

Changed Representation from a Changed Voting System[#]

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Abstract

New Zealand changed its electoral system in 1996 from a first-past-the-post to a mixed member proportional one. The motivation for the change was complex but reflects a gradual breakdown over many years in trust and confidence in a key part of the nation's constitutional arrangements. The system ensures that New Zealand's single parliamentary chamber more or less exactly represents the level of support received on election day by the various parties contesting elections. This has had a range of consequences for public policy.

MPs require a number of attributes to be effective, both individually and collectively. Clearly, however, a Parliament that is reflective of the various population groups within a particular jurisdiction has greater potential to inspire confidence than one that does not. This is particularly the case in New Zealand, where the single chamber is named, and therefore presumably ought to look like, a House of Representatives. In 2006, of the 121 MPs, some 32% were women; some 17% identified as Maori; some 3% identified as of Pacific origin; around 5% identified as gay or lesbian New Zealanders and just under 2% identified as Asian. While there is some way to go before it can be said that the composition of the House represents that of the general population, especially as to gender, these statistics compare very favourably on an international basis, and indicate the evolution of a significantly more representative chamber after a decade of MMP.

It is instructive to consider the relationship between the transition to MMP and the more representative nature of the House in raw demographic terms.

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1. Introduction

1.1 A country's electoral system has been described as 'the most important rule of the political game'.¹ It regulates how people vote, whom they vote for, and the way in which votes cast are turned into seats in the legislature.² By loading the dice in favour of the two main political parties, New Zealand's former first-past-the-post (FPP) electoral system created parliamentary majorities where decisions were typically made by governments that more people had, at the time of voting, opposed rather than supported.³ Such a majoritarian system became increasingly unrepresentative of the developing diversity of New Zealand society, and levels of voter trust and satisfaction declined markedly from the late 1970s onward.

1.2 The move to adopt a mixed-member proportional (MMP) electoral system was a partial attempt to address these problems.⁴ A form of proportional representation, its application usually results in coalitions, or minority party government. The system requires roughly half of the members of the chamber for which it is used to be elected in single-member constituencies by the plurality method, and the remaining members to be taken from party lists to make the overall composition of the single chamber of the New Zealand Parliament proportional to each party's percentage of the election night vote for particular parties.⁵ To gain representation in Parliament, a party must either win a constituency seat or receive at least 5% of the party vote.⁶ To complement the new electoral system, the size of the House of Representatives was increased from 99 to 120 MPs.⁷ In the New

¹ Lundberg, 'Electoral system reviews in New Zealand, Britain and Canada: a critical comparison', *Government and Opposition*, Vol. 4, No. 4. (2007) 473.

² McRobie, 'Elections and the electoral system', in Miller (ed.), *New Zealand government and politics* (Auckland, NZ: Oxford University Press, 2006) 303.

³ Boston, Church and Bale, 'The impact of proportional representation on government effectiveness: the New Zealand experience', *Australian Journal of Public Administration*, Vol. 62, No. 4 (December 2003) 18.

⁴ Other reforms included a Bill of Rights Act, new standing orders governing parliamentary procedure (created in two tranches, one in 1986 and the other in 1996) and moves to make the machinery of Government more transparent (examples include the implementation of the State Owned Enterprise model, reform of state and local government structures generally, and central bank independence).

⁵ Lundberg, 'Electoral system reviews in New Zealand, Britain and Canada: a critical comparison', 476.

⁶ Palmer and Palmer, *Bridled power: New Zealand's constitution and government*, 4th ed. (Auckland, NZ: Oxford University Press, 2004), 14.

⁷ NZ Parliamentary Library Unpublished Background Note, 'Size of the House of Representatives: 120 or 99 MPs?' (5 October 1999). The size of the New Zealand Chamber is smaller than the lower or single houses of jurisdictions with a similar population size (for example Denmark, Finland, Norway and Ireland). Exceptions are Israel and Switzerland which both have fewer MPs per head of population than New Zealand, but which are considerably smaller and (in the case of Switzerland) also have cantonal government. In my view, at least 140 New Zealand MPs are probably needed in order to be able to reduce the size of the largest electorates to a level where they can be manageably represented.

Zealand model of MMP, the House since the 2005 election has comprised 62 general and 7 Māori electorate seats, as well as 51 seats which are occupied by members drawn from party lists.⁸

1.3 Twelve years after electoral reform, it is apparent that MMP has changed the way politics is conducted and perceived in New Zealand. Through increased proportionality and the representation of a wider range of groups and interests, MMP has led to a revitalisation of New Zealand's legislative branch, allowing it to act as more of a restraint on executive power and decision-making, and increasing the level of public trust in the political system. Increased representation has also had a significant impact on New Zealand's policy environment. By requiring the support of more than one party in Parliament, the advent of coalition and minority government in New Zealand has seen the development of greater consensus over policy decisions. Consistent with the aim of the system, this has slowed the passage of some legislation through Parliament and created a more complex policy environment.⁹ A further outcome of MMP is that Parliament has become much more diverse in a demographic sense. Although New Zealand's new electoral era is still in its early days, after four MMP elections, the evidence of this seems clear. Some, especially those from the conservative end of the political spectrum who never in any event supported a change to the status quo ante, clearly find these outcomes challenging.¹⁰ I believe that they are to be welcomed, especially in light

⁸ The number of reserved Maori seats is determined by the Maori electoral option, held every 5 years in conjunction with the census, and which entitles New Zealanders identifying as Maori to choose whether to register as electors on either a 'general' or a 'Maori' electoral roll. The numbers registering on the Maori roll determine the number of Maori seats. There are 121 M Psin the current House because of a phenomenon known as 'overhang' - 4 of the 7 Maori seats were won by members of the Maori Party, which did not receive enough Party votes to justify holding that number of seats. The overall size of the chamber was increased by the independent electoral authorities, consistent with their powers under the electoral legislation, to accommodate the overhang and maintain overall proportionality.

⁹ Boston, Church and Bale, 'The impact of proportional representation on government effectiveness: the New Zealand experience', 75. 'Support parties' supplying ministers outside of the cabinet who do not regard themselves and their parties being part of the government are evidence of this increased complexity. Currently, in addition to the one Progressive and nineteen Labour members of the cabinet of the Labour-led coalition Government, six ministers drawn from the Labour caucus sit outside of the cabinet, and another two (Rt Hon Winston Peters and Hon Peter Dunne) are ministers outside of the cabinet drawn from parties with confidence and supply agreements with the Government. These latter parties are not regarded as members of the coalition, but as 'confidence and supply partners' or 'support parties'.

¹⁰ See, eg, NZPA, 'Key confirms MMP referendum if elected, *The National Business Review* (18 May 2008). National Party leader John Key recently announced that if elected to lead a government, National will hold a referendum on MMP in conjunction with the 2011 general election.

of the experience of the past 9 years that demonstrates the stability that can flow from the system if the requisite leadership exists.¹¹

2. *The Need for a New Electoral System*

2.1 To understand New Zealand's decision to adopt MMP, it is important to consider the factors that led to that choice. Under the old FPP electoral system, New Zealand was often cited as a 'virtually perfect example' of the Westminster model of majoritarian democracy, characterised by a centralised system and the concentration of power in the hands of one of two major parties.¹² Under FPP, with a unicameral Parliament and no formal written constitution, few restraints on the exercise of executive power existed in New Zealand. As the Royal Commission on the Electoral System observed in its 1996 report:

(the New Zealand) constitution places almost no limits on the powers of Governments to carry out their large responsibilities. Parliament has supreme law-making powers; the Government of the day has the support of and general control over the House of Representatives; it has extensive direct powers both in its own right and by delegation from Parliament; its powers in and through the House are not restrained by a Second Chamber; there are no general legal restrictions, such as might be found in a bill of rights, on the exercise of the Government's powers both in Parliament and outside it; and there is no constitutional decentralisation of power as in a federal system.¹³

2.2 Between the mid-1970s and the mid-1990s this concentration of power allowed successive National and Labour Governments to enact policies that were contrary to the traditional expectations of their respective support bases, despite widespread dissatisfaction from the general electorate.¹⁴ This had the effect of eroding the nation's confidence in New Zealand's political establishment, prompting a questioning of the country's constitutional arrangements. Voter disenchantment with New Zealand's former system of government is one of the main reasons for the successful adoption of MMP. In a 1979 poll, it was found that 54% of people favoured the FPP electoral system. In 1982, only four years later,

¹¹ Henderson, 'Prime Minister: personality and style', Miller (ed.), *New Zealand government and politics* (Auckland, NZ: Oxford University Press, 2006), p. 221. The first MMP election in New Zealand in 1996 was followed by a period of instability with disagreements and standoffs between National and its New Zealand First coalition partner, and in 1998 Prime Minister Shipley removed Deputy Prime Minister Peters from office. In contrast, Prime Minister Clark has enjoyed significantly more success in managing coalitions and like arrangements.

¹² Banducci, Donovan and Karp, 'Proportional representation and attitudes about politics: results from New Zealand', *Electoral Studies*, Vol. 18 (1999), 536.

¹³ *Report of the Royal Commission on the Electoral System: towards a better democracy* (Wellington: Government Printer, 1986), 5.

¹⁴ Banducci, Donovan and Karp, 'Proportional representation and attitudes about politics: results from New Zealand', p. 537; Palmer and Palmer, *Bridled power: New Zealand's constitution and government*, 4th edn: 12.

this number had dropped to 40%.¹⁵ A clear shift in voter attitudes had occurred, placing increased pressure on politicians to promise change as momentum grew.

2.3 Another frequently criticised feature of New Zealand's former electoral system was its tendency to produce results that were disproportionate to voter intent. New Zealand's two-party system was at the heart of this:

One of the few 'laws' of political science is that the FPP system has a bias toward the existence of two parties. Consequently, one party would have a majority of seats in Parliament. If a voter wanted a say in which party formed the government, there was little point in voting for a third party because only one of the two main parties had a realistic chance of doing this.¹⁶

Because FPP would manufacture parliamentary majorities for the two major parties, decisions were typically made by governments that more people had opposed at the previous election than they had supported.¹⁷ No single governing party has received more than 50% of the votes cast at a general election in New Zealand since National did so in 1951. Despite this fact, the 'winner-takes-all' electoral rules of the time meant that the governing party would disproportionately receive a majority of seats in the House of Representatives.¹⁸ Furthermore, it was only the votes in a handful of 'marginal' seats, where the fight between the two main rivals was close, which mattered in the end. The outcome of the contests in 'safe' seats, where most people would vote either for Labour or for National, was virtually assured.¹⁹ The distortions were such that in the 1978 and 1981 general elections it was the National Party that formed the Government despite Labour winning a larger share of the total vote on both occasions.²⁰

2.4 The distortions inherent in the system particularly disfavoured third and minor parties. As confidence in the two main parties fell over the 20 years following 1975, it was accompanied by a rise in support for the smaller parties, which took away votes from the Labour/National duopoly.²¹ These votes, however, usually failed to translate into seats in the legislature. Under FPP, it was possible for minority parties to gain a sizable level of support, but to gain little or no

¹⁵ Boston, 'Electoral reform in New Zealand: the report of the Royal Commission', *Electoral Studies*, Vol. 6, No. 2 (1987), 106.

¹⁶ Palmer & Palmer, *Bridled Power: New Zealand's constitution and government*, 4th edn, 24.

¹⁷ Boston, Church and Bale, 'The impact of proportional representation on government effectiveness: the New Zealand experience', 18.

¹⁸ Levine and Roberts, 'The baubles of office: winning and losing under MMP', in Levine and Roberts (eds), *The baubles of office* (Wellington, NZ: Victoria University Press, 2007), 24.

¹⁹ Palmer and Palmer, *Bridled power: New Zealand's constitution and government*, 4th edn 24.

²⁰ Boston, 'Electoral reform in New Zealand: the report of the Royal Commission', 106.

²¹ Levine and Roberts, 'Politics', *Asia Pacific Viewpoint*, Vol. 42, No. 1 (April 2001), 141.

representation.²² This was certainly the case for the Social Credit Party, which secured 16.1% of the vote in 1978 and 20.7% of the vote in 1981. Despite being supported by up to a fifth of all voters, Social Credit gained only one seat in 1978 and two seats in 1981.²³ The Values Party, one of the first Green parties, fared worse, never winning a seat in Parliament despite gaining 5.2% of the total number of votes in 1975. In the penultimate FPP general election in 1990, small parties including New Labour, the Greens, and Christian Heritage received 17.7% of the vote, but obtained only 1% of the seats in Parliament.²⁴ The later FPP elections were thus significant disenfranchisement exercises.

3. *The Road to MMP*

3.1 It was a combination of the factors outlined above which led to calls to replace FPP with a new electoral system. The gradual breakdown of public trust and confidence in politicians, Parliament, and the old two-party system set in motion the momentum for electoral change. Prior its election in 1984, as part of a significant programme of promised constitutional reform (much of it actually delivered while in office), Labour had undertaken to establish a commission to review the electoral system. In 1985, a Royal Commission on the Electoral System, chaired by the Hon Sir John Wallace, a High Court Judge and former Chief Human Rights Commissioner, was warranted to review New Zealand's electoral arrangements.²⁵

3.2 After assessing the respective merits of a number of electoral systems, the commission recommended that New Zealand adopt a system of MMP based on the German model of proportional representation used for elections to the Bundestag, or lower house, of the federal legislature.²⁶ This decision was based on the following criteria:²⁷ Fairness between political parties; Effective representation of minority and special interest groups; Effective Māori representation; Political integration; Effective representation of constituents; Effective voter participation; Effective government; Effective Parliament; Effective parties; and Legitimacy

3.3 Although Labour had kept its word in establishing the Commission, the Party was by the late 1980s so riven by factional infighting that its programme of constitutional reform ground to a halt. Casualties included the entrenchment of the New Zealand Bill of Rights Act, and the implementation of the recommendations of

²² Banducci, Donovan and Karp, 'Proportional representation and attitudes about politics: results from New Zealand', 538.

²³ Boston, 'Electoral reform in New Zealand: the report of the Royal Commission', 106.

²⁴ Banducci, Donovan and Karp, 'Proportional representation and attitudes about politics: results from New Zealand', 537.

²⁵ Lundberg, 'Electoral system reviews in New Zealand, Britain and Canada: a critical comparison', 475.

²⁶ Lundberg, 'Electoral system reviews in New Zealand, Britain and Canada: a critical comparison', 471.

²⁷ Levine, Roberts and Salmond, 'A wider view: MMP ten years on', in Levine and Roberts (eds), *The baubles of office* (Wellington, NZ: Victoria University Press, 2007), 449.

the Wallace Commission. National and its core constituency had no great affection for the idea of reform of the electoral system, but the opportunity to embarrass the (by this stage terminal) Labour Government was too great, and National made a promise during the 1990 election campaign that it would hold a referendum on New Zealand's electoral system.²⁸

3.4 Pressure on National to honour this campaign pledge led to a two-part referendum. In 1992, an indicative referendum was held which specified several options for reform, including: MMP, Single Transferable Vote (STV), Supplementary Member (SM), or Preferential Vote (PV), in addition to the option of retaining FPP. An overwhelming 85% of the electors who took part voted to change the electoral system, with over 70% favouring MMP.²⁹ In conjunction with the 1993 general election a second, binding, referendum was held. This time voters were offered two options: MMP or FPP. MMP gained 54% of the vote, and with effect from the 1996 general election became New Zealand's new electoral system.

4. Better Representation

4.1 General

4.1.1 A key motivator behind the Royal Commission's recommendation for New Zealand to adopt MMP was the need for a Parliament that more closely reflected the composition of New Zealand society. In stark contrast to the two-party, winner-takes-all FPP model, which through a complex and conservatising interaction of media, party machines and the requirements of local campaigning tended to control for less conventional candidates, MMP encouraged diversity in Parliament.³⁰ Because list seats are 'compensatory' in nature, MMP guarantees proportionality by allocating seats to parties in the legislature according to the nation-wide distribution of the party vote they receive.³¹

4.1.2 MMP increases diversity of representation in two main ways. The first of these is by having more parties in Parliament, and the second is through the often deliberate use of party lists to bring in under-represented minorities in a way that geographical constituencies cannot.³² In New Zealand the number of parties represented in Parliament doubled from four after the last FPP election in 1993 to

²⁸ Banducci, Donovan and Karp, 'Proportional representation and attitudes about politics: results from New Zealand', 537.

²⁹ Lundberg, 'Electoral system reviews in New Zealand, Britain and Canada: a critical comparison', 477.

³⁰ Banducci, Donovan and Karp, 'Proportional representation and attitudes about politics: results from New Zealand', 539; Levine, Roberts and Salmond, 'A wider view: MMP ten years on', 458-459.

³¹ Karp, 'Political knowledge about electoral rules: comparing mixed member proportional systems in Germany and New Zealand', *Electoral Studies* (2006), 715.

³² James, 'MMP ... light at the end of the muddle', *New Zealand Management*, Vol. 46, No. 5 (June 1999), 33.

eight after the 2005 election. Over that same period, even the lists of the more conservative political parties demonstrated an increased willingness to ensure that caucuses contain representation from groups that did not previously feature, or were under-represented in Parliament by reference to the general population. As a result, the first MMP election saw a record number of women elected to Parliament, and an increase in the proportion of Maori, Pacific Island and Asian MPs.³³ As figure 1 shows, those trends have continued in the subsequent MMP elections.

Figure 1: Representation by Gender and Ethnicity³⁴

YEAR*	1990	1993	1996	1999	2002	2005
Electoral System (Total No. MPs)	FPP (97 MPs)	FPP (99 MPs)	MMP (120 MPs)	MMP (120 MPs)	MMP (120 MPs)	MMP (121 MPs)
No. of women MPs	16	21	35	37	34	39
Share of total MPs	17%	21%	29%	31%	28%	32%
Share of NZ population	51%	51%	51%	51%	51%	51%
No. of MPs of Māori ethnicity	6	7	16	16	19	21
Share of total MPs	6%	7%	13%	13%	16%	17%
Share of NZ population	12%	13%	15%	15%	15%	15%
No. of Pacific MPs	0	1	3	3	3	3
Share of total MPs	0%	1%	3%	3%	3%	2%
Share of NZ population	5%	5%	6%	7%	7%	7%
No. of Asian MPs	0	0	1	1	2	2
Share of total MPs	0%	0%	1%	1%	2%	2%
Share of NZ population	3%	4%	5%	6%	7%	9.3%

The House of Representatives now also contains members whose expressed politics cover a broader ideological spectrum of interests than was previously the case, and includes MPs from a very diverse range of backgrounds. The impacts of MMP on the representation of these groups are described in further detail below.

4.2 Better Representation: Women

4.2.1 Since MMP was introduced the proportion of women in Parliament has increased substantially. After the final FPP election in 1993, women held 21% of the seats in the New Zealand House of Representatives, but comprised just under 51% of the general population. Following the first MMP election in 1996, the proportion of female MPs jumped 7% to 29%, and since 2005 the share of women MPs has stood at 32%.³⁵ While there is still some way to go before the proportion of women in Parliament corresponds to their proportion of the population, these statistics compare favourably on an international basis: in 2008 the Inter-Parliamentary Union ranked New Zealand fourteenth out of 188 countries for

³³ Banducci, Donovan and Karp, 'Proportional representation and attitudes about politics: results from New Zealand', 538.

³⁴ NZ Parliamentary Library Unpublished Background Note, 'Final results of the 2005 general election', (18 October 2005), 5.

³⁵ Jackson, 'Parliament', in Miller (ed.), *New Zealand government and politics* (Auckland, NZ: Oxford University Press, 2006), 164.

female representation.³⁶ Although lagging behind the Nordic countries and the Netherlands, which all have systems of proportional representation, it is clear from Figure 2 that New Zealand has made better progress at improving women's parliamentary representation than many other comparable jurisdictions.³⁷

Figure 2: Women in National Parliaments³⁸

Country	Lower or Single House			Upper House or Senate		
	Seats	Women	% Women	Seats	Women	% Women
Sweden	349	164	47.0	-	-	-
Finland	200	83	41.5	-	-	-
Netherlands	150	59	39.3	75	26	34.7
Denmark	179	68	38.0	-	-	-
Norway	169	61	35.5	-	-	-
Australia	150	40	26.7	76	27	35.5
Canada	305	65	21.3	93	32	34.4
United Kingdom	646	126	19.5	750	148	19.7
United States	435	73	16.8	100	16	16.0

4. 2. 2 MMP's relationship to increased female representation can be attributed to various factors. Whereas FPP-type districts tended to lead parties to nominate 'lowest common denominator' or 'traditional' candidates, systems of proportional representation allow the use of party lists to balance national tickets.³⁹ Labour, for example, requires its 'moderating committee' (the national body that settles its list) to conduct an 'equity check' once every five places as the list is settled.⁴⁰ Also, proportional systems allow small, generally left-of centre parties such as the Green Party, which have typically been more explicitly committed to the cause of women's representation, to gain seats in Parliament and bring attention to the issue.⁴¹ Given the increased representation of women in the legislature, it is no surprise that since MMP was introduced, a higher number of women have been elevated to ministerial positions and New Zealand has been led for the past 11 years by 2 female prime ministers.⁴² Although these developments were not expressly prevented by the former electoral system, they have been greatly facilitated by MMP.

³⁶ Inter-Parliamentary Union, *Women in national parliaments* (31 March 2008), Available at: <http://www.ipu.org/wmn-e/classif.htm> (Accessed 6 June 2008).

³⁷ NZ Parliamentary Library Unpublished Background Note, 'Size of the House of Representatives: 120 or 99 MPs?', 4.

³⁸ Inter-Parliamentary Union, *Women in national parliaments* (31 March 2008), Available at: <http://www.ipu.org/wmn-e/classif.htm> (Accessed 6 June 2008).

³⁹ Levine, Roberts and Salmond, 'A wider view: MMP ten years on', 458–59.

⁴⁰ New Zealand Labour Party, *Constitution and rules* (Wellington, 1999), 20.

⁴¹ Levine, Roberts and Salmond, 'A wider view: MMP ten years on', 458–59.

⁴² Levine and Roberts, 'The baubles of office: winning and losing under MMP', 9.

4.3 Better Representation: Maori

4.3.1 Maori are the indigenous people of New Zealand. In the 12 years since MMP was adopted, the proportion of MPs identifying as Maori has more than doubled, making Maori representation in Parliament roughly in line with the Maori proportion of the general population.⁴³ After the 1993 election, 7% of MPs identified as being of Maori descent. In 2005, this number had jumped to 17%.⁴⁴ Perhaps foreseeing the benefits of MMP for increasing Maori representation, Maori voted two to one in favour of proportional representation.⁴⁵ The Royal Commission recommended the abolition of the Maori seats, since it predicted that they would be rendered unnecessary by the move to MMP. This proved too controversial a change, and the adoption of a party list system, together with the preservation of the Maori electorates, means that MMP offers Maori the opportunity to increase representation in Parliament, perhaps even beyond proportionality.

4.3.2 Since the replacement of the former FPP electoral system, the number of Maori electorate seats has increased from four to seven,⁴⁶ the number of Maori enrolled on both the general and Maori electoral rolls has increased as the Maori population has grown, more Maori have entered parliament as list MPs, and Maori political parties have formed, the most successful to date being the Maori Party in 2004.⁴⁷ In addition, by reducing the likelihood of a single-party majority government, MMP has also allowed for a shift in the balance of power that gives more strategic influence to the Maori vote and to Maori MPs, irrespective of the party they belong to. Since the historic alliance between the Ratana movement and Labour in the 1930s, this had been the case to some extent, but was usually a hidden function of internal Labour Party politics rather than a process obvious to public scrutiny, at least until the 1996 election when the New Zealand First Party broke Labour's monopoly on general election success in the Maori seats for the first time since that alliance.⁴⁸

4.3.3 I have not considered how New Zealand rates on an international basis as far as ensuring parliamentary representation of indigenous people in post-colonial societies is concerned. I assume that the position just described would compare favourably.

⁴³ Jackson, 'Parliament', 164.

⁴⁴ NZ Parliamentary Library Unpublished Background Note, 'Final results of the 2005 general election', 5.

⁴⁵ Karp and Banducci, 'The impact of proportional representation on turnout: evidence from New Zealand', *Australian Journal of Political Science*, Vol. 34, No. 3 (1999), 371.

⁴⁶ Thanks to a separate decision taken by the 4th Labour Government to allow the number of Maori seats to grow in line with the numbers of Maori choosing to enroll on the Maori roll, as opposed to capping the number of seats at 4, as had been the case since 1867.

⁴⁷ Boston, Levine, McLeay and Roberts, *New Zealand under MMP*, (Auckland: Auckland University Press, 1996), 71. ; Durie, *Launching Maori futures, Nga Kahui Pou* (Wellington: Huia Publishers, 2003), 121–2; Smith, 'Maori Party', in Miller (ed.), *New Zealand government and politics* (Auckland, NZ: Oxford University Press, 2006), 408.

⁴⁸ Boston, Levine, McLeay and Roberts, *New Zealand under MMP*, 70.

4.4 Better Representation: Asian and Pacific Island New Zealanders

4.4.1 As predicted by the Royal Commission on the Electoral System, other groups have also increased their parliamentary representation. Since the first MMP election in 1996, the number of MPs of Pacific Island descent represented in Parliament has increased to about 3%, and New Zealand has elected its first MPs of Asian origin, together accounting for a 2% share of the Parliament.⁴⁹ As with female representation, however, there is still some way to go before the numbers of Pacific and Asian MPs adequately reflect the composition of these groups in the general population. It will be interesting to see what changes, if any, the 2008 election, which must be held no later than 15 November, will bring in this regard.

4.5 Better Representation: Sexual Minorities

4.5.1 The New Zealand Parliament has also become more varied in terms of the disclosed sexual orientation of its members since 1996. Privacy issues make these developments difficult both to quantify in absolute terms, and to compare in relation to the total population, as well as on an international basis. However, in 2006 approximately 5% of the House of Representatives identified as being non-heterosexual.⁵⁰ Despite the incomparable Georgina Beyer, the world's first transsexual MP, having moved on, a subsequent arrival means that the relevant proportion remains unchanged.

8.2 New Zealand compares favourably to the other liberal social democracies in the Commonwealth in this regard. In both Australia and Canada, approximately 3% of MPs (taking into account both the upper and lower houses and the provincial and state and territory legislatures) have self-identified as being gay, lesbian or bisexual. In the United Kingdom (taking into account Members of the House of Lords, Members of the Scottish Parliament and Members of the House of Commons) the proportion is 1.4% of the general population.⁵¹

4.6 Better Representation: Ideological Mix

4.6.1 To be sure, a Parliament needs to do more, to be credible, than just look like a sample of the population in whose name it exercises oversight authority. In addition to more closely reflecting the demographic composition of New Zealand

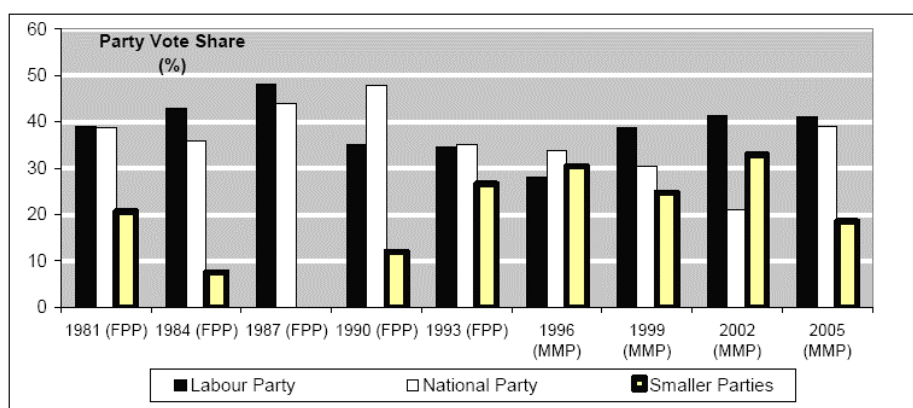
⁴⁹ Levine and Roberts, 'A wider view: MMP ten years on', 457–58.

⁵⁰ Levine and Roberts, 'A wider view: MMP ten years on', 458.

⁵¹ Based on media searches for articles where members have self-identified as non-heterosexual, the relevant membership of the legislatures of these countries appears to be as follows: in Canada, of the 13 'out' GLBT MPs, 1 is a senator, 6 are members of the House of Commons, and 6 are members of provincial assemblies. In Australia, from a total of 7 'out' GLBT parliamentarians, 3 belong to the Senate, 3 are members of state upper houses, and 1 is a member of a territorial assembly. In the UK, of the 19 'out' MPs, 13 sit in the House of Commons, 3 in the House of Lords, and a further 3 in the Scottish Parliament.

society, MMP has allowed for the representation of a broader spectrum of ideological interests. One of the major criticisms of FPP was that it reduced voter choices to those parties converging around the political centre, marginalising citizens whose votes lay outside the political centre.⁵² As figure 4 demonstrates, although the first four MMP elections demonstrate that there is still strong support for the two major parties in New Zealand, Labour and National, which occupy the centre-left and centre-right positions on the ideological spectrum, they are unlikely to be the only significant players in parliamentary politics again.⁵³

Figure 4: Share of the Vote by Parliamentary Parties, 1981–2005⁵⁴



4. 6. 2 MMP ensures voters' party preferences are proportionally reflected in the party composition of Parliament and that different interests are represented. Such a diversity of opinion fosters more wide-ranging debate in the chamber and may ultimately assist to foster perceptions of legitimacy, as well as to ensure that legislation represents a broader range of points of view. This type of ideological diversity is not so evident in the legislatures of countries where the two-party system remains dominant.⁵⁵

4. 7 Better Representation: Less Dissatisfaction

4. 7. 1 A Parliament that is representative of the various population groups within society seems likely to have greater potential to inspire trust and confidence than one that does not. This has certainly been the true for New Zealand under MMP. Trust in New Zealand's political system was at a low during the period before

⁵² Banducci, Donovan and Karp, 534.

⁵³ Levine and Roberts, 'A wider view: MMP ten years on', 472.

⁵⁴ NZ Parliamentary Library Unpublished Background Note, 'Final results of the 2005 general election', 4.

⁵⁵ See, for example, McKay, *Essentials of American Government* (Boulder, Colorado: Westview Press, 2000), 95.

MMP was introduced, but since electoral reform, voter satisfaction has increased significantly. In a study that considered voter attitudes before and after New Zealand's electoral reform, more people were likely to believe that their vote counted in elections after the implementation of MMP.⁵⁶ A separate study found that after the 1996 election, 56% of people either agreed or strongly agreed with the statement that 'most MPs are out of touch with the rest of the country', compared to 64% in 1993, and the number of people who agreed that 'people like me don't have any say about what government does' also decreased.⁵⁷

4.7.2 Various factors explain the increase in voter satisfaction under MMP. Because there is a distinct party vote and seats are distributed in proportion to the level of nationwide support for the party, voters are able to elect a government as well as choose their favoured constituency representative.⁵⁸ By allowing vote-splitting, voters have more flexibility in the choices they make than they would under a majoritarian system.⁵⁹ By encouraging the parliamentary integration of minority groups and aiding the formation of minor and protest parties, MMP also increases the likelihood that more voters' interests will be represented, promoting greater citizen identification with Parliament and enhancing mass perceptions of system legitimacy.⁶⁰ Ultimately, because fewer votes are wasted and the outcomes of elections are more or less proportionate to the national vote, public confidence in democratic processes has improved under MMP.

5. *Consequences for Public Policy*

5.1 Overview

5.1.1 Improved representation from a changed voting system has undoubtedly changed the policy and law making processes in New Zealand. There is a new emphasis on consultation and negotiation, the role of parliamentary committees has been strengthened, and the passage of legislation is generally more orderly than previously. The policy environment in New Zealand is now also considerably more complex than it was under the former system. As has been noted, this is not to everyone's liking, particularly in parts of New Zealand society where the changes wrought by MMP are not seen as beneficial.

5.1.2 The advent of MMP and coalition governments means there is no longer only one government policy agenda in New Zealand. As predicted, the result of this has been a greater need for the governing party to engage and constructively interact with other parties in order to advance legislation through Parliament.⁶¹

⁵⁶ Karp and Banducci, 'The impact of proportional representation on turnout: evidence from New Zealand', 367.

⁵⁷ Banducci, Donovan and Karp, p. 542.

⁵⁸ Levine, Roberts and Salmond, 'A wider view: MMP ten years on', 459–60.

⁵⁹ Banducci, Donovan and Karp, 538.

⁶⁰ Banducci, Donovan and Karp, 534.

⁶¹ Scott, *Policy analysis and policy styles in New Zealand central agencies* (Public Policy Network Conference, 2003), 47

5. 1. 3 Both majority and minority governments require the support of more than one party in Parliament to pass legislation, making a more cooperative style of politics necessary. Contrast this with the untrammelled power of cabinets in the 1970s, 1980s and early 1990s, where it would appear that little attention was paid to the views of backbench MPs.⁶² The public has also benefited from greater access to the policy advice given to governments under freedom of information legislation in force since 1990⁶³ that enhanced the original 1981 law,⁶⁴ and greater contestability in the market for policy options means the potential for stakeholders, non-governmental organisations (NGOs) and lobby groups to contribute to policy development has improved.⁶⁵ By opening up the process to a broader range of interests, MMP has made policy-making a much more open process than it used to be. Voters have benefited from an increased quality of law-making, public debate has become more meaningful, and legislation by definition must now enjoy the backing of a majority of those parties voted for by a majority of the electors at the previous election.⁶⁶ In addition, greater policy consensus means that the bills that do get turned into legislation seem likely to be more enduring.⁶⁷

5. 2 Slowing the Legislative Process

5. 2. 1 Due to the number of participants involved in decision-making and the greater need for consultation and negotiation, the legislative process under MMP appears in general to be considerably slower today than it was under FPP.⁶⁸ When comparing the legislative process now to the period before New Zealand's electoral reform, there has been a dramatic drop in the number of government measures passed by Parliament. During the FPP period between 1980 and 1996, the average number of government bills passed per year was 173. In stark contrast, the four-year average under MMP from 1996 to 2000 was only two-thirds this level.⁶⁹ Despite the reduction in the total number of bills passed into law, the House sits for many more days than it used to, and the total number of pages occupied by all forms of legislation has increased dramatically.⁷⁰ Much of the increase is accounted for by

⁶² Boston, Church and Bale, 'The impact of proportional representation on government effectiveness: the New Zealand experience', 12

⁶³ Privacy Act 1990

⁶⁴ Official Information Act 1981

⁶⁵ Scott, *Policy analysis and policy styles in New Zealand central agencies*, 48

⁶⁶ Boston, Church and Bale, 'The impact of proportional representation on government effectiveness: the New Zealand experience', 18

⁶⁷ Palmer and Palmer, *Bridled power: New Zealand's constitution and government*, 4th edn, 18

⁶⁸ Boston, Church and Bale, 'The impact of proportional representation on government effectiveness: the New Zealand experience', 12.

⁶⁹ Palmer and Palmer, *Bridled power: New Zealand's constitution and government*, 4th edn, 71.

⁷⁰ Gillon and Miller, 'Role of an MP', in Miller (ed.), *New Zealand government and politics* (Auckland, NZ: Oxford University Press, 2006),. 178. The total normal sitting hours of the House in 2004 were 444, well up on the year ended 2000, when the House sat for 299

the very considerable increase in the use of delegated legislation.⁷¹ Since a minority government needs the support of other parties to pass legislation but not to pass regulations, MMP tends to encourage the implementation of policies in this way.⁷² Interestingly, in light of this development, New Zealand lacks some of the safeguards as to delegated legislation to be found in other Australasian jurisdictions, such as the automatic expiry of regulations through sunset clauses.

5. 2. 2 Many commentators argue that the slower passage of legislation resulting from greater consultation and deliberation is a negative feature of MMP. They argue that MMP weakens executive decision-making and results in a more complex environment where it is difficult for governments to develop and implement a consistent set of policies.⁷³ On the other side of the ledger, however, this can mean that decisions are being taken in a more measured way, with greater input from a wider range of interests.

5. 2. 3 Under the old FPP system, New Zealand governments were frequently described as 'elective dictatorships' with the 'fastest law in the West' because of the ease at which the largest party in Parliament was able to implement its legislative agenda.⁷⁴ By slowing down the legislative process, MMP intended to prevent future governments from designing, implementing and administering wide-ranging changes with minimal consultation.

5. 2. 4 As noted earlier, there is also a greater subtlety in the implementation of Government policy under the Clark premiership than was evident under her predecessors. Since 1999, it has been made tolerably clear that the lead party in Government expects the implementation of the majority of the programme on which it campaigned in the election leading to the creation of the new Parliament. The minor parties can expect policy victories in areas where their 'headline' policies align with those of the major party. They can often claim credit for extending the particular policy further than the major party might have been willing to.⁷⁵ Detailed coalition or support agreements are entered into and are expected to

normal hours. Select committees also increased their workload from 461 sittings in 2000 to 523 in 2004.

⁷¹ Jackson, 'Parliament', 169.

⁷² Palmer and Palmer, *Bridled power: New Zealand's constitution and government*, 4th edn, 16.

⁷³ Boston, Church and Bale, 'The impact of proportional representation on government effectiveness: the New Zealand experience', 20.

⁷⁴ Levine, Roberts and Salmond, 'A wider view: MMP ten years on', 445 & 462.

⁷⁵ Recent examples include Rt. Hon Winston Peters (New Zealand First) being credited for the Government's Supergold Card scheme, which gives discounts to senior citizens across a range of products and services, and Jeanette Fitzsimons (Green Party) being credited for the recent Insulation of State Houses policy as a Green Party initiative. This second example is particularly noteworthy since the Green Party is neither a Government coalition partner nor a support party. It merely agrees to abstain on matters of confidence and supply.

be honoured for the duration of a parliamentary term, and it is likely that the minor rather than the major party would be punished electorally for a breach. This contrasts with the initial implementation of MMP under Prime Ministers Bolger and Shipley, when between 1996 and 1999 there was much more of a 'wag the dog' flavour to the new system.⁷⁶

5.3 Increased Ambiguity

5.3.1 In addition to slowing down the passage of legislation, the more complicated nature of the policy environment under MMP has also had the effect of increasing the level of ambiguity surrounding policy. In the run-up to elections a shift from more prescriptive campaign pledges to promises that focus more on the desired direction of policy has been evident in the last four elections.⁷⁷ In addition, legislative wording that results from compromises between parties in Parliament or coalition or support partners in the Ministry is often unclear and ambiguous. A likely outcome is increased pressure on the judiciary to interpret the meaning of legislation against the background of a support or coalition agreement between a major and a minor party.⁷⁸

5.4 Increased Influence of Parliamentary Committees

5.4.1 The reforms to parliamentary procedure brought about in the 1980s by the Rt Hon Sir Geoffrey Palmer were significant.⁷⁹ They included the institution of a scrutiny of delegated legislation committee, and the tradition that all but core budget legislation should be the subject of public hearings of submission by parliamentary committees. Following the move to MMP, further changes to standing orders have seen the membership of parliamentary committees become more proportional. In addition, the opportunity is available to most of the parties to be able to chair at least one select committee.⁸⁰ Because they are no longer under the control of a single governing party with a majority of MPs, select committees are now stronger and more willing and able to recommend significant changes to government legislation.⁸¹ Since MMP was introduced in 1996, minority governments have faced increased scrutiny of their proposed legislation, and the potential

⁷⁶ Levine, Roberts and Salmond, 'A wider view: MMP ten years on', 463. After the 1996 election, a small party (New Zealand First) was given influence beyond its parliamentary strength. Despite commanding approximately only 14% of the seats in Parliament, New Zealand First accounted for almost a third of ministerial positions in the National-led Government.

⁷⁷ Boston, Church and Bale, 'The impact of proportional representation on government effectiveness: the New Zealand experience', 19.

⁷⁸ Boston, Church and Bale, 'The impact of proportional representation on government effectiveness: the New Zealand experience' 17.

⁷⁹ I alluded to these in 'Recent innovations in the scrutiny of delegated legislation in New Zealand', *The Parliamentarian*, Issue 3 (2007)212.

⁸⁰ Gillon and Miller, 'Role of an MP' 176.

⁸¹ Levine, Roberts and Salmond, 'A wider view: MMP ten years on', 462.

for committee investigations has also increased.⁸² This scrutiny provides an opportunity for detailed reconsideration of both the drafting and policy of bills and has been described as a substitute for the revision that upper houses may perform.⁸³

5.5 Increased Voter Sophistication

5.5.1 Although it is impossible to predict the future, after four elections and more than a decade since New Zealand's electoral reform, trends clearly indicate a maturation of voter and politician experience of MMP. While there is still some way to go before the composition of the House represents that of the general population, especially as to gender, the New Zealand statistics compare favourably on an international basis, and show a significant improvement since FPP was replaced.

5.5.2 Although MMP ensures that voters' party preferences are proportionally reflected in the party composition of Parliament, ultimately, the demographic characteristics of Parliament are determined more by the political parties themselves through their choice and ranking of candidates.⁸⁴ The role of the voter should not be underestimated either. By encouraging the electoral participation of ethnic minorities such as Maori and Pacific Islanders, who have traditionally had lower rates of voter turnout in New Zealand's voluntary voting system, there is considerable potential for these groups to increase their representation in Parliament.

5.5.3 There is other evidence that both voters and politicians are becoming more sophisticated in dealing with MMP as time goes by. Although some degree of instability in voting patterns and party affiliations is to be expected during times of electoral reform, an increased level of stability is likely as New Zealand further adjusts to its new electoral system. So far New Zealand's experience has been consistent with this.⁸⁵ Despite a shaky start to MMP, marked by disagreements and stand-offs between National and its New Zealand First coalition partner, there is evidence that politicians are learning from their mistakes and coming to grips with managing the new parliamentary environment.⁸⁶ Patterns of coalition management indicate that parties are adapting to more consensual arrangements, and innovations such as the 'agree-to-disagree' clause in coalition agreements, pre-election coalition pacts between parties, and explicit arrangements on 'confidence and supply' have reduced the likelihood of coalitions collapsing mid-term.⁸⁷ An initially high rate of

⁸² Palmer and Palmer, *Bridled power: New Zealand's constitution and government*, 4th edn, 17.

⁸³ Palmer and Palmer, *Bridled power: New Zealand's constitution and government*, 4th edn, 371.

⁸⁴ NZ Parliamentary Library Unpublished Background Note, 'Final results of the 2005 general election' 5.

⁸⁵ Levine, Roberts and Salmond, 'A wider view: MMP ten years on', 462.

⁸⁶ James, 'MMP... light at the end of the muddle', 28.

⁸⁷ Boston, 'Forming a Government', in Miller (ed.), *New Zealand government and politics* (Auckland, NZ: Oxford University Press, 2006), 236–56.

party defections has also dropped off significantly, and if the German experience with MMP is anything to go by, they should continue to drop further in the future.⁸⁸

5. 5. 4 Trends in vote wastage and vote splitting support claims that New Zealand voters are progressively learning how to make MMP effectively work for them also. In 2005, 'wasted' party votes, or votes cast for parties that receive no seats in Parliament, were less than a quarter of the 1996 level, while the wastage of electorate votes over the same period was halved.

Figure 5: Split Tickets and Wasted Votes in the MMP era (1995–2005)⁸⁹

Year	Split Ticket Votes (%)			Wasted Votes (%)	
	All	Major Parties	Minor Parties	Party	Electorate
1996	37	27.6	50.3	7.6	29.0
1999	35	17.4	70.9	6.0	24.2
2002	39	19.4	70.9	5.0	22.2
2005	29	19.0	71.5	1.3	14.9

This evidence is consistent with the experiences of other countries with similar electoral systems such as Germany, where it was found that over time voters learnt not to waste their votes, and the level of disproportionality dropped close to zero.⁹⁰

6. Conclusion

6.1 As New Zealand moves further into its new electoral era, and calls are being made for MMP to be reviewed, it is instructive to consider the changes that have resulted from having a proportionally representative electoral system. After twelve years, it is undeniable that the move to MMP has resulted in an increase in the representation of different groups and interests in New Zealand's legislative chamber, leading to record numbers of women, Maori, Pacific Island and Asian MPs. This has almost certainly occurred more quickly than it would have if the voting system had not been changed. Public trust and confidence in the country's political system has also improved. MMP has also changed the policy environment in New Zealand, with different patterns of representation resulting in the need for greater consultation and negotiation, the strengthening of parliamentary select committees, and a more complicated policy environment slowing down the legislative process. MMP has evolved significantly since its adoption in 1996. I hope it will be allowed to continue to do so, and not simply because of its potential to make the House of Representatives ever more true to its name. ▲

⁸⁸ Levine, Roberts and Salmond, 'A wider view: MMP ten years on', 468–72.

⁸⁹ Levine, Roberts and Salmond, 'A wider view: MMP ten years on' 465.

⁹⁰ Ibid, p. 471.