

# PROTECTING LONG-TERM INTERESTS IN A SHORT-TERM WORLD: AN AGENDA FOR BETTER GOVERNMENTAL STEWARDSHIP

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*There is a widely-held assumption that democracies give too much weight to short-term interests at the expense of long-term interests. This phenomenon is variously referred to as political myopia, policy short-termism and a presentist bias. This article briefly explores the nature and causes of such a bias and examines the kinds of policy issues where long-term interests are most likely to be at risk. On the basis of this analysis, the article outlines a package of policy reforms designed to counter the presentist bias. While the suggested reforms are specifically focused on New Zealand, many are equally applicable to other democratic jurisdictions. The proposed reforms include: a longer, fixed parliamentary term; using policy commitment devices to embed the future more deeply within our democratic institutions and policy processes; enhancing the political system's capacity for foresight; strengthening institutional voices for the future, including the stewardship responsibilities of the public service; embedding the future more firmly within analytical frameworks; and nurturing a future-focused political culture that facilitates durable political bargains on important intergenerational issues. There is no suggestion that such reforms would eliminate the presentist bias, but they would help incentivise policymakers to give greater weight to future-orientated interests and encourage the exercise of good stewardship.*

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Look and listen for the welfare of the whole people and have always in view not only the present but also the coming generations, even those whose faces are yet beneath the surface of the ground – the unborn of the future Nation.

– from The Great Law of the Iroquois Confederacy.<sup>1</sup>

## I INTRODUCTION

Democratically-elected governments often face powerful political pressures to prioritise short-term goals and interests over those of a longer-term nature. As a result, they display what is variously called a presentist bias, political myopia or policy short-termism. A presentist bias is reflected in the propensity of governments to prefer policies that front-load the benefits – whether for citizens, taxpayers or important sectors – and back-load the costs (that is, to shift the costs beyond a politically significant event, such as the next election, or onto future generations).<sup>2</sup> Other manifestations of this bias include governments giving insufficient attention to "creeping" or "slow motion" problems;<sup>3</sup> downplaying certain kinds of risk, including systemic risks; delaying measures to mitigate and

1 Available at "Constitution of the Iroquois Nations" <[www.indigenouspeople.net](http://www.indigenouspeople.net)>.

2 For analyses of the presentist bias in democratic decision-making, see William Ascher *Bringing in the Future: Strategies for Farsightedness and Sustainability in Developing Countries* (Chicago University Press, Chicago, 2009); Jonathan Boston *Governing for the Future: Designing Democratic Institutions for a Better Tomorrow* (Emerald, Bingley (UK), 2016) [*Governing for the Future*]; Jonathan Boston *Safeguarding the Future: Governing in an Uncertain World* (Bridget Williams Books, Wellington, 2017) [*Safeguarding the Future*]; Jonathan Boston and Frieder Lempp "Climate Change: Explaining and Solving the Mismatch between Scientific Urgency and Political Inertia" (2011) 24 *Accounting, Auditing and Accountability Journal* 1000; Iñigo González-Ricoy and Axel Gosseries (eds) *Institutions for Future Generations* (Oxford University Press, Oxford, 2016); Andrew Healy and Neil Malhotra "Myopic Voters and Natural Disaster Policy" (2009) 103 *American Political Science Review* 387; Peter S Heller *Who Will Pay? Coping with Aging Societies, Climate Change and Other Long-Term Fiscal Challenges* (IMF, Washington (DC), 2003); Alan M Jacobs *Governing for the Long Term* (Cambridge University Press, Cambridge, 2011) [*Governing for the Long Term*]; Alan M Jacobs "Policymaking for the Long Term in Advanced Democracies" (2016) 19 *Annual Review of Political Science* 433; Alan M Jacobs and J Scott Matthews "Why do Citizens Discount the Future? Public Opinion and the Timing of Policy Consequences" (2012) 42 *British Journal of Political Science* 903; Oxford Martin Commission *Now for the Long Term: Report of the Oxford Martin Commission for Future Generations* (Oxford Martin School, Oxford, 2013); Dennis F Thompson "Democracy in Time: Popular Sovereignty and Temporal Representation" (2005) 12 *Constellations* 245; and Dennis F Thompson "Representing Future Generations: Political Presentism and Democratic Trusteeship" (2010) 13 *Critical Review of International Social and Political Philosophy* 17.

3 For various perspectives on "creeping problems", see European Environment Agency *Late Lessons from Early Warnings: Science, Precaution, Innovation* (European Environment Agency, Copenhagen, 2013); Robert Olson *Missing the Slow Train: How Gradual Change Undermines Public Policy and Collective Action* (Wilson Centre, Washington (DC), 2016); and Volker Schneider, Philip Leifeld and Thomas Malang "Coping with Creeping Catastrophes: National Political Systems and the Challenge of Slow-Moving Policy Problems" in Bernd Siebenhüner and others (eds) *Long-Term Governance of Social-Ecological Change* (Routledge, New York, 2013) 221.

manage well-established risks; failing to invest in preventative and corrective measures despite reliable evidence of positive returns; under-investing in certain types of long-term public infrastructure; and retaining policies that are demonstrably unsustainable, whether economically, socially or environmentally. The net result is that those living in the future are likely to incur greater costs and enjoy fewer benefits than would otherwise be the case. Regrettably, in some situations, the damage inflicted will be serious, widespread and irreversible. The collective failure of multiple governments around the world, democratic and non-democratic, to reduce greenhouse gas emissions over recent decades is one such example. This failure will have profound and lasting impacts on the well-being of future generations and cause enormous damage to critical biophysical systems.

Given the serious risks posed by a presentist bias in policy-making, are there ways of better protecting the long-term interests of current and future citizens? Put differently, by what means can democracies enhance the quality of their "intergenerational governance",<sup>4</sup> "anticipatory governance" and governmental stewardship?<sup>5</sup> How, in other words, can they improve their "future-proofing", resilience and sustainability?

This article explores these questions with particular reference to Aotearoa-New Zealand. It draws heavily on research I conducted in recent years, including more than 90 interviews during 2014–2015 with politicians, policy advisers, business leaders, representatives of civil society organisations and academics in four democracies (that is, Britain, Finland, New Zealand and the United States). I begin by briefly discussing some of the major causes of the presentist bias and the types of policy problems where such a bias is most likely to occur. I then enunciate a strategy for institutional and policy reform designed to better protect citizens' long-term interests.

Any quest for better intergenerational governance must be utterly realistic. There are many formidable hurdles: deep uncertainty, incomplete and contested evidence, cognitive biases, complexity, cascading effects, powerful vested interests, weak and indecisive leadership, challenging policy trade-offs, multiple systemic risks and inevitable surprises. In many cases, our understanding of causality is poor or contested and our ratio of knowledge to ignorance is low. Aside from this, in an interdependent world, nation states have only a limited capacity to protect the long-term interests of their citizens. Without collective international action, the world's common property resources (or

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4 Surprisingly, perhaps, while there is a large literature on concepts like "environmental governance", "Earth-system governance" and "intergenerational issues" (including "intergenerational equity"), there is only a modest amount written specifically on the nature and requirements of "intergenerational governance".

5 For various perspectives on the concept of "anticipatory governance", see Leon S Fuerth and Evan MH Faber *Anticipatory Governance: Practical Upgrades – Equipping the Executive Branch to Cope with Increasing Speed and Complexity of Major Challenges* (Elliot School of International Affairs, George Washington University, Washington (DC), 2012); and Leon S Fuerth and Evan MH Faber "Anticipatory Governance: Winning the Future" (2013) 47(4) *The Futurist* 42; David H Guston "Understanding 'Anticipatory Governance'" (2014) 44 *Social Studies of Science* 218; and R Quay "Anticipatory Governance: A Tool for Climate Change Adaptation" (2010) 76 *Journal of the American Planning Association* 496.

global public goods), such as the atmosphere and oceans, cannot be properly safeguarded. Hence, while modest progress is certainly possible, there are no grounds for expecting dramatic improvement. We lack silver bullets or miracle cures. Hence, good anticipatory governance rests on the assumption that governmental and non-governmental failures will occur. Being alert to these is essential.

## ***II THE CAUSES OF THE PRESENTIST BIAS***

There are multiple reasons for a presentist bias in democratic policymaking. It is not simply due to short electoral cycles, vote maximising politicians or myopic voters. While a thorough analysis is not possible here, several factors deserve brief mention: the human condition, uncertainty, various politically salient asymmetries, ideological polarisation and low levels of societal trust.

### ***A The Human Condition***

Economic theory generally assumes that people in their various roles – whether as citizens, consumers, voters or policymakers – discount the future.<sup>6</sup> Put simply, they tend to be impatient. In technical terms, they have positive pure time preferences (that is, they value certain things in the future less than having exactly the same things today). But the available empirical evidence also suggests that time-preference discount rates are low.<sup>7</sup> Other factors typically have a greater effect on individuals' discount rates. These include the level of uncertainty and risk, the nature of the opportunity costs at stake, and the fact that distant outcomes may receive little attention (that is, they are undervalued not because they are thought to lack worth but because they are poorly understood or overlooked). Individuals' financial circumstances may also influence their time horizons and intertemporal preferences: there is evidence, for instance, that poverty and material deprivation can impede a person's cognitive function and encourage short-termist thinking and behaviour.<sup>8</sup>

A related issue is how people think about themselves in future time periods – for instance, at Time 1, Time 2, Time 3 and so on – and how such perceptions influence their intertemporal decision-making.<sup>9</sup> Very often, people regard their "future selves" as distant or even outside of themselves, almost as if they belong to a different person. They perceive their future selves as strangers. To the extent that strangers are valued less than people value themselves, the implications are clear: they will

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6 See for instance Simon Caney "Climate Change and the Future: Discounting for Time, Wealth, and Risk" (2009) 40 *Journal of Social Philosophy* 163; Shane Frederick, George Loewenstein and Ted O'Donoghue "Time Discounting and Time Preference: A Critical Review" (2002) 40 *Journal of Economic Literature* 351; and Michael Spackman "Public Investment and Discounting in the European Union Member Countries" (2001) 1 *OECD Journal of Budgeting* 213.

7 Jacobs *Governing for the Long Term*, above n 2, at 33–38.

8 See generally Anandi Mani and others "Poverty Impedes Cognitive Function" (2013) 341 *Science* 976.

9 Cass R Sunstein *Why Nudge? The Politics of Libertarian Paternalism* (Yale University Press, New Haven, 2014) at 36–37.

place more weight on their current selves than their future selves.<sup>10</sup> This is not to suggest that individuals lack any concern for their future well-being or that of their children and the wider society. Nor are they generally indifferent to "lifetime transcending interests", such as justice and sustainability.<sup>11</sup> Plainly, however, there is a risk that people will downgrade or devalue things that are perceived to be temporally distant, strange or unfamiliar. There is another risk too, namely, that individuals will engage in selective moral disengagement, for instance, by questioning the likelihood of, and minimising their personal responsibility for, future harms.<sup>12</sup> For all such reasons, it should not be surprising if the *timing* of a policy's respective costs and benefits affects its electoral appeal. Other things being equal, policies with front-loaded benefits and back-loaded costs are likely to be more attractive to voters than those with front-loaded costs and back-loaded benefits.

In this context, recent developments and findings in the fields of cognitive psychology, social psychology and behavioural economics are highly pertinent. For example, there is much evidence that human behaviour is affected by various deep-seated psychological processes, cognitive biases and heuristics (that is mental short-cuts, rules of thumb and educated guesses).<sup>13</sup> Put differently, a raft of ingrained habits and deeply rooted traits – whether learned or hard-wired via evolutionary processes – influence how people reason and behave, including how they think about, anticipate and value the future. For instance, people tend to downplay low-probability, but high-impact, events and underestimate future risks, especially those which may appear to be abstract and speculative or never previously experienced.<sup>14</sup> Generally speaking, when individuals are confronted with intertemporal

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10 For a range of perspectives on such matters, see Sunstein, above n 9; Christopher D Marshall *Compassionate justice: An interdisciplinary dialogue with two gospel parables on law, crime, and restorative justice* (Cascade Books, Eugene (OR), 2012); Katherine L Milkman, Todd Rogers and Max H Bazerman "Harnessing Our Inner Angels and Demons: What We Have Learned About Want/Should Conflicts and How That Knowledge Can Help Us Reduce Short-Sighted Decision Making" (2008) 3 *Perspectives on Psychological Science* 324; and Jeremy Waldron "Who Is My Neighbor?: Humanity and Proximity" (2002) 86 *The Monist* 333.

11 See Janna Thompson *Intergenerational Justice: Rights and Responsibilities in an Intergenerational Polity* (Routledge, New York, 2009).

12 See generally Albert Bandura "Selective Moral Disengagement in the Exercise of Moral Agency" (2002) 31 *Journal of Moral Education* 101; and Albert Bandura "Impeding ecological sustainability through selective moral disengagement" (2007) 2 *Int J Innovation and Sustainable Development* 8.

13 For good introductions, see Daniel Kahneman *Thinking, fast and slow* (Farrar, Straus and Giroux, New York, 2011); and Richard H Thaler and Cass R Sunstein *Nudge: Improving Decisions About Health, Wealth and Happiness* (Yale University Press, New Haven, 2008). For an analysis of how a presentist bias can affect the decision-making of individuals, especially those suffering from material deprivation, see Kizzy Gandy and others *Poverty and decision-making: How behavioural science can improve opportunity in the UK* (The Behavioural Insights Team, London, 2016).

14 See for instance Carolyn Kousky, John Pratt and Richard Zeckhauser "Virgin Versus Experienced Risks" in Erwann Michel-Kerjan and Paul Slovic (eds) *The Irrational Economist: Making Decisions in a Dangerous World* (PublicAffairs, New York, 2010) 99.

choices, these psychological processes and biases tilt their preferences and behaviours towards the present. Such findings are relevant not merely for decision-making by individuals acting independently, but also for collective processes, such as democratic governance. Having said this, the deliberative mechanisms and public debate that are fundamental to democratic institutions can help to counter the negative impacts of various cognitive biases, not least by exposing all assumptions, proposals and propositions to rigorous scrutiny. Of course, this also means that the quality of such scrutiny matters.

## ***B Uncertainty***

Uncertainty about the future is another factor contributing to the presentist bias in policymaking. There are fundamental limits to what human beings can reasonably foresee or predict. And the further time horizons are extended, the deeper the uncertainty. No amount of forecasting, imagining, speculating or contemplation can overcome such limitations. Surprising, and sometimes shocking, events are inevitable. Some of these lie beyond the realm of our normal expectations and hence have been called "black swans" by Nassim Taleb.<sup>15</sup> Recent examples include John Key's resignation as Prime Minister in December 2016, the referendum decision in June 2016 for Britain to leave the European Union and the victory of Donald Trump in the American presidential elections in November 2016.

Aside from unpredictable events, uncertainty in policymaking has many other causes. These include policy complexity, a limited understanding of causality (for example the nature of the causal pathways between particular policy inputs, outputs and outcomes) and the problem of dynamic (or time) inconsistency.<sup>16</sup> Dynamic inconsistency refers to situations where a person's (or government's) preferences may change over time and, in so doing, undermine the original intentions. In the policymaking arena, it is reflected in the so-called compliance problem: how can governments bind their successors and thereby increase the likelihood of a particular policy achieving its objectives? This problem is especially acute for policies which must be implemented over long periods of time to be fully effective. If policymakers cannot be sure that future governments will be committed to their original goals (and the interventions required to realise them), they may be reluctant to initiate the policy in the first place – all the more so if significant upfront costs must be imposed on citizens or electorally important sectors. Other things being equal, the greater the level of uncertainty, the more reluctant governments are likely to be to invest for the future. An important issue, therefore, is how to enhance the political sustainability of policies which are critical for long-term societal well-being.

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15 See Nassim Taleb *The Black Swan: The Impact of the Highly Improbable* (Penguin, London, 2007).

16 See for instance Finn E Kydland and Edward C Prescott "Rules Rather than Discretion: The Inconsistency of Optimal Plans" (1977) 85 *The Journal of Political Economy* 473; and Giandomenico Majone "Temporal Consistency and Policy Credibility: Why Democracies Need Non-Majoritarian Institutions" (European University Institute, Florence, Working Paper RSC 96/57, 1996).

### *C Politically Salient Asymmetries*

Various politically salient asymmetries can also affect intertemporal policymaking to the disadvantage of long-term interests.<sup>17</sup> One of these, as already mentioned, is a disjunction between the temporal flow of costs and benefits. Of particular significance politically are policy interventions where the benefits accrue much later than the costs. In such situations, governments must make non-simultaneous exchanges, trading certain costs today for less certain benefits tomorrow.

The voting asymmetry is also politically salient: current generations have voices and votes; future generations do not. Yet the decisions of current generations can profoundly affect the well-being of future generations. Despite this, future generations cannot hold current generations to account. To quote the World Commission on Environment and Development in 1987: "We act as we do because we can get away with it: future generations do not vote; they have no political or financial power; they cannot challenge our decisions."<sup>18</sup>

Yet another politically salient asymmetry arises from the structure of competing interests. In some policy contexts, there are strong pressures for short-termist decisions, not primarily because effective solutions depend on non-simultaneous exchanges, but because well-organised and concentrated interests are pitted against poorly organised and diffuse interests. Powerful companies and industries, for instance, may be opposed by weak consumer lobbies. Typically, the voices and votes representing long-term interests are less influential and less well-resourced than those representing short-term interests.

Finally, various accounting asymmetries affect intertemporal decision-making, albeit often unconsciously. Under current accounting rules, only some types of costs and benefits are recorded and reported. Whereas firms are required to report annually on their financial performance, they are not obliged to report on the social and environmental impacts of their activities.<sup>19</sup> Likewise, at the governmental level: whereas manufactured (or built) capital and financial capital is regularly valued and accounted for, other types of capital – notably, natural, human and social capital – are not. Accounting asymmetries of this nature matter.<sup>20</sup> They affect how policymakers and citizens perceive

17 For a fuller discussion of politically-salient asymmetries, see Boston and Lempp, above n 2.

18 World Commission on Environment and Development *Our Common Future* (Oxford University Press, New York, 1987) at 8.

19 Note, too, that in most countries, publicly listed companies have fiduciary obligations to their shareholders but not to their wider stakeholders. This has significant implications for the incentives facing company directors and senior executives. See for instance Jane Gleeson-White *Six Capitals: The Revolution Capitalism has to have – or can Accountants Save the Planet?* (Allen & Unwin, Sydney, 2014).

20 See for instance Boston and Lempp, above n 2; Gleeson-White, above n 19; Dieter Helm *Natural Capital: Valuing the Planet* (Yale University Press, New Haven, 2015); and Joseph E Stiglitz, Amartya Sen and Jean-Paul Fitoussi *Report by the Commission on the Measurement of Economic Performance and Social Progress* (Commission on the Measurement of Economic Performance and Social Progress, Paris, 2009).

the world, assess progress, and judge governmental performance. Costs and benefits that are measured count; those that are not measured generally do not.

### ***D Ideological Polarisation***

Protecting long-term interests requires prudent and durable political bargains. Negotiating such bargains is easier when a nation's political elites are in broad agreement, both about their desired goals and the means to achieve such goals. Commonly held values and shared mental models about the way policies influence outcomes facilitate cross-party agreements on major policy issues, including those where intertemporal trade-offs are to the fore. Equally, securing political agreement at the elite level is more likely when there is a broad societal consensus on policy goals and priorities. By contrast, if societal divisions are deep and entrenched, political parties are strongly polarised and/or there are powerful populist currents, striking cross-party deals is much harder – as highlighted in recent years in the United States.<sup>21</sup> Amongst other things, ideological polarisation undermines political trust, increases opportunistic behaviour and enhances the risks of dynamic inconsistency. In so doing, it exacerbates the difficulties of tackling long-term policy challenges and reinforces the presentist bias.

### ***E Low Political Trust***

Low-trust environments are bad for protecting future interests. If citizens distrust their politicians, they will be more reluctant to support policies that involve non-simultaneous exchanges. By contrast, if trust is high, they will more readily accept the logic of intertemporal bargains and are less likely to penalise governments that implement such strategies.<sup>22</sup> In effect, political trust increases the safe electoral space within which governments make their decisions. It thus represents an important intangible asset. From a transaction cost perspective, it constitutes a "specific asset".<sup>23</sup> As such, trust plays a critical role within the political system. It supplies the glue that enables long-term deals to be struck. It also increases the chances that they will endure. In so doing, it helps mitigate the presentist bias.

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21 See for instance Michael Barber and Nolan McCarty "Causes and consequences of polarization" in Jane Mansbridge and Cathy Jo Martin (eds) *Negotiating Agreements in Politics* (American Political Science Association, Washington (DC), 2013) 19; James A Thurber "Assessing Presidential-Congressional relations: The need for reform?" in *Rivals for Power: Presidential-Congressional Relations* (5th ed, Rowman & Littlefield Publishers, Lanham (MD), 2013) 321.

22 For instance, there is survey evidence that people are more willing to pay their taxes to fund long-term investments when they have confidence that the government will spend their taxes prudently. See Jacobs and Matthews, above n 2, at 926–927.

23 See Jonathan Boston "Purchasing Policy advice: The Limits of Contracting Out" (1994) 7 *Governance* 1 at 17; and M Sako "The role of 'trust' in Japanese buyer-supplier relationships" (1991) 45 *Ricerche Economiche* 449 at 451.



Significantly, there is evidence that levels of trust in a society are related to the distribution of income and wealth: other things being equal, the more unequal a society, the lower the level of trust.<sup>24</sup> Understandably, levels of political trust are also influenced by governmental performance and the degree of corruption.<sup>25</sup> Governments that are inefficient and corrupt are not trusted. Such considerations are highly relevant to the quest for sound anticipatory governance. They point to the need to tackle gross inequalities, foster shared goals and values, improve governmental effectiveness and take active measures to minimise corrupt practices.

### **III WHERE ARE LONG-TERM INTERESTS MOST AT RISK?**

There are two main types of policy problems where a presentist bias in decision-making is most likely to occur: creeping problems and those where governments must make non-simultaneous exchanges in order to protect future interests (that is, exchanges which impose near-term costs in order to generate long-term benefits). Often, these problem types are connected. This is because many creeping problems require intertemporal transfers to alleviate: without short-term pain there can be no long-term gain.

#### **A Creeping Problems**

As the name suggests, creeping problems develop gradually and sometimes imperceptibly. They evolve bit by bit and often lack critical thresholds or abrupt tipping points, at least during their early stages. Because the changes are slow and incremental and because there are few, if any, vivid, dramatic or unmistakable early warning signals, they tend to attract little public or political attention. Frequently, too, creeping problems exhibit a long time lag between cause and effect. Hence, while the risks may be known and well understood (at least to the relevant experts), public concern is hard to mobilise. A failure by governments to intervene expeditiously and effectively to address creeping problems is often exacerbated by a lack of monitoring and hence inadequate early detection, poor communication of the risks, limited or contested evidence, a lack of imagination (for example a failure to think through the possible consequences carefully and logically) and excessive governmental secrecy.<sup>26</sup>

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24 See for instance Bo Rothstein *Social Traps and the Problem of Trust* (Cambridge University Press, Cambridge, 2005); Bo Rothstein *The Quality of Government: Corruption, Social Trust, and Inequality in International Perspective* (Chicago University Press, Chicago, 2011) [*Quality of Government*]; Bo Rothstein and Eric M Uslaner "All for All: Equality, Corruption and Social Trust" (2005) 58 *World Politics* 41; and Richard Wilkinson and Kate Pickett *The Spirit Level: Why equality is better for everyone* (Penguin, London, 2010).

25 See generally Rothstein *Quality of Government*, above n 24.

26 See Boston *Governing for the Future*, above n 2, especially at 46–52; see generally Jacobs *Governing for the Long-Term*, above n 2; and Olson, above n 3.

Unfortunately, many creeping problems also exhibit a high degree of path dependence and produce cumulative, snowballing or non-linear impacts. They thus become harder and more costly to alleviate with the passage of time. Accordingly, delays in responding may reduce or even eliminate the possibility of low-cost solutions. This means that the burden of managing and mitigating the problem will be shifted onto future citizens and taxpayers. Worse, the failure to intervene early may lead to serious and irreversible damage (for example to critical ecosystem services or a nation's social fabric). Any attempt to improve governmental stewardship, therefore, must give proper attention to creeping problems. In particular, it must identify ways to overcome – or at least reduce – the "attentional deficits" and the phenomenon of "out of sight, out of mind" that contribute to the failure of policymakers to act.

There are numerous creeping problems currently facing governments, both in New Zealand and elsewhere. In the social domain, examples include long-term demographic changes, such as population ageing, increasing income and wealth inequality, declining rates of home ownership, greater social and cultural diversity and declining societal trust. In the field of health care, there is the spreading obesity pandemic and the increasing incidence of antimicrobial resistance. In the realm of domestic and international security, there is the increasing surveillance of individuals and groups within society arising from the growing collection, recording, storage and analysis of information. But it is the area of environmental policy where creeping problems are most widespread and, perhaps, concerning. Among the best well-known ones are: the rising concentrations of greenhouse gases in the atmosphere and the related acidification of the world's oceans; the growing vulnerability of critical infrastructure and other physical assets due to their location in coastal zones which are increasingly at risk because of sea level rise; the slow accumulation of toxic chemicals and microplastics in the environment and hence the food chain; the decline in the populations of important pollinators, such as honey bees (for example, because of the spread of colony collapse disorder); the gradual loss of freshwater supplies due to the depletion of aquifers, deteriorating water quality, the over-allocation of freshwater resources and changing climatic conditions; and the gradual loss of biodiversity and wilderness areas. Without concerted and effective efforts to mitigate such problems, the implications for future generations are dire.

### ***B Policy Problems Requiring Intertemporal Exchanges***

Most policy problems – whether economic, social or environmental – have an intertemporal dimension. Often, their effects are felt over many years. Equally, solving problems may require dedicated and prolonged efforts. In some cases, too, the main burdens and benefits may fall in different time periods.

Of course, policy problems – like water contamination, ethnic conflicts, substance abuse, species extinction, asset price bubbles, financial crises, homelessness, an ageing population or increasing rates of obesity – differ markedly in the timing and duration of their effects. Some problems are relatively short-lived. Others are recurrent, sporadic or episodic. Yet others – such as crime, domestic violence,

chronic illnesses and family dysfunction – are enduring. Some have persistent or irreversible impacts; others do not.

Policy solutions also differ in their temporal dimensions. Some problems can be solved quickly and effectively, while others require ongoing attempts to ameliorate – perhaps over many generations. Whereas some policies generate a relatively steady and even flow of their respective costs and benefits, others exhibit marked unevenness. Indeed, sometimes there is a pronounced disjunction between the timing of their costs and benefits (or co-benefits) – for instance, with current generations bearing most of the costs while future generations receive a disproportionate share of the benefits. In such circumstances, a non-simultaneous exchange is required. Such exchanges are invariably unidirectional: the costs are disproportionately front-loaded while the benefits are disproportionately back-loaded. In some cases, the gap between the flow of costs and benefits may be only a few years. But in other cases – like policies to mitigate climate change, reduce the loss of species or clean up badly polluted rivers and lakes – the lags may be very long, perhaps decades or even centuries. Hence, many of those who bear the burden of such interventions enjoy few of the benefits. The transfers in such cases are not merely intertemporal, they are also intergenerational.

Non-simultaneous exchanges involving near-term costs and back-loaded benefits are, of course, very common. To some degree or another, all investments, whether public or private, take this form: future returns depend on upfront outlays. But whenever significant public investments are required, there is a risk that governments will underinvest – and almost certainly a greater risk of underinvestment than overinvestment. That is to say, because of the disjunction between the respective flows of costs and benefits, they may be unwilling for electoral reasons to take the necessary gamble. Other things being equal, investment-type solutions will be especially problematic politically when one or more of the following conditions apply:

- (1) There is a significant gap between the timing of the costs and benefits (or co-benefits) of the investment.
- (2) The costs fall disproportionately on powerful organised groups while the benefits are spread more evenly across the population; and/or the costs fall largely on groups which enjoy few of the benefits; and/or there is greater clarity about the losers than the winners.
- (3) The risks or effects of the policy problem are not readily observable, specific, concrete or self-evident while the costs of the investment are much more transparent, direct and obvious.
- (4) The costs and benefits of the investment are largely incommensurable – in particular, the costs are mainly financial or material in nature while the benefits are predominantly non-financial and more intangible (for example, protecting little known species, unique ecosystems, historical sites or other cultural treasures).
- (5) There is much more certainty about the nature, timing and magnitude of the costs than about the benefits.

Based on this brief analysis, a presentist bias is least likely where no significant non-simultaneous exchanges are required or where investments involve tangible goods or assets (for example, financial or material) that deliver relatively certain, direct, visible and prompt benefits. Infrastructure investments – whether in the fields of energy, transport or communications – typically fall into this category. By contrast, the risk of a presentist bias is much greater where the required investments generate mostly intangible goods and where the expected benefits are uncertain, indirect, invisible and temporally distant. Many environmental policy problems fall into this category. Hence, enhancing the capacity to protect natural capital and ecosystem services must lie at the heart of efforts to counter policy short-termism. Good stewardship of environmental "goods" is vital for humanity's collective intergenerational well-being.

#### ***IV AN AGENDA FOR REFORM***

How, then, might the presentist bias in democratic policymaking be countered? What specific reforms might contribute to better long-term decisions? In what follows, I will focus on New Zealand. Nevertheless, many of the proposals addressed below would be equally applicable in other democratic contexts. Indeed, some are based on the experience and policy experiments of other jurisdictions.

Let me begin with some preliminary observations. First, given the multiple causes of the presentist bias and the many different long-term risks that must be mitigated, it would be unrealistic and unwise to rely on any single institutional reform or policy innovation. Instead, a multi-pronged approach is required with carefully tailored, cost-effective initiatives across the broad sweep of governmental activity. Vague generalities and wishful thinking have no place. Specificity of purpose and good institutional design are essential. As Jacqueline McGlade, a former Executive Director of the European Environment Agency, put it:<sup>27</sup>

... if we are to respond more responsibly to the early warning signals of change, we will need to re-design our style of governance to one which reflects a future defined by the local and specific rather than only the global and average.

Likewise, as Steffen Foss Hansen and Joel Tickner emphasise, each risk we face "is unique, as is the science and politics behind it and hence a flexible approach is therefore needed, adapted to the nature of the problem."<sup>28</sup>

Secondly, as a general rule, it is preferable to build on and strengthen existing institutions, policy frameworks and processes rather than introducing entirely new ones. Amongst other things, the former

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27 Jacqueline McGlade "Preface" in European Environment Agency *Late Lessons from Early Warnings: Science, Precaution, Innovation* (European Environment Agency, Copenhagen, 2013) 6 at 8.

28 Steffen Foss Hansen and Joel A Tickner "The Precautionary Principle and False Alarms – Lessons Learned" in European Environment Agency *Late Lessons from Early Warnings: Science, Precaution, Innovation* (European Environment Agency, Copenhagen, 2013) 17 at 17.

approach is typically cheaper, easier politically and less time-consuming. Moreover, a core objective must be to enhance the quality of our democracy through better information, more transparency, improved consultative and collaborative mechanisms and greater accountability. In my view, the solution does not lie in replacing democratic institutions with non-democratic ones.

Thirdly, a core goal must be to counter the presentist bias by shifting the temporal horizon of decision-makers and citizens towards the future. In other words, the long-term must be brought into sharper day-to-day political focus. This means finding ways to increase the incentives on decision-makers to take long-term societal interests seriously. It also means reducing their future-oriented attentional deficits and enhancing the clarity and political salience of early warning signals.

With these considerations in mind, the following discussion focuses on six areas of reform:<sup>29</sup>

- (1) a longer, fixed parliamentary term;
- (2) using policy commitment devices to embed the future more deeply within our democratic institutions and policy processes;
- (3) enhancing the political system's capacity for foresight;
- (4) strengthening institutional voices for the future, including the stewardship responsibilities of the public service;
- (5) embedding the future more firmly within analytical frameworks; and
- (6) nurturing a future-focused political culture that facilitates durable political bargains on important intergenerational issues.

### ***A A Four-Year Fixed Parliamentary Term***

There are a number of constitutional reforms which could improve the protection of long-term interests and counter the presentist bias. Sir Geoffrey Palmer and Andrew Butler, for instance, have argued that New Zealand's constitution is not "fit for purpose" and have advocated the introduction of a written, codified and entrenched constitution.<sup>30</sup> Such a constitution could include specific provisions to safeguard future-oriented interests, such as a right to an "ecologically healthy environment", "an environment that is not harmful to [a person's] health or well-being" or a duty on governments to ensure the responsible use of natural resources and protect all species.<sup>31</sup> But there appears to be little

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29 The reform agenda outlined here is largely drawn from Boston *Safeguarding the Future*, above n 2, at 126–171.

30 Geoffrey Palmer and Andrew Butler *A Constitution for Aotearoa New Zealand* (Victoria University Press, Wellington, 2016) at 13.

31 There are various possible ways of wording such a provision. See Boston *Governing for the Future*, above n 2, at 208–210; and Palmer and Butler, above n 30, at 69.

political appetite at present in New Zealand for fundamental constitutional reform. Moreover, the international evidence suggests that the various existing provisions in national constitutions that are explicitly designed to protect long-term interests have not been very effective.<sup>32</sup> In some cases, this is because the relevant provisions are not justiciable (for example, because they are located in the preamble); alternatively, their wording is too vague and open-ended to provide meaningful protection. In other cases, the limited effectiveness reflects the reluctance of the courts to adopt an activist stance, with judges believing that the task of balancing conflicting intertemporal interests is best left to the democratic process.

Nevertheless, amongst the reforms proposed by Palmer and Butler, one could be readily implemented without the need for an entrenched constitution, namely an extension of the current three-year parliamentary term to four years. As it stands, New Zealand's parliamentary term is comparatively short. Currently, of over 190 lower houses and unicameral national legislatures, only 10 have a term of three years or less, 75 have a four-year term and 103 have a five-year term.<sup>33</sup> Moreover, the current three-year term in New Zealand is not fixed. Hence, as long as a prime minister retains the confidence of the House, he or she can call an early election. In my view, there would be merit in moving to a four-year term and making it fixed – or at least semi-fixed as, for instance, in Sweden.<sup>34</sup> Without constraining the right of a prime minister to call early elections, increasing the term of Parliament may not have the desired impact.

There is no guarantee that a longer term would extend the time horizons of policymakers significantly. Against this, it is likely to enhance the capacity for governments to undertake thoroughgoing policy reforms in a more careful, considered, evidence-informed manner. It would also provide more time to address major, long-term issues and seek cross-party agreement on durable policy bargains.

The main political challenge would be to convince the public that a longer term would be desirable and that it would not reduce overall governmental accountability. There have already been two referenda in New Zealand during the past half century on increasing the parliamentary term – and both were heavily defeated. Holding a further referendum without a reasonable chance of success would be pointless. In the meantime, efforts to address the presentist bias are probably best directed elsewhere.

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32 See Boston *Governing for the Future*, above n 2, at 201–216.

33 Inter-Parliamentary Union "IPU PARLINE database: Parliaments at a glance" <[www.ipu.org](http://www.ipu.org)>.

34 See Jonathan Boston *Governing Under Proportional Representation* (Institute for Policy Studies, Wellington, 1998) at 114–117.

## ***B Policy Commitment Devices***

One way to protect future-oriented interests is through the use of commitment devices.<sup>35</sup> Such devices can take many forms (for example, New Year's resolutions, marriage vows, policy targets, multiparty agreements and legal requirements for governments to abide by procedural rules or substantive principles). Their aim is to bind a person, organisation or government to a particular course of action or to conform to specified norms. Such devices operate by limiting future discretion or reinforcing self-restraint. In particular, they penalise bad behaviour, like renegeing, defecting or taking easy options. In this way, they can reduce the propensity for actions considered impatient, impulsive, expedient, myopic or narrowly self-interested. Importantly, this can affect the intertemporal payoff structure, rebalancing the scales to protect long-term interests.

Currently, New Zealand has a significant number of policy-oriented commitment devices, both of a procedural and substantive nature, that are designed, at least in part, to enhance intergenerational governance. Examples include the various rules for fiscal and environmental reporting, statutory requirements for fiscal responsibility and sustainable resource management, and support for international agreements like the Paris Agreement on climate change and the United Nations Sustainable Development Goals. But some of the existing commitment devices are weak (for example they lack a statutory basis) and the current framework contains important gaps. Leaving aside new commitment devices of a constitutional (or quasi-constitutional) nature, there are many non-constitutional devices that could be implemented with relatively little difficulty and for only a modest cost.

The first approach would be to strengthen existing commitment devices. Take, for instance, the area of fiscal policy. Currently, the Treasury is required to produce periodic long-term fiscal statements. But while Parliament's Finance and Expenditure Committee scrutinises these documents, there is no statutory obligation for the government to respond to the Treasury's findings – for example, by indicating how it plans to address any significant long-term fiscal challenges which the Treasury has highlighted. If such a requirement were added, governments would need to be more transparent about their long-term intentions and give greater attention to long-term fiscal risks. Accountability would also be enhanced if responsibility for chairing the Finance and Expenditure Committee were

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35 See for instance Gary Miller "Above politics: Credible Commitment and Efficiency in the Design of Public Agencies" (2000) 10 *Journal of Public Administration Research and Theory* 289; Richard V Reeves "Ulysses Goes to Washington: Political myopia and policy commitment devices" Brookings Institution Center for Effective Public Management <[www.brookings.edu](http://www.brookings.edu)>; Todd Rogers and Max H Bazerman "Future lock-in: Future implementation increases selection of 'should' choices" (2008) 106 *Organizational Behavior and Human Decision Processes* 1; Todd Rogers, Katherine L Milkman and Kevin G Volpp "Commitment Devices: Using Initiatives to Change Behaviour" (2014) 311 *JAMA* 2065 at 2065–2066; and Jill Rutter and William Knighton *Legislated policy targets: Commitment device, political gesture or constitutional outrage?* (Institute for Government, London, 2012).

to reside with an opposition MP – as, for instance, is the case with the Public Accounts Committee of the British House of Commons.

To take another example: the Parliamentary Commissioner for the Environment has recently recommended that the domain and synthesis reports on the environment produced jointly by the Ministry for the Environment and Statistics New Zealand should provide a commentary at the end dealing with the outlook for different environmental issues.<sup>36</sup> In some cases, this might include quantitative projections and risk assessments. To quote the Commissioner:<sup>37</sup>

We need both evidence and reasoning to be able to judge which environmental issues we should worry about the most ... The significance of an environmental issue cannot be judged without looking ahead. If the pressures that are damaging an aspect of the environment are expected to decrease, then there may be less reason for concern. If significant policy and regulation changes have been put in place to address the issue, again there may be less reason for concern. But if a tipping point is approaching or the scale of the problem is accelerating, there will be more reason for concern.

Similar obligations for forward thinking – that is, to reflect on the future significance of current policy outcomes and trends – could be applied to many other regular governmental reports. Indeed, such an approach would be thoroughly consistent with the new provisions in the State Sector Act 1988 for departmental chief executives to exercise "stewardship" responsibilities (see below). Admittedly, there would be a fiscal cost. There would also be a risk of such commentaries being written in highly generalised terms. Nevertheless, requirements of this nature would increase the likelihood of government agencies and their respective ministers looking beyond their immediate horizons and thinking more carefully about the long-term implications of current policy settings.

As well as strengthening existing commitment devices, new ones could also be implemented. Here are three suggestions for reform. In each case, a central aim would be to embed future-oriented concerns in day-to-day policymaking and bind decision-makers to undertake specific future-oriented tasks.

### *I A Social Reporting Act*

Currently, there are no legislative requirements in New Zealand for comprehensive reporting in the broad area of social policy (for example, covering objective and subjective well-being, standards of living, income and wealth distribution, health, housing, paid work, knowledge and skills, cultural identity, and crime and punishment). To be sure, many departments and agencies, such as the

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36 See Parliamentary Commissioner for the Environment *The state of New Zealand's environment: Commentary by the Parliamentary Commissioner for the Environment on Environment Aotearoa 2015* (Parliamentary Commissioner for the Environment, Wellington, 2016) at 24.

37 At 6 and 45.



ministries of Education, Health, Justice and Social Development, publish numerous reports – many of them annually – on all manner of policy or research-related issues. But comprehensive social reporting lacks a firm statutory basis.

A Social Responsibility Act, potentially modelled on the provisions contained in the Public Finance Act 1989 relating to fiscal responsibility, has been advocated since the mid-1990s.<sup>38</sup> During the 2000s, after much debate amongst government officials, a modified and scaled-down version of such a statute – in the form of a Social Reporting Act – was recommended to the Government by the Ministry of Social Development. As the name suggests, the proposed Act focused on regular *social reporting* rather than a broader conception of *social responsibility*. But to date, for reasons that are not entirely clear, no government has been willing to take even this modest step.

For various reasons, the National-led Government has thus far placed little weight on social reporting. Hence, although the Ministry of Social Development produced Social Reports annually between 2001 and 2010, there was a six-year break until the next one was published in 2016. Unfortunately, the continuing lack of ministerial interest in such reporting seems destined to ensure that the 2016 document will be the last, at least for a while. Placing Social Reports on a firm statutory basis would avoid their publication being at the mercy of fluctuating ministerial priorities. Furthermore, all future Social Reports should include a section commenting on the significance of the outcomes reported, especially their *long-term* societal and policy implications. Such a section could also contain a distributional analysis of government social expenditures, including how particular age groups, cohorts and regions fare.<sup>39</sup>

## 2 A Long-Term Reporting Act

A separate and complementary approach would be to enact a Long-Term Reporting Act. Such a statute could cover three specific matters: periodic government intergenerational reports; regular reporting on intergenerational fairness; and regular reporting of progress towards meeting long-term policy targets.

Let me elaborate briefly on the nature of such reporting. First, governments could be legally obliged to produce every alternate parliamentary term a substantive report on future-oriented policy

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38 See Jonathan Boston, Susan St John and Bob Stephens "The Quest for Social Responsibility" (1996) 7 Social Policy Journal of New Zealand 2.

39 For instance, such analyses could consider whether there is a *pro-elder bias* in social expenditures. For various discussions on such matters, see Pieter Vanhuyse *Intergenerational Justice in Aging Societies: A Cross-National Comparison of 29 OECD Countries* (Bertelsmann Stiftung, Gütersloh (Germany), 2013); and Philippe van Parijs "The Disenfranchisement of the Elderly, and Other Attempts to Secure Intergenerational Justice" (1998) 27 Philosophy and Public Affairs 292.

issues.<sup>40</sup> This could be called an "Intergenerational Report" or a "Statement on Intergenerational Governance". Unlike the Treasury's long-term fiscal statements, it would be the responsibility of ministers; it would also be broader in scope, with a longer time horizon. While governments would be at liberty to determine the precise contents of such reports, the relevant statute could be written to ensure that they encourage serious governmental reflection on major long-term risks and opportunities. To illustrate, the legislation could specify that each report must, *inter alia*:

- (1) consider a time horizon of at least 100 years;
- (2) provide an overall assessment of the major long-term risks, both natural and man-made, facing the country;
- (3) identify the trends and signals that are particularly concerning for future well-being, including societal and cultural trends (for example, issues of family structure, demography, social cohesion, inclusion, alienation, identity and diversity), major natural hazards and evolving climate change risks;
- (4) evaluate the government's risk management capability and adaptive capacity;
- (5) evaluate progress towards achieving important long-term governmental targets, including those embodied in international agreements (for example the United Nations Sustainable Development Goals and climate change treaties);<sup>41</sup>
- (6) review the long-term economic, social and environmental implications of, and possible ways of addressing, at least one slow-onset problem or a problem which is likely to have significant cumulative effects;
- (7) evaluate the economic, social and environmental implications of at least one large-scale emerging technology; and
- (8) set new or additional measurable and meaningful goals to address at least one long-term policy problem.

Additionally, there could be a statutory requirement for the government to seek expert advice in preparing each report (for example, from the Royal Society of New Zealand). There could also be mandated opportunities for public consultation, as for instance occurs during the preparation of the government's periodic long-term reports in Finland.<sup>42</sup> To ensure high-level political engagement,

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40 In Finland, for instance, there is a requirement for governments to produce a report on the future every parliamentary term, but the precise requirements in relation to these reports are not specified. See Boston *Governing for the Future*, above n 2, especially at 403–407.

41 There are obligations in various international agreements for governments to report on progress with respect to their commitments.

42 See Boston *Governing for the Future*, above n 2, especially at 404–406.

responsibility for such reports should rest with the Prime Minister. Further, there should be a requirement under Parliament's Standing Orders for each report to be scrutinised by a select committee (see below), with opportunities for public submissions and open public hearings, and a subsequent debate in the House.

Secondly, a Long-Term Reporting Act could oblige governments to assess and report on the intergenerational implications of major policy decisions, such as the annual budget. This could include the development of an index of intergenerational fairness – or perhaps more realistically and appropriately, separate indices within different policy domains.<sup>43</sup>

Thirdly, the proposed legislation could strengthen the current approach to the setting of policy targets. For many years, governments have used targets as one of their primary political commitment devices. Such targets serve multiple purposes: they signal direction, focus attention, harness bureaucratic effort and enhance accountability. But there is a risk, especially when targets are long-term (for example, 10 years or more), that they will lack political salience. Governments may also prefer to downplay the relevance of particular targets, notably when performance is unsatisfactory.

One way to reinforce the political salience of policy targets would be to make it mandatory for governments to set specific and meaningful milestones whenever they establish formal targets extending beyond, say, five years. Consider, for instance, the ambitious target to make New Zealand predator free by 2050: several milestones have been set for 2025, including the suppression or removal of pests from an additional one million hectares, demonstrating that predator-free areas can be created without the use of fences and eliminating all introduced predators from offshore island nature reserves. While such milestones are positive, the Government has thus far committed only modest public resources to the predator-free goal. Without adequate long-term funding, the project will struggle to gain traction.

An additional measure would be to require governments via a Long-Term Reporting Act to publish an annual report which records all publicly-announced targets across each ministerial portfolio and assesses progress towards meeting them. Such reports would include any targets contained within international instruments to which the country is a party (for example, the Sustainable Development Goals). Where progress is demonstrably inadequate, there could be a statutory requirement for the government to outline its proposed remedial actions.

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43 See for instance Jeremy Leach and Angus Hanton *Intergenerational Fairness Index 2015* (Intergenerational Foundation, London, 2015). Note that attempts to develop a single integrated index raise major analytical and ethical challenges, not least the problem of incommensurability.

### 3 *A Risk Reporting Act*

Governments should be legally obliged to report to Parliament annually on risk management.<sup>44</sup> Such reports should include:

- (a) any changes to the national risk register;
- (b) significant losses due to natural or man-made disasters during the previous year, and the main policy lessons arising from these disasters;
- (c) significant trends in disaster risk;
- (d) progress on disaster risk reduction, including a summary of the results of recent stress-tests; and
- (e) any proposed policy changes to mitigate or manage specific risks, including emerging ones.

Furthermore, such reports should be reviewed by an appropriate parliamentary select committee (see below), and subsequently debated in the House.

### ***C Improving the Capacity for Foresight***

Unlike many other democracies, New Zealand invests relatively little in formal foresight processes. It lacks a dedicated, high-level foresight unit in central government. Likewise, there is no academic research centre devoted to foresight methodologies and assessments, no national scenarios to use in such assessments, no parliamentary committee focused on emerging and long-term policy issues, few serious evaluations of the societal impacts of emerging technologies and important scientific discoveries, and only sporadic efforts by major departments and agencies to undertake horizon scanning and scenario analyses in their respective areas of responsibility.<sup>45</sup> Greater investment in foresight would not ensure that all future hazards are properly anticipated or assessed; nor would it guarantee that the appropriate decisions are taken to safeguard long-term interests. But it would certainly increase the capacity to identify significant risks and opportunities, including the early detection of harmful trends and developments. Similarly, it would help embed disciplined thinking about future consequences in the policy process, thereby helping to mitigate short-termist tendencies.

In my view, the foresight capacity of both our executive and legislative branches should be bolstered. Internationally, there are many different models from which we could draw. But whatever approach is adopted, the new entities need clear mandates and adequate resources and must be properly integrated into the wider governmental and parliamentary processes.

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44 For a recent assessment of New Zealand's current risk management framework, see Reid Basher "High Stakes – Disaster Risk in New Zealand" (2016) 12(3) Policy Quarterly 25.

45 The Future of Work Commission established by the Labour Party in 2014 is a notable exception.

### *1 A dedicated foresight unit*

A permanent foresight unit should be established, ideally on a statutory basis, and located within a central agency, such as the Department of Prime Minister and Cabinet. Its functions could be modelled on those of the Foresight and Horizon Scanning teams in the Government Office for Science in London.<sup>46</sup> This would involve the unit undertaking in-depth analyses of complex, long-term problems and providing strategic options for policy reform. It would also coordinate the foresight activities of government departments and agencies, provide advice and technical assistance of foresight methodologies, draw on the resources of the country's universities and other research institutions and bring emerging issues to the attention of the government and the wider public. It could also be charged with evaluating the impacts of large-scale emerging technologies and assisting the Prime Minister to produce periodic intergenerational reports.

### *2 A parliamentary select committee for the future*

A permanent select committee should be established under Parliament's Standing Orders with a specific mandate to focus on future-oriented issues. Such a committee could be modelled on the successful Committee for the Future in the Finnish Parliament, which was created in 1993.<sup>47</sup> Ideally, it should be chaired by an opposition MP. The committee's responsibilities could include:

- (1) Assessing the quality and implications of the foresight work undertaken by government departments and agencies;
- (2) Reviewing the government's periodic intergenerational reports, its annual reports on risk management and its annual reports on policy targets, and the quality of its intergenerational reporting;
- (3) Scrutinising the performance of government departments in undertaking their "stewardship" responsibilities under the State Sector Act 1988, including their capacity to address the long-term issues identified in their (triennial) briefings to incoming ministers;
- (4) Reviewing the intergenerational implications of current policy settings;
- (5) Conducting inquiries into the management of creeping issues and other issues with significant long-term societal implications;
- (6) Assessing the economic, social and environmental implications of important new and emerging technologies;

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46 See Government Office for Science <[www.gov.uk](http://www.gov.uk)>.

47 See Boston *Governing for the Future*, above n 2, at 401–415.

- (7) Conducting periodic assessments of significant risks, including systemic risks, and emergent economic, social and environmental phenomena;
- (8) Undertaking horizon scanning exercises; and
- (9) Investigating ways of improving anticipatory governance.

Having a dedicated select committee of this nature would not only bring important long-term policy issues under a parliamentary spotlight, but it would also expose MPs to a range of evidence, methodologies and investigative techniques that are often ignored or poorly understood, such as the assessment of risk. Further, it would enable a more concerted and in-depth consideration of major intertemporal issues, including questions of intergenerational justice. As part of its remit, a parliamentary committee for the future could be charged with engaging periodically with the public and encouraging wider debate on societal goals and aspirations.

### ***D Strengthening Institutional Voices for the Future***

Protecting long-term interests faces the perennial challenge that the voices of the present often drown out those of the future. As Al Gore once put it, "[t]he future whispers while the present shouts".<sup>48</sup> While there is no complete solution to this problem, part of the answer must be to bolster those institutions whose role is to speak for future-oriented interests, such as the Parliamentary Commissioner for the Environment, the Children's Commissioner, the Commissioner for Financial Literacy and Retirement Income and, to some extent, the Prime Minister's Chief Science Advisor. At present, such institutions are small and modestly funded. Additional capability would not go amiss.

Another approach would be to establish new independent institutions in areas of public policy where the voice for the future needs enhancing. One obvious example is climate change. In my view, there is a strong case for New Zealand enacting legislation similar to the Climate Change Act 2008 (UK), albeit adapted for local circumstances.<sup>49</sup> Central to such an approach would be the establishment of a high-level, expert committee to advise the government on all matters relating to climate change, including New Zealand's long-term emissions-reduction targets; multi-year emissions budgets; mitigation strategies and policies; and adaptation strategies and policies.<sup>50</sup> The Committee would also be charged with monitoring the government's progress in meeting its mitigation

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48 Al Gore *Earth in the Balance: Ecology and the Human Spirit* (Houghton Mifflin, New York, 1992) at 170.

49 For an analysis of the British Climate Change Act, see M Lockwood "The political sustainability of climate policy: The case of the UK Climate Change Act" (2013) 23 *Global Environmental Change* 1339.

50 See Committee on Climate Change <[www.theccc.org.uk](http://www.theccc.org.uk)>. Note that in April 2016, the Parliamentary Commissioner for the Environment suggested establishing an independent climate change agency in New Zealand, possibly modelled on the British Committee on Climate Change, in a submission on the Emissions Trading Review 2015/16. See Jan Wright "Emissions Trading Scheme Review 2015/16: Other matters" Parliamentary Commissioner for the Environment <[www.pce.parliament.nz](http://www.pce.parliament.nz)>.

commitments and adaptation goals, and reporting to Parliament. It would have its own secretariat and be independent of government departments.

Of all our governmental institutions with responsibilities to protect the long-term public interest, the public service is amongst the most critical. In effect, a permanent, professional, non-partisan public service constitutes a large, enduring, future-focused commitment device. While faithfully serving the government of the day, it must also retain the capacity to serve future governments – in perpetuity. By virtue of its statutory roles and ethical norms, the public service helps to ensure that ministers govern in accordance with constitutional conventions, robust procedures and reliable evidence. Of vital importance in this respect is the provision of free and frank advice. Through strong, evidence-informed independent advice, departmental advisers can discourage opportunistic decision-making and protect the government's ownership interest (that is as an owner, investor and risk bearer).

The former Prime Minister, John Key, highlighted the public service's contribution to safeguarding long-term interests in August 2015 when launching the *Policy Project Frameworks* (which are designed to improve policy capability and the quality of policy advice). As he explained:<sup>51</sup>

... it's important that departments invest in long term thinking ... We need creative thinkers who will challenge us out of status quo thinking and encourage us to take risks in the interests of better long term outcomes ... Great advice from officials helps ministers balance the needs of today with longer term goals so we can govern better for future generations as well as today ... While I hold ministers to account for delivering the priorities of today, they also have a responsibility to ensure their departments are thinking about the challenges of tomorrow. I expect ministers to engage constructively with their chief executives in making space for longer term thinking. Ministers and CEs [chief executives] need to balance current priorities with the investment in research, analysis and the deep subject matter expertise and capability needed to provide robust advice about future risks and opportunities.

Debate continues over whether departments are sufficiently brave in the nature of the policy advice they offer ministers and whether they devote sufficient time to long-term issues.<sup>52</sup> But whatever the strengths and weaknesses of existing practices, improvement is almost certainly possible. The new focus on stewardship in the State Sector Act provides an important lever. But it must be actively engaged. This will require leadership from the State Services Commissioner in fulfilling the Commissioner's statutory responsibility of "promoting a culture of stewardship in the State services."<sup>53</sup> There will also need to be strong incentives for departmental chief executives, via

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51 John Key "Launch of Policy Project Frameworks" (23 August 2016) New Zealand National Party <[www.national.org.nz](http://www.national.org.nz)>.

52 For an assessment of the provision of free and frank advice, see Transparency International New Zealand *Integrity Plus 2013: New Zealand National Integrity System Assessment* (Transparency International New Zealand, Wellington, 2013).

53 See State Sector Act 1988, s 4A(i).

their performance agreements and accountability mechanisms, to exercise their stewardship responsibilities (that is, financial, organisational, regulatory and so forth). Amongst other things, this means embedding the notion of stewardship firmly within all relevant departmental performance management systems (for example, statements of intent, four-year plans, output plans, annual reports and other strategic, monitoring and reporting mechanisms; the Performance Improvement Framework for reviewing departmental performance; the talent management system across the public sector; and the various mechanisms for encouraging system stewardship and regulatory stewardship). In all likelihood, additional public funding will be needed to build analytical capacity and strengthen the level and quality of investment in long-term thinking and future-focused policy research.

The stewardship role of departments could be enhanced through their briefings to incoming ministers after each general election. For instance, such briefings could include a detailed foresight section (with a proper scan of the horizon over coming decades), identify critical long-term issues and offer strategic advice on possible solutions. To undertake such reporting cost-effectively, the more strategic and systemic aspects of such briefings could be led by the central agencies or the main sector groupings (for example, justice, natural resources, social and so forth). Another possibility would be to make briefings to incoming ministers a statutory requirement under the State Sector Act, with the nature of their coverage (including the scanning of important long-term issues) being clearly specified.

### ***E Embedding the Future within Analytical Frameworks***

In many respects, the future is already deeply embedded in the policy frameworks, analytical techniques, management systems and accounting practices employed by governments and their advisers. But there are notable weaknesses with existing arrangements. Important changes are thus needed. Here are a few suggestions.

#### *1 Discounting the future*

How the future is valued in policy analyses depends largely on the discount rate that is employed. In New Zealand, the Treasury provides guidance to government agencies on conducting cost-benefit analyses. This includes recommended discount rates for different types of projects or investments, with these rates varying depending on the level of risk and other relevant considerations. Over the years, the Treasury has gradually reduced the recommended rates. As of late 2016, the real discount rate recommended varies between four per cent for general purpose offices and buildings to seven per cent for telecommunications, media and technology, IT and equipment, and research and development, with a default rate of six per cent for projects that are hard to categorise, including regulatory proposals.<sup>54</sup> While such rates place a greater value on long-term costs and benefits than previously (for example, when the recommended rates were eight per cent or higher), they are still higher than those adopted in some comparable jurisdictions. HM Treasury, for instance, recommends

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54 See The Treasury "Current Discount Rates - Cost Benefit Analysis" <[www.treasury.govt.nz](http://www.treasury.govt.nz)>.



a real discount rate of 3.5 per cent.<sup>55</sup> It also favours a declining long-term discount rate (for example, for periods beyond 30 years) and recommends the use of a lower discount rate when the merits of a project or proposal are materially impacted by the discounting of effects over the very long run.

Although economists, philosophers and many others differ on the appropriate discount rate, there are powerful ethical grounds for applying an extremely low discount rate when there is a risk of catastrophic impacts or the potential for significant irreversible consequences.<sup>56</sup> There is also a strong case for using a range of discount rates when assessing the merits of major projects and other policy investments. Sensitivity analyses of this nature will alert policymakers to how the discount rate chosen affects the rate of return. Pleasingly, since 2015, the New Zealand Treasury has recommended the use of two different rates when undertaking cost-benefit analyses as part of the budget round. For the 2016 Budget, the recommended rates were eight per cent and four per cent; for the 2017 Budget, they were six per cent and three per cent.<sup>57</sup>

## 2 *Valuing nature and moving towards comprehensive wealth accounting*

If long-term interests are to be properly protected, better data will be needed regarding the country's "comprehensive wealth" or "inclusive wealth" – that is, our national wealth broadly understood and incorporating most or all capital stocks.<sup>58</sup> Existing balance sheets, such as those of the Crown and private organisations, are partial and incomplete. They ignore human, intellectual, social and natural capital. Plainly, without reliable data on the nation's comprehensive wealth, as well as specific knowledge about how various policy decisions will affect particular types of capital (including, for instance, the quality and quantity of ecosystem services), policymakers are more likely to prioritise financial and manufactured capital over other forms of capital. In so doing, they are likely to short-change the future.

Unfortunately, valuing some forms of capital is hard. For instance, valuing natural capital, along with the ecosystem services it provides, poses formidable conceptual, methodological and ethical issues. Fortunately, various governments around the world, together with major international agencies like the World Bank, are devoting significant resources to such matters with the aim of building more comprehensive and rigorous accounting frameworks. Such research should be drawn upon to improve

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55 HM Treasury *The Green Book: Appraisal and Evaluation in Central Government* (HM Treasury, London, 2011).

56 See for instance Martin L Weitzman "Why the far-distant future should be discounted at its lowest possible rate" (1998) 36 *Journal of Environmental Economics and Management* 201.

57 See The Treasury "The Treasury's CBAX Tool" <[www.treasury.govt.nz](http://www.treasury.govt.nz)>.

58 See generally Kenneth J Arrow and others "Sustainability and the Measurement of Wealth" (2012) 17 *Environment and Development Economics* 317; Kirk Hamilton "Biodiversity and National Accounting" in Dieter Helm and Cameron Hepburn (eds) *Nature in the Balance: The Economics of Biodiversity* (Oxford University Press, Oxford, 2014) 177; and Kirk Hamilton and Cameron Hepburn "Wealth" (2014) 30 *Oxford Review of Economic Policy* 1.

the range and quality of our data and reporting. But significant care is needed: neither the intrinsic value of nature nor the worth of human beings can be fully embraced within a spreadsheet. Measures of comprehensive wealth will always be inexact and incomplete; they will only ever convey part of the story. Nevertheless, having *some* information is better than having none at all – as long as it is interpreted sensibly. Knowing whether our stocks, say, of renewable natural capital, are rising or falling is important for judging whether our society is getting better off or worse off, as well as assessing what the future may hold. Likewise, knowing more about the condition of our ecosystem services is crucial for the prudent stewardship of resources.

### 3 *Prioritising path dependence and irreversibility*

It is critically important for policy analyses to identify the potential for path dependence (for example, due to substantial sunk costs or technological lock-ins) or irreversible effects. Irreversibility matters greatly from the perspective of long-term well-being, yet is often overlooked or downplayed by policy advisers. When things of value are very likely to be lost forever, we need to think long and hard about whether such a loss could ever be morally justified, what future generations might conclude about our assessment and decisions and what would be required to avoid – or greatly minimise the chances of – such a loss.

### 4 *Taking a precautionary approach*

For various reasons, the proposition that policymakers should adopt a precautionary approach remains controversial. Such an approach, it is claimed, undermines innovation and reduces economic growth. Concerns have also been raised about the number of false alarms and "false positives" – that is, the unwarranted consideration or over-regulation of minor hazards and the regulation of risks that subsequently turn out to be non-existent.

Yet, the available evidence suggests that these criticisms generally lack substance.<sup>59</sup> Overall, there are far more instances of "false negatives" (that is, cases where early warnings existed but no preventative actions were taken) than false positives. This is despite widespread endorsement of some kind of precautionary principle over many years, as evidenced by its inclusion in statutory instruments. A review several years ago of 88 cases of alleged false positives, for instance, found that, with few exceptions, they either constituted real risks or the jury was still out.<sup>60</sup> Altogether, there were only four clear examples of regulatory false positives. Aside from this, the costs of being wrong are generally asymmetrical. In other words, a failure to act on the basis of credible early warnings typically ends up costing a lot more than an excessive focus on avoiding harm. Also, while the costs of mistaken regulatory action are mainly economic and short-term, the costs of a failure to intervene are often broader and more enduring.

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59 See Hansen and Tickner, above n 28, at 32–33.

60 At 19–22.

Within New Zealand, the precautionary approach and its implications need to be better understood. It also needs to be applied by policymakers and regulators more widely and consistently – ideally as part of an integrated model of risk management and an adaptive approach to governance and planning. Internationally, there are a number of well-established guidelines for the application of the precautionary principle and an appropriate version should be embodied within New Zealand's regulatory framework.<sup>61</sup> Above all, where there are reasonable grounds for concern in the face of uncertain outcomes, the emphasis should be on avoiding or minimising harm, even at the risk of some false alarms. At the same time, policy processes must be sufficiently nimble to enable adaptive and flexible management of risks in the light of changing conditions and technologies.

### ***F Nurturing a Future-Focused Political Culture***

For governments in democracies to anticipate and safeguard the future, they need an active, informed citizenry – one that takes future risks and vulnerabilities seriously and willingly supports policies involving non-simultaneous exchanges. Equally, governments need the capacity and mechanisms to negotiate political bargains to tackle long-term policy problems – bargains that are prudent, effective, efficient and fair, and stick long enough to make a difference. In effect, this means nurturing a future-focused political and intellectual culture, strengthening existing policymaking arrangements and developing new deliberative mechanisms that can contribute to sensible cross-party agreements.

Reforming our political institutions and policymaking processes is almost certainly easier than changing our political culture – although the two are obviously connected. Internationally, there is a wealth of experience regarding deliberative mechanisms for conflict resolution and consensus building.<sup>62</sup> There are many different models, with varying scales, procedures, selection criteria and participative modes. New Zealand has experimented with some of these models in recent years, such as the Land and Water Forum. But we need to be bolder and braver and test a wider range of institutional mechanisms and participative processes. The relevant possibilities include: high-level stakeholder forums, collaborative processes, Swedish-type commissions (involving a mix of politicians, officials, academic experts and NGO representatives) and citizen-based "mini-publics" (for example, citizens' assemblies, citizens' juries, citizens' panels, national issues forums, consensus

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61 See Linda Cameron *Environmental risk management in New Zealand – Is there scope to apply a more generic framework?* (Treasury, Policy Perspectives Paper 06, 2006); and Elizabeth Fisher, Judith Jones and René von Schomberg (eds) *Implementing the Precautionary Principle: Perspectives and Prospects* (Edward Elgar, Cheltenham (UK), 2006).

62 See generally Colin James "Making Big Decisions for the Future" (2013) 9(4) *Policy Quarterly* 21; and Barber and McCarty, above n 21.

conferences, planning cells and deliberative polls).<sup>63</sup> Innovative approaches involve risks. Some failures are inevitable. But there is sufficient evidence of success to warrant making the effort.

Sound intergenerational governance and wise stewardship require adequate political trust and shared goals. A low trust environment is antithetical to future-focused decision-making. If people distrust their leaders, they will afford them little slack. Likewise, in societies which are ideologically polarised, it is harder to reach agreement on long-term goals or the means to secure them. How, then, can we foster political trust and a sense of common purpose? There is no simple remedy. But the ingredients must include competent leadership, political honesty and a high level of transparency in government decision-making. Also, as noted earlier, there is reliable evidence that egalitarian societies witness higher levels of political trust and lower polarisation than those with more unequal distributions of income and wealth.<sup>64</sup> Egalitarianism has other benefits too: greater social cohesion, higher rates of social mobility and possibly higher rates of economic growth.<sup>65</sup> Before the late 1980s, New Zealand had a comparatively egalitarian distribution of income. This is no longer the case. But how might we return to a more equal society? In my view, this constitutes one of the great challenges of the 21st century. Whether we succeed is likely to affect not only the quality of our societal relationships and the opportunities enjoyed by citizens, but also the ability of our political institutions to safeguard our long-term interests.

## V CONCLUSION

This article has advanced the proposition that there is a presentist bias in democratic policymaking. It has argued that this bias is most likely to be exhibited with respect to policy problems of a creeping or slow-burner nature and in situations where governments must make significant non-simultaneous exchanges in order to protect long-term interests. The reforms proposed here are designed to counter the presentist bias in New Zealand by shifting the temporal focus of policymakers towards the future, incentivising foresight and encouraging good stewardship. There is no suggestion

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63 See for instance Robert E Goodin and John S Dryzek "Deliberative impacts: the macro-political uptake of mini-publics" (2006) 34 *Politics and Society* 219; and Graham Smith "Deliberative democracy and mini-publics" in Brigitte Geissel and Kenneth Newton (eds) *Evaluating Democratic Innovations: Curing the Democratic Malaise?* (Routledge, Abingdon (UK), 2012).

64 See Rothstein and Uslaner, above n 24; and Wilkinson and Pickett, above n 24.

65 See for instance Anthony B Atkinson *Inequality: What can be done?* (Harvard University Press, Cambridge (MA), 2015); Organisation for Economic Co-operation and Development *Divided we stand: Why Inequality Keeps Rising* (OECD Publishing, Paris, 2011); Organisation for Economic Co-operation and Development *Inclusive Green Growth for the Future we Want* (OECD Publishing, Paris, 2012); Federico Cingano "Trends in income inequality and its impact on economic growth" (OECD Social, Employment and Migration Working Papers, No 163, 2014); Max Rashbrooke (ed) *Inequality: A New Zealand Crisis* (Bridget Williams Books, Wellington, 2013); Joseph E Stiglitz *The Price of Inequality* (Allen Lane, London, 2012); and Joseph E Stiglitz *The Great Divide: Unequal Societies and What We Can Do About Them* (WW Norton and Co, New York, 2015).

that such reforms will "solve" the problem – only that they can help to mitigate it. Sound intergenerational governance is inherently difficult: governments face multiple challenges and difficult intertemporal trade-offs, and must often make policy decisions in the context of deep uncertainty.

While the proposed reforms are relatively ambitious, most are evolutionary rather than revolutionary; they are also practical and relatively cheap. Many build on existing policy frameworks and institutional arrangements. Hence, most would be technically and administratively easy to implement – at least given the necessary political will. Several, however, are more complex and demanding, not least the proposals to reduce economic inequality and develop new and more exacting measures of comprehensive wealth. But if governments are to exercise better stewardship, they will need at times to be bold and aspirational.

A fundamental question, of course, is how to encourage governments to be more future-focused such that they are willing to entertain and implement changes of the kind suggested here. In a democracy, institutional and policy reform designed to safeguard long-term interests ultimately depends on reasoned argument, vigorous advocacy and public support. Since future generations cannot advocate on their own behalf, such tasks are the responsibility of current citizens. Part of the challenge, therefore, must be to mobilise public concern for long-term interests by providing suggestions for feasible, future-focused reforms around which the required political support can coalesce. Hopefully, this article makes a contribution towards such a goal.

