding skin colour and whether there is a case for using measures other than self-identified ethnicity (such as skin colour) in official statistics and other large surveys.

Geoff Rashbrooke addresses a set of issues in the area of retirement income, specifically the relative merits of *draw down* and *annuitisation* (i.e. whether retirees are better off drawing down their savings over a fixed period of time or purchasing an annuity, for instance from a life insurance company, where the provider guarantees to pay the retiree a regular amount for as long as the person is alive). From an efficiency perspective, Rashbrooke argues that annuitisation is preferable to draw down, but he concludes that without additional state intervention annuity products seem destined to remain unattractive.

Bernardine Vester, the recipient of the Holmes Prize in Public Policy in 2007, examines the relationship between local government and the education sector in New Zealand – a relationship that is much less well developed than in many other countries, notwithstanding the legislative responsibilities of local authorities to promote community 'well-being'. As a way forward, she proposes the adoption of a 'community governance framework' and explores how, within such a framework, the relationship between schools, local government and the community might be advanced.

Responding to an article by Ann Brower's in *Policy Quarterly* (Vol. 3, No. 4) on land reform in the high country of the South Island, Neil Quigley advances a very different approach to tenure review and property rights. These arguments, in turn, are challenged by Brower, in a brief response to his analysis. Whatever the relative merits of these opposing perspectives, the editors welcome debate of this kind and invite readers to share their views and responses to the articles we publish.

In the final article in this issue, I discuss the current global policy framework for addressing climate change and highlight the key decisions of the recent UN conference (COP13) in Bali – so-called 'Bali roadmap'. While the outcome of the negotiations during 2008-09 to secure a new multilateral treaty for the period beyond 2012 remains uncertain, I argue that New Zealand has a strong interest in securing a robust and ambitious agreement, and needs to be active in finding solutions to the many complex issues requiring resolution.

Jonathan Boston
Co-Editor

Internationalisation and the Future of the School of Government

Gary Hawke

The School of Government has achieved a good deal in its first five years. This includes developing a strategic studies programme to go beside those in public management and public policy, and ensuring that students can move among these programmes. There is still work to be done to get the most out of our suite of programmes, and one of the chief tasks of the next five years is to enhance the international element in our teaching and research.

Origins

Success has many patrons, while failure is an orphan. I am therefore glad that there are numerous versions of the origins of the School of Government.

The path that was obvious to me included a report which Simon Murdoch wrote when he was a visiting fellow at the university, and a working party in which I participated which was chaired by Matthew Palmer, the pro-vice-chancellor and dean of law. There were intervening steps, but while they kept alive the idea of a school of government they did not have a direct influence on the crucial decisions. Matthew Palmer, reporting to the then vice-chancellor, Stuart McCutcheon, managed the creation of the School of Government.

On several occasions I have heard state services commissioner Mark Prebble remark that senior public servants were impressed that after they had commented on how difficult it was to relate to the university, Victoria reorganised itself and provided an appropriate mechanism.

Mathew's report established a mission and vision for the school. I have usually simplified it to something like 'bringing academic expertise and knowledge to bear on the problems of the public sector as perceived by the public sector' – I always had it in mind that we might assist the public sector to share our view of what is important, but we would rely on persuasion, not on any authority of our own.

We developed the even simpler slogan, 'building capability in the public sector', which is not a matter of deep learning or precision but which captures the core of what we are about. It is because I expect international considerations to be more important to the capabilities of the future public sector that I expect it to require more from the School of Government.

Objectives

When I accepted the position of head of school, I spelt out in a letter to Matthew of 2 December 2002 how we should understand the mission of the school. It included some very important points (which were eventually achieved):

i There will be a dedicated carpark for the head of the School of Government at Rutherford House or Old Government Buildings at a cost to me no more than the minimum charged elsewhere for reserved outdoor carparks on the Kelburn or OGB campuses.

ii The university will maintain Macintosh computing facilities for the HoS while I occupy the position.

It also spelt out some key components of what the school could be expected to achieve, including:

a The overall objective of the appointment is to develop a thriving School of Government which attracts a field of appointable candidates to be the second HoS in five years' time.

b In elucidating the term, 'thriving' in para a above, attention will be focused not only on the ambitions of VUW as the university in the capital city, but also on the very real constraints on the investment which the University is able to make in the School

of Government. … university decisions which affect the income of the School of Government from EFTS will affect equally what is expected from the School.

c The vice-chancellor is committed to facilitating the development of the School of Government as a key element in the university's strategic vision and accepts that this requires personal support in developing and maintaining relationships with the public sector and in assisting the School to be an effective gateway for the public sector to all the resources of the university. (I accept that we do not want a cumbersome set of institutions which require the vice-chancellor's time and will look for appropriate streamlining.)

We achieved the overall objective of what is clause a above. Clauses b and c established the important external objective of the school: using available resources to make the public sector value university knowledge and expertise. Matthew and I were content to leave implicit that this was to be achieved through teaching and research. The university has a clear statutory objective, 'the advancement of knowledge, and the dissemination and maintenance thereof, by teaching and research', and we were part of the university. Furthermore, it was the credibility of independent analysis that made the public sector want ready access to the university through a school of government.

External focus

The School of Government was intended to have an external focus. We can claim considerable success in achieving it. I have written elsewhere on our successes and challenges in our teaching and learning programmes (Hawke, forthcoming), and here I want to concentrate on our research-related activities. These mostly relate to the 'advancement of knowledge', but the drafters of the university objective were clearly aware that both teaching and research could contribute to all of the aims of advancement, maintenance and dissemination, and that is certainly how I envisaged the activities of the School of Government.

The school generates a range of research. It was formed by bringing together an existing teaching activity with the Institute of Policy Studies and its satellite research centres. In five years we have made progress towards aligning the incentives and interests of the component parts, more slowly than some of our public sector stakeholders thought appropriate and more rapidly than some of my colleagues wished. The range will always include individual scholars pursuing their own interests and generating standard scholarly publications, whether or not through joint publications with other scholars who have similar interests. It will extend to consultancy on contemporary issues of management and policy development. The standard classifications of the Frasciati manual of basic, strategic and operational research are all appropriate for the School of Government. However, the school should have a particular interest in shaping knowledge about emerging issues that will require new capabilities in the public sector.

I think we were right to preserve the brand of 'IPS', but increasingly we have presented ourselves as SoG. In my view, we should work towards IPS being the arm of the school that does research of a 'public good' character – activities, including publication, which are aimed at public knowledge required for collective responses to policy questions – while the school also engages in consultancy, practice-based teaching which includes the creation and dissemination of new knowledge, and conventional academic research and publication.

Our major achievements include the Emerging Issues Programme and the VUWSoG Trust. The former is a research programme aimed at enhancing the capabilities of the school to achieve its mission, funded by contributions from all public sector departments and governed by a steering committee of departmental chief executives who can report to the Chief Executives Forum. It has generated research on the relationship between public servants and Parliament, on the Pacific, on ageing and on climate change, and more new knowledge on emerging issues important to the public sector is currently under way.

The government noticed our success in both teaching and research, and established a trust fund of $4 million to finance those aspects of the School of Government that are not readily provided for through conventional funding of university teaching and research. It gives a source of finance for research which does not lend itself to publication in academic journals, and to practice-based teaching and learning which goes beyond what is funded through Vote: Education. At the same time, the government provided a capital endowment to ANZSOG, the Australia and New Zealand School of

Government, and trans-Tasman issues will be prominent in the activities funded by the VUWSoG Trust.

Internationalisation

Focusing on public sector problems as seen by the public sector does not imply passive, tame academics working to somebody else's direction. It means accepting the responsibility to persuade public servants to share our view of the importance of some issues, and if we cannot succeed in such persuasion then turning our attention elsewhere. Within this, I think a particular role is persuading public servants to pay attention to connections that might otherwise be overlooked. I want to illustrate this from three examples where I have been working personally; other members of the School of Government could add many more.

Because of my role over many years in the Pacific Economic Co-operation Council, and through my participation in the Council for Security Co-operation in Asia Pacific, which I inherited with the School of Government, I have had a personal interest in Asia literacy and relations with Asia. When the New Zealand Asia Foundation was created in the early 1990s (initially as the Asia 2000 Foundation) the Institute of Policy Studies co-operated with it in several initiatives, and we have not moved forward as much as I would wish. I do not think we have built enough understanding of Asia into our thinking about policy developments and I expect this to loom large in the future work of the School of Government. Our teaching programmes must eventually be affected, but first there is research to be done, not so much research about Asia, but understanding of Asia built into research about policy and management.

The recent white paper on relations with Asia (MFAT, 2007) includes lots of sensible material, but much of it could have been written in the early 1990s. We can certainly still wish for a more learned media, but in fact the internet makes Asian news available to those who want it and New Zealand commentary on Asian affairs will follow when New Zealanders see its importance. We achieve more by creating commentary about Asia from a New Zealand perspective than by lamenting its absence. We can regret absence of Asian material from teaching programmes, but what are we doing to show that Asia is relevant to the learning in which people are interested? Much of the discussion is about Asian content in courses, but what is more important is exploration of how abstract learning facilitates learning about Asia, and how Asian thinking relates to the abstract learning which we value.

What most disappoints me is how little recognition of Asia has penetrated into additional areas of policy. An obvious current example is climate change, where the work of my colleagues under the leadership of Jonathan Boston has had a significant impact in policy circles. Even that work, however, has been Eurocentric. It assumes that international agreement and the Kyoto Protocol are synonymous. Climate change figured strongly on the APEC agenda in 2007, and media reporting was almost entirely in terms of points-scoring about John Howard and George Bush, including how they still had not signed up to the Kyoto commitments of developed economies. The media reflected discussion in policy circles; commentary missed the most significant news, which was not the humorous points-scoring from Hu Jin Tao about countries failing to meet commitments, but the clear assertion by Asian economies that while Europeans and Anglo-Saxons might like the notion of defined commitments and monitoring processes, Asian preferences are different.

The balance between binding and voluntary commitments has been much discussed and experienced within APEC. New Zealand policy thinking should learn from that. All nations are selective in what they attach importance to. The Nuclear Non-proliferation Treaty had three components: no additions to the existing nuclear-weapon states; disarmament by the nuclear-weapon states; and facilitation of access to nuclear technology for peaceful purposes. There is no sign that the nuclear-weapon states, including the UK, US and France, will pay attention to their commitment to reduce nuclear stockpiles and facilitate dissemination of nuclear technologies, no matter how much they argue for effective monitoring of non-proliferation. European Union countries rapidly found reasons not to enforce the sanctions of the Maastricht treaty when its provisions proved inconvenient. Members of the US Congress find nothing incongruous in proposing legislation to discriminate against China, in clear contravention of US commitments under international trade law, while proclaiming the sanctity of the 'rule of law' and the impossibility of changing US domestic law which requires trade agreements to be reciprocal. The notion

that Kyoto commitments will be treated as sacrosanct by EU members is implausible.

Nothing in these observations justifies a cavalier attitude towards international commitments. They point towards the inadequacy of simplistic argument that takes a selective approach to international agreements. The content of international agreements is frequently complex and overlapping. Isolating particular provisions which are useful for foreclosing domestic debate about how international commitments should be built into policy design and implementation is not a desirable way to develop policy positions.

As Barry Desker has argued (Desker, 2007a), Asia will act on climate change but will not accept Kyoto-type commitments: 'An approach which emphasises changing the norms, exerting influence on major carbon emitters and obtaining consensual agreements is much more likely to succeed.'[1] Anybody who has looked at the history of early voluntary sector liberalisation and accelerated tariff liberalisation in APEC in the mid-1990s will recognise the sense of that. It may take a while to develop understanding in the EU and among activists. But if we had made the progress in Asia literacy we anticipated in 1993, it would now be part of our policy discussion. We would not be talking about 'binding verifiable commitments' versus consensual development of goals, but working directly on how we manage various kinds of agreements.[2]

Some old-fashioned policy analysis would help anyway. The design of Kyoto is very much in the interests of Europe, and the standard division between developed and developing countries is misleading. A World Bank study (Buys et al., 2007) defines 'two dimensions' of vulnerability to climate change: 'impact vulnerability' – weather events and sea level rises; and 'source vulnerability' – access to fossil fuels and renewable sources, options for sequestering emissions (including cessation of deforestation), and the potential size of employment and income shocks. Countries with high impact vulnerability and low source vulnerability should favour emission limits, and those with high source vulnerability and low impact vulnerability should resist any agreement. There is no clear pattern by level of development, and not much by region, although it is easy to see why Europe favours emission controls and why the US and Australia do not – dependence on coal is the most influential variable.

Much local reporting on Bali used a framework of 'most countries (including the EU and New Zealand)' against the US, which rather overlooks the importance of Asia. However, it was European observers, Gwyn Prins and Steve Rayner of the London School of Economics and Oxford, who observed bluntly that 'Kyoto was both a technical and a political failure' (Prins & Rayner, 2007). Conventional economic analysis of cartels shows that Kyoto is inherently unstable. It is ironic that while original analysis is being done on how to manage the future of the WTO, an attempt is being made to build the UN Framework Convention on Climate Change into a copy of the existing WTO. An idealistic but forlorn yearning for solidarity is being given precedence over rational policy analysis.

The address at Bali of Lee Hsien Loong, prime minister of Singapore, was much more significant than recognised in New Zealand and by much of the international media. Lee called for an agreement that covers all developing and developed countries, acknowledges the importance of economic growth and respects the different situations of individual countries. He put a lot of emphasis on adaptation and technology development – and it is surely not difficult to predict that any international agreement will have to be some combination of American faith in technology and European insistence on emissions controls. Any agreement that covers all developing and developed countries will have to respect different circumstances in a manner which is much more subtle than the dichotomy of 'developed' and 'developing'.

The climate change debate needs some Asian pragmatism. There are uncertainties about the relationship between warming and carbon dioxide emissions, but policy should proceed on the basis

1 See also RSIS Commentary 95/2007 (7 September 2007) were he adds: 'However, the Kyoto approach of prescriptive, legally binding obligations will be resisted in East Asia. …This is where an APEC initiative could be effective as it would mark a move away from the Kyoto model and bring on board China, Indonesia as well as the United States.' Barry Desker is a former Singaporean ambassador to Indonesia who heads the Rajaratnam School of International Studies at Nanyang Technical University. He should be better known than he is to a wide range of policy analysts in Wellington.

2 Thomas Fuller and Andrew Revkin in the *New York Times*, 16 December 2007, reported that at Bali 'China and other emerging powers did inch forward, agreeing for the first time to seek ways to make 'measurable, reportable and verifiable' emissions cuts.' That is consistent with how APEC individual action plans and collective action plans have evolved in APEC and is a long way from the rhetoric of many NGOs.

that human activity is changing the atmosphere undesirably. There is justification for scepticism about 'tipping point' arguments which are used to generate a sense of urgency, but sober analysis may point to the desirability of early action. That is essentially an issue of cost-benefit analysis, in which the difficulties are only how to deal with very long-range but irreversible changes, difficulties which require new thought and are not helped by vehement assertion.

A major contribution to our policy debate is likely to come from across the Tasman. Professor Ross Garnaut is currently reviewing climate change policy for the new Australian government. He is a long-time student of Australia's relations with Asia, a former ambassador to China, and an academic and business economist who is endowed with deep participant and reflective knowledge of how APEC has developed. The review has its own website (www.garnautreview.gov.au), which already contains a good deal of material, including a paper by Garnaut which was discussed at PAFTAD (the Pacific Trade and Development Forum) in December. Like the analysis of Warwick McKibben,[3] it identifies the need for various responses with co-ordination among them, rather than persisting with attempting to create a single cartel which is inherently unstable.[4] More interestingly, the Garnaut paper advocates equal per capita emissions as the solution to how an international climate change agreement can eventually be constructed. It must be a long-term objective, since it is clearly not feasible to eliminate immediately or even quickly the very wide difference in energy usage between rich and poor countries, but it starts to define a path which accommodates economic growth and which deals with differences among nations while having consensus on an international effort. One of the primary conceptions of APEC was that it should reconcile Asian modes of agreement with American demands for reciprocity; the international trading system still requires knowledge and analysis that shows that reciprocity is not needed, and climate change is going to be another area of international negotiations where this issue will be explored. Big powers are not going to give up reciprocity in a hurry, and the outlook is for a long period of continual discussion rather than completion of a single agreement. The School of Government should be preparing the analysts who will manage New Zealand's participation.

3 Conveniently summarised in his presentation to the PECC general meeting in Sydney in mid-2007 and available on www.anu.edu.au.

4 The McKibben analysis also deals with the hollow argument about trading system versus carbon tax. We need a trading system for the long term and taxes to give assurance about costs in the short term. The policy design issue is not to choose between them, but to build institutions and processes which ensure their compatibility over time.

Retirement income

Climate change is not the only policy area where we need more attention to the international dimension, especially that of Asia. Our retirement income policy debate is not unnaturally much occupied with local questions. We will continue to explore the impact of tax incentives on aggregate savings (as distinct from the effectiveness of tax incentives in directing funds to favoured vehicles). We will also explore the consequences of demographic change, not in the popular terms of what can be afforded, but in recognising that conventional retirement 'ages' have been overtaken by changes in longevity (cf Retirement Commission, 2007).

However, we should expect the key issues to lie elsewhere, partly in domestic issues and partly in international ones. The common thread is diversity, and the School of Government and Institute of Policy Studies have made significant contributions to its elucidation (Boston, Callister & Wolf, 2006; Boston & Davey, 2006). Policy consideration of diversity is sometimes limited to ethnic and gender diversity, and even to the delivery of social services in ways that are congenial to distinctive ethnic and gender groups. Retirement income policy is affected more fundamentally by different values and preferences. Government policy was once widely thought of as aiming to relieve poverty among the aged. It is now most commonly thought of as ensuring that the aged have a standard of living commensurate with that of society as a whole. However, demographic trends are requiring that it be conceived as facilitating choices about the extent to which income earned during years of employment is deferred to support consumption in a lengthy period of activity, with lower income-earning capacity beyond a standard career followed by years among the 'older retired'. The government is more like a piggy bank than a welfare agency (Barr, 2001). Individual experiences will vary, especially through differential health status, the extent to which lifetime careers provide opportunities for post-retirement income-earning, and different preferences about enjoying income as it is earned or

preparing for delayed gratification.[5] Policy will have to cope with diversity. The thought, which is valued by many, that we should aim for equality among the retired will be in conflict with recognition of diversity. That is the most important domestic influence on retirement income policy for which we should be preparing our graduates.

Some of the international elements are obvious. Migration can affect the speed of the most significant underlying demographic change, although its influence is small relative to fertility trends. Migration will greatly affect where and how individuals build up entitlements to post-employment income. As we move from migration being mostly a permanent move from one country to another, to periodic relocation in the course of employment, and to building families across international borders, retirement income policy will have to adapt. Some international elements are even less obvious. The retirement incomes of the future depend above all on the productivity of the future economy – funds build up entitlements to share in what is produced in the future rather than create stores of future income. The effective future productivity can be enhanced by investing in countries with younger populations (and so a higher ratio of producers to total population). Our long-held convention of fostering investment which generates current domestic employment will become increasingly in conflict with retirement income policy. Furthermore, we will have a direct interest in productivity trends elsewhere. It is not fanciful to contemplate that the most important decisions for the future of our retirement income policy may be those of the Chinese government about how China participates in international capital markets.

Education policy

Education policy has engaged the attention of several in the school. I have been concerned with some responses to the travails of NCEA and the Scholarship exam, while others, especially Jonathan Boston, have looked at issues such as the Performance-Based Research Fund. But as with retirement income policy, we should try to look beyond such issues, important though they are, and isolate what is the underlying trend which will generate future emerging issues.

5 Preferences will themselves be influenced by social, ethnic and other groupings; they are not entirely autonomous.

In my view, this remains acceptance that 'lifetime education for all' is an enduring response to the way that modern societies, economies and political systems require greater cognitive abilities in the population as a whole than used to be the case, so that an appropriate education system now has to be built on recognition of achievement and not on sorting out an elite to benefit from further education. There is a large degree of agreement in principle to this conclusion, but it often dissipates when it comes into tension with conventional and familiar processes within teaching institutions. The School of Government has not been entirely free from nostalgia for the days when 'standards' were adequately monitored by the performance of top-performing students, and sufficiently protected by imposing demanding failure rates. Other parts of the university, and some other parts of the education sector, are much further behind required attitudinal changes.

Even the School of Government is inclined to retreat too readily towards thinking of itself as a provider of knowledge rather than a provider of opportunities for students to develop knowledge.

> The next step is to dump our most natural and mistaken metaphor – education as the filling of empty minds – and recognize that we learn by extrapolating, testing, modifying and recombining mental models of the world. (Saleton, 2007)

The relevant 'mental models' are not only those we inherit from the European tradition, or which originate in the contemporary academic world led from the United States in which we most frequently participate. We want to be equipped to engage with Asian thinking too. In education policy, the most obvious manifestation of this is the significance of realising that the eighteenth-century Enlightenment was not a universal experience, and that relative valuations of freedom and order can vary. More prosaically, we can learn from Asian experience about the optimal balance between encouraging teacher initiative and using centralised lesson-preparation and directed delivery through specialised teachers. In the wider policy fields discussed above, we should ensure that our education programmes equip graduates to understand the different implications of Chinese ideas of 'harmony', whether between economies or between governments and citizens. This should be the objective of Asia literacy, and it is a long way from encouraging the teaching of Asian

languages for utilitarian purposes like trade promotion, although learning Asian languages can be a suitable vehicle for the understanding which we seek.

Conclusion

I have structured this discussion around issues which have been among my chief interests in the last five years. Because I have been in a good position to watch the work of colleagues, I could easily use other examples, notably relations between New Zealand and the Pacific, the growth of e-Government, and trends in public management. The common thread is the role of academic ideas in making connections between what may be left separate, in recognising the challenge of new initiatives to deeply-held inherited ideas, and in showing the implications of what looks attractive until it is really understood.

What the School of Government has learned in its first five years – perhaps not entirely, but to a large extent – is that we are not the fount of knowledge, but we can provide opportunities for public servants to come together with academics, share their experiences and learn together, creating, disseminating and maintaining knowledge. We thus promote the strategic developments which public servants will have to manage in the future.

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Gary Hawke recently retired as Professor of Economic History and head of the School of Government at Victoria University of Wellington. He was made a CNZM in the 2008 New Year's Honours for his services to education and economics.

Lingering Concerns about Child Custody and Support

Maureen Baker

Introduction

Since the 1970s, separation and divorce rates have increased in most Western countries, reflecting broad societal changes such as growing secularisation and individualism, changing labour markets and migration patterns, new ideas about entitlements and obligations, and widespread legal reforms. Despite these changes, most people agree that children in the 'post-divorce family' deserve adequate living standards and the continued love and support of both parents (Beck-Gernsheim, 2002). In addition, supporting one's children is required by national laws and international agreements such as the United Nations' Convention on the Rights of the Child (Baker, 2006).

Over the past three decades, New Zealand as well as Australia, Canada, the United Kingdom and the United States ('liberal welfare states'[1]) have reformed their social policies relating to custody and support to reflect evolving ideas about children's rights, gender equity, and the state's role in family life. This article discusses some of the policy implications of relationship breakdown at a time when fewer couples legally marry, separation rates are high, more mothers are employed, international travel has increased and the enforcement of certain family obligations has been tightened.

New Zealand policies are discussed together with those of Canada and Australia because these countries share a common legal and policy heritage as British colonies,[2] they have been categorised as liberal welfare states and have traded policy solutions in the past. In addition, their net migration rates are particularly high and an increasing number of residents have dual citizenship (OECD, 2007, p.47). As more people migrate for education, work and family reasons, intermarriage and childbearing become prevalent between partners from different jurisdictions. If relationships dissolve after children are born, resident or custodial parents[3] may cross international borders to return home but they sometimes do so unlawfully, without the consent of the other parent. Parents also cross borders to avoid support obligations, to flee from abusive partners or to gain child custody. Increasingly, governments are signing international agreements to help deal with parents who cross borders without fulfilling their spousal or parental obligations. However, the vast majority of couples resolve custody and support issues without assistance from the courts.

Despite the development of social programmes for caring, such as the Domestic Purposes Benefit, children living in sole-parent households continue to experience higher poverty rates[4] than those in two-parent households (OECD, 2005, p.57). Policy concern about sole-parent households has also reflected a number of other children's issues that sometimes correlate with low income, including adjustment problems, reduced paternal contact, and lack of cooperative and authoritative parenting (Pryor and Rodgers, 2001). The public cost of caring allowances has also increased with more marriage breakdown, cohabitation and births outside marriage.

This article focuses more on mother-led households than father-led households because most children live with their mothers after separation, fewer mothers than fathers are employed, more mothers have relied on costly caring allowances, and mothers remain sole parents longer than fathers (Baker & Tippin, 1999).

1 'Liberal welfare regimes' refer to systems of social provision that rely mainly on individual earnings while providing relatively ungenerous public support to needy households.

2 Except the French Canadian province of Quebec.

3 Separated parents who normally live with and care for their children most of the time.

4 Defined as less than 50% of median household income adjusted for family size.

The percentage of sole mothers receiving caring benefits has varied over the years but has always been higher in Australia and New Zealand than in Canada. For example, 94% of sole mothers in Australia and 89% in New Zealand received caring allowances in the mid-1990s, compared to about 44% in Canada (Baker & Tippin, 1999, p.34). Now, more sole mothers rely on their earnings, although those in Australia are permitted to receive the benefit for longer than in New Zealand and much longer than in Canada (Baker, 2006).[5]

Reducing the public cost of income support has been a major factor in recent social policy reform (Baker & Tippin, 1999; Boyd, 2003). Policy makers have struggled to alleviate poverty in sole-parent households and reduce the negative consequences of separation for children. However, they have tended to focus on collecting money from non-resident parents and curbing the cost of income support. At the same time, policy reforms have had to deal with the complex lives of post-separation parents (Callister & Birks, 2006), with mothers and fathers sometimes making conflicting demands for state intervention.

This article discusses several policy concerns relating to the post-divorce family in New Zealand, Canada and Australia, in order to highlight the complexity and show that these countries, which have shared policy options in the past, can continue to learn from cross-national comparisons.

Family reforms in the 1980s

With rising separation/divorce rates and more sole-parent households living on income support, policy makers were pressed to make controversial reforms throughout the 1980s. In all three countries, divorce is now viewed as a 'clean break' which terminates rights and responsibilities to marriage partners but not obligations to children. The laws now permit one partner to seek a divorce without the other's consent, meaning that wives can no longer delay court proceedings to negotiate a better financial settlement, as some did in the past, and spousal support is seldom paid. Furthermore, all three countries assume that separating parents can decide child custody and access for themselves and the courts intervene only when requested (Baker, 2006). By the 1970s, these countries had rejected the implication that children could be parental 'property' and began basing decisions about guardianship and residence on the 'best interests of the child'. However, even judges disagree about what is best and children often prefer to live with both parents even when it is no longer feasible. Nevertheless, in all three countries, separating parents appearing before the courts are required to make parenting plans with the assistance of counselling and mediation services (ibid).

Although joint custody/guardianship[6] has become more prevalent since the 1980s, it refers to legal responsibility rather than shared day-to-day care. Consequently, about three-quarters of children involved in divorce cases continue to live mostly with their mothers, but rates are higher for children of separated, never-married parents. Fathers typically become the non-resident parent but retain access or opportunities to visit or have the child stay overnight for a portion of the week, month or year (Baker, 2006). Both parents usually agree with this arrangement, the courts legalise it and parents rarely contest the decisions in court. Many fathers feel they cannot handle daily childcare while working full time, or believe that their children are better off with their mother. A small percentage of fathers say they want custody but think the courts will not give it to them, and a few protest over the courts' alleged discrimination against fathers. By the 1990s, all three countries expected fathers to support their children regardless of their marital status or living arrangements (Funder, 1996; Shirley et al., 1997; Baker, 2006). New technology better enables the establishment of paternity and some jurisdictions spend considerable resources trying to identify fathers and enforce support.

After divorce, most non-resident fathers visit and support their children emotionally and financially, but only one third are highly involved in their care and upbringing. Another third are disengaged but maintain some contact, while the final third have little or no contact (Amato, 2004; Smyth, 2004). 'Fading fathers' (Dulac, 1995) may enter the divorce with little interest in their children or become alienated afterwards

5 In Australia, parents (mainly mothers) are permittd to receive the benefit until their youngest child is 16 years old, although there is pressure to seek employment before then. In New Zealand, similar pressure occurs when the age is 12 years (although there is no longer an official age). In contrast, the Canadian province of Alberta expects a 'welfare mother' to seek employment when her youngest child is 6 *months* old and all other provinces expect maternal employment when the youngest child is from 2 to 6 years old.

6 The terminology differs slightly in each country.

due to perceived difficulties visiting or maintaining a meaningful relationship. Some fathers rekindle interest after divorce and become 'weekend parents', while others attempt to alter existing custody or access arrangements (Beck-Gernsheim, 2002).

Fathers are legally required to support their children but enforcement procedures used to be lax in the three countries (Baker, 2001). If the father failed to make court-awarded payments before the 1990s, the children's mother was expected to take him to court, which meant she had to prove he was the father, know where he lived, take him to court in the jurisdiction where he lived and pay the expenses. These procedures were too complicated and expensive for most mothers. As divorce rates soared and default rates remained high, governments were pressured to develop caring allowances in the 1970s and to reform child support in the 1980s. Before reform, two-thirds to three-quarters of fathers failed to pay the full amount of court-awarded support within a few years of divorce and many sole-mother households relied on income support (Funder, 1996; Baker & Tippin, 1999).

In the late 1980s, Wisconsin and Australia developed new procedures that took child support assessment out of the courts, based it on a percentage of the non-resident parent's income (with a disregard), and collected support through the income tax system. New Zealand adopted a similar model to Australia (discussed below), but Canada could not agree to develop a unified system with its divided jurisdiction.[7] All the Canadian provinces tightened their enforcement procedures but awards are still set by judges in court, based on national guidelines. Some provinces focus enforcement on 'welfare families', while others use the 'first default principle', meaning that the government scheme is activated only when unpaid child support is reported. Since 1987, the federal government has assisted the provinces with enforcement tools, including sharing information to locate and intercept defaulters and suspending or denying passports (Canadian Department of Justice, 2003). However, many custodial parents are forced to take the initiative to set enforcement procedures in motion, and variations in provincial rules make national enforcement difficult when parents move to another province.

New Zealand followed the more efficient Australian model and created a child support agency, removed assessment from the courts, empowered the taxation department to calculate money owed, and paid support indirectly through the agency to avoid parental contact and conflict. The new schemes in the three countries have increased the percentage of children receiving support and marginally increased the amounts paid and collected, thus saving some public money (Baker, 2006). However, the effectiveness of the new procedures is disputed and the amount collected varies by jurisdiction, as governments use different ways of measuring collection (Baker & Tippin, 1999).[8] In all three countries, the state has been unable to collect the full amount due from many non-resident parents, especially men who are less affluent, self-employed, unemployed, difficult to trace, never married, out of contact with their children, or who separated long ago (Smyth, 2004).

Since the 1950s governments have been encouraged to sign multilateral and bilateral agreements regarding a number of policy issues, including the right to live and work in other countries (such as between Australia and New Zealand) and the enforcement of child custody, access and support (Baker, 2006). Recently, the number of agreements has increased, as well as the controversies surrounding them, as I discuss in the next section.

International agreements on child support and custody

International conventions to ensure the enforcement of support obligations when parents cross international borders date back to 1956, with the United Nations Convention on the Recovery Abroad of Maintenance. More recent agreements include the 1968 Brussels Convention and the 1973 Hague Convention on the Recognition and Enforcement of Decisions Relating to Maintenance Obligations (UK Child Support Agency, 2003). Governments also sign bilateral agreements with individual countries to enforce child support and custody arrangements and to apprehend and return offenders. For example, agreements have been signed between Canada and the United States, Australia and

7 The provinces assess and enforce child support, and the federal government has no constitutional right to establish a national system.

8 In Australia, the Child Support Agency claimed a 73% collection rate, but this figure was disputed by researchers arguing that partial or late payments should be excluded or noted separately, and that parents who cannot pay should still be included in the data (Alexander, 1995). These rates are also contested in other jurisdictions.

New Zealand, and Australia and the United States (Australian Parliament, 2003).

Before entering these agreements, states must develop clear procedures to establish paternity and support orders, enforce support, and collect and distribute payments. They must also be willing to provide administrative and legal assistance to the country seeking co-operation without additional cost to that country. And finally, a central authority is needed to facilitate the implementation of support enforcement, especially in countries such as Canada and the United States where enforcement is administered by the provincial or state governments (US Department of State, 2003). An application to retrieve child support from someone living in another jurisdiction has to be processed according to the laws of that jurisdiction. In other words, effective reciprocal agreements require considerable co-operation and consistency in laws, procedures and practices. In addition, compliance involves additional costs for signatory countries in policing, administrative work, legal fees and court time, and transport costs when they send offenders back home.

The three countries have also signed multilateral agreements relating to child custody and access disputes. The Hague Convention on the Civil Aspects of International Child Abduction is the primary international treaty dealing with custody, and was opened for signatures in 1980 (Crouch, 2003). The convention's provisions are available for citizens if one parent from a signatory country moves to another signatory country with a child under 16 against the objections of the other parent. While the Hague Convention is a standard treaty, different jurisdictions interpret and implement its clauses in various ways (Jaffe et al., 2003, p.111). A discussion of this convention illustrates some of the concerns about interpretation, implementation and compliance costs.

The primary goal of the Hague Convention is to reinstate the status quo, implying that the child's best interests are served by being returned quickly to the place of habitual residence. An investigation into either parent's circumstances is discouraged and oral evidence by either party is generally disallowed. The convention assumes that children's interests are best protected in their home country because their courts will be able to carry out a thorough hearing and determine and enforce custody and access issues (Kaye, 1999, p.195). However, the operation of this convention depends upon the goodwill of signatory countries and contains no legally binding force to ensure compliance.

The Hague Convention states that exceptions to a child's return are allowed if there is a 'grave risk' that the return would expose the child to physical or psychological harm or otherwise place the child in an 'intolerable situation' (article 13b, Hague Convention, 1980). This is sometimes interpreted to include domestic violence, but several researchers argue that the convention offers few protections from abusive partners or inhumane treatment by officials of the return state, and provides no guarantee of fair and impartial hearings in custody matters (Kaye, 1999; Jaffe et al., 2003, p.62). In the three countries, most decisions under the Hague agreement have ordered the child to be returned to the home country, denying that there was any 'grave risk' in doing so (ibid). New Zealand, for example, has dealt with at least two cases under the Hague agreement and in both cases the court concluded that there was no grave risk to the children and ordered them to be returned to their home countries.

Child custody and access decisions have increasingly reflected awareness of the detrimental impact that domestic violence has on children. However, a common interpretation of the Hague Convention is that the most expeditious way to deal with cases is to send children back home. This is viewed as returning the child to the care of the country rather than the individual abuser, and the country is expected to adequately hear and enforce custody issues and to protect the child and parent from further domestic violence. However, this assumption may not always be justifiable.

Lingering policy concerns

A major concern in the post-divorce family is the negative impact of poverty on children, and mother-led households are most likely to experience low income. In response, all three countries have urged these mothers to seek employment and have made recent improvements to child care and child benefits (Baker, 2007b). However, poverty rates remain high as marital separation increases and parents subsequently divide their incomes and assets, labour markets become more competitive, and fewer jobs are full-time and protected by legislation or unions. Of the three countries, poverty rates have been the highest in Canada, where nearly half of sole-parent

households are poor, but these rates are considerably lower in the Nordic countries, suggesting that policy reforms can be effective (OECD, 2005, p.57). New Zealand has since introduced 'Working for Families', which should reduce poverty, and Australia and Canada have improved child benefits and childcare support, but living costs have also increased (Baker, 2007b).

If sole parents are outside the workforce their poverty rates rise to 89.7% in Canada, 87.6% in New Zealand and 58.7% in Australia, reflecting tighter eligibility rules and lower levels of state income support in Canada and New Zealand (OECD, 2005, p.57). However, poverty rates are influenced by many other factors, including income tax policies,[9] low wages, and part-time or temporary jobs that are often accepted by mothers with pre-school children. When sole parents enter paid work (part-time or full-time), their household poverty rates decline, but over 21% remain poor in New Zealand (compared to 28% in Canada and 12% in Australia) (ibid). The high Canadian rate reflects low wages and the higher gender wage gap in that country (OECD, 2007, p.73) but parents in all three countries must also contend with soaring housing and childcare expenses.

Childcare costs have been especially high in New Zealand, where sole parents on average earnings with two children at home have been spending 42% of their earnings on childcare, compared to 27% in Canada and 17% in Australia (OECD, 2007, p.59). However, all three countries (or jurisdictions within them) have recently reduced specific childcare costs. For example, Quebec heavily subsidised childcare to all parents who need it, regardless of employment status, for a maximum price of $7.00 per day, and New Zealand initiated free childcare for 20 hours a week for 3-4 year olds in educational care in 2007 (Baker, 2007b). Canada also offers a substantial income tax deduction for childcare expenses of employed parents. Research has found that reducing childcare costs increases maternal employment (Roy, 2006).

The second lingering concern is the way that child support is calculated. Canadian researchers suggest that national child support guidelines are inequitable because they consider the non-resident parent's income but not his net assets or expenses. They also fail to adequately acknowledge the resident parent's income and assets, or the children's financial needs (Wu & Schimmele, 2005). The same could be said for Australia and New Zealand. Furthermore, self-employed parents do not always declare their full income to governments. Increasingly, separated parents find new partners and produce or acquire additional children to support. In some jurisdictions, support priority is given to children living in the household, while others give priority to children from previous relationships (Baker & Tippin, 1999). Debates also continue about how to consider hidden expenses, gifts and the costs of shared parenting, especially when the child lives in the household for less than half the time. Finally, the minimum child support payment required by government remains low in many places, such as $10 per week in New Zealand, which clearly does not cover many childrearing costs.

The third issue concerns the numerous cases that remain 'in default', meaning that the parent failed to pay the total amount, the payment arrived late or the payment was not made. One Canadian study in New Brunswick (Lapointe & Richardson, 1994) found that only 58% of cases involved full compliance after reform, with 10% of parents explicitly refusing to pay. The rest involved temporary non-payment or disputes about the amount, but failure to pay is clearly associated with perceived access difficulties. Fathers often blame the children's mother for denying or complicating access, while mothers complain about paternal irregularities in access visits or inadequate care (Amato, 2004; Smyth, 2004).

Fathers also change their minds after legal custody and access arrangements are confirmed in court. The Australian Institute of Family Studies found that 41% of non-resident fathers wanted to alter the children's living arrangements five years after separation: two-thirds wanted the children to live with them and the rest wanted equal care (Smyth, Sheehan & Fehlberg, 2001). Parents also disagree about the amount of contact fathers actually have, with non-resident fathers reporting more child contact than resident mothers confirm. In addition, some fathers argue that support payments should be reduced to compensate for shared care. Although many people believe that child support legislation ought to foster and facilitate parent-child contact, legislators have argued that linking father-child contact with child support is not in the best interests of the child (Smyth, 2004).

9 Both Canada and Australia have substantial personal tax deductions that are beneficial to low-income households.

More women than men initiate separation[10] but sole parenthood is usually a transitional stage for both (Baker & Tippin, 1999). However, about three-quarters of men and two-thirds of women re-partner within five years, and men re-partner faster. In addition, remarriage rates are declining with more cohabitation, but cohabitation leads to higher separation rates than legal marriage (Baker, 2006). Nevertheless, re-partnering rates reflect both choices and constraints. For example, beneficiary mothers lose their income support if they cohabit with or marry an employed man, and men do not always consider 'welfare mothers' as desirable partners. Negative marital experiences further discourage former partners from remarriage. In addition, men tend to marry women younger than themselves, especially in second or subsequent marriages, and fewer older men are available in the population (Baker, 2007a).

A fourth concern relates to cases of child 'abduction', which receive considerable media attention. 'Child abductors' are often portrayed as non-resident fathers trying to obtain custody, but most Hague Convention cases involve mothers who are primary caregivers taking their children back to the mother's home country, with an increasing number reporting that they are fleeing from abusive partners (Coester-Waltjen, 2000). Some researchers have argued that the Hague Convention allows little room for mothers' fear of violence if they are expected to return to the country where their children normally live (Kaye, 1999, pp.197-8). A common judicial response to allegations of domestic violence is to issue the remiss parent with 'undertakings', such as attending a stopping violence programme and/or abiding by protection orders. Yet these cannot be legally enforced in the countries concerned (Coster-Waltjen, 2000, p.68).

As more parents travel internationally, live with partners from other countries and receive dual citizenship, the state needs to ensure that non-resident parents are guaranteed access to their child unless there is a valid reason to restrict access. However, access cannot compromise the safety and well-being of the resident parent or child, and existing laws about crossing borders with unmet family obligations need to be enforced.

10 But they often blame their male partner for prior adultery, abuse, lack of consideration and/or unequal division of labour at home.

Conclusion

New Zealand, Australia and Canada have experienced similar increases in marriage breakdown, migration and family poverty. In all three countries, governments have developed gender-neutral laws and programmes relating to divorce, child support and custody. In deciding where the post-separation child should live, they all emphasise the best interests of the child and encourage parental co-operation over access and care arrangements. Although most separating parents manage these issues without much formal assistance, all three governments have attempted to ensure that family courts include mediation and less adversarial practices (Baker, 2006). Yet debates continue about how to deal with complicated parenting arrangements and lingering disputes between former partners.

The post-separation processes set out in laws and policies in the three countries have been unable to compensate for the gendered nature of paid and unpaid work, which creates economic inequalities between partners that continue after separation. Many mothers work part time in order to retain caring responsibilities, especially in Australia and New Zealand, but in doing so these mothers reduce their household earnings. When marriages end, mothers with young children often need a transitional period of income support but it seldom pays above the minimum wage. Most children continue to live with their separated mother even though the laws are gender-neutral. Mother-led households tend to experience an income drop even when these mothers work for pay, as families increasingly need two incomes and male earnings still tend to be higher than female earnings. Many fathers still fail to pay the required amount of child support on time, and some lose contact with children from previous relationships. Few non-resident parents can earn enough to support children in more than one household, especially in today's less regulated labour market.

More international travel has encouraged governments to sign international agreements to enforce parental obligations, but these agreements require co-operation between jurisdictions, a convergence in enforcement procedures and heavy reliance on national enforcement. International pressure to restructure family policies increases when markets become international and investors and employers promote neo-liberal labour practices. At the same time, interest groups press for

new entitlements, often making contradictory demands that complicate the reform process.

Caring for children constrains employment opportunities unless incomes are high enough to purchase care, but childcare continues to be expensive in many jurisdictions and is not always available when needed for employment. Most politicians publicly say that children should not have to live in poverty, but few states have successfully bridged the poverty gap between two-parent and one-parent households. These concerns linger in the liberal states but have been less problematic in the social democratic states, where children's well-being is viewed more as a public responsibility. In contrast, the liberal states have devoted fewer resources to family income support, universal children's services and family-related employment benefits (Jenson & Sineau, 2001; Hantrais, 2004; Baker, 2006).

This discussion reveals some of the complexity of current concerns about post-divorce families. New Zealand has developed relatively effective procedures to deal with child custody and support, especially compared to some Canadian provinces, but it is worth reiterating some findings from the research:

- Child support enforcement mechanisms must be automatic rather than dependent on parental complaints about non-payment.
- The income, assets and major gifts from both parents need to be considered in assessing child support.
- Minimum levels of parental support and caring allowances need to be high enough to keep children out of poverty.
- Existing laws that prohibit parents owing child support from leaving the country need to be enforced.
- Witnessing parental violence and a genuine fear of partner violence require more careful consideration in custody cases.
- Childcare services need to be affordable and accessible to enable parents to become self-supporting.
- Policy makers need to acknowledge that mothers and fathers seldom have comparable earnings, they typically perform different amounts of caring work, and often have different perspectives on the post-divorce family.

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Skin Colour: Does it Matter in New Zealand?[1]

Paul Callister

Introduction

Pick up any official New Zealand publication which includes photographs representing the population and it is highly likely that the people featured will have visible characteristics, including skin colour, that are stereotypically associated with the main ethnic groups living in this country. Equally, examine official reports which consider differences in outcomes between groups of people, such as in health and education, and it is very likely that ethnicity will be a key variable in the analysis. But it is extremely unlikely that skin colour will be explicitly mentioned in either type of report.

This article explores three areas where skin colour might matter. First, with reference primarily to US literature, the question of the role of skin colour in discrimination and, ultimately, economic and health outcomes is examined. Then, turning to New Zealand, there is a discussion of whether skin colour is a factor in why those responding to official surveys who identify themselves as 'Māori only' have, on average, worse outcomes than those reporting Māori plus other ethnicities. Finally, two connected health issues are looked at. One is skin colour and the risk of skin cancer; and the second is the hypothesised, but still controversial, links between skin colour, sun exposure, vitamin D production and an inverse risk of developing colorectal cancer. Two main questions are asked in this article. First, in contrast with many other countries, why in recent years have researchers and policy makers in New Zealand been averse to discussing and researching skin colour? Second, is there a case to be made for the use of measures other than self-identified ethnicity – such as skin colour – in official statistics and other large surveys, including health-related surveys?

Background

Most governments collect some information on ethnicity or race. In a global comparison of census questionnaires, Morning (2008) shows that over half (56%) asked about ethnicity, 15% asked about race, 7% were based on ancestry, while only 2% asked directly about skin colour. However, Morning notes that while ethnicity may be used in the wording of many questions, often the possible responses include colour-related categories. Examples include 'black' and 'white', often alongside responses that could be seen as 'race' or 'nationality' groupings, such as Indian or Chinese. For instance, the British census has categories such as 'White British' and 'White Irish', as well as 'Black British', while the Canadian census has 'black' and 'white' in its list of tickboxes. Equally, race-based collections, such as in the US, include 'black' and 'white' response options.

Before New Zealand shifted to culturally defined ethnicity, in common with other countries, race, based primarily on ancestry, was the foundation of New Zealand statistical collections. Mixing between races was recognised early on, with nineteenth-century census data identifying and separating out 'half-castes'. According to Kukutai and Didham (2007), although information on birthplace was routinely collected, national origin differences were minimised in racial determinations, at least for people considered white. Guidelines for the race question in the 1936 census advised that: 'All persons of "white" race should enter "European", irrespective of whether they are of New Zealand, English, Scottish, Irish, Frenchman, United States, or other stock.' The 'coloured' races, which included, among others, Māori, Chinese and 'Negros', were separately identified. Yet skin colour-related terms such as 'black' and 'white'

1 A more detailed version of this article can be found at http://callister.co.nz/skin-colour.pdf

never explicitly became part of official language in the discussion of the composition of the New Zealand population. Also, unlike in countries such as Canada, the expression 'visible minority', a term referring to non-white groups, has not been used in New Zealand.

Despite skin colour not being an explicit part of New Zealand's historical official statistical output, unofficially – and sometimes officially – skin colour is often talked about. In recent years, primarily in relation to the growth of Māori and Pacific groups, there has been much discussion of the 'browning of New Zealand'. In the sporting arena there is sometimes mention of the 'browning' of teams such as the All Blacks and the Silver Ferns, but also at times there have been questions raised about players in the Māori All Blacks, suggesting the 'whitening' of the team members.

Discussing New Zealand's historic migration policy, Te Ara, the official electronic encyclopaedia of New Zealand, notes that 'much as New Zealand tried to keep its immigrants white through assisted migration schemes and entry permits, such a policy was hard to enforce and even harder to defend'.[2] Gagnon (2007) suggests that in the major developed countries, Australia, Canada, the US and western European countries, 'whiteness' is a core part of official national identity. This is the viewpoint put forward by Hage (1998) in Australia. He talks about the concerns 'white Australians' feel in the face of declining power in a multicultural nation.[3]

But 'whiteness' is a concern not only in former European colonies. In many parts of Asia some groups try to develop or maintain light-coloured skin. It is believed that a lighter complexion is associated with wealth and higher education levels, whereas darker skin suggests being a low-income, outdoor worker. In contrast, in countries such as New Zealand and Australia, the use of solaria and tanning lotions suggests that there are people who value some aspects of darker skin and wish to change their natural skin colour. In these higher income countries such tans may be associated with leisure rather than with manual outdoor work.

The term 'white' can be symbolic rather than strictly representative of skin colour. For example, in a study of Samoan intermarriage in New Zealand, Keddell (2006) comments that New Zealand-born Samoans whose parents are both Samoan are often excluded and marginalised by older, Island-born Samoans. She suggests that these children are perceived as being 'fia palagi'; that is, wanting to be palagi or, as Keddell notes, 'white'.

While skin colour has not been part of official statistics collection, there are some examples of the use of skin colour by specific agencies in New Zealand. For example, skin colour is included in New Zealand's human rights laws. There are 13 prohibited grounds of discrimination set out in section 21 of the New Zealand Human Rights Act 1993. These include sex and disability, but also ethnic or national origins, race *and* colour. However, the most common example of reference to skin colour is likely to be its use by the police. When the police are endeavouring to track down a suspect they will often resort to physical descriptions. It is not uncommon to hear the police describe a suspect as 'Caucasian', meaning a white-skinned person.

The police are not the only ones constructing an individual's ethnicity. Various 'others' who do so, such as employers, landlords, teachers and doctors, are important gatekeepers in society. Often this construction of ethnicity by others will be based on visible, or recognisable, characteristics, including skin colour. Some of the 'others' will be young people. A survey carried out by Thomas and Nikora (1991) investigated the characteristics associated with the terms 'Māori' and 'Pākehā' among New Zealand high school students. The data showed that skin colour was one of the methods of determining who belonged to a particular ethnic group. Among both Pākehā and Māori students the main characteristics associated with being Pākehā were skin colour (Pākehā 57%, Māori 51%), and culture, customs and lifestyle (Pākehā 33%, Māori 15%). Among Māori respondents, the most common attributes associated with being Māori were culture, customs, lifestyle (71%) and Māori language (61%). However, other attributes included skin colour and appearance (48%), accent (29%), descent (25%) and tribal and kin affiliations (20%). Among Pākehā respondents, colour and appearance (49%) was most frequently used to describe Māori people, followed by culture, customs and lifestyle (35%), accent (28%) and language (17%).

2 http://www.teara.govt.nz/NewZealanders/NewZealandPeoples/HistoryOfImmigration/15/en

3 Hage defines white people as those of European origin; the rest of the population are 'Third World-looking people'.

Yet there are many examples suggesting physical characteristics may not be a good predictor of ethnicity in New Zealand. For instance, in 2002 Moana Jackson commented that there was much surprise, particularly amongst Māori, that Keith Abbott, the policeman who shot Steven Wallace in Waitara, was Māori (with descent from Ngāti Kahungunu). This surprise was presumably due to his physical characteristics. This realisation complicated discussions about possible racism as a factor in the shooting. *Mana* magazine, when announcing a top female Māori scholar in 2002 (*Mana*, 2002, p.22), focused initially on physical characteristics but then noted: 'Don't be fooled by the blond hair and the green eyes. She's Māori, really, and is our top scholar for the year.'

Skin colour – discrimination and outcomes

As already noted, employers, teachers, the police, landlords and health care providers are important societal gatekeepers. These people can be discriminatory in their behaviour. Such discrimination can occur on the basis of a wide range of characteristics, including age, sex, religious belief, surname, style of clothing and skin colour. Some of these can be seen as 'visible' characteristics, but they are probably more realistically called 'recognisable' characteristics. However, questions then arise as to why some characteristics are recognised; who is doing the recognising; and why some people might exhibit discriminatory behaviour. It tends to be assumed that people from the dominant culture will be doing the recognising; that they will be basing this recognition on stereotypes; and that some will then exhibit discriminatory behaviour based on these stereotypes. But everyone in society, including those who are part of ethnic minorities, will be doing some form of recognising and possibly forming discriminatory views or undertaking discriminatory actions based on such recognition.

In New Zealand, as noted, colour is one of the prohibited grounds of discrimination. The Human Rights Commission notes that a complaint relating to colour will usually also relate to the grounds of race. A search of the database compiled by the commission shows that few complaints have been made on the basis of skin colour alone, and that colour is one of the grounds on which they receive the *least* number of complaints. In the reporting year ending 30 June 2003, colour was the grounds in just 2% of unlawful discrimination cases; in 2004, 1%; and in both 2005 and 2006, 0.8%. During the year 1 July 2006 to 30 June 2007 the commission received 14 complaints related to colour. But while some complaints are based on references to dark skin, some specific cases suggest that colour issues are complex. For example, in the 2007 year there was a complaint about an advertisement in which a woman said to a 'freckled red hair' man, 'get your dirty freckled hands off me'. Another example concerned harassment in a text message referring to a person's 'yellow skin'.[4]

It is easier to find literature from the United States which considers skin colour as an important variable when examining economic and social outcomes, including how discrimination may influence these outcomes. In a review article covering employment discrimination, segregation and health, Darity (2003) points to a number of mainly cross-sectional studies which show that blacks with dark skin, as well as (in some situations) darker-skinned Hispanics, fare worse on a number of social and economic indicators than their lighter-skinned counterparts. But there are also US studies which do not find strong effects of skin colour in relation to discrimination (e.g. Krieger et al., 1998). Some researchers, however, propose that this is due to African Americans being treated as black regardless of their tone or shade. This potentially relates back to the 'one drop' thinking in the United States, where one 'drop' of 'black blood' makes a person black.

New Zealand research on racism has not directly considered skin colour. As an example, a study of self-perceived racial discrimination on self-determined health outcomes used data from the 2002/03 New Zealand Health Survey and was based on ethnicity (Harris et al., 2006). In this study, Māori reported the highest prevalence of 'ever' experiencing any form of racial discrimination (34%), followed by Asians (28%), then Pacific people (25%) and finally Europeans/Others (15%). However, perhaps hinting that some physical characteristics might matter, the authors note that the 'European/Other' category contained a number of non-Europeans. Yet this study also gives some indication

4 Personal communication with Emma Bassett, Human Rights Commission, 1 October 2007.

that skin colour may not be the critical variable. If skin colour was, then potentially the 'brown' Pacific and Māori populations might be subject to similar levels of discrimination. It seems a wider range of characteristics are influencing discriminatory behaviour or perceptions of discrimination.

Single and multiple ethnicity and outcomes

Moving back to the American context, two hypotheses have been put forward to explain the effect of mixed race on a variety of outcomes, including health status. One is that mixed-race individuals will be at greater risk of poor outcomes than those who affiliate with a single race because of stresses associated with a mixed identity. The other theory is that outcomes will lie between those of the two single groups. Many factors are likely to be influencing these outcomes, but variations in skin colour could be important, either directly or indirectly.

In New Zealand there has been relatively limited use made to date of single versus dual and multi-ethnic responses when analysing advantage and disadvantage. However, early work by Gould (1996, 2000) suggested a gradient of disadvantage in relation to degree of 'Māoriness'. In his 1996 paper Gould associated Ngāi Tahu's integration into European society with their relative success when compared with other iwi. However, while other people have talked about Ngāi Tahu as being the 'white tribe', skin colour was not discussed by Gould in any of his papers.

In a number of papers, Chapple (e.g. 2000) divided the Māori ethnic group into two groups, 'sole Māori' and 'mixed Māori', and found better outcomes for 'mixed Māori'. Chapple raised the idea that the disadvantage amongst Māori is concentrated in a particular subset: those who identify only as Māori, who have no educational qualifications, and who live outside major urban centres. Again, skin colour was not a feature of these studies.

However, Kukutai (2003) suggests that social policy makers should not put much weight on categories such as 'Māori only' and 'Māori plus other ethnic group(s)'. Using survey data and a system of self-prioritisation, Kukutai showed that those individuals who identified as both Māori and non-Māori, but more strongly with the latter, tended to be socially and economically much better off than all other Māori. In contrast, those who identified more strongly as Māori had socio-economic and demographic attributes that were similar to those who recorded only Māori as their ethnic group. Kukutai's work shows that some people recording multiple ethnic responses feel a strong sense of belonging in more than one ethnic group. For others, however, a stronger affiliation is felt with one particular ethnic group. While not discussed directly in the study, factors such as visible difference, including skin colour, may influence such decisions.

What is causing different outcomes between those recording only Māori ethnicity and those recording Māori and European responses? We do not know. No one single factor is likely to be a driver, but skin colour, in a variety of ways, may exert some influence. For example, it may be that those who 'look more Māori' (or look more 'Pacific') are more likely to record only Māori (or Pacific) ethnicity in official surveys. If this is correct, and if discrimination is common in New Zealand, the Māori-only (or Pacific peoples) group would be more likely to suffer discrimination from police, landlords and healthcare providers.

Skin colour, skin cancer, vitamin D and colorectal cancer

The relationship between race or ethnicity and health outcomes has always been contentious. Medical research suggests there are few diseases that have a simple genetic determination, one example being that of Huntingtons, a rare, inherited neurological disorder. Whilst simple genetic mutations may be found to vary between ethnic/racial groups, most genetic factors show greater variation within than between ethnic groups (Pearce et al., 2004). However, one area in which genetics has a clear impact is skin colour.

Skin colour has been associated with the risk of developing skin cancer, including melanoma. In both New Zealand and Australia there has been debate in both the medical world and the media about whether there is a strong causal, but inverse, relationship between sun exposure, vitamin D production and cancer. The theory is that sun exposure may protect against some forms of cancer, in particular colorectal cancer. In a report commissioned by the Cancer Society, Scragg (2007, p.21) suggests:

The strong evidence from studies showing an inverse association between vitamin D and colorectal cancer, when combined with similar (albeit limited) findings from studies of total cancer incidence and mortality, suggest that cancer incidence and mortality in New Zealand can be expected to decline if levels of vitamin D in the population are increased.

As to why skin colour may be lighter amongst some groups: there is some scientific evidence to suggest that humans emerged from Africa to colonise other areas some 70,000 years ago, and scientists suggest that the migrating Africans were likely to have had dark, highly reflective skin and black hair. It is hypothesised that as this group moved from equatorial regions northwards into central Asia, then into Europe, eastern Asia and the polar north, dark skin became a liability. At higher latitudes the lower angle of the sun, the longer and darker winters and the need to wear warm clothing may have made those who had darker skin deficient in vitamin D, which is mainly produced by the action of ultraviolet radiation (UV) on cholesterol in the skin. Vitamin D is essential for normal calcium metabolism and chronic deficiency causes rickets in children.

But light-coloured skin raises the risk of skin cancer, including melanoma, especially when light-skinned people migrate to areas with strong UV radiation. While skin cancer is a risk in Europe, people from Europe have migrated to countries such as Australia and New Zealand where UVR levels are much higher in the summer than at comparable latitudes in the northern hemisphere (McKenzie et al., 1996). In New Zealand, the descendants of these migrants include New Zealand Europeans but, through intermarriage, also Māori, Pacific people and Asians.

Historical data suggests that malignant melanoma was rare amongst Māori. However, while numbers are still small, cancer registration data now suggests that melanoma may be increasing, from a small base, for Māori. If skin colour is a factor behind the rise in Māori melanoma rates, there are two possible explanations. The first is that through historic and ongoing intermarriage there is a growing group of Māori with light-coloured skin who are at risk of developing melanoma. It is also possible that there is now a group of light-skinned people who had Māori ancestry, but in the past did not claim Māori ethnicity.

But exposure of the skin to the sun is important for producing vitamin D, of which sunlight is the main source. Analysing blood samples collected as part of the 2002 National Children's Nutrition Survey, Rockell et al. (2005) found that Māori and Pacific children have, on average, lower vitamin D levels than European children. This lower level of vitamin D amongst Māori and Pacific children was assumed to be the result of the amount of melanin, or skin darkness, and lack of exposure to the sun. However, a range of other factors may be influencing levels, including prevalence of obesity, type of diet and level of exercise. The relationship of sun exposure and skin type in New Zealand to these lower levels of vitamin D has not yet been validated against an objective measure of skin colour.

Colorectal cancer is a major cancer type and the leading cause of non-tobacco-attributable cancer mortality for both men and women (Blakely et al., 2007). Just as there are differences in melanoma rates for Māori and non-Māori, there are also differences in the rates, and in trends, of colorectal cancer. Blakely et al. show that when considering age-standardised mortality rates (within the 1–74 age group), Māori men had a lower rate than European men for the 1981–84 cohort. However, mortality rates have been increasing for Māori men and decreasing for European/Other men, so that for the 2001–04 cohort colorectal cancer mortality rates were higher for Māori men. For Māori women, the estimates move around more, but for the 2001–04 cohort Māori rates were still marginally below that of European/Other women. The increasing rates for Māori undermine the vitamin D hypothesis, unless sun exposure has changed over time, through, perhaps, rural–urban migration and/or fewer Māori working in outdoor occupations, or because Māori with dark skin have inappropriately been affected by 'sunsmart' promotions which suggest limiting sun exposure at peak UV intensity. However, there are likely to be many confounders, including change of diet, physical activity and obesity levels. Nevertheless, vitamin D produced by sun exposure may still be of some importance in relation to colorectal cancer rates, and skin colour may be a factor in obtaining adequate levels of vitamin D from the sun.

One possible outcome of the debate about vitamin D and its potential protective effect is that sun exposure, including sun protection, messages should differ according to ethnic group. One suggestion might be

specifying that Māori and Pacific people are not at risk, or are at lesser risk, from melanoma, so do not need to 'cover up' in the summer in the same way as Europeans. In fact, the argument could be that Māori and Pacific people should actively seek out sun exposure to protect themselves again colorectal cancer. But how good a predictor is ethnicity of particular skin types? In much of the New Zealand health discussions there seems to be an assumption that ethnicity is an excellent predictor of skin type. However, as yet we know little about the relationship.[5] In the long term, if skin colour was collected on the official cancer registry, then the interaction of skin colour with cancer incidence and mortality could be assessed. But even if it turns out that there is a reasonable relationship at a group level, such data tells one little about risk factors for individuals within the group. It would be irresponsible, for example, to say that, given historic data showing Māori have a low (but growing) risk of melanoma, Māori (or Pacific people) as a group therefore do not need to cover up at peak UVR times in summer. That decision needs to be made in relation to individual characteristics, particularly skin colour. That is, there may be some Māori and Pacific people who should spend more time in the sun than they currently do to protect against some forms of cancer, but there will be other Māori and Pacific people who should carefully heed the summer sunsmart messages in order to protect against developing skin cancer.

Conclusion

Does skin colour matter? Ideally, in most, but not all, situations society should be colour-blind. Yet, despite skin colour not being part of any official measure of ethnicity in New Zealand, it seems likely that many people are using skin colour, along with other recognisable characteristics, on a day-to-day basis in defining either their own ethnic identity or other people's identity. Expressions such as the 'browning' of New Zealand also suggest that skin colour is an important concept in some contexts. In New Zealand there seems to be a common assumption that Māori and Pacific people are brown and that, equally, Europeans are white. It is also assumed by some that those who record 'New Zealander' ethnic responses in surveys are white, and that migrants from Europe are also white. Yet the small amount of available evidence suggests that there may be much variation in skin colour within broad ethnic groups.

On the basis of mainly US research, it seems likely that skin colour, along with other recognisable characteristics, is a factor in discriminatory behaviour. However, research would be needed to test whether this is important in New Zealand. If skin colour is important, then it is likely, as an example, that not all Māori would face the same degree of discrimination. It is possible that those who fit a particular visual stereotype would face the greatest difficulties. This may be one factor in why those recording both Māori and European ethnicities have, on average, better outcomes than those who record 'Māori only'. To help reduce ethnic inequalities it is important that we understand all the contributing factors to the disadvantages faced by particular groups.

This article raises some questions as to why skin colour is thought about in some contexts, but appears unable to be discussed in others. The main area where it seems that it is not able to be discussed is within the research and policy community. To some degree this seems due to New Zealand moving from thinking about race in official contexts and switching to a discourse focusing on culturally-constructed ethnicity. Skin colour has become a hidden variable when considering differing outcomes for groups within New Zealand. But if we did talk more openly about skin colour, should we go one step further and start collecting such information in official surveys, especially in health data sets such as the Cancer Registry? Skin colour is likely to be useful for some medical research, such as the possible links between vitamin D levels and cancer. It is also likely to be very useful when considering discrimination. But there would be problems in collecting such data. One is simply technical: how would we get objective data? But there may be other reasons for not collecting such information. It may be that focusing more on skin colour would reinforce differences between people rather than help break them down. Just as collections of ethnic data may not only reflect ethnic groups but also create them through developing stereotypes based on behaviour, so too might collections that contain skin colour.

5 In 2007 the Health Research Council funded a project titled 'Quantifying the association between sun exposure and vitamin D status in New Zealanders', which will consider skin type.

As a first step, it would be worthwhile carrying out some qualitative work as to how individuals, especially young people, conceptualise ethnicity, including how they bring in considerations of skin colour alongside other influences. This would help us start to answer the question of whether skin colour matters in New Zealand.

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Income in Retirement

Geoff Rashbrooke

Most working-age people in modern industrial societies principally manage their finances by reference to their direct and regular income from their employment. This suggests that when they move into retirement, the large majority (but not necessarily all) would feel most comfortable in continuing to have a significant degree of regular income, preferably commensurate with their income pre-retirement.

Policy in New Zealand on retirement income from 1992 up until recently has had two main features:

- New Zealand Superannuation, providing a flat-rate, residence-based pension at about 32% of national average earnings for each member of a married couple and 39% of national average earnings for a person living alone; and
- government support for financial education through the office of the Retirement Commissioner, with the objective that New Zealanders will be equipped to plan for their retirement and know how to save sufficient to maintain their pre-retirement standard of living through into retirement, should they so choose.

As a crude rule of thumb, it is often stated that people wanting to maintain living standards into retirement should plan for income in retirement at a level of 70-75% of their pre-retirement income, reflecting lower costs (such as not needing to travel to work, or having acquired durables or provided for the future purchase thereof, etc).[1] But New Zealand Superannuation on its own will fall well short for many people in meeting a 70-75% replacement rate target, even those on average incomes.[2]

In the past, but to an increasingly lesser extent now, some people could expect a pension from their employer's pension scheme, particularly those who worked most of their lives for the government, or for large organisations such as banks, insurance companies and petrol companies. However, as the result of reforms in the late 1980s, most notably the removal of a special tax treatment that had recognised occupational pensions as deferred pay, such pension schemes have mostly either wound up, been converted to defined contribution and/or closed to new entrants.[3]

Of course, a number of people will not have assets over and above what they want to keep by way of precautionary savings and/or for bequests. Some people may have needs met by family on a regular basis and hence have less call for cash income. But for those who have accumulated 'excess' assets, practical ways to decumulate them – i.e. convert them into a regular income – presents an issue not as yet high on the retirement income policy agenda. (One might add that the introduction of KiwiSaver[4] in the 2005 Budget, and particularly the enhanced version announced in the 2007 Budget, makes it likely that many more working people will arrive at retirement with financial assets to supplement their retirement income from New Zealand Superannuation.)

The current position in New Zealand is that obtaining regular supplementary income in retirement from accumulated retirement assets will, in the absence of any change, rely principally on either the drawing down of those assets in a structured fashion, or the purchase of an annuity from a life insurance office.

1 See, for example, Munnell and Soto (2005). These are in respect of gross incomes.

2 Note that a full discussion of replacement rates should take into account living arrangements (i.e. whether a person is partnered or living alone) and housing arrangements (i.e. whether mortgage-free or paying rent).

3 Currently the average 'in-force' pension per capita in the 65+ age group is about $1,400 per annum. By 2050, in the absence of any policy change, the author estimates that this will fall to about $65 per annum, as the result of a fall in in-force pensions compounded by increased numbers of persons 65 and over.

4 KiwiSaver is an auto-enrolment-based, national, defined contribution savings scheme, introduced in response to observed negative household savings rates and falling coverage of occupational retirement schemes. KiwiSaver has certain capped incentives, and will provide lump sums at age 65.

The differences and similarities between annuitisation and draw down

Draw down is the process of determining what regular amount one can take out of one's savings over a fixed period so that the money (including investment return from the diminishing capital) runs out at a fixed point, usually set as one's expectation of life. *Annuitisation* is applying the savings in the purchase of an annuity, conventionally from a life insurance company; the provider guarantees to pay you a regular amount for as long as you live.

In both cases an assessment has to be made of the investment return over the likely period of the payments. In the case of draw down, this is needed to calculate the regular payments to be taken over the given pre-determined period. For an annuity, the expected return is one of the main factors used to calculate the annuity payment, the others being mortality and expenses.

A person utilising draw down may insulate themselves to some extent against investment risk by investing in fixed interest bonds of appropriate dates, or in a guaranteed return fund. The annuity provider, because they are guaranteeing the payment, may make use of derivatives and other financial instruments to insulate the return. In both cases there is a cost associated with removing variability in investment return, although the annuity provider is likely to be able to do this more cheaply on a wholesale basis, rather than retail.

Someone using draw down may prefer to take a higher-risk approach, usually taking professional financial advice. Annuity providers could offer an annuity which varies with the movement in some index fund, but this is not available in New Zealand, and not understood to be widely prevalent elsewhere.

Expenses also arise in both cases. Investment management fees are likely to be incurred, as well as transaction costs of various kinds, including advisor fees and/or commissions in the case of draw down. Some people utilising draw down may do their own calculations and their own investment, but it can be risky without the appropriate skills, and in Australia professional advice on draw down is widespread. It appears a priori likely that annuity provision will usually incur lower direct costs.

Under draw down, death earlier than expected causes an unintended bequest to the estate. Death later than expected will leave the person with no income. Under annuitisation, there is protection for as long as one lives – but on early death, at least under conventional annuity contracts, there is no refund.

To summarise, the principal differences then are the flexibility inherent in draw down (since one has access to one's capital), and the guarantee for life inherent in annuitisation. The following schematic was proposed by a reader of an earlier draft of this article, Andrei Andreianov, to summarise the differences between draw down and the longevity insurance that is the key characteristic of annuitisation.

Table 1: Contrast of longevity insurance and draw down

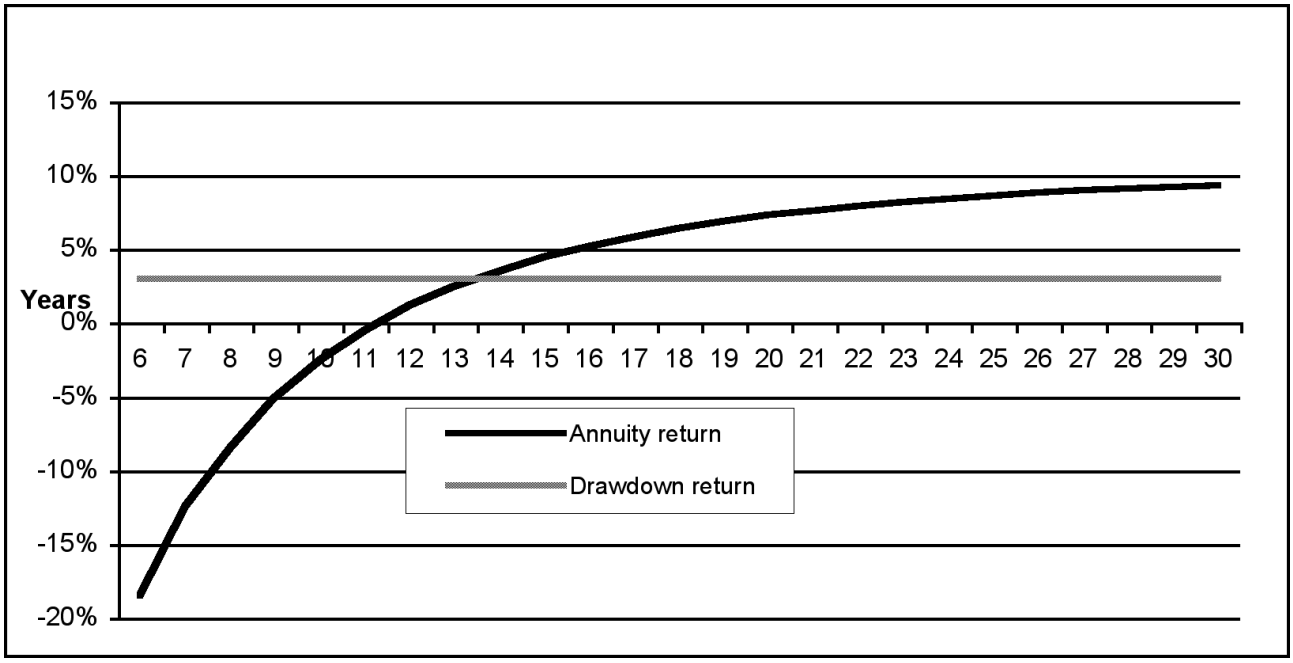
	Early death	Prolonged life
Longevity insurance	Benefit goes to other participants in the insured pool	Participant benefits through maintained income
Draw down	Benefit goes to the heirs	Family or children needed to provide support

Clearly, maintenance of an assured level of income (or equivalent goods and services) is possible under draw down if there is an effective contract between the retired person and their heirs that, on early death, the heirs benefit through a bequest; but if life is prolonged, the heirs are obliged to find resources to continue support. Effectively the heirs are taking on the longevity risk in an informal (and legally unenforceable) fashion.[5]

For those, however, for whom such a contract is not possible, or appears too risky, the presence of a functional

5 Pigott et al. (2004) refer to a paper by F. Hayashi, J. Altonji and L. Kotlikoff (1996), 'Risk-sharing between and within families', *Econometrica*, 64, pp.261-94, which shows that risk-sharing through transfers is limited even within families.

Figure 1: Comparison of annualised real return from draw down and annuity



longevity insurance market would seem important. The comparison over time of the actual return from draw down with purchase of an annuity presented in Figure 1 gives emphasis to this. Here a level real return of 3.5% per annum from draw down is compared to the annual accumulated return to a survivor under an annuity priced on the same return on the backing investments. (New Zealand life tables 2000–2002 All Males mortality is assumed; the expectation of life is about 17 years.)

On death within the first 11 years, the annuity purchaser receives a negative return on their investment. At 13 years, however, some four years before the median expected period of survival of 17 years is attained, the annualised return matches that for the draw down. An increasing average return is obtained thereafter for each further year of survival – 3% per annum more already by the 17-year point. The initial negative return may appear unattractive; but if one has died, this is of little consequence, while if one survives, the markedly greater return is obvious.[6]

Wakeling and Yang (2000) make this point in another way, demonstrating that even the most economically efficient form of draw down is around 30% less efficient than annuitisation in terms of effective utilisation of capital set aside to provide income in one's retirement. One should also note there is further risk inherent in draw down not captured here, not just the possibility of greater transaction costs, but the exposure to family pressure and potential fraud because of the flexibility of access to one's capital.

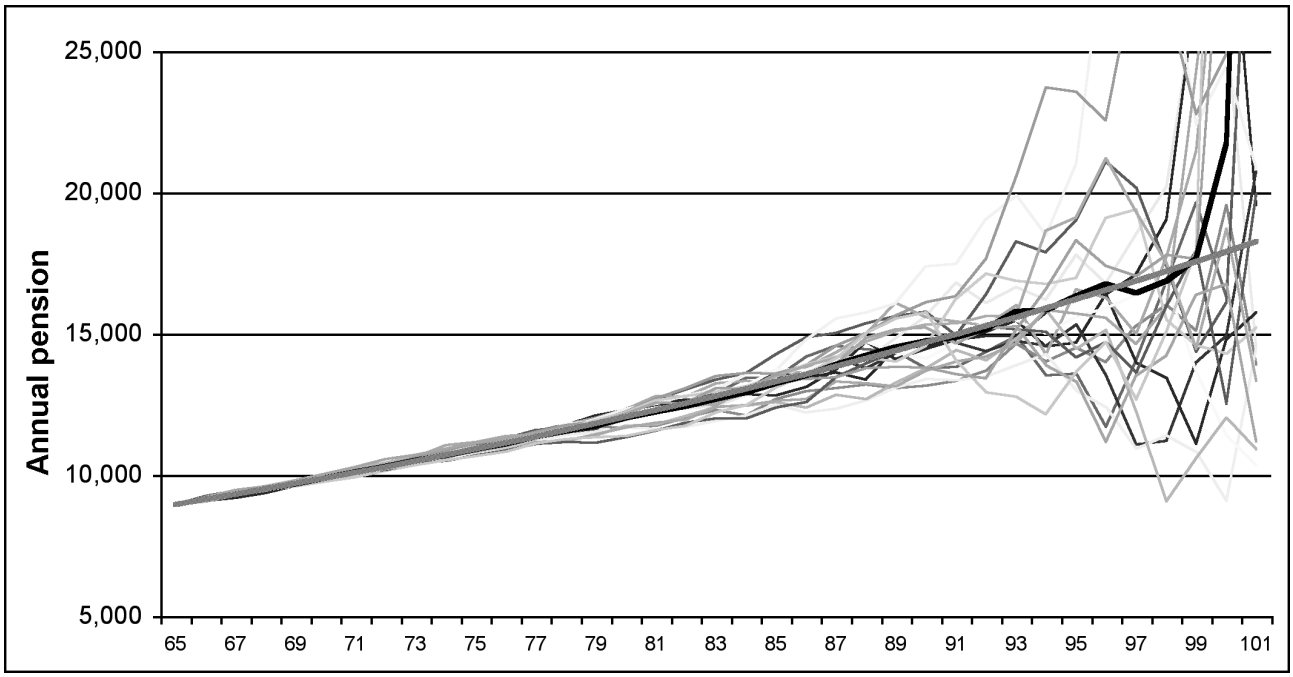
Longevity insurance examined

Having demonstrated the significant theoretical advantage of annuitisation over draw down, the question then is why is there not greater demand, and greater supply. To respond to this, it is useful to first illustrate how longevity insurance works.

This is done here by an example of pooling of longevity risk on a collective basis (i.e. without a guarantor). An initial cohort of 1,000 male 65 year olds is assumed to contribute $100,000 initially to an annuity-paying fund. An investment return of 3.5% per annum real is assumed over the period, net of all expenses, and pricing is assumed to allow for increases of 2% per annum in line with anticipated price inflation. Finally, it is assumed that mortality will be in line with the New Zealand life tables 2000–2002 All Males table. The initial amount of pension is broadly of the order of $9,000 per annum.

6 These results are relatively insensitive to the assumptions made.

Figure 2: Pension amounts by attained age, 20 simulations of 1,000 entrants, table AM(C)



Twenty simulations are run to derive a series of stochastic outcomes within the expected probability distribution. In this exercise, it is assumed pensions are re-balanced at the end of each year. At each balance date after commencement, each surviving member has an asset share calculated, being the asset share at the start of the year, decreased by own pension payments and the share of tax and expenses, and increased by the share of investment return and 'fall-in' from deceased members. This asset share represents the relative interest of continuing members. The pension supported by the asset share is then obtained by re-pricing on the original pricing assumptions, allowing for the further year of age.

The first chart, Figure 2, shows outcomes assuming all participants are subject to the same force of age-related mortality. There is a reasonable degree of closeness of outcome over the first 10–15 years, but then results become more variable as the number of survivors falls. After 25 years of operation – i.e. by age 90 – results become quite variable. In this example no pension actually falls until around age 87, but around half have increases less than that assumed in the pricing basis.

The heavy black line shows the average over the 20 simulations, and the heavy grey line the expected result. In this example it will be seen that over these 20 simulations the average is close to the expected until very near the end, after age 98.

To illustrate the effect of participants being admitted into this arrangement with mortality prospects different from the assumed risk, Figure 3 shows the results of 20 runs where 90% have the mortality on which pricing and re-pricing is based, while 10% have *lower* mortality (higher longevity), giving an extra three years' life expectancy at age 65.

Initially, results do not depart greatly from those expected. However, after 5–10 years the average starts to fall, reflecting the presence of some low-mortality participants who, as a result of not dying as quickly as assumed, cause asset shares to fall (since there are more survivors amongst whom the fund must be shared) and consequently lower pension amounts to be declared.

Eventually, the average pension amount over the 20 simulations (shown in grey) falls even below the expected level for lower-mortality pricing; this is because the mortality adopted for pricing purposes gives too high a pension and erodes the fund.

Figure 3: Pension amounts by attained age, 20 simulations of 1,000 entrants, table AM(C) mixed with 10% low mortality

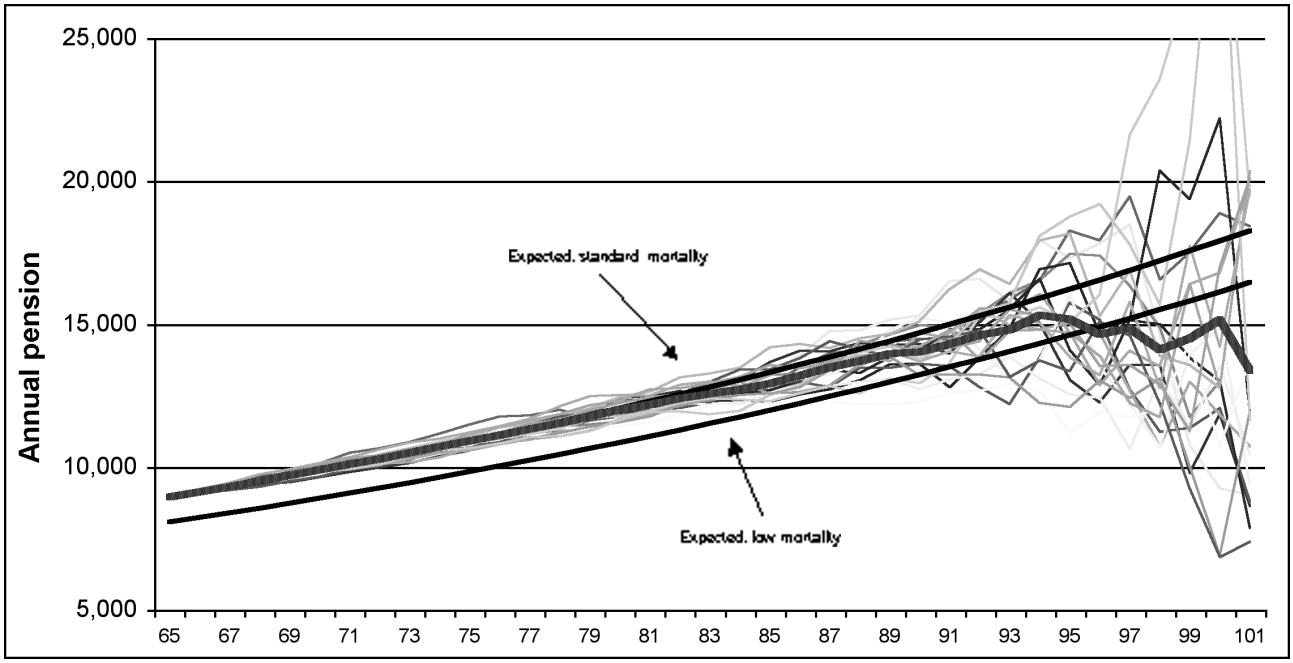


Figure 4: Pension amounts by attained age, 20 simulations of 1,000 entrants, table AM(C) mixed with 30% low mortality

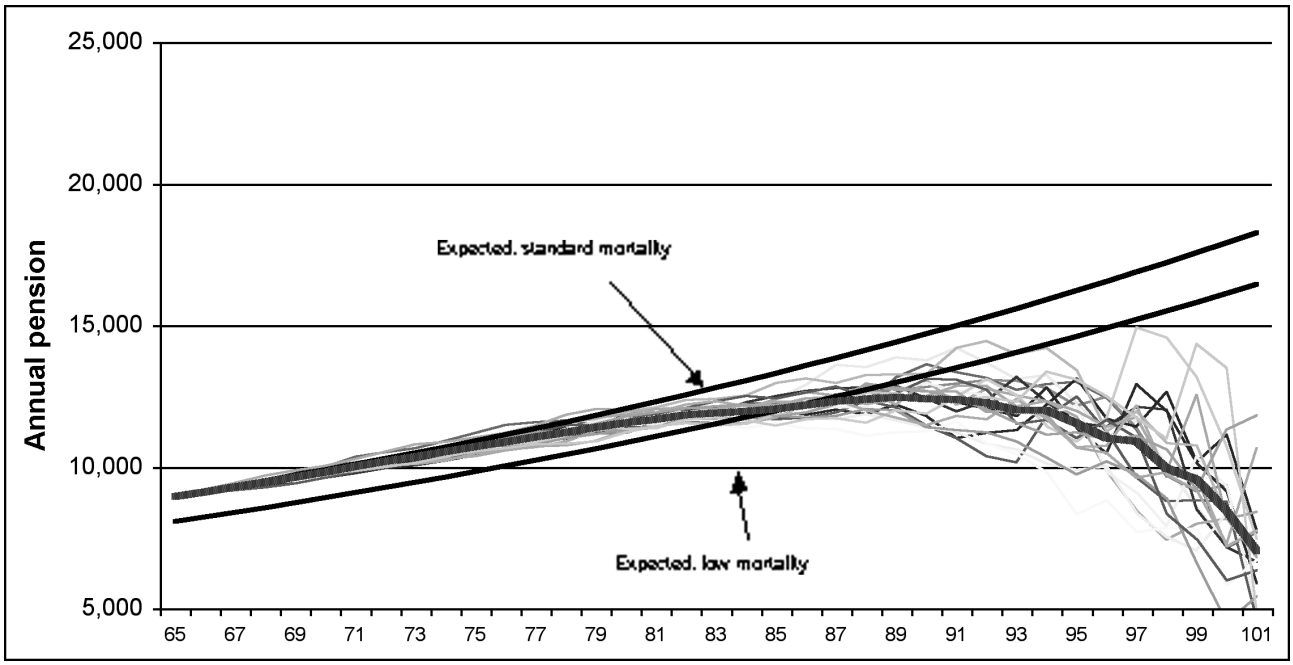


Figure 5: Pension amounts by attained age, 20 simulations of 1,000 entrants, table AM(C) mixed with 10% high mortality

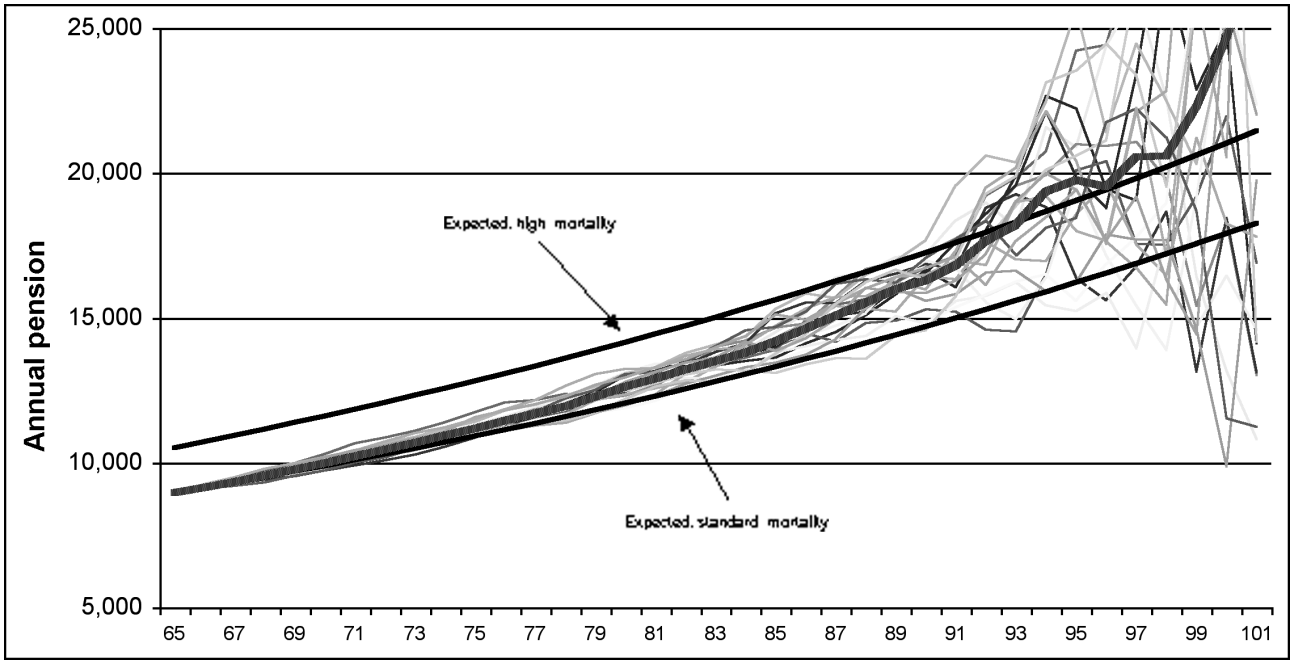


Figure 6: Pension amounts by attained age, 20 simulations of 1,000 entrants, table AM(C) mixed with 30% high mortality

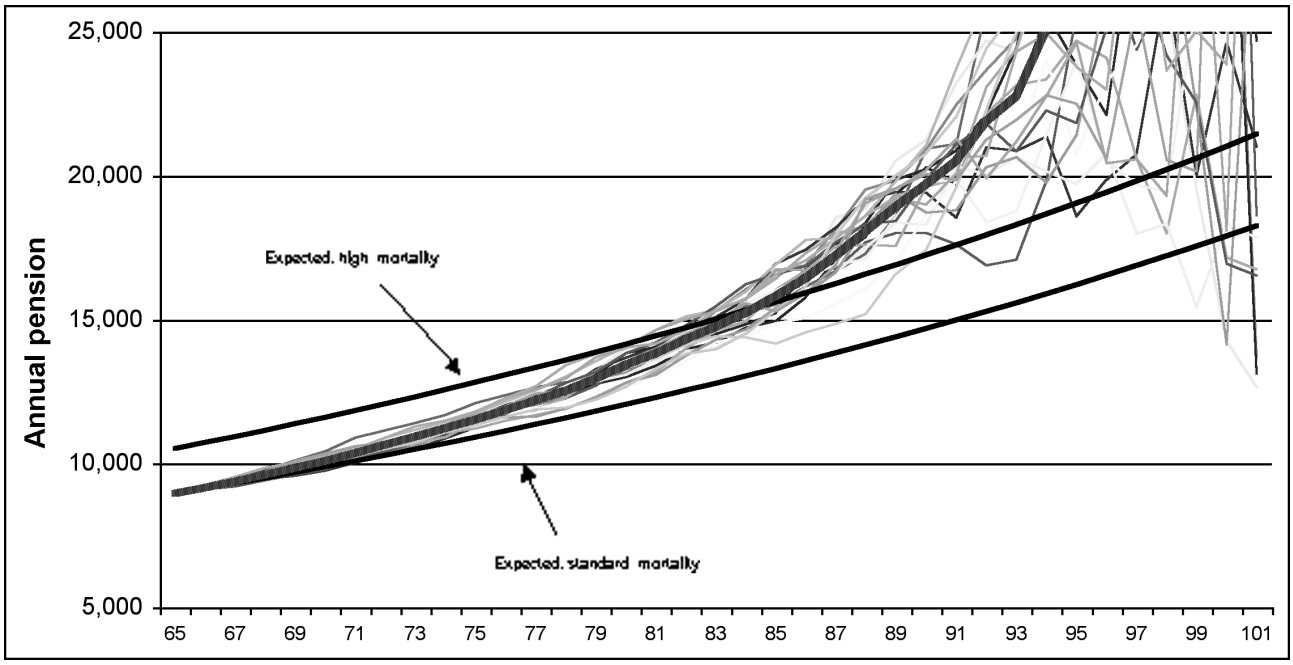


Figure 4 shows outcomes where 30% rather than 10% of the initial participants have lower mortality than that assumed.

Here the effect of over-provisioning – that is, re-pricing on the basis of mortality higher than would be expected by 30% of participants – is rather more marked, with the average falling faster. Note that the low-mortality group still initially benefit from participating, but will suffer erosion of the size of their pensions after age 85 unless the mortality pricing assumption is changed.

The next two figures, 5 and 6, show the results where the minority participants have *high* mortality and hence lower longevity (around three years lower) than that assumed.

In the 10% case, the pension levels are only a little better than expected in the initial period, but after 10 years the effect of having more people than expected die causes the available funds to increase and higher pensions to become payable. The profits are eventually such, in these simulations, that survivors at the end receive pensions commensurate with what would have been payable under the high mortality assumption – although for 20 years, actual high-mortality participants will have had lower pensions than they would have expected.

Unsurprisingly, in the 30% case the impact of having a larger group of participants with higher mortality than assumed for the pricing leads to pension levels rising rather more sharply. The period for which the higher-mortality participants receive less than actuarially fair pensions is reduced to 15 years, but the actual numbers surviving past that time will of course be relatively few.

These illustrations demonstrate three particular features of longevity insurance for a guarantor such as a life insurance company.

- Even within a known mortality distribution there will still remain a good degree of variation if numbers of insured are relatively small. This idiosyncratic longevity risk, as it is termed, has to be catered for by the guarantor of the annuity, through reinsurance and/or holding capital fluctuation reserves.
- Good risk assessment and classification, known as underwriting, is essential. For the guarantor, the risk to be guarded against is people with mortality lower than anticipated; hence pricing tends to be based on the best lives.[7]
- If the mortality experience of the pool – i.e., the number of deaths – starts to diverge outside what could be anticipated from random fluctuations, this is a warning to (a) re-assess one's mortality assumption promptly for future contracts, and (b) set up loss reserves.

There is, in fact, considerable heterogeneity in mortality; refer, for example, to Blakely, Fawcett, Atkinson, Tobias and Cheung (2003), where disparity according to socio-economic factors is identified in New Zealand. The absence of annuities priced according to appropriate rating factors, such as, for example, income, education, family history of mortality, smoking, etc, leads to what may well be perceived to be unfair results. It emphasises the results reported in some of the literature, that annuitisation which does not reflect reasonable perceptions of one's mortality risk will be seen as unfair and hence not utilised.

The impact of systemic longevity risk

Implicit in the simulation process used above is that there is an appropriate probability distribution for the expected mortality, and that the insurance problem is confined to idiosyncratic risk, i.e. random fluctuations. Unfortunately, there is now considerable doubt as to the rate at which future improvements in longevity will occur.

The problem is not that there are improvements; demographers and actuaries have incorporated estimates of longevity improvement in their projections for some time now. What has become evident in recent years, however, is that these projections have been wrong, and, of more concern, that there is no sound basis on which to forecast the future levels of improvement in a manner suitable for insurance.[8] Cohort effects have been detected, but the drivers are not as yet understood.[9] While some maintain that past levels of improvement

7 The extensive literature on annuitisation has mostly focused on a 'whole of population' mortality. The so-called 'annuity puzzle', relating to what appears to be a higher price for annuities than would be expected by reference to population mortality, is in fact explained by the fact that those who voluntarily purchase annuities generally expect to have better than average mortality – and life insurance companies price their products accordingly. Compulsory purchase of annuities required in the United Kingdom is, however, leading to the availability of underwritten 'impaired lives' annuities in that market.

8 Possible market solutions to the problems of insurance of this systemic longevity risk have been discussed; see, for example, Antolin and Blommestein (2007), and Blake, Cairns and Dowd (2006). These suggest that the problem of being unable to adequately quantify the risk remains a significant obstacle.

will continue for the foreseeable future, others suggest, noting the rise of obesity and binge behaviours, that the improvement in longevity observed over the last century could level out or even reverse.

This uncertainty as to the future direction and extent of longevity improvement is referred to as systemic longevity risk. It applies in all developed countries, and is affecting the provision of annuities, since the risk is not hedgeable on financial markets.

Policy issues

The simple statement of the problem is that while longevity insurance through annuitisation presents marked theoretical advantages for the provision of regular income in retirement over the draw down alternative, it appears to be unattractive to those who might be expected to use it. The under-utilisation represents an economic loss which it is arguably desirable to try to mitigate.

The discussion in this paper so far has focused on the supply side issues around longevity insurance:

- managing idiosyncratic longevity risk: in the New Zealand market the small numbers are likely to result in a guarantor pricing only for the low-mortality group, as scale will not make it worthwhile to underwrite, and the guarantor will need to hold capital reserves (or completely reinsure), adding to the cost of provision;
- systemic mortality risk: as it is highly problematic to reinsure or to hedge this, potential providers may not wish to enter the market, or at the least will see a need to price conservatively, losing part or all of the comparative advantage over draw down.

Other supply side issues include investment and tax. As noted briefly, investment of the assets backing an annuity, if the payments are fixed, has to be in low-risk instruments of appropriate maturities (to avoid reinvestment risk); in New Zealand, government bonds are relatively short-dated and hence not of enough length. It is also generally considered desirable for annuities to preserve purchasing power by being linked to price inflation, but inflation-indexed bonds are not available here. Whether the market could innovate by offering annuities linked to some replicatable investment index is a moot question.

Tax has not been mentioned. Briefly, taxation of annuity products in New Zealand is opaque, coming under life insurance company tax legislation. Ideally, the tax on the accrual of the earnings on investment of the backing assets would be neutral, but this would require a major rethink as to how annuities are provided (and taxed).

Turning to the demand side, the problems relate principally to the perceived lack of flexibility compared to draw down – handing over one's money for an annuity is rather final in that regard. A lack of trust in a lightly regulated financial services sector can be argued to be perfectly rational, given the complexity of longevity insurance; and the lock-in to low-yielding investments in return for a guarantee may not be well understood, nor easily explainable, given the product's lack of transparency. And perhaps one of the strongest factors affecting demand may be a sense of poor value for money if one is not in perfect health with long-lived parents, in the absence of any attempt to underwrite.

This analysis therefore suggests that even were there to be greater education as to the perils of not insuring longevity risk through buying annuities, it is unlikely that insurance companies would be able to provide annuities at a price that would be perceived as acceptable by the general population. Possibly, some employers might consider reverting to taking on some longevity risk for their employees by underwriting occupational pensions, but this seems only likely if there are sound labour market reasons for doing so.

Policy responses

One can identify three main policy options to address the current inability to obtain meaningful longevity insurance.[10] These are:

- Do nothing, noting that New Zealand Superannuation provides at least a certain amount of longevity insurance, and that the greater retirement savings resulting from the KiwiSaver initiative may possibly lead in future to a market solution emerging without government involvement.

9 For a full description of New Zealand cohort mortality, refer to Statistics New Zealand (2006).

10 One could also consider making KiwiSaver proceeds available only as an annuity. Putting to one side the argument as to the merits or otherwise of this, the resultant annuity would still have to be provided in one of the three ways discussed here.

- At the other extreme, have the state enter the market and establish a not-for-profit annuity fund offering CPI-indexed annuities.[11]
- As an intermediate position, consider facilitating the introduction of annuitised funds, under which participants self-pool their longevity and other risks on a collective and fully transparent basis.

If the argument is accepted that systemic longevity risk is not currently hedgeable, nor likely to become so in the near future, then a viable private annuity market under option 1 is unlikely – there is no sound basis for the private sector to accept the risk, except by charging prices that will deter most potential purchasers.

This will be particularly so when the disparity in expected mortality conditioned on such factors as income, gender, education, family history of mortality, smoking, etc is taken into account. Effectively, the potential insured population does not have the conventional single risk category (i.e. male or female) but a wider number of categories, implying a greater number of smaller risk pools. With a population the size of New Zealand's, any expectation of being able to hedge systemic longevity risk through private markets then becomes extremely small – even idiosyncratic longevity risk is difficult.

Options 2 and 3 would then seem more promising if New Zealanders are to have viable access to longevity insurance. But since the state is already providing longevity insurance through the state pension system at significant levels for those accustomed to lower incomes – although rather less so for the middle and higher income groups – it may be difficult to get acceptance of a state-supported annuity fund. Also, although longevity insurance would be addressed, this would not necessarily solve any of the other demand and supply side issues as noted above, were traditional annuity products only on offer.

There is, therefore, scope to explore whether option 3, encouraging self-insurance through facilitating the introduction of annuitised funds, is worth consideration. As noted earlier, the basic features of annuitised funds are:

- self-pooling of longevity risk;
- self-pooling of investment risk.

11 Some might suggest indexing to net wage increases, as is done for New Zealand Superannuation; however, pricing of such annuities is highly problematic, if not impossible.

For a fuller discussion, Wadsworth, Findlater and Boardman (2001) provide an innovative introduction to the topic, and Daykin (2004) and Pigott, Valdez and Detzel (2004) expand on the theoretical aspects. The example given earlier in this article of re-balancing each year reflects the basic operational principles.

The annuitised fund certainly has a number of advantages compared to traditional annuity product, while retaining the economic advantage over draw down. Some of these are:

- The investment risk in annuitised funds is borne by the fund members. According to appetite for risk, this could permit greater holdings of growth assets in an annuitised fund than with a conventional annuity provider. Furthermore, there may be scope for individualised investment holdings, which would then allow someone to transfer their pre-retirement accumulated assets directly without incurring buying and selling costs.
- Tax of the income derived from investments could be tied to each participant's tax status, perhaps most efficiently by using imputation credits.
- The restriction on access to one's funds in traditional annuity products could be lifted to some degree, since the asset share of each participant is known (at least on balance dates). Actually permitting access would, of course, be conditional on the demonstration of continued good health, at the applicant's expense.

There do, however, remain some difficulties. A key outcome of an annuitised fund is spreading of longevity risk; a key concern is that risk be fairly borne by participants. Ensuring appropriate risk assessment for the pools would be essential, and require some resource put into research and setting national standards. Trusted regulation would also be needed.

The longevity insurance simulations also demonstrated that at older ages, when few are left in the pool, results become highly random. It may be that paying out participants at some age such as 95 would be desirable.

While in theory annuitised funds should absorb all idiosyncratic risk, there may be greater attractiveness were the state to at least provide stop loss insurance on a cost neutral basis; i.e. for deaths fewer than a certain lower limit the state would provide a subsidy, in return

for a payment should deaths exceed a certain upper limit. This would be appropriate if, as suggested, the state sets the risk assessment standards.

As Antolin and Blommestein (2007) indicate, systemic risk will probably need to be absorbed to some extent by governments if longevity insurance is to flourish. Annuitised funds could either self-absorb systemic as well as idiosyncratic risk, subject to the stop loss insurance arrangement described above, or alternatively revise the mortality basis for re-balancing from time to time as and when it became apparent that the extent to which improvement in longevity allowed for in the mortality basis was out of line with up-to-date best practice. This latter arrangement would devolve the systemic risk completely onto participants; a quid pro quo might be a favourable tax treatment, or some other 'sweetener'.

Conclusion

This paper has made the argument that there is a clear theoretical advantage in utilising annuitisation rather than draw down from an efficiency perspective. In practice, in the current state of the market, traditional annuity products are not attractive, and, even with better education as to their merits, are unlikely to address the needs of those other than the very healthy, or with sufficient means to assure themselves of the very best health treatment. The 'do nothing' option is therefore rejected.

The option of the state stepping in to provide traditional annuity products is also rejected, on the grounds that the external guarantor model remains unworkable even were the state prepared to take on the systemic and idiosyncratic longevity risk on the grounds of market failure.

The option of facilitating self-insurance is shown to address a number of the disadvantages of traditional annuity products. There would, however, appear to remain a need for some state intervention, not least, it is suggested, a sound basis for assessing broad mortality risk categories, and some form of stop-loss insurance.

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Education and Local Government Working Together: a Community Governance Approach

Bernardine Vester

Introduction

Relationships between the education and local government sectors have historically been related to matters such as rates impacts, building consents, attending to transport or community safety, or the use of parks, libraries and leisure facilities. Yet community well-being, for which local government is responsible, is influenced by the network of schools and other educational institutions within a particular geographic area, and the issues that affect them all. Education as an agent of well-being features strongly in the long term council community plans (LTCCPs) of local government (Reid, Scott & McNeill, 2006).

It is far from clear how the two sectors might usefully work together. One possibility is to link the community outcomes process required under the Local Government Act 2002 to strategic planning and implementation processes within the education sector, thereby giving both central government and communities the potential to obtain better value from the resources they control to address challenging social, economic, cultural and environmental issues.

This article reports on research which suggests a model for engagement between these two sectors (see Vester, 2006). The model consists of levers which constitute a kind of 'community governance' for promoting community well-being through education.

Governance is the set of rules that frame decision making. Two aspects of governance – structures and processes – are relevant to the way in which relationships between local government and education can be developed, and provide a theoretical underpinning to the development of a model of engagement. Education decision making prior to 1989 involved hierarchical structures and processes driven by prescriptive rules and regulations. The 1989 education reforms removed the hierarchical structure within compulsory education and replaced it with a market structure. This structure offered greater parental empowerment and the removal of the state from micro-level decision making. However, markets have an atomistic tendency (Pierre & Peters, 2000, p.19). The many separate governing bodies of schools that collectively and theoretically form the 'market' for education have no economic incentive to cooperatively resolve problems shared with other actors. Indeed, it is possible to argue that the incentive exists for schools in a position of privilege to pass problems on to others, or to seek to insulate themselves against external influences. In a market environment, cohesive, strategic decision making across schools or post-compulsory education and training providers must be achieved through indirect steering mechanisms (such as central government purchasing decisions). This structural characteristic presents a key barrier to the relationship between local government and schools because it fragments institutions into isolated units of decision making with no requirement to engage with the strategic ambitions of territorial local authorities.

A further difficulty in the interface between education and local government in New Zealand arises out of the existence of a variable definition of 'community'. A school community is defined as 'parents', whereas the geographic community of territorial local authorities comprises 'all citizens'. School communities and local communities may have commonalities, but they are not the same. Education is no longer the exclusive preserve of central government, even though the state exercises powerful leverage over schools and other learning institutions through the prescription of curriculum, provision of funding, and education and administrative 'guidelines'. Instead, its governance structure is the private preserve of parents moderated by the input of employees.

A key element of well-governed communities is community ownership of the fruits of their successes – and failures – in solving collective problems (Pierre & Peters, 2000, p.21). Communities can only achieve this when they 'own' the assets with which they work. A network of schools within a geographic area is a powerful community resource to meet the four well-beings of local government. The key challenge in creating community governance for education is to define the ways in which key actors may interact to create a sense of shared ownership in order to achieve a desired community outcome. This requires understanding the different structural frameworks that apply for each sector, and applying processes within those frameworks which enable action.

Structural frameworks in the education sector

The devolved 'market model' of education provision results in a very complicated network of actors operating in the sector. The key government institution is the Ministry of Education, although the Education Review Office (ERO), the New Zealand Qualifications Authority (NZQA) and the Tertiary Education Commission (TEC) also have very important and distinctive functions. These agencies set sector strategies.

However, there is no physical presence of these agencies in most local government geographic areas. Instead, the education sector presence in each of the 12 regional councils and 73 territorial local authorities consists of the education providers – that is, early childhood centres, schools and tertiary institutions. Each school contracts with the government through a 'charter' with the Crown for delivery of services. Schools, individually governed by boards of trustees made up of parents and led by a school principal, are expected to develop institutional strategic plans that are consistent with national education guidelines and national administration guidelines (known as NEGs and NAGs) – a form of 'purchase criteria' for government from the schools sector. The self-managing autonomy of schools results in very different strategic planning directions. While the recent creation of a national schooling strategy may help to align these strategic plans, there is no requirement to support a community-led approach.

Like schools, tertiary institutions are bound by the requirements of the Education Act and its amendments. While each institution has its own constitutional governing body, there is a defined tertiary education strategy (known as the TES), and a regularly reviewed statement of tertiary education priorities (STEP), the purpose of which is to 'steer' the sector. This terminology is highly relevant to the concept of engagement of community in education. Recently announced changes underpinning government purchasing decisions for skills training imply the importance of connecting community strategic priorities to central government decision making. These tertiary sector changes are designed to encourage more collaborative planning processes, perhaps inclusive of local government interests. The responsibility for a 'regional facilitation process' rests with institutes of technology or polytechnics.

Structural frameworks in the local government sector

The Local Government Act 2002 proposed the empowerment of local bodies to meet the needs of their communities and the development of a partnership between central and local government (Department of Internal Affairs, 2000, p.2). The drivers for change included growing international emphasis on the importance of networks in the development of community well-being (Putnam, 1993; Cox, 1995; Fukuyama, 1995) and the recognition that cross-cutting policy issues, the so-called 'wicked issues' such as youth unemployment, crime and violence, urban poverty, health and intergenerational illiteracy (Clarke & Stewart, 1998), could only be dealt with through more holistic and more localised approaches.

The economic, social, cultural and environmental well-being that forms the core purpose of local government is to be delivered through consultation and decision-making processes that are tightly prescribed. The tool for defining community outcomes is the Long Term Council Community Plan (LTCCP), which describes a set of 'desired outcomes'.

The engagement and involvement of educators and education sector leaders in the development of the LTCCP is critical if the community's aspirations for educational outcomes are to be met. However, there is no specific requirement for schools – or indeed the education sector government agencies – to participate in this process. The challenge, therefore, is how to engage the education sector in community outcomes processes.

Processes for engagement: case studies

Four case studies – Manukau City, the West Coast and two from Southland – illustrate processes for engagement that have developed out of these structural frameworks in each sector. Each case study described four elements: the drivers for engagement, the key actors and their actions which drove working relationships, the outcomes of the engagement and the shape of future action.

A key theme emerged from the case studies. In all regions, the regional economic development strategy was important to support a working partnership. While a key driver behind all case studies may have been a central government strategy (for increasing participation in tertiary education), central government policy (school network review policy) or central government institution (ERO), the *local* government economic development strategic context was critical to subsequent action. Each of these case study areas faces particular economic development challenges.

In Manukau the challenge has been significant population growth, social and cultural diversity and the requirement for enhanced population skill levels to meet labour market demand. The response was the establishment in 1999 of the City of Manukau Education Trust, which in 2002 became a council-controlled organisation. It now has specific responsibilities for addressing the desired outcomes for 'An Educated and Knowledgeable People', contained in the vision document developed by the Manukau City Council, *Tomorrow's Manukau: Manukau Apopo.*

In Southland, population decline and an export economy reliant on global markets have required improved population skill levels to meet future needs. The development of the zero fees policy at the Southern Institute of Technology in 2001 has demonstrably halted population decline and enhanced local skill development potential. This case study refers to the collaboration with local bodies and the Southland Community Trust and the Invercargill Licensing Trust to address the economic imperative.

The engagement of the Invercargill City Council and the mediating role of Venture Southland (the economic development agency for three territorial local authorities) in a highly controversial schooling reorganisation in 2003 supported the creation of solutions to a difficult local school network problem.

On the West Coast, the dependence on sunset/extractive industries, the emergence of tourism as an economic driver and the removal of isolation as an economic factor through the use of technology has driven an aspiration to improve workforce skill levels. The case study describes the responses of the West Coast Development Trust, councils and local schools and educational organisations to concerns raised by an ERO report about West Coast school performance. The West Coast Development Trust funded the implementation of a major literacy initiative in 2005 to understand and address the contribution the school's sector could make to meeting community skill needs.

Key actors came from across the community, local government, education and central government spectrum. Their leadership in working towards mutually desired outcomes points to the importance of strengthening relationships and making connections. They understood the usefulness of evidence and data to support outcomes. And they tapped into a wide range of community resources and expertise to solve problems. Analysis of the outcomes from collaborative action pointed to an emerging governance process which addresses issues affecting the broad network of schools and education institutions, and wider community well-being.

Towards a community governance framework for education outcomes

Peter McKinlay, addressing the role of community trusts, comments on the nature of the 'shared responsibility' inherent in the community governance approach:

> Community governance is not about instruments of government, such as a local authority, imposing its own views on the community. Instead, it is about developing the means whereby the community itself develops its understanding of its preferred future(s) and the means of realising those. It is a process which needs to recognise the diversity within individual communities as well as the need for a robust process which can do the difficult things such as identify trade offs between different groups or different options and bring together the plans and policies of the various key actors through whom the community will want to work in order to achieve those futures. (McKinlay, 1999)

A 'community governance framework' for education will reflect structures and processes that deliver whole-of-community aspirations. By strengthening community understanding of the complex issues facing the sector, a wider range of resources can be brought to bear on solving 'wicked' social, cultural and economic problems. Working together around a shared vision of the future, the combined weight of community decision makers will result in community outcomes that meet the four well-beings of local government, as well as the strategic intentions in the education sector.

The settings under which community governance for education could operate are still untested. There can be no blueprint for ideal community governance (Bowles & Gintis, 2001). However, the elements of well-governed communities were manifested in a variety of ways in the case studies. The case studies suggest a set of six governance levers that frame collaborative decision making and action in the community.

A unifying vision, strategy or community plan

A community governance approach demands consensus about desired outcomes. The narrower definitions of community contained in the Education Act (i.e. parents or other schools) make consultations on matters that have a long-term or wider community impact (such as developing new schools, restructuring school networks, or addressing matters of schooling achievement) less effective in addressing community aspirations. More robust community consultation processes are contained in the Local Government Act 2002. The research reviewed examples of economic development strategies or local government vision documents that have already made the connection between education outcomes and community desired outcomes. The mechanism with the greatest potential for making the engagement between education and local government deliver something of value to the community is the long term council community plan. For this reason, special attention should be paid to engaging the education sector in LTCCP processes; or for incorporating education plans into the LTCCP. This has to offer something of value to education sector leaders – most often, this will be resources and support. Equally, an education plan, shared by local government and the education sector, could be of considerable value to a community. The challenge in developing an education plan will be in finding mechanisms whereby school strategic planning and city or regional strategic planning can come together. The resource and facilitation for this will be particular to each area, but the opportunity to tap into 'community resources' for this purpose is worth exploring.

Distributed leadership

Governance and management tasks are shared in communities. People who have governance and management roles in a community may include:

- a mayor, councillors, community board members;
- runanga or iwi authorities;
- school trustees and their boards;
- trustees of community trusts;
- CEOs of community agencies, including economic development or community development agencies;
- business or workplace leaders, who can influence the shape of the local economy;
- school professional leaders;
- government agency leaders;
- political representatives.

The case studies point to the value of distributed leadership in a community, and the value of connecting leaders from different spheres to address community problems. The added value in applying governance and management leadership across the community to some larger problems having an impact on education is worth further research.

Information and data to underpin decision making

Over the last 10 years the education sector has been engaged in schooling improvement initiatives and projects which focus on using evidence and data about student progress to plan lessons and evaluate learning. New Zealand does not, however, have a national testing system, except in the senior secondary school. This allows for more flexibility to design programmes of learning that will meet the needs of diverse groups of students. However, the availability of reliable, benchmarked data to report student progress to parents,

and schooling outcomes to communities, has been limited. This is not an argument for national testing. Rather, it is an argument for making data or information – some of which may already exist – available in a form which supports community understanding and awareness of issues which affect schooling outcomes in the local area. Public engagement in education, in the absence of reliable or meaningful information on student achievement at almost all levels except senior secondary, falls back on two opposite responses. The first is a supportive response, calling for donations or exhortations to work with children. There is no strategic linkage in a donations process, and consequently very little evidence of change as a result of community philanthropy. The second response is more critical. It calls for public accountability for schools, including greater obligations to report or explain or justify or be otherwise answerable through testing or exams.

The problem of poor information is that it results in general assumptions of school or government failure in managing schools or the schooling system. Although individual schools can claim high levels of community confidence, the schooling system is wide open to generalised accusations of failure. High-quality information, which can support measuring and auditing of outcomes from the sector, is a prerequisite for creating confidence in the network of schools serving a community. Information has been a driving force for the work of the ERO since its beginning. The key audience for this information has been parents. However, the importance of information for community decision makers has been under-emphasised. Measuring and auditing outcomes are an important part of the LTCCP community outcomes process. The process is still too new to identify whether community outcomes related to education can be properly measured using existing publicly-available data. This is an area meriting further research.

Community resources – financial assets and expertise

The case studies on the West Coast and in Southland demonstrated the powerful effect that community capital can have on community economic aspirations, when harnessed to education. Assets to be found in many communities include energy trusts, local government shareholdings in infrastructural companies such as ports and airports, licensing trusts, land, and community trusts distributing assets from community savings banks. These can become not simply a source of income for distribution, but a resource powerful enough to influence the economic development settings of the community.

All government agencies, local authorities and council-controlled organisations are required to spell out in statements of intent their objectives for the future. Their annual reports are carefully scrutinised. Through a process of negotiation with their communities, organisations that are stewards of community assets must set out their policies for investment and spending and explain how performance in pursuing objectives will be measured.

However, connecting these statements of intent, disbursement policies or resource management policies to community outcomes in education is a challenge. There is no obligation on trustees of community assets to connect those assets and resources to community strategies, unless there is a clear community demand for them to do so. A policy gap exists in this area.

Collaborative activities, and inclusiveness in meeting shared goals

The quality of community networks is important. Community leaders and education leaders need opportunities to spend time together, to actively seek opportunities to work together, and to consciously be inclusive of other stakeholders. The organising framework for education conspicuously lacks a connection to community decision makers. This provides a particular challenge for local government managers. The engagement of educators in defining community outcomes in relation to education is no less than that required to meet the consultation principles under section 82 of the Local Government Act 2002. However, there has to be openness from the education sector, too, in engaging in collaborations that are purposeful.

It is clearly easier to manage networks in smaller communities. The Southland and West Coast leadership networks are intensely interconnected, not as a result of geographical closeness but because of joint ventures and activities that form background relationships which can be subsequently applied to new collaborations. Even so, the research points to unrealised potential in educational development projects because there is no

particular drive from within the education sector to be inclusive of players other than parents or other education sector professionals.

Public debate and openness to community input

In the public and community sectors, the use of statements of intent, annual reports and annual general meetings to provide a framework for public input is common practice. These offer opportunities for debate and build community awareness of governance decisions. The media plays an important role in democratic operation, and offers a means of sharing goals and including others.

Schools and public tertiary institutions, as public entities, must meet the same requirements as other Crown agencies. However, there is no obligation on schools to connect their annual plans and annual reports to community strategies. There are missed opportunities here. Firstly, if schools were to connect their strategies to community aspirations, they would have a greater opportunity of tapping into the resources targeted to those outcomes. Secondly, annual reports are an excellent mechanism for publicly self-reporting on outcomes, and for displaying achievements. But they are rarely available in the usual public access spaces – public libraries or the internet, for example – or accompanied by media releases. Thirdly, by publicly and collaboratively linking to an area network education plan, a school network might be in a better position to argue for a share of community asset distributions such as community and licensing trusts provide, which would make a real difference to learning outcomes.

Capacity and capability to engage

The gap in the capacity of the Ministry of Education to support engagement with local government is particularly striking. None of the officials from the ministry interviewed for the study appeared to understand local government processes for developing a community vision. Local government was seen as a regulator for property matters or traffic or safety issues. There is no ministry process for working with communities at the macro level. This is a gap that needs to be addressed if the Ministry of Education is to meet its strategic goal of supporting 'family and community engagement', or to deliver on the state sector promise to support a whole-of-government approach.

Finally, the capacity and capability of schools to engage with local government is limited by the understandings in the sector about the importance of such engagement, and the human resources (that is, people and time) available to effectively support connections. The literature and the practice seem to suggest that effective engagement will result from concrete projects that deliver value to participants.

Conclusion

The research set out to identify the nature of the relationship between local government and education. The central research question was: how can community 'well-being', as described by the Local Government Act 2002, be delivered through education? A community governance framework as a means of facilitating collaboration between local government and education has the potential both to assist in addressing schooling network issues, and more generally in helping to address some of the intractable 'wicked issues' of public policy. The framework responds to theories of social capital development. The community governance framework for education identifies a number of ways in which the relationship between the education sector, local government, and community can be advanced:

- Firstly, through *an overarching vision* – a community LTCCP, an economic development strategy, an education plan – which has been collaboratively developed and therefore is recognised and owned by all players.
- Secondly, through nurturing *distributed leadership* which engages with education issues on shared terms. This could be achieved through the creation of opportunities for education sector, community and other leaders to come together; or by deliberately encouraging the development of leadership capacity and capability across the community in cross-sector settings.
- Thirdly, by deliberately setting about *gathering data and information* about education, and publicly presenting it in accessible forms. The process itself will require deep engagement. However, local government is well placed to facilitate information-gathering and dissemination – through local libraries, media, community institutions, and so on.

- Fourthly, by considering the range of *community assets and resources* that can be aligned to strategic actions, and ensuring that they add value to visions for economic development.
- Fifthly, through engaging in *collaborative activities* that arise out of consultation and dialogue, since action helps to form relationships (Timperley & Robinson, 2002).
- Sixthly, through *building the capacity and capability* for local government and the education sector to engage with each other.
- And finally, by ensuring that there is an *openness in processes* – even when consultation is not mandated – so that there is an opportunity for leaders from the education sector and the community sector to plan and work together.

The community governance framework for education proposed here fits with the development goals for the state sector. Schools and education sector institutions are part of the state sector, even though they may not always recognise this. Their relationship to their community can build the trust and confidence they need to deliver outcomes, and maintain support into the future.

Local government has a powerful opportunity to work with education sector and community leaders to deliver educational outcomes that enhance community well-being. The potential exists for innovative and creative responses to community challenges when the education sector and local government work together with community well-being in mind. The structures and processes for realising that potential already exist. It requires only a new way of thinking about how to use them.

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Tenure Review, Property Rights and Public Policy[1]

Neil Quigley

Introduction

Large tracts of the South Island high country are farmed under leases that are perpetually renewable at the discretion of the lessee. Changes in views about the optimal use of the high country have resulted in the government instituting a tenure review process, under which the Crown is negotiating with the owners of South Island pastoral leases to redefine the property rights associated with those leases. As a result of tenure review, the portions of these pastoral estates that have high conservation and/or low farming value are being returning to the Crown under management of the Department of Conservation (DOC), while those portions of the estates that have high value in farming or other uses are transferred to the freehold ownership of the former lessee.

In an article published in the last *Policy Quarterly*, Ann Brower (2007) suggested that tenure review is producing outcomes that are:

- consistent with no-one advocating for the Crown's interest, based on the Crown tacitly agreeing to 'lose' in the negotiation process;
- consistent with officials acting to close the deal at any costs, so that the deals struck strongly resemble the lessees' demand curve for freehold land;
- inconsistent with the relevant law on property rights.

In this paper I first review the tenure review process and the property rights issues associated with this. Second, I provide an analysis of the evidence presented by Brower. Thirdly, I conclude with an alternative view of the key public policy issues and suggest that the tenure review process is a positive one for New Zealand.

Property rights

A property right provides the right to use resources for certain purposes, and the holder of a property right is the person or group with the ability to exercise the relevant use rights. There is no simple match between allocations of property rights and the concept of ownership as it is used in popular language.

In the case of a perpetually renewable lease, the allocation of property rights makes the concept of ownership extremely complex. These leases limit the range of activities that farmers may undertake on the land, and require that the farmers pay rent to the Crown based on unimproved land values. But in other respects the leases approximate freehold rights to occupy and use the land, exclude others from using the land, and transfer their rights to others.[2] So, despite the Crown's interest as a lessor, land subject to pastoral lease is not 'public' land; the Crown must negotiate agreed terms if it wishes to review tenure without breaching the legal rights of the lessee.

The lessees hold title to a perpetually renewable leasehold estate, which means that land covered by pastoral leases is not 'public' land that is available for allocation at the discretion of the Crown, but rather land alienated into private hands by the Crown. The fact that the alienation occurred through a perpetually renewable lease rather than a transfer of the fee simple (freehold property rights) does not change the fact that alienation has occurred.

Similarly, it is incorrect to claim that retention by the Crown of the use rights except pastoralism provides the Crown with valuable property rights in pastoral leases. The Crown alienated the ability to exercise those rights when it issued the lease by virtue of providing

1 This paper draws on earlier work with Lewis Evans and my correspondence with Ann Brower and Philip Meguire.

2 In fact there is a market for both lessees' and lessors' interests in perpetually renewable real estate in New Zealand, providing market reference points for valuation (see, for example, Boyle et al., 2008).

leaseholders with a perpetually renewable right to exclusive occupation and quiet enjoyment of a pastoral estate.[3] The Crown has no rights to do anything with the land except collect rent and adjudicate on any activities proposed that are not permitted under the lease, unless the lessee chooses to sell their interest in the land to the Crown or not to renew the lease at the point of renewal. In other words, whatever alternative rights the lessor might have are of no value at all unless we can assign a positive probability of a lessee quitting the lease at the time of the review.

Tenure review negotiations

A key driver of the tenure review policy is the desire of the government to see large parts of the land currently under pastoral lease added to the conservation estate. This is important in two respects. First, it establishes the nature of the demand for the purchase of the lessees' rights by the Crown. Second, it tells us something about the Crown's demand for leasehold rights; the Crown should be prepared to pay any price up to the perceived conservation value obtained by adding the land to the conservation estate.

The economic basis for the negotiation between the lessee and the Crown begins with the fact that the lessee has rights of occupancy in perpetuity, and the Crown must induce the lessee to give up those rights for any land that is returned to the conservation estate. Similarly, for land that will be retained by the lessee in freehold title, the lessee must compensate the Crown for giving up its interest as lessor. In addition, there may be features of the property that provide it with value over and above those anticipated when the pastoral leases were originally drawn up – in particular, value for commercial tourism and for rural-residential lifestyle and privacy. Thus, to understand the values established as part of tenure review we need to ascertain:

- the value of the lessee's interest in the total leasehold area covered by each review;
- the value of the lessor's interest while the land is subject to lease in perpetuity; and
- the value of those features of the land that might impact on its market value but are not part of the asset base on which the rent is set, and a division of that value between lessee and lessor.[4]

Tenure review is a process by which economic assets are transferred from private to public ownership: extinguishing lessees' rights is a process of transferring economic assets from private ownership to the Crown. Since more land subject to pastoral lease is given up than is transferred into freehold land (the difference being the land added to the conservation estate), it would probably be more accurate to describe tenure review as a process of nationalisation than of privatisation.

To illustrate the way in which the tenure review process works, and values payable for the Crown and the lessor are established, I summarise in Table 1 the outcomes from two tenure reviews. Lease #1 was described by the valuers as a property with low productivity in pastoral farming and limited improvements by the lessee, while Lease #2 was described as having a high productivity in farming and has substantial improvements put in place by the lessee. Consistent with this, 72.2 % of the land in Lease #1 was transferred to DOC, while 27.4% of the land in Lease #2 was acquired by the Crown.

The data from these two tenure reviews illustrate two important points in the process. First, valuers employed by the lessee and valuers employed by the Crown assess the market value of the pastoral estates, and apportion this between the lessee and the Crown as lessor (50% in both cases). Second, in assessing the Crown's interest, two factors are important: the present value of the rental payments, and an apportionment between the two parties of those values that are not counted in the rental value.

The Crown's interest in the land transferring to freehold is generally smaller than in the land transferring to DOC, because the land transferring to freehold will generally have been the focus of lessee improvements that raise its value but do not raise Crown's interest.

The Crown's interest in the poor quality estate is lower because the limited productivity of the estate in pastoralism meant that the rent payable was low on a per hectare basis.

3 A perpetually renewable lease provides the lessee with the option, at each point of renewal, to determine the lease and the flow of rental payments to the Crown, or to acquire the freehold rights should the Crown wish to sell them. While this right to determine the lease may rarely be invoked, it does provide an option to the lessee that is valuable, and would be exercised if ever (for example) the rental payments were set at such a high level as to undermine the economic viability of the permitted activity (pastoral grazing).

4 For a full and very clear description of the valuation approach taken in tenure review see Armstrong et al. (2005).

Table 1: Comparison of two tenure review outcomes

	Pastoral Lease #1			Pastoral Lease #2		
	Ha	AMV $(000)	%	Ha	AMV $(000)	%
Land Transferring to D.O.C.	5278	2885		1249	1452	
– Lessee's interest		2580			1012	
– Crown's interest		305	10.6		440	30.3
Land Transferring to Freehold	2136	1090		3305	5598	
– Lessee's interest		1015			4358	
– Crown's interest		75	6.9		1240	22.2
Total Capital Value	7414	3975		4554	7050	
– Lessee's interest		3595			5370	
– Crown's interest		380	9.6		1727	24.5
Reconciling the Crown's Interest						
– Present value of rent		32			927	
– Crown's interest in non-rentable value		348			800	

The proportion of the Crown's interest in Lease #1 is much lower because the present value of rental payments is so small. It would have been less than 1% if not for an apportionment to the Crown of 50% of the value in non-rentable values.

Defining the Crown's interest

Brower (2007) presents the results of an analysis of data relating to 77 completed tenure reviews. She does not indicate that the graph presents the result of a regression analysis rather than data drawn directly from the tenure revew documents, and she does not define the Crown's interest. The definition of the dependent variable in her regression is given in Brower, Monks and Mequire (2007) as $CI = P_L/(P_L + P_C)$, where P_L is the price per hectare received by the Crown for the land acquired by the lessee as freehold and P_C is the price per hectare received by the lessee for the land acquired by the Crown.

To illustrate the problem, consider a simple numerical example: if the per hectare value of the freehold land acquired by the lessee is $1,000 and the per hectare value of the land acquired by the Crown is $500, then $P_L / (P_L + P_C)$ = $1,000/$1,500 = 0.67. The interpretation of the numerator, P_L, is clear, but what interpretation can be placed on the denominator $1,500? It is the sum of two values per hectare, but what does that mean in economic terms? The lessee and the Crown acquire different types of land, suitable for different uses, and with different values in those different uses. What concept is captured by adding those two per-hectare values together, and how does this relate to the Crown's interest?

With some algebraic manipulation, it is possible to show that the inverse relationship between the Crown's interest and the percentage of the lease transferred to freehold in Brower's analysis reflects the fact that in many tenure reviews the value of the required payment to the Crown was around 70% of the value of the

Table 2: Comparison of two definitions of the Crown's interest

	Pastoral Lease #1	Pastoral Lease #2
	%	%
Tenure Review Valuations		
Crown's interest (from Table 1)	9.6	24.5
Brower's Definition $P_L/(P_L + P_C)$ (from data in Table 1)	6.6	31.7

required payment to the lessee for land acquired by DOC.[5] Given the concentration of lessee improvements on the land transferred to freehold and thus the lower percentage of the Crown's interest in the total value of that land, this is hardly surprising.

To consider the implications of Brower's definition of the Crown's interest, Table 2 compares her definition with the calculation of the Crown's interest drawn from the agreed valuations in each tenure review. As can be seen, Brower's method produces a definition of the Crown's interest that is materially different from the actual proportion of the capital value attributed to the Crown in the tenure review outcomes for the leases considered here.

As an indication of the benefits that might come from a qualitative analysis of the actual valuations determined in tenure review, consider the 'dots' (as Brower calls them) at the bottom right of her Figure 4. These suggest that in some transactions, 100% of the leasehold land was retained by the lessee, but that the Crown's interest was assessed to be zero. Since these data relate to just three individual tenure review transactions, and since the data in the reviews are publicly available and readily interpreted, why does Brower not provide some more detailed analysis of those individual transactions to inform the reader of the circumstances in which this result occurred and to convince us that the results of her data analysis are actually meaningful?

5 My proof of this proposition is not reproduced here, but has been provided to Brower and Meguire, and is available to readers of this article on request.

Conclusion

The public naturally has an interest in tenure review since it is motivated by the fact that alternative and multiple uses of the land, rights of access for recreation, and permanent restoration to conservation estate now assume much more importance for the public than they did 50 or 100 years ago (see Evans & Quigley, 2003). Consistent with this change in social preferences, tenure review has resulted in hundreds of thousands of hectares of land formerly leased to farmers being added to the conservation estate. In addition, the transfer of some land to freehold tenure is socially beneficial because this more easily facilitates multiple use of land, and alternative uses of land, than did the pastoral leases. Payments of cash and freehold land represent the necessary costs associated with the creation of improved conservation and land use outcomes in the high country as they are valued by contemporary society.

The analysis in this paper suggests that Brower's dissent from the outcomes of the tenure review process rests on three factors: (i) an interpretation of the property rights of lessees that is at variance with the interpretation of those property rights normally adopted by valuers and economists; (ii) claims about the process of establishing values in tenure review which are inconsistent with the information that is publicly available; and (iii) a regression analysis which has an independent variable with no clear economic interpretation, and therefore produces output which makes no contribution to our understanding of tenure review.

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Response to Quigley[1]

Ann Brower

I warmly thank the editor for the opportunity to reply. I shall highlight three technical differences between Professor Quigley's and my positions, then conclude with the major theoretical difference.

1) Professor Quigley cites no statute, case law, or legal theory supporting his interpretation of the law. He states that a pastoral runholder may 'acquire the freehold rights' at the end of a lease's term. By contrast, the law firmly establishes the Crown as the ultimate owner of Crown land (Page and Brower 2007). The Land Act 1948 s. 66(2) and the Crown Pastoral Land Act 1998 s. 4(c, d) state that the runholder has 'no right to the soil; and no right to acquire the fee simple of any of the land.'

2) Professor Quigley argues that tenure review is a nationalization because more land is conserved than privatised. Though Professor Quigley describes farmers as 'giving up' high country land to transfer into conservation, farmers give up grazing rights not land. It is incorrect to describe tenure review as a nationalization because the Crown owned all the land before the review, and owns less than half[2] after the review. It is a partial shift in land use and property rights, from pastoralism to conservation, but not a nationalization. However it is correct to say that land passing from Crown ownership to private ownership is privatized.

3) Professor Quigley argues that the results reported in Brower, Meguire, and Monks (in review) are artifacts of the construction of the dependent variable. In preparing that paper, we experimented with several dependent variables, including the straight ratio which he prefers. According to an economic interpretation of property as a bundle of rights and tenure review as an exchange of property rights, a scatterplot of each dependent variable we tried should yield a horizontal line. No matter the algebra of the dependent variable, every scatterplot revealed a diagonal; hence our results are robust.

4) Finally, Professor Quigley and I appear to differ over a point of basic economics regarding the values exchanged in tenure review. He argues, as others have (Armstrong et al 2007: paragraph 19.6), that the option to develop newly privatised land should not influence prices paid in tenure review, because the Crown cannot exercise the development option whilst the land is under lease. Hence the development option has no value in the exchange (Evans and Quigley 2006: 3).

By contrast, Adam Smith argued in *The Wealth of Nations* that a good might be useless to the current owner yet still command a high selling price because the purchaser thinks it would be useful.

> The things which have the greatest *value in use* have frequently little or no *value in exchange*; and on the contrary, those which have the greatest value in exchange have frequently little or no value in use. Nothing is more useful than water: but it will purchase scarce any thing; scarce any thing can be had in exchange for it. A diamond, on the contrary, has scarce any value in use; but a very great quantity of other goods may frequently be had in exchange for it. (Smith 1776: chapter 4) (emphasis added)

The runholder's pastoral rights are like Smith's water; the development option is like the diamond. To argue

1 I gratefully acknowledge the contribution of my colleagues Philip Meguire and Adrian Monks and the helpful suggestions of the reviewer. This research was funded by Fulbright-New Zealand and Lincoln University.

2 To 2008, tenure review runholders have acquired title to 270,082 hectares, and the Crown shifted 196,728 hectares from pastoralism to conservation. Hence 58% of tenure review land has been privatised.

that the development option is irrelevant is to assume that the *value in use* equals the *value in exchange*. Microeconomics posits that this is rarely true, if ever (Hirshleifer et al 2005: chapters 3-5).[3]

The Crown may have no immediate use for the development option, but advertised land prices around Queenstown and Wanaka suggest that the development option has a high value in use to the new landowners. Hence freehold land in the high country should command a high value in exchange, and the Crown's selling price should be high. Until 2007, the Crown's generosity towards pastoral runholders in tenure review was difficult to reconcile with Smith's reasoning.

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3 Put another way, if a hypothetical Sam owns a titanium bicycle then suffers an incurable wrist injury which renders him unable to cycle ever again, the bicycle ceases to have a positive value in use. But this does not mean that Sam should give the bicycle away, or pay someone to take it away, as the Crown has often done under tenure review. Either course of action would be far more generous than Smith's discussion would predict, because a titanium bicycle's value in exchange is unaffected by the cycling abilities of its current owner. Because Sam will never ride it again, he may be willing to sell it for less than an avid cyclist would. This would lower, but not extinguish, its value in exchange.

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Global Climate Change Policies: From Bali to Copenhagen and Beyond

Jonathan Boston

Introduction

In early December 2007, the island of Bali in Indonesia hosted the 13th Conference of the Parties (COP13) to the United National Framework Convention on Climate Change and the 3rd Conference of the Parties serving as a Meeting of the Parties (COP/MOP3) to the Kyoto Protocol.[1] Attended by almost 11,000 participants and observers from across the globe, Bali marked the climax of a period of unparalleled international climate change summitry (Chasek, 2007). The decisions taken at COP13 have been variously hailed as a 'major breakthrough' (Egenhofer, 2007) and as an utter failure – 'the mother of all no-deals', to quote Sunita Narain (2008) and 'even worse than the Kyoto Protocol' according to George Monbiot (2007).[2]

This article provides a brief overview of the current global policy framework for addressing climate change, outlines the key issues facing international negotiators as they gathered for COP13, highlights the main decisions of the Bali conference (the so-called Bali 'roadmap') and assesses their significance. Attention is also given to the implications of COP13 for New Zealand.

The evolving global policy framework – a brief history

The United Nations Framework Convention on Climate Change (UNFCCC) provides the guiding principles and negotiating platform for multilateral action to address human-induced climate change. Negotiated in 1992, the UNFCCC took effect in 1994; by 2007 it had been ratified by 192 parties, including the United States. The 'ultimate objective' of the Convention is the 'stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic [i.e. human-induced] interference in the climate system'. Amongst the key principles specified in Article 3 of the Convention is the requirement that:

> The Parties should protect the climate system for the present and future generations of humankind, on the basis of equity and in accordance with their common but differentiated responsibilities and respective capabilities. Accordingly, the developed country Parties should take the lead in combating climate change and the adverse effects thereof.

In response to growing scientific concerns during the early-to-mid 1990s that the process of human-induced climate change was accelerating, the international community negotiated a new agreement during 1995-97 (under the UNFCCC) to curb the growth in greenhouse gas emissions. The main elements of what became known as the Kyoto Protocol were agreed in late 1997 – although many of the technical details took a further decade to negotiate and implement (see Ward and Boston, 2007). The Protocol entered into force on 16 February 2005 and as of early 2008 had been ratified by at least 175 countries, including all but one developed country (i.e. the United States). Under the Kyoto Protocol, the 38 industrialized countries (known as Annex 1 Parties under the UNFCCC) agreed to fixed and legally-binding *responsibility* targets[3] for their greenhouse gas emissions during a five-year period (2008-12); this is known as the first commitment period (or CP1). Overall, Annex 1 Parties (including

1 The author would like to thank Stuart Dymond, Hugh Logan, Adrian Macey, Martin Manning and Murray Ward for their helpful comments on an earlier version of this paper.

2 For other views, see Diringer (2008), ENB (2007), Fuller and Revkin (2007), Müller (2008), and Spotts (2007).

3 Annex 1 Parties are not necessarily required under the Kyoto Protocol to reduce their domestic emissions by the specific targets agreed to, but rather to take responsibility for reductions of the agreed magnitude. Parties have the option, if they wish, of achieving these reductions through the purchase of Kyoto-compliant emission allowances on the international market or via the Clean Development Mechanism. For this reason, the Kyoto targets should be thought of as responsibility targets rather than domestic reduction targets.

the US at the time) agreed to an aggregate reduction in their emissions of about 5% relative to 1990 levels. The various national targets, however, differ markedly, with some countries accepting much deeper cuts than others. For instance, New Zealand's target for CP1 is 100% of 1990 levels.[4] By comparison, Australia's target is 108% and the European Union's is 92% (while that of the US was 93%). In order to achieve these targets in an effective and efficient manner, the Kyoto Protocol provided for the establishment of three so-called 'flexible mechanisms': an international emissions trading regime, the Clean Development Mechanism (CDM) and Joint Implementation (JI).

In accordance with the principle of 'common but differentiated responsibilities', developing countries were not required under Kyoto to take on legally binding emission-reduction targets. Nevertheless, under Article 10, non-Annex 1 Parties agreed to take a range of measures designed to improve the quality of the reporting of their anthropogenic emissions and to 'formulate, implement, publish and regularly update national … programmes containing measures to mitigate climate change and measures to facilitate adequate adaptation to climate change'.

It has been fashionable in some quarters to regard the Kyoto Protocol as a failure – politically, economically and environmentally. But such a stark assessment is questionable. After all, CP1 has barely begun, so it is too early for conclusive judgements. That said, in 2005 (the most recent year for which reliable data are available) the emissions (including those from land use, land-use chance and forestry) of the Annex 1 Parties that have ratified Kyoto were, on average, nearly 10% below their annual allocations for CP1. Note, however, that this result reflects the large emissions reductions in Russia and Eastern Europe during the 1990s following the collapse of the Soviet Union. Excluding such countries yields a rather different picture. Moreover, total emissions across all Annex 1 countries (including the US) are currently tracking upwards.

Nevertheless, virtually all Annex 1 Parties have reaffirmed their commitment to fulfilling their CP1 obligations. Thus far, only Canada (of the 37 developed countries to ratify the Protocol) has given any indication that it might be unwilling to meet its *responsibility* target for 2008-12 (i.e. the government has said that it will be impossible to keep domestic emissions within Canada's CP1 cap and that Kyoto-compliant emission units will not be purchased offshore). Whether the government retains such a policy stance over the coming years remains to be seen.

Kyoto was, of course, never intended to be more than a limited step in what will be a multi-generational endeavour to mitigate climate change and adapt to its impacts. Its authors were fully aware that constraining the growth of emissions in the *developed* world, although vital, would be insufficient to reduce *global* emissions, particularly in a context of rapid economic growth in major developing countries such as China and India. Nor would capping emissions merely for five years make much difference to greenhouse gas concentrations in the atmosphere over the longer term.

But while acknowledging its imperfections, Kyoto can be regarded as a positive, indeed crucial, initiative. To quote the text of the *Summary for Policymakers* prepared by Working Group 3 of the IPCC (and endorsed by the governments of every country involved in the IPCC process):

> Notable achievements of the UNFCCC and its Kyoto Protocol are the establishment of a global response to the climate problem, stimulation of an array of national policies, the creation of an international carbon market and the establishment of new institutional mechanisms that provide the foundation for future mitigation efforts (*high agreement, much evidence*) (IPCC, 2007c, p.21).

Of these achievements, arguably the most significant has been creation of a global emissions trading scheme (including the related systems of accounting, reporting and review, national greenhouse gas inventories and registries, etc.). All being well, this scheme will be expanded and enhanced over the coming decades, thereby ensuring effective mitigation at the lowest possible cost.

Looking beyond 2012

Even before the Kyoto Protocol came into effect in 2005, international attention was already turning to what should happen when CP1 ends in December

4 During the first commitment period (2008-2012), New Zealand is permitted to emit five times its 1990 emissions levels and must take responsibility for emissions in excess of this amount (i.e. by purchasing Kyoto-compliant emission allowances).

Table 1: Characteristics of greenhouse gas stabilisation scenarios

Scenario category	CO_2 equivalent concentration (parts per million CO_2 equivalent)	Global mean temperature increase above pre-industrial at equilibrium using 'best estimate' climate sensitivity[a] (°C)	Change in global CO_2 emissions in 2050 (% of 2000 emissions)	Range of reduction in GDP in 2050 because of mitigation (%)	Allowed emissions by Annex I Parties in 2020 (% change from 1990 emissions)	Allowed emissions by Annex I Parties in 2050 (% change from 1990 emissions)
I	445-490	2.0-2.4	-85 to -50	Decrease of up to 5.5	-25 to -40	-80 to -95
II	490-535	2.4-2.8	-60 to -30			
III	535-590	2.8-3.2	-30 to +5	Slight gain to decrease of 4	-10 to -30	-40 to -90
IV	590-710	3.2-4.0	+10 to +60	Gain of 1 to decrease of 2	0 to -25	-30 to -80
V	710-855	4.0-4.9	+25 to +85			
VI	855-1130	4.9-6.1	+90 to +140			

Source: based on data from IPCC (2007c).
Note: [a]According to the IPCC (2007a), the best estimate of climate sensitivity is 3°C

2012. In framing an appropriate response, the global policy community has been increasingly mindful of the following considerations (see Stern, 2006; Garnaut Climate Change Review, 2008):

1 the growing strength of the scientific evidence – as reflected in the Fourth Assessment Report of the Intergovernmental Panel on Climate Change, published during 2007 – that 'most of the observed increase in global average temperatures since the mid-20th century is *very likely* due to the observed increase in anthropogenic greenhouse gas concentrations' (IPCCa, 2007, p.10), (due especially to the burning of fossil fuels and deforestation);

2 the need to avoid an increase in the global mean surface temperature much in excess of 2°C (i.e. above pre-industrial levels) – in order to reduce the risk of large-scale and irreversible adverse impacts, such as the loss of much of the Amazon rainforest or the disintegration of large parts of the Greenland and/or West Antarctic ice-sheets;

3 the need to ensure – if avoiding significantly more than 2°C of warming is the objective – that concentrations of carbon dioxide equivalent (CO_2e) are stabilized at around 450 parts per million (or lower). This, in turn, requires that *global* greenhouse gas emissions peak no later than 2020 and are then reduced by at least 50% by 2050 compared to 2000 levels (and possibly as much as 85%) (see Table 1; IPCCc, 2007; Meinshausen, 2006);

4 the strong case for developed countries to take the lead in mitigation and adaptation efforts on the grounds of historical responsibility, distributive justice, economic capacity and technical capability;

5 the fact that emissions from developing countries now constitute over 50% of global emissions, thus making it impossible to achieve *global* emission reductions of the scale, or within the timeframe, suggested in point 3 unless both developed *and* developing countries reduce their emissions significantly below a business-as-usual scenario;

6 the requirement, if global emissions are to peak no later than 2020, for developed countries to take on *responsibility* targets beyond 2012 that entail substantial cuts on 1990 levels (e.g. 25-40% by 2020) and for many developing countries (especially the major emerging economies) to adopt vigorous and comprehensive measures designed to reduce the growth in their emissions (including those from deforestation); and

7 the desirability, eventually, for agreement to be reached on a stringent, legally-binding multilateral treaty which defines the total global 'budget' of greenhouse gases that can be emitted over a relatively long period of time (i.e. many decades) in the interests of stabilizing CO_2e concentrations at an agreed level. Such a budget will need to be allocated between countries in accordance with a set of agreed principles and, above all, ensure that the burden of adjusting to a low-carbon future is fairly shared. The principle of equal per capita emission rights is likely to figure prominently in any such burden-sharing formula (see Garnaut Climate Change Review, 2008, p.30). Substantial assistance will also need to be provided to developing countries to help them adapt to the growing economic, social and environmental impacts of climate change.

Ensuring that global emissions peak by 2020 and then fall substantially will be very challenging, not least because of the power of vested interests (especially the fossil fuel industry), the long lags in the relevant policy processes, the high degree of path dependence in global energy and transport systems, and the tendency for the short-term self-interest of individual nations to prevail over the common good.

Even achieving a broad global consensus on long-term (e.g. 2050) emission-reduction targets has thus far proved elusive, partly because the US reluctance to endorse stringent emission reductions of the magnitude suggested in point 3 above. Progress towards more vigorous international action has also been rendered difficult for at least two other reasons. First, the Bush Administration has steadfastly rejected ratification of the Kyoto Protocol and, until very recently, has opposed taking on legally-binding emission-reduction targets. Against this, there has been considerable action at the sub-national level (i.e. via states and cities) in the US, and there is a reasonable prospect that the Congress will support legislation, during 2008, to enforce emission reductions.[5] Second, to date most of the newly industrialized countries (e.g. the Gulf states, Israel, South Korea, Singapore, etc.) and the major emerging economies (e.g. Brazil, China and India), have rejected the idea of non-Annex 1 countries taking on any kind of *legally-binding commitments* – whether in the form of intensity targets, emission-reduction targets or targets for renewable energy.

Their rationale for rejecting such commitments can be summarized as follows:

1 it is the moral duty of the main developed countries to act first; this is because such countries are largely responsible for the significant increase in the atmospheric concentrations of greenhouse gases since the 18th century, and their emissions per capita are typically five-to-ten times those of developing countries;

2 many developed countries have taken insufficient action to meet their international obligations under the UNFCCC and the Kyoto Protocol, both with respect to their domestic mitigation efforts and their assistance to developing countries (e.g. with regard to technology transfer, capacity building and the funding of adaptation); and

3 expecting developing countries to sacrifice their economic development in order to curb their emissions is unrealistic given the moral priority of alleviating poverty and the unwillingness of the US to fulfill its international obligations.

Mindful of the need for developed countries to show leadership, the European Union made a unilateral commitment in early 2007 to cut their emissions by 20% by 2020 (compared to 1990 levels). It also declared its willingness to reduce emissions by up to 30% if other developed countries agree to commensurate commitments. Various other developed countries, such as Norway, have also made significant medium-term commitments to reduce their emissions. Closer to New Zealand, the Interim Report of the Garnaut Climate Change Review has suggested that Australia should follow the example of the European Union and take unilateral, unconditional action (e.g. in setting interim domestic emission-reduction targets) as well as offering to accept even tougher targets in the context of agreed international action (Garnaut, 2008, p.40). Nevertheless, without further change in the US policy stance, it will be difficult to secure a multilateral solution to human-induced climate change. In the short-term, therefore, much will depend on the position adopted by

5 For instance, there are various Bills dealing with climate change currently before both the Senate and the House of Representatives, and one or more or these have a reasonable prospect of securing majority support. That said, President Bush may veto such legislation.

the new US administration (following the Presidential election in November 2008) and the balance of forces within Congress.

Towards Bali and a second commitment period

The Kyoto Protocol provides (in Article 3.9) for further commitment periods for Annex 1 Parties after CP1. But neither the precise nature, nor the duration, of such commitment periods are specified. Theoretically, a second commitment period (CP2), together with the issue of which Parties it applies to and how, could be negotiated under the framework provided by Kyoto or as part of a new protocol under the UNFCCC. Either way, a key concern is to avoid any gap between CP1 and subsequent commitment periods because of the uncertainty and complications that such a gap would cause. For instance, global carbon markets and investment in low-carbon energy sources could be significantly disrupted unless the nature of the second commitment period (and related domestic policy measures in major economies) is clarified by early 2010. Moreover, any new international agreement on climate change is likely to take several years for the Parties to ratify and come into force. For such reasons, it has been widely accepted that, ideally, a new agreement should be crafted by the end of 2009 (i.e. at the planned UNFCCC conference in Copenhagen).

Under the Kyoto Protocol, Parties were required to initiate consideration of future commitments by developed countries at least seven years before the expiry of CP1. Accordingly, at the first Meeting of the Parties (MOP1) to the Kyoto Protocol in Montreal in late 2005 an Ad Hoc Working Group (AWG) was established on 'Further Commitments for Annex I Parties under the Kyoto Protocol'. The AWG met on four occasions during 2006-07 to discuss mitigation potentials, measures and technologies and considered various background reports prepared by the UNFCCC Secretariat. Separately, the Parties to the UNFCCC agreed in Montreal to undertake discussions during 2006-07 to enable an exchange of views on 'strategic approaches for long-term cooperative action to address climate change'.[6] This consultative process, known as the 'Dialogue on long-term cooperative action to address climate change by enhancing implementation of the Convention', has focused on both adaptation and mitigation (including realizing the full potential of various technologies and market-based opportunities).

Hence, in the lead-up to COP13 in Bali there were two separate, but closely related, processes under way through the auspices of the UN – a Protocol track and a Convention track. Additionally, climate change issues, and especially the question of what to do post-2012, figured prominently during 2007 on the agendas of high-level summits, such as the G8, APEC and CHOGM, as well as many other formal and informal international forums (e.g. see Calgren, 2007; Chasek, 2007).

Critical to such discussions were two interconnected issues: one *procedural*, the other *substantive* (bear in mind that in negotiating contexts procedural matters often have major implications for substance):

1 Procedurally, the key issue was what kind of *negotiating process* should be instituted in order to secure a post-2012 agreement? In particular, should the AWG and Dialogue processes be combined into a single track or should they continue (albeit with some modifications) until COP15 in Copenhagen as separate processes? A single-track approach was favoured by some developed countries, including New Zealand, in the interests of securing a coherent and integrated package of measures. By contrast, most developing countries favoured a multi-track approach, believing that this would help protect the distinction between Annex 1 and non-Annex 1 countries and thereby minimize developing country obligations post-21012. Aside from this, there was a separate procedural issue of how the negotiating process for post-2012 should relate to other processes, such as the planned second review of the Kyoto Protocol (under Article 9).

2 Substantively, the key issues included how specific the negotiating framework for a post-2012 agreement should be, including whether there should be a *mandate* (like, for instance, the 'Berlin Mandate' in 1995 that paved the way for the Kyoto Protocol) or a more general *roadmap*. And irrespective of the nature of the negotiating template and parameters, what principles and considerations should inform the negotiating process, what issues should be on (and off) the agenda, how should the negotiations be sequenced and in accordance with what specific timetable?

6 See Decision 1/CP.11, paragraph 1, COP 11, Montreal.

The events leading up to Bali indicated that agreement on a broad *roadmap* would be achievable. Nevertheless, the shape of this *roadmap* remained contentious due to disagreement amongst the major players on a variety of important issues. These included:

1 What overall *level of ambition* should the international community aspire to achieve in relation to medium-term (2020) and longer-term (2050) global emission-reduction targets (and atmospheric stabilization targets) and should explicit targets (and, if so, of what kind) be agreed to at Bali or sometime later?

2 Should all developed countries, including the US, be expected to take on legally-binding emission-reduction targets for the immediate post-2012 period or could some exceptions be tolerated (e.g. in a context where certain countries, while refusing to ratify an international agreement, nonetheless agreed to make a 'comparable effort' to reduce their domestic emissions)?

3 What should be the nature and extent of the contributions of non-Annex 1 Parties to a post-2012 arrangement and what criteria should guide the level of such contributions? More specifically, should certain non-Annex 1 Parties be expected to take on explicit and binding *commitments* or should any agreed measures be only voluntary in nature?

4 What parameters should be set in relation to other key policy issues, such as reducing deforestation in developing countries, enhancing adaptation assistance, improving technology development and transfer, and determining the length of the proposed CP2 and related issues (such as the emission baseline year)?

The Bali 'Roadmap'

What, then, was actually achieved at COP13? The short answer is more than most pessimists expected, but less than would have been desirable. In formal terms, COP13 adopted 15 decisions (of varying importance) and COP/MOP3 a further 13 decisions (ENB, 2007, p.1). The main elements of the Bali 'roadmap' or 'action plan', as it is variously called, can be summarized as follows.

Negotiating tracks

Despite efforts by various developed countries, including New Zealand, there was little support within the developing world for an integrated, single-track negotiating process. Instead, it was agreed at Bali that there would be twin-track negotiations leading up to COP15, together with the second review of the Kyoto Protocol – in effect, therefore, three separate processes. The first track will involve the continuation of the deliberations of the Ad Hoc Working Group on Further Commitments for Annex 1 Parties. (Note that the US is not part of this process.) The second track will replace the Dialogue process and will be conducted via a new Ad Hoc Working Group on Long-Term Cooperation under the Convention. Importantly, both tracks have a common end date (COP15). A detailed work programme for the Protocol track has been agreed (see Table 2); a programme for the Convention track is in preparation. In order to make progress on the wide range of issues to be negotiated, both AWGs will meet four times during 2008. These meetings will be held at similar times and locations in the interests of coordination and minimizing the pressures on negotiators.

It remains to be seen when and how the Protocol and Convention tracks will converge. But at some point detailed coordination will be essential because any agreement by developed countries to take on new *responsibility* targets for CP2 will be contingent upon the willingness of the larger emerging economies to adopt mitigation measures of various kinds. The stringency of the agreed targets will also be influenced by the nature of any deal to reduce deforestation in developing countries (see next page).

Substantive issues

1. The level of ambition

On the issue of stabilization objectives, including medium-term and long-term global emission-reduction targets, there was only modest progress at Bali. In a so-called 'non-paper' prepared by Howard Bamsey and Sandea de Wet (the co-facilitators of the Dialogue on long-term cooperative action), and distributed to delegates on 8 December, the following wording was proposed to guide negotiations for a post-2012 deal:

> … preventing the worst impacts of climate change will require Parties included in the Annex 1 to the Convention as a group to reduce

Table 2: Timetable of the Ad Hoc Working Group on Further Commitments for Annex 1 Parties under the Kyoto Protocol

Sessions	Work Programme
Fifth Session (first part) – late March and early April 2008	Analysis of means that may be available to Annex 1 Parties to reach their emission reduction targets, including: emissions trading and project-based mechanisms under the Kyoto Protocol; the rules to guide the treatment of land use, land-use change and forestry; the GHGs, sectors and source categories to be covered, and possible approaches targeting sectoral emissions; and identification of ways to enhance the effectiveness of these means and their contributions to sustainable development.
Fifth Session (second part) – early June 2008	Continuation of the above, together with work on relevant methodological issues, including the methodologies to be applied for estimating anthropogenic emissions and the global warming potentials of GHGs.
Sixth Session (first part) – August or September 2008	Consideration of information on the potential environmental, economic and social consequences, including spillover effects on all Parties, in particular developing country Parties, of available tools, policies, measures and methodologies available to Annex 1 Parties.
Sixth Session (second part) – early December 2008	Continue and adopt conclusions on the issues considered in the first part of the Sixth Session, and revert to, and adopt conclusions on, the tasks considered earlier, including: (a) analysis of the mitigation potential, effectiveness, efficiency, costs and benefits of current and future policies, measures and technologies at the disposal of Annex 1 Parties, appropriate in different national circumstances, taking into account their environmental, economic and social consequences, their sectoral dimensions, and the international context in which they are deployed; and (b) the scale of emission reductions to be achieved by Annex 1 Parties, through their domestic and international efforts, and analysis of their contribution to the ultimate objective of the Convention, ensuring due attention to the issues mentioned in the second sentence of Article 2 of the Convention.
Seventh and Eighth Sessions – 2009	Adopt conclusions on the scale of emission reductions to be achieved by Annex 1 Parties in aggregate and the allocation of the corresponding mitigation effort, and agree on further commitments, including new quantitative emission limitation and reduction commitments, and the duration of the commitment period(s); and adopt conclusions on the legal implications arising from the work of the AWG.

> emissions in a range of 25-40 per cent below 1990 levels by 2020 and … global emissions of greenhouse gases need to peak in the next 10 to 15 years and be reduced to very low levels, well below half of levels in 2000 by 2050.

There were predictable objections to this wording. On the one hand, some developed countries expressed concern at the lack of any explicit reference to the need for developing countries to reduce their emissions (i.e. below a business-as-usual scenario), nor any indication of the likely magnitude of this reduction. Be that as it may, the specific reference to *global* emissions needing to peak within the next 10-15 years carried very obvious implications for the emission path of developing countries (i.e. that they must diverge *substantially* from a business-as-usual scenario). On the other hand, the US remained adamantly opposed to explicit targets (claiming that Bali should set the negotiating framework but not the 'destination'), and drew some support for its stance from a few other developed countries. In the end, the terms of reference for the AWG on Long-term Cooperative Action under the Convention stated:

> *Recognizing* that deep cuts in global emissions will be required to achieve the ultimate objective of the Convention and emphasizing the urgency to address climate change as indicated in the Fourth Assessment Report of the Intergovernmental Panel on Climate Change …

A footnote was included in the preamble referring to the relevant pages in the various IPCC reports, thereby signaling, if not explicitly endorsing, the level of global emission reductions required over the medium-to-longer term.[7]

But while explicit targets were not included in the terms of reference of the AWG on Long-term Cooperative Action, the 'conclusions' adopted at Bali by the AWG on Further Commitments included the following:

> The AWG … noted the usefulness of the ranges referred to in the contribution of Working Group III to the Fourth Assessment Report (AR4) … and that this report indicates that global emissions of greenhouse gases … need to peak in the next 10-15 years and reduced to very low levels, well below half of levels in 2000 by the middle of the twenty-first century in order to stabilize their concentrations in the atmosphere at the lowest levels assessed by the IPCC … [This] would require Annex 1 Parties as a group to reduce emissions in a range of 25-40 per cent below 1990 levels by 2020, through means that may be available to these Parties to reach their emission reduction targets …

In short, this wording suggests that, with the exception of the US (and to a lesser extent Russia), the international community has broadly accepted the need for very deep cuts in *global* emissions by 2050 and that, as a guideline, Annex 1 Parties (as a group) will be expected to reduce their emissions in a range of 25-40% below 1990 levels by 2020. These parameters will no doubt inform the negotiations during 2008-09 and influence the magnitude of the CP2 *responsibility* targets for Annex 1 Parties.

7 See FCCC/CP/2007/L.7/Rev.1, 14 December 2007. The footnote refers readers to IPCCc, 2007, p.39 and p.90, and IPCCd, 2007, p.776.

2. The responsibilities of developed and developing countries

In framing the Bali 'roadmap', COP13 focused on four 'building blocks' and the interconnections between them: mitigation, adaptation, technology and finance. As expected, there was intense and protracted debate over the respective mitigation responsibilities of Annex 1 and non-Annex 1 Parties and the nature of the assistance that developing countries could expect to receive from the developed world.

COP13 eventually decided on the following crucial paragraphs (as embodied in the terms of reference of the AWG on Long-term Cooperative Action):

> 1(b)(i) Measurable, reportable and verifiable nationally appropriate mitigation commitments or actions, including quantified emission limitation and reduction objectives, by all developed country Parties, while ensuring the comparability of efforts among them, taking into account differences in their national circumstances;
>
> 1(b)(ii) Nationally appropriate mitigation actions by developing country Parties in the context of sustainable development, supported and enabled by technology, financing and capacity-building, in a measurable, reportable and verifiable manner.

Various aspects of this wording deserve comment. First, there is a potentially significant change in the language used in these paragraphs, with a distinction being made between 'developed' and 'developing' countries rather than between 'Annex 1' and 'non-Annex 1'. This is seen by many observers as a breakthrough, signaling an acceptance by non-Annex 1 countries that mitigation responsibilities must in the future be more appropriately differentiated and reflect the relative affluence, economic resources and technical capacity of individual countries (ENB, 2007, p.19). But in transitioning from the previous Annex 1/non-Annex 1 distinction, the challenge will be to define and agree upon a variegated classification system and then determine the mitigation responsibilities of the countries in each category. One risk of moving to a new framework is that certain Annex 1 countries may seek to reduce their responsibilities in CP2, thus triggering a loss of goodwill and more convoluted and protracted negotiations.

Second, the mitigation effort expected of developing countries is limited to 'actions' rather than 'commitments' (i.e. they will not be expected to take on legally-binding, economy-wide emission-reduction targets). Nevertheless, there are many other possible (and useful) 'actions' – including sectoral approaches (i.e. for carbon intensive industries), targets for renewable energy, intensity targets, and measures to limit deforestation – and it is possible that some of these could be made binding for the larger and more advanced non-Annex 1 countries. There was some dispute during the closing stages of the Bali conference as to whether the words 'measurable, reportable and verifiable' at the end of paragraph 1(b)(ii) referred to the actions of developed countries in providing 'technology, financing and capacity-building' or the 'appropriate mitigation actions' of developing countries, or both (Müller, 2008, p.5). Clarification, by representatives of the G77, that these words included the actions of *developing* countries helped persuade the US, in the words of Paula Dobriansky (the leader of the US delegation), 'to go forward and join consensus' (Fuller and Revkin, 2007). In effect, therefore, the major developing economies have committed themselves, for the first time under the Convention, to taking 'measurable, reportable and verifiable' mitigation actions. Also, the US is fully engaged in the process. Both outcomes represent significant steps forward. Equally, paragraph 1(b)(ii) makes it clear that developing countries, in undertaking 'mitigation actions', will be supported by 'technology, financing and capacity-building' from developed countries.

Third, the wording of paragraph 1(b)(i) implies that the mitigation efforts of developed countries can take the form of either 'commitments' or 'actions'. The provision for the latter was designed to accommodate US objections to legally-binding emission-reduction targets. The problem with including this kind of 'escape clause', however, is that it potentially opens up the possibility of other developed countries (e.g. Canada and Japan) choosing not to take on responsibility targets for CP2. If this were to occur, potentially the whole architecture of Kyoto would collapse. Another challenge posed by paragraph 1(b)(i) is the meaning of 'comparability of efforts'. This, of course, is part of the wider issue of determining the nature of fairness in relation to international burden sharing – both with respect to mitigation and adaptation.

Other decisions at Bali

Three related matters, also decided at COP13, deserve mention. First, after years of difficult negotiations, agreement was reached on the implementation of the Adaptation Fund (established under the Kyoto Protocol). This Fund is designed to assist developing countries to adapt to the impacts of climate change with funding being secured via a 2% levy on the carbon credits generated through CDM projects. In accordance with the Bali agreement, a new independent Adaptation Fund Board will be created (under the COP/MOP), the Global Environment Facility of the United Nations will provide secretariat services, and the World Bank will serve as a trustee (on an interim basis).

Second, progress was made at Bali on the important issue of 'avoided deforestation' in the developing world, especially the logging and burning of tropical rainforests (estimated to account for around 20% of global emissions each year). Specifically, the Parties agreed to 'explore a range of actions and undertake efforts, including demonstration activities, to address the drivers of deforestation'.[8] This included provision for the Subsidiary Body on Scientific and Technological Advice to undertake a programme of work on methodological issues (e.g. estimating deforestation rates, calculating emissions and removals from changing land-use patterns, and verifying emission savings from preservation efforts). There was also agreement for the AWG on Long-term Cooperative Action to examine 'policy approaches and positive incentives on issues relating to reducing emissions from deforestation and forest degradation in developing countries'.[9] In effect, this agreement opens up the possibility (despite earlier objections from Brazil) of using market-based mechanisms via the framework of the Kyoto Protocol to slow the pace of deforestation (i.e. carbon credits would be generated for forests that were protected on the basis of their carbon storage value). Not merely does this provide a means of achieving a rapid reduction in global emissions, but there are important implications for CP2. In particular, if Annex 1 Parties have access to a substantial quantity of (potentially relatively cheap) emission allowances through avoided deforestation in developing countries, they will be able to take on

8 FCCC/SBSTA/2007/L.23/Add.1/Rev.1, 12 December 2007.

9 See FCCC/CP/2007/L.7/Rev.1, 14 December 2007

much more stringent *responsibility* targets than would otherwise be politically or economically feasible. An added benefit is that such an approach would secure 'meaningful participation' by certain developing countries in a post-2012 global mitigation effort.

Third, the scope and content of the second review of the Kyoto Protocol generated protracted wrangling at Bali. On the one hand, most developed countries wanted the review to focus on the Protocol's *effectiveness* in fulfilling the ultimate objective of the UNFCCC. An emphasis on effectiveness would provide an opportunity to review the (overly simplistic and increasingly unwarranted) distinction between Annex 1 and non-Annex 1 Parties and highlight the need for a more sophisticated approach to delineating the mitigation responsibilities of individual countries. On the other hand, most developing countries argued that the review should focus on the *implementation,* rather than the effectiveness, of the Kyoto Protocol. This would draw attention to the responsibilities of Annex 1 Parties (and hence any failures to fulfill these responsibilities) and thus avoid any attention being given to the overall framework of the Protocol, including the distinction between Annex 1 and non-Annex 1 Parties. In the event, it was agreed that the second review would focus on how to 'enhance the implementation of the Protocol'.[10]

Where to from Bali?

What was achieved at Bali was essentially an agreement to negotiate a new global climate agreement and to do so according to a fixed timetable. To quote Rachmat Witoelar (the Indonesian Environment Minister and Chairman of COP13): 'We now have a Bali roadmap, we have an agenda and we have a deadline. But we also have a huge task ahead of us and time to reach agreement is extremely short, so we need to move quickly' (Carbon Positive, 2007).

There can be no guarantee that the forthcoming negotiations will be successful. Formidable technical issues need to be resolved (e.g. over deforestation and sectoral approaches), not to mention the divergent views amongst the key players on targets, mechanisms, burden sharing, the nature and stringency of CP2 commitments, and the legal form of a new global arrangement. And even if an agreement is reached at Copenhagen, there will be little time for it to be ratified and brought into effect before the end of CP1.

Plainly, the negotiating position of the US will be crucial to the outcome of COP15. In this regard, there have been some promising developments since Bali. First, the Bush Administration has, for the first time, backed mandatory measures to increase the fuel efficiency of the US vehicle fleet. Second, President Bush announced in his annual State of the Union address in January 2008 that the federal government would invest US$2 billion over the next three years in a new international fund to encourage the adoption of clean energy technologies and help developing countries adapt to climate change. (Japan, meanwhile, has pledged to contribute US$10 billion for similar purposes.) Third, the Bush Administration is inching its way towards accepting the need to take on a binding emission-reduction target. On 26 February, Daniel Price, President Bush's deputy national security adviser for international economic affairs, announced that 'The US is prepared to enter into binding international obligations to reduce greenhouse gases as part of a global agreement in which all major economies similarly undertake binding international obligations' (Black, 2008). Of course, for Brazil, China, Mexico and other major emerging economies to agree to 'binding international obligations' of any kind would represent a significiant departure from their current negotiating positions. But at least the US is now discussing this option. Finally, all three of the leading contenders for the US Presidency – Hillary Clinton, Barack Obama, and John McCain – have pledged to adopt vigorous measures to reduce US emissions. Irrespective, therefore, of the outcome of the Presidential elections in early November 2008, the US is likely to become more favourably disposed to the negotiation of a new multilateral climate treaty and more willing to provide leadership in securing a positive outcome.

The stance adopted by the major emerging economies – especially China and to a lesser extent Brazil and India – will also be critical to the success in the forthcoming negotiations. China has, in fact, already taken measures to curb the growth of its emissions, including setting ambitious renewable energy targets for 2020 (Martinot and Junfeng, 2007, p.14); but much more will be required. At the broader level, unresolved issues include:

10 See FCCC/KP/CMP/20007/L.8, 14 December 2007.

- What overall contribution will developing countries be expected to make to the global emission reduction effort (e.g. how far below business-as-usual levels will developing world emissions need to be by 2020)?
- How should the contribution of developing countries be shared and on what basis?
- What specific measures will be required to achieve the desired emission-reduction objectives and how will these be framed (e.g. as emission-reduction goals or energy sufficiency and renewable energy goals)?
- How will domestic mitigation efforts in developing countries be linked to the requirement for 'measurable, reportable and verifiable' actions?
- What form should any sectoral agreements take and how might these be linked to, and accommodated within, the wider framework of *responsibility* targets and 'measurable, reportable and verifiable' actions?

For New Zealand, the outcome of the negotiations during 2008-09 will have significant implications. New Zealand will, of course, be expected to take on a *responsibility* target for CP2 and this is bound to be tougher than for CP1. Other things being equal, the greater the overall stringency of a new multilateral agreement, the deeper the cuts that developed countries will be required to make. Whatever the stringency of New Zealand's CP2 *responsibility* target, it will become the starting allocation of emissions units for the domestic emissions trading scheme, which is in the process of being implemented.

Given the huge economic, social, political and environmental risks associated with unmitigated global warming, it is undoubtedly in New Zealand's interests to argue for a comprehensive and robust post-2012 agreement with ambitious emission-reduction targets. But it will also be in the country's interests to ensure that the various policy mechanisms designed to achieve these targets are well designed. This means that New Zealand must be fully engaged in the various negotiation tracks and must, in particular, give serious attention to the complex issues surrounding, and the rules for, land use, land-use change and forestry – both as they apply for developed and developing countries. Achieving vigorous and effective measures to reduce global deforestation rates is especially important. Not only will this make available a potentially large pool of emission allowances through which *responsibility* targets can be met, but lower deforestation rates are likely to enhance the global price of wood products, thereby increasing returns to New Zealand's forestry industry. Many other policy issues, of course, will require active consideration during 2008-09 (see, for instance, Ward and James, 2007a, 2007b). To play an effective role in the Protocol and Convention tracks will require a significant investment of intellectual effort and diplomatic persuasion. Arguably, few, if any, issues are more deserving of such an investment.

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Jonathan Boston is Acting Director of the Institute of Policy Studies. He attended COP13 in Bali as a stakeholder member of the New Zealand delegation.

TOWARDS A NEW GLOBAL CLIMATE TREATY: Looking Beyond 2012

An Institute of Policy Studies publication edited by Jonathan Boston

Climate change poses huge ethical, political, economic and technical challenges. The global community had taken initial steps to address these challenges, but this falls far short of what will be needed in the years ahead. The Kyoto Protocol, negotiated in 1997 under the United Nations Framework Convention on Climate Change, requires industrialised countries to reduce their emissions by an average of 5% below 1990 levels during the first commitment period (2008-12). Most developing countries and all but two industrialised countries have ratified the Protocol – the exception being Australia and the United States.

With the first commitment period ending in barely five years, the international community must now decide what is the right mix of policies and commitments needed to build the momentum required to reverse the growth of greenhouse gas emissions and help nations adapt to the unavoidable impact of climate change. Much is at stake – not least the well-being of many future generations of humanity.

This book explores the critical policy issues that will need to be addressed during the forthcoming negotiations for a post-2012 climate treaty. Particular attention is given to the implications of such a treaty for New Zealand including the issues affecting the energy, agricultural and forestry sectors. The book is based on a series of roundtable discussions hosted by the Institute of Policy Studies in mid-2007.

The roundtable series was sponsored by the chief executives of the New Zealand government departments and involved about 120 people drawn from a diverse range of stakeholder groups, sectors and communities of interest.

Contributors include Ralph Chapman, Pamela Chasek, Steve Hatfield-Dodds, Colin James, Lucas Kengmana, Adrian Macey and Murray Ward.

Jonathan Boston is Professor of Public Policy and Acting Director of the Institute of Policy Studies. He has published widely in the fields of public management, tertiary education, social policy and comparative government.

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RESTORATIVE JUSTICE AND PRACTICES IN NEW ZEALAND: Towards a Restorative Society

An Institute of Policy Studies publication edited by Gabrielle Maxwell and James H Liu

The quest for justice has been a powerful driving force in all human societies. In recent times, the notion of restorative justice has gained currency. To achieve restorative justice all those affected by a crime must be involved in finding a solution - one that repairs the harm and restores broken relationships. This means striving to rebuild the damaged lives not only of those who have suffered but also of those who have caused suffering to others. It means the healing of hurts, the reconciliation of offenders and victims, and the eventual reintegration into the community of those who have offended, as responsible and productive members of society.

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Dr Gabrielle Maxwell, previously Director of the Crime and Justice Research Centre, Victoria University of Wellington is now a Senior Associate at the Institute of Policy Studies. Her research focuses on youth justice, restorative justice and violence in families.

Dr James Hou-fu Liu is Associate Professor of Psycholigy at Victoria University of Wellington and Deputy Director of its Centre for Applied Cross Cultural Research. His research specialties are in cross-cultural psychology, inter-group relations and social identity.

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