

GAMBLING WITH COMMUNITIES

Bruce Curtis and Cate Wilson

Introduction

In this chapter we draw attention to spoken and unspoken aspects of government policy found in the disadvantaging of community forms of gambling. Much of the rhetoric presented by government claims to be about protecting communities from gambling, but we argue that this language is at odds with the realities of policy and of practice. Such rhetoric foreshadowed the recent Review of Gaming,¹ but the outcomes to date are not designed to redress the balance. These outcomes include a moratorium on casino licences (securing the existing monopoly), increased surveillance on gaming machines run by clubs and pubs by the Department of Internal Affairs, and a bizarre effort to check Internet-based gambling in New Zealand (Department of Internal Affairs, 2001).

There remain two areas of discontinuity. First, government policy has resulted in the rapid growth of gambling. The most obvious features of this escalation include the introduction of a televised state lottery (*Lotto*, in 1987), the decision to license casinos (1990), the decision to allow sports betting through the TAB (1996), and the ongoing expansion of the products licensed to gambling businesses. Second, government policies have disadvantaged existing community forms of gambling (including housie, clubs, pubs and rural racing clubs) and have stymied new initiatives (most notably Maori-based or 'iwi' gambling). In short, changes to gambling policy and regulations have marginalised the positive aspects of gambling

(returning profits to the communities from which they originated; providing a source of revenue for the individuals who benefit from community gambling, for example, sports clubs) while doing little to minimise the undesirable outcomes, such as problem gambling.

What Do We Mean by Community?

community *n., pl. -ties.* All the people living in one district; group having shared interests or origins; society, the public.

(Collins Paperback Dictionary and Thesaurus)

We all know what 'community' means – we all live in a community, after all. Most of us will identify with the first part of the definition above. We talk about 'our community' and hopefully feel a sense of belonging; public figures such as politicians speak of actions as being 'for the good of the community'. But when we think a little further, if members of a community have 'shared interests or origins' then some of your neighbours would probably be excluded from your community – so do the two parts of that definition contradict each other? Do members of a community have to be of the same culture? Can a person who shares your interests, origins, perhaps is a member of your family, be part of your community although they live in another country? People living in Remuera and people living in Otahuhu are all members of the Auckland community – or are they?

The assumption of geographical boundaries is not unique to lay dictionaries; 'community' as 'a collection of people within a geographical area' is the skeletal definition offered by the *Penguin Dictionary of Sociology* (Abercrombie, Hill and Turner, 1988). However, Abercrombie, Hill and Turner acknowledge that the term is elusive and vague to the point of having lost specific meaning. They suggest a further three elements which may also be present in the usage of the term 'community': (1) collections of people with a particular social structure; (2) a sense of belonging or community spirit; and (3) the daily activities of a particular community, taking place within a geographical area.

Our focus is on both the locational character of community and the process of constructing community. By this latter term we mean that communities really exist only insofar as they are active. Such cooperative activities – in all their varied forms and eschewing moral and legal judgements – are the building blocks of community. Further, without such activity there is only geography and in effect an absence of community.

Clearly there are a number of significant implications from this 'constructivist' take on community. First, communities are considered to be variable and unpredictable. There is an episodic element to communities as their activities ebb and flow. Second, attempts to protect or defend communities from the outside (by funding or law or other sanctions) are somewhat problematic in that they rely on external definitions of what constitutes proper community activity. (This is very significant in the case of gambling where so much of the legislation is about 'authorised purposes'.) Third, and no doubt most controversially, protecting communities should be about enabling them and the activities they pursue. The problem here of course is where community activity is considered immoral, illegal or harmful. This leads us to a definition of community forms of gambling.

By 'community forms' is meant gambling wherein the community is important as *both* a source of expenditure and as a recipient of the resulting profits. The most important feature of any community form of gambling is that profits are returned and recycled to the community, if not to the very gamblers who sustained the losses in the first place. Housie games are an exemplar of this. They are often organised by a small charity or community organisation (for example, the local animal shelter), which receives the profits and uses them to fund its services. The housie players are often recruited from users of the charity. Rural race tracks provide another example: horse owners, trainers, jockeys, race sponsors and 'punters' are usually all part of the same community, so profits are largely returned to that community through supporting local businesses.

A community form of gambling can be contrasted with the corporate forms where gross profits are dispersed to shareholders (as in the case of the casinos) or distant stakeholders (as in the case of the TAB and New Zealand Lotteries Commission), well beyond the contributing/gambling community. It is contended that gambling at housie sessions, on gaming machines in clubs and pubs, at rural race clubs and in iwi-based forms constitute some genuine community forms. As such it must be noted that this definition is at odds with the Lotteries Commission's claim to a 'Community Benefit Model' (New Zealand Lotteries Commission, 1997d, 1997e). This will be discussed below.

Government Policy: The Reality of a Mixed Message

There is no single explicit gaming policy. Successive governments have intervened in the gaming industry in response to societal changes, new

types of games, industry pressure and concerns about the negative effects of gambling ... Traditionally Government intervention in the gaming sector reflected society's view that gambling should only be permitted if it was intended for fundraising purposes, because it has undesirable social consequences. However, the fact that casinos are allowed to keep their profits is a departure from this view Many sectors of the gaming industry are required to distribute their profits back to the community. Thus the gaming sector is required to contribute to the community.

(personal communication, The Treasury, 14/ 4/ 2000)

The above quote from the Treasury identifies the main elements in the Government's licensing of gambling in New Zealand and, in particular, its connection with community. These are somewhat contradictory components and certainly state policy in the last 15 years has been subjected to crosscutting pressures and demands. Nevertheless, an earlier position of the state that gambling should be strictly proscribed is no longer plausible (Austrin, 1998). This is not to say that the 'neo-liberal' approach to policy favoured elsewhere by the New Zealand state (at least in the period 1984 to 1999) and still championed by the Treasury has won the day.

There has been little in the way of deregulation in gambling of the type associated with neo-liberal policies elsewhere in New Zealand. The growth of gambling is associated with the ad hoc addition of legislation and regulation. This has involved the retention of the state in the business of gambling (i.e., in the sale of gambling products) whereas elsewhere in the economy the pursuit of the neo-liberal agenda has seen the corporatisation and privatisation of 'state-owned enterprises' (for example, in airports, banking, energy, forestry, housing, ports, public transport, railways, telecommunications, etc).

The diversification of gambling has involved both incumbent (state entities) and new (commercial) gaming operators being licensed for business by government. The Totalisator Agency Board has diversified into sports betting (1996) and Internet wagering (1999). The Lotteries Commission has diversified into a televised lottery (1987), scratch-cards (*Instant Kiwi*, 1989), a televised version of keno (*Daily Keno*, 1994), a televised version of housie (*Telebingo*, 1996, now discontinued) and a game show (*Risk*, 2001). The new operators are the commercial enterprises running casinos established in Christchurch (1994), Auckland (1996), Dunedin (1999), two in Queenstown (1999) and another likely to open in Hamilton (2002).

The continued stakeholding by the state in gambling is understandable in terms of two dynamics. First is the longstanding approach to gambling where the focus has been to channel activity into charitable forms. This reflects the stigmatised or morally dubious character of gambling. The slightly 'shady' aspects of gambling limit its promotion as a legitimate form of entertainment business. This moral rationale underpins the laws empowering the New Zealand Lotteries Commission and the TAB. The second factor in state stakeholding is the problematic character of the Lotteries Commission and the TAB as 'state-owned enterprises'. Continued stakeholding by the state reflects problems in defining and then disposing of either the Lotteries Commission or the TAB as state assets.

Most at issue in the laws relating to gambling is the extent to which gambling is conducted for charitable or for commercial purposes. Three Acts coexist: the Gaming and Lotteries Act (1977), the Racing Act (1971) and the Casino Control Act (1990). The recent Review of Gaming suggests that the 1977 Act and the 1990 Act will be merged by a proposed Responsible Gambling Bill. The most significant feature of such a new Act would be the elimination of the Casino Control Authority and the broadening of Department of Internal Affairs activities. The distinction between commercial and charitable gambling would be untouched. As it stands, the Gaming and Lotteries Act continues a long tradition of making illegal all games of chance. One set of exceptions are those games made legal under section 8 of the Act. This section reads:

The Minister may from time to time, at his discretion, on the application in writing of any society, grant to that society, in respect of any game or games of chance that would otherwise be illegal, a licence authorising it to conduct the game or games of chance specified in the licence if he is satisfied that the society's object in doing so will be to raise money for an authorised purpose.

Section 2 clarifies what is an authorised purpose: 'any charitable, philanthropic, cultural, or party political purpose, or any other purpose that is beneficial to the community or any section of it'.

A multitude of housie operators, lottery organisers and operators of gaming machines in clubs and pubs (all sites other than casinos) are licensed by the Department of Internal Affairs. Alongside this regulatory function the Act also provides for the establishment of the Lotteries Commission. The Commission was instituted to: 'promote, organise and conduct state

lotteries and prize competitions' (Department of Internal Affairs, 1995e: 79). The Lotteries Commission drafts the rules under which it sells gaming products (e.g. Keno Rules (1994) and Lotto Rules (1996)). The Act also established the Lottery Grants Board.

A share of profits from the sale of Lottery Commission products is paid to the Lottery Grants Board. For the period 1994–98, this share amounted to 45 per cent of gross profits (approximately \$630 million). The Lottery Grants Board, in turn, operates as a charitable trust, making disbursements to a range of dispersal committees. Around 41.5 per cent of this amount is given to three organisations: The Hillary Commission for Sport, Fitness and Leisure (20%); Creative New Zealand (15%); and the New Zealand Film Commission (6.5%). The balance is distributed through 13 standing committees.

A second set of exceptions to the strictures of the Gaming and Lotteries Act (1977) are the activities of the Totalisator Agency Board. These are outlined in the Racing Act (1971). The activities of the TAB are controlled by interpretation of both Acts. The Racing Act outlines the products and services the TAB can offer. Any change in the gambling products supplied by the TAB requires amendment to the Racing Act (Racing Industry Board and TAB, 1995: 58–59). The Gaming and Lotteries Act makes mention of the TAB by describing the legal activities of other gambling operators (with the exception of the casinos), including the Lotteries Commission, housie operators, and people running lotteries, and by criminalising all private forms of bookmaking.

The terms 'charitable' or 'authorised purposes' do not appear in the Racing Act. Instead the Totalisator Agency Board is required to transfer a fixed percentage of its gross profits (fixed at 33%) to the Racing Industry Board (RIB) (also created by the Racing Act), which in turn makes disbursements to incorporated galloping, hunt, harness and greyhound racing clubs. Thus the Lotteries Commission and the TAB are much alike. Both enjoy state-licensed monopolies: the TAB in bookmaking and sports betting; the Lotteries Commission in a range of televised and scratch-card games. Both return a significant percentage of their gross profits to separate, at arm's-length, disbursement organisations. Both exist to generate revenues solely for this type of disbursement (by the Lottery Grants Board and the Racing Industry Board).

The Casino Control Act (1990) is an exception to the canon of gambling law. The Act is at odds with the rest of the law on gambling as it allows the licensing of casinos for commercial reasons.² It can be interpreted as a

model for the type of 'neo-liberal' reform of gambling where the state surrenders its active stakeholding in the industry. Its coexistence with the earlier legislation sharpens the contradictory character of the state as an operator in the business of gambling.

Putting aside the state's historical and ongoing commitment to use the TAB to fund the racing industry and the Lotteries Commission to fund the Lottery Grants Board, there emerge some concerns in replicating a privatisation programme in gambling. The issue of ownership is central. Both the TAB and Lotteries Commission are state entities in the sense that they exist because of law. However, whether this basis of existence makes them 'assets' of the state, especially assets available for sale by the state, is highly debatable. The Lotteries Commission is charged with organising state lotteries. There is no operational reason preventing this responsibility being conducted, on a subcontracting basis, by a fully commercial business. Indeed such a business had the monopoly on the sale of 'Art Union' tickets in the 1930s (RIB and TAB, 1995: 46). What is more problematic is the extent to which a monopoly license to run a state lottery could be granted to a commercial operator in the current context. The most important aspects of monopoly are access to television and retail outlets. The evidence here is contradictory. On the one hand, the privatisation of Telecom necessitated the ending of monopoly arrangements. On the other hand, the privatisation of New Zealand Rail furthered a monopoly.

A privatisation of the Lotteries Commission would constitute a political rather than a legal problem. Certainly the legal ramifications of the privatisation of state-owned enterprises did not figure in the 1984–1999 round of asset sales. However, Easton (1994, 1999) notes that the 'radicalism' of the reform process is exhausted. The Labour–Alliance Government has promised no further asset sales. Arguably the moment for any privatisation of the state entities in gambling has passed. This is not to say that there are no protagonists for privatisation. Such enthusiasm is clearly the case for the TAB. In its joint submission with the Racing Industry Board, *A New Direction for the Future: Reforming the Gaming Industry*, the claim is made that: 'the Government should no longer participate as a principal in the gaming market' (1995: 14). Furthermore, the RIB and TAB suggest it is appropriate to 'review existing legislated gaming product markets' (1995: 14).

However, there are contesting claims to the TAB as an asset. On the one hand it can be argued (and is argued by senior officials of the TAB)

that the TAB enjoys the same status as any other product of legislation. The TAB could be privatised in the same way as were the former ministries of state. On the other hand, there is a strong prima facie case for the racing clubs as sole fiduciary stakeholders in the TAB. In short there are at least two contesting versions for privatisation.

For government, charting a path eliminating what Markland (1996: 80–82) calls ‘anomalies and inconsistencies’ in gambling and what the Minister of Internal Affairs sees as being ‘confused and complex’ (Burton, 2000), seems unlikely in the foreseeable future. At the same time the current arrangements must be regarded as insecure. While it may be feasible for the state to continue the highly uneven practices of licensing, there are tensions both within and outside the currently licensed field. In this respect the proposed Responsible Gambling Bill is likely to be a very conservative document, doing little more than securing the existing arrangements.

Of immediate concern to the state is the reliance of the TAB and Lotteries Commission on stagnant or declining gaming products. Horse and dog racing sold by the TAB and all the products sold by the Lotteries Commission (with the possible exception of *Instant Kiwi*) are experiencing absolute, long-run declines in turnover and expenditure. For these operators the only viable solution is product diversification. The move by the TAB into sports betting is significant. Still more significant, the operation of gaming machines promises a new source of revenue for the TAB, while the Lotteries Commission seem to have been denied this option (Department of Internal Affairs, 2001b).³

The possibilities for reallocating existing gambling products and operators is not the only source of tension for the state. An entirely new range of gaming products to those currently licensed in New Zealand is now either available or is soon to be so. The most important of these involve the networking of sites, Internet gambling and interactive TV. All three require a reworking of state-licensed monopolies or jurisdictions. Surprisingly, by not addressing the licensing of these new forms of gambling, the policy emerging from the recently completed Review of Gambling suggests that the Government would like these new options to ‘go away’. However, as the Casino Control Authority rightly notes in its submission to the Review; ‘Internet gambling cannot be economically or effectively stopped’ (Casino Control Authority, 2001: 28). Despite this lucid analysis, or perhaps because of it, the Casino Control Authority is to be scrapped and its duties subsumed by the Department of Internal Affairs.

The Marginalisation of Community Forms

The discussion of the state's role in the gambling industry has emphasised the statutes and some of the contradictory and short-sighted aspects of policy. It is suggested that circumstances in the industry impose contradictory demands on the state. Among these are conflicting pressures for: (1) the liberalisation or stigmatisation of gambling; (2) gambling for charitable or commercial ends; and (3) the continued involvement or exit of the state from the business of gambling. However, in one important dimension the inconsistent elements of state policy fit together. This unity is found in the marginalisation of community forms of gambling.

The Lotteries Commission proposes a 'Community Benefit Model' for gambling (New Zealand Lotteries Commission, 1997d, 1997e). This model is based on the preservation and extension of the licensed monopolies enjoyed by the Lotteries Commission and its continued funding of the Lottery Grants Board. However, the extent to which the gaming products sold by the Lotteries Commission take money out of communities, albeit for redistribution by the Lottery Grants Board, is not addressed. Consequently a more accurate name for the model championed by the Lotteries Commission might be that of a 'National Benefit Model'. Revenues that are generated locally are redistributed nationally (to elite sporting and cultural organisations). The Lotteries Commission extracts gross profits from local communities in precisely the same way as do fully commercial casinos. The difference between the two types of operations rests solely in the mechanisms for redistributing revenues: in the case of the Lotteries Commission via the Lottery Grants Board; in the case of the casinos via dividends to shareholders. Further, both the Lotteries Commission and the casinos are favoured in terms of how they are licensed to sell gaming products *vis à vis* their smaller community based competitors.

The advantages enjoyed by the Lotteries Commission are partly a product of the Gaming and Lotteries Act (1977), which established the operator and gave it powers to draft its own rules for the sale of a range of products. The Lotteries Commission is able to draft rules which make its games (products) far more attractive than those offered by 'traditional' housie operators.⁴ At the same time the Lotteries Commission is favoured by its relationship with the Department of Internal Affairs, which administers the Act (most notably, section 8) and the Housie Regulations (1989).

While it is not the intention of the policy and inspectorate units of the department somehow to disadvantage housie operators, their strict interpretation of the regulations have certainly functioned in this way. This is the first version of marginalisation: housie operators have been severely constrained by limits on prizes, limits on play (no play on Sundays), limits on the number of games per session, restrictions on the payment of commission (forcing a reliance on volunteers to run games), limits on advertising, and an absolute freeze on any innovations in the game or in the technologies used to play those games (Australian Institute for Gambling Research 1998: 321–327). A significant number of prosecutions have been secured by the department against various illegal housie games. Contrast this situation with the national retail chain, television coverage, constant innovation, huge jackpots, and the enormous advertising budget enjoyed by the Lotteries Commission in the sale of its products. Unsurprisingly, housie has gone into a steep decline since 1987 (and the introduction of *Lotto*).⁵

A second version of marginalisation of community forms is found in the regulation of gaming machines. Once again the policy and inspectorate units of the Department of Internal Affairs have acted to constrain community forms of gambling, in this case at pubs and clubs. The decisive moment in the regulation of gaming machines (outside of casinos) is found in a reworking of the licences granted under section 8 of the Gaming and Lotteries Act. This change in licensing was undertaken in 1988, forcing severe limitations on existing gaming-machine operators. Thus the operators of gaming machines were required to have both a liquor licence for their gambling sites and be incorporated societies. For publicans this meant that the ownership of gaming machines became vested in charitable trusts (established exclusively for this purpose). These charitable trusts (the three largest operate over 6,000 machines in nearly 900 pubs) are required to pay GST and the Gaming Duty on revenues as well as ensure that 33 per cent of gross profits are paid to duly 'authorised purposes' (approved by the Department of Internal Affairs). Each publican receives a rental on each machine (the current maximum rental is about \$220 per machine, per week). Because clubs (including returned servicemen's clubs, workingmen's clubs and sports clubs) are incorporated societies in their own right they were deemed eligible to benefit from the revenues (after the deduction of tax and all other operating expenses) generated by the gaming machines on their premises. However, both clubs and pubs are restricted in the operation of these machines. A maximum of 18 machines

per site is enforced, but new sites are likely to be limited to nine machines. The Responsible Gambling Bill promises, among other things, an even stricter enforcement of clubs and pubs. Indeed the informal usage of 'casino' to designate the presence of gaming machines in a venue is to be outlawed (Department of Internal Affairs, 2001b). The maximum prize (a jackpot) is \$1,000. The gaming machines may not be advertised. Further, only members may play machines in clubs and the revenues so generated may not be used to subsidise food or alcohol. Contrast this situation with that of the casinos.

Casinos have been able to operate as many machines in their premises as they deem commercially viable. These machines offer whatever range of prizes or jackpots is favoured by the operator. The casinos have no restrictions on their advertising. Unsurprisingly, after the opening of the casinos in Christchurch (1994) and Auckland (1996), the clubs and pubs experienced about a 30 per cent drop in their gross profits. Anecdotal evidence suggests a recovery in these revenues, although this is difficult to ascertain because of the increased numbers of machines in clubs and pubs. More clearly, and more importantly, one result of the advantaging of casinos *vis à vis* clubs and pubs is that gaming machines in the former generate around five times more turnover than machines sited in the latter.

The decision to allow casinos complicates issues insofar as casino-based gambling might (and probably does) cannibalise the TAB and the Lotteries Commission. However, the entry of casinos coincided with a redoubling of effort on the part of the Lotteries Commission and Department of Internal Affairs against clubs and pubs. An important feature of this campaign was prosecutions against operators for breaches of licence conditions. Possibly a hidden agenda here is to remove gaming machines from the charitable trusts (pubs) and clubs.

The manoeuvrings of the TAB and Racing Industry Board also act to marginalise community forms, in this case rural racing clubs. This third version of marginalisation centres on the systematic closure of rural racing clubs (Racing Industry Board, 1997: 1–3). The Racing Industry Board has developed a four-tier categorisation of racing clubs, ranging from A to D venues and depending upon their strategic importance to the industry. The criteria for categorisation of clubs involves location, the size of nearby human or horse populations; racing surface; and the proximity and value of other venues. Over time the race meetings held at C and D venues will be transferred to A and B venues. Venues in category D are considered to have significance in servicing the local community, but get no preferential

funding. All rural racing clubs are categorised D and thereby face eventual closure.

Finally, a fourth version of marginalisation can be found in the state's refusal to countenance Maori-owned and operated or iwi-based forms of gambling. While successive governments have interpreted the Treaty of Waitangi to mean the allocation of various resources to Maori, this has not included the granting of casino licences or other gambling warrants. This lack of resourcing is despite some governmental lip service,⁶ considerable interest on the part of Maori, and the very considerable success of Native American casino gambling in generating resources for their communities (Loomis, 1998).

Conclusion

The conclusion to this chapter is that communities experience the worst of both worlds in the current regulation of gambling. On the one hand they suffer the negative consequences of gambling – an industry which is expanding rapidly. Addiction and impoverishment are the most obvious negative impacts of gambling, yet the response to these problems by the state is decidedly piecemeal. Further, one of the most telling aspects of the growth of gambling is that communities are largely excluded from the decision-making process. For example, the Resource Management Act is not applied to gambling, although a 'community veto' is now promised. On the other hand, communities receive only a minority of the profits they generate through gambling, and those only indirectly. Profits tend to exit communities while community control over the resources generated by gambling is patchy. Where profits remain in communities they do so through the increased spending power of shareholders in gambling businesses or through the good works of various state agencies.

Overall, the forms of gambling most closely aligned with communities – housie, machine gambling in clubs and pubs, rural racetracks and the possibility for iwi-based gambling – are marginalised and are likely at any moment to be dismembered by changes in state policy. Such policy shifts are inevitably presented as being for the good of communities but act to disempower communities. We suggest that if government policy were truly about the protection of communities then a good first step would be to empower the forms of gambling most closely aligned with them. Easing restrictions on housie operators, clubs and rural racetracks, and allowing iwi-based gambling, would not cause a plague of gambling – the plague is

already with us. Sanctioning community forms of gambling would merely ensure that 'the locals' get a fair share of the gambling pie. Of course the losers in such a scenario would be those currently most favoured, the big players in gambling: the Lotteries Commission, TAB and the casinos. Given this alignment of vested interests, it is a safe bet that community forms of gambling will remain marginalised.

Endnotes:

- ¹ An extremely useful website, the Gaming Review Homepage, is currently maintained by the Department of Internal Affairs. Those with access to the Internet should visit: <http://www.dia.govt.nz/DIAwebsite.nsf/URL/GamingReview-GamingReviewHomepage>.
- ² The Lotteries Commission noted in its document *Responsible Gaming: A Commentary*: 'the introduction of casinos for private gain was a major aberration in the general pattern of the New Zealand gambling and gaming industry. It should remain as an aberration ... the contagion should not be allowed to spread' (New Zealand Lotteries Commission, 1997f: 15).
- ³ In 2000 the TAB was allowed to place gaming machines in some of its agencies. The Review of Gaming suggests that the TAB will be able to place gaming machines in all its agencies and in racing clubs. In contrast, the Lotteries Commission which had lobbied hard for gaming machines has been denied such product diversification.
- ⁴ In its submission to the Review of Gambling (a precursor to the Review of Gaming), Bingo World (a manufacturer of housie products) described the organisers of housie games as being: Sports Clubs, 29%; Ethnic Organisations, 25%; Service Clubs, 20%; Senior Citizen Clubs, 11%; Schools, 8%; Sundry 7% (Department of Internal Affairs, 1990: 35).
- ⁵ Approximately 1,500 licences were issued by the Department of Internal Affairs for housie games in 1986 and about 700 in 1995 (Australian Institute for Gambling Research, 1998: 323).
- ⁶ The Treaty of Waitangi is mentioned only once by the Department of Internal Affairs, albeit on page one of its 1996 discussion document: '... any proposed policy must comply with the principles of the Treaty of Waitangi' (1996: 1)