ASSESSING PARLIAMENTARY PERFORMANCE – PROBLEMS AND POSSIBILITIES

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Le Parlement néo-zélandais a fêté en 2004, son 150e anniversaire, devenant ainsi une des plus anciennes assemblées législatives de ce pays. On note par ailleurs qu'il pâtit aussi d'une désaffection de la part du public néo-zélandais.

Dans cet article, l'auteur préconise la mise en place d'une procédure d'évaluation des membres du Parlement, procédure qui prendrait en compte l'efficacité réelle de leurs activités et qui s'inspirerait de celles déjà mises en oeuvre dans d'autres secteurs comparables.

Ce faisant, l'auteur s'interroge sur le rôle et les fonctions véritablement remplis par les parlementaires néo-zélandais, sur la connaissance réelle que peut avoir le public du processus législatif, sur la manière dont la responsabilités des parlementaires peut être engagée et enfin sur le bien-fondé des choix démocratiques qu'ils sont amenés à devoir opérer lors de l'exécution de leurs mandats.

Although New Zealand's House of Representatives (or Parliament) celebrated its 150th anniversary in 2004, making it one of the oldest continuously functioning legislative assemblies, public respect for the institution and for the performance of its members does not appear to be very high. This paper explores the idea of performance-based assessment procedures for Members of Parliament, comparable to those used for other occupational groups. Consideration of such measures raises questions about the roles of MPs, public understanding of the legislative process, and issues of accountability and democratic choice.

This year 2004 marked the 150th anniversary of the New Zealand House of Representatives, making it one of the world's oldest continuously functioning legislative assemblies.[1] As part of the

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1 This paper was written to celebrate that event. For a commemorative history: see John E Martin *The House: New Zealand's House of Representatives* (Palmerston North: Dunmore Press, 2004).

celebrations, the parliamentary portrait gallery – an institution which mounts exhibitions associated with the history of Parliament and its members – put together a display based on an intriguing premise: what if New Zealand's Members of Parliament (MPs) were given disposable cameras? What would they photograph? What light would that shed on the MPs, their interests, their work habits and personalities?

The result, based on a roll of film and a time limit (three weeks) in which to take the photographs, was an exhibition entitled 'Snap Selections' – a play on words, since 'snap elections' are what takes place in New Zealand when a government decides, or is compelled by circumstance, to call an early election – intended to show what life is like for an MP from an MP's point of view.

I was intrigued by the story because, although clearly a playful photographic conceit, suitable for securing parliamentary participation and (to a degree) public interest, the proposal for MPs to take photographs of themselves, their colleagues, their working environment and their lifestyles suggests that the role of MPs – what MPs actually do – is not well understood. What is clear is that most New Zealanders do not think that what MPs do with their working lives is particularly valuable. Politicians generally, and MPs specifically, are not rated highly in opinion polls, and a citizens-initiated referendum in 1999 voted overwhelmingly for a reduction in the numbers of MPs (increased from 99 MPs to 120 in 1996 as a result of a change of electoral system) back to 99.[2]

I PARLIAMENTARY INTERNSHIPS AND PERCEPTIONS OF PARLIAMENT

For the past years I have had the responsibility of supervising a group of Victoria University of Wellington honours students who work as interns, or assistants, to various Members of Parliament – and, in a few cases, to select committees through the Select Committee Office – and the entire rationale for the course was that there was a need to offer students a serious and genuine opportunity to learn about Parliament, and the work and role of MPs, from the inside, by being a part of the parliamentary environment.

While 2004 was only the fifth year that this programme has been offered – it involves year-long honours parliamentary internships – I have been supervising interns at Parliament since 1979: short-term internships (about six-eight weeks) for political science undergraduates.

In reflecting on how Parliament has changed over this lengthy period, it is worth noting that the undergraduate course – and therefore the undergraduate internships – was always scheduled for the second half of the year because, until the Labour Party gained power in mid-1984, Parliament would usually not be sitting for much of the first half of the year. During the years in which the National Party's Robert Muldoon served as prime minister, there were often long periods when Parliament

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2 For an analysis of the 1999 referendum, see Stephen Church "Crime and Punishment: The Referenda to Reform the Criminal Justice System and Reduce the Size of Parliament" in Jonathan Boston, Stephen Church, Stephen Levine, Elizabeth McLeay and Nigel S Roberts (eds) *Left Turn: The New Zealand General Election of 1999* (Wellington, Victoria University Press, 2000) 184-199.

was not in session, and often when the prime minister would decide to finally make it possible for Parliament to meet, the day chosen for reconvening would be timed to coincide with the Labour Party's annual conference, inconveniently for Labour's MPs.

One of the most important changes made to Parliament in the years during which I have been studying the institution has been the change to the parliamentary calendar, brought about under the fourth Labour government, so that Parliament would be meeting according to an organised and predictable schedule, meeting more or less throughout the entire year.

Reflecting on these internships a bit further, over the years I have noticed a fairly sharp distinction between the views of Parliament – and of MPs – taken by students who have participated in an internship and those who have not. To look at this from another angle, there is a significant difference between the view of Parliament, and its members, taken by students at the beginning of their internship and at the end.

The internships were not set up to bring about this result, but the fact is that most students complete their internship with a much higher view of Parliament – and of the MPs (particularly their own MP) – than they had at the beginning. They do not leave the internship experience disillusioned: quite the opposite.

These internships are designed to offer students the opportunity to gain insights into the parliamentary process. And it would seem that one of their insights is to discover – or so they regularly report, year after year – that MPs actually work very hard. The students also usually describe their MPs as 'sincere' – a typical comment might be, 'he or she is not at all like what I expected', or 'I can't speak of all MPs, but my MP really works hard and is not like a politician' – and so, at the end of the day, they seem to develop – most of them – a respect for Parliament and a willingness to give MPs some credit for attempting, at least, to contribute in some way to the wellbeing of the country.

But in the wider community there remains some scepticism about the value of Parliament – about the usefulness of the contributions made by its members – and thus, to some extent – to return to the matter of the photographs being taken by MPs over a three-week period – some confusion, or uncertainty, about what a picture of an MP's work would be like.

II A JOB DESCRIPTION FOR AN MP

Many jobs – perhaps most jobs nowadays – have 'job descriptions' (or 'role descriptions'). These can usually describe, or clarify, what sort of work a person is doing – what they are being paid for.

While New Zealand's Cabinet Office Manual[3] may prescribe the responsibilities and obligations of Ministers of the Crown, for most Members of Parliament there is no formal 'job description' – no listing of the tasks that MPs are expected or required to perform. Indeed, I have, on occasion, met new MPs who have said to me that they are not sure what it is they are supposed to be doing.

During the first Parliament elected under New Zealand's new electoral system (1996-1999) there were widespread concerns about the performance of one MP, Alamein Kopu, who had been elected on the party list of one of the smaller parties, the Alliance. One way of looking at the experience with that MP would be to say that here was a person with a seat in Parliament who was not well informed about what sort of work needed to be performed, or what sort of work ethic needed to be adhered to.

During 2004 the then leader of another small party, the ACT Party, drew the attention of the Speaker to the failure of an MP, Donna Awatere-Huata – who had been elected through ACT's party list but had subsequently been removed from the ACT Party's parliamentary caucus – to be in attendance at Parliament in order to ask a question (during 'Question Time') that had been allocated to her as a result of her new (and contested) 'independent' status.

Criticisms of MPs draw attention to the relationship between 'job descriptions' – or 'role descriptions' – and performance assessment processes. If there is a lack of clarity about what a job entails, then of course assessing whether a job has been done well or not becomes that much more difficult.

In a democratic system we have, of course, regular performance reviews for Members of Parliament – we call them 'elections' – and they generally take place, with a margin of error of weeks or months, every few years. In New Zealand, parliamentary elections are held every three years (with occasional 'early' or 'snap' elections, of which there have thus far only been three during the post-World War II period).

These electoral assessments can be compared with 'job assessments' in other work situations or for other occupations. When voters take part in these performance reviews, generally re-electing incumbents, how well informed are they – how well guided are they – by clear information about what their MP has been doing and how well he or she has been doing it?

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3 The New Zealand Cabinet Office Manual is a guide prepared by the Cabinet Office, which elucidates the practices of Cabinet government and the principles under which Cabinet government in New Zealand operates. A new Cabinet Office Manual was produced in July 1996 in preparation for the transition to New Zealand's new electoral system, and revisions have been made to it as the MMP system (and practices of coalition government) has evolved. For excerpts from the 1996 Cabinet Office Manual, see Stephen Levine with Paul Harris (eds) *The New Zealand Politics Source Book: Third Edition* (Palmerston North, Dunmore Press, 1999) 310-334.

Under New Zealand's previous single-member district plurality electoral system (sometimes known as 'first-past-the-post') (FPP) it could be argued – and was – that there was no real opportunity for voters to make these sort of judgments. Voters had only one vote and preferences about which party they preferred to govern the country tended to take precedence.[4]

Under the new electoral system (known as MMP, for 'mixed member proportional'), voters have two votes, with the critical or decisive vote being the party vote.[5] As a result, there is scope for voters to reflect on the performance of their MP – and to vote accordingly – without surrendering their party vote preference. And indeed the three MMP elections that have taken place thus far have each had at least one-third of all voters splitting their vote, voting for a parliamentary candidate with a party affiliation that was different from their party vote choice.[6]

It may be questioned, however, whether voters are really in a position to distinguish 'good MPs' from 'not-so-good' or even 'plain awful' MPs. We sometimes see news media commentators produce lists of 'the ten best MPs' or, more mischievously, 'the ten worst MPs'. But there is seldom, if ever, any explicit criteria presented for the judgements being made. The 'ten best MPs' are people chosen because they have managed to acquire a particular reputation – or, of course, because their views on issues and policies coincide with those of the commentator.

The same is true for lists of MPs designed with denigration in mind. A group of names is presented because commentators do not particularly like them for one reason or another.

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4 This may seem a bit paradoxical. The only vote being cast was for an electorate representative and so there were indeed opportunities for voters to assess the performance of their MP (if seeking re-election) against the credentials of other candidates. In practice, however, with only one vote, and with the election determining which party would govern the country (as well as which individuals would sit in Parliament as electorate representatives) it is clear that most voters gave greater weight to parties, and to preferences with respect to government, than to the particular qualities of the respective electorate candidates.

5 For a description of how the new MMP electoral system operates – its basic rules – see Jonathan Boston, Stephen Levine, Elizabeth McLeay and Nigel S Roberts *New Zealand Under MMP: A New Politics?* (Auckland, Auckland University Press with Bridget Williams Books, 1996) chapter 2.

6 For vote-splitting in the first MMP election, see Stephen Levine and Nigel S Roberts "Surveying the Snark: Voting Behaviour in the 1996 General Election" in Jonathan Boston, Stephen Levine, Elizabeth McLeay and Nigel S Roberts (eds) *From Campaign to Coalition: New Zealand's First General Election Under Proportional Representation* (Palmerston North, Dunmore Press, 1997) 186-187; in the second, see Stephen Levine and Nigel S Roberts "Voting Behaviour in 1999" in Jonathan Boston, Stephen Church, Stephen Levine, Elizabeth McLeay and Nigel S Roberts (eds) *Left Turn: The New Zealand General Election of 1999* (Wellington, Victoria University Press, 2000) 161-162; and in the third MMP election, see Stephen Levine and Nigel S Roberts "Consistent Patterns and Clear Trends: Electoral Behaviour in 2002" in Jonathan Boston, Stephen Church, Stephen Levine, Elizabeth McLeay and Nigel S Roberts (eds) *New Zealand Votes: The General Election of 2002* (Wellington, Victoria University Press, 2003) 317-318.

Of course it would be better for voters if they could have some objective indicators of MPs' performance to help them – at election time, but also perhaps between elections – so that they can have a more reliable way of knowing how well, or how poorly, their MPs are doing.

Perhaps it is impossible to produce a clear, comprehensive statement of what MPs do – a proper job description.

Perhaps it is impossible to produce, as well, a set of measures that would allow observers to give a grade – or a ranking – to the performance of MPs.

Perhaps it would be impossible, too, to apply – objectively – such a set of measures to MPs, even if we could develop them.

But if it is impossible to do these things, that is itself a proposition which would need to be considered – whose implications would need to be explored – rather than merely stated categorically.

III ASSESSING PARLIAMENTARIANS' PERFORMANCE

Of course the overall objective of such an exercise – which this paper is exploring at the moment, and not necessarily recommending – would be to see if speculation about MPs' reputations could be replaced with more precise information about what MPs do and how well they do it.

Naturally the most precise information is quantitative in nature.

During 2004, for example, New Zealand's academics – teachers and researchers based at universities and at other tertiary institutions – were required by the government to take part in a systematic nationwide assessment of their research performance. This process, known as 'PBRF' (for 'Performance Based Research Fund), examined one part of what could be described as the role description (and performance) of a scholar – namely, to contribute, through research and publication, to the systematic accumulation and development of knowledge within their own disciplines. The process produced findings in which academics' research productivity (during a recent six-year period) was analysed, graded and ranked according to a set of performance-based measures.

When the results were about to be released, it was discovered that the New Zealand data was going to be compared to findings compiled for academics in Great Britain, and the result was a legal challenge (and the removal of the comparative analysis). It may well be that a similar exercise for New Zealand's MPs would end up the same way – in court.

One can imagine a scenario in which each MP would be given a grade, based on their performance across a range of measures – not over their entire career, but rather, as with the country's academics, over the recent past. From one point of view this effort would simply be a repetition of an old refrain, long directed at (among others) leaders and law-makers: 'what have you done for us lately?' Of course even if each individual MP's grade were to be kept confidential, there

could be difficulties and embarrassments if grades for different groups of MPs – National Party MPs, Labour Party MPs, male MPs, women MPs, and so on – were to be disclosed. In any case, if MPs were up for re-election, it could be argued that perhaps their grades ought to be disclosed to the electorate to whom they are ultimately accountable.

It is possible to envisage, as well, international comparisons being made. How hard do New Zealand MPs work – how productive are they? – in comparison with, say, British MPs? And of course here is where one opportunity for legal action would present itself, with an injunction perhaps being sought by a group of New Zealand MPs – say, Labour and National MPs, in a rare coalition of dismay – claiming that the results comparing New Zealand's law-makers with those elsewhere were inappropriate, comparing 'apples' with 'oranges', since the two systems – the two legislative and political systems – are so different as to make comparisons between the work of MPs in the two different environments grossly misleading.

Yet we engage in cross-national comparison all the time. New Zealand's new 'mixed' proportional representation system, MMP, is, to some extent, the result of one such exercise. The operations of FPP, in New Zealand (and to some extent in Great Britain), were compared with the workings of a 'mixed' system in what was then West Germany. To those making the comparison, there was a good, and apparently for most people persuasive, argument that suggested that the German electoral system – and the sort of Parliament that it was able to produce – provided a better outcome for voters than the one with which New Zealanders were so familiar. And so, as a result, New Zealanders voted to change their electoral system.[7]

In early 2004 I was contacted by three political scientists from Thailand. They had emailed me with the astonishing news that they had seen research by the 'New Zealand Political Change Project' (of which I was Director), studying the effects of MMP on New Zealand's government and politics,[8] and had decided to establish 'The Thailand Political Change Project'. So here we have a group of scholars, from a country apparently considering making a change to its voting system, who clearly see value both in New Zealand's experience with electoral system change, and in the experience of a group of academics at Victoria University of Wellington who were given research funding to study, and reflect upon, MMP and its consequences.

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7 See Jonathan Boston, Stephen Levine, Elizabeth McLeay and Nigel S Roberts "Why Did New Zealand Adopt German-style Proportional Representation?" *Representation: Journal of Representative Democracy*, vol. 33, 1996, 134-140.

8 The New Zealand Political Change Project, a study of the consequences for New Zealand's government and politics arising out of the transition to a new electoral system, was funded from 1995 through 2003 by New Zealand's Foundation for Research, Science and Technology. The project produced a series of books and a large number of book chapters, articles and conference papers. For an overview, see Jonathan Boston, Stephen Church, Stephen Levine, Elizabeth McLeay and Nigel S Roberts "Research Note: The New Zealand Political Change Project" *Political Science*, vol 52, no 2, 2000, 142-49.

There is much policy transfer – much institutional copying – around the world, and a lot of it is based upon information and evidence of a comparative nature about the relative merits of different approaches to particular problems. Electoral system reformers in Israel have at times commented upon, with envy, the close relationship between New Zealand MPs and their constituents, seeing it as a virtue. If we were to say that that was, in a sense, part of the 'job description' of an MP – to provide a service to their constituency and to be accessible to the people living in a particular geographic area represented by them – then, since Knesset members (MKs) (ie members of Israel's legislature) do not have an electorate of their own – the whole country is treated as one electorate – we could probably say that the performance of New Zealand MPs is superior to that of Israeli MKs in terms of this particular measure.

This is so despite the pressures placed on some MPs as a result of MMP. Because MMP introduced a new category of MP – the 'list MP', comprising MPs drawn from party lists – the introduction of MMP saw the number of electorates fall (even as the total number of MPs rose) and the size of electorates grow, as a consequence of a proportion of MPs becoming list MPs.

MPs seem to have accommodated themselves rather well to the problems of servicing larger electorates and in any case there have been few complaints reported through the media of voters being disenchanted with MPs on the grounds that they are no longer so accessible. This contrasts to some extent with American experience, where voters are not accustomed to seeing their Member of Congress (a member of the House of Representatives) – let alone their Senator – to the same degree. There have also been instances of Representatives and Senators almost never returning to their electorate – to their district or their state – without, however, being punished by the voters for their absence.

V ASSESSMENT AND ACCOUNTABILITY

At the outset of MMP there was much speculation about the 'distinctive role' of a list MP. There was also much controversy about list MPs. This reflected confusion about what the 'job description' or 'role' of a list MP actually was to be – a confusion which extended to list MPs themselves.[9] All this talk seems to have come to an end.

The role of list MPs has always been clear. Their role, technically – their distinctive role – is, through their presence and through their votes in Parliament, to make the composition of Parliament proportional to the party votes cast at the election. Their role, in other words, is accomplished through their mere existence – not through any special behaviour on their part.

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9 For a study of the difficulties being experienced by New Zealand's list MPs during the first MMP Parliament (1996-99), see Leigh J Ward, "'Second-Class MPs'? New Zealand's Adaptation to Mixed-Member Proportional Representation" *Political Science*, vol 49, 1998, 125-152. For an interview-based analysis of the views of parliamentarians about MMP and its effects on Parliament and their work as MPs, see Ricarda Vandervorst, "'Parliamentarians' Perspectives on Proportional Representation: Electoral System Change in New Zealand" *Political Science*, vol. 55, December 2003, 19-38.

It is also the case that, since most electorate MPs – overwhelmingly – continue to be Labour and National members, that list MPs allow the smaller parties to achieve significant parliamentary representation and, with that, significant influence.

It was anticipated that list MPs might become experts, or advocates, in particular policy or issue areas. This, it was suggested, would be a proper role for them since they would not have any mandate to represent particular geographic constituencies.

In general, however, that particular role has not been achieved with any great consistency. Some list MPs may perhaps have become expert in particular subject areas. But so, too, have some electorate MPs.

In thinking about how to assess an MP's performance – and, therefore, establishing prior to that what it is that MPs actually do – it may be useful to say something about the concept of accountability – or, in administrative terms, 'line management'.

From the point of view of democratic theory, MPs are, of course, accountable to the people – to the voters who elected them. MPs are in Parliament, in broad terms, one can say, to serve the people.

But of course in practice it is not so simple.

MPs are also in Parliament to serve their party. This was true under first-past-the-post – party discipline was very strong and it was political parties who were responsible, through the candidate selection process, for MPs being in Parliament in the first place – and it is perhaps even more the case under MMP, for two reasons. First, of course, there are the list MPs, who are placed on the party list, and ranked on the list, by processes within the parties themselves – a list MP would not be in Parliament had a party not placed that person on their list, and had the party not received an appropriate proportion of the party vote. Secondly, at least thus far, MMP has allowed a range of smaller parties to flourish, giving New Zealand minority coalition governments.

Within larger parties, with particular factions and often widely varying points of view on policy, there was perhaps more scope for 'disloyalty' – for a willingness to desert the party that had selected them. But under MMP, with its smaller parties, each more or less dedicated to a particular vision – and many, if not most, of these parties comprise groups of MPs that could be regarded as having originated in factions within New Zealand's two major parties, Labour and National – there is, or ought to be, a much higher level of policy cohesion within the party caucus.

There are, of course, exceptions – as we see with respect to the 'foreshore and seabed' issue which caused such strong divisions among Labour's Maori MPs. Other divisions can be seen when votes on 'moral' or 'conscience' issues take place.

In any case MPs are also in Parliament, of course, to serve the country. This is a *New Zealand* House of Representatives. An MP whose vision does not extend beyond their party's interest, or

their local electorate's particular concerns, does not fully understand the breadth and scope of their responsibilities.

MPs are, of course, also in Parliament to serve themselves. This observation is not intended in any disparaging sense, and nor does it refer to materialistic motivations or objectives. Rather it is to offer a reminder that MPs also owe a duty to themselves, as well as to their electors, their party, their colleagues, and the country as a whole. An MP's duty is to maintain their own integrity.

There are sometimes discussions in Parliament about the question of whether or not to introduce a 'code of ethics' for MPs and, if so, what it ought to contain.

But 'integrity' involves more than just remaining free from the appearance or reality of corruption. MPs who sacrifice their deepest personal convictions out of a quest for personal or partisan advantage have also failed to grasp the seriousness of their endeavour, and the moral and ethical choices and consequences that go with fulfilling all the dimensions of their chosen occupation.

Of course it would be enormously difficult to produce a performance-based assessment system for MPs, useful for voting purposes. Is an MP who asks hundreds or even thousands of written questions a better MP – a more productive MP – than one who asks only five or ten?

Is an MP who raises clever points of order a better MP than one who merely looks on?

Are MPs who introduce private member's bills that may or may not succeed in the balloting preferable to those who do not?

MPs have many roles: they take part in debates; they work on parliamentary select committees; they contribute to decision-making within their own parliamentary caucus; they communicate with the public, through regular meetings in electorates, through mailings, through speeches, through weekly columns in community newspapers. Through party work, and constituency work, and work in the House itself, MPs help to shape the future of their country.

Over the years I have not observed any slackening in any of those commitments from among the membership as a whole.

VI CONCLUSION

I began by noting that some things have changed in Parliament – these include the year-long parliamentary schedule, the committee system, and the introduction of MMP with its effect on so many features of Parliament – and that some things have not. Perhaps one of those would be the view taken by MPs of the media, and in particular of the parliamentary press gallery, whose members sit above the debating chamber (behind the Speaker) and report on Parliament.

In one valedictory debate the then Speaker observed, 'I thank the members of the press gallery – who have a critical role to play in our democracy – for their assistance. I cannot see them from this

new chair, and therefore I do not always know whether I am missing much' – which provoked an interjection – 'You're not' – which came, according to the *Hansard* (the record of parliamentary debate), from the current Speaker, Jonathan Hunt. While there is no doubt that MPs would have difficulty with the idea of introducing performance assessment procedures for themselves comparable to those of other occupational groups,[10] they have rarely experienced any problems making judgments about those whose task it is to study them – the media. For that sort of critical exercise no prior performance-based assessment procedure has ever been required.

10 This raises questions not only about the democratic process – whether the electoral process needs to be preceded or supplemented by a more rigorous set of assessment practices – but also about whether it is appropriate to consider politicians and MPs to be members of a profession, subject to norms of professionalism peculiar to their distinctive practice. I am indebted to a former intern and honours student, Suzannah Jessep, for this point.