
NON-AGENDA

With the view of causing an increase to take place in the mass of national wealth, or with a view to increase of the means either of subsistence or enjoyment, without some special reason, the general rule is, that nothing ought to be done or attempted by government. The motto, or watchword of government, on these occasions, ought to be æ Be quiet. . . Whatever measures, therefore, cannot be justified as exceptions to that rule, may be considered as *non-agenda* on the part of government.

— Jeremy Bentham (c.1801)

New Zealand's Proposed 'Code of Social and Family Responsibility'

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THE New Zealand government, as part of a policy designed to reduce the cost of welfare by making beneficiaries accountable for their benefits, has canvassed a proposed 'Code of Social and Family Responsibility'. The proposal sets out eleven 'expectations' for citizens, and especially beneficiaries, to be responsible in their lives. Because the Code is widely thought to represent a shift away from state welfare, it has been criticised by the political left, and praised by the political right. But on this issue, at least, the left is right, but for the wrong reasons. In fact, the proposed Code increases the influence of government, and does not go far enough towards reducing the government's role in welfare provision.

The Code's Eleven 'Expectations'

The proposal for a Code¹ sets out the following 'expectations' of New Zealanders:

1. Parents should love, care for, support and protect their children.
2. Pregnant women will protect their own and their baby's health with the support of their partner. They will begin regular visits to a doctor or midwife early in pregnancy.

¹ Web site <http://www.govt.nz/dsw>.

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3. Parents will do all they can to keep their children healthy. They will make use of free checks and immunisations, and seek early advice and treatment for sick or injured children.
4. Parents will do all they can to help their children learn from the time they're born.
5. Parents will take responsibility for seeing that their children are well prepared for school, and attend every day ready to learn.
6. Children must not break the law. Parents will take responsibility for bringing their children up to be law-abiding members of society. When children do offend, families, communities and government agencies will work together to prevent reoffending.
7. Parents will love and care for their children, support them financially and, where possible, share the parenting responsibilities, even when they are not living together.
8. People will take responsibility for developing the skills and knowledge they need to help them get a job, or take on a new job.
9. People receiving income support will seek full-time or part-time work (where appropriate), or take steps to improve their chances of getting a job.
10. People will manage their money to meet the basic needs of themselves and their family.
11. People will do all they can to keep themselves physically and mentally healthy.

The government invites the public to indicate whether they support such a Code and whether they think it should be used as a set of guidelines, incorporated in government policy, or passed into legislation.

Monitoring Expectations

It is not made clear how compliance with the expectations would be monitored. However, the transfer of information between government departments is a clear option. Under Expectation 3, the discussion document asks whether up-to-date immunisation should be a requirement for entry into early childhood education and schools. Immunisation status would most sensibly be monitored by the government cross-referencing information between the public health system and the public education system. Under Expectation 2, the question is asked whether the government should use the contact it already has with women receiving pregnancy-related sickness benefit to check whether they have sought proper pre-natal care.

A government anxious to control welfare spending would be likely to collect information only from institutions with which it had some formal connection, so that the great majority of people subject to the government's expectations would be

those using government welfare services. Thus, pregnant women receiving sickness benefit who use the public health system would be monitored by the government, but not those who are financially secure and who use the private health system.

This likely reliance on *public* information, which would lead to different groups who exhibit the same behaviour being treated differently, suggests that the Code is concerned with personal responsibility only insofar as it relates to the use of government-funded services. It reinforces the implication in the discussion document that the true issue is not responsibility as such, but the continuing cost of the social welfare system.

Public Reactions

Critics of the Code argue that it is a step towards treating welfare as another commodity to be privatised in the manner of telecommunications and electricity. They lament, on one hand, the government's apparent retreat from welfare, and, on the other, the government's proposal to require beneficiaries to perform certain acts as a condition of receiving benefits. Supporters of the Code, meanwhile, welcome it because it introduces some measure of accountability for welfare beneficiaries by requiring them to use their benefits responsibly. The general public appears, on balance, to support the proposal.

Yet very few commentators have focused on the long-term implications of the proposed Code. As in past debates about New Zealand's reforms, both critics and supporters of the proposal confine their argument to the implications of the Code for economic efficiency. But even if the proposed Code is economically efficient, it represents an unacceptable expansion of state intervention.

Arguments For the Code

One argument for the Code is that the government is entitled to require welfare beneficiaries to behave in certain ways as a condition of receiving benefits. Just as benefactors to private charities have a legitimate interest in the way their money is used, so taxpayers have a legitimate interest in the government's use of their money. In this way, the welfare of the tax-paying public is protected, as well as the welfare of recipients.

This argument overlooks a fundamental difference between private institutions and government. The difference is that the government, unlike private institutions, operates by legislating to finance and carry out its activities. While conditions on welfare may be wholly appropriate when imposed by a private person or institution, they are inappropriate when imposed by government. In the case of a private institution, the money transferred to the recipient is a gift, and may be given upon the express understanding that conditions will be observed. But in the case of government welfare, the money has been taken by force, and no clear intention can be inferred on the part of the benefactor for conditions to be imposed.

Another argument for the Code is that love and morality are economically efficient, as people will tend to spend money wisely on the things or people they love.

Similarly, responsible behaviour is likely to use resources more efficiently than irresponsible behaviour. But although morality and responsibility may well be economically efficient, and the Code may promote these, that provides no legitimate basis for the government to determine how private relationships which have no bearing on individual rights should be conducted.

In a market society, economic freedom and personal freedom are closely linked and are often secured through the same means. As a result they are often confused. However, the central danger of big government lies not in its impact on the economy, but in its impact on personal freedom by forcing citizens to live and behave in certain ways that have nothing to do with the protection of rights. However beneficial the Code could be in promoting economic efficiency, it still poses a threat to personal freedom. Apparently minor, pragmatic interventions may not, by themselves, amount to serious intrusions into personal liberty, but they have the potential to become so over time.

The principle of the rule of law holds that every citizen is equal under the law. But the Code does not treat people as equals. It seeks to make distinctions between people according to the values by which they live. Even if the Code is not embodied in legislation but is retained merely as a set of guidelines, those who choose to ignore it risk being treated unfavourably by government, regardless of whether they are violating anyone's rights. But the state's job is to enforce the law, not to encourage people to be 'responsible'.

The problem of the high and rising cost of the welfare state has arisen largely because welfare policies have created incentives to irresponsible behaviour. The Code is, in effect, an attempt to offset the undesirable consequences of the welfare state with further interventions. It is not likely to be successful. The only way to undo the harmful effects of welfare is directly to reform the welfare state itself, and to rely more on private welfare.

Conclusion

The current confusion about the proper role of government, even among market-friendly politicians such as New Zealand's Prime Minister, Jenny Shipley, illustrates the need for a strong principled basis for public policy.

New Zealand's reforms so far have occurred at the level of practical economics, without reference to freedom or the rule of law. The proposed Code is in the same mould, as the government is looking to it to help overcome the welfare expenditure problem. But straying from the rule of law in areas of social policy can have radical implications for individual privacy and freedom. And while the argument may be made that these measures are justified as increasing the economic freedom of taxpayers by giving effect to taxpayer preferences, the underlying assumption is still that the state must provide. If the government really wishes to address the problem of responsibility, it must set about removing the state from people's lives, in welfare as in other areas.