



MAXIM  
INSTITUTE

DISCUSSION PAPER

# SHAKY FOUNDATIONS: WHY OUR DEMOCRACY NEEDS TRUST

DR STEPHANIE WORBOYS

**Dr Stephanie Worboys** is the Internship Manager and Researcher at Maxim Institute. She holds a PhD in Public Policy from Victoria University of Wellington and a BA in Philosophy from Bethel University of St Paul, MN. Before moving to New Zealand, Stephanie worked with marginalised and homeless youth in the US. She has experience in the banking sector, church leadership, and missions. Her research interests include moral and political philosophy, the criminal justice system, restorative justice, and mental health and loneliness. Stephanie would like to thank Dr Thomas Simpson and Alex Penk for their thoughtful comments and suggestions on this paper.

## EXECUTIVE SUMMARY

---

Our nation has experienced a marked decline in political trust and engagement. Trust has been lost in government, its leaders, and our democratic processes.

Since democracy is a system of collective self-rule of political equals, it is a form of government in which distrust of people (public officials and even other voters) is always present. We have conflicting interests and different goals, and democracy threatens that others will overrule us. This is a situation of great conflict, and conflict warrants distrust. Democracy tempers the risks of being overruled by limiting the scope of majority rule and by conducting conflict through an inclusive and open process of public deliberation. Democracies foster institutional trust when their institutional design has robust limits on power and when it effectively channels conflict and distrust into public deliberation.

In the last few years, there has been much conflict in New Zealand over matters such as the Three Waters proposal and especially the COVID-19 responses. These events revealed the weak ability of our society to channel conflict into the democratic processes of open and inclusive public deliberation. Likewise, they revealed the lack of effective limits on power provided by the institutional design of our democracy. For example, the executive dominates Parliament, urgency is overused, and the individual rights of citizens are easily discardable. The magnitude of these events and the subsequent revealed weaknesses in our system have shaken trust in our government and its leaders.

However, there are ways to improve trust in our democracy. We can start by limiting the use of urgency to matters that are truly urgent. This could be done by amending parliament's standing orders to require a supermajority of MPs to agree to legislation being placed into urgency. It would also be wise to limit governmental power in other ways. Over the years, many suggestions for this have been proposed and discarded, such as returning to a bicameral system, increasing the number of MPs, or entrenching the Bill of Rights Act 1990 (to name a few). Such changes would be significant and would require a more thorough examination than can be provided here. The fact remains that our government needs more checks and balances. It is recommended, then, that we, as a nation, have an open and inclusive discussion about how this is best done.

# 1. INTRODUCTION

---

Political trust has been deteriorating across Western democracies for many decades.<sup>1</sup> New Zealand appeared to be immune to this trend, regularly ranking as one of the highest trust nations in the world. Recent evidence, however, suggests that trust in general, and trust in democratic processes and institutions in particular, have declined in New Zealand.<sup>2</sup> For example, the 2024 Acumen Edelman Trust Barometer reported that our trust in political leaders had declined ten percentage points over the previous two years. Trust in government had declined by nine points over the same period.<sup>3</sup> This decline in trust has been connected to low voter participation,<sup>4</sup> greater polarisation,<sup>5</sup> growing suspicion of the media,<sup>6</sup> and a general disengagement with politics.<sup>7</sup> The decline in trust we are seeing in New Zealand has been attributed to several causes, notably the current state of the economy, the Three Waters proposal, the COVID-19 responses, and the anti-vaccine mandate protests.<sup>8</sup>

In this discussion paper, we provide a framework for understanding the reasons for, and gauging the seriousness of, the loss of political trust in New Zealand. To do this, we begin, in section 2, by considering the nature of trust and the conditions for it. In section 3, we consider the commitments and processes characteristic of democracy. In section 4, we focus on the relationship between trust and democracy. Section 5 applies these insights to the decline in trust in New Zealand institutions, particularly the government, its leaders, and our democratic processes. Recent data shows that New Zealanders no longer trust our institutions or its leaders as they once did. We explore why this might be and end the paper by suggesting ways in which trust can be recovered.

## 2. TRUST

---

Trust is a solution to an ever-present social problem. When we interact with others, we relinquish to them a measure of control over something important to us.<sup>9</sup> We, in effect, put ourselves in a position to be affected, positively or negatively, by what they do. This involves risk. Human beings make their own choices and act for their own reasons. When we make ourselves dependent on the actions of another person, they may choose to do us good or do us harm, honour their end of the bargain or take advantage of us, and we do not know which choice they will make.<sup>10</sup>

Trust responds to this uncertainty. Trust exists when we willingly rely on another person to “look after” an interest of ours that has been put in “their care.”<sup>11</sup> Moreover, in trusting, we not only rely on another person, we do so with the positive expectation that they will take us and our interests into account in what they choose to do.<sup>12</sup> When we trust, we not only willingly depend on the actions of another person, we do so with the confidence that they will not act to our detriment.<sup>13</sup>

Trusting the trustworthy can be a good thing because it facilitates cooperation. Cooperation enables us to gain benefits we could not obtain by our own singular efforts. Cooperation, among other things, grants us access to skills we do not have, food we did not grow, and products we do not have the knowledge or resources to create. Trust, however, *responds* to risk. It doesn’t eradicate it. Trusting the untrustworthy can be more detrimental to us than cautious engagement because one instance of misplaced trust can damage us in ways that are not easy to repair.<sup>14</sup>

In summary, given its risks and rewards, it is usually true that trust is best extended only when it is warranted.<sup>15</sup> Trust is warranted when the party in question has the competence and character to do the thing they have been “trusted to do.”<sup>16</sup> In terms of competence, we are unlikely to trust a person to do something we do not believe they are able to do. For example, you may trust a qualified financial advisor with your life savings but

not with open heart surgery. Nor are we likely to trust a person we are not confident has the right character or motivation.<sup>17</sup> If I am to trust you, I must believe that in making myself vulnerable to your free actions, “I will not be harmed because you are going to do the right thing” by me.<sup>18</sup> In other words, in trusting you, I believe you will “respond cooperatively” rather than self-servingly.<sup>19</sup>

Trust comes in many forms. The first and most basic form of trust is personal (sometimes termed interpersonal or particularised trust). This type of trust is the trust we place in those known to us.<sup>20</sup> Since we know the person, our trust in them is based on our personal experience of their competence and character. Impersonal or social trust is the trust we extend to people we do not know.<sup>21</sup> Here, we presume that our cooperative partners have goodwill toward us and will act cooperatively even though we do not know this will be the case.<sup>22</sup> This type of trust depends on shared norms and binding laws.<sup>23</sup> For example, we might trust a stranger because we share a religion, a worldview, a heritage, or a tribal affiliation. Law is the chief institutional structure that supports social trust.<sup>24</sup> Although we know nothing of a stranger’s character, we know that the law incentivises them to act in a trustworthy manner, and we know it provides us with a means of recourse if they do not.

Political trust (or trust in government) includes trust in people (such as public officials or groups of people, like political parties) and trust in institutions (such as the courts, the police, and parliament). Like all trust in persons, trust in those who hold public office depends mainly on competence and character. Trust will be damaged or lost when, due to incompetence, policies fail, have unintended consequences, are unwise, or do not take important considerations into account. Character issues include veracity in speech (no one trusts a liar), follow-through (no one trusts a person who says one thing and does another), corruption (no one trusts a public official who is for sale) and transparency.<sup>25</sup> Those officials who are thought to do well in these areas will be trusted, and those who are thought to do poorly will be distrusted.

Trust in institutions “which are independent of the momentary preferences and actions of individuals,” is the second aspect of political trust.<sup>26</sup> One has institutional trust when one trusts that an institution can be depended on to function as it ought<sup>27</sup> and is robust enough to hold up under challenge.<sup>28</sup> Such trust is warranted when institutions act consistently and predictably, treat citizens impartially, and function according to (and within the bounds of) their purpose.<sup>29</sup> Trust in the courts, for example, may be lost if citizens no longer think the law will be applied impartially.<sup>30</sup> Likewise, trust in democracy may be lost if citizens no longer believe they have a say in the political decisions that affect them or if they come to believe that their elected representatives do not represent their interests.

Institutional trust is also an important factor in trusting public officials. The offices that public officials inhabit are defined by a set of duties and responsibilities. If the institution is robust and functioning as it ought, the citizen can presume (barring evidence to the contrary) that public officials are acting within their prescribed limits and discharging their duties in a trustworthy manner. This is so because the institution limits what officials can do (and, therefore, how the public can be harmed by trusting them). The checks and balances provided by the institution give the officials an incentive to constrain their conduct to the prescribed limits of their office. A robust institution, in other words, makes up for character deficits by ensuring that it is in the official’s best interest to be trustworthy.<sup>31</sup>

Extending trust to others is an essential—but often overlooked—component of a well-functioning society. By trusting each other, we can accomplish more because we can expand our capacities, divide our labour<sup>32</sup> and pursue more complex projects and goals.<sup>33</sup> Trusting others also frees up the time and resources we would otherwise spend on monitoring and protection to be used more productively. Furthermore, trust “allows us to

take the goodwill of others for granted,” which improves our well-being and sense of security.<sup>34</sup> Without trust, we are indecisive, reclusive, and constantly looking over our own shoulders. As Kroeger has aptly put the point, “a society without trust would not be a society at all.”<sup>35</sup>

### 3. DEMOCRACY<sup>36</sup>

---

Next, let us consider the nature of democracy.<sup>37</sup> A democracy is a form of government where the members of a society are engaged in a system of “collective self-rule.”<sup>38</sup> Here, a community of equals rules themselves by making decisions together.<sup>39</sup> The collective decision-making process characteristic of democracy culminates in voting, where the matter at issue is typically decided according to the will of the majority.<sup>40</sup>

In its modern liberal form, democracy rests on two fundamental commitments: equality and freedom. The commitment to equality is the commitment to the idea that each individual is the moral equal of all others. The commitment to freedom follows from equality. As moral equals, we are political equals. That is, since we are equal—since no one is above and no one is below anyone else—no one has an inherent right to impose their rule on others.<sup>41</sup> Since no one has an inherent right to rule over others, in personal matters, each rules over him or herself and in collective matters, each individual has a rightful say in those decisions.<sup>42</sup> As Patterson eloquently sums up the connection,<sup>43</sup>

*One is free, first, to the degree that one is not under the power of another. One is free, second, to the degree that one exercises power over oneself. And one is free to the degree that one shares in the collective power of the community. Each makes possible and guarantees the other. Without democracy, the other two freedoms are constantly at risk; without the other two freedoms, democracy is empty.*

To this, he later adds that freedom is so central that it is not considered an aspect of democracy, but democracy is instead “an aspect of ‘freedom.’”<sup>44</sup>

In addition to the normative and theoretical commitments, democracies tend to share an institutional design. This design includes a constitution and the separation of powers into the legislative, the executive and the judicial branches. The legislative branch makes the law, the executive branch applies it, and the judicial adjudicates it. In its modern form, democracies are representative. A representative democracy delegates the functions of government to representatives. Typically, the role of a representative (in the NZ case, an MP) “is to *define* the public interest by *responding* to” the will and opinions of the people.<sup>45</sup> The electorate mainly makes its will known through voting, but other avenues are available to convey opinions and interests to representatives. These include engaging in civil debate, organising, petitioning, demonstrating, and, in the New Zealand context, participating in select committees. Although different in many respects, these are all forms of speaking. As Warren concludes, the fundamental processes by which a democracy functions as a democracy are speaking and voting.<sup>46</sup>

### 4. DEMOCRACY, CONFLICT & TRUST

---

Now that we have examined the nature of trust and democracy, we ought to consider the relationship between them. In the 2023 Sir John Graham Lecture, philosopher and political theorist Thomas Simpson noted that “democracy...depends on trust.”<sup>47</sup> Yet, strangely, democracy also depends on distrust.<sup>48</sup> Democracy is a form of government that has its genesis in distrust. It proceeds from the view that it is a mistake to completely trust

political elites to serve the common person's interests. Concentrated, unconstrained power is dangerous, and those with access to it are easily corrupted.<sup>49</sup>

Moreover, as we have seen, democracy is a form of collective self-rule.<sup>50</sup> In this system of government, the individuals within it rule together through collective decision-making. Each individual that makes up the collective has their own opinions, interests, values, and aims. The decision-making process is a place of conflict and contest, where each vies to secure their preferred outcome.<sup>51</sup> Since losing (i.e., being overruled by the majority) entails a decision you did not choose being imposed on you, distrust is warranted.<sup>52</sup> Conflict and the distrust it engenders are permanent aspects of democracy.

Although permanent aspects, conflict and distrust can corrupt and ultimately dissolve a democracy. If conflicts between political equals cannot be resolved amicably between them, then the members of the collective will disband or, more likely, install a dictator, oligarch, or demagogue to impose a solution. The challenge a democracy must meet is how to secure a more fundamental trust that can hold a system of collective self-rule together amid the conflict and distrust that are always present.

Liberal democracies meet the challenge posed by conflict and the distrust that conflict warrants through their institutional design.<sup>53</sup> There are two aspects of the institutional design of liberal democracies that are worth highlighting here. First, democracies structure government by defining its purpose and limits, which is done through its constitution and laws. According to the liberal conception, the purpose of a democratic government is to secure individual rights from predatory power and to facilitate collective decision-making.<sup>54</sup>

The limits of government are a consequence of its purpose. These limits include limits on the powers invested in representatives and other public officials and limits on majority rule.<sup>55</sup> The limits on majority rule create a clear division between the jurisdiction of the individual and the jurisdiction of the collective. One line at which the jurisdiction of the collective ends is usually drawn at the individual herself. It is she who rules over her person, property, conscience, and life choices. This means that the political collective does not decide which job an individual has, which person they marry, what property they own, or what happens to their bodies. The political collective, however, does decide together such matters as which side of the road we are all to drive on and what we each must contribute to collective goods, such as the building and the maintenance of public roads.

The limit between the rule of the individual and the rule of the collective is drawn at the individual for reasons of principle—human beings are free and equal—and as a practical prerequisite of collective self-rule. After all, one cannot participate in collective self-rule without the self-rule part. Yet, the line is not always as clear-cut in practice as in principle. Much of the ongoing political debate in every democracy pertains to the issues in which the rights and interests of the individual and the collective conflict. How these are to be balanced is the perennial problem that must be negotiated. In a liberal polity, the default position is that the individual's rights should prevail absent compelling reasons to the contrary.<sup>56</sup>

Although the limits placed on the reach of the collective's rule proceed from democracy's normative and theoretical commitments, there are also practical reasons for them. Limiting the scope of the collective's rule facilitates trust among collective members. Recall that in trusting, we place ourselves in a position where we rely on the actions of another party not to harm us. If collective self-rule is to be possible, each individual must be willing to submit to the will of the majority. That is, if each individual is going to find making themselves subject to the will of others an acceptable risk, they must be confident that specific outcomes are off the table.<sup>57</sup> No one, for example, would submit to majority rule if their organs could be harvested for the benefit of the

group. Here, the belief that the other parties to the decision have internalised the norm of respect for the dignity of each individual is not reassuring enough to put one's whole self and future in their hands. Instead, to engage in collective decision-making, the individual must be assured that all parties to it equally stand under an overarching authority that guarantees the security of the fundamental interests of each.<sup>58</sup> In other words, in a majority rule system, an important precondition of trust is that there are established limits on what the majority can impose on its members.<sup>59</sup>

If the first aspect of democracy's institutional design constrains the power of the collective so that any conflicts regarding the fundamental interests of each are already settled, then the second aspect worth highlighting deals with the conflict that remains. This aspect is democracy's distinctive decision-making process. Typically, democracy is defined by majority rule, but the whole meaning of modern democracy cannot be understood in these terms alone. As we have seen, modern democracies are committed to the equality and freedom of individuals, which issue in a form of government characterised by collective self-rule. Here, political equals decide together what is to be done. Since the interests and opinions of the members of the collective will conflict, a unanimous decision is not to be expected. Given this fact, some mechanism must be employed to decide things. This mechanism is majority rule. However, democracy has not swapped the divine right of kings for the divine right of the greatest number.<sup>60</sup> If this were true, democracy would only be superficially different from monarchy, oligarchy, and dictatorships, which rule by imposing their will on others through their superior might.<sup>61</sup> Instead, democracies aim to rule by right. Ruling by right involves political equals discerning together what the wise decision is.<sup>62</sup> In political matters, the wise decision can be formulated as the effective course of action that accords with values and principles. Modern democracies attempt to determine what the wise decision is by engaging in open and public argument and debate. Thus, although the decision-making process characteristic of democracy is voting, voting is the culmination of a longer process. In this process, we discuss the issue and deliberate on it together—typically, among family and friends and, most notably, in the public square—before making the decision through a vote. Discussing and deliberating together is essential to good collective decision-making as it provides a way for the “truest view” of what should be done to “prevail” because each person has the opportunity to make a case to the others—to appeal to reason and conscience—for the rightness of their preferred course of action.<sup>63</sup>

Ideally, the process of public discussion and deliberation characteristic of modern democracies not only helps us make better and more legitimate collective decisions but also helps us resolve the conflicts that continually arise. It achieves this by providing “spaces”<sup>64</sup> for conflict to be expressed, discussed and negotiated rather than hidden and suppressed.<sup>65</sup> In this way, discussion and deliberation act as mechanisms of conflict resolution between political equals.<sup>66</sup> Conflict is resolved democratically when the decision-making process limits how conflict is conducted “to talking and voting”<sup>67</sup> and when conflict is conducted according to the principles of openness and inclusion.<sup>68</sup>

Conflict is conducted according to the principle of openness when it is conducted in public, and the information that is pertinent to the decision is not hidden from view. As to the principle of inclusion, Warren formulates it in the following way: individuals “affected by a collective decision should have an opportunity to affect the decision,”<sup>69</sup> which is not limited to having the right to vote. Having a say includes participating in collective deliberation. As Warren specifies, democratic inclusion in deliberation requires:<sup>70</sup>

*Equal chances to influence public judgment, actualized in rights and effective opportunities to speak and to be heard in those deliberative processes that define the agendas, choices, and public framing of issues.*



Therefore, conflict is conducted democratically when deciding together includes deliberating together.

When these principles are followed, and conflict is limited to talking and voting, a genuine argument between equals can be had. Here, each side attempts to persuade the other or, at the very least, tries to secure a compromise.<sup>71</sup> At best, this leads to consensus. At worst, the loser has been heard out. Either way, the decision-making process has been fair to all sides and has, in this way, respected all sides. Where conflict is not conducted in this way—where people are denied the opportunity to openly discuss, shape, and challenge public issues and the decisions made regarding them—conflict will fester, and distrust will grow.

Given the restrictions democracy places on power and the way it deals with conflict and decision-making, we can say that democracy involves trust *and* distrust. A democracy requires trust because it requires individuals to share power by delegating it to others. It mitigates the risk inherent to delegating power by limiting its scope and by making those who hold it accountable to those they are meant to represent. By these measures, the damage power can do is limited, which, in turn, facilitates the kind of trust that is necessary for individuals to accept the risks of participating in collective forms of self-rule.

Since democracy involves trust and distrust, rising political distrust may or may not be bad. In section 2, we identified two components of political trust. The first is trust in people, which typically focuses on public officials and political parties. Trust of this kind is tied to competence and character. The second is institutional trust. Institutional trust is trust that an institution is functioning as it ought, which includes its formal and informal aspects. Trusting the institution of democratic government, for example, includes trust that power is effectively constrained through the government's formal design and that the participants in collective self-rule have equal access to representation and to the courts and are not excluded from public deliberation on those decisions that affect them.<sup>72</sup> So long as trust in institutions remains, distrust in persons need not be fatal to democratic government.<sup>73</sup>

We are now in a position to consider the New Zealand context, but before we do, it would be helpful to summarise the previous two sections. When we trust, we rely on another party's actions and expose ourselves to the risk that they will harm us in some way. We enter trust relations when we judge the benefits to outweigh the risks. We make this judgment based on what the potential benefits and risks are. We also consider the other party. We trust the other party either because we judge them to have the competence and the motivation to do right by us or because we trust there is an institution that governs our dealings and, therefore, acts as a guarantor of cooperative conduct and personal security.<sup>74</sup>

Trusting the government is high risk because it alone may legitimately use force to impose its will. The vulnerabilities of the truster are great—so great that trust ought to be withdrawn if there is reason to believe the government to be untrustworthy.<sup>75</sup> It was out of this distrust that democracy was born. Democracy is best understood as the collective self-rule of political equals. In such a system, distrust and conflict are always present. To meet these challenges, democracies protect the fundamental interests of each by limiting the scope of collective power and committing to making decisions through a process of collective deliberation. Here, both the decisions and the processes by which they are made are to be congruent with the commitments of democracy: equality, freedom, openness, and inclusion. When functioning within these parameters, the conflict and the distrust that will inevitably arise in a democracy are not only manageable but beneficial.

## 5. THE NEW ZEALAND CONTEXT

---

Now, let us focus on the decline in trust in New Zealand, beginning with the numbers. The Acumen Edelman Trust Barometer reported in 2022 that business was the only institution in New Zealand trusted by the majority of the population.<sup>76</sup> In 2023, the Barometer reported that trust in political leaders had declined five percentage points in a year.<sup>77</sup> It declined again the following year by five points, bringing the score down to a low of 40 per cent; the 2024 global average was 42 per cent.<sup>78</sup> Additionally, the Barometer reported in 2024 that government is seen as both less competent and less ethical than business. The government's competence score was a startling 46 points lower than that of business, and its ethical score 18 points lower. According to the Barometer, in 2023 trust in government in general declined by six points,<sup>79</sup> and in 2024 it declined again by three points. After a long period of ranking higher in political trust than her peers, New Zealand now sits at 48 points, below the global average of 51.<sup>80</sup> Another study found that Parliament's reputation has taken a hit. Among the general population, Parliament's reputation score has fallen from 61.2 in 2020 down to 53.4 in 2022. Parliament's reputation among Māori has followed a similar trajectory. It fell from a notable high of 65 in 2020 down to 54 in 2022.<sup>81</sup>

Alongside the decline in political trust, there has been a decline in political participation. A Parliamentary survey conducted in 2022 and published in 2023 by the Office of the Clerk reported that the proportion of New Zealanders engaged with Parliament “has hit a new low” of 13%, and the commitment to voting was down from previous years, falling from 50% to 36%. The survey also reported that only 43% of New Zealanders believed Parliament was representative of the country—i.e., *less than half* of New Zealanders believed that the views and interests of all New Zealanders are genuinely represented in Parliament. Furthermore, only 36% of New Zealanders said that Parliament dealt with issues of importance to them, down from 55% in the previous year (2021). Worryingly, only 60% (down from 68%) believed that “parliament and democratic processes are accessible to them.” To these findings, the Parliamentary survey added that “perceived polarisation” had influenced the willingness of New Zealanders to engage in comparatively low-stakes political deliberation with others, with only 63% (down from 75%) reporting that they discuss political issues with their family and friends.<sup>82</sup>

Furthermore, New Zealanders increasingly distrust the media, which is traditionally an important source of information and a conduit for public deliberation. The Acumen Edelman Trust Barometer reported that according to the 2023 data, “media is seen as a source of false or misleading information more than a reliable source of trustworthy information.” Likewise, another study found that less than half of New Zealanders (33%) trust the news.<sup>83</sup>

The decline in political trust in New Zealand has followed a poor performance by the previous government in critical areas like the economy.<sup>84</sup> Poor performance is an indicator of competence, and competence is a component of trust. So is character and motivation. Recall that in the case of public officials, trust also depends on the public's belief that officials will govern democratically and act within the limits of their office. Over its tenure, the Labour Government gave the public reason to question both. Standout examples include the Three Waters proposal and the COVID response. Three Waters was “unsignalled” and not only not in demand by the public but deeply unpopular with it.<sup>85</sup>

Furthermore, Labour's move to entrench the Three Waters legislation was, as Dr Edwards from the Democracy Project rightly concluded, a “misuse of power.” Entrenched legislation is legislation that is more difficult to change because it can only be amended or removed by a supermajority. Entrenchment is currently reserved for constitutional fundamentals, such as provisions in the Electoral Act 1993.<sup>86</sup> As Edwards explains, a chief principle of our democracy in New Zealand is that “Parliament should be able to make and change laws when

they have a majority of support—over 50 per cent of MPs.” The entrenchment of the Three Waters legislation, however, would mean that future governments would require 60% support before changes to it could be made, which would, in effect, “lock in” the legislation.<sup>87</sup>

Likewise, the Labour Government’s COVID response was riddled with democratic deficits. For example, its COVID-19 (Vaccines) Legislation was pushed through under urgency. It made its way through Parliament in a single day, which meant that this contentious legislation faced negligible scrutiny or opportunity for opposition from either the public or the Select Committee before it was enacted into law. Given the legislation’s conflict with the Bill of Rights Act 1990 and the detrimental effects it would have on the lives of many New Zealanders, more scrutiny was in order.<sup>88</sup> As Chief Human Rights Commissioner Paul Hunt has said, the use of urgency, in this case, was of “considerable concern” because “there is a risk of overreach when sweeping powers are granted, and rights are not balanced appropriately, leading to mistakes that are later regretted.”<sup>89</sup> Furthermore, laws of this kind, enacted in this way, are bound to negatively affect the public’s trust. Law Professor Andrew Geddis summed it up well when he said,<sup>90</sup>

*Legislation that allows the state to say ‘put this in your body or else largely forgo social interactions’ is a big step. And it’s one that ought to be taken with due respect, given time for proper scrutiny and debate, with input from an informed public...This is, to put it mildly, simply not good enough. Indeed, if you were trying to construct a lawmaking process to set off the conspiracy minded and undermine the social licence needed for success, it would look something like this.*

As these examples indicate, the decline of trust in public officials in New Zealand over recent years has not been without cause. However, a decline in trust in public officials is not necessarily a bad thing. Power corrupts, and a healthy suspicion of those who hold it is part of the democratic ethos. However, the decline in trust has not been limited to public officials. Trust in government as a whole has also declined, and so has political participation, which indicates that the more important component of political trust has been negatively affected. Recall that political trust has two components: trust in people and trust in institutions. We trust in people based on their competence and their character or motivations. We trust institutions based on whether they are functioning as they ought and whether they can effectively check the untrustworthy conduct of the persons acting within them.

The events mentioned above—the Three Waters proposal and especially parts of the COVID response—have revealed aspects of the institutional design of our democracy that are concerning. The frequent use of urgency to pass legislation, the unicameral form of our Parliamentary system, the lack of a written constitutional document, and the status of the Bill of Rights Act 1990 mean that there are fewer checks on power in New Zealand than in other democracies. Fewer checks on power mean that more damage can be done by trusting the wrong people.

Consider first the use of urgency. To become an act, a bill must pass through a number of stages. After it is introduced, it goes through three readings, with the first two each followed by a committee stage. This process allows the public and the opposition to become familiar with the bill and to form an opinion on it. The select committee stage follows the first reading and is the only stage in which the average citizen can have a direct say in the proposed legislation, which is done through making submissions to the committee. In the later stages, the public can only indirectly influence the legislation through their representatives.<sup>91</sup>

Urgency allows the government “to bypass” this process, effectively “circumventing constitutional processes” to speed things along.<sup>92</sup> The upside is that urgent business can be dealt with urgently, but one downside of

urgency is that the public's and the opposition's ability to influence the content of the legislation is curtailed. Unfortunately, there are few limits placed on the use of urgency—only three, in fact.<sup>93</sup> To be passed under urgency, as Mueller explains,<sup>94</sup>

*General business must be completed; it can only be moved by a government minister; and the minister must inform the House with some particularity why the motion is being moved...as long as the moving Minister gives **any** reason, the urgency motion will be put to the question. If the government commands the majority of the House, the motion will pass. No other safeguards for the use of urgency...exist. Consequently, a majority government will be able to accord urgency to **any business it wishes**.*

Put another way, a majority government can use urgency to circumvent constitutional processes on any matter for any reason it wishes. Due to the ease at which it can be used, passing laws under urgency has become business as usual in New Zealand,<sup>95</sup> both with the previous Labour Government and with the current National Government's implementation of its first 100-day plan.<sup>96</sup>

Passing laws under urgency cuts out the deliberative aspect essential to democratic decision-making. It also produces poor laws. This happened with COVID legislation. For example, as Researcher Alex Penk pointed out, early in the COVID pandemic, whilst acting under urgency, Parliament “passed the wrong version of a Bill that accidentally created a loan scheme for businesses.”<sup>97</sup>

The frequent use of urgency is an obvious problem, and there are others. Our democracy was designed with few checks and balances. Checks and balances function as safeguards on the use of power. Other democracies have multiple safeguards, but New Zealand is lacking in this regard. New Zealand is a unicameral system, which means it lacks the check of an upper house through which legislation must also pass.<sup>98</sup> Bicameral systems, by contrast, require legislation to “get by two different sets of representatives, sampling the spirit of the country in two different ways.”<sup>99</sup> Our system also gives the Executive much more power than other democracies. In the United States, for example, the House and the Senate operate separately from the executive. Here, instead, Parliament is “dominated by the executive.” The committee a bill goes to, for example, is chosen by the Executive, which means the executive chooses the kind of pushback the bill will be exposed to.<sup>100</sup> Since the executive chooses the pushback that will be received, “the outcome of virtually all legislative process is predetermined, and little negotiation takes place.”<sup>101</sup>

Furthermore, we do not have a single constitutional document, and our courts provide only a marginal defence against bad laws. These issues have been especially pertinent to the Bill of Rights Act 1990. The Act enshrines in law the fundamental civil and political rights of the person, but the Act is neither supreme law nor entrenched, which means the Act “may be amended or repealed in the same way as any other Act.” In other words, the Act and the rights it protects can be overruled by a majority vote—the very thing individual rights must be protected from in order to secure the kind of trust necessary for collective self-rule to be possible. Furthermore, since the Bill of Rights Act is no different from any other act, the courts do not have the “power to strike down legislation that is inconsistent” with it, which was the case when prisoners' voting rights were restricted.<sup>102</sup> In this case, the court ruled that restricting prisoners' voting rights violated their rights under the Act, but there was nothing the court could do beyond making this judgment. As Cooke explains, the court has “no power” to enforce their ruling “because in New Zealand the courts cannot ever over-rule the clear wish of Parliament.”<sup>103</sup> Thus, even though the courts can make a declaration of inconsistency, if Parliament wishes to curtail individual rights, they can. Although we may be dismayed by this, we should not be surprised. In view of parliamentary sovereignty, the Act itself (s 4) allows for a majority vote to curtail the rights protected by the Act. Furthermore,

the Bill of Rights is not breached by another enactment (and s 4 is thus not invoked at all) if any curtailments of the rights contained within it are “reasonable” and “demonstrably justified in a free and democratic society.”<sup>104</sup> Since what counts as “reasonable” and “justified” is a matter of interpretation, the Act is weak, a fact that did not escape notice at the time of the Act’s enactment. In view of the Act’s weakness on these points, the National Party (the Opposition at the time) thought the Act “added little to New Zealand’s democracy.”<sup>105</sup>

In addition to these more formal aspects of our democracy, the COVID years have revealed other aspects of concern. Recall that democratic processes are not solely to be understood in terms of voting and the will of the majority. Democracy is a form of collective self-rule. The idea is that each person ought to have a say in the decisions that affect them.<sup>106</sup> The Labour Government, the New Zealand Parliament, and the will of the majority of citizens was to deny the anti-mandate protesters (and the roughly 30% of the NZ population that supported their cause<sup>107</sup>) their rightful claim to a say in the decision that would, in effect, force a surrender of their self-determination or employment. The legislation was rushed through under urgency and conflicted with the Bill of Rights Act.<sup>108</sup> When the affected parties took the only other democratic measure to make their voices heard (demonstrating), no sitting representative would speak to them. Likewise, the media was reluctant to give any airing in which they might influence the public framing of the issue. The rest of us were either passive or against them.<sup>109</sup> The issue of vaccine mandates was fraught with conflict and disagreement. As a society, we were unable to conduct that conflict in a democratic fashion.

In light of the events of the last few years, the decline in political trust we are experiencing in New Zealand is not surprising. The Government pursued projects the public did not want, and individuals were prevented from having a say in decisions that affected them. In these ways, our democracy failed to function as a democracy ought, and our institutions were not robust enough to prevent this.

## 6. CONCLUSION & RECOMMENDATIONS

---

The survey data suggests that our democratic institutions are generally not trusted. They have failed to limit power and to facilitate conflict through democratic processes. When distrust is warranted, the only remedy is to improve trustworthiness.

One immediate action that would significantly improve trust is to limit the use of urgency to those matters that are real and pressing. No government should have the power to circumvent the normal legislative processes on any matter it likes. Instead, urgency should be reserved for only the most pressing matters. At present, a Minister may move to accord urgency to certain business. As long as the House is informed of a reason for this, the matter is accorded urgency without amendment or debate. To limit the use of urgency, the standing orders should be amended to require a supermajority, say two-thirds of MPs, in order to pass legislation under urgency. This would require a degree of bipartisanship which would make it more likely that urgency is only used in situations akin to a national crisis and not whenever it is convenient for the government of the day. This will not solve everything, but it is a good place to start.

Other checks on power may also improve trust, such as returning to a bicameral system, increasing the number of MPs, or making the Bill of Rights Act 1990 supreme law.<sup>110</sup> Changes of such magnitude would be significant and have far-reaching ramifications. Given this, such actions would be unwise without first subjecting them to thorough examination. This paper is not in a position to provide anything of the kind. In light of this, we do not make any conclusions on these matters. Instead, the paper recommends that we take the current lack of limits

on governmental power in New Zealand seriously and begin a national discussion on how we best remedy this.

To retain democracy is not only to retain a voting system but also to retain the commitments upon which democracy rests. In recent years, our institutions failed, our representatives failed, the media failed, and, if we are honest, we as a people failed to do this. But we can restore the integrity of our democracy if we resolve to uphold democracy in our own lives. This will include resolving to affirm in word and deed the equal moral worth of our fellow citizens and to refuse any attempts to exclude them from democratic deliberation on the matters that affect them. Not only will our democracy be helped by these acts, but trust too. We may then see the trust New Zealand once enjoyed return to these shores.



## ENDNOTES

1. Kevin Vallier, "Political Trust," *Brigham Young University Law Review* 47, no. 4 (2022): 1287; Frens Kroeger, "Facework: Creating Trust in Systems, Institutions and Organisations," *Cambridge Journal of Economics* 41, no. 2 (2017): 488.
2. New Zealand Parliament, "Survey of the New Zealand Public," (<https://www.parliament.nz/en/footer/about-us/parliamentary-engagement/engagement-research/survey-of-the-new-zealand-public-january-2023/2023>); "Review into the Future for Local Government," (Wellington, New Zealand: *He piki tūranga, he piki kōtuku*, 2023), 25; Acumen, "Trust in New Zealand: Acumen Edelman Trust Barometer 2023," <https://acumennz.com/the-acumen-edelman-trust-barometer/2023/>; Bryce Edwards, "New Zealand's Social Cohesion Is Being Torn Apart," (2022), <https://democracyproject.nz/2022/12/05/bryce-edwards-new-zealands-social-cohesion-is-being-torn-apart/>.
3. Acumen, "Trust in New Zealand: Acumen Edelman Trust Barometer 2024."
4. "Review into the Future for Local Government," 82, 85.
5. Simon Chapple and Kate C. Prickett, "Hubris, Nemesis and Polarisation by Gender and Political Ideology: Results of the 2022 Igps Trust Survey," in *IGC Working Paper* (2022).
6. Acumen, "Trust in New Zealand: Acumen Edelman Trust Barometer 2023"; Merja Myllylahti and Greg Treadwell, "In Media We Trust? A Comparative Analysis of News Trust in New Zealand and Other Western Media Markets," *Kotuitui* 17, no. 1 (2022).
7. Parliament, "Survey of the New Zealand Public," 8.
8. Ibid.; Peter D. Gluckman et al., *Addressing the Challenges to Social Cohesion* (Auckland, New Zealand: Koi Tū, The Centre for Informed Futures, University of Auckland, 2023).
9. Mark E. Warren, "What Kinds of Trust Does a Democracy Need? Trust from the Perspective of Democratic Theory," in *Handbook of Political Trust*, ed. Sonja Zmerli and Tom W. G. van der Meer (Cheltenham, UK: Edward Elgar Publishing, 2017), 33.
10. Cf. Guido Mollering, "The Trust/Control Duality: An Integrative Perspective on Positive Expectations of Others," *International Sociology* 20, no. 3 (2005): 286; Bernd Lahno, "Trust and Collective Agency," in *The Philosophy of Trust*, ed. Paul Faulkner and Thomas Simpson (Oxford: Oxford University Press, 2017); Frens Kroeger, "Unlocking the Treasure Trove: How Can Luhmann's Theory of Trust Enrich Trust Research," *Journal of Trust Research* 9, no. 1 (2019): 111, 20; Thomas Simpson, "What Is Trust?," *Pacific Philosophical Quarterly* 93 (2012): 553; Christel Lane and Reinhard Bachmann, "The Social Constitution of Trust: Supplier Relations in Britain and Germany," *Organization Studies* 17, no. 3 (1996): 367-68; Jong-sung You, "Trust and Corruption," in *The Oxford Handbook of Social and Political Trust*, ed. Eric M. Uslaner (New York: Oxford University Press, 2017), 474. We do not know if a stranger will betray our trust, nor do we know what close associates will choose to do when the time comes. In each case, what they do is up to them. Furthermore, a betrayal by someone we have long trusted, such as a family member or friend, is often more damaging to us than betrayal by a stranger.
11. Annette Baier as quoted in Vallier, "Political Trust," 1277.
12. Karen Jones as quoted in Simpson, "What Is Trust?," 552. Vallier, "Political Trust," 1277-79.
13. Markus Freitag and Marc Buhlmann, "Crafting Trust: The Role of Political Institutions in a Comparative Perspective," *Comparative Political Studies* 42, no. 12 (2009): 1540. This is a common way to conceptualize trust, but there are others. For an overview of the various ways to think about the nature of trust and their shortcomings, see Simpson, "What Is Trust?."
14. "What Is Trust?," 5567-557; You, "Trust and Corruption," 474. Conversely, being too cautious may also be unwise. Failing to trust may mean we miss out on advantageous opportunities that will not come our way again.
15. This is particularly true in political contexts. However, in our everyday lives, it is common to extend trust without much supporting evidence, especially if the situation is low-stakes.

16. Thomas Simpson, "Locke on Trust," in *Trust in Epistemology*, ed. K. Dormandy (London: Routledge, 2019), 46.
17. Katherine Hawley, "Trustworthy Groups and Organizations," in *The Philosophy of Trust*, ed. Paul Faulkner and Thomas Simpson (Oxford: Oxford University Press, 2017), 236.
18. Lahno, "Trust and Collective Agency."
19. Ibid.
20. Orlando Patterson, "Liberty against the Democratic State: On the Historical and Contemporary American Discourse of Civil Society," in *Democracy and Trust*, ed. Mark Warren (Cambridge: Cambridge University Press, 1999), 154; Vallier, "Political Trust," 1275-81.
21. Patterson, "Liberty against the Democratic State: On the Historical and Contemporary American Discourse of Civil Society," 154; Freitag and Buhlmann, "Crafting Trust: The Role of Political Institutions in a Comparative Perspective," 1543, 46.
22. Claus Offe, "How Can We Trust Our Fellow Citizens?," in *Democracy and Trust*, ed. Mark Warren (Cambridge: Cambridge University Press, 1999), 44; Freitag and Buhlmann, "Crafting Trust: The Role of Political Institutions in a Comparative Perspective," 1540.
23. Cf. Patterson, "Liberty against the Democratic State: On the Historical and Contemporary American Discourse of Civil Society," 154; Freitag and Buhlmann, "Crafting Trust: The Role of Political Institutions in a Comparative Perspective," 1543-44.
24. Lane and Bachmann, "The Social Constitution of Trust: Supplier Relations in Britain and Germany," 368, 70; Freitag and Buhlmann, "Crafting Trust: The Role of Political Institutions in a Comparative Perspective," 1543, 56; Patterson, "Liberty against the Democratic State: On the Historical and Contemporary American Discourse of Civil Society," 154.
25. Mark E. Warren, "Democracy and Deceit: Regulating Appearances of Corruption," *American Journal of Political Science* 50, no. 1 (2006): 161.
26. Lane and Bachmann, "The Social Constitution of Trust: Supplier Relations in Britain and Germany," 371.
27. Admittedly, trust in persons and trust in the institutional roles they inhabit are not easily distinguished from one another. As Kroeger pointed out, "it can be difficult to tell whether your trust relates more to the individual actor or to the system that governs their behaviour." Instead, it may be better to think of these types of trust as "interlocking" rather than as neatly separable categories. Kroeger, "Unlocking the Treasure Trove: How Can Luhmann's Theory of Trust Enrich Trust Research," 116-17.
28. Ibid., 116.
29. Ola Listerhaug and Georg Jakobsen, "Foundations of Political Trust," in *The Oxford Handbook of Social and Political Trust*, ed. Eric M. Uslaner (New York: Oxford University Press, 2017), 569; Gluckman et al., *Addressing the Challenges to Social Cohesion*; You, "Trust and Corruption," 476-77.
30. Bo Rothstein and Dietlind Stolle, "Social Capital, Impartiality and the Welfare State: An Institutional Approach," in *Generating Social Capital: Civil Society and Institutions in Comparative Perspective*, ed. Marc Hooghe and Dietlind Stolle (New York: Palgrave MacMillan, 2003), 195.
31. Warren, "What Kinds of Trust Does a Democracy Need? Trust from the Perspective of Democratic Theory," 34; Mark Warren, "Conclusion," in *Democracy and Trust*, ed. Mark Warren (Cambridge: Cambridge University Press, 1999), 349; Listerhaug and Jakobsen, "Foundations of Political Trust," 569.
32. Mark Warren, "Trust and Democracy," *ibid.*, 75.
33. Lahno, "Trust and Collective Agency," 129.
34. Warren, "Trust and Democracy," 75. Also, see Kroeger, "Unlocking the Treasure Trove: How Can Luhmann's Theory of Trust Enrich



Trust Research,” 115, 20-21.

35. “Unlocking the Treasure Trove: How Can Luhmann’s Theory of Trust Enrich Trust Research,” 115.

36. The arguments of this and the following section rely upon, and are indebted to, the work of Mark Warren. See Warren, “What Kinds of Trust Does a Democracy Need? Trust from the Perspective of Democratic Theory”; “What Does Corruption Mean in a Democracy?,” *American Journal of Political Science* 48, no. 2 (2004); Warren, “Trust and Democracy”; Mark E. Warren, “Political Corruption as Duplicious Exclusion,” *Political Science & Politics* 39, no. 4 (2006); Warren, “Democratic Theory and Trust”; Warren, “Democracy and Deceit: Regulating Appearances of Corruption”; Warren, “Conclusion.”

37. This section is concerned with the theory of democracy, not with any specific practical iteration of it. It is important to note that there are competing conceptions of democracy. The conception outlined here is the liberal conception. Although there is no consensus to speak of, the liberal conception is arguably the current dominant view.

38. Warren, “Democracy and Deceit: Regulating Appearances of Corruption,” 165-66.

39. Patterson, “Liberty against the Democratic State: On the Historical and Contemporary American Discourse of Civil Society,” 158-59.

40. Ibid.

41. Stephanie Worboys, “Just Forgiving: An Examination of the Relationship between Justice and Forgiveness” (Victoria University of Wellington, 2023), 19-20.

42. Ibid.

43. Patterson, “Liberty against the Democratic State: On the Historical and Contemporary American Discourse of Civil Society,” 159.

44. Ibid.

45. Warren, “What Does Corruption Mean in a Democracy?,” 332; Thomas Simpson, “Freedom and Trust: A Rejoinder to Lovett and Pettit,” *Philosophy and Public Affairs* 47, no. 4 (2019): 413-14. There are alternative views of the role of elected officials. Some, most notably Edmund Burke, argue that the role of elected officials is not to act as a delegate, but as a trustee of the public interest.

46. Warren, “What Does Corruption Mean in a Democracy?,” 332; Simpson, “Freedom and Trust: A Rejoinder to Lovett and Pettit,” 413-14.

47. “Rebuilding Trust: Populists, Elitists, and the Future of Our Democracy,” in *Annual John Graham Lecture* (Auckland: Maxim Institute, 2023). Also, see Warren, “Democratic Theory and Trust,” 311.

48. Cf. “Democratic Theory and Trust,” 310; Vallier, “Political Trust,” 1298.

49. Cf. Warren, “Trust and Democracy,” 76-77; Vallier, “Political Trust,” 1298.

50. Warren, “Democracy and Deceit: Regulating Appearances of Corruption,” 166.

51. Warren, “Democratic Theory and Trust,” 311; Simpson, “Rebuilding Trust: Populists, Elitists, and the Future of Our Democracy.”

52. Warren, “Democratic Theory and Trust,” 311; Warren, “Democracy and Deceit: Regulating Appearances of Corruption,” 166.

53. In view of the Treaty of Waitangi, it has been argued that New Zealand is not strictly a democracy in the “one-person, one-vote” sense. This is at issue in the current co-governance debate, among other issues. What the Treaty of Waitangi means for our system of governance is an important matter that requires wider scope to address than this paper allows. “Kieran McNulty: It’s the Right Thing to Do,” *e-tangata* 2023.

54. Simpson, “Locke on Trust,” 45.

55. Ibid.

56. Wayne Mapp, "New Zealand's Bill of Rights: A Provisional Assessment," *Agenda: A Journal of Policy Analysis and Reform* 1, no. 1 (1994): 83; Grant Morris, "Liberty and Lockdown: Talking About Covid-19," (2020); Alex Penk, "Covid and Our Constitution: How a Pandemic Affected Our Body Politic and Culture" (Auckland, New Zealand: Maxim Institute, 2022), 19; Worboys, "Just Forgiving: An Examination of the Relationship between Justice and Forgiveness," 19-26.
57. Gabriel A. Almond and Sidney Verba, "Patterns of Partisanship," in *The Civic Culture: Political Attitudes and Democracy in Five Nations* (United States: Princeton University Press, 2015), 123. Freitag and Buhlmann, "Crafting Trust: The Role of Political Institutions in a Comparative Perspective," 1546, 54.
58. Vallier, "Political Trust," 1283.
59. In the words of Thomas Simpson, "I have to trust that, while those whom I did not vote for are in power, they will not use that power in a way so egregiously against me that I could not conceivably have consented to a process that would lead to those outcomes....if power is to be exercised legitimately, and not just as a show of force, each country needs to have a settled, pre-political consensus, which sets the frame for and authorises the exercise of power, and this is especially true for democracies...The decisive thing is the set of norms and attitudes, including social and political affections, by which a people are bound together, and which constrains how political power is competed for and how it is used." Simpson, "Rebuilding Trust: Populists, Elitists, and the Future of Our Democracy."
60. As Williams has wryly observed, deciding via a voting system where the majority carries the day "does not in itself announce that the other party [the minority] was morally wrong or, indeed, wrong at all. What it immediately announces is that *they have lost*." Bernard Williams, "Realism and Moralism in Political Theory," in *In the Beginning Was the Deed: Realism and Moralism in Political Argument*, ed. Geoffrey Hawthorn (Princeton: Princeton University Press, 2009), 13. Emphasis original.
61. The phrase, "the tyranny of the majority," is typically used to express this common criticism of democracy.
62. For more on the difference between ruling by might and ruling by right, see Worboys, "Just Forgiving: An Examination of the Relationship between Justice and Forgiveness," 18-25.
63. Auberon Herbert, "Salvation by Force," in *The Right and Wrong of Compulsion by the State*, ed. Eric Mack (Liberty Fund, 2012), 235.
64. Warren, "Trust and Democracy," 78-79.
65. Warren, "Democracy and Deceit: Regulating Appearances of Corruption," 165.
66. Freitag and Buhlmann, "Crafting Trust: The Role of Political Institutions in a Comparative Perspective," 1545; Warren, "What Kinds of Trust Does a Democracy Need? Trust from the Perspective of Democratic Theory," 37.
67. Warren, "Trust and Democracy," 89.
68. Warren, "Political Corruption as Duplicitous Exclusion," 804. Emphasis original.
69. Ibid. Emphasis removed.
70. Warren, "What Does Corruption Mean in a Democracy?," 333.
71. Freitag and Buhlmann, "Crafting Trust: The Role of Political Institutions in a Comparative Perspective," 1547.
72. Warren, "Political Corruption as Duplicitous Exclusion," 804.
73. What Kinds of Trust Does a Democracy Need? Trust from the Perspective of Democratic Theory," 34-36.
74. Freitag and Buhlmann, "Crafting Trust: The Role of Political Institutions in a Comparative Perspective," 1544.
75. Simpson, "Locke on Trust," 48.

76. Acumen, "Trust in New Zealand: Acumen Edelman Trust Barometer 2022."
77. "Trust in New Zealand: Acumen Edelman Trust Barometer 2023."
78. Acumen, "Trust in New Zealand: Acumen Edelman Trust Barometer 2024"
79. "Trust in New Zealand: Acumen Edelman Trust Barometer 2023."
80. "Trust in New Zealand: Acumen Edelman Trust Barometer 2024."
81. Parliament, "Survey of the New Zealand Public," 11.
82. Parliament, "Survey of the New Zealand Public," 4-5, 22-24.
83. Myllylahti, M. & Treadwell, G. (2024). *Trust in news in Aotearoa New Zealand 2024*. AUT research centre for Journalism, Media and Democracy (JMAD). [https://www.jmadresearch.com/\\_files/ugd/a95e86\\_cc317afe8a414d69a47c034735e58854.pdf](https://www.jmadresearch.com/_files/ugd/a95e86_cc317afe8a414d69a47c034735e58854.pdf).
84. Acumen, "Trust in New Zealand: Acumen Edelman Trust Barometer 2023"; Listhaug and Jakobsen, "Foundations of Political Trust," 568; Marc J. Hetherington and Jason A. Husser, "How Trust Matters: The Changing Political Relevance of Political Trust," *American Journal of Political Science* 56, no. 2 (2012): 313; Bryce Edwards, "Ten Reasons Labour's Support Has Halved" (2023), <https://democracyproject.nz/2023/10/03/bryce-edwards-ten-reasons-labours-support-has-halved/>.
85. "Ten Reasons Labour's Support Has Halved"; "The Misuse of Power to Entrench Three Waters Legislation" (2022), <https://democracyproject.nz/2022/11/28/bryce-edwards/>.
86. I owe this point to Alex Penk.
87. Edwards, "The Misuse of Power to Entrench Three Waters Legislation." For a good potted summary of the nature of entrenchment, see Andrew Geddis, "What Happens When MPs 'Entrench' Legislation, and Why Does It Matter?," *The Spinoff*, Nov. 27, 2022 2022.
88. Penk, "Covid and Our Constitution: How a Pandemic Affected Our Body Politic and Culture," 10; Bryce Edwards, "Today's Constitutional Disgrace in Parliament" (2021), <https://democracyproject.nz/2021/11/24/bryce-edwards-todays-constitutional-disgrace-in-parliament/>.
89. Paul Hunt as quoted in Michael Neilson, "Covid 19 Delta Outbreak: Major Concerns over Vaccinations Bill Being Passed under Urgency – 'Constitutional Disgrace'," *The New Zealand Herald*, 23 November 2021 2021.
90. Andrew Geddis, "In Rushing through the 'Traffic Light' Legislation, the Government Has Failed Us," *The Spinoff*, Nov. 24, 2021.
91. Sascha Mueller, "Where's the Fire?: The Use and Abuse of Urgency in the Legislative Process," *Canterbury Law Review* 12, no. 2 (2011): 318-26.
92. *Ibid.*, 322, 26.
93. *Ibid.*, 326.
94. *Ibid.*, 321. Emphasis original.
95. *Ibid.*, 326.
96. Anna Rawhiti-Connell, "House Enters Urgency as Government's 100-Day Plan Agenda Begins in Earnest," *The Spinoff*, Dec. 13 2023; Karanama Ruru and Glenn McConnell, "Bills to Disestablish Maori Health Authority, Smokefree to Be Passed under Urgency," *Stuff*, 27 Feb. 2024.
97. Penk, "Covid and Our Constitution: How a Pandemic Affected Our Body Politic and Culture," 12.
98. Robert Ludbrook, *Human Rights, The Law and You* (New Zealand: GP Books, 1990), 14.

99. Ibid., 15; Peter Gluckman, *Deepening Our Democracy* (Auckland, New Zealand: Kōi Tū, The Centre for Informed Futures, University of Auckland, 2022).
100. Ludbrook, *Human Rights*, 18, 26.
101. Gluckman, *Deepening Our Democracy*.
102. Ludbrook, *Human Rights*, 6. Also, see Henry Cooke, “Election 2020: Four-Year Political Terms Are a Terrible Idea,” *Stuff*, Oct. 2, 2020.
103. “Election 2020: Four-Year Political Terms Are a Terrible Idea.”
104. Mapp, “New Zealand’s Bill of Rights: A Provisional Assessment,” 83.
105. Ibid.
106. Warren, “Political Corruption as Duplicitous Exclusion,” 804.
107. Edwards, “New Zealand’s Social Cohesion Is Being Torn Apart”; Penk, “Covid and Our Constitution: How a Pandemic Affected Our Body Politic and Culture,” 9; Morning Report, “Poll Suggests 30pct Support Parliament Protest,” *RNZ* 18 February 2022.
108. Edwards, “Today’s Constitutional Disgrace in Parliament”.
109. Peter Dunne, “Why We Must Separate the Protesters’ Cause from the Protest Itself,” *Newsroom*, 10 March 2022.
110. Jeremy Waldron, “Parliamentary Recklessness: Why We Need to Legislate More Carefully,” in *Annual John Graham Lecture* (Auckland: Maxim Institute, 2008); Jonathan Boston, David Bagnall, and Anna Barry, “Foresight, Insight and Oversight: Enhancing Long-Term Governance through Parliamentary Scrutiny,” ([https://www.victoria.ac.nz/\\_\\_data/assets/pdf\\_file/0011/1753571/Foresight-insight-and-oversight.pdf](https://www.victoria.ac.nz/__data/assets/pdf_file/0011/1753571/Foresight-insight-and-oversight.pdf); Institute for Governance and Policy Studies, Victoria University of Wellington, 2019).
- 1 Kevin Vallier, “Political Trust,” *Brigham Young University Law Review* 47, no. 4 (2022): 1287;