

Fears, constraints, and contracts

2013

The democratic reality for New Zealand's community and voluntary sector

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CONTENTS

| | |
|---|-----------|
| 1 INTRODUCTION | 1 |
| 1.1 The role of community and voluntary organisations in democracy | 3 |
| 1.2 A democratic role recognised by the state | 5 |
| 1.3 A 'welfare state' predicated on collective advocacy | 8 |
| 1.4 A constrained community voice in a 'neo-liberal contract state' | 10 |
| 1.5 Speaking for the marginalised in a 'Third Way' state? | 14 |
| 2 THE SURVEY AND DATABASE | 21 |
| 2.1 The Survey..... | 23 |
| 3 RESULTS | 28 |
| 3.1 The community and voluntary sector's views of democracy | 28 |
| 3.2 Debate is silenced | 29 |
| 3.3 Debate is encouraged | 33 |
| 3.4 What constrains democratic debate? | 35 |
| 3.5 The sinking lid of funding and rising compliance costs..... | 38 |
| 3.6 Surviving the constraints of a neo-liberal contract environment..... | 42 |
| 3.7 From neo-liberal contracts to 'Third Way' consultation?..... | 44 |
| 3.8 Helpful and unhelpful Ministries, agencies and departments. | 50 |
| 4 CONCLUSION: DEMOCRACY CONSTRAINED | 53 |
| BIBLIOGRAPHY | 60 |

TABLES AND FIGURES

TABLES

| | |
|---|----|
| Table 1: Distribution of paid staff and volunteers in New Zealand's non-profit social service sector by field of provision, 2004..... | 22 |
| Table 2: Regional location of community and voluntary sector groups in the mail-out database by field of provision, 2009..... | 24 |
| Table 3: Number of community and voluntary sector organisations in mail-out data base who were known to be part of NZCOSS or NZFVWO, 2009..... | 25 |
| Table 4: Survey respondents by field of provision, 2009..... | 26 |
| Table 5: Perceptions of changes in attitudes to debate between the 1999-2008 Labour-led Government to the 2008 National-led Government..... | 36 |
| Table 6: Does your funding agreement with the government restrict your organisation's capacity to make public comment on government policy and research? | 37 |
| Table 7: Has your organisation received government funding in the past ten years which it no longer receives? | 39 |
| Table 8: Estimate how many times your organisation participated in government consultation processes between 1999 and 2008. | 44 |
| Table 9: What forms did government consultation take?..... | 45 |
| Table 10: What methods does your organisation ALWAYS or OFTEN use to get your concerns heard? | 46 |
| Table 11: What methods do your organisation NEVER or RARELY use to get your concerns heard? | 46 |
| Table 12: Did you feel your involvement in government consultation between 1999 and 2008 was (from 'was productive' to 'had no impact'):..... | 48 |
| Table 13: If you felt your organisation's involvement in consultation was not productive, which of the following did you feel impacted upon the result? | 49 |
| Table 14: Do you see concerns that your organisation raised during this process reflected in current government policy? | 50 |

FIGURES

| | |
|--|----|
| Figure 1: Community and voluntary sector organisations' views on the attitude of Labour and National governments to public debate, 1999 to 2009 | 28 |
|--|----|

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Speaking up in unforgiving times is never easy, as this report will attest. But it is more important now than ever before to illustrate how governments are constraining, cajoling, and capturing the voice of the community and voluntary sector. Luckily for New Zealand citizens, and for the democracy we live within, the voices of the community and voluntary sector will never be completely silenced because it is full of socially-minded, creative, and clever people who are determined to make New Zealand a better place to live.

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INTRODUCTION

This research began with what seemed like a simple question – is democracy, as measured by the ability of civil society organisations to have a voice in political debate flourishing or languishing in New Zealand? The question arose because there had been a number of cases in the media that rang alarm bells with regard to the attitude of successive governments to public debate (the foundation of a healthy democracy). Research projects with the community and voluntary sector¹ seemed to indicate that the ‘independence’ of the sector from the state was being eroded so thoroughly that organisations were struggling to critique the nation’s political leaders and their policies.

The release of a report by the Australia Institute, ‘Silencing Dissent’, further spurred interest in the issue of how the community and voluntary sector in New Zealand was faring with regard to exercising its voice in political decision-making. The Australia Institute report asserted that during the Howard government years’ democracy was undermined, particularly as it related to the involvement of community and voluntary organisations in political decision-making. Many of the fears expressed by Australian community and voluntary organisations resonated with the anecdotal evidence here in New Zealand. For example in the conclusion to ‘Silencing Dissent’ it is noted that:

The survey results presented in this report depict widespread alarm among NGOs about their lack of ability to speak in support of those they represent without risking revenge in the form of personal abuse from Government representatives, public disparagement and withdrawal of funding. Nine out of ten NGOs surveyed do not believe that individuals and organisations that dissent from current government views are valued by the Government as part of a robust democracy. And nine out of ten believe that dissenting organisations risk having their funding cut (Maddison, Denniss & Hamilton., 2004, p.43).

Maddison et al. (2004, p.viii) argued that “democracy has been undermined by the concurrent rise in neo-liberal ideas and ‘public choice theory’ which sees NGOs as ‘selfish and self-serving’ interest groups with little representative legitimacy”. While this trend may have begun under the Australian Labor government of the 1990s, “it was with the election of the Howard Government in 1996 that this view came to dominate policy making processes” (Maddison et al. 2004, p.vii).

Many of the issues raised in the Australian survey echoed concerns found in New Zealand in the 1990s about the spaces for democratic engagement by our community and voluntary sector. Cull (1993, p.18) in her research on the effects of the funding regime on the voluntary sector in Palmerston North, drew on American and British concerns to describe the issues facing the sector in New Zealand:

When the funder calls the tune decisions are made by the funder about the legitimacy of the cause. Therefore, one of the issues facing voluntary organisations is that of “politicised” funding – their budgets are “generated by a political process” (Edwards & Gummer, 1988, p2). Two factors which contribute to this politicised funding are identified by Edwards & Gummer, as firstly, disputes over goals and, secondly, problems with measurement of effectiveness.

Similarly Saville-Smith and Bray noted in a review of government funding within the community and voluntary sector (1994, p.23) that:

¹ During this project, conversations with respondents indicated a clear preference for use of the ‘community and voluntary sector’ as opposed to terms like non-government sector, non-profit sector, or third sector found in a range of academic literature and government documents. As a result we have where possible used community and voluntary sector as the descriptor for the sector.

[Contracting is] likely to result in the development of a new 'professional' class of managers in non-profit agencies... [This] may be associated with changes in agency values, organisational structures and processes. ... the reorientation of the non-profit sector from advocacy to Government purchased service provision could potentially undermine [sic] one of the platforms for democratic participation in policy development.

While there were some indications from New Zealand research that the community and voluntary sector had limited capacity to exercise democratic voice on behalf of marginalised communities, there had not been a systematic investigation of their engagement in political debate. With the permission of the Australia Institute research team, we remodeled their survey instrument and set about canvassing the views of community and voluntary sector organisations about their involvement in political decision-making, democracy, and political advocacy. While in Australia the survey covered a decade under a single government – it looked at 'the Howard years' – the timing of the New Zealand survey resulted in the purposeful collection of views from the sector about these issues during the Labour-led coalitions from 1999 to 2008; and then under the National-led coalitions for part of 2008 and into 2009.

This report sets responses from 153 organisations in the context of existing New Zealand research in order to examine the dynamic interactions of the state and the community and voluntary sector. We begin by providing justification for the sector's involvement in democratic debate before moving on to present an historical overview of the relationship between the state and community and voluntary sector organisations. It is clear that a major shift in the nature of the state – from the male, wage-earner welfare state to a neo-liberal, free-market state – underpins current attitudes toward the involvement of community and voluntary sector organisations in political debate and decision-making. The approaches to democratic debate which begin in the mid-1980s are shown to continue through the 'Third Way' governance period of the Labour-led coalitions from 1999 to 2008.

Section Two sets out how we selected our sample for the survey mail-out; who we received responses from; and, how the results were analysed, before moving on in Section Three to examine responses to the survey. While New Zealand's community and voluntary sector organisations have in the past been a strong and necessary voice for the most marginalised of our society, since the 1980s their place in democratic conversations has come under challenge, almost to the point where for some groups the only option is to remain silent. Responses to our survey demonstrate that the community and voluntary sector in New Zealand is not simply silenced by disapproving governments, they have been constrained by the very mode of governance that has come to dominate in the early part of the 21st century. The silencing is achieved by disciplining the sector through state funded contracts which encompass strong managerial requirements for accountability, auditing, measuring, and evaluating outputs. The move from a welfare state to a neo-liberal contract state² constrained the conditions that underpin a healthy relationship between the state and the community and voluntary sector. There is a lack of trust between these two sectors; reduced space for experimentation in programme delivery or innovation as new 'social issues' arose; and, there was little in the way of a longer term vision for those areas of policy response in which the community and voluntary sector was seen to be responsible (outcomes needed to be achieved with one-off projects in short time frames). The result is a community and voluntary sector that almost continually must check itself to ensure that it does not 'bite the hand that feeds it'.

² In line with Peck et al. (2012) and Lerner (2003 and 2005), we acknowledge that neo-liberalism is not a coherent or singular project. Our engagement in this debate is in particular about the process and ideology which sees the state creating a contract environment for service delivery, hence our adoption of the term 'neo-liberal contract state'.

1.1 The role of community and voluntary organisations in democracy

Non-government organisations (NGOs) serve as essential intermediaries between community and government, conveying important information about the needs and preferences of a wide range of groups in the community to government that would otherwise remain remote and uninformed. ... NGOs provide a voice for marginalised groups and means and opportunities to make claims on government between elections. (Maddison et al. 2004, p.vii)

Often because they are working at the grass-roots or flax roots level, NGOs will become aware of trends and emerging issues earlier than the government. In short, it is difficult to argue that such groups are not essential in any modern state (Salter 2004, p.9)

The acknowledgement of a place for community and voluntary sector organisations within a democracy centres on an acceptance that citizen participation in democracy constitutes more than voting in elections every three years. Underpinning this belief are the core democratic principles of popular control and political equality. As noted by Beetham (1994, p.28):

Democracy is a political concept, concerning the collectively binding decisions about the rules and policies of a group, association or society. It claims that such decision-making should be, and it is realised to the extent that such decision-making actually is, subject to the control of all members of the collectivity considered as equals. That is to say, democracy embraces the related principles of *popular control* and *political equality*. [emphasis in original]

The Democratic Audit,³ which has been used to evaluate the health of democracy in a range of countries including Britain, Australia, Canada, and New Zealand (Henderson and Bellamy, 2002), was developed from the first principles above. It includes a range of questions around 'open and accountable government' which can be used to 'audit' the extent of democracy in a nation. Two questions in particular pertain specifically to the role of citizen control of legislatures:

6. How systematic and open to public scrutiny are the procedures for government consultation of public opinion and of relevant interests in the formation and implementation of policy and legislation?
7. How accessible are elected politicians to approach by their electors, and how effectively do they represent constituents' interests? (Beetham 1994, p.37)

While Beetham's work in 1994 does not directly stipulate the role of the community and voluntary sector within the Democratic Audit, the assertion that there must be space for 'relevant interests' to influence policy and legislation can be argued as recognising a range of citizen-initiated organisations and spaces. In many cases groups from the community and voluntary sector are the 'relevant interests' for policy issues due to their close relationships with constituencies and communities.

The development of the Democratic Audit has seen more explicit questions added around civil society and participation:

³ The Democratic Audit is a tool developed by David Beetham and colleagues and was "first developed the framework for use in the UK. But we re-designed and expanded it for the International Institute for Democracy and Electoral Assistance (IDEA), Stockholm, to create a universal framework to assess the condition of democracy in any country in the world" (The Democratic Audit of the United Kingdom, 2011).

. . . How extensive is the range of voluntary associations, citizen groups, social movements, etc., and how independent are they from government?

Relevant data

1 Laws: examine regulations governing the registration, governance, financing and membership of voluntary associations, NGOs, self-management organisations.

2 Positive indicators: investigate data on the range and distribution of voluntary associations, their fields of activity, public impact, etc.

3 Negative indicators: investigate incidence of subordination to government or governing parties, to foreign agencies or interests; the proportion of income not deriving from members' contributions.

(The Democratic Audit of the United Kingdom: Framework for Democracy Assessment, Block 3: Civil Society and Popular Participation, 2011)

And in both Australia and Canada, democratic audits have included examination of the role of the community and voluntary sector in democracy (see Sawyer 2012; Staples 2006; and, Young and Everett, 2003).

If the foundation of a healthy democracy is 'independent citizen groups' who can scrutinise government legislation and make representation to politicians, how accepted is this role for the community and voluntary sector in New Zealand?

Much of the analysis of citizen lobbying or collective advocacy work in New Zealand centres on 'interest groups' which have had a significant role in the formation of New Zealand state, society, and economy. For example, Clements (1982, p.161), in discussing 'Political Parties and Organisational Interest Groups' referred to Federated Farmers (1945), the Manufacturers Association (Federation 1897), the Employers Federation (1902), the Chamber of Commerce (1856) and the Federation of Labour (1937) as the 'New Zealand pressure group system' all of which in their turn had significant influence on political parties. Interest groups including the churches have existed from the 1840s as Clements (1982, p.145) notes constituting "... pressure from below that resulted in universal suffrage" and "...the modern mass-based political parties in New Zealand." They have also been instrumental in increasing consciousness and subsequent changes in policy for such concerns as destitution, the struggle for the eight-hour day, temperance, and poverty. The role of interest groups in policy making in New Zealand is noted by Tenbenschel (2006, p.526) who states: "...the purpose of interest groups is to influence policy. This does not mean that influencing policy is a group's sole or even primary purpose just that it may seek to do so under particular circumstances". Likewise, Saville-Smith and Bray (1994, p.10) note the "...non-profit welfare sector in New Zealand has always played an important role in political discourse and in the delivery of social and health services".

Frequently the state is presented as the neutral arbiter of the competing demands of 'interest groups' in part due to the dominance of pluralism as the theory of state in New Zealand. Shirley (1982, p.239) maintained that in the New Zealand context: "The ideologies and values of policy makers and the underlying assumptions which condition the theory and practice of planning are ignored ... these deficiencies emanate from a society which is economically dependent upon international capitalism, socially dependent upon functionalist theories of the State and politically dependent upon pluralist models of planning" (Shirley, 1982, p.239). Certainly pluralism is evident in the analysis and theorising of political scientists in New Zealand (Mulgan, 2004). Such theorising presents a relatively narrow approach to democracy and the intersection of the state and community and voluntary sector.

In this report we take a more extensive view of democracy that is built on 'collective action' models exemplified in participatory and radical democracy traditions, and which sees a role for an 'active' state in democracy. This perspective is expressed by Fung and Wright (2001, p.5):

'Democracy' as a way of organizing the state has come to be narrowly identified with territorially based competitive elections of political leadership for legislative and executive offices. Yet, increasingly, this mechanism of political representation seems ineffective in accomplishing the central ideals of democratic politics: facilitating active political involvement of the citizenry, forging political consensus through dialogue, devising and implementing public policies that ground a productive economy and healthy society, and, in more radical egalitarian versions of the democratic ideal, ensuring that all citizens benefit from the nation's wealth.

So does the New Zealand state accept that community and voluntary sector organizations have a role to play in democratic debate?

1.2 A democratic role recognised by the state

The role of community groups, interest groups and social movements in democracy and policy formation has been acknowledged by the New Zealand state in law since the mid-19th century (see Tennant, O'Brien & Sanders, 2008; Jesson, 1992; Eichbaum & Shaw 2006; Mulgan, 2004). And the importance of the community and voluntary sector is still acknowledged within state publications today, though views on the role of the sector vary from those in which they are seen as partners, to those which present the sector as a vehicle for service delivery. For example, in 2001 the Ministry of Social Development (n.p.) noted that:

Government values the contribution of community, voluntary and iwi/Maori organisations to good policy making and delivery of effective services. Government agencies and the community sector will work together to develop and improve consultation processes through sharing good practice, guidelines, workshops and training.

What is recognised is the government's changed perception of the sector from independence "...to a vehicle for the delivery and implementation of state policy" (Munford and Sander 1999, p.49). Wilson (2001, p.6) noted that since the 1980s "The voluntary social service sector can be seen as a key stakeholder in the New Zealand Government's efforts to mobilise communities and to further encourage community responsibility and participation."

Similarly the Cabinet Manual, a document governing the pinnacle of New Zealand policy making, recognises a place for interest groups:

It may be appropriate to consult outside interest groups when developing policy. This should be discussed with the Minister's office beforehand. In some circumstances, this consultation may be more appropriate after the policy has been considered by Cabinet.
Some Acts prescribe the consultation a Minister must undertake before making certain statutory decisions. The Minister and department should ensure that in such cases, adequate consultation has taken place in accordance with the Act. (Cabinet Office, 2011, para.6)

The importance of the community and voluntary sector in answering complex social problems was reflected in the government's decision in 2000 to create a portfolio for the community and volunteer sector and its subsequent 2003 decision to establish the Office for the Community and Voluntary Sector (OCVS) within the Ministry of Social Development (MSD). This office exists to 'strengthen' government's relationship with the sector and "...to address cross-agency issues which affect the sector in dealing with government" (OCVS 2008, p.22).

Despite the recognition of the importance of the community and voluntary sector in answering complex social problems, developments within the state have been used to separate the servicing and 'advocacy' roles

carried out by the sector. This separation can be seen in the way the sector is 'officially' defined and the struggle to capture both the structure and functions of organisations within those definitions.

Capturing the 'structure' of the sector is perhaps more easily handled. Academic definitions provided by Sanders, O'Brien, Tennant, Sokolowski and Salaman (2008, p.5) require that community and voluntary organisations "...be organised, private, not profit-distributing, self-governing and non-compulsory". This structural operational definition was developed internationally as part of the Johns Hopkins University Comparative Non-profit Project (CNP). It is seen as appropriate for the New Zealand environment (Tennant et al., 2008) and is now in use within the New Zealand state sector. This definition of the community and voluntary sector as "organised, private, not profit-distributing, self-governing and non-compulsory" immediately becomes problematic however when the state, in its relationship with this sector, enters into what Saville-Smith and Bray (1994, p.7) called "market type relationships" and used "output based contracts and associated performance, accountability and audit requirements" to govern interactions with the community and voluntary sector.

The definition which focuses on the functions of the community and voluntary sector is more complex. The separation of advocacy and service functions seems to be preferred for the community and voluntary sector in New Zealand when considering the definition provided in the Johns Hopkins study:

Within the Johns Hopkins University study a distinction has been made between the role of non-profit organisations in providing tangible services, and wider functions such as advocacy, community building, connecting individuals, providing a home for 'social movements', and acting as vehicles for a variety of other sentiments and impulses. To simplify descriptions of these roles, it has become convenient to group the 12 ICNPO [The International Classification of Non-Profit Organisations] (and now NZSCNPO [The New Zealand Standard Classification of Non-Profit Organisations]) categories into two broad general categories: *service functions*, which involve the delivery of direct services such as education, health, housing and community development, social services and the like; and *expressive functions*, which involve activities that provide avenues for the expression of cultural, religious, professional or policy values and interests. Included here are civic and advocacy; arts, culture, and recreation; environmental protection; and business, labour, religious, and professional representation. (Sanders et al., 2008, p.7)

The authors also note the following:

Salamon, Sokolowski & List (2003, p.20–22) acknowledge that the distinction between expressive and service functions is far from perfect and many organisations are engaged in both. Nevertheless, the distinction can help highlight the different roles that non-profit organisations can play. (Sanders, O'Brien, Tennant, Sokolowski & Salamon, 2008, p.7)

The distinction between the service and expressive functions has become the dominant approach found in New Zealand research and policy statements on the community and voluntary sector.

The division between those whose function it is to provide services and those groups who provide political advocacy has some practical implications in New Zealand, for example it impacts upon which groups can achieve charitable status. Historically, charities were generally exempt from tax and donors were exempt from gift duty. According to the Charities Commission (2011), if organisations wanted formal recognition of their tax status they could apply to the Inland Revenue Department (IRD) for a 'letter of comfort'. However, such exemptions are not available to groups primarily engaged in political advocacy.

Another issue that arises from the current preference for a functional definition centred on dividing service provision from advocacy work is that it leads to a situation where the value of the community and voluntary

sector is almost entirely measured in economic terms and quality is evaluated by its 'efficiency' and 'accountability' – its managerial competence. This focus indeed permeated the research on the community and voluntary sector in New Zealand as state financial constraints meant the withdrawal from the provision of services and a consequent increase in service demand on the sector with fewer resources (see Wheeler, Darby, McDonald & Cleaver, 1982; Fitzgerald & Cameron, 1989; Cull, 1993).

In reality, many community and voluntary sector organisations function to provide both services to constituents as well as advocacy for policy and political change. As such, this research favours a more expansive functional definition such as that provided by Maddison et al. (2004) presented in the introduction of this report. The key to this definition is that the community and voluntary sector are essential intermediaries, not just in relation to service provision, but in terms of the generation and collation of knowledge for policy development. They are the voice of marginalised groups (see Maddison et al., 2004, p.vii).

This role of acting as a voice for communities is acknowledged within the Johns Hopkins study as being the role of 'expressive organisations' (Sanders et al., 2008, p.14) but focusing on democratic engagement by groups defined as 'expressive organisations' would have meant an examination of the work of a very small number of organisations in New Zealand.⁴ Instead, we have included a wide range of social service organisations in our study: from those who primarily see their job as providing assistance to their constituencies and those who are focused on lobbying; we have included peak or umbrella groups, head offices, regional offices, and local/community organisations; and, our survey was sent to top-down, bureaucratic organisations and bottom-up, non-hierarchical organisations focused on listening to the views of the local communities they serve.

Before looking at whether these groups feel democracy is flourishing in New Zealand, with regard to the involvement of the community and voluntary sector in political debate, it is important to look at the context in which groups are operating. The simple task of examining how the community and voluntary sector was faring with regard to its democratic role was complicated by the lack of coherent discussions of the changing nature of the relationship between the sector and the state. It became evident that while there is research into the community and voluntary sector, and much research on the changing nature of the state over the last hundred years in New Zealand, very little work draws the two together. The next section of this report therefore explores the intersection between state and civil society.

The relationship between the community and voluntary sector and the state is best seen as coming in three phases. In the first, the 'welfare state' provided an environment which enabled collective advocacy. However, the fiscal and democratic crisis which beset the welfare state in the 1970s and 1980s sees a change in the actions and values of successive governments and their agents. This results in the second phase where the community and voluntary sector, once seen as a crucial way for marginalised groups to be represented, is now seen as 'vested interests' and their subsequent role begins to be narrowed to that of 'service providers'. The final phase in the relationship between state and society centres on claims that from 1999 New Zealand was in a period of 'Third Way' government – the consultation and partnership phase – when increased attention was given to the community and voluntary sector by the state. However, as will be seen in the examination of the relationship through secondary literature and in the responses from our survey participants, this attention has not led to an increase in the spaces for genuine democratic engagement.

⁴ The Johns Hopkins study divides up the non-profit sector into categories based on whether they perform 'service' or 'expressive' functions. In all, 31% of the staff in the non-profit sector work for 'expressive' organisations, but only 2% of the staff work in civic and advocacy organisations (the rest labelled expressive are cultural and recreational groups). See Sanders et al. (2008, p.16).

1.3 A 'welfare state' predicated on collective advocacy

During the middle decades of the 20th century, New Zealand's welfare state provided legitimate space for collective demands for redistribution of resources and recognition of marginalised groups. This is partially captured by Tennant et al. (2008, p.4) who state:

In the absence of large-scale private philanthropy, the willingness of government to provide financial aid to selected organisations was important to their on-going existence. In the social service sector, an almost symbiotic relationship prevailed between key organisations and the post-World War II welfare state.

One might add that perhaps the existence of the welfare state indeed structurally provided the rationale for, and efficacy of, the community and voluntary sector, and whatever role they played in the democratic process albeit in alignment with state policy. Though the post-World War II expansion of the state did impact upon the functioning of the community and voluntary sector according to Saville-Smith and Bray (1994, p.10):

The responsibilities of the non-profit sector became increasingly peripheral and limited in service delivery. The activities of non-profit welfare agencies were primarily advocacy and what might be described as 'grassroots community leadership.

Perhaps importantly for the community and voluntary sector a system that is committed to generalised social, political, and civil rights – such as the welfare state of the mid-20th century – has an in-built receptivity for advocacy as of right. As Jesson (1992, p.367) notes: "Politicians didn't resent these demands on their time and energy, but regarded it as the texture of democracy."

In fact this acceptance of civil society involvement in political processes in New Zealand can be traced to the 1890s and the adoption of elements of corporatism:

New Zealand has had a strong element of corporatism in its history in matters such as state regulation of wage bargaining through the Arbitration Court and the national award system. (Mulgan, 2004, p.211)

What changed in later decades is who was allowed to make demands of the state beyond workers. During the 20th century calls for redistribution from unions, the community and voluntary sector, interest groups, and social movements are evident and focus on a range of measures to assist unemployed, families, the sick, and solo parents between 1935 and 1970.

Lobbying and advocacy work during the 'welfare state' era was not just to be targeted at elected political elite, it was also targeted at those working in the public sector. According to Jesson (1992, pp.372-373):

A key component to successful lobbying has always been access to the appropriate bureaucracy. Often this occurs naturally, through professional and social interaction, and through movement of personnel between the public service and the private sector.

During the middle of the 20th century New Zealand had a very stable public sector that allowed for the development of fairly stable policy communities (Mulgan, 2004) or advocacy coalitions (Sabatier, 1993), which at times included community organisations. "In each sector of government, 'policy communities' tend to develop consisting of ministers, public servants and key interest groups who share a concern for policy in that area" (Mulgan, 2004, p.210). And it was a receptive public service which took part in these policy communities. Dr. Alan Bollard, Governor of the Reserve Bank of New Zealand, Secretary to The Treasury from 1998–2002, in his 'Preface' to Norman's 'Obedient Servant' (2003, p.7) says that civil servants he knew considered themselves just that, "servants of the people" and further that "they felt privileged to be so."

The result was levels of advocacy both for ever-expanding departmental resource needs and for the resolution of evident needs generated by inequality. However, a falling rate of profit, accompanied by Britain's movement into the European Union in 1973, a decline in the price of goods sold, as well as an increase in the cost of oil through the mid-1970s was followed by a finger-pointing exercise at state revenue expenditure (fiscal deficits) and state borrowing. This created enough political will and economic force to curtail the growth of the state, even though according to McClure (2003) the proportion of gross domestic profit going to social security had diminished in the 1960s and the 1972 increase in benefits was negated by non-indexation to wages or the cost of living in addition to inflation. The result was moves to curtail advocacy.

The crisis of the 1970s was not just a fiscal crisis. By the end of the 1970s a welfare state that had been "a largely neutral entity merely managing the short term demands of different interest groups to ensure the public good" and having to "...accommodate the claims of new constituencies and minimise the competition between different constituencies for resources" transformed into what was called "the crisis of pluralist politics" (Saville-Smith & Bray, 1994, p.11). Increasing political and social claims by Maori, women, and environmentalists, led to turmoil in parliamentary politics with ministerial sackings; confusing government responses to complex issues with, for instance, income support being granted to sole parents at the same time that neighbours were encouraged to report on their behaviour to authorities if it was considered to contradict their need for help. In addition, there was the complex reaction to the 1981 Springbok Tour which became increasingly interlinked with Maori Sovereignty struggles.

Smith (1996, p.7) argues that when the New Zealand Planning Council produced Social Policy Options in 1987, it advised "...governments to shift responsibility towards the individuals and community ... and away from the state's centralist responsibility". The report stated that the government should move:

...back to informality, with the family, workplace, voluntary societies employers and neighbourhood groups assuming more relative importance than in the past [emphasis in original]. (New Zealand Planning Council, 1987, p.21 cited in Smith, 1996, p.7)

Smith notes how the Planning Council used the example of support groups for women and people with disabilities which had originated as initiatives from the community and therefore had, quoting the Planning Council, the:

...desired attributes of flexibility, participation, greater co-ordination, efficiency and effectiveness, clearer definition of need and better targeting [and] increased self-reliance and of course they harness a financial contribution from the community to supplement that of the state. The Planning Council said the delivery of services by community based organisations, which can be achieved with the necessary transfer of resources and accountability, as preferable to direct delivery by state department. (New Zealand Planning Council, 1987, p.42 cited in Smith, 1996, p.7)

The Royal Commission on Social Policy (1988) expressed this change slightly differently:

The growth of community development and self-help groups became discernible from the mid-1970s, initially in relation to the social welfare or personal services area. The emerging groups differed from the established voluntary welfare agencies in their distrust of 'professionals'; their primary focus on needs specific to particular localities, or specific conditions, such as disability, or marital violence; and their preferred approach of sharing experiences and determining their own solutions to problems, rather than reliance on bureaucracies to provide solutions. (Royal Commission on Social Policy, Vol. II, 1988, pp.780-781)

The Report continues noting that these same groups got increased funding from special welfare and health areas and became so prolific that there was a suggestion that the state's role should be to "[empower]

people to come together to meet their own needs while providing funding for these groups and monitoring and regulating their activities” (Royal Commission on Social Policy, Vol. II, 1988, p.781).

Saville-Smith and Bray suggest that despite attempts by the state to enhance information and advocacy services, establish consumer monitoring of social services, develop agency networking, and integrate services across departmental boundaries, the end result was “...a pervasive sense that state minimisation, rather than mere devolution, must become the goal for state restructuring” (1994, p.13). These crises generated a major change in both the state and, in turn, civil society. Wheeler et al. (1982, p.10) in research on non-statutory welfare organisations in Palmerston North, maintained that community and voluntary sector organisations surveyed by them expressed two “strong reservations” about government welfare policy:

- i. the feeling that ‘across the board’ cuts are placing an increasing strain on the already limited resources of many groups, both by limiting the availability of resources, while at the same time, increasing demand for local groups to provide services traditionally offered by central government; and
- ii. reservations about the way in which welfare policy decisions are made, especially when such decisions involve decreased expenditure with consequent increases in service demand.

These reservations were warranted. In 1983 the government terminated the Voluntary Organisations Job Creation Programme, which meant a lack of funding to start organisations and projects within the community and voluntary sector, and a heavier reliance on volunteer workers or scaled down services (Wheeler et al., 1982). Subsequently in 1987 the government had terminated unemployment relief schemes (Project Employment Programme/Voluntary Organisations Training Programme) which had provided numerous community and voluntary sector organisations with paid staff plus some overheads. Their termination of staff and funding put pressure on the community and voluntary sector’s ability to deliver services. After protests from the sector, the government initiated the Community Organisation Grants Scheme, but funds were restricted and available only for approved projects.

The pluralist crisis, the fiscal crisis of the state, and a crisis in consumer confidence by the 1980s allowed the coalescence of some on the critical left (with their conception of the welfare state as social control) with those of the New Right (who maintained their notion of the welfare state as inefficient and costly) to morph into what Saville-Smith and Bray call the “humanist liberal” who pushed for “devolved service delivery” (1994, p.12). This led to a shift from what O’Brien and Wilkes (1993) have called the ‘Fordist welfare state’ to a new form of state. For O’Brien and Wilkes (1993, p.45) the key features of the ‘Fordist welfare state’ included “...social democracy, equity and, to a lesser extent, full employment” [emphasis in original]. They further note that the nature of democracy under this situation is one in which rights are extended and inequality diminished as opposed to the ‘PostFordist welfare state’ (the neo-liberal contract state), where rights are diminished and inequality extended (O’Brien & Wilkes, 1993, p.45-46). If there was an advocacy surplus under a ‘Fordist welfare state’, events from the 1970s seemed to create an advocacy deficit. Tennant et al. (2008, p.4) note that:

....the 1990s saw the most conflicted period in the relationship between the sectors. This reflected changes within the public sector, the much larger scale of financial transfers between government and non-profits, and the ascendancy of purchase of service contracts as the basis of the relationship.

1.4 A constrained community voice in a ‘neo-liberal contract state’

The relationship between the state and civil society was altered from 1984 with the rise of the neo-liberal contract state. With New Zealand’s variant of neo-liberalism came acceptance of New Public Management (NPM) and public choice rhetoric. This ‘market liberal’ model of interest group politics “...depicts interest groups as self-interested, ‘vested’ interests, seeking special advantages or ‘privileges’ for themselves which

are contrary to the public interest and to the long term prospects of the country” (Olson 1982, Vowles 1993 cited in Mulgan 2004, p.212). This view is found in the speeches and writings of New Zealand’s political architect of neo-liberalism, Roger Douglas. In one speech he noted that interest group lobbying served only to slow down the pace of economic reform (Douglas, 1991 cited in Jesson 1992, p.372):

By 1984, when Labour took office, the power of the lobby groups had become one of the main obstacles to economic and social progress. Blunting their power was the real role of the Economic Summit of that year. Having forced them into a commitment to put NZ first, we used the 1984 budget to hit the privileges of all the interests groups at once.

Similar views infused democracies around the world. For example, Cull (1993, p.18) had noted that this process had already started in England with the Wolfenden Committee report (1978) which had, in her words:

Isolated voluntary organisations engaging in ‘pressure activities’ (e.g. Greenpeace) as being unlikely to receive government funding. . . . Butler and Wilson (1990) view this as the state legitimising some area of voluntary activity while others are seen as radical and therefore unfunded. Government discourages the ‘radical pressure groups, single issue activity groups and political ideological groups’.

Public choice rhetoric was actively used to distance public sector actors from interest groups in order to avoid ‘capture’. This is particularly evident with policy ministries like the Ministry of Women’s Affairs and Te Puni Kokiri (Ministry of Maori Affairs). These groups were in the past seen as conduits for the voices of women and Maori in the policy process. However, government documentation from the centre of the state, including some from the State Services Commission and Treasury, in the 1990s and early 21st century make it clear that an ‘advocacy role’ was not in line with new public sector ethos (an ethos informed in part by public choice theorising) (Teghtsoonian, 2004).

Public servants were also seen as rational self-maximising agents, seeking to advance their own position through expansion of their area of work, their department, and their division. Under the welfare state the public sector, in Weberian terms, was doomed to produce an ever growing bureaucracy as departments were expanded to fit the tasks invented and a commensurate staff of ‘civil servants’ recruited (see Shaw 1999, p.189). The New Zealand’s public sector did produce an ever growing bureaucracy. From 1984 the solution was seen to lie in dividing up the policy and provision roles carried out by the public sector, through corporatisation and privatisation of non-core government services and, implementing private business models in the public service, resulting in an end to long tenures and permanency of position.

These very fundamental changes made to the public sector have had lasting impact. Twenty thousand ‘advocates’ for public services were made redundant. NPM became the order of the day as accountability and austerity in state sector performance drove legislative and policy changes. Also, the accounting procedure base of the state sector changed from input-based to output-based at the same time that the dominant economic rationale switched from demand-side to supply-side economics. The welfare state was not to be one that allocated according to need but one that allocated, after the substantial reduction of benefits, to “...ensure resources would go to the people who could make the best use of them” (Larner, 1996, p.35).

The job losses themselves also created difficulties for those seeking to provide knowledge for policy making. As Michael Mintrom (2006, p.538) notes:

In particular, it is now widely acknowledged that reductions in the number of staff employed in the public sector, along with fragmentation of advice-giving and service-delivery roles, have reduced the capacity of government departments and ministries to develop policy advice that raises and assesses fundamental, strategic, and long-term policy concerns.

Mintrom (2006) says that this then left space for think-tanks – ‘new voices’ – to enter the policy conversation, though most of these think-tanks are well-funded, (and almost exclusively) right-wing bodies. Less well-funded civil society organisations (such as many of those surveyed for this report) did not have the capacity to enter policy conversations on these new terms.

Further difficulty came with the move to output-based accounting for public expenditure. Prior to the advent of the Public Finance Act 1989, government grants were the usual form of funding for organisations in the community and voluntary sector, and expectations in grant funding did not focus on specific outputs being delivered. With the Public Finance Act, grants became contracts with more tightly defined outputs. The input system of the welfare state had been changed for the audited and measured output system of the neo-liberal contract state. The effect can be seen in the documents of state agencies. For example, in a report on the New Zealand Community Funding Agencies (NZCFA),⁵ northern regional manager, Wendy Reid, noted:

This approach is quite different to a community development model which would see NZCFA in the role of resource provider, that is funding the aspirations presented by the community with little or no element of state controlwe would not fund somebody who was a community development worker whose job it was to go around everybody making sure they were happy. We would not fund that because there is no discernible output which fits with our NDOC [Non-Departmental Output Class] structure. (Waitangi Tribunal, 1998, p.83)

In the same report Patrick Kelly, described as an “outreach worker for CFA”, (the interface between the CFA and the provider, essentially approving and monitoring funding) stated (The Waitangi Tribunal, 1998, p.86):

...what the Government wants its social service agencies to achieve may not always correspond to what a community wants, either in the specifics or in the manner or timing of its achievement under the community development model, the community ‘calls the shots’.

In 1993 then Minister of Social Welfare, Jenny Shipley, noted the shift in direction by affirming that the allocation of funds by the NZCFA was “*building an excellent bridge in the partnership between the Government and the community to provide social services*” [emphasis in original] (CFA, 1993 cited in Saville-Smith & Bray, 1994, p.6). Higgins (1997) also notes the dramatic change that occurred between 1991 and 1993, by quoting directly from Department of Social Welfare (DSW) plans, as priorities were shifted in line with government redirection from:

All people in New Zealand are able to participate within the communities to which they belong. (DSW 1991b, p.6 cited in Higgins, 1997, n.p.)

... to:

Policies for social welfare contribute to a fair and just society and promote self-sufficiency and responsibility of individuals and their families/whanau. (DSW 1993:30i, in Higgins, 1997, n.p.)

It seems that the NZCFA and the Government consciously abandoned community development for service development. This meant that the perceived success of community funding was measureable by performance outputs rather than social outcomes, and were more easily subject to fiscal control and monitoring under the State Sector Act and the Public Finance Act. Larner and Craig describe this as a “more punitive phase . . .

⁵ The NZCFA had been a separate business unit of the Department of Social Welfare (DSW) since 1992, responsible for “...allocating resources and support to community groups and organisations working in the area of social services delivery”. (Waitangi Tribunal, 1998, p.81)

which saw an extension of the marketisation programme accompanied by the introduction of neo-conservative and/or authoritarian policies and programmes in the area of social policy” (2005, p.407). Similarly, Martin states that new contract models stymied innovation in the community (1995, pp.44-46).

The result of this change in the public service was the reduction of space to advocate on behalf of marginalised New Zealanders as claims-making was philosophically unacceptable and changes in state structures had undermined access to the traditional allies of the community and voluntary sector. The loss of power experienced by unions, who had during the welfare state era worked in corporatist style arrangements with the state and businesses on the nation’s economic and social issues, has been well documented. However, as Jesson notes (1992, p.377):

Many other organisations have also lost influence during the changes of the 1980s and 1990s. Beneficiaries, unemployed organisations, the traditional public service, community groups and even local bodies, all proved powerless to prevent damaging changes to their situations. Consensus and pluralism are – for the moment – a dead letter in New Zealand politics, with the balance of influence shifting to business and finance in a culture of thoroughgoing commercialisation.

What is even more problematic is that the changes to the New Zealand economy, state, and society from 1984 increased the need for advocacy just as the state funding was being tightened. A survey of New Zealand Federation of Voluntary Welfare Organisations (NZFVWO)⁶ members (which were variously funded by thirteen government departments in 1990-91) gauged trends in the voluntary sector. The concerns expressed included increases in client numbers and demands, decreases in funding, increases in workloads, and problems in recruiting volunteers. The study concluded (NZFVWO, 1992, p.8):

Other concerns raised by agencies ranged from the large amount of time spent on advocacy, to increasing staff stress and problems created by changing government policy and government departments ...keeping member groups informed about changes in government policy and in making submissions means they do not have enough time to put into meeting the needs of clients.

Larner and Craig maintain that the environment delegitimised expertise gained by years of experience, replacing it with imposed requirements of “managerialism”, “professionalisation”, “skill development”, and “technical capacity” – all terms which offer a common sense understanding but are often expressed without an explanation of actual implications (2005, pp.408-409). These imposed qualities, which came out of the intensely competitive environment, produced distrust between organisations in the community and voluntary sector (which had formerly co-operated with each other) and exhaustion in organisations which are, out of necessity, in constant negotiation with government. Additionally, these pressures often diminished the breadth of what the community and voluntary sector felt was needed in regard to services offered (Larner & Craig, 2005, p.409). In the rush to eradicate inefficiency and the lack of accountability, the state’s response to the sector had created competition for funds within the sector. This became a competition for clients, increasing the frequency of applications for funds (Cull documents one organisation making 118 applications for funding in 1991-1992 with a 12% success rate (Cull, 1993, p.23), which implied that social problems are of a short duration and allowed the imposition of business models on the sector. Cull (1993, p.20) quotes Wallis (1991, p.28):

But in recent years, both in New Zealand and worldwide, the demarcation line between operating a prosperous non-profit and commercial enterprise has blurred. [emphasis in original]

The shift in attitude can be found within the documents of the community and voluntary sector. Wallis has noted that the Crippled Children Society (CCS) appointed John Lister, the New Zealand (manager of Watties

⁶ NFVWO has changed its trading name to Social Development Partners, see <http://www.socialdevelopment.org.nz/>

Industry) as their Chief Executive Officer, “...an advocate of the necessity for transferring business strategies into the voluntary sector” (Wallis, 1991, pp.28-30 cited in Cull, 1993, p.23). Lister is quoted as saying:

You can't survive on bottle drives today, and charities can go bankrupt just as quickly as anyone else. We must be as sharp as any commercial organisation out there.[emphasis in original] (Wilson, 1991, p.28 cited in Cull, 1993, p.23)

The question is whether this period of neo-liberal contract state continues with the election of the Labour-led coalition government in 1999?

1.5 Speaking for the marginalised in a ‘Third Way’ state?

It is argued that in the nine years following the 1999 election, under three successive Labour-led coalition governments, New Zealand moved away from the neo-liberal agenda and turned back towards a social democratic approach to economy and state. Political science and public policy literature present an optimistic view of interest group involvement in politics under this new ‘social democracy’ (Tenbense, 2006; Shaw & Eichbaum, 2008). Tenbense (2006, p.533) claims:

... the Clark government has adopted much of the style and substance of the ‘Third Way’ in its emphasis on ‘inclusion’, ‘partnership’, ‘networks’, and ‘stakeholder involvement’ in policy development and implementation. This certainly does indicate an ideological shift to accepting the legitimacy of interest groups in general.

Larner and Craig (2005) argue that this constitutes the third shift in policy characterised by a “partnering” ethos and in which discourses of “social inclusion” and “social investment” sit awkwardly alongside more obviously neo-liberal elements such as economic globalisation, market activation, and contractualism (Larner 2003, p.510; Larner & Craig 2005, p.407). While presented as a shift in governance style, many of the comments about the state post-1999 seem to reflect the belief that centre-left governments will be more receptive to collective advocacy. A substantial body of research shows that left-party strength creates opportunities for black and indigenous rights groups, workers, women, and other ‘left-leaning’ political movements (Costain 1992; Jenkins 1985; Jenkins, Jacobs & Agnone, 2003; Della Porta & Diani, 2006). It is also argued that the shift to the mixed-member proportional voting system (MMP) in New Zealand presented good possibilities for community and voluntary organisations (Shaw and Eichbaum 2008, p.196).

The partnership model adopted since 1999 at first glance appears to have opened space for civil society organisations and allowed the newly produced professional advocates to be involved in policy processes, though much of the focus has been on the provision of social services to address complex social problems and consequently depoliticise negotiations with the central government and other professionals. As Larner and Craig (2005, p.411) note, activists might have received more “...recognition within organisations and in job descriptions”, but they were “...increasingly required to make their political claims technical, or turn their contests into collaboration” (Larner & Craig, 2005, p.419). What the third phase did facilitate, according to Larner and Craig (2005, p. 418), was the creation of a new circulating elite who plied their skills between local and national government departments and community groups.

In 2001 the New Zealand government formally recognised the role of the community and voluntary sector, but stopped short of legitimising their advocacy role, supplanting it instead with the notion of partnership (Ministry of Social Development, 2001, n.p. [emphasis in original]):

An independent and vibrant community sector is essential to a healthy civil society. Government and the community sector depend on each other to achieve shared goals of social participation, social equity and strengthened communities Government will be an active partner in building a relationship based on honesty, trust and integrity – *tika* and *pono*; compassion and caring – *aroha* and

manaakitanga; and recognition of diversity ...Government sees a future where the state performs its role as a facilitator of a strong civil society based on a respectful relationship between government and community, voluntary and iwi/Maori organisations.

Other phrases that permeated the document included: “mutual interests”; “two way communication”; “working together”; and, breaking down “silos” and “establishing co-ordinated, inter-sectoral policies and programmes” (Ministry of Social Development, 2001, n.p.).

By 2003 Treasury’s guidelines on contracts with the community and voluntary sector promoted one version of the ‘vibrant civil society’ by acknowledging the need to respect the autonomy of the voluntary sector (Treasury, 2003, p.10). Though in practice, this autonomy came into direct tension with the need for government departments to ensure contracts “contribute to the achievement of Government outcomes and objectives” (The Treasury, 2003, p.3). The guidelines specified that any agreement between the Crown and community and voluntary organisations should be informed by the outcomes intended, but that (The Treasury, 2003, p.14):

[The definition of services] will need to strike a careful balance between:

- Including enough detail to ensure there is certainty (for both the NGO and Government purchase) as to the nature and scope of the service.
- Allowing the NGO flexibility.

While community and voluntary sector organisations “are not simply an extension of Government” (The Treasury, 2003, p.5), research with organisations in the sector suggests they do change their goals to align with government objectives in order to secure funding (Grey, 2007). While the political will from 1999 might have been to increase the connections between the state and civil society organisations, the massive changes to the operations, rules, and conventions of the public sector inflicted from 1984 continues to impact on the relationships between civil society and the state. As Cribb (2005, p.47) notes:

Current mechanisms are based on the assumption of agency theory (Anderson & Dovey, 2003). A principal (government agency) contracts with an agent (voluntary organisation) to deliver services on their behalf. The agent is assumed to have different interests from the principal and as such will act self-interestedly when the opportunity arises. To ensure the agent does what the principal expects them to do, external monitoring, reporting, sanctions and incentives are put in place’ (Jenkins and Mecklin, 1976).

Nowland-Foreman (1997, p.11) summarises the net results:

Ironically changes in government funding technologies in tandem with moves to reduce the role and size of government, cut ‘red tape’ and regulation, are seeing far greater levels of control by government over voluntary organisations than ever have occurred in the past. They are shifting the focus of government funders away from integration, coordination and effectiveness towards an overriding concern with competitive efficiencies. Outputs and even outcomes have come to mean quantities rather than qualities. And an almost exclusive focus on demand has left issues of supply to ‘find their own equilibrium’.

What is rarely acknowledged by the state in its consultation guidelines and partnership processes is the power imbalance within the relationship. As Geddes (2001, p.194) concludes: “Local partnerships therefore offer the excluded a stake in the market, but, as is the case for small shareholders generally, this may not be a stake that carries much clout”. Devolution of power had not been accompanied in New Zealand by greater democracy at the local level (Bale, 2003, p.210), or greater substantive democracy for those in the

community and voluntary sector. The partnership model may have led to greater state control of organisations in the community and voluntary sector, a concentration on meeting 'needs' of state (where money is) and a denial of adequate space for advocacy work. It is important to critique who controls the 'reinvigorated' approaches to consultation which were at the heart of the New Zealand 'Third Way' agenda.

The very rhetoric around 'partnership' is problematic. "The term raises expectations of an equality of status (if not resources) that can be difficult to achieve in practice where one party is the State" (Building better Government Engagement Reference Group, 2008, p.13). We agree with Evans and Shields when they note that the not for profit sector, "...has been accorded a central place in the governance models...[they] are being asked to perform an enhanced role not only in the delivery of 'public services' but also in a restructured state-societal relationship moving it away from its core mission, commercialising the sector's operations, and compromising its autonomy" (Evans & Shields, 2006, p.2). Such a compromise may have driven the trajectory of Barnardos New Zealand, "the country's leading agency promoting the welfare of children and their families" (Levine 2009, p.161) toward a more integrated service approach. As Levine notes, the New Zealand organisation has an annual budget of \$40 million (2008) coming largely from two government departments, but Levine (2009, pp.161-162) says he does not know if putting their efforts to provide more integrated services under the spotlight constitute resistance to neo-liberalism or accommodation of the philosophy.

There is some indication that community and voluntary sector organisations under the 'Third Way' state were being affected by the on-going drive to separate out political and policy advocacy from service provision (or purchasing in the case of many government departments) – a move first enacted in the core public sector, but now incumbent upon all organisations contracted by the state to provide social services. This situation was tested on October 3 2003 when questions were raised in parliament "...about the propriety of Ministry of Health (MoH) contracts with some antismoking groups that included clauses requiring the lobbying of MPs" (Brazier & Hunn, 2003, p.3). At the time, the MoH had contracted a number of antismoking community and voluntary sector organisations, including Action Smoking and Health (ASH), Aparangi Tautoko Auahi Kore, Smokefree Coalition, Alcohol Healthwatch, Manukau City Council, and the Obesity Action Coalition which, within the scope of the contract, made provision for active lobbying of MPs. According to Brazier and Hunn (2003, p.3), this action breached "...public service standards of political neutrality" and as a result violated the "...public service rules and Code of Conduct" (Brazier & Hunn, 2003, p.3). They further maintained that:

The enthusiasm and energy of public health staff have coloured the approach to NGOs contracting. This desire to engage and help resolve key public health issues is commendable although it does not make political lobbying any less unacceptable (Brazier and Hunn 2003, p.3).

The recommendations that emanated from this report were that the MoH's future contracts with the community and voluntary sector should:

- explicitly exclude lobbying activities
- cease the use of the word 'advocacy' in contracts and substitute a precise statement of the services being purchased
- ensure that services purchased are specific to information provision activities
- ensure that the Ministry staff receive instruction and training on the avoidance of lobbying requirements and on substituting advocacy with more precise expectations (Brazier & Hunn, 2003, p.4).

The 'vibrant civil society' had now received succinct guidelines – contracts with the various community and voluntary sector organisations named above were to be suspended pending negotiations (Brazier & Hunn, 2003, p.4). At the time according to the MoH this affected an estimated 1400 contracts with the community and voluntary sector which had to be reviewed (MoHb, 2003, p.3).

The New Zealand Drug Foundation, the Cancer Society, and the Public Health Association commissioned policy consultant Diane Salter and a reference group to produce an assessment of, and response to, the Hunn-Brazier report in 2004. This response identified that, although this issue focused only on the health sector, it was germane to many “social service and environmental organisations” (Salter, 2004, p.6). Their report clearly took issue with the contracted view of the community and voluntary sector and suggested that a ‘vibrant civil society’ had been precisely the result of the activity of the sector (Salter, 2004, p.3). Amongst their findings which took issue with the recommendations with regard to ‘advocacy’ roles of the community and voluntary sector were the following:

...placing the same constraints on NGOs as on the core public agency that funds them puts at risk the valuable contribution that NGOs make to sound public decision making. Indeed it puts in doubt the *raison d’etre* for the existence of some NGOs.

...The NGO sector plays a crucial role in representing the views of its stakeholders to government, in particular those of unheard and minority views. The sector’s strength derives from the diversity of its membership and sources of support...the people who work and volunteer in the sector are drawn from a range of backgrounds and bring with them a wealth of experience, expertise, knowledge and ideas.

...In most democratic countries NGOs play a vital leadership role in developing and participating in policies, programmes and services that improve and enhance society [emphasis in original] (Salter, 2004, pp.6-8).

The report draws specific attention to the critical role played by the Royal New Zealand Plunket Society, whose organisations and activities resulted in the six Karitane hospitals, numerous branches, and the reduction of child mortality from 88 per 1,000 to 32 per 1,000 in 1937(Salter, 2004, p.10). It was noted that, “[o]ver many years and on many issues, they have made submissions to Executive Government – at Ministerial and officials level – and to the legislature – appearing at Select Committee hearings and briefing individual MPs” (Salter, 2004, p.11). Similarly, it was noted that over a period of 25 years community and voluntary organisations concerned with tobacco control had made considerable impact as advocates for “...the [reduction of] advertising and promotion of cigarettes and also the measures to protect workers from second-hand smoke” (Salter, 2004, p.11). This work was done with the aid of government funding to ASH in the 1980s, the Coalition Against Tobacco Advertising and Sponsorship in the late 1980s, and the Smokefree Coalition in the mid-1990s. The report continues:

Without this advocacy, it is doubtful whether the Government would have gained sufficient public support to carry through the legislative changes. These measures were important in achieving the greatest decline in the prevalence of smoking in the OECD in the 1990s and thereby saved hundreds of premature deaths. (Salter, 2004, p.11)

Salter argues that in market economies with considerable power imbalances between business and both government and civil society, the community and voluntary sector was a significant contributor to a government’s “effective regulatory systems”, and that governments should therefore be supportive of such “countervailing voices”. (Slater, 2004, p.11)

Internationally, it is not unheard of for governments to actively support funding to community and voluntary sector groups for their roles as advocates for policy and political change. The Hunn-Brazier report noted that the Canadian government had signed an Accord with community and voluntary sector organisations. In contradistinction to the New Zealand agreement in 2001, the Canadian agreement maintained that:

The independence of voluntary sector organizations includes their right within the law to challenge public policies, programs and legislation and to advocate for change; and...Advocacy is inherent to

debate and change in a democratic society and, subject to the above principles, it should not affect any funding relationship that might exist. (Voluntary Sector Initiative (Canada), 2001, p.8)

The Canadian government funding guidelines in the same document listed advocacy as an activity that could be funded by the Government of Canada and stated that:

Funding may be provided to promote representative voices on emerging issues that are important to the delivery of departmental and agency mandates, and for advocating changes in public policy. Advocacy is defined as ‘the act of speaking or disseminating information intended to influence individual behaviour or opinion, corporate conduct, or public policy and law. (Voluntary Sector Initiative (Canada), 2001, p.22)

In Australia, for much of the 20th century, successive governments had provided operational funding for advocacy work by civil society organisations, recognising the need to ensure robust democratic debate on issues. However, during the Howard government this changed:

Whereas operational funding was previously made available to strengthen ‘weak voices’ in policy debate and to balance the influence of powerful business and professional interests, this is now framed as privileging various ‘industries’ that have a vested interest in expanding the welfare state – whether the poverty industry, the multicultural industry, the Aboriginal industry or the feminist industry (Sawer, 2007, p.24)

The linguistic shift to equate NGO industries’ activities with that of ‘powerful business and professional interests’ is alarming. Similarly, in New Zealand it seems the direction in the early part of the 21st century has not been towards greater acknowledgement and support for community driven advocacy, but rather a rejection of it. This has been played out in the public arena with regard to who gets charitable status.

Attacks on the charitable status are not new. For example, during the 1970s there was an attack against the Council of Organisations for Relief Services Overseas (CORSO), one of New Zealand’s most respected, well known and early-established community and voluntary sector organisations (1944), which had organised and coordinated aid to overseas countries (Sutton, Baskerville & Cordery, 2006). This organisation was effectively an umbrella group for many organisations interested in overseas aid. However, with the changing international debates about development and under-development, a growing concern about poverty in New Zealand and issues of Maori struggle, CORSO politicised its focus. The conservatism of the National Council of Churches was supplanted by the radical Christian World Service, radical younger women replaced older and more conservative women, and the Maori Council was admitted to CORSO membership. A documentary was released in 1979 entitled *A Fair Deal* which highlighted the effect of New Zealand’s trade on exploited labour in Hong Kong, as well as poverty amongst Maori and the disadvantaged in New Zealand. This led to government action. On the 19th of September 1979, under the initiative of the then Prime Minister Robert Muldoon, the government terminated the tax exempt status and the \$40,000 annual government grant to CORSO (Sutton et al., 2006, p.12). While supportive donations for CORSO continued the overall donations halved since 1971 (Sutton et al., 2006).

The more politicised approach has cost CORSO dearly but they were not the last New Zealand organisation to be caught up in a row over their function and whether it was charitable. The focus on a separation of advocacy and service provision work for groups seeking charitable status has sharpened since 1979. As has already been noted, the critical question for registration for charitable status centres on what constitutes charitable purposes. The Charities Commission uses the “well-established common law test” which includes one or more of: “the relief of poverty”, “the advancement of education”, “the advancement of religion” or “any other matters that are beneficial to the community” (Charities Commission, 2009, p.3). The Commission asserts that: “An organisation may qualify for registration if it has a secondary or supplementary non-charitable

function (such as advocacy) as part of its charitable purpose” (Charities Commission, 2008, p.2; and, Charities Commission 2009, p.3). By 2008 the notion of ‘advocacy’ was further defined. An organisation can have advocacy as a purpose and still register as a charity if it is “representational advocacy” or if it is “political advocacy which is ancillary [that is not the main purpose or is secondary, subordinate or incidental] to [the organisation’s] main charitable purpose” (Charities Commission, 2008, p.1). The Commission again defers to common law and chooses to see advocacy of political parties or for a law change by organisations as a matter pertaining to all voters and/or parliament and therefore not the prerogative of charitable organisations. However, the Commission further states that:

While organisations established to pursue political purposes will not meet the charitable purpose test, organisations established for exclusively charitable purposes may carry out campaigning and political activities, provided that the activities pursued are a legitimate means of furthering those purposes. (Charities Commission, 2008, p.2)

In the end it seems likely the Commission can and will use their discretion in granting charitable status; this is confirmed by personal communication with the Commission. The side on which they might err when it comes to deciding the difference between lobbying for a law change to further “your charitable purposes”, or alternatively “having a political purpose”, is unknown (Charities Commission, 2008, p.2).

Since 2007 the Commission has removed 1,000 organisations from the register of charities and declined 1,350 applications for charitable status (Fowler, 2010). In April 2010 the Commission rejected the application by Greenpeace for registered charity status. The rationale touches on the problems faced by groups who are active in carrying out political advocacy. The Commission states that Greenpeace’s “...promotion of disarmament and peace is political rather than educational” and that while the organisation did not advocate illegal activities, it had itself acted illegally (Fowler, 2010). The decision was to be appealed and their lawyer argued that if public benefit was the test of charitable purpose then surely peace and disarmament should satisfy the criterion (Fowler, 2010).⁷

Another well publicised case in 2010 centred on the Charities Commission proposal to de-register the National Council of Women New Zealand (NCWNZ). This organisation has existed since 1896 and was concerned about the amendments to the Charities Act 2006, which effectively gave the Charities Commission Board the powers to remove an organisation from their register. Sid Ashton, Board Chairman, had stated in 2006 that “...advocacy with any political purpose or with the purpose of inciting action” would not constitute legitimate aims of a charitable organisation (“NZPA Charities fear being Sanctioned for Speaking Out”, 2006). The NCWNZ argued that the changes would inhibit public participation in political debate. National’s finance spokesman, John Key (now the Prime Minister), said in 2006 that the changes in the Act would be a threat to charities’ income, and that “threat is a powerful incentive for these organisations to toe [sic] the line but it’s not in the country’s interest that the Government effectively gags them,” (“NZPA Charities fear being Sanctioned for Speaking Out”, 2006). The NCWNZ case highlights tensions that are inherent in any moves to define the community and voluntary sector along the lines of functions performed. The NCWNZ is currently contracted by the government to “provide advocacy and representation” (NCWNZ, 2010). According to the New Zealand Labour party, “The NCW has tackled the Government where it has failed women such as night class cuts, reduced support for victims of sexual abuse, scrapping pay equity initiatives and training incentive allowance cuts” (New Zealand Labour Party, 2010). The NCWNZ national president, Elizabeth Bang, says: “We are in a catch-22 situation...One side of government contracts us to advocate, while the other side seeks to punish us for this” (NCWNZ, 2010). This experience is directly comparable to the anticipated outcomes of the Australian study discussed at the opening of this report.

⁷ The Court of Appeal set aside the Charities Commission’s 2010 decision to decline Greenpeace’s Charitable status after the High Court had upheld the decision in 2011. The Court of Appeal referred the decision back to the Department of Internal Affairs Charities Regulation Board for reconsideration (National Business Review, 11 March, 2013). Greenpeace was quoted as saying they would take the case to the Supreme Court (ibid.).

In 2010, the Minister of Community and Voluntary Sector announced (at the Charities Commission's annual general meeting) a 'first principles' review of the Charities Act. This review, which would take place between 2012 and 2015 under the Department of Internal Affairs⁸, in addition to current regulatory changes to make existing processes improved, would in the Minister's words "...lead to improved public confidence in the sector" (Turia, 2010). The Minister also acknowledged that (Turia, 2010):

The review highlighted for me the fact that the regulatory environment the wider non-profit sector operates in is fragmented and confusing. In fact some would call it 'antiquated'. . . . Registered organisations must continue to qualify for registration, or public trust and confidence in charities will be compromised. Being registered also assures members of the public that an organisation's activities are genuinely charitable.

The priorities of the Minister seem to err on the side of making sure the sector is legitimate in the state's and public's eyes, as opposed to delivering the services to the community, or fostering advocacy on behalf of the community.

As Casey and Dalton have argued, it may also be the case that defining an 'advocacy role' in the current political context is challenging (2006, p.35). They note Melville and Perkins (2003) research which suggests that some organisations are adjusting while others are "... simply frustrated that the same old lobbying tactics do not work in a new policy environment" (Casey & Dalton, 2006, p.35). Contracting arrangements (which became the dominant model under which organisations received state funding from the neo-liberal contract state) are impacting upon the will to carry out advocacy work. There is a feeling that community and voluntary sector organisations must avoid "drawing attention to ourselves in case we lose our funding", or as one survey respondent put it they must avoid "biting the hand that feeds them". This is recognised by Tenbensel (2006, p.533):

...the more dependent such organisations are on government funding, and the more they are required to account for the delivery of services within frameworks defined by government, the less they are able to be critical of government policy in that area. In the face of sustained criticism, the government has the power to reduce the organisation's funding.

So what is the reality for community and voluntary sector organisations with regard to political advocacy work and democratic debate? Are they feeling constrained by the terms of a neo-liberal contract state centred on output funding and a recasting of all political actors as 'self-interested'? Or is their world brightened by the renewal of social democracy under the 'New Zealand Way', which is argued to have opened up avenues for partnership and consultation between the state and community and voluntary sector organisations? And what is the new direction from the National-led coalition? In order to explore these questions, this project uses survey data from 153 community and voluntary sector organisations working in the social service sector. This data depicts the complex relationship between the state and those wanting to better the lives of marginalised New Zealanders, as well as the difficulties faced by groups wanting to speak out against government policy, processes, and outcomes.

⁸ Under the Charities Amendment Act (No. 2) 2012, the Charities Commission was wound up and its core functions moved to the Department of Internal Affairs to 'reduce spending and administration, while keeping services'. It is known as the Department of Internal Affairs-Charities. For more details see: <http://www.charities.govt.nz/faqs/charities-commission-s-functions-moving-to-internal-affairs/> accessed 18 March 2013.

2 THE SURVEY AND DATABASE

As noted earlier, this study on the role of the community and voluntary sector in democracy is built on a survey created by The Australia Institute. The Institute allowed us to replicate the survey instrument they used to evaluate the role of the community and voluntary sector in Australian democracy under the Howard government. The original survey instrument contained 35 questions; a number of which were not relevant to the New Zealand study as they related to the federal nature of the state in Australia. Once these questions were removed, the research team consulted a number of peak body organisations to refine the New Zealand survey instrument. This included incorporating questions which asked about democracy under Labour-led governments between 1999 and 2008; and the National-led government since 2008. While at the time of surveying the National-led coalition had only been governing for a little over six months, it seemed crucial to separate out the two periods of decision-making given our interest in whether it is the mode of state governance or the ideological leaning of political parties which impacts upon advocacy by the community and voluntary sector.

The final survey instrument contains 32 questions. The questions are grouped into four major sections: 1) the interaction of the community and voluntary sector with government decision-making processes; 2) the 'Third Way' governance approach to consultation in place between 1999 and 2008; 3) exploring the intersection of government funding and participation in public debate; and finally, 4) the respondents are asked for information about their organisation.

With the survey refined we moved to build a database from which to select research participants. We aimed to develop a database of groups that reflected the shape of the New Zealand community and voluntary sector as much as possible. Following Sanders et al. (2008), we used the number of staff in each category as a proxy for the size of each part of the community and voluntary sector. The Johns Hopkins study provided data which aided us in ensuring our database reflected the range of advocacy potential and service provision in New Zealand's community and voluntary sector, at least in terms of the types of services. For our study, the complication in terms of mapping out the 'social service' arm of the community and voluntary sector – our primary concern – is that the Johns Hopkins study covers all 'non-profits'. The 2007 Non-Profit Institutions Satellite Accounts reported that there were 97,000 non-profit institutions in New Zealand, only 45% of which were engaged in arts, culture, sport and recreation while 12% provided social services and 10% represented religious institutions (Statistics New Zealand, 2007, pp.3 & 14). To get an accurate picture of what the sector looked like we needed to recalculate the relative size of each of the relevant categories for our study – education and research, health, social services, development and housing, civic and advocacy, philanthropy, international activities – in relation to the social service sector alone (See Table 1).

Having established the proportions of the non-profit sector for each field of provision, we began building our database from readily accessible addresses of nationally organised peak social service groups. For national organisations we included the national office and three branches in our database. As well as trying to get a mix of groups from the different social service provision fields, we considered geographic spread important and looked to ensure our database included social service providers from around New Zealand, so those from rural and regional communities, and cities.

Table 1: Distribution of paid staff and volunteers in New Zealand's non-profit social service sector by field of provision, 2004.

| Field of provision | Distribution by field as a proportion of all non-profits* | Distribution by field as a proportion of social service sector only |
|--------------------------|---|---|
| Education and research | 19% | 27% |
| Health | 14% | 20% |
| Social services | 30% | 42% |
| Development and housing | 4% | 6% |
| Civic and Advocacy | 2% | 3% |
| International activities | 1% | 1% |
| Philanthropy | 1% | 1% |
| All others | 29% | 0% |
| Total | 100 | 100 |

* From The New Zealand non-profit sector in comparative perspective (p.16) J. Sanders, M. O'Brien, M. Tennant, S.W. Sokolowski & L. M. Salamon, 2008. Wellington: Office the Community and Voluntary Sector.

To assist in building a database which reflected the diversity of organisations, regional representation, and the type of organising structure, the research team worked with two peak bodies – the New Zealand Council of Social Services (NZCOSS) and the New Zealand Federation of Voluntary Welfare Organisations (NZFVWO). NZCOSS describes itself as a “...national umbrella organisation for local Councils of Social Services and other social service networks throughout Aotearoa New Zealand” (NZCOSS, 2011). This organisation includes at least 50 members who perform localised umbrella roles, from which 26 members throughout the country were selected to provide a viable sample of community and voluntary social service organisations. Each of the members of NZCOSS had a local membership of community and voluntary organisations, which made it possible to provide a second cut sample providing a representative diversity of organisational functions. The other peak body is the NZFVWO, a network of social service organisations which has upwards of 130 members. The members include national and local organisation as well as branches of national bodies. The organisation provides email and online discussion groups and various publications which allow members to maintain contact, provide information, and help with submissions to government (NZFVWO, 2011).

Both NZCOSS and NZFVWO gave detailed advice on the content, means, and times of distribution (it was important to avoid audit and submission times), as well as providing advice on local umbrella organisations which were facilitating distribution in large urban areas. Both of these organisations put us in contact with various key organisers, which was invaluable.

We also included in the database six Christian organisations which make up the New Zealand Christian Council of Social Services (NZCCSS) (the Anglican Care Network, Baptists, Catholic and Presbyterian social services and Methodists which, according to NZCCSS, has '500 service delivery sites' within New Zealand). As with the other regional bodies surveyed, both the head office and three branches were chosen in order to cover rural communities, provincial centres, and major cities. We approached NZCCSS to distribute the survey through their networks, or provide access to their databases. The Executive Officer insisted on distributing the questionnaire through the email network of the NZCCSS. This effort proved to be problematic and will be discussed later.

Once the initial database was developed through these channels, we took steps to ensure the broadest reach possible for our mail-out database and used local community directories: web directories; and searches of the white pages to fill any gaps that appeared. In particular we were concerned that, by choosing to work through 'conventional' social service peak bodies, there may have been an absence of feminist groups who provided social services and advocacy – such as women's centres. We also felt the database needed to ensure gay and lesbian groups were represented as well as youth organisations and 'right-wing' lobbies.

While every effort was made in this survey to recognise the diversity, numbers, and geographical dispersion within the sector, time and financial constraints meant this project could not do justice to proportionality in each variable. The most significant gap in this respect is the absence of iwi organisations. The research team felt that this part of the sector would be best researched by Maori researchers, and hope to connect at a future date with someone who can look into this part of the community and voluntary sector. While no specific focus was given to iwi social service providers, there are responses from iwi providers.

2.1 The Survey

Through two mail-outs in August and October 2009, 604 hardcopies of the survey were sent to community and voluntary sector organisations around New Zealand, and a further 82 organisations were contacted via email by the research team and asked to participate in completing an e-copy of the survey. The final mail-out database covered organisations from each of the fields of provision from around New Zealand and a range of group sizes.

One disparity which became evident was the low number of groups from the education and research field included in our mail-out database. The difference between the proportion of education providers in the Johns Hopkins study and our own is probably due to the place that kindergartens occupy. Kindergartens were included in the Johns Hopkins study but we have left kindergartens out of our sample because of their close relationship to the state.

Table 2: Regional location of community and voluntary sector groups in the mail-out database by field of provision, 2009.

| | Field of provision | | | | | | |
|-------------------|--------------------|------------------------|-------------|-----------------|------------|--------------------|--------------------|
| | Total | Education and Research | Health | Social Services | Housing | Civic and Advocacy | Aid/ Philanthropic |
| Auckland | 182 | 11 | 38 | 90 | 3 | 40 | - |
| Bay of Plenty | 17 | - | 3 | 10 | - | 4 | - |
| Canterbury | 113 | 3 | 18 | 73 | 4 | 14 | 1 |
| Central Plateau | 7 | - | 1 | 5 | - | 1 | - |
| Coromandel | 5 | - | - | 2 | - | 3 | - |
| East Coast | 8 | - | 3 | 3 | - | 2 | - |
| Hawkes Bay | 11 | - | 1 | 6 | 1 | 3 | - |
| Nelson | 11 | - | 2 | 6 | 1 | 2 | - |
| Northland | 13 | 1 | 2 | 7 | - | 3 | - |
| Otago | 100 | 4 | 31 | 48 | 1 | 12 | 4 |
| Southland | 18 | - | 3 | 10 | - | 5 | - |
| Taranaki | 10 | - | 2 | 6 | - | 2 | - |
| Waikato | 28 | 2 | 5 | 10 | - | 11 | - |
| Wairarapa | 13 | - | 4 | 7 | - | 2 | - |
| Wanganui | 5 | - | - | 5 | - | - | - |
| Wellington | 137 | 9 | 23 | 64 | 3 | 37 | 1 |
| West Coast | 5 | - | 1 | 4 | - | - | - |
| Total | 683 | 30 | 137 | 356 | 13 | 142 | 6 |
| Percentage | 100 | 4.4 | 20.1 | 52.1 | 1.9 | 20.8 | 0.9 |

It was decided to primarily use a hard copy of the survey rather than web-based survey tools, to allow for more open and spontaneous comments by the participants. The importance of using paper surveys became clear when responses were received as many participants added categories, altered the scales we had provided, and wrote comments in the margins explaining their choices. This is more problematic in terms of coding than an on-line survey instrument which locks participants in to set answers. Sending out hard copies of the survey allowed a more genuine voice to come through. We felt very happy that the community and voluntary sector were prepared to challenge our assumptions as set out in the survey, while simultaneously demonstrating their engagement with the whole concept of democratic participation.

As was noted earlier, the research team worked with NZCOSS and NZFVWO organisations in order to develop the original mail-out database, and it is significant to note the numbers of organisations contacted who have affiliations with NZCOSS or NZFVWO (see Table 3). What is important is that both NZCOSS and

NZFVWO members cover a broad range of community and voluntary sector groups. For example, Hutt Coss (the first organisation listed in Table 3) includes 20 social services organisations, three health organisations, six civic and advocacy organisations, and one development and housing organisation.

Table 3: Number of community and voluntary sector organisations in mail-out data base who were known to be part of NZCOSS or NZFVWO, 2009.

| Umbrella organisation | Number of groups surveyed associated with each umbrella organisations |
|------------------------------|--|
| Hutt Coss Member | 31 |
| NSCSS (Northshore COSS) | 34 |
| NZFVWO member | 34 |
| NZCOSS | 47 |
| Waitakere COSS | 81 |
| Dunedin COSS | 82 |
| Christchurch COSS | 88 |
| Other groups | 289 |
| Total | 686 |

An advantage of establishing contact with these two peak organisations was the warning we were given by both about survey overload. Many community and voluntary sector organisations are subject to regular surveys, particularly those associated with NZCOSS as they survey members monthly. This overload meant that follow-up contact and encouragement were absolutely necessary. Follow-ups were done by phone and email, and occasionally via prompts included in the newsletters of the two umbrella organisations. Once personal contact had been made with an organisation, and particularly with the person who might complete the survey, it was much more likely that it would be returned. However, these types of contact were slightly problematic in that, while explaining the project and survey, it was all too easy to engage in conversation about issues that would influence part of their response. The overwhelming impression one got from these exchanges was that each of the organisations were totally committed even in the face of pressures of time, money, and personnel.

As noted earlier, a web-based approach was trialled using the NZCCSS network, but this was almost a total failure, and attempts to shift to a hard copy distribution failed. Using an email alert distributed to around 600 subscribers of the NZCCS e-newsletter system, we received responses from only three organisations. However, realising this would leave a gap in terms of the provision of social services by Christian churches – a major player in the community and voluntary sector in New Zealand – we sought to contact individual organisations, just as we had done for all other groups.

The purposeful sampling resulted in distribution of the survey instrument to a geographical spread and broad range of social and human service organisations (see Table 2). While it is impossible to control responses from organisations – as can be seen in Table 4 – a spread of different community and voluntary sector organisations responded to our survey. The disproportionate number of responses from ‘advocacy groups’, is

probably due to the fact that we worked with NZCOSS in many regions in order to find potential participants. Part of the remit of NZCOSS groups is to participate in public debate.

Table 4: Survey respondents by field of provision, 2009.

| Field of provision | Total number of respondents per field of provision | Percentage of total respondents | Distribution of paid staff in social service nonprofits by field, 2004 (%) [*] |
|--------------------------|--|---------------------------------|---|
| Advocacy | 37 | 24.2 | 2.9 |
| Education | 7 | 4.6 | 27.5 |
| Health | 21 | 13.7 | 20.3 |
| Housing | 1 | 0.7 | 5.8 |
| International activities | 1 | 0.7 | 1.0 |
| Philanthropic | 1 | 0.7 | 1.0 |
| Social service | 84 | 54.9 | 43.5 |
| No categorisation | 1 | 0.7 | 0.0 |
| Total | 153 | 100 | |

^{*} Adapted from *The New Zealand non-profit sector in comparative perspective* (p.16) J. Sanders, M. O'Brien, M. Tennant, S.W. Sokolowski & L. M. Salamon, 2008. Wellington: Office the Community and Voluntary Sector.

The surveys were coded into Excel⁹ for analysis using a range of techniques, including simple frequency tables, pivot tables, and cross tabulations. All comments on the returned survey forms (whether written in comment boxes, beside categories we had given, or in separate notes) were entered into Excel and sorted according to common themes. In all, 595 participant statements on the completed surveys have been analysed. Of these statements 494 were comments providing evidence and examples of the way in which democratic debate was either hindered or aided; the other 101 comments coded were often explanations for why categories in the survey questions had been modified. These written comments which explored the engagement in democratic processes ranged from just a few words, such as “[n]o significant change observed” to whole paragraphs. For example one respondent noted:

Role of NGOs as service provider is different from role of NGOs as voice of civil society (often gets muddled). NGOs in NZ are not well skilled in this area. They do not generally (there are expectations of course) understand political process or the mechanism of our parliamentary system or how things could be influenced to change related to this, and question 21. There is a difference between government pressuring NGOs to bring their messages into line with government policy (which is unacceptable) and governments saying that NGOs cannot use government contract money to lobby for

⁹ We have chosen to use Excel because the programme is widely available, and we hope the data set will be of use to the organisations we surveyed – in particular the peak bodies. We were reluctant to use expensive social science packages which would then limit access to the data and analysis methods. We are keen for the community and voluntary sector organisations (who so generously gave their time for this research) to be able to fully utilise the range of questions and responses given. If any participants would like to have a copy of the results, please email: sandra.grey@vuw.ac.nz

policy change. If contracts were to allow or encourage the government would be open to criticism by the opposition parties. the only solution to this would be for government to provide 'grants' to NGOs to foster community voice – the government (last one and this one) hasn't really figured out the role of NGOs in strengthening community and are therefore inclined to be risk adverse and squash NGO voice.

At times the comments were so prolific they formed the primary basis of our analysis. For example, in the two questions regarding the attitudes of the Labour-led and National-led Government's towards debate, 80 of the 153 respondents wrote explanatory notes. In other cases, written comments by our respondents seemed at odds with the quantitative data, and required the research team to consider the context for the comments and the survey response. In all cases, the comments made by the community and voluntary sector organisations showed a desire to engage in debate about their participation in, and successive governments' attitudes to, democratic debate.

The next section moves to present the survey results which have been aggregated in a way as to ensure anonymity of the groups involved. Anonymity is a major issue and will be discussed in section three with regard to what it implies about the availability of political opportunities for the community and voluntary sector to speak out against the government.

3 RESULTS

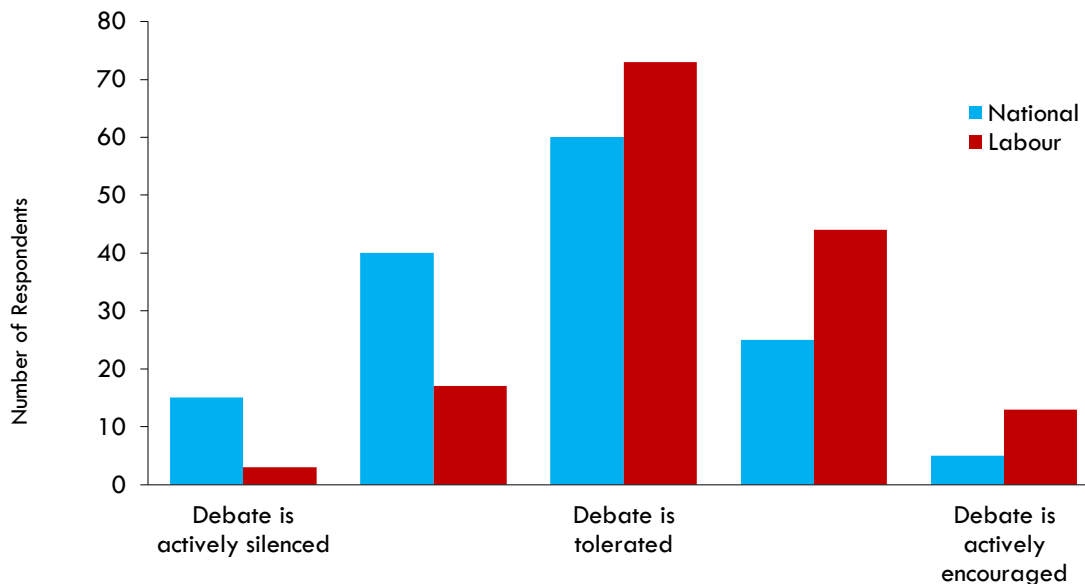
3.1 The community and voluntary sector's views of democracy

This section will turn first to the overarching question of the research – is democracy, as measured by the ability of civil society organisations to have a voice in political debate between elections, flourishing or languishing in New Zealand?

In order to understand the relationship between the community and voluntary sector and 'democracy' we asked our respondents what they thought of the government's attitudes to public debate. Through two questions in the survey, respondents were asked to respond using a scale from 1-5 but were also given adequate space to provide examples, critiques, explanations, and open comments about democracy in New Zealand. We did not begin by imposing any particular understanding of democracy on the study, instead letting the community and voluntary sector respondents define the concept in terms of their experiences. Later in the survey we also asked respondents for further analysis of the Labour-led Government's attitudes to democracy by eliciting information on whether respondents felt their organisation could critique, dissent, and debate government decisions. We also sought views on their experience of consultation, and pressure for compliance by the state. This elaboration was targeted at the Labour-led Governments (1999-2008) as we felt insufficient time had passed under the National-led Government at the time of surveying to permit full analysis of these areas.

Overall the survey results do not show a flourishing of democratic debate involving community organisations, regardless of who was in government.

Figure 1: Community and voluntary sector organisation's views on the attitudes of Labour and National governments to public debate, 1999 to 2009.



While we asked our participants to indicate their perceptions on a scale of 1 to 5, the results should be read in three groupings – debate being silenced; tolerated; and, encouraged. Firstly, a large number of responses asserted that debate is tolerated (73 under Labour; 60 under National). This led to comments such as:

[Under Labour] None of our members have been arrested!¹⁰

[Under Labour] It's more a case of lack of evidence for either the silencing or encouraging of debate.

[Under Labour] No real evidence to show encouraged or discouraged.

[Under Labour] There was not a great fear that speaking out or raising issues for debate would be "punished" by, for example, loss of contracts. However, there was not a total encouragement of debate either, e.g. all the fuss about "advocacy" in 2005.

The comments provided are hardly an affirmation of a flourishing democracy, and our respondents are not alone in expressing the view that public debate is merely tolerated in New Zealand (and in many cases absent from view). In 2009, at a public meeting in Wellington, the issue of freedom of expression was discussed by a panel of leading authors' and the Chief Censor. The panel conveyed a similar sentiment to that expressed in the survey responses: it's not that there is repression or censorship in New Zealand, but rather a sense of unease, a concern that there is no lively or active debate going on. More recently, Bill English (Minister of Finance), in a speech to the Families Commission, alluded to the problem by noting that no one had been awarded money by the Minister of Social Welfare from the innovation fund established by the National government in 2010:

I am not sure what it is but there is something about the way government has worked with people that has made them less brave than we can know they can benine months later we have given out almost nothing for while people talk about how they might change they are reluctant for reasons we all understand to make change in how they do things themselves. It's all about the government should change, well the government is changing.....We are willing to be challenged but we are not being challenged enough. We are not getting enough people kicking the door down saying you can do this really differently and here's how I am going to contribute, and here's how you can contribute. (English, 2011)

3.2 Debate is silenced

More concerning than the predominance of community and voluntary sector organisations who felt that debate in New Zealand has been merely tolerated over the last decade, was the number of respondents who thought debate had been 'silenced' and 'actively silenced' under both Labour-led and National-led Governments (see Figure 1). We have grouped together all responses to the question of whether debate is silenced (whether they are for the period from 1999 to 2008, or 2008 onward). The result is that 18 of the responses (5.9%) signaled that debate has been actively silenced by successive governments and 24.5% of responses indicated debate was 'silenced', if not actively (20 respondents said this of Labour-led governments between 1999 and 2008; and 55 felt this was true of the current National-led government).

When respondents were asked to give examples or evidence of the 'silencing' of debate in New Zealand, they referred directly to a range of 'problems': the government's attitude and the resultant policy; government's ignoring referendums; the behaviour of elected and non-elected government actors; the bureaucratic process in respective forums; and, issues with funding (including threats of loss of funding). These were all seen to be responsible for the silencing of debate on the part of both Labour-led and National-led coalitions:

¹⁰ We have noted beside each quote, in each case possible, the government in power for which the quote relates. In some cases, quotes were not specified to a particular government or time period. While at times there are no significant differences in the responses to the period under the Labour-led coalition and then under the National-led coalition governments, some differences do appear. This makes it important to illustrate which government comments and answers relate to.

[Under Labour] **Dictatorial attitudes filtering down through government.**

[Under Labour] **National referendums appear to be given no weight by either party: ECAN – Household fire ban's. No debate here really. Most national level policy is seen as dictatorial now.**

[Under Labour] **Governments sensitive to debate in our area . . . and not anxious to receive critical debate.**

[Under National] **The current Minister is not keen to engage with stakeholders and does not readily meet or debate.**

[Under National] **Minister not willing to receive dissenters.**

[Under National] **Not only actively silenced – there doesn't actually seem to be any opportunity for debate at all!**

[Under National] **Sees that things are being "done to us" without any opportunity for consultation – hence sense of disempowerment, loss of morale etc.**

Written responses focusing on why debate was 'silenced' under Labour-led coalitions frequently asserted that the cause of this 'silencing' was an absence of knowledge about, and lack of, respect for those working in the community and voluntary sector:

[Under Labour] **Our experience from about 2006 onwards was that public criticism or challenge was discouraged and responses from some senior Government Ministers were contemptuous.**

[Under Labour] **We made several attempts to establish dialogue there was no respect for such.**

[Under Labour] **Removal of funding from the Community Sector Taskforce was an obvious example – happy to talk more about this whole area!**

This lack of knowledge of, and respect for, the community and voluntary sector on the part of the state was recognised by the OCVS in their Briefings to Incoming Ministers (see OCVS 2008, pp.12-16).

However, a number of other reasons were given for the apparent democratic deficit: 77 respondents felt that bureaucratic processes did not support democratic debate; 79 felt they risked a funding loss should they dissent against the Government; and, 55 had pressure placed on them to amend their messages so they were more agreeable to the Labour-led Government.

When respondents focused on the 2008 National-led Government's attitude to democracy they stated debate had been silenced due to the lack of knowledge and appreciation of community and voluntary sector organisations in some cases. But survey respondents went further by noting that the National-led Government showed distrust, if not a total dismissal, of the sector's input. The critiques provided by our respondents focused on both elected representatives and public sector employees:

[Under National] **Minister of Social Development is uncommunicative and appears to be ill informed about supported employment in spite of an interest in unemployment.**

[Under National] **Debate appears stifled by practiced speechmaking and bullying of individuals by Ministers.**

[Under National] **People who speak out have been verbally attacked – possibly this has led to loss of contract but this is not clear. Government is less transparent about its intentions which is a way of restricting debate.**

[Under National] **Government has been prepared to engage on issues but are often poorly informed as the trust and engagement of officials appear very low.**

[Under National] **Bureaucrats seem to know what is best for all, community doesn't count.**

[Under National] **Much more centralised decision-making; fewer forums for community and beneficiary interaction.**

There were further reasons expressed for why debate is silenced, reasons which pertain to both coalition Governments (though largely focused on National) including: the vagaries of threatened and actual budget cuts; exclusionary activity; forced prioritisation of a parties' political preferences over community needs; and, Charities Commission scrutiny. All of these tend to dissuade groups from engaging in debate and critiques according to our respondents:

[Under Labour] **Reduced funding for groups perceived as lobby groups. We now have had to prioritise our interests because we don't have capacity to deliver on a voluntary basis and respond to everything we would like to do.**

[Under Labour] **Cuts to funding or certain organisations not funded and not included in government workshops/forums/advisory groups. Advice from the sector often ignored.**

[Under National] **Funding withdrawn – no communication or consultation has taken place.**

[Under National] **NGOs fearing being vocal will lead to funding being cut.**

[Under National] **Services are now 'fighting' for survival which leaves little time or energy for public debate.**

[Under National] **Needed to be careful not to annoy the government too much or we could lose our service funding. (This is even more concern for smaller NGOs with a large percentage of government funding).**

The Charities Commission has the potential to stifle NGOs from advocating and lobbying.

The speed of legislative process, as well as disrespect for existing protocol for public input into political and policy decisions, were noted as problematic by respondents with respect to the National-led Government. This was evident in both pointed complaints and more expansive comments about the place given to citizen engagement by the current government:

[Under National] **It is difficult to describe without becoming despondent and emotional. Throughout our organisation we are struggling to remain positive as rapidity of changes imposed by current government policy, undervalue, undermine and under fund our area of expertise and all without negotiation.**

[Under National] The key change for us between the former and current government has been the new government's interest in streamlining services – missing the nuance; incredibly rapid roll out of change (lots of legislation under urgency) meaning that consultation is hampered; and finding out how best to talk to government that is not terribly interested in the views of key players in our sector. Again it is the style that is most contentious for us –less so the content of individual policy initiatives.

[Under National] Speed of legislation going through. e.g. ACE cuts, ACC, RMA rushed through with no consultation at all. Everything is done under 'urgency'.

[Under National] Govt has said 'this was an election promise' (100 day action) so has pushed through actions without due consultations very short time frames to respond to issues/consultations questionable processes e.g. Horn report (health) – comments go directly to the Minister (usually the Ministry is arm's length).

[Under National] Government is riding high on almost bullet-proof popularity ratings, and this along with the economic crisis, provides strong mandate for just "getting on with it". Lots of legislation under urgency and some policy reversals are now being seen (e.g. special funding for children with disabilities). Cancellation of P2P has left some organisations high and dry; youth guarantee has major fracture points in it (even Business NZ agrees!). We expect to see the impact of the streamlining in public policy changes in about 12-18 months' time as the unintended results of policy have to be ameliorated.

While there were a variety of positions with regard to government attitudes to public debate, as noted earlier, in total 30.4% of the responses to our core question about democratic engagement said debate was silenced in New Zealand. This fact, as some community and voluntary sector organisations noted in their comments, has been evident in the media over the last decade. There have been vocal government responses to individuals who have publicly criticised Ministers and their decisions. For example, Paula Bennett's (Minister of Social Welfare) 'outing' of beneficiaries personal information (Trevett, 2009) after they criticised government plans to cut back training allowances. Then there was Prime Minister John Key's slating of Keisha Castle-Hughes for speaking out on political matters: "My advice to Keisha is this: Stick to acting", Key told a gathering of 500 business people in Brisbane....smiling dismissively ("Key: Should stick to acting", 2009). Another example was when Lucy Lawless, together with Jim Salinger, were dutifully ignored when they came to parliament to present a cheque for \$4,781 on behalf of Greenpeace to send John Key (PM) to Denmark flying economy class for the Copenhagen climate change talks (Greenpeace, 2009). Senior Citizen's Minister John Carter criticised Grey Power in their annual meeting for working on an investigation into the state of aged care in New Zealand with the Green and Labour parties, saying "[n]eutrality was crucial to the organisation's influence as the senior community's 'collective voice'". (Greenhill, 2010, n.p.)

Responses in our survey highlighted that those in the community and voluntary sector were affected by these cases (and other similar cases) where the government moved to shut down debate. When asked to provide examples or evidence that debate had been silenced, respondents noted the environment generated by public censure:

[Under National] Criticism of the Chief Justice for raising questions regarding the Prison System The Minister in charge of Social welfare releasing private information (in breach of the Privacy Act and the Cabinet Office Manual) relating to two DPB claimants who questioned Government policy.

[Under National] Paula Bennet's 'outing' of beneficiary information; John Key slating Keisha for speaking out on political matters.

[Under National] Exposure of people who stand against government opinion. Shutting down of Ministry staff information sharing.

[Under National] Paula Bennett's silencing of staff.

Respondents demonstrated that they knew there was no immunity from government opprobrium for criticism, regardless of whether one is outside the state or inside as a civil servant/technocrat. For example, Nick Smith (Minister for Accident Compensation Corporation (ACC)) told 5,000 bike owners who were protesting an increase in their ACC levies outside parliament, that increases of the levy were inevitable despite 2,750 submissions (downunders888, 2009), and Key (Prime Minister) told farmers it's only \$3000 for their emissions tax ("PM tells farmers to accept \$3K ETS cost", 2009). It was not, however, just the National-led Government which had taken such actions. In May 2004 Labour PM Helen Clark called the organisations involved in the Hikoï over the Foreshore and Seabed legislation "haters and wreckers" ("Helen Clark slams hikoï", 2004). And it was under the Labour coalition that one community and voluntary organisation found itself disciplined for inappropriate associations:

[Under Labour] [Our organisation] developed, with government support, a national Code of Ethics [for our organisation] and a [Government Department] refused to pay for the printing and publishing or to have the Minister present at the launch if we left references to [an international convention] in the document. The Ministry also required us to remove the name of a person who had been involved in the design of the document because [the person] was involved in a high profile public protest earlier in the year.

Cases where organisations felt pressured into staying silent also came up during conversations with research participants. During one phone conversation (to encourage a respondent to complete the survey) it was revealed that government departments had questioned a community and voluntary sector representative from a small rural community about attendance at a meeting being hosted by one former and one current opposition Member of Parliament.

An additional, perhaps unintentional, consequence of the perceived attitude of government to debate is that groups try to ensure they are non-confrontational during public consultation processes. For example, a number of respondents told us that local government's unwritten policy is to only accept those who are non-confrontational/acceptable in their negotiation with local providers. Groups said they had to consider how often they took part in consultations because you were "damned if you don't come and damned if you're seen too much" (Personal communication). Respondents certainly felt there was innuendo from funding providers that community and voluntary sector groups should be careful who they talk to and ensure they are not seen as being too pushy!

While there was strong sentiment by nearly a third of our respondents that debate was silenced by successive New Zealand governments, other organisations felt that both Labour-led and National-led governments *did* provide space for public debate and dissent.

3.3 Debate is encouraged

By again combining responses to the question 'is debate encouraged' to include responses under both National-led and Labour-led periods of government we find 18 responses affirming debate had been 'actively encouraged' in the last decade or so, and another 69 affirming that debate had been 'encouraged' by successive governments (see Figure 1). But these positive responses were accompanied by qualifying statements:

[Under Labour] **Debate often seems to mean allowing people to discuss, but government will carry on more or less regardless! Debate usually pointless, but must happen so they don't think we agree with them! Also, we try to keep them honest!**

[Under Labour] **Debate tends to be encouraged i.e. asked for feedback but substantial change is minimal.**

[Under Labour] **Debate seemed to be welcomed if it was consistent or aligned with Government thinking.**

[Under Labour] **Debate was tolerated but not listened to on a number of issues. For example the Foreshore and Seabed issue.**

[Under Labour] **Risk averse government but they were available and did listen – at least until the end of their term.**

[Under National] **Debate occurs but it is not fostered – at least to date – on disability issues.**

[Under National] **Debate was tolerated but concerns ignored for example the Auckland Government and Maori representation.**

[Under National] **When debate arises it is quickly silenced and ignored. Publication is being regarded as false if [National] government oppose debate.**

There were a small number of respondents who gave unqualified support of their assertion that debate was encouraged under the Labour-led Governments and provided a range of statements which supported their assertions:

[Under Labour] **[Our organisation] has close contact with [Labour] Ministers – this allows healthy debate.**

[Labour showed] **Willingness to meet–debate.**

[Under Labour] **Debate in media on ethical issues.**

[Under Labour] **Public and media debate. Presence at debating environment.**

But notably, the positive comments about the National-led coalition did not mention debate:

[Under National] **Key (PM) government, fresh and seems keen to listen to new ideas, not wanting to get offside with public so early into term.**

[Under National] **There has been a change in attitude in the Ministry this has not yet produced any changes in behaviour but at least the attitude is more willing.**

The absence of the concept of debate was found in many of the supporting statements given by our respondents. For example, our respondents characterised the relationship with Labour as one dominated by 'consultation', 'contact', 'seek(ing) feedback', 'express(ing) concerns', 'freedom of expression'; and, relationships under National as 'focused on sharing of information'.

The most positive aspects of these sentiments seemed to result from individual on-going relationships with Ministers or officials which suggested a preferred status for the organisation:

[Under Labour] Ministers in touch and well informed. Regular contact with regional organisations. Pro-actively seek feedback and make themselves available to local people.

[Under Labour] Our organisation was able to meet with Government officials and Ministers on a regular basis.

[Under National] As with the previous government. We have good working relationship with some current Ministers because we worked with them while they were in opposition, even though the government were not happy about it.

[Under National] Support and attendance of Ministers concerned to our meetings and conferences.

On balance, the scores given to successive New Zealand governments with regard to attitudes to public debate, and the supporting evidence and examples provided by our respondents, shows a constrained democratic environment.

3.4 What constrains democratic debate?

We will explore a range of reasons given by our respondents as to why debate has been muted, and in some cases silenced, over the last decade or more. We begin by looking at whether it is just a matter of which political party is in power. As was noted earlier, the survey asked questions of participants which differentiated between the actions of the most recent Labour-led and National-led governments. Overall respondents felt debate was more tolerated by Labour-led coalitions, but the results are not as clear cut as expected. By comparing the responses to questions about political debate under Labour and under National established that 37.9% of respondents felt that debate was easier under Labour-led governments; 24.2% stated that debate is easier under a National-led government; and 37.9% responded that it did not matter which party is in government there is no difference in attitudes to public debate (see Table 5). This finding challenges the international literature which asserts that left-leaning groups, groups representing the poor, dispossessed, and underclass, will be much better off under left-wing governments (Costain, 1992; Jenkins, 1985; Jenkins, Jacobs & Agnone 2003; Della Porta & Diani 2006).

The large number of respondents who felt there was no difference between the attitudes of Labour and National with regard to democratic debate, indicates that respondents are political realists. Community and voluntary sector organisations have a very clear understanding about the possibility of genuine debate under the two main political parties and their respective leadership:

[Under Labour] PM [Helen Clark] statements in media often played down role of NGOs, she had made her mind made up on issues already!

[Under National] Similar to the previous prime minister, the current one [John Key] is again 'Minister of Everything' and he acts as someone who has a view on all issues already highly formed.

Table 5: Perceptions of changes in attitudes to debate between the 1999-2008 Labour-led Government to the 2008 National-led Government.

| Community and voluntary sector organisations by field of provision | Negative change | No change | Positive change |
|--|----------------------|----------------------|----------------------|
| Advocacy | 14 | 16 | 7 |
| Education | 2 | 5 | - |
| Health | 8 | 8 | 5 |
| Housing | - | - | 1 |
| International activities | - | 1 | - |
| Philanthropic | 1 | - | - |
| Social Service | 33 | 28 | 23 |
| No categorisation | - | - | 1 |
| Total (%) | 58 (37.9) | 58 (37.9) | 37 (24.2) |

So if the political party in power does not fully provide the answers as to why democratic debate has been stifled in New Zealand, what other the reasons given by survey respondents?

Early in the research process and in conversations with key informants, we thought larger organisations might be more immune from censure and find it easier to engage in democratic debate. But using expenditure as a proxy for size, there is no significant evidence that group size had an impact on whether groups felt Labour or National were more accepting of public debate and dissent. Neither did any of the results show that the field of provision from which an organisation came affected their perceptions of the possibilities for democratic engagement.

What our respondents did provide evidence for was that the overall environment being created by the state and the current funding 'regime' were constraining their engagement in political debate. Encompassed in this environment is the most often noted constraint on democratic debate, fear about 'biting the hand that feeds'.

Most community and voluntary sector organisations are reliant on government funding for their survival. While there is a high degree of variability in funding arrangements for community and voluntary sector organisations, as was noted in the NZFVVO survey in 1991 (Malcolm, Rivers & Smyth, 1993, pp.129-130), two possible forms of funding from the state are grants and contracts. These two forms dominated responses to questions about organisational resources. With regard to our respondents, 43 organisations received more than 50% of their funding from government contracts. Of those who received government grants, 10 organisations relied on grants for more than 50% of their funding. This reliance on state funding makes organisations reluctant about critiquing the actions of the state. In all, 79 respondents (51.6%) stated that organisations risked funding by dissenting.

We asked respondents to comment on any formal restrictions their organisation may have faced regarding the making of public comment, in particular, asking if their funding arrangements affected their capacity to make comment on government policy. Certainly there has been concern internationally about the negative

impact on democratic debate of gag clauses in government contracts (Sawer, 2013).¹¹ In all, 23 of the 153 respondents to our survey noted that their government funding agreements stated explicitly that they must not make public comment on government policies and action (see Table 6).

Table 6: Does your funding agreement with the government restrict your organisation's capacity to make public comment on government policy and research?

| | Number of respondents | Percentage |
|----------------|-----------------------|------------|
| Yes | 23 | 15.0 |
| No | 85 | 55.6 |
| Yes and No | 2 | 1.3 |
| Did not answer | 43 | 28.1 |
| Total | 153 | 100 |

The written responses to our survey presented three possibilities with regards to restrictions imposed by taking state funding: total realisation of the costs of even being associated with government; rationalisation of why it was important to be careful about public comments if funding came from government; all the way to fear of making criticisms of the government in public. The latter was so real for the community and voluntary sector organisations contacted that despite our guarantees of anonymity, a very large social service provider explicitly and repeatedly noted on their survey forms that we had to keep their identity and comments confidential/anonymously. We wonder how many groups decided not to complete our survey due to this fear and so were silenced from even participating in this conversation about New Zealand democracy. The responses of the community and voluntary sector reflected the controlling effect of the funder/purchaser/provider split. As Shaw (1999, p.197) noted, this split "...greatly increased the use of contractualist devices as a means of regulating relationships between purchaser and provider organisations". This controlling effect was confirmed in a 2004 survey looking at the relationship between the MoH and community and voluntary sector organisations where one community and voluntary sector organisation said their greatest concern was: "Fear of speaking out induced by contract behaviours and the advocacy/lobbying issues" (Health and Disability Sector NGO Working Group 2005a, p.16). The following statements represent a sample from our survey respondents about whether contracts prohibit public comment:

Does not allow comment.

In some contracts more explicit about not commenting unless agreed with funder, other pressure not to rock the boat is more subtle.

Funding agreements do require any comment that is made about the agreement itself to have been agreed to by both parties and there is a general expectation of no surprises in relation to public statements that are critical.

Have to clear any specific references to the work area with government department first.

BUT workers ALWAYS have to get anything going into media or the public realm checked and approved.

¹¹ In 2012 Australia's Labour Government legislated to ensure gag clauses could neither be included in the requirements for charitable status nor in the contracts for publicly funded not-for-profits (see Sawer, 2013, p.11).

Basically not to enter into public debate.

At times need to keep onside with government funders.

Even when there were no overt gag clauses in government contracts, respondents rationalised their caution about public comment or noted the contractual provisions which point to the power differential between provider/funder:

We do not want to draw attention to ourselves in case we lose our funding.

We shouldn't be seen to be criticising our partner publicly.

Creating 'distrust' may jeopardise contract negotiations'.

Added to this, another 43 organisations did not respond to this question, as they do not seek or receive government funding in the first place. For a number of groups it was an explicit choice:

Choose not to have government money in order to retain independent voice.

[Under Labour] **We do not receive government/contract funding but do this so we can be free to advocate on behalf of the community on health and policy issues.**

[Under Labour] **We were offered funding from MoH but turned it down. Felt it would make it harder for us to say what needed to be said.**

Fears that public critique and dissent will cost community and voluntary sector organisations access to public funding is not a new phenomenon. As was noted earlier, there have been actual cases in which funding has been cut due to the involvement of organisations in public debate. This started in earnest with the MoH and the Hunn-Brazier report of 2003 when the inclusion of advocacy and lobby clauses in six MoH contracts (anti-smoking) (MoH, 2003) was deemed to be unacceptable under public service standards and compromised the political neutrality of the MoH. Additionally, the decision that charity status is not open to political advocacy groups reinforces the perception that groups who speak out against political decisions will find themselves on the wrong side of the state.

Even if funding is not cut in all cases where groups speak publicly against the government, the perception that it could be cut is of critical importance to those interested in democracy. As was noted earlier, government funding is crucial to many groups in the community and voluntary sector, one only has to note the results in the Grant Thornton Not for Profit Sector Survey results in 2009. The Grant Thornton team pointed out that the "...most significant issues challenging" the not for profit sector was "...financing activities of the organisation" (this had increased as a concern for 56% of organisations in 2007 to 72% in 2009) followed by "fundraising", "the role of the board/governance issues" and "retaining/motivating staff" (2009, p.4). So fears about losing funding are likely to lead to modification of actions by the community and voluntary sector as a result of "anticipated reactions" from government (Mulgan, 2004, pp.312-314)¹² to any public dissent they take part in.

3.5 The sinking lid of funding and rising compliance costs

Groups also noted that some of the constraint on their ability to participate in public debate was due to the problems arising out of the new neo-liberal contract state; the level of government funding available; and,

¹² Mulgan (2004) specifically used this term to describe what might influence civil servants and ministers in their decision-making, but it is totally apt in this situation where we find community and voluntary organisations having to decide how government will react to their position and whether costs outweigh benefits.

the output demands placed around accepting government funding. We will look at each of these issues in turn and explore how our respondents felt this constrained public debate.

First, our respondents noted that funding was tight for the community and voluntary sector and that financial pressure has increased in recent years. Of those surveyed, 54 organisations had lost government funding in recent years for a variety of reasons (see Table 7). For the most part, the reasons had been made explicit to the community and voluntary sector organisations concerned and included the end of a contract, fiscal restraint, policy termination, review implications, or priority change by government.

Table 7: Has your organisation received government funding in the past ten years which it no longer receives?

| | Number of organisations | Percentage |
|----------------|-------------------------|------------|
| Yes | 54 | 35.3 |
| No | 87 | 56.9 |
| Not applicable | 12 | 7.8 |
| Total | 153 | 100 |

Some respondents pointedly drew attention to specific cases where, for instance, loss of government funding was due to programmes being terminated or ‘realigned’:

Foundation learning programme (TEC-literacy) disestablished.

Termination of programme. Loss of 15% estimated. Reasons appear genuine, with hindsight.

Just been notified of the cessation of [a particular] programme. ... Reason given targeted investment focus for this year, means reduction on last year’s funding level.

In other situations the funding cuts were attributed to changes in processes for allocating funds; an overall decline in the budget of a government department or agency (including a lack of inflation proofing); due to a change in personnel in government departments; or because of broken promises without reasons given:

50% of income lost in 2005 following change in personnel in MoH and “Grant” (20% of income) lost in 2009 following change in government policy.

2 years ago we stopped [receiving] funding as we changed service delivery type but they wouldn’t change the funding over.

COGs funding used to cover rent fully and a small amount of overheads now only get 2/3 rent.

Lost funding this year, through our umbrella organisation contract not renewed. But regional groups such as ours were promised all funding would be secure and would come from local DHB. This is not going to happen now. Even though we have it in writing from the funding manager that we would still be funded as we are the only consumer run organisation for those who suffer a [from a particular condition].

[Under National] Had CYF contract (counseling services) [for nearly two decades] and exceeded contract numbers for years. Current government gave us 21% of previous contract price and simply said no negotiations.

Around 2000 onwards funding grants got limited to the 1999 value—devalued by [a] inflation percentage each year. Also contracts were frozen at 1999 rates for 8 years.

As with other studies conducted with the community and voluntary sector, our respondents indicated that at best the state fails to recognise the true costs of the sector, or at worst we have a state which chooses to deliberately underfund the sector. Research by the NZFVWO (2004, p.12) noted "... government contracts for funding do not meet the full cost of the service. Instead, the shortfall is considered to be the community's contribution to the availability of the service" (NZFVWO, 2004, p.12). In 2005 the Health and Disability NGO Working Group catalogued another discrepancy in the contract environment. They warned of "current financial pressures for NGOs noting the discrepancy in contract provisions between DHBs for the same services which it turned out varied 'across regions', between the North and South Islands and did not recognise the extra funding needed to 'recognise rurality'" (Health and Disability NGO Working Group, 2005b, p.5).

Another problematic trend for those who assert that the community and voluntary sector requires some autonomy from the state was the fact that funding cuts often related to changes in government priorities. Responses to our survey demonstrate the on-going tension around who the community and voluntary sector is accountable to: are organisations in the sector primarily accountable to their own constituencies and their needs, or to whoever is in government?

The backlash against the "nanny state" encouraged by the current government has made it more difficult to frame concerns in an acceptable way.

Told that the criteria for COGs now requires organisations to be "providing front-line services" for people in need.

[Funding cuts] Due to change of priority by government reflected in departmental purchase agreements.

[Funding cuts due to] Realignment of Work and Income priorities in 2007.

Lack of funding – client group outside the MSD criteria.

This year the Committee for Community Learning in Aotearoa NZ was disestablished. Initiative funding is almost non-existent now and the NGO sector is usually vitally the site to address creativity and injustice which needs initiatives funding.

All of the foregoing explanations speak to the volatile and sometimes covert funding environment which clearly demands focus and attention on the part of community and voluntary sector organisations. This was evident in the Grant Thornton (2009/10) and Health and Disability NGO Working Group (2007b) surveys. A comment from one of our respondents captures an additional community and voluntary sector perspective on the outcome of changes:

Need to guard the independence of the 3rd sector and ensure, through contracting, we are not just pseudo-government agencies.

Pursuant to this point Morris and O'Brien (1999 in O'Brien, Sanders & Tennant, 2009, p. 28) had noted that: "There is a risk that services become responsive to the requirements of the funder rather than the needs of the user or of the community." Even more likely according to the NZCCSS, the contract places emphasis on the

“...funded project at the expense of the organisation” (NZCCSS, 1998, p.22 cited in O’Brien et al., 2009, p.28). Similarly Robinson (1999, p.105) noted the increasing “... influence of government departments providing funding through contracts which can impose the values of the government of the day” and “... [a]t present there is some pressure from funding bodies on voluntary sector agencies to adopt a form meeting funder requirements rather than reflecting the agency interest” (Robinson, 1999, pp.112-113).

The efforts from the community and voluntary sector, however, still seem to be directed towards the needs of their constituencies. This confirms Cribb’s (2005) findings from the in-depth investigation of accountability in four community and voluntary sector organisations:

Twenty-seven out of 34 respondents considered themselves accountable to their organisation’s clients. Staff were the second most important stakeholder to whom accountability was perceived (18 out of 34 respondents), followed by the government (16 respondents), the organisation’s governing body (14 respondents), and the organisation’s members. (Cribb, 2005, p.45)

This is succinctly summarised in an unprejudiced way by a community and voluntary organisation in the final comments made to our survey:

We prefer to think of ourselves as a community organisation rather than define ourselves in relation to Government. Our experience is that governments of all persuasions have progressively become more receptive to the views of community organisations and make efforts to relate in meaningful ways. We see part of our role is to have constructive relationships with elected and paid officials in local and central government and to participate in the political process where it is relevant to our mission of client’s issues.

More than 50 different comments from our respondents gave explanations for the relationship between government funding and constrained public debate, with most attributing difficulties in debate to government attitudes and processes. Only a few offered a slightly different analysis of the problem and placed onus, in one way or another, back on the behaviour of the sector itself:

More agencies seeking funds from diminishing resources, fragmentation of services in the NGO sector (so), we could work more cost effectively together.

I think on the whole we are lucky in terms of our freedom and access and that NGOs as a whole do not avail themselves of this as much as they could.

NGOs are very ignorant of their potential political “clout” and how to use it collectively to fight for change. They have few natural representatives in parliament (virtually only UF, Greens and Maori) and they need to act more in unison.

Expertise sharing across NGOs would free up valuable time required to lobby and become involved politically.

They [NGOs] need to join forces and work together to make change happen.

The essence of these last comments was expressed in 2001 by Munford and Sanders when they envisioned how the sector might respond to the challenges with which they had been confronted, including making the funders adhere to contract law to the full:

It will also include harnessing strength as groups of providers and using this collective strength to exert pressure for changes which will both enhance the ability to provide services and to deliver maximum benefit to clients, (Munford and Sanders 2001, p.56).

Both our respondents and other studies note the way contracting has impacted upon where ‘accountability’ lay for community and voluntary sector groups, that is there is a concern that “the linkage of government funding to government rather than sector goals” (OCVS, 2008, p.13). The tension explicit here had been noted in a paper given by the Auditor General’s office to the 5th Annual Internal Audit Forum in 2006. The major concern for community and voluntary sector organisations was the increasing expectations of contracts and the shift to “...purchase of services and accountability for ‘outputs’” (Pilgrim & Buchanan, 2004, p.5). The tension that was acknowledged in this arrangement was between community and voluntary sector organisations’ need for independence (to be accountable to and effective for its community) and at the same time be accountable, effective and efficient in terms of the use of ‘public money’ from contracts with the government (Pilgrim & Buchanan, 2004, p.6). This effectively imposed a dual expectation on the community and voluntary sector. The Auditor General in a 2006 report setting out the principles which should guide government funding arrangements with community and voluntary sector organisations was in no doubt as to the influence of accountability arrangements after the public sector reforms:

Because of the pressure for accountability, public entities have tended to opt for a control approach when managing the risks in their relationship with NGOs. Contracts are seen as the way to achieve this control. (New Zealand Audit Office, 2006, p.15)

But the report also noted that this relationship is represented by an ‘imbalance of power’. “To be fair and reasonable, the public entity should consider this power imbalance in the way in which it conducts the relationship” (New Zealand Audit Office, 2006, p.23).

An additional perspective is provided by Nowland-Foreman (1997, p.9) who accurately outlined a number of under-acknowledged consequences resulting from the changes in the funding regimes as applied to the community and voluntary sector:

- there are increasing administrative or overhead costs for voluntary organisations.
- there are increasing ‘transaction’ costs (for the funding transaction) for both voluntary organisations and the funding agencies.
- there is an increasing emphasis on the initiative coming from funder determined priorities and diminution of the importance of the initiative of voluntary organisations (in identification of need, development of service or programme options and even in operational arrangements).
- there is an increase in the risks to which the voluntary organisations are exposed (a resulting decrease in funding agency exposure (see also Harrison 2010, p.15)¹³ and
- there are increasing expectations on, and requirements for, voluntary organisations to behave competitively.

Given the findings of these reports match the analysis of our respondents, it is clear that the sector itself has the capacity and awareness to analyse the problems and tensions created by the neo-liberal contract state and show that none of these tensions have abated in the last decade.

3.6 Surviving the constraints of a neo-liberal contract environment

For some of our respondents, rationalisation of the community and voluntary sector is one way forward in the new contractual environment, but how likely is this ‘rationalisation’? The 2009 survey by accounting firm Grant Thornton asked organisations about their preference for either consolidation or merger with like organisations (Grant Thornton, 2009, p.7). The majority response was ‘no’ they would not prefer to merge with other organisations (53%), but 48% of the community and voluntary sector organisations were equally split

¹³ According to Harrison (2010, p.15): “NGO accountability is seen as critical to limiting government risk, while at the same time, government seeks to get more frontline effectiveness through the transfer or concentration of resources at the frontline”.

between 'maybe' and 'yes'. If it was to occur, according to the Grant Thornton survey (2009, p.7), then it would be most popular if it concerned 'core business' (63% of respondents).

What our survey respondents indicated was more likely to be happening was that rationalisation and coordination was being structured as an imperative by the funder (the government). In both Australia and New Zealand a rise in contracting has led to 'single' providers being seen as the favoured approach in the community and voluntary sector. As part of the on-going restructuring of service provision by the community and voluntary sector, the New Zealand government has in the last few years set up preferred providers, as well as a number of centralised mechanisms for funding and accountability purposes which reinforce the move towards the Australian model of provision by large corporate style voluntary organisations. In fact, before the 2008 elections, Green Party MP Sue Bradford suggested there were good indications that if the National Party became the government it intended using "...Mission Australia, a large corporate style Australian NGO, in a public-private style contracting arrangement between the state and the community sector" (Green Party, 2008). She said: "Mission Australia is a huge business in Australia, feared by smaller NGOs as it gobbles up available contract monies and starves smaller NGOs of funds" (Green Party, 2008). What commenced as an activity of grass-roots democracy, whereby providers served local needs, has now developed tendencies towards monopoly.

The Johns Hopkins study contributes to this drive for rationalisation, though this was far from its intention, because it numerically showed the proliferation of the sector. Likewise, the Charities Commissions' role as potential gate-keeper/monitor of the sector could contribute to this agenda as does government's preference to connect with national organisations. This process of rationalisation is perhaps most evident in the National-led Government's move to put in place 'high trust' contracts with service providers who have long histories of sound operation. Trust is a particularly interesting notion here, given Hood's (1995) distinction between high trust and low trust within the environment of NPM and the comments by our respondents assert that there is little trust displayed in the government's attitude to the sector. 'High trust' contracts favour the larger more established groups in the community and voluntary sector, seemingly because of their capacity to meet demands around economic accountability and efficiency, and not necessarily the capacity to have a greater grasp on community needs and change. During the survey process a number of community and voluntary organisations expressed concerns informally that these contracts will mean that money will only go to the 'big six' providers, and those who come into three broad categories – 'the firm' (NZCOSS), 'the federation' (NZFVWO), and 'the Christians' (NZCOSS).

Our respondents were mixed in their views about the benefits and likelihood of centralisation and rationalisation. There was some fear that rationalisation meant grass-roots debates, initiatives, and democratic participation would be stifled. And still others noted that collaboration may be good, but that the sector has been organised for at least two decades in a way that encourages competition because of the way government funding is allocated.

In 2007, The Health and Disability NGO Working Group examined the 'environmental impacts on innovation and collaboration' under this funding regime in a survey of 46 community and voluntary sector organisations and forum workshops involving 80 community and voluntary sector organisations. The Working Group concluded amongst other things that:

The competitive funding model means that NGOs are competing amongst themselves for limited funding, NGOs believe that this means they are therefore less open to sharing good ideas (or exposing vulnerabilities that they could use support with) when this could be used against them in a future competitive tendering situation. (Health and Disability NGO Working Group, 2007a, p.2)

Research by the NZFVWO on 'Value added by Voluntary Agencies' in 2004 noted this same problem:

For the voluntary sector, the increased emphasis on competition diminished the opportunities, and willingness, among agencies for collaboration within the sector. The focus on funding outputs specified in contracts changed the nature of the engagement of voluntary agencies with the Government and with their users. (NZFVWO, 2004, p.7)

3.7 From neo-liberal contracts to 'Third Way' consultation?

As was noted earlier, there is an assertion in policy literature that 1999 was a turning point for New Zealand politics which saw a shift from free market neo-liberalism to a 'New Zealand way' (Eichbaum & Shaw, 2006). The expectation is that the 'Third Way' governance model, with its emphasis on partnerships and consultation, would improve democracy generally. For the community and voluntary sector the shift to a 'Third Way' was predicted to mean a more inclusive approach to decision-making. It is apparent from some respondents that high levels of interaction between state and community organisations did occur during the period of the Labour-led Government from 1999 to 2008 (see Table 8).

Table 8: Estimate how many times your organisation participated in government consultation processes between 1999 and 2008.

| How often did you meet government | Total Number |
|-----------------------------------|--------------|
| A few times | 60 |
| At least once or twice a year | 24 |
| 5 to 10 times a year | 6 |
| Every week or more | 11 |
| Often | 5 |
| Unknown | 5 |
| N/A | 35 |
| Not completed | 5 |
| Total | 151 |

The modes of contact with government were explored to see whether 'Third Way' governments or grass-roots organisations were responsible for generating space for democratic engagement. Our respondents initiated meetings with political elite (81), were invited to the table by government (80) and, responded to calls for submissions put out by the public sector and elected political elite (87). For 54 of our respondents, all three modes were listed as being modes of engagement used by them.

The responses from the 153 community groups involved in the project showed there was no single method of consultation (see Table 9). Spaces for speaking to government and public servants varied from written reports to face-to-face meetings.

Table 9: What forms did government consultation take?

| | Number of respondents |
|---|------------------------------|
| Meeting with a public servant | 93 |
| Written submission to a Minister or Government MP | 92 |
| Meeting with a Minister | 90 |
| Focus group or 'stakeholder' forums | 80 |
| Written submissions to a select committee | 77 |
| Intersectoral meetings | 64 |
| Oral submission to a select committee | 59 |
| Appearance at a government inquiry | 45 |
| Hui or fono | 41 |
| Intersectoral research forum | 38 |
| No contact | 36 |
| eGovernment initiative/online consultation | 29 |
| Other | 5 |

While the results provide an indication that the community and voluntary sector experienced a relatively open and consultative environment under Labour from 1999 to 2008, this does not mean that the state actively promoted democratic engagement from civil society. One way in which the state can actively promote democratic debate is to ensure groups have the resources needed to participate in state run consultation processes. Of the 153 groups surveyed, 100 said they had received no assistance to participate in government forums. Of the 53 who received state assistance to participate in consultations run by government: 17 groups were given assistance with travel (which might include koha, staff and research funding); 21 received partial costs of travel (which could include koha and research and staff funding); four received some costs towards research (which could include staff); five got funding for staff in order to help them attend government consultations; and, four received a koha for their involvement in government forums.

Consultation with the government has clearly been occurring in New Zealand over the last decade, but is it the preferred method of getting marginalised voices into democratic debate? Despite multiple ways used to get concerns heard, our respondents favoured communications with their own members, meetings with public servants, and work through their national organisations over other forms of claims-making (see Table 10).

Table 10: What methods does your organisation ALWAYS or OFTEN use to get your concerns heard?

| Ranked | Method | Percentage |
|--------|--|------------|
| 1 | Communication with your members | 80.5 |
| 2 | Meetings with public servants | 59.1 |
| 3 | Through national organisations | 52.6 |
| 4 | Publication of research reports/data | 31.8 |
| 5 | Submissions to enquiries/select committees | 31.8 |
| 6 | Letters to Ministers | 26.0 |
| 7 | Media releases | 26.0 |
| 8 | Meetings with local/constituency MPs | 25.3 |

These responses on the forms of claims-making used by organisations must be set in the context of what groups do not do (see Table 11). Our respondents' least preferred methods of getting a message heard were organising protests and deputations to parliament.

Table 11: What methods do your organisation NEVER or RARELY use to get your concerns heard?

| Ranked | Method | Percentage |
|--------|--------------------------------|------------|
| 1 | Organise public protests | 74.0 |
| 2 | Deputation to Parliament | 50.0 |
| 3 | Organise public meetings | 35.1 |
| 4 | Letters to the editor | 27.9 |
| 5 | Deputation to local government | 27.9 |

What we see in the responses to the survey is an understandable preference for avoiding the high resource costs of disruptive tactics and the avoidance of those tactics which may lead to a government backlash or withdrawal of funding. This also errs on the side of caution in regard to the Charities Commission's activity. Both of these reasons are further confirmed when we look at the preference for writing letters to ministers (61 said sometimes use this method, 32 said often) and meetings with local MPs (70 said sometimes, 32 said often), over going to parliament (67 said they never used this method to get their views heard, and 33 said this was used only sometimes).

The importance of the bureaucracy to the community and voluntary sector also stands out in the survey responses. Ninety-one respondents said they would often or always use meetings with public servants to get their message out, yet only 17 said they would use parliament as the place in which to get their message heard. Going to parliament might in fact be left as the preserve of national bodies, with 54 groups saying

they often used national organisations to get concerns heard and 27 saying they always went through national offices.

These preferred methods of getting messages heard must be seen in terms of respondents' views about their organisations main audience. In rank order from most popular to least: 93 of our community and voluntary sector respondents said they 'often' or 'always' targeted public servants as the audience for their claims-making; 92 targeted other groups in the community; 76 government ministers; and, 65 turned their attention to the general public. The least popular audiences with our respondents were the media, shadow ministers, and local government. These appear fairly consistent with the results above and the noted preference for public servants, perhaps for good reason. As one of our respondents noted:

There are clear indications that political decisions makers rely predominantly on internal department advice and regard external input as a gesture of good will.

While community and voluntary sector organisations are creative in the ways they engage in public debate, some respondents were also quite skeptical about state consultation as noted in written comments which further support the explanations of why consultation was problematic:

We are so busy delivering our service, this kind of activity [involvement in decision-making] although we deem it essential, takes our much needed resources away from service delivery. So when we are not listened to, there is a sense of "why bother"? however we still keep on because we believe in what we are saying.

[Under Labour] We felt our expertise significantly exceeded that of policy advisors, they felt challenged.

[Under Labour] Government consultation is getting very limited in the way that they feed back. Very little true collaboration with the community sector, they take issue [with us] and then work with other government agencies only.

[Under National] More likely to give policy statements prior to effective consultation.

Again, many respondents stressed the importance of being at the table when it came to consultation but pointed out that consultation is often too little; too late; prefigured; ignored; or did not necessarily result in political change. They also noted the significant impact of gate-keeping under both National and Labour:

[Under Labour] Outcomes are decided beforehand.

[Under Labour] Consultation is usually meetings with pre-set agendas and pre-set outcomes.

[Under Labour] Consultation comes too late in the policy development process.

[Under National] More likely to give policy statements prior to effective consultation.

[Under National] Ministers and officials have own agendas to the visits and consultations appear often to be a waste of time. Other times advice is taken but to further their own purpose and not that of the sector.

[Under National] Along with other organisations in the community our opposition to policy changes and funding changes is not heard, anti-social decisions are done with no public consultations.

As was noted earlier, the problem is the differential in power between government actors – who often set up consultation processes and boundaries for debates – and the community and voluntary sector participants. As one of our respondents put it:

[Under Labour] Formulation of issues, scoping of terms of reference, and accumulation of information were largely done out of the public eye; so public debate tended to happen within pre-set constraints. However, compared to the new government, there was a time (comparative) leisure in which to formulate responses to proposed new policy directions.

Expressed from a slightly different position, another noted:

Insufficient knowledge exists about the economic inputs/outputs and outcomes provided by not-for-profits particularly those that are community based. As a result insufficient value and recognition is given to the sector, and minimal (minimised) contributions are sought on key political/social/economic issues, in processes such as task forces, ministerial working groups etc.

The issue of power and empowerment is not adequately addressed in the current literature on the relationship between the state and the community and voluntary sector but rather focuses on championing the importance of government consultation processes being formalised. Shaw (1999, p.197) says the following about the relationship: “Thus the partnership between public purchasers and non-state providers is essentially a principal/agent relationship, rather than a partnership of equals, which in practice tends to mean that the former defines what will be provided, when, in what quantities, and at what cost by the latter.”

Being involved in state run consultation processes seems to bring a mixed bag of results (see Table 12).

Table 12: Did you feel your involvement in government consultation between 1999 and 2008 was (from ‘was productive’ to ‘had no impact’):

| | Number of organisations | Percentage |
|---|-------------------------|------------|
| was productive | 77 | 50.3 |
| was counter-productive | 2 | 1.3 |
| had no impact | 20 | 13.1 |
| was productive and counter-productive | 2 | 1.3 |
| was productive and had no impact | 12 | 7.8 |
| was productive, counter-productive, and had no impact | 38 | 24.8 |
| Total | 151 | 98.6 |

We also asked our participants to evaluate if consultation led to ‘success’ and in what ways. One hundred of our respondents described their success as ‘moderate’, and 31 described it as ‘highly successful’. Consultation was most beneficial, according to our respondents, for improving funding for one’s own organisation; knowledge of policy issues; and, open communication. This is followed by public knowledge about one’s own

organisation and policy development. Curiously, for those that were positive about consultation with the government, the least productive results of consultation were in terms of increased funding for the sector as a whole and the broadening of those involved in consultation. There is a certain utilitarian competitive imperative from those who claimed that consultation with government was productive and much less a sense of collective struggle on behalf of the community and voluntary sector. The tension is obvious here and harkens back to those in the sector that argued for working together, but in a competitive contract environment it is possible to see problems for the sector of doing this.

Given that 54 community and voluntary sector organisations said they saw no results from the consultation held, or that consultation both had no impact and was productive at the same time, it is important to look more deeply at what organisations felt was behind the unproductive nature of talk. Table 13 sets a number of factors which our respondents felt negatively impacted upon consultation.

Table 13: If you felt your organisation’s involvement in consultation was not productive, which of the following did you feel impacted upon the result?

| | Respondent numbers |
|--|---------------------------|
| Public servants seem unwilling to collaborate | 17 |
| There is a ‘tick box’ approach to consultation | 14 |
| Government agencies focus too heavily on compliance requirements | 11 |
| There is no consistency in the consultative approaches used by government agencies | 10 |
| Little respect is shown for NGO experience | 9 |
| Government agencies dictate the process too much | 9 |
| NGOs suffering from consultation fatigue | 8 |
| Consultation comes too late on the policy development process | 5 |

These results, which indicate limitations to speaking with government agencies, are somewhat problematic given that our respondents pinpointed the role of public servants as the most preferred audience for messages (see Table 11). Of the remaining constraints, all but the issue of fatigue were noted by our respondents written explanations as to why public debate was only tolerated or had been silenced in New Zealand.

Only four groups expanded on why they evaluated consultation as being non-productive. Their responses to this line of questioning seem to be more a skepticism than an absolute negativity:

[Under National] Although good intentions document is a good sign – doubtful this will be followed however.

[Under National] Not really – although we have constantly raised our fear of decreased funding and so far the status quo has prevailed.

[Under National] **Because much of what we contributed to is being unpicked by the new government.**

[Under National] **Not in the public health/health promotion area.**

When respondents were asked whether their concerns raised in consultation were reflected in current government policy, there was an even split between 'yes' and 'no' (see Table 14).

Table 14: Do you see concerns that your organisation raised during this process reflected in current government policy?

| | Respondent numbers |
|--------------|--------------------|
| Yes | 59 |
| No | 59 |
| Yes and No | 7 |
| No Response | 28 |
| Total | 153 |

Of those who opted for the affirmative, and felt their organisation's concerns were reflected in policy, there was a considerable range in the evidence provided. Seven respondents mentioned observed changes in contracts or funding; 19 referring to changes to specific policies (particularly in the health area (seven)); 15 to process and legislative changes; and, two noting that there had been a reduction in compliance requirements.

In terms of the reception of messages and the target of actions, we see a real emphasis placed on the importance of the public service, but it is important to note that not all parts of the public service may be equal in terms of the way they responded to the community and voluntary sector engaging in public debate. We had sought from participants some indication as to which parts of the public sector were helpful and which were not.

3.8 Helpful and unhelpful Ministries, agencies, and departments

Interestingly, when respondents were asked which government Ministries were 'helpful' or 'unhelpful', the same 15 Ministries topped the two lists in almost equal numbers. There were four exceptions – MSD, Inland Revenue Department (IRD), Department of Corrections, and Treasury. Over twice as many of our respondents saw MSD as 'helpful' (55) as opposed to 'unhelpful' (20). With regard to the IRD, Department of Corrections and Treasury, these state agencies received no 'helpful' acknowledgements and moderate 'unhelpful' notices, ranging from three to five respondents each. The predominance of MSD in the 'helpful' category may be due to the fact that they are the majority provider of the estimated \$1.25 to \$3.6 billion provided by the state to the voluntary sector (OCVS, 2008, p.7).

This overall situation is worth comparing with the results of surveys done for the Health and Disability NGO Working Group in 2005 and 2007. While comments here will focus on the MoH and DHBs, it has to be noted that community and voluntary sector's relationships with the other areas of government, despite a small sample of respondents (five to 15 community and voluntary sector organisations) was overwhelmingly positive (Health and Disability NGO Working Group, 2007b, p.3). With regard to the MoH however, 60% of the 70 community and voluntary sector organisations in the 2005 report, and 65% of 59 community and voluntary sector organisations in the 2007 report, responded that they thought the relationship was 'Fair' or 'Poor'

(Health and Disability NGO Working Group, 2005a, p.7; Health and Disability NGO Working Group, 2007b, p.3). The 44 community and voluntary sector organisations that responded in terms of their relationships with DHBs in the 2007 report were more evenly split, with 46% in the former category and 54% in the latter (Health and Disability NGO Working Group, 2007b, p.3). The survey noted, in general, that there had been a deterioration in the relationships since the results of the 2003 and 2004 surveys (Health and Disability NGO Working Group, 2007b, pp.3-4). More specifically, the results indicated that the MoH and DHB managers and staff did not “demonstrate a commitment to strong respectful relationships” with the sector; that the relationships between the sector and Ministry and DHBs were unequal; that DHBs did not “...respect the autonomy of the sector and were evenly split between agreeing and disagreeing that the Ministry respected the autonomy of the voluntary sector” and finally that the Ministry did not communicate “...in an open and timely manner” (Health and Disability NGO Working Group, 2007b, pp.3-4).

In the Health and Disability NGO Working Group study (2007b, p.2), the main issues community and voluntary sector organisations wanted addressed were “increased levels of personal communication”, “greater respect for and valuing of NGOs”, “more prompt and useful feedback on accountability reporting” and an “increased involvement in policy development and service planning”. (Health and Disability NGO Working Group, 2005a, p.9; Health and Disability NGO Working Group, 2007b, p.6). In 2004 there were two major concerns, the first as noted above and the second an urgent need for funding for infrastructure, administration and up-skilling of staff (Health and Disability NGO Working Group, 2005a, p.9). The 2005 survey reported that the MoH did not appreciate the reporting efforts by the sector, evidenced by 80% of community and voluntary sector organisations either ‘never’ or only ‘sometimes’ having a meeting with, or having issues acknowledged or acted on by the MoH (Health and Disability NGO Working Group, 2005a, p.5).

There is an evident contrast between the two sets of concerns noted above. One clearly shows the NGOs attention directed towards the community or their clientele’s needs (and their ability to service them), and another that drives their attention towards the relationship with the state which obviously is the prerequisite of the former. This increasingly complex requirement of a dual focus is not a new issue for the sector. Our respondents noted:

The role of NGOs as service provider is different from the role of NGOs as a voice of civil society, but they often get muddled.

There is a difference between government pressuring NGOs to bring their message into line with government policy (which is unacceptable) and governments saying that NGOs cannot use government contract money to lobby for policy change. If contracts were to allow or encourage this, the government would be open to criticism by the opposition parties. The only solution to this would be for government to provide ‘grants’ to NGOs to foster community voice.

I would like to see more forums and be involved in the consultation process. We have a voice. We are at the grass-roots level and know what our community’s needs are. We save the government millions of dollars yet we are not even 50% government funded.

The complexity of this position, as regards the influence of contracting, parallels the results from the Grant Thornton research in 2009 and the suppositions provided by Saville-Smith and Bray (1994). In 2008, Platform Charitable Trust commissioned a survey of community and voluntary sector organisations to look at the community and voluntary sector-DHB contracting environment. In the report, 20 respondents that provide mental health and addiction services for all the 21 DHBs in New Zealand echoed similar sentiments to the above:

Feedback has highlighted that the present environment stifles service growth, development and innovation in the sector. The costs to community organisations tendering for new work are significant. Contractual processes are unsatisfactory, with significant delays in contract completions, ambiguities in documentation, and cumbersome reporting regimes. This also frustrates community organisations' abilities to do what they do best.

The crucial role of DHB funding personnel is highlighted in terms of relationship and contract management and service knowledge. There are pockets of excellence characterised by consistent and knowledgeable funding and planning managers, but overwhelmingly it is a picture of high turnover, lack of experience, and concern that the loss of institutional knowledge about the nature and purpose of contracts makes NGOs extremely vulnerable (NGOIT, 2009, p.5).

4 CONCLUSION: DEMOCRACY CONSTRAINED

Voluntary NGOs play a very important role in New Zealand society. We can speak out on issues that others may not be able to talk freely about because of their employment situation. We have expert opinions on a wide variety of issues related to the [name of organisation]. Getting unbiased information out to interested parties is very important for our society.

NGOs play a unique and crucial role in New Zealand. Their contribution to political decision-making in NZ is currently undervalued and under-utilised. They are under resourced and therefore undermined. Government need to value them more.

These statements from two participants in this survey show clearly that the community and voluntary sector sees itself as having a major role to play in democratic decision-making. A role in speaking up for the most marginalised of our society; in ensuring policy meets the real needs of New Zealanders; and, in ensuring a better society. However, they also illustrate what the survey results presented in the previous sections have highlighted - that the role of the community and voluntary sector in public debate has not been actively welcomed by the state in recent decades.

As has been noted throughout this report, organisations in the community and voluntary sector are active every day; concerned to be involved in both service provision and political debate; and, want to have the expertise of the sector treated seriously. Many in the sector feel that their experience, while sufficient to be trusted with providing services, is not trusted or sufficiently respected to be accepted as knowledge in political decision-making. One respondent expressed the sentiment in the following way:

NGOs provide opportunities to experiment and to take risks in what is a punitive and blaming political culture. We have knowledge and experience that government should respect. Not enough attention is paid to anecdotal evidence.

So why does a democratic deficit exist and what can we do about it?

First, it important to note none of these concerns are new or unknown to the state. OCVS 'Briefings' to incoming Ministers highlight the constraints and tensions facing the community and voluntary sector. In 2005, Brenda Ratcliff, OCVS Director, in a briefing to the incoming Minister expressed almost identical sentiments as the above, in terms of the ideal role of community and voluntary sector organisations. While there is no mention of 'democracy' in the document, there is at least an articulation of what the sector should mean for a 'vibrant civil society' (OCVS, 2005, p.8). She maintained that the sector is "an avenue for the expression of diverse voices", providing "networks", "relationships" and a "dialogue" between the government and the community, and between 'people and organisations' (OCVS, 2005, p.1-3). In addition, they can "develop local solutions to local problems", facilitate an "early warning system" for problems, and are in the best position to "innovate" or take "risks" in finding viable solutions (OCVS, 2005, p.1-3). In short, they "can do things that governments can't do", and they can often "lead social development" (OCVS, 2005, p.1-3). The ideals expressed stop short of suggesting the sector deserves respect or that it has or should have a role in democratic debate, but does acknowledge their integral place within society.

But the briefing also noted several challenges to the sector, largely focusing on accountability, funding, managing risk, and more precisely having core funding for 'capability development'. These cumulatively meant lack of ability to "access...information and communications technology", to participate in "multiple government-led consultations and policy conversations" and to get "their issues on the government agenda" (OCVS, 2005, p.17).

The 2008 briefing paper by Alasdair Finnie, the then Director of OCVS, also notes the importance of the sector:

With total revenue exceeding \$8 billion, these organisations offer citizens access to public services outside the state sector. They also provide a voice for many parts of our society, particularly for those who are disadvantaged. (OCVS, 2008, p.ii)

He goes on to state that the sector wanted the “development of mutually-respectful working relationships with government” and a conscious effort by government to understand the sector’s “culture and values”, “genuine and effective consultation and more collaborative approaches to decision making” (OCVS, 2008, pp.12-13).

There is no question of the importance of the community and voluntary sector organisations, and specifically those involved in the area of social services, as “indispensable intermediaries” (Melville & Perkins, 2003, p.1), the “...voice for marginalised groups...conveying important information about the needs and preferences of a wide range of groups in the community to government that would otherwise remain remote and uninformed” (Maddison et al., 2004, p.13). From a sectoral position in New Zealand:

NGOs provide a locus for local communities, cultural and ethnic groups, indigenous groups such as Maori to realise their aspirations to have a say in the direction of the delivery of health and disability services. (Harrison, 2010, p.3)

It is important to note that as NGOs have traditionally been committed to the reduction of inequalities, their clients are often those who most need to receive the benefits of additional primary care funding. These clients would be most affected by the closure of NGOs. (Health and Disability Sector NGO Working Group, 2005b, p.6)

Having said this, it is clear from this survey that the expectations that ideals of participatory democracy, or - in the words of Verspaandonk - a “well-functioning democracy” (2001, p.9 cited in Maddison et al., 2004, p.13) are confronted, if not challenged, by the political pragmatism of the community and voluntary sector.

What is demonstrated in responses from the community and voluntary sector is that it is the very nature of their relationship with the state that has contributed to an environment in which debate is discouraged in some cases and barely tolerated in others. Only 87 of the 595 written responses given in the returned survey affirmed that debate was encouraged by two successive governments – the Labour-led coalitions of 1999-2008 and the National-led coalition of 2008-2009. Borrowing from the work of Pavlich (1999 cited in Young, 2002) and Young (2002) responding to the plight of criminology, we might argue that the world of the community and voluntary sector has been also subjected to a ‘diluting pragmatism’ which had foregone a firm ‘belief in universal progress’ (in this case we might insert ‘democracy’) only to be replaced by ‘technical efficiency’ and accountability. In the New Zealand context this dilution was noted by Jan Dowland of Platform Charitable Trust in research on the contractual relationship between DHBs and community and voluntary sector organisations:

A disproportionate amount of energy is expended administering a clumsy, highly specified, over engineered system diverting precious resource away from the real work. The dictates of the system have dominated the discussions between DHBs and NGOs, rather than how to improve the lives of people with addiction and mental health issues. (NGOIT, 2009, p.4)

This transition to contractual relationships, while seemingly undermining democratic debates (or the capacity for it to exist), does not undermine the state’s legitimacy. On the contrary, the state can attack the legitimacy of those very agencies (in this case some community and voluntary sector organisations) that support its own legitimacy. The state attacks community and voluntary sector organisations by denying their democratic function and defining them as illegitimate, unknowing, untrustworthy, or unwieldy.

This study to a large extent affirms that the trajectory has been to control through contracts, administrative requirements, and efficiency demands, but notes that the antecedents of the trend preceded neo-liberalism and the current context of the survey. The consequences (unintended or otherwise) have led to the conclusion that the emancipatory role of community and voluntary sector organisations as ‘indispensable intermediaries’ or, the ‘voice for marginalised groups’, may have been subverted. This role has been transformed into one that is focused almost entirely on the technical and administrative aspects of performance and compliance.

The question that arises from this is: does it make any difference whether those in power constitute a left or right of centre political stance, or is there any difference? In some sense the answer, as already suggested, is that there is little difference with the proviso that there is still a hint that debate (or consultation) is tolerated a little more when Labour-led Governments are in power than when the National-led Government takes the helm. Throughout our research neither the Labour-led or National-led coalition governments of the last decade have come out with strong democratic records according to our respondents.

A number of explanations are possible when considering why survey respondents did not clearly indicate a connection between the party in power and the acceptance of public debate. Why is it that we are faced with an explanation that says who is government matters, but it is mitigated by other factors? First, is the literature which examines the fact that we had a Labour party without ideology (Eichbaum & Shaw, 2006). There has in fact been little clear difference between the policies and practices of governments in New Zealand since 1984 when both Labour and then National adopted neo-liberalism as their defining position. The similarity of the policy and overarching ideological approaches of New Zealand’s two major political parties is evident in responses to this survey. An exemplar can be seen in the responses by one organisation to our survey with regard to debate on issues around Maori sovereignty:

[Under Labour] Debate was tolerated but not listened to on a number of issues. For example the Foreshore and Seabed issue.

[Under National] Debate was tolerated but concerns ignored for example the Auckland Government and Maori representation.

Whether your group is tolerated, and their engagement in debate is welcome, depends not on which political party is in power but on whether the debate challenges the very nature of the state and existing elite structures.

The responses to this survey indicate that we have a situation in which democratic debate has been rationalised and transformed into one based on an actuarial approach. This is not about an ideological stance opposed to community and voluntary sector organisations but it is about ‘governance’ and managerialism in New Zealand. This can be seen in quotes such as:

[Under National] Ability still to negotiate within the parameters set by Labour Government – the issue re: where the parameters lie are as relevant now as then.

[Under Labour] We achieved national funding.

Successful negotiations over contracts, and a capacity to adhere to managerial requirements, seems to pass for ‘debate’. This position is further confirmed by respondents who noted that one of the major reasons for making representations to governments and public servants was to secure funding to provide services.

From the foregoing it is clear that ‘political’ control and influence is not just about the party in government. The survey results illustrate that the rules of the neo-liberal contract state are in part to blame for the decline in democratic engagement. Within the neo-liberal contract state, New Public Management has permeated both

the state and civil society. In particular, the following basic features set out by Gilling (2007, p.2) influence whether there is space for engaging in democratic debate:

- A shift from the use of input controls and bureaucratic procedures and rules to a reliance on quantifiable output measures and performance targets
- The devolution of management control coupled with the development of new reporting, monitoring and accountability mechanisms
- A preference for private ownership, contracting out, and contestability in public sector provision
- The imitation of certain private sector management practices such as corporate plans, performance agreements and mission statements
- A general preference for monetary incentives rather than non-monetary incentives.

Hood (1995, p.94) describes it in the following way:

The basis of NPM lay in reversing the two cardinal doctrines of PPA [progressive public administration]; that is, lessening or removing differences between the public and the private sector and shifting the emphasis from process accountability towards a greater element of accountability in terms of results. Accounting was to be a key element in this new conception of accountability, since it reflected high trust in the market and private business methods (no longer to be equated with organised crime) and low trust in public servants and professionals (now seen as budget-maximising bureaucrats...), whose activities therefore needed to be more closely costed and evaluated by accounting techniques. . . . The ideas of NPM were couched in the language of economic rationalism, and promoted by a new generation of “econocrats” and “accountocrats” in high public office.

Many parts of the community, and the community and voluntary sector, seem to have been afflicted by this managerialism, pragmatism, and politics without ideology.

This overall perspective seems to impact on-going government rhetoric about ‘capacity building’ ‘mentoring’; and, ‘finding leaders for the sector’. This approach was found in much of what the Charities Commission did. The implications in the rhetoric seem to be: Are you a community and voluntary sector organisation that can ‘play the game’ and engage in ‘capacity building’ effective lobbying, with accommodation, consultation, conciliation and assimilation, as opposed to confrontation? It does not seem to matter how large or small a community voluntary sector organisation is with regards to their ability and willingness to be involved in democratic debate.

An additional factor which is complicating the ability of the community and voluntary sector to perform a full democratic function is the tensions created by the sinking lid of funding and the increased number of accountability mechanisms foisted on the sector. The reliance on government funding and accountability frameworks means organisations are forced into trying to anticipate and negotiate the disjuncture between their community’s needs and what resonates with the government’s policy plans. Nowland-Foreman noted that this undermines “voluntary organisations being regarded as autonomous representatives of the community” becoming instead, “convenient conduits for public services” (1997, p.8).

Two tactical responses are found in survey responses with regard to the difficulties facing community and voluntary sector organisations who want to fully participate in social and political debate. The first one is held by a minority of respondents and is about the actions of the community and voluntary sector itself:

They (NGOs) have few natural representatives in parliament (virtually only the United Future, the Greens and Maori) and they (NGOs) need to act more in unison to dialogue with government.

They (some NGOs) seem to feel that bleeding heart stories or guilt trips of the high moral ground are the only ways to get heard; we don't get alongside and try to get ahead of the policy curve, to be leaders in developing the vision for our services, our communities and our sector. We are overly focused on the problems, and miss the chance to create constructive messages around opportunity.

This position maintains that the sector needs to be 'more strategic and less reactive' in the policy development process. This position went on to support a whole sector-government relationship through ministers and departments shifting from the current contract environment to one that might envision something much more akin to the Australian situation where preference is given to large established service providers. Is this an activist stance or realist accommodation and who might, in this environment, hold such a stance? Indeed, if one agrees with Nowland-Foreman this might have already been the case as early as 1985/86 (1997, p.6), with 'large national voluntary organisations' having access to a large part of the \$75 million that went to the sector (in 2011 MSD alone contracted services to the sum of \$680 million, according to the Minister of Social Welfare).¹⁴ This pattern was also noted by Crack, Turner and Heenan (2007, p.193) who state: "...bigger VSOs (voluntary service organisations), due to their greater public and political visibility and larger initial resources, were better positioned to bid for and win government contracts". If one looks at the responses in this survey it is clearly either large organisations or churches that do have the administrative capacity, contractual basis, governmental or Ministerial confidence, and assuredness to maintain this stance (see also Crack, Turner & Heenan, 2005, p.193). Hence the very system is likely to coerce organisations into rationalising.

Another interpretation is that the democratic deficit seen in New Zealand is just pragmatic politics. Idealist visions of the emancipatory kind, notions of egalitarianism, equality or equal rights have been supplanted by an acknowledgement of community needs as long as these needs are molded to various governmental priorities.

An alternative response to the constraints placed on engagement in public debate which have been created by the neo-liberal contract state was a far more shared stance by many community and voluntary sector organisations. This response has been stated before but is worth repeating:

There was a particular concern with 'guarding the third sector's independence and avoiding becoming 'just pseudo-government agencies' or being 'stifled'.

Organisations, once in and of the community, are now prescribed by the system they work within to be social service providers of and for the funder. Once seen with an air of tolerance and deference, the functions of the sector are now circumscribed by the notions of 'public benefit' and accountability through 'efficient and effective use' of public resources.

Questions are raised then by the drive to centralise, rationalise, count, and sanitise. Even in 1995 it is interesting to note Renouf's impassioned plea for a readjustment of the relationship between the state and the voluntary sector. She asked pointedly that the "...relationship be based on mutual respect and empathy with each other's roles. It must be one of equal partners negotiating 'freely'" (Renouf, 1995, p.12). By the time Renouf gets to setting out the requirements of a reasonable relationship with the state however, the requests are almost entirely hinged on contractual obligations including "compliance and transaction costs",

¹⁴ The variable figures on the sum of government funds that are applied for by NGOs. Sanders et al. (2008, pp.18-19) maintain that approximately 25% of NGO funds (total \$8.036 billion) come from government which they estimate by 2004 had reached \$1.97 billion of which \$759 million came from grants and \$1.241 billion from contracts. This of course is considerably larger than the funds noted by Nowland-Foreman (1997). This was the figure given by the Hon. Paula Bennett in a speech to the '50 key Thinkers Forum of the Families Commission', 11 May 2011 (Bennett, 2011).

“operational feasibility and costs”, “realistic time frames”, “transparent and open communication”, minimised “market manipulation” and “focus on the Government’s long term welfare goals and not be driven by short-term agendas” (Renouf, 1995, p.12). The community of needs has disappeared. It is no wonder that we find surveys of the sector with summary statements like this:

Overall, the survey results indicated the need for improved, more equal relationships in particular, increased understanding, more clearly defined expectations, and more effective, regular communication, including ‘constructive’ feedback on reports, and greater involvement in planning and consultation. (NGO-Ministry of Health Working Group, 2004, n.p.)

In 2005 a parallel survey looks at the community and voluntary sector relationships with the MoH in which a similar set of concerns are raised. Between 69% and 77% of the 70 organisations that had responded said the Ministry either ‘sometimes’ or ‘never’ consulted in a ‘timely and open manner’, ‘considers... input into new policy developments’ or informs community and voluntary sector organisations about policy decisions that would affect them (Health and Disability NGO Working Group 2005a, p.7). These concerns continue to be repeated by the community and voluntary sector in our survey, with respondents wanting their expertise to be trusted by the political elite.

Instead of timely consultation, encouragement of democratic debate, and respect for the community and voluntary sector, we have a rhetoric exemplified by a speech from the Minister of Finance Bill English to the Families Commission’s ‘50 Key Thinkers Forum’¹⁵ that essentially redefines democracy. English stated that “the relationship between government and civil society is one of shared responsibility” and unless we manifest that shared responsibility rather than a “relationship of mutual complaint” then we cannot expect “others” to do likewise. If you want influence in this social relationship, he said, “then take responsibility; that’s the game, that’s how we play it”. He also says “I am not sure what it is but there is something about the way government has worked with people that has made them less brave than we know they can be....People talk about how they want to change they are reluctant for reasons we all understand to make change in how they do things themselves....We do get some coming along saying you can really change things but don't ask me to take too much part in it because I would have to go back to my committee and explain to them that the way we do things is going to change. So please come and scare us that would really be good”. Sixteen days later the Community and Voluntary Sector Minister Tariana Turia announced that \$1.5 million (11%) had been cut from the \$14 million Community Organisations Grants Scheme (COGs) to give to “...four areas of its [the government’s] choosing ...supporting [four] community-led development... through an incontestable process” (Levy, 2011, p.A5). COGs funding is used by organisations for a variety of costs including the running of helplines, rent, and service co-ordinator salaries. This reminds us of Vine Deloria’s 1970 book *We talk, you listen: New tribes, new turf* about indigenous people demanding to be heard. Now it is the government telling the community and voluntary sector the same thing and calling it ‘shared responsibility’ and ‘trust’, but is it democracy?

We argue that it is time to listen to the voice of the community and voluntary sector and to ensure the conditions exist that allow for engagement in public debate. The importance of the voice of the sector to political elite was noted by one respondent:

The role is huge, generally unnoticed or acknowledged with lip service in the last 12 months and not regarded by agencies like police, CYF as being significant players. The ability of NGOs to rally support and effective political changes is something that may well become obvious at the next general election, and currently impacts on local government.

¹⁵On ONE news on 9 February 2011, the Minister said the government could not “afford waffly policy where people sit around talking about good intentions” and indicated the Families Commission would come under the microscope. (ONE News, 2011)

But the voice of the community and voluntary sector is not just there to ensure democratic stability and electoral victory, as this response clearly notes. Our democracy will be much richer, and our policy-making will be stronger, if the government trusted social service providers not only to look after New Zealanders but to contribute to political decision-making processes.

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