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Institutions, Social Norms and Well-being

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Institutions, Social Norms and Well-being

Murray Petrie

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A C K N O W L E D G E M E N T S

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D I S C L A I M E R

The views expressed in this Working Paper are those of the author(s) and do not necessarily reflect the views of the New Zealand Treasury. The paper is presented not as policy, but with a view to inform and stimulate wider debate.

Abstract

This paper discusses the intrinsic and instrumental value of governance and social norms to the well being of New Zealanders. The interaction between informal social norms and formal institutions is also discussed. An attempt is made to identify the channels and precise mechanisms through which governance and social norms respectively may impact on well-being. Empirical evidence on these effects is cited, and the relevance of the evidence to New Zealand is assessed. A range of suggestions is then presented for strengthening the governance of public institutions in New Zealand, focusing on improvements to transparency, accountability and integrity within existing constitutional arrangements. Finally, some tentative remarks are made on the potential role of government in influencing the evolution of social norms, and managing tensions between conflicting norms in New Zealand.

JEL CLASSIFICATION D7 – Analysis of collective decision making
 Z13 – Social norms and social capital

KEYWORDS Norms; governance; well-being; public institutions; transparency

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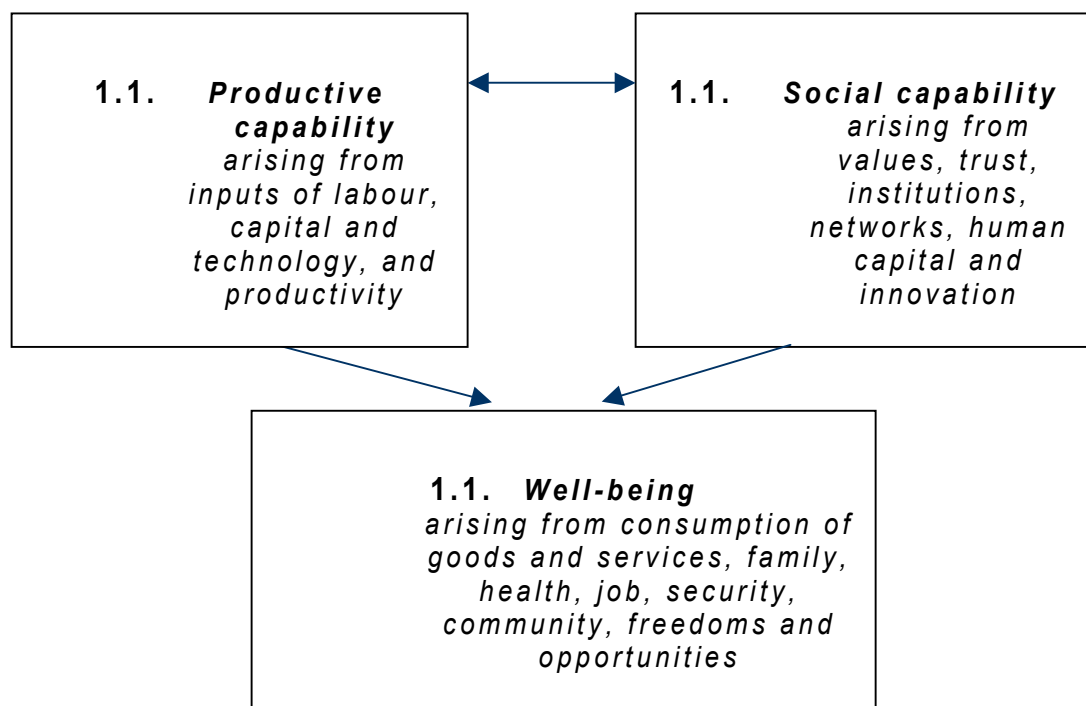
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Institutions, Social Norms and Well-being

1 Introduction

This paper considers in detail a component of social capability that is suggested by the Treasury's Inclusive Economy framework¹ as being centrally important to the well-being of New Zealanders: the functioning of the public institutions that provide the broad environment within which politics, society and the economy operate. Related to this is the role of the informal "institutions" of social norms in contributing to social cohesion and well-being, and in facilitating the functioning of formal institutions.

The Inclusive Economy framework is based on analysing the complex inter-relationships between social capability, productive capability, and well-being, as illustrated in the following diagram:²



¹ See Treasury (2001).

² Taken from Treasury (2001), p. 4.

The term *social capability* is defined here as a society's capacity for collective action in a variety of spheres, including non-market and market, and involving voluntary interactions as well as the use of the coercive powers of the state.³ In this broad sense social capability subsumes the notion of social cohesion – a more cohesive society will, in general, have a higher level of social capability. For example, it will be able to support a wider range of market exchanges and non-market interactions and institutions.

The perspective adopted in the paper is one in which social norms and formal state institutions can both substitute for and complement each other. The paper draws on agency theory, on the literature on social capital, on social norm theory, and on the concept of a national integrity system.

The paper attempts to identify the ways in which governance and social norms may impact on well-being, and to assess the relevance of these issues to New Zealand. A number of areas are then suggested where the governance of public institutions can be strengthened in this country.⁴ This last discussion takes as given the fundamental elements of New Zealand's constitutional arrangements, and focuses on improvements to the transparency, accountability and integrity of public institutions. The paper also contains some tentative remarks about the potential role of government in New Zealand in influencing the evolution of social norms.

The structure of the paper is as follows; section 2 presents a short discussion of the intrinsic and instrumental value of good governance. Section 3 discusses the contribution of social norms to well-being, and considers some of the interactions between social norms and formal institutions. Section 4 presents the specific direct and indirect channels through which governance and social norms, respectively, may affect well-being, cites evidence for those effects, and discusses the relevance of the evidence to New Zealand. Section 5 identifies a number of areas where the governance of public institutions can be strengthened in New Zealand, and contains some tentative remarks about the potential role of government in influencing the evolution of social norms. Section 6 contains some concluding comments.

2 The Intrinsic and Instrumental Value of Good Governance

Governance is generally defined as the formal and informal ways in which power and authority are exercised within a given entity (e.g. organisation, firm, or country). It is a multi-faceted concept, and the precise usage of the term varies considerably. Applied at the national level, it encompasses the constitutional structure, the operation of political and judicial processes, and public management. Important components of governance include relations between the state and the individual citizen, the state and civil society, and the state and markets.

On one view, the quality of governance at the national level is determined by the impact of the exercise of power on the quality of life of its citizens – an instrumental approach in which the test of governance is the outcomes that collective state actions help to bring

³ This use of the term contrasts with recent usage by some within the social capital literature to refer to that sub-set of social relations (or social capital) that involve only the formal institutions of the State (e.g. Woolcock, 2001). For a description of social capital theory and its relevance to public policy in New Zealand, see Petrie (2000).

⁴ A separate paper considers in detail issues in Maori governance and Maori society that are little more than touched on in this paper. See Greenland (undated).

about. In another view, governance involves, in addition to the above, elements that are held to be important ends in themselves, such as individual freedoms of various kinds.

A recent influential exposition of the latter approach is by Nobel laureate Amartya Sen, in his book *Development as Freedom*. Sen (1999) asserts that freedom is central to the process of development because it is intrinsically important, and because, in its various dimensions and the interconnections between them, freedom is critically dependent on the “free agency of people.” Sen uses the term “agency” not in the sense of a principal/agent relationship, but to mean individuals acting and bringing about change whose achievements can be judged in terms of their own values and objectives.

For Sen, long-asked questions such as “are political and civil liberties conducive to development?” are misconceived. They constrain “development” to a narrow focus on material output. Such liberties should be seen as ends in themselves, not requiring any further justification on the basis of their instrumental effects on other outcomes, such as economic growth. Similarly, Sen argues – in the tradition of Adam Smith – that exchange of goods in markets has a prior justification in terms of an intrinsically important freedom to exchange.

Sen makes the further assertion, however, that such freedoms are also critically important to the achievement of social development, in the form of economic growth and improvements in the quality of life. He assembles empirical evidence on the connections between freedoms of various kinds, and a variety of social outcomes. Some of the evidence is drawn from developed countries, and Sen argues his framework is relevant to the issues confronting rich countries as well as poor countries.

Sen identifies five different freedoms:

- 1) Political freedoms – democratic systems with freedom of expression and organisation, and a free media.
- 2) Economic facilities – the opportunities that individuals enjoy to utilize economic resources for consumption, production or exchange. These depend on initial endowments and the conditions of exchange (including the functioning of markets).
- 3) Social opportunities – social arrangements for education, health care and so on which influence individuals’ substantive freedom to live better lives.
- 4) Transparency guarantees – social interactions operate on some basic presumption of trust. The freedom to deal with one another under guarantees of disclosure and lucidity is important to preventing corruption and other underhand dealings.
- 5) Protective security – a social safety net for the poor and vulnerable, comprising on-going institutions and ad hoc emergency measures.

Sen focuses on the empirical connections that link freedoms of different kinds.

“Political freedoms (in the form of free speech and elections) help to promote economic security. Social opportunities (in the form of education and health facilities) facilitate economic participation. Economic facilities (in the form of opportunities for participation in trade and production) can help to generate personal abundance as well as public resources for social facilities. Freedoms of different kinds can strengthen one another.” (Sen, 1999, p.11).

Sen rejects any claim that this concept of development is a narrowly Western democratic one, and cites a history of non-Western thought in support of his argument.

In this paper the focus is on those elements of Sen's five freedoms that are directly relevant to the governance of public institutions and the evolution of social norms. They are political freedoms, economic facilities, and transparency guarantees. The specific channels through which these freedoms may impact on well-being are identified in Section 4, together with references to supporting evidence.

In the next section the relationship between social norms, social cohesion and formal government institutions is considered.

3 Social Norms and Government Institutions

3.1 Social Norms

Social norms can be defined as informal “rules of the game” that regulate social interactions, thereby reducing transaction costs.⁵ They are based on shared understandings amongst members of a group about actions that are desirable, merely permitted, or actively discouraged.

Norms can be society-wide or held by sub-groups – and, depending on the perspective adopted, can be positive or negative for well-being.

Social norms are sometimes seen as one amongst a larger set of mechanisms of social control (after Ellickson, 1991). Other forms of social control are economic incentives, customary law, and coercion through means of formal state institutions.

Fukuyama (2000a) has characterised social norms as originating in one of two intersecting dimensions: the first is along a hierarchical (e.g. organised religion) or spontaneous (e.g. arising from interactions in markets) dimension. The second is along a rational (e.g. common law) or a-rational (e.g. biologically grounded) dimension.

Norms often have a basis in shared cultural, religious or moral beliefs or practices that act to coordinate the expectations of individuals about the basis on which social interactions will occur. Norms are also often established by a dominant group as a means of promoting a pattern of behaviour that serves their interests.

Social norms are enforced by informal rewards and sanctions, and gain status through adherence over time. Sanctions may be self-imposed – as in the case of guilt felt by an individual who violates a norm to which they personally subscribe – or they may be imposed by members of a social group – as when an individual is shamed as a result of being seen by other group members to have violated an established norm. A further possible form of sanction is the imposition of a punishment on those who observe but do not themselves punish an infraction of an accepted norm (what Axelrod (1986) has termed a meta-norm).

In economic terms, social norms are one class of solutions to collective action problems. Because of their dependence on individuals' willingness to incur the cost of imposing sanctions on non-compliers, however, social norms are themselves subject to collective action problems. That is, monitoring others' behaviour and imposing sanctions involves personal costs, while the benefits are shared by all members of the group. This is a form of public good. It suggests that social norms will be more effective in small, close-knit groups where members have ready information on past and current actions of others in the group, and the ability to impose low-cost informal sanctions such as shame and reputational damage through means such as gossip.

⁵ The discussion of social norms in this section draws on Axelrod (1986), Ellickson (1991), Coleman (1991), Palmer (1993), Sunstein (1996), and Ostrom (2000).

Nevertheless, a considerable body of experimental evidence exists of behavioural regularities that suggest a willingness of people to cooperate in situations where their narrow self-interest would indicate that non-cooperation is rational. On this basis, and after in-depth empirical study of informal cooperation in the management of local common pool resources in a number of countries, Ostrom (2000) argues that a deep-seated norm of reciprocity exists across many societies. She defines reciprocity to mean that, in response to friendly actions people are frequently much nicer and much more cooperative than predicted by the rational self-interest model; and conversely, that in response to hostile actions they are nastier than might be predicted.

Ostrom argues that the norm of reciprocity (or conditional cooperation) is a fairly stable behavioural response exhibited by a portion of the population that can be relied on under certain circumstances. Citing extensive empirical evidence – for example, of small-scale irrigation schemes – she has put forward a number of design principles that contribute to successful self-organized local resource management regimes that regulate their activities through informal social norms. These include the presence of clear boundary rules defining who has rights to draw on the resource. The users of the resource design their own rules governing use of the resource. Individuals are more willing to abide by rules where they have participated in their design, which means they are more likely to reflect shared concepts of fairness. Where rules on resource distribution are made by government agencies there is a lower level of compliance with the rules. That enforcement of the rules is by local users or people accountable to them. Recognition of the right to organise by a government authority, which helps the group to enforce the informal rules it creates and avoids the need to rely on unanimity as the decision rule. For larger resources (for example, a major irrigation water source), the presence of governance activities organized in multiple layers, each with its own distinct set of rules appropriate to the particular scale of activity concerned.

3.2 Norms and Institutions

Social norms are most commonly contrasted with the formal institutions of the State, which are created in a centralized, deliberate manner, and which act to coordinate expectations through the use of coercive powers imposed by a common third party. The limits on the effectiveness of social norms – in terms of the complexity and scale of interactions they can regulate – have been suggested as a reason for the existence of government. Nevertheless, social norms retain an important role in advanced societies.

Of most interest in the current context are the interactions between social norms and the effectiveness of formal government institutions.⁶

Social norms and formal state institutions interact in a variety of ways.⁷ For instance, informal social norms might pre-date formal laws, but, once they are widely observed, may be reflected in and reinforced through formal codification in law. A law supports a norm through supplementing private enforcement with the formal enforcement mechanisms of the state. The law may also add credibility to a norm by signalling the seriousness with which society views an issue. The presence of an effective legal framework means that less reliance needs to be placed on informal social norms and generalised inter-personal trust (a scarce commodity) to “enforce” agreements.

On the other hand, laws ultimately require support from social norms if they are to be effective. This is the fundamental explanation for the failure of the “rule of law” in many countries where the formal laws are not at all observed in practice. Social norms play a role in generating and sustaining commitment to a society’s institutional structures – in

⁶ Other applications include the role of social norms within firms in motivating employees. See Coleman (1991) and Fehr and Gächter (2000).

⁷ The following discussion draws heavily on Axelrod (1986).

other words, norms play an important role in building social cohesion.⁸ For example Norms may proscribe anti-social activity, such as crime and the avoidance of social and citizen responsibilities (e.g. tax evasion, abuse of the benefit system). Norms may foster a sense of responsibility amongst individuals for their own future, and for the impacts of their actions on others, particularly in their families and local communities.⁹ Norms of fairness and reciprocity act to coordinate expectations, and to limit the scope for conflict. A norm of generalised interpersonal trust can act to create a willingness to give people some “benefit of the doubt” in social, political and economic interactions when those people are neither directly known nor known through mutual acquaintance.

The law typically defines expected behaviour with greater clarity than an informal norm. However, while a law may add clarity to a norm over the domain covered by the law, this clarity may be gained at the cost of suggesting that conformity with the law is the limit of one’s social obligations. Externally imposed laws may undermine the emergence or viability of informal social norms, especially where there is weak enforcement of the law. Ostrom (2000) has also argued that there is evidence that norms have a certain staying power in encouraging the growth of the desire for cooperative behaviour over time, whereas cooperation enforced by externally imposed rules can disappear very quickly.

Laws and norms may be mutually self-supporting because they have complementary strengths and weaknesses. Social norms are often best at preventing numerous small infractions where the cost of enforcement is low. Laws often function best to prevent infrequent but serious infractions where the cost of enforcement is high.

The law may provide the backdrop against which individuals negotiate bilateral or multilateral arrangements, in the manner envisaged by Coase (1960). On the other hand, in some situations the formal legal situation may be unknown or misperceived by individuals, who nevertheless develop informal social norms to regulate behaviour.¹⁰

Customary law represents a hybrid between informal social norms and formal, state-supplied law.¹¹ In a number of countries customary law governs much of everyday social and commercial life, especially in rural communities. It is often imposed through formalised processes – and may be recognised in Statute law. In New Zealand, Maori customary law has force in some spheres, such as land ownership and adoption.

The common law also represents a hybrid between state-supplied law, and informal, decentralised social norms. The common law is not codified, can transcend national boundaries, evolves over time and has its foundations in customary practices. For instance, courts may look to informal business customs to flesh out incomplete contracts.

Government institutions may play a role in the evolution of fairness norms. Gorringer (1995) has suggested that the actions of public institutions can improve “framing effects” by influencing perceptions of fairness through changing the context in which issues are presented.¹²

⁸ Treasury (1994) defined social cohesion as the “willing and sustainable commitment of the members of a society to its institutional structures.”

⁹ “Together with opportunity, this condition provides the basic foundation for mutual gain which keeps a society together.” (Treasury, 1994, p. 5).

¹⁰ For instance, Ellickson (1991) found in a detailed study of the arrangements amongst cattle farmers to regulate disputes arising from the damage due to escaped cattle, that the formal laws were irrelevant, and that the farmers governed themselves by means of informal social norms.

¹¹ I am grateful to David Robinson for this point. The discussion in this paragraph draws on Klingelhofer and Robinson (2001).

¹² See Gorringer (1995), in Grimes et al (2001), pp. 54-55. By framing effects Gorringer refers to experimental evidence that people’s perceptions of fairness depend on (are framed by) the context in which the situation or consideration is presented. For instance, people in experiments are less likely to share money when they have

A good enabling environment for civil society (e.g. civil liberties) creates the space for social bonds to be created in the non-government sector. For example, voluntary membership of like-minded individuals in groups working together for common ends assists the evolution and maintenance of social norms. In turn, an effective civil society – such as an active media, and well-informed Non-Government Organisations - can generate pressure for more effective and accountable government.

An effective legal framework establishing property rights and supporting the functioning of markets facilitates voluntary economic exchanges, thereby contributing to the development of norms such as fair dealing and trust.

Constitutional conventions, such as the doctrine of ministerial responsibility, can be viewed as social norms that guide the legitimate use of coercive power by government. They represent an important check on the potential abuse of power by the executive.¹³

3.3 The Span of Norms

An important dimension of social norms is the extent to which they span sub-groups in society. Inter-group relations might be extensive, and be based on a high level of shared norms and values. Alternatively, there may be limited interaction between different sub-groups, and a relatively low level of shared norms and values.¹⁴ In the latter case, cohesion would presumably require that the norm of tolerance of diversity at least should be widely shared.

This in turn leads to recognition that people are to some extent able to choose between alternative norm communities – although there are clearly constraints on such choices. But a legal framework protecting individual rights and freedom of association creates the space for like-minded individuals to establish networks and organisations and to conduct their affairs in terms of mutually-supported norms. The fall in the costs of communications means that cross-country forms of association are increasingly prevalent, and some norms - such as individual rights and democracy - increasingly international in their domain.

3.4 The Negative Side of Social Norms

There are also, however, potential tensions between social norms, institutions and well-being. For example, a strong, widely shared social norm such as gender-defined limits on behaviour is likely to conflict with equality of opportunity. Depending on the perspective adopted (i.e. the outcome desired), such norms might be regarded as negative social capital, or excessive social cohesion. Norms amongst a sub-group or sub-culture might be seen from a national perspective as illegitimately restricting individual rights, and national laws might be motivated in part to constrain such sub-group behaviour. A widely shared

earned it than when they regard it as a gift to them or as the outcome of a game of chance. Gorringer also discusses the relationships between institutions, social cohesion and growth.

¹³ Palmer (1993) argues that constitutional conventions play a particularly important role in a Westminster Parliamentary system such as New Zealand's in limiting the scope for abuse inherent in the concentration of power in Cabinet.

¹⁴ This contrast is similar to Fukuyama's use of the term "the radius of trust" to describe how narrow or broad is the norm of generalised trust in society. (See Fukuyama, 2000b). The concepts of bonding and bridging social capital have also been invoked to describe different types of social bonds (see Woolcock, 2001). Bonding social capital arises from strong ties of kin and other close social relationships; bridging social capital represents the weaker ties that span sub-groups in society, providing the basis for more broadly based personal, social and economic development. Etzioni (2000) has used the term "community of communities" to describe a situation where shared values across society mean that a diverse collection of smaller groups are part of a broader national community.

norm, such as the importance of social conformity, may contribute to a number of positive outcomes (e.g. low crime), but may entail some loss of individual freedom of lifestyle choice. At some point, widely shared perceptions, and norms of solidarity may reduce openness to new ideas. Diversity can have value in stimulating competition and providing a variety of sources of new ideas.

There is, in addition, a dynamic aspect to social norms. At one time, the strong ties within an ethnic community may provide access to capital and information that assist with the formation of small businesses. Subsequently, norms of obligation to fellow group members may restrict individual advancement.¹⁵

Furthermore, there are some forms of social norms that, while positive for group insiders, may be negative for the overall society, and therefore detract from social capability and overall well-being. Informal norms can help to increase the effectiveness of close-knit groups, such as criminal gangs, but produce negative outcomes for the broader society. In less extreme cases, social norms in some sub-groups – such as youth peer groups – can encourage activities which are unlikely to be in the best interests of young people – such as dropping out of school, excessive risk-taking, or substance abuse.

There may also be multiple equilibria. Trust breeds trust, while distrust can be extremely difficult to break down because of the typical absence, in a situation of distrust, of the social interactions required if people are to adjust their perceptions.¹⁶ In this situation path dependence is a feature, and the time frames involved in the evolution of social norms are in general likely to be long. On the other hand, Sunstein (1996, p. 912) argues that there can be a large discrepancy between people's private judgements, and the judgements and behaviour they display in conformity with social norms. "For this reason current social states can be far more fragile than is generally thought, and small shocks can produce widespread changes in behaviour." Sunstein cites the collapse of communism and apartheid, and, in the US, changing views on issues such as smoking in public places, as evidence that, on occasions, social norms can change rapidly.

3.5 Role of Government in Fostering the Evolution of Social Norms

Governments can encourage positive social norms through their own behaviour in important ways. International evidence suggests that a fundamental test of a country's ability to support living standards and well-being at the level of the OECD is its rigorous and consistent adherence to the rule of law (see Section 4 below). Transparency, accountability, integrity, and procedural fairness in the actions of governments, politicians, and the civil service all seem to play an important role in supporting the same behaviours throughout the wider society.

It is also fundamentally important that governments provide an effective enabling environment for social and economic exchanges, for the establishment of family relations, and for the functioning of civil society, so as to facilitate decentralized interactions and the emergence of social norms in these spheres of activity.

¹⁵ See Putnam (2000), p. 322 for discussion of evidence on the impact of social capital on entrepreneurs in ethnic communities.

¹⁶ See Gambetta (1988) for discussion on the nature of trust. "Trust is a peculiar belief predicated not on evidence but on the lack of contrary evidence – a feature that makes it vulnerable to deliberate destruction. In contrast, deep distrust is very difficult to invalidate through experience." (p. 234).

Government also plays a pervasive role in disseminating information designed to influence individuals' perceptions and therefore their decisions, and over time, to influence social norms. An example is the providing of information on the health hazards of smoking, or on road safety.

Beyond this, views differ sharply on the legitimacy and/or the effectiveness of government in actively attempting to shape or re-shape social norms and values. As Fukuyama has noted, views on how social norms originate tend to follow views on where they should come from. Libertarians consider that norms emerge from spontaneous decentralised social interaction – with transactions in markets being seen as an important source - and see little or no role for government in trying to lead the way through “social engineering” or undesirable paternalism. Libertarians also point to frequent episodes of extreme nationalism promoted by governments as evidence of the serious risks posed by official attempts to re-shape social norms. Social democrats, on the other hand, view norms as emerging from hierarchical structures and see a central role for the state in shaping and re-shaping them.¹⁷

A middle ground and the perspective adopted in this paper - is occupied by those who consider that, while there are serious risks in government attempting to play a very active, wide-ranging or coercive role, there may be some legitimate avenues, nevertheless, through which the government can, and should, attempt to foster the evolution over time of socially-beneficial norms and values. This position is conditional, however, on the specific details of the intervention concerned. Inappropriate or ill-conceived initiatives in this area risk lowering well-being rather than increasing it. This issue is returned to in Section V below.

4 Channels through which Governance and Social Norms Impact on Well-being

In this section, an attempt is made to specify the precise causal linkages between various aspects of governance and social norms, and well-being. Different broad channels are identified through which governance and social norms impact on well-being. For each channel, specific causal mechanisms are posited.

It is acknowledged that what constitutes “good governance” is to some extent in the eye of the beholder, and the underlying ethical basis of good governance is not always made clear. In this paper good governance is broadly conceived as arrangements constraining the use and abuse of coercive power that are founded on individual rights, open and democratic practices, tolerance of diversity, and the rule of law. This definition is chosen on the basis both of widespread recognition in New Zealand of the intrinsic importance of these elements, and the international evidence on their importance in facilitating sustained growth in well-being. Note, however, that democratic principles and individual rights involve protection of minority interests, and preservation of autonomy for individuals and groups to organise and conduct their affairs according to their preferred norms (within the underlying framework of the rule of law).

¹⁷ See Fukuyama (2000a), Chapter 8, and especially pp. 102-107.

In the Tables that follow, the channels through which good governance and social norms impact on well-being are divided into direct and indirect routes. A direct channel is one that impacts directly on a component of well-being, such as freedom of expression. An indirect route is one that works, for example, through its impact on economic output, which in turn makes possible an improvement in well-being.

Table 1 sets out the channels through which governance may impact on well-being; shows the precise mechanisms through which it is suggested each channel has its effects; and contains selected references to empirical evidence on the effects, where such evidence exists and is known. Table 2 repeats the exercise with respect to the contribution of social norms to well-being.

The section concludes with an assessment of the relevance of the empirical evidence to New Zealand.

Table 1: Channels – The Contribution of Governance to Well-being

Channel	Mechanism	Evidence
Direct routes		
1 Through protecting important political, civil and individual freedoms that are themselves constitutive of well-being	Enabling institutions such as free democratic elections, an independent judiciary, legal protections for free speech and human rights; protection of minority rights	Well-being is <i>defined</i> as including political, civil and individual freedoms (after Sen, 1999)
2 Through enabling greater and more informed democratic participation	Access to official information; explicit consultative mechanisms	Well-being is <i>defined</i> as including democratic participation
	Appropriate decentralization of expenditure responsibilities to sub-national governments	Huther and Shah (1998)
3 Through facilitating social interactions and economic exchange	Enabling environment for economic exchange, such as secure property rights, security of contract	Well-being is <i>defined</i> as including social interactions and economic exchange. For evidence on the instrumental effect of good governance on economic exchange see channel 5 below
4 Through contributing directly to better outcomes, such as life expectancy, literacy, and the quality of the physical environment	Enabling environment for civil society ¹⁸ , such as legal framework for civil society organisations, freedom of expression, a free press, open government	
	Impact of improved “citizen voice” via a free press on equity of government policies (e.g. no mass famines have occurred in a democracy)	Sen (1999)
	More open, accountable, stable and effective public sector governance	Kaufmann, Kraay and Zoido-Lobaton (2000)
	Less corruption strongly correlated with better physical environment	World Economic Forum (2001)

¹⁸ The term “civil society” is used in a variety of ways in the literature. In general, it is used here to mean non-government and non-market organisations (often referred to as the voluntary sector) but also including the media.

	Decentralization of expenditure responsibilities to sub-national governments	Huther and Shah (1998)
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Indirect routes

5. Through higher economic output	Causal relationship running from measures of quality of public sector governance to levels of per capita income	Kaufmann, Kraay and Zoido-Lobaton (2000). Hall and Jones (1999)
	Corruption lowers incentives to invest on the part of both domestic and foreign investors by acting as an uncertain tax on productive activity	Mauro (1996) Shang-Jin Wei (1997) World Economic Forum (1997)
	Corruption distorts the composition of government spending, away from education and towards large-scale capital projects where it is easier to extract bribes	Mauro (1996) Tanzi and Davoodi (1997)
	Basic civil liberties, freedom to organise, and an active media facilitate greater citizen voice and hence more effective government	Isham, Kaufman and Pritchett (1997)
	A more extensive and effective civil society is associated with higher economic output	Putnam (1993)
	Central bank independence leads to lower inflation and higher growth	Cukierman, Webb and Neyapti (1992)
	Greater transparency and accountability strengthen incentives for earlier policy adjustments, and prevent the costly accumulation of	
	Political and civil freedoms can facilitate the emergence of shared norms over time, such as trust and tolerance, and social values such as the importance of education or attitudes toward protecting the environment. Shared norms, in turn, facilitate the achievement of social consensus (i.e. the reduction of transactions costs) that facilitates more efficient collective action and economic exchange	See Table 2 below for discussion of the channels through which social norms impact on well-being
6 Through strengthening state capability	Corruption and the absence of the rule of law cause taxpayers to resort to private mechanisms to protect property and enforce contracts, and are therefore correlated with a larger share of the unofficial economy in GDP	Johnson, Kaufman and Zoido-Lobaton (1998)

Virtuous and vicious circles

8. Interactions between political and civil freedoms, and the evolution of shared norms	The exercise of freedom is mediated by values, which are in turn influenced by public discussions and social interactions, which are themselves influenced by participatory freedoms (as suggested by Sen 1999)	See Table 2 below for discussion of the channels through which social norms impact on well-being
9. Interactions between declining state capability and the extent of the unofficial economy	As state capability declines, taxpayers receive lower quality public services, resort to private alternatives, and shift activities underground, further weakening state capability. Process can work in reverse, although many states appear trapped in a low level equilibrium	World Bank (2000)
10. Interactions between participatory democracy and basic educational skills	Democratic participation requires basic educational skills such as literacy and numeracy; widespread democratic participation, in turn, is correlated with higher education spending	Mauro (1996)
11 Interactions between the enabling environment for civil society, and the effectiveness of government	A good enabling environment for civil society (e.g. civil liberties, government decision-making transparency) creates the space for social bonds to be created in the voluntary sector. In turn, an effective civil society can generate pressure for more effective and accountable government	Isham, Kaufman and Pritchett (1997)
12 Interactions between a country's constitution and social norms concerning the legitimate use of coercive power	A potential evolutionary cycle of constitutional dialogue and values (reflected in informal constitutional conventions) and formal constitutional provisions, that may under some circumstances exert mutually reinforcing pressures on government that constrain the abuse of power (as suggested by Palmer, 1993)	

Table 2: Channels – The Contribution of Social Norms to Well-being

Channel	Mechanism	Evidence
Direct routes		
1 Through facilitating greater participation in all spheres, meeting human needs for sociability, recognition and identity	Norms of fairness, reciprocity and individual responsibility reduce barriers to inter-personal relations, by reducing transaction costs and enhancing generalized trust	Knack and Keefer (1997)
2 Through protecting important political, civil and individual freedoms that are themselves constitutive of well-being	Constitutional conventions guide the legitimate use of coercive power by governments, and constrain the abuse of power (as suggested by Palmer, 1993)	Ostrom (2000)
3 Through promoting physical safety and security and reducing conflict	Norms of non-violence, fairness and respect for the rights and interests of minors and other vulnerable groups reduce the incidence of violence and exploitation in the community, and reduce the extent of conflict	
Indirect routes		
4 Through higher economic output	Social divisions, in terms of ethnicity and income, and corrupt public institutions, result in an inability to generate social consensus, reducing the ability to adjust to economic shocks	Rodrik (1999 and 2000) Easterly (1999 and 2000)
	Trust and shared values reduce transaction costs in the private sector; and may encourage investment	Knack and Keefer (1997) La Porta et al (1996) Guiso et al (2000)
	The norm of reciprocity facilitates the production of local public goods and the management of common pool resources	Ostrom (2000)
	The norm of fairness reduces the room for conflict, and helps settle conflict when it does occur, thus reducing transaction costs and increasing economic growth	Experimental evidence on the existence of a norm of fairness and its effects on individual behaviour (cited in Gorringer, 1995)
	Trust and shared values increase state effectiveness through voluntary compliance with laws, taxes and regulations	La Porta et al (1997)

5 Through higher non-economic output	Norms of fairness and reciprocity facilitate a higher level of output by civil society organisations
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Virtuous and vicious circles

6 Interactions between trust and the effectiveness of institutions	Trust enhances the effectiveness of institutions, which in turn builds further trust	La Porta et al (1997)
7 Interactions between shared values and economic growth	Social cohesion may contribute to higher economic output (as above); and economic growth may in turn contribute to social cohesion by changing individual's subjective feelings about the degree of well-being they derive from belonging to their society (as suggested by Gorringer, 1995, and Bates, 1996)	
8 Interactions between civil strife and quality of governance	In the presence of two or three large competing ethnic groups, weak governments are associated with civil strife	Collier and Hoeffler (1998)

Low level equilibrium trap

9 Lack of trust can be very difficult to break down	A lack of generalized inter-personal trust is associated with lack of social and economic interactions. In the absence of such interactions, it is difficult to revise one's view of the trustworthiness of others. In a low trust society it is rational to exploit others rather than to trust them	Putnam (1993)
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4.2 Relevance of Empirical Evidence to New Zealand ¹⁹

Much of the evidence on the growth effects of governance and social cohesion comes from large cross-country data sets that include both developed and developing countries. The differences across countries, in terms of the details of their institutional and social arrangements, necessitate caution in interpreting the relevance of the results to New Zealand – although it is possible that a broad panel of countries will generate a sufficiently strong signal to overcome the “noise” in the data created by inter-country heterogeneity. In fact, it might be argued that a wide sample of rich, middle-income and poor countries has the advantage of incorporating a wider than usual range of variation in institutional variables affecting growth. This may make it possible to draw more accurate inferences about the relative importance of different factors for economic growth than is possible when looking exclusively at richer countries. For example, evidence on the importance of the rule of law, which shows up from large cross-country samples, serves to remind policy makers in richer countries of the need to maintain and reinvigorate the framework of law and regulation which enables economic life to thrive, and which may often be taken for granted.

¹⁹ The first three paragraphs in this section are drawn from material drafted by Nick Mays – see Mays and Petrie (2000), pp. 35-41.

It does nevertheless seem likely that developed countries such as New Zealand are located on the flatter part of any curve relating economic and social outcomes to the quality of governance. Our institutional heritage gives New Zealand reason to be confident of the basic soundness of its underpinning institutions. New Zealand's rating on international surveys, such as the quality of institutions in the Global Competitiveness Report, and the perceived absence of corruption as measured by Transparency International's Corruption Perceptions Index, lend support to such a conclusion.²⁰

It may be, however, that continual attention to the quality of governance is most important in developed countries to prevent a country falling behind in terms of average material standards of living. As in all areas, it also seems likely that a reputation (in this instance, for high quality governance) takes time to build but can be quickly eroded. Furthermore, governance reform has been high on the agenda of most developed countries in recent years. This suggests that New Zealand needs to keep making progress in order just to stay still in relative terms.

These broad observations on the relevance of governance to New Zealand's prospects are strengthened considerably by the challenge of establishing a more solid basis for inter-group co-operation and cohesion in New Zealand. In particular, the large size and over-representation in lower socio-economic groups of the indigenous Maori population, and the Maori sense of historical injustice, place New Zealand in an unusual position in comparison to many other OECD countries.

There is also evidence of significant diversity in underlying world-views across different cultural groups in New Zealand. The evidence comes from a small number of national surveys conducted over the last fifteen years or so, chiefly the New Zealand Study of Values, which has seen three surveys (1985, 1989 and 1998).²¹

Webster has analysed these surveys and, on the basis of respondent self-identification, considers there are at least six distinct cultures in New Zealand, which he labels (in descending order of size) New Zealander, Pakeha, European, Maori-Maori (Ethnic Maori who identify as "above all a Maori"), Maori-New Zealander (Ethnic Maori who identify as "above all a New Zealander"), and Pacific Peoples.²² On the basis of an analysis of the patterns of values revealed in responses to the more than three hundred questions in the surveys, Webster argues that the presence of these distinct cultures is further borne out by distinct clusterings of views across these groups.

Of particular interest in the current context is evidence Webster presents on divergent views towards various aspects of governance and social norms, which he suggests illustrate the potential for future social conflict in New Zealand. For instance, on the basis of Webster's analysis.²³ Strength of support for democracy: while 73% of "Pakeha" considered a strong leader who does not need Parliament to be very bad, only 34% of "Maori-Maori" thought so; while only 13% of "New Zealanders" thought democracy was ineffective due to poor decision-making, 47% of "Maori-Maori" thought so; and while 84% of "New Zealanders" considered that rule by the army would be very bad, only 59% of "Pacific Peoples", 64% of "Maori-Zealanders" and 64% of "Maori-Maori" thought so. Support for the Treaty of *Waitangi*: while only 1% of "Maori-Maori" wanted to abolish the Treaty, 49% of "Europeans" did. Civic morality: while 91% of "New Zealanders" considered accepting bribes in the course of duties to be unjustifiable, only 72% of "Maori-Maori" thought so; while 83% of "New Zealanders" considered claiming unentitled benefits

²⁰ See World Economic Forum (1999) and Transparency International (2000a).

²¹ On the latter see Perry and Webster (1999).

²² The two Maori ethnic groups were of approximately equal size in Webster's sample. Webster also identifies a common core of values, defined as those values on which the main cultures do not disagree, which he labels Kiwi culture.

²³ Webster reports the results cited below as being at the 95% confidence level.

to be unjustifiable, only 47% of “Pacific Peoples” thought so. Interpersonal trust: while 57% of “New Zealanders” considered that most people could be trusted, only 33% of “Maori-Maori” held this view. Confidence in the Police: 84% amongst “Pakeha”, but only 55% amongst “Maori-Maori”.

Of course, while self-identified cultural grouping may be associated with distinct clusterings of beliefs, factors other than culture may be causing these differences. Webster has cross-tabulated the above results by education level, self-reported social class, and household income. Views on the ineffectiveness of democracy were strongest amongst those with only primary education (44%), and lowest amongst those with completed tertiary education (28%). Support for abolishing the Treaty was highest amongst those with only primary education (42%) and those in the lowest income bracket (47%), and lowest amongst those with completed tertiary education (20%) and those in the highest income bracket (24%). Confidence in the Police, on the other hand, was highest amongst those with only primary education (86%), and lowest amongst those with completed tertiary education (75%).²⁴

Commenting on these results, Webster suggests that, by themselves, beliefs such as those referred to above may be fairly inconsequential. He considers, however, that the way in which the beliefs are clustered illustrates that there is fertile ground in New Zealand for mutual antagonism and manipulative politics, with the potential for democracy to be restricted in the name of individual freedom or historical rights. “Destabilization will be most conspicuous when the heart of the culture – in our case a belief in democracy – is seriously disregarded. Such is not yet the case in New Zealand, but there are disquieting signals.”²⁵ He also states: “There is extreme conflict on the Maori rights value, which puts great stress on the core value of respect. It also exposes the fragility of the sanction against violence, since it could be asked whether desecration of rights is such a failure of relationships between people that violence is an inevitable outcome.”²⁶

Elsewhere Webster has suggested that the evidence shows there is a quite narrow core value culture in New Zealand. “For example, while the ideal of a fair go for everyone is certainly a piece of our national wisdom, it is held in entirely different ways by different segments....consensus is today not nearer but farther away, and ..the solutions we look for must involve not biculturalism but a dynamic multiculturalism...In this light, the search for common values, while not mistaken, may miss the real question, which is to do with the conflicting values of significantly distinct cultures in this country.”²⁷

The existence of a large disadvantaged indigenous minority, and the comparative uncertainty that exists over legitimacy and property rights, may well mean, therefore, that the quality of governance is more important to New Zealand’s future prospects than is the case for many other similarly advanced countries.

Easterly (2000), for instance, draws attention to the potential role of institutions in helping in the management of ethnic diversity. He found evidence that ethnic diversity had a more harmful effect on economic policy and economic growth when key institutions were susceptible to corruption and were incapable of protecting the interests of minorities. Collier and Hoeffler’s finding – that the importance of governance is heightened by the presence of two or three large and competing ethnic groups – also appears to be relevant.

²⁴ Source: personal communication with the author.

²⁵ Webster (2001), p. 88.

²⁶ Webster (2001), p. 164.

²⁷ See the “Core values” debate facilitated by the New Zealand Herald.

Further observations from the 1998 New Zealand Survey of Values relevant to discussion of governance in New Zealand are²⁸ 70% of respondents agreed that the country is run by a few big interests looking out for themselves (the corresponding number in 1989 was 54%). 71% rated New Zealand's political system in 1998 on the "bad" side of the continuum, while only 29% rated the pre-MMP system as "bad". Only 15% had confidence in Parliament. While 29% had confidence in the public service, this was down from 49% in 1985.

Beyond these considerations based on the reported views of New Zealanders, there are also features of our economy that make us vulnerable to international sentiment about the quality and integrity of public sector governance. These features include a large and chronic current account deficit, and the highest external (total public and private) debt to GDP ratio of any OECD country. The 2000 IMF review of New Zealand concluded that the high degree of policy transparency and accountability is a key mitigating factor limiting New Zealand's exposure to international investor concern over our degree of foreign indebtedness.²⁹ From another perspective, a reputation for high quality governance might be a source of competitive advantage, by making New Zealand a more attractive destination for foreign direct investment.

There are, in addition, a number of other risks to the quality of governance in New Zealand. These include the increasing international exposure of our society and economy, including the higher levels of interaction of New Zealanders with people from countries in which corruption is the norm or at least widely tolerated. Relevant also is the deterioration in governance in our immediate region (for example, in Fiji and the Solomon Islands). Possible transmission mechanisms include trade, foreign investment, immigration, tax evasion, and criminal activity.

A public sector management environment with an unusually high level of delegation of authority within central government. Discarding the thick rule-book by which the central agencies regulated in detail the operation of the public sector was a necessary means to creating a more responsive and efficient public service. However, it has placed a premium on ethics and integrity to maintain public confidence in a more decentralised system of government. A number of incidents of corruption and mal-administration in recent years may well have reduced public confidence in the public service (as suggested by survey results). Concerns have also been expressed about a breakdown in the convention that Ministers should defend public servants from attack.³⁰ This convention is part of a broader set of norms related to the duties of public servants to be loyal and politically neutral. The scope for conflicts of interest given our small size.

The increasing heterogeneity of New Zealand society. A particular risk here is the degree of self-justification that people can advance in the presence of multiple and conflicting norms, for behaviour that breaches previously widely accepted standards. There is a perception that New Zealand is susceptible to large policy swings and policy instability, compared to a number of other developed countries. This may be due to our small size and relative lack of institutional checks and balances – for example, no Upper House of Parliament, few independent public policy think tanks - compared to many countries. Indeed, one of the explanations for the extent of the reforms in the 1980s is likely to be New Zealand's failure to adjust its policies earlier and more gradually to the changed economic circumstances after 1973.

Public expectations of government by New Zealanders are also probably higher now than a decade ago. For instance, recent discussions with the Voluntary Sector Working Group,

²⁸ See Perry and Webster (1999), pp. 42, 44 and 47.

²⁹ See IMF (2000), pp. 22-23.

³⁰ See Palmer (2001), pp. 15-16 for discussion of the risks to the quality of public administration in New Zealand from what he sees as an unhealthy recent increase in the tendency of politicians to criticise public servants publicly.

as well as Treasury's more limited contacts with NGOs, suggest there is a demand for a more open and genuinely consultative approach by government.

Beyond these general considerations, that suggest attention to the quality of governance in New Zealand is likely to have pay-offs for economic performance and the quality of democracy, there is a range of specific governance issues warranting closer examination, discussed in the next section.

5 Strengthening the Governance of Public Institutions in New Zealand³¹

A full discussion of the quality of governance in New Zealand would need to traverse the fundamental elements of New Zealand's constitutional arrangements. In this paper the nature of our representative democracy and its key institutions are largely taken as given.

³² The approach here has been to draw on the theoretical literature on institutional design, and to assess existing arrangements against international standards and norms of good governance. The focus is on enhancing the functioning of existing public institutions through strengthening transparency and accountability.³³ The section concludes with some brief remarks about the potential role of government in fostering the evolution of social norms in New Zealand.

The analytical approach adopted draws on agency theory, in which the relationships between the electorate, Parliament, the government, and the public service are viewed as a series of principal/agent relationships (after Moe, 1984). The task of institutional design is to maximise the advantages of delegation of control to an agent, while minimizing the scope for agents to pursue their own interests at the expense of the principal's interests (i.e. to minimize agency costs). Principal/agent theory stresses the importance of the ex ante specification of roles and responsibilities of agents, reporting of performance by agents, and the ex post monitoring of performance by principals.³⁴

The concept of a national integrity system, as developed by Jeremy Pope and Transparency International, has also informed this paper's suggestions for governance issues that are of potential concern in New Zealand.³⁵ A national integrity system is the set of institutions necessary to ensure good governance in any society. These include an independent judiciary and judicial review, a free press, freedom of information legislation, open budget processes, active non-government organisations, and effective watch-dog institutions such as an Auditor-General and Ombudsman. These components interact and reinforce each other, creating a network of horizontal accountability strands that can effectively constrain vertical power. The integrity system is ultimately dependant, however, on the strength of its foundations in society's values and the willingness of the populace at large to defend those values.

Given these analytical perspectives, and the discussion in the first four sections of the paper, the following priority areas for strengthening the governance of public institutions in New Zealand are suggested for consideration.

³¹ This section draws substantially on an earlier paper by the author, *Transparency and Accountability in New Zealand: An Assessment*, which was written in the author's capacity as Executive Officer for TI-NZ, the New Zealand Chapter of Transparency International. See Petrie (2001).

³² One exception perhaps is the discussion of the allocation of powers between central and local government on pages 27-28 below.

³³ The quality of corporate governance in the private sector is also an important element of an overall assessment of the quality of governance in New Zealand. This is beyond the scope of the current paper.

³⁴ See OECD (1999) for a detailed discussion of principal/agent theory and its application to the public sector.

³⁵ See Transparency International (2000), pp. 31-40.

5.1 Greater Accountability for the Results of Government Activities

Accountability for results is fundamental to good governance in any system of government. There is reason to be concerned that in some areas New Zealand lags behind other developed countries in this respect. In particular, accountability for the outcomes of government spending, and for some aspects of taxation, needs to be strengthened.³⁶

Accountability for the outcomes of government spending is widely acknowledged to have proven a weak part of our public management system.³⁷ There is a relative lack of adequate information on the effectiveness and cost-effectiveness of government spending in achieving intended results. In addition to improved accountability, there is arguably a democratic right for the electorate to have access to such information.

There are, of course, inherent difficulties in assessing the impact of outputs on outcomes for many public sector activities (see for instance OECD 1999). However, there are also a number of activities where it is possible to develop meaningful indicators of intermediate outcomes that measure some of the impacts of government activity on the community. While there are also reasons to think that a small country such as New Zealand will invest a relatively modest amount on research and evaluation compared to larger countries, there are, nevertheless, likely to be cost-effective initiatives that could be taken to improve performance in this area.

The importance of comprehensive outcome reporting, together with better research and evaluation, is also being increasingly recognised internationally as a means of achieving more integrated and coherent policies. Recent work by the OECD on sustainable development stresses the importance for sustainability of a number of elements of public sector governance, including improving the evidence base of government policies, publication of outcome indicators, and improving openness and accountability.³⁸

A move to publishing better information on outcomes should involve various levels the sectoral level or major portfolio area, with comprehensive reporting of these at a whole of government level and at the individual departmental or agency level, by driving strategic plans off an outcomes focus, reporting performance against outcome targets in annual reports, and measuring value for money in outcome terms.

Such an approach would help to promote more informed public debate and questioning of the effectiveness of government policies and programmes. It should also spur an improvement in the current relatively low capability of the New Zealand public service to articulate the “intervention logic” linking outputs to outcomes, to generate the necessary data, and to conduct the required analyses.

Recent initiatives such as the CAP pilot,³⁹ Pathfinder,⁴⁰ and the publication of The Social Report are evidence of a necessary start towards a greater focus on outcomes in the New

³⁶ The term “outcomes” is used in this section to refer to two distinct phenomena. The first refers to the results of a government action (a law, regulation, or spending programme) in terms of its impacts on the community. This is the sense in which the term is used in the Public Finance Act. The second meaning of outcomes refers to “state of the nation” statistics that report the status of an indicator – for example, life expectancy – that is the outcome of a variety of causes many of which are beyond the influence of government.

³⁷ See Petrie and Webber (1999), paragraphs 69-74 for a summary of findings by those who have reviewed New Zealand’s public management reforms.

³⁸ See OECD (2001b).

³⁹ The CAP (Capability, Accountability and Performance) pilot was introduced in four departments in 1999 to trial a package of new planning and accountability documentation. One of the key aims of CAP is to generate an increased emphasis on the outcomes of government spending.

Zealand public management system. Extending this systematically and grafting it onto the existing accountability regime - in which formal accountability remains tied to the delivery of outputs - will require careful design and implementation if overall accountability is to be effectively strengthened.

There are also some weaknesses in accountability for tax policy.⁴¹ While the Generic Tax Policy Process has improved the operational and legislative phases, particularly through the development of tax policy in a consultative environment, there is little transparency or attention given to desired tax policy outcomes at an aggregate level. There is also a lack of information on “tax expenditures” (i.e. tax concessions, tax deferrals, tax holidays, or other special tax treatments that represent a departure from some defined “normal” tax base). Given the apparent level of interest in New Zealand in introducing new tax concessions, this is a potentially serious deficiency in transparency, and is one of the very few areas where New Zealand does not meet international standards in fiscal transparency.⁴² Finally, there are limited (and non-independent) post implementation reviews of new tax policies.

Remedies that should be considered include requirements for governments to publish a statement of their desired tax policy outcomes and progress in achieving them; annual publication of tax expenditure statements;⁴³ and increased resourcing and involvement of independent policy analysts.⁴⁴

Initiatives to strengthen accountability for the results of government activities in areas such as spending and taxation could result over time in less policy instability, as improved evidence and knowledge about “what works” narrows the scope for hasty or ill-considered policy change.

Finally, the Svensson review of monetary policy in 2001 raised some important concerns about accountability for the implementation of monetary policy in NZ.⁴⁵ Svensson recommended a number of changes, including greater resourcing of Parliament’s Finance and Expenditure Committee (FEC) to enable it to review more effectively the effectiveness of monetary policy. It is also questionable whether the FEC has sufficient resources to engage independent advice on the soundness of the policy underlying proposed changes to tax law.

These are specific instances of a much more general issue. In a Parliamentary system, particularly one with a unicameral House, significant power is vested in the hands of a

⁴⁰ Pathfinder is an initiative launched in 2001 to develop outcome measurement and management, initially in eight government agencies.

⁴¹ This paragraph has benefited from input from Peter Wilson.

⁴² Presenting an annual statement of tax expenditures with the Budget is a requirement of the International Monetary Fund’s Code of Good Practices on Fiscal Transparency. (See the IMF’s Fiscal Transparency Manual (IMF 2001) for a discussion of tax expenditure reporting). The 2001 McLeod Tax Review reported that it received many submissions arguing for tax incentives across a large number of activities, without identification of how they should be financed. The review also noted the risk that tax incentive policy can easily become politicised, with resources being captured by concentrated interest groups. See McLeod (2001), p. 22.

⁴³ There are obvious conceptual difficulties in defining the benchmark against which tax expenditures are assessed. However, half of the OECD’s member countries now report tax expenditures, including Australia, which has done so since the 1980s. The conceptual problems should not be used as an excuse to avoid reporting in this area. The McLeod review took a similar position in recommending that the government should consider the concept further (see McLeod (2001), pp. 23-24).

⁴⁴ This can be hard to achieve in the tax area, due to the complexity of the law, and the fact that many of those with the necessary expertise are conflicted by being advisors to government or business. A welcome recent development, however, is the initiative by Victoria University’s Centre for Accounting, Governance and Taxation to bring a top US tax economist to New Zealand under a private sector-funded research scholarship to work on the issue of capital gains taxation.

⁴⁵ See Svensson (2001).

government that can command a majority in Parliament. An important check on the effectiveness of the executive is exercised through the scrutiny activities of Select Committees of Parliament.

Ensuring the New Zealand Parliament is adequately resourced is fundamental to the quality of governance, and is an issue worthy of further in-depth investigation and analysis. For instance, the current balance of resources between the executive and legislative branches might be reviewed.

5.2 Ethics in Public Institutions

The Mixed Member Proportional electoral system is widely considered to have increased the influence of individual MPs on Parliamentary outcomes, and it is predicted this will lead to an increase in lobbying of MPs.⁴⁶ While lobbying can be socially beneficial – by improving the information available to decision-makers – where MPs take or shift positions in response to narrow, well-placed sectional interests behind closed doors, there is the potential for abuse of office. A change that should be considered, therefore, is the introduction of a *Leadership Code for Parliamentarians*, covering issues such as conflicts of interest, public disclosure of private interests, and acceptance of gifts and hospitality – similar to the provisions in the Cabinet Office Manual applying to Ministers. It would be prudent to extend this sort of practice to cover all MPs, as suggested for instance by Sir Geoffrey and Matthew Palmer in their book *Bridled Power*. They argue that it would be desirable for action to be taken now in this area before an incident presses home its necessity.

There is a similar gap at local government level. Given the scope for conflicts of interest in local government – for example in granting resource consents – consideration should be given to introducing a requirement that all local governments have in place a Code of Conduct that deals with integrity issues. This could be inserted in the Local Government Act (LGA).

There would also be merit in considering moves to strengthen the ethical environment in the judiciary. There have been one or two high profile instances in recent years of perceived impropriety by members of the judiciary. Concerns have also been raised about conflicts of interest faced by judges. It is critically important for the public to have full confidence in the judiciary – particularly given the over-representation of Maori and low socio-economic groups in crime statistics.

In order to minimise the need for Parliament to intervene in individual cases to remove a dishonest judge – which could undermine the perceived independence of the judiciary – the judiciary should act to discipline its own members more effectively.⁴⁷ One way to achieve this would be through the introduction by the judiciary of a Code of Conduct for Judges, which could set out more clearly the norms of what is acceptable and unacceptable behaviour by a judge. In a related vein, there would also be merit in reviewing the degree of public access to court information in New Zealand.

Finally, incidents in recent years have heightened awareness of risks to public confidence in the integrity of the public service. This is reflected in discussion in the State Services

⁴⁶ See Palmer and Palmer (1997), p.16 and pp. 198-202.

⁴⁷ International experience suggests that “the involvement of the senior judiciary itself in policing its own members in a public fashion is generally regarded as the best guarantee of independence [of the judiciary].” See Transparency International (2000), p. 68.

Commissioner's 2000 Annual Report,⁴⁸ and in the appointment of the State Sector Standards Board.

The recent incidents appear to be isolated instances of fraud or maladministration. However, it is difficult to demonstrate that serious misconduct is not more widespread, and/or will not become so. One response would be for the government to consider commissioning a survey of public servant understanding of, and attitudes towards, standards and integrity. International experience suggests that surveys of public officials can be an effective means of identifying areas of vulnerability in public institutions.⁴⁹ In New Zealand such a survey could aim to establish whether there is a problem, and the dimensions of any problem. It might help focus any remedial efforts on priority areas, and it could establish a benchmark for subsequent monitoring.

5.3 The Governance of Crown/Maori Relationships⁵⁰

There are a number of governance issues in the relationship between the Crown and Maori that warrant attention. Key issues include the adequacy of the enabling environment for collective Maori organisation, and accountability requirements for the transfer of Treaty of Waitangi settlement assets.

At present, Maori are utilising a range of legal entities to conduct their affairs, including Maori Trust Boards (under the Maori Trust Boards Act 1955), Charitable Trusts, and Incorporated Societies. However, some features of Maori kinship-based organisation do not mesh well with the presumptions of New Zealand law. For example, Maori organisations have difficulty registering as charitable trusts because the public benefit test requires that beneficiaries not be related by blood. The Maori Trust Boards Act, on the other hand, is a dated piece of legislation, under which accountability in many areas is to the Minister of Maori Affairs rather than directly to Trust Board beneficiaries. Most Treaty claimants currently use the structure of a common law trust, but there is a view amongst officials that the existence of an alternative standardised legal personality for claimant groups to incorporate under would have facilitated the Treaty settlements process.

The Maori Community Development Act 1962 is a further piece of enabling legislation, which promotes a pan-Maori rather than tribal approach. Initial work on a review of the Act by Te Puni Kokiri in 1998 concluded, *inter alia*, that provision should be made for Maori community groups to acquire legal status to better enable them to deliver services to local clients. The review was not completed, however, due to other Ministerial priorities.

Consideration of the continued appropriateness of these Acts, and of the overall enabling environment for Maori collective organisation, should be accorded priority.

A second important issue is whether, in requiring that Treaty of Waitangi settlement assets be transferred to accountable asset management structures, government has the balance right between a permissive approach, with very general governance requirements of recipients, and a somewhat more prescriptive approach.

As argued by Greenland, iwi governance (and Maori collective governance more generally) faces a number of unique challenges. In terms of Ostrom's design principles for successful self-organization (Section 3 above), Maori collective organisation suffers from a lack of certainty over who has rights to draw on collective resources, a lack of clarity in

⁴⁸ See SSC (2000), pp. 1-6.

⁴⁹ See Kaufman et al (2000), pp. 12-13.

⁵⁰ This section draws on Greenland, "Building the Inclusive Economy: Maori Governance" (undated), which should be referred to for a more lengthy and in-depth discussion of these issues.

who represents whom,⁵¹ a lack of clarity in vertical relationships between hapu and iwi, inadequate legal vehicles for collective organisation and diverging and still evolving notions of the appropriate relationship between members and trustees, and a lack of participation by individual iwi members in governance.

Added to these fundamental challenges is a rapidly changing and complex mix of social, economic and cultural objectives that iwi and other groups are pursuing.

Ostrom's empirical work also suggests that successful and enduring self-organisation is associated with users of the resources designing their own rules, rather than having them externally imposed. Developing a capacity for "share-holder activism" by iwi members is important to ensuring the satisfactory functioning of governance structures and the accountability of leaders. How iwi governance evolves in coming years and decades, and the manner in which different iwi reconcile norms of tikanga with Western democratic practice, seem likely to be an important influence on the relative performance of iwi over time. In this sense there is scope for competition between different institutional arrangements.

In this situation, one could argue that government's role should be limited to providing minimum enabling conditions and leaving the evolution of iwi governance norms to Maori to determine (including through appeal to the courts). However, the role of iwi and other collective groups as the recipients of public resources from Treaty claims, and the need to ensure the durability of Treaty settlements, means that iwi governance is likely to continue to be an area of contested norms in New Zealand. The lack of participation by members is also a risk to the durability of Treaty settlements.⁵²

The approach of the Office of Treaty Settlements (OTS) on this issue has been to review the governance structure proposed by a claimant group against broad principles including accountability, transparency and representation. Subsequently, the Treaty of Waitangi Fisheries Commission (TOKM) developed and disseminated benchmarks of good governance to ensure that when fishing quota is allocated to iwi it is to entities meeting some minimum specified measures of transparency and accountability.⁵³ More recently OTS has adopted a more specific, although still evolving, approach and now requires claimants to submit information in response to twenty questions on aspects of governance.⁵⁴ OTS uses this as a checklist in its assessment of the governance arrangements, although the primary aim of the twenty questions is to ensure more complete disclosure of the governance arrangements to the individual claimant group members. OTS has no explicitly stated minimum standards against which it assesses the governance arrangements. This is in contrast to the specific governance requirements developed by TOKM.

The government's policy on the appropriate balance between a permissive and a more prescriptive approach to iwi governance is an important issue, and is one worthy of more

⁵¹ One development of interest here is the development of a Maori Registration Service by the Tautoko Maori Trust interim committee. The Service will assist groups to compile accurate and comprehensive registers of their members. See Treasury, 2001, p. 57 for further discussion.

⁵² Although 80-98% of participating beneficiaries have supported Treaty settlements to date, only two settlements have been endorsed by a majority of claimant group members entitled to vote, due to low voter turn-out.

⁵³ See Treaty of Waitangi Fisheries Commission (2001). Iwi governance requirements set by TOKM include reasonable access for all iwi members to participate in a regular electoral process for their representatives on the iwi organisation, and a constitution that entrenches this and contains a clear process for constitutional amendments. At December 2001, it is understood only one iwi met these minimum requirements in full, although a number of others were considered close to meeting them. The Commission has also signalled its intention to prescribe structural arrangements so that the different functions carried out by iwi (such as income generation and benefit distribution) are separated in the interests of transparency and accountability. The Commission has been working with iwi in an effort to assist them to develop their governance structures and processes. It is understood the Commission does not intend to dilute these requirements despite pressure from some quarters for it to do so.

⁵⁴ See Hampton and Falloon (2001). p.6.

policy attention than has been the case to date. The government might also play a more active role in building the constituency for good governance amongst iwi, for example, through facilitating the availability of emerging best practice models of community governance.

Greenland has concluded that the potential for improvements in the governance of Maori community processes to generate improvements in Maori well-being has not been well-recognised by policy-makers. He suggests that “the conjunction of the Treaty settlements process, the decentralisation of government functions and more recently the focus on capacity building [in Maori communities] offers an opportunity for government to encourage Maori interests (kin or non-kin, rural or urban) to build strong institutions characterised by robust governance, thereby building their social capability and enhancing well-being.” (Greenland, p.12).

5.4 Greater Transparency of Regulation

Regulation of the private sector remains a key instrument of government action, having important effects on economic efficiency and fairness. It is an important arena for ensuring opportunities for democratic participation in policy making. Regulation may also become increasingly attractive in New Zealand, both because of the high degree of transparency of fiscal policies, and because - in an MMP environment where governments will often be less assured of Parliamentary majorities – many regulations can be introduced without the need for Parliamentary approval.⁵⁵ Despite changes in recent years to improve the regulation making process in New Zealand, and the new business compliance cost regime that came into effect from 1 April 2001, some areas of concern remain.

One element of transparency that is lacking is the routine disclosure of proposals for regulations prior to their submission to Cabinet. (This includes legislation, Orders-in-Council and tertiary-level regulations). Routine disclosure would provide an opportunity for wider public input than might have occurred through selective consultation, and would increase the transparency of the rationale justifying new or amended regulations.⁵⁶

A further area for consideration is the lack of clarity over accountability for a Regulatory Impact Statement (RIS). At present an RIS is prepared by the relevant department, but is attached as an annex to the Minister’s paper to Cabinet recommending a new or amended regulation. In this situation it may not always be entirely clear who is accountable for the content of the RIS. It would be desirable to clarify this.

Finally, there is a potential tension between the adoption by New Zealand of international regulatory standards, and the ability of New Zealanders to make representations to, and to hold standard setters accountable. This is illustrated most clearly where responsibility for setting standards in New Zealand is allocated to a single trans-national institution – such as the Australia-New Zealand Food Standards Authority. Where New Zealand is integrating with an international standard, there is a need to consider carefully the options for building in safeguards that provide continuing opportunity for the exercise of New Zealand voice.⁵⁷

⁵⁵ This point is made by Palmer and Palmer (1997), p. 14, and applies to secondary legislation made by Order in Council under an empowering Act of Parliament.

⁵⁶ Routine disclosure of proposals for regulation prior to submission to Cabinet is not suggested as an alternative to appropriate public consultation at an earlier stage of the process, but as supplementary to more specific consultation.

⁵⁷ See Goddard (undated) for discussion of different legal approaches to achieving a common set of rules between New Zealand and a foreign jurisdiction, and possible means of building in safeguards to protect opportunities for New Zealand voice. See also OECD (1994), pp. 84-90 for discussion of transparency, participation and accountability issues in international regulatory cooperation.

One way forward would be to explore the introduction of a Regulatory Responsibility Act. This might contain a statement of principles of good regulatory practice, clear assignment of accountabilities, and a disclosure regime to facilitate monitoring of compliance with the principles. This could provide a legislative safeguard against misuse of regulation-making powers by future governments, and might be seen as usefully buttressing New Zealand's internationally recognised accountability arrangements for fiscal and monetary policy.

At the same time, the government could consider inviting the OECD to review New Zealand's performance in this area, in line with the country review process the OECD has in place as part of its work programme on regulatory reform.

5.5 Transparency of Public Appointments Processes

The current procedures for appointment to statutory bodies are set out in a Cabinet Office Circular, and contain a number of provisions designed to ensure appointment on merit. However, the procedures have no statutory backing, and there are no specific transparency requirements – as there are, for instance, in the United Kingdom, where the independent Commissioner for Public Appointments has an oversight and audit role.

Given the size of the assets and funding under the control of statutory bodies in New Zealand, and the importance of having technically competent as well as representative boards, consideration should be given to strengthening the procedures requiring appointment on merit. For example, the appointment procedures in the Cabinet Office Circular could be codified at an appropriately general level in law. Ministers would certify as now that all the requirements have been met with respect to a particular appointment, but specific responsibility could be allocated for auditing and reporting to Parliament on compliance with the procedures.

5.6 The Role of Local Government

An obvious issue in considering the quality of governance in New Zealand is whether the allocation of roles and responsibilities between central and sub-national government is the most effective and efficient.

From a public finance perspective, the fundamental design problem in the vertical structure of government can be described as follows: efficiency of revenue collection suggests centralization, while efficiency of expenditures suggests somewhat more decentralization.⁵⁸

In many countries, this conundrum is resolved through complex sharing of revenue bases and expenditure responsibilities, and through extensive revenue transfers from central to sub-national government. While addressing the revenue/expenditure mismatch, these approaches greatly increase complexity, and often result in blurred accountability.

In New Zealand a virtue of current arrangements is the relatively clear separation between central and sub-national roles and responsibilities. With one or two exceptions such as roading, local governments raise their revenues from their own dedicated tax base, and expenditure responsibilities are clearly allocated to either central or sub-national levels.

Key questions that the current arrangements raise, however, are:

- Is Government in New Zealand too centralized?;

⁵⁸ There are areas of spending that should obviously be the responsibility of central government, including defence, foreign affairs, and income redistribution. But information advantages at lower levels, and local diversity, suggest a presumption in favour of decentralization in many areas.

- What are the relative benefits and costs of decentralization versus devolution? Decentralization involves delegating decision-making powers within central government agencies to managers in local offices, for example, the Regional Employment Commissioners in the Ministry of Social Development. Devolution involves the transfer of decision-making powers, for instance, to sub-national government, as occurred under the Resource Management Act, or to locally elected Boards, as occurred under the Tomorrow's Schools initiative;
- What are the implications of devolution for the funding base of sub-national government? What are the implications if decision-making is devolved, but most funding is still held centrally, as in school governance?;
- Under a decentralization approach, what are the different ways in which local community views can be brought to bear in the decisions of central government agencies? One example is the Local Management Group structure set up under the Strengthening Families initiative, which brings together representatives of central government agencies, local government, and the non-government sector in discussions about local needs and service priorities for children at risk. Another example is the role of locally-elected District Health Boards in the health sector.

One implication of the above is that questions concerning the powers of local government, its funding base, and its accountability are closely connected and should be considered together.

Secondly, it would be highly desirable, should any fundamental changes in the powers, accountability and funding of local government in New Zealand be considered in future, for these to be informed by some in-depth comparative review of recent experiences in New Zealand with devolution and decentralization. An investigation of experience with the Resource Management Act (devolution), the current framework for roading (overlapping roles and mixed funding), and the Regional Employment Commissioners and Strengthening Families initiatives (decentralization) could highlight interesting features of these very different approaches, and provide important insights for policy. This could usefully be combined with some careful assessment of arrangements in selected relevant countries (including the variation across Australian States in the extent to which responsibilities are devolved below State level).

5.7 The Role of Government in New Zealand in Fostering the Evolution of Social Norms

As noted in Section 3 above, the role of government in fostering the evolution of social norms is controversial. Against this background, avenues tentatively suggested in this paper for further investigation in New Zealand are the content of the education curriculum; exploring ways to reduce the current polarization of views across different groups in New Zealand on issues relating to Maori rights and the Treaty; and the design of the legal framework regulating family relationships.

One mechanism the government has to *directly* influence the formation of social norms and values is through the key role it plays in education as a regulator, funder and provider. Government can influence both how the curriculum is delivered (e.g. developing the capacity for effective inter-personal cooperation and team work), and the content of the curriculum. Recognition of the value and unique position of Maori has for some time been part of the curriculum, as has respect for the variety of cultures that make up New Zealand society. The curriculum, through its practices and procedures, also aims to reinforce values of individual and collective responsibility that underpin New Zealand's democratic

society.⁵⁹ It would be worth considering, however, whether an enhanced “civics” component, specifically covering the functioning of key democratic institutions and the core elements of New Zealand’s institutional heritage may also have a place.

Beyond the longer term mechanism of the education curriculum, active consideration should be given to more immediate ways in which the government might act to try to reduce the current polarization of views in the community over “Maori rights” issues. The resolution of historical Treaty claims, and clarifying the role of the Treaty in contemporary society are areas of central importance in New Zealand. As noted in Section 4, the New Zealand Survey of Values has revealed deep divisions of view in New Zealand on these issues, and Webster has illustrated how these divisions are closely correlated with self-reported ethnic identity.

The Treaty settlements process is both an important opportunity to build social cohesion and, if mishandled, a risk of exacerbating existing social tensions or creating new social divisions. Given the current conjuncture, however, it is not an issue that can be avoided. Exploration of ways in which the current polarization of views might be reduced should, therefore, be seen as an area of strategic importance. Relevant issues here are the “framing” of the issues by the government, the pace and time-frame of the settlements process, and the quality of governance of iwi organisations receiving Treaty settlement assets.

Perhaps the most important social institution in the formation of social norms and values is the family. In addition to its critically important roles in physical and emotional nurturing and human capital formation, it is one of the main means through which values and social norms are transmitted and maintained.

The importance of the family for the functioning of society is widely acknowledged in public discourse in New Zealand. However, relatively little emphasis appears to have been given to analysis of the potential effects on family functioning - including the acquisition of instrumentally important social norms - of different legal frameworks for the regulation of family formation and dissolution. Recent debates on the law regulating de facto and legal marriages appear to have focused on the rights of the adults, with less attention to the possible effects of different legal rules on other outcomes of interest.

Such outcomes include the life chances of children of separated partners. Family law (and other interventions such as the social welfare system) can have unintended

⁵⁹ Source: The New Zealand Curriculum Framework, Ministry of Education, Wellington.

consequences for the well-being both of adults and their children.⁶⁰ Further investigation of family law in New Zealand from both a rights-based and an outcomes-based perspective is warranted.

6 Conclusions

The governance and functioning of public institutions have major impacts on the well-being of New Zealanders, both directly through opportunities for democratic participation and the protection of important individual freedoms, and indirectly through their impact on the functioning of society and on economic growth. While New Zealand enjoys a good reputation internationally for the quality of governance of its public institutions, there are a number of factors that suggest further strengthening of transparency, accountability and integrity of public institutions in selected areas should be seriously considered.

Areas for particular attention include greater accountability for the outcomes of government activity in the areas of spending and taxation; initiatives to strengthen ethics in Parliament, the judiciary and the public service; additional transparency in the process for public appointments; and additional transparency in regulation. Further exploratory work is also suggested on the adequacy of resourcing of Parliament, and the role of sub-national governments.

There is growing recognition internationally that the effective functioning of society, politics and the economy depend on the operation of informal social norms that facilitate social and economic exchange, promote social cohesion, and support the functioning of formal institutions. In a multicultural society, a core role of government is to recognise the existence of alternative “norm communities” and to preserve the autonomy of different groups in society to organise and conduct their activities according to their preferred norms (within the rule of law). In addition to such protections as anti-discrimination laws, this suggests the importance of ensuring that an effective enabling environment is in place for the operation of civil society organisations. In New Zealand priority attention should be given to the legal framework governing the establishment and operation of Maori collective organisations. This paper has also suggested the importance for Maori development of the evolution underway in norms of iwi governance, and that there might be a role for government to play in disseminating emerging best practice models.

While recognizing and respecting diversity of norms and values, there is, nevertheless, a need for some overarching norms that guide the functioning of institutions at the national level. This paper has argued that the norms of democracy, individual rights, tolerance of diversity, and the rule of law should constitute such core norms in New Zealand, for reasons of the widespread recognition amongst New Zealanders of their intrinsic contribution to well-being, and the strength of the evidence of their critical importance for sustained increases in quality of life and standards of living.

While norms of democracy enjoy solid support amongst New Zealanders, evidence suggests there is considerable variation in support across different sub-groups, and a possible fragility in the strength of commitment to them over time, especially when they are perceived as conflicting with other strongly held norms. While there are acknowledged risks associated with government action in this area, there would be merit in further exploring certain aspects of the potential role of government in fostering the evolution of

⁶⁰ For instance, there is international research on the effects of different divorce laws on the long run well-being of children. See for example Gruber (2000), who compares the adult circumstances of children who grew up in US states where unilateral divorce was available versus children who grew up in states where it was not available. He highlights two channels through which making divorce easier can affect child outcomes: by increasing the odds that a child grows up in a divorced household; and by changing the “bargaining power” between spouses.

positive social norms. For instance, beyond the advocacy role of institutions such as the Human Rights Commission, an enhanced “civics” component in the education curriculum specifically covering the functioning of key democratic institutions and core elements of New Zealand’s institutional heritage should be considered.

The deep divisions of view amongst New Zealanders on Treaty issues, and the correlation of those divisions with self-reported ethnic identity, suggest that government should also explore more immediate ways in which the current polarisation of the community on Treaty settlements and the contemporary role of the Treaty might be reduced. This is both a big opportunity, and, if mishandled, a big risk, but it is not an issue that can be avoided.

The division of views on Treaty issues seems likely to reflect, in part, the presence of competing norms within New Zealand on appropriate governance models. There is a need to think through in more depth the evolving patterns of interaction between different sets of norms in New Zealand, and to consider how best to manage tensions that arise when norms conflict. Particular pressure points are apparent where the norms of democratic accountability at the national level come up against Maori desire for greater autonomy and different norms of governance – which are themselves evolving to reflect both tikanga and mainstream democratic practice. An important strategic issue in the Treaty area is whether, in requiring that Treaty settlement assets be transferred to accountable asset management structures, government has the balance right between a permissive approach, with very general governance requirements of iwi, and a more prescriptive approach.

Initiatives to strengthen the governance of a range of public institutions, and to explore possible ways in which the government may foster the evolution of positive social norms and manage norm conflicts, are issues that are seldom the subject of focused attention in public policy in New Zealand. They should be seen as an important component of a mixed strategy to create a more inclusive economy and society, and in safeguarding and raising the well-being of New Zealanders over time.

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