



New Zealand election: 17 September 2005

New Zealand prime minister Helen Clark has formed her third successive minority government after the Labour Party won 41 per cent of the vote in the 17 September 2005 election. Labour has a formal coalition with the Progressive Party and confidence and supply deals with New Zealand First and United Future. Clark is the first post-WWII Labour leader to take her party to a third term in office.

Contrary to some commentary published immediately after the election, the result did not reflect a significant swing away from Labour. Its 41.1 per cent of the party vote was only 0.2 of a percentage point below its 2002 result, which had been the party's best performance since 1987. The noteworthy result was the resurgence of the National Party, which had suffered the worst result in its 66-year history in 2002. In the party's best result since 1990, it captured 39 per cent of the vote this year, a jump of 18.2 percentage points and a mere two percentage points below Labour.

The losers in the 2005 election were the five minor parties that had won a significant share of the vote in the previous election. In total, their vote dropped 16.7 percentage points—almost as much as National gained. Two of these parties plunged in the polls to below the 5 per cent threshold that guarantees parliamentary seats. They returned to parliament by virtue of winning an electorate seat, an aspect of the electoral system that commentators have queried.¹ Despite the fall in vote share for the minor parties, a sixth party—the new Maori Party, which Labour defector Tariana Turia formed in 2004—won four of the seven Maori electorates.

Context of the election

Clark called the election on 25 July. At the time, her government was languishing in the opinion polls, despite presiding over a strong economy and a low unemployment rate (about 3.5 per cent). Its main opponent, the National Party, had risen from its comatose state 18 months earlier, in January 2004, when a strident speech in Orewa from its new leader, former Reserve Bank governor and political newcomer Don Brash, gave the party a much-needed boost in the polls. National had been trounced at the 2002 election, with its 20.9 per cent vote share giving it only 27 of the 120 seats in parliament. Brash's speech, which targeted what he condemned as the Labour Government's excessive focus on race-based political correctness and pandering to Maori rights, appeared to resonate with the community. Support for

National rose 17 points in a month in 'the largest single increase in the history of polling in New Zealand'.²

Pre-election opinion polls were extremely volatile, and commentators agreed that the election was too close to call.

Major issues of the campaign

Tax cuts: both major parties tried to lure voters with promises of tax relief in the context of improving living standards and trying to stop the flight of Kiwis overseas. Labour had attracted scorn in June when, in the face of a booming economy, its Budget offered a tax change said to be worth just NZ67c a week to the average taxpayer. In the election tax-cut lolly scramble, National offered a policy under which most workers would pay only NZ19c in the dollar and Labour counter-offered with tax relief for families and a reminder that it used taxes to improve social services. However, Labour's promise to abolish the interest on student loans for graduates who stayed in New Zealand came unstuck on the official costings and fears that it would lead to unrestrained borrowing, and National's pledge of a 5c a litre cut in petrol tax came across as an obvious ploy.

Race issues: National tapped into public concern that Maori claims under the Treaty of Waitangi had gone too far, especially given that Labour had had to legislate in 2004 to retain Crown ownership of the country's coastline after a court case paved the way for Maori to claim legal ownership of the seabed and foreshore. National's platform included a review of Treaty-related administration, a 2010 settlement date for all Maori land and other claims, and abolishing the seven Maori electorates. Labour pledged to settle all claims by 2020.

Foreign policy: Clark accused Brash of being 'slippery' on the commitment of troops to Iraq and the future of the nuclear-free policy. Labour quoted Brash as telling visiting American senators that if he had his way, the nuclear ban would be 'gone by lunchtime'.³ National's official policy was that the ban would be put to a referendum.

| Results 2005 (2002) | Party vote (%) | Electorate seats | List seats | Total seats |
|------------------------|-------------------|---------------------|---------------|----------------|
| Labour | 41.1 (41.3) | 31 (45) | 19 (7) | 50 (52) |
| National | 39.1 (20.9) | 31 (21) | 17 (6) | 48 (27) |
| NZ First | 5.7 (10.4) | 0 (1) | 7 (12) | 7 (13) |
| Green Party | 5.3 (7.0) | 0 (0) | 6 (9) | 6 (9) |
| Maori Party | 2.1 (–) | 4 (–) | 0 (–) | 4 (–) |
| United Future | 2.6 (6.7) | 1 (1) | 2 (7) | 3 (8) |
| ACT NZ | 1.5 (7.1) | 1 (0) | 1 (9) | 2 (9) |
| Progressive | 1.1 (1.7) | 1 (1) | 0 (1) | 1 (2) |
| Total | 98.5 (95.1) | 69 (69) | 52 (51) | 121 (120) |

Antics on the campaign trail

Veteran New Zealand political commentator Colin James described the party campaigns, with the exception of the Greens, as the 'most negative' in decades.⁴

'Speedgate': Clark was again dogged by controversy. In 2002, she had been mired in the 'paintergate' scandal after signing a work she had not painted; in 2005, it was 'speedgate', in which her motorcade driver and two outriders were found guilty of speeding as they drove Clark to catch a plane to a rugby match. Cabinet MPs had a whip-round to pay the fines. Clark was also accused of arrogance after entering the cockpit to speak to an Air New Zealand pilot who erroneously accused her over the plane's intercom of holding up the flight and not supporting the national airline. Both the pilot and the airline apologised profusely.

'Gentlemanly' behaviour: Brash was in his own strife after he explained that he would have been tougher in a televised leaders' debate, in which he performed less well than Clark, had his opponent been male: 'it's not entirely appropriate for a man to aggressively attack a woman and I restrained myself for that reason'.⁵ Later in the campaign, Brash was caught in an embarrassing gaffe when he initially denied knowledge of a religious group's funding of an anti-Green/anti-Labour pamphlet, but later admitted that the Exclusive Brethren had told him in advance of its plans.⁶ His emphasis on National's desire to rule in its own right, rather than enter a coalition, drew criticism that he was stuck in the days of the first-past-the-post electoral system when a single party could win a ruling majority.⁷

'My left testicle': Near the end of the campaign, New Zealand First leader Winston Peters alleged his National opponent in the Tauranga electorate, Bob Clarkson, had been accused of sexual harassment for his continued use of the expression, 'I'll bet my left testicle'.⁸ Peters lost the seat, but returned to parliament through his position on his party's list. He has since launched a court challenge against Clarkson, alleging that he overspent the \$20 000 campaign limit. If Peters wins, Clarkson will lose his seat and will not be able to contest the by-election.

Leaders' debates and worms

A major controversy during the campaign was the decision of private television station TV3 to include only some of the minor party leaders in a televised leaders' debate. It dropped Jim Anderton (Progressive) and Peter Dunne (United Future), on the basis of a single opinion poll showing that these two parties were attracting only marginal support. Both leaders took court action, arguing that TV3's action was 'irrational and capricious' and deprived voters of an opportunity to judge the leaders.⁹

The importance of the televised debates to minor parties cannot be overstated. In 2002, Dunne's United Future rose from an initial 1.1 per cent support to attract 6.7 per cent of the vote (worth eight seats) after a 'worm'-winning performance in a televised leaders' debate.¹⁰ ACT NZ noted in its newsletter that such debates were 'absolutely crucial for third parties. He who is not there is lost'.¹¹

In a decision that is likely to be challenged for future campaigns, a High Court justice ordered TV3 to include both leaders in the debate on the grounds that failing to do so would be detrimental to New Zealand's parliamentary democracy. The ruling noted that, in staging the debate, TV3 had taken on certain public responsibilities.¹² Media outlets and journalist unions condemned the court decision as a 'black day for media freedoms'.¹³

Turnout: a nation of 'couch potatoes'?

Voter turnout for the election was nearly 81 per cent, up from a historic low of 77 per cent in 2002. Views on the turnout were mixed: one academic noted that New Zealand had gone against the international trend of declining turnout while another condemned New Zealand as a nation of 'political couch potatoes'.¹⁴ Elections New Zealand reported that a record 95 per cent of eligible voters had enrolled for the election and credited such innovations as allowing voters to request enrolment forms via text messaging.

Results

Under the mixed-member proportional (MMP) electoral system, voters have two votes: one for an electorate candidate and one for a party. The party vote determines how many of parliament's 120 seats a party can claim. Of the 120 seats, 69 are electorate seats and 51 are 'list' seats that are allocated so that a party's final seat count matches its proportion of the party vote. Until this election, parties have always won fewer electorate seats than the total number of seats to which they have been entitled according to their share of the party vote. However, this year, the new Maori Party won 2.12 per cent of the party vote, which entitles it to three seats, but it won four electorate seats. Because seats cannot be taken away from a party, parliament will therefore have an 'overhang', meaning that there will be 121 MPs. Given that New Zealanders voted in a citizen-initiated referendum in 1999 to *reduce* the number of members of parliament from 120 to 99, it is somewhat ironic that a quirk of the MMP system has produced a *larger* parliament this year. Without abstentions, Labour needs 61 votes to have a majority in the House.

Major parties: A significant feature of the election was the swing back to National, such that the two major parties obtained a combined share of the vote not seen since 1990 (see Table 2). Labour's 41.1 per cent was down only 0.2 of a percentage point on its 2002 result, making Clark the only post-WWII leader to have won a third term while maintaining the party's share of the vote.¹⁵ National's 39.1 per cent of the vote meant it narrowed the gap with Labor from 25 seats to two.

Minor parties: Although the vote share of the minor parties almost halved, a sixth minor party gained representation. With its four seats, the Maori Party is the third-largest minor party in parliament. Only the Green Party held anywhere near the share of the vote it received in 2002 (see Table 3) and, even then, it barely passed the threshold. New Zealand First lost nearly half its support and its seats. United Future and ACT NZ obtained three seats and two seats respectively, although their party vote share was below the 5 per cent threshold for seats, because their leaders won

electorate seats, thereby ensuring the election of additional members from the party's list. Progressives' leader Anderton also won his electorate, but the party's vote share was not high enough to give it an extra list member, as had occurred in 2002.

Maori seats: The new Maori Party won four of the seven Maori electorates, breaking Labour's traditional

stranglehold on these seats. Given the race issues raised in the 2005 election, it is perhaps unsurprising that many Maori chose a party they believed would represent their specific interests. However, cracks in the Maori Party have emerged already—notably over the receptive stance of its leaders towards post-election overtures from the National Party. One candidate condemned the action as 'political suicide'.¹⁶ The results showed that many Maori 'split' their votes: voting for the Maori Party in the electorate and Labour in the party vote. Should the Maori Party implode, it is likely that Labour will regain these seats.

Forming a government

In the days immediately after the election, opponents of MMP—or those who appeared not to understand how the system works—lamented the lack of an immediate, obvious result. Repeatedly, Clark was reported to be 'scrambling' to put together a government. Yet it is common under proportional systems for neither major party to win enough of the vote share to be able to govern in its own right, necessitating negotiations for coalition or support partners. Since MMP was introduced for the 1996 election, this process has taken from nine (1999) to 59 (1996) days.

The delay is not solely a result of the time taken for negotiations, however. A 'final' result is not known for two weeks because 'special' (that is, postal and absentee) votes, which comprise about 10 per cent of the total vote, are counted only after the election. This year, there was considerable potential for special votes to have an impact on the outcome, given that the preliminary results were so close.¹⁷ As it turned out, special votes favoured Labour, the Greens and the Maori Party, which resulted in National 'losing' one of its election-night list seats.

Labour announced its coalition and support deals on 17 October, 30 days after the election. As expected, it has a formal coalition deal with the Progressives' sole member of parliament and leader, Jim Anderton, and confidence and supply agreements with New Zealand First and United Future. In a move that surprised many observers, it made the leaders of the latter parties ministers outside Cabinet: New Zealand First's Winston Peters is Minister of Foreign Affairs and United Future's Peter Dunne is Minister of Revenue.¹⁸ New Zealand has had ministers outside Cabinet for some years, but it is the first time that such a senior portfolio as foreign affairs has been held outside Cabinet.¹⁹ An interesting query is whether Peters will have the detailed

knowledge of government policy that he may need when representing New Zealand in the international arena.

In another unique step, both Peters and Dunne will be bound by Cabinet collective responsibility only in their portfolios, leaving them free to disagree with other Cabinet decisions. Constitutional lawyer Sir Geoffrey Palmer (a former New Zealand prime minister) said such freedom was a novelty,

but would require only a change in the Cabinet manual.²⁰ Much of the surprise at the appointments can be attributed to Peters's chequered political history and his pre-election statements that his party would not join a governing coalition. He prompted a flurry of comment immediately after his appointment when he claimed (briefly) that he would continue to sit on the opposition benches. However, the deal is not that surprising, given that New Zealand First is the largest of the minor parties and has been placed only marginally to the right of the political centre.²¹ That Clark has opted for confidence and supply deals reflects her belief that there is too much focus on formal arrangements.²²

Looking to the future

Government stability: Although there has been considerable speculation since the election that Clark's government will not last the full three-year term, such pessimism seems premature. Clark has successfully led two minority governments, and Labour held its share of the party vote, which suggests that its support base remains strong. The gloomy prediction appears to be based on the notion that coalition government is unstable government, which is not necessarily the case.²³

Coalition government is also seen as giving minor parties a lot of power, but such 'power' should not be overstated. Clark needs only 10 votes in addition to those she has in order to have legislation passed, and there are several combinations of the minor parties that could give her the numbers. The choice that Clark has among these options reduces the 'power' of each individual smaller party. As one commentator noted:

There may be more tails to wag the dog—but the election's brutal slicing of minor party votes means the dog is bigger and the tails that much smaller.²⁴

National's coalition options are more limited, especially given a campaign strategy that alienated even the party's natural ally, ACT NZ.²⁵

Leadership issues: Clark's position as Labour leader is secure in the short term, given her victory. The question now is whether Clark, 55, will try to lead her party into a fourth election. Already, media reports are speculating on her replacement. Brash, 65, was confirmed in his post within days of the election, but conjecture since then has been that he will step down before the 2008 election because of his age: if he won, he would be 71 at the end of the term.²⁶

Table 2

| | Vote share (%) | |
|------|----------------|---------------|
| | Major parties | Minor parties |
| 1990 | 82.9 | 17.1 |
| 1993 | 69.8 | 30.2 |
| 1996 | 62.0 | 38.0 |
| 1999 | 69.2 | 30.8 |
| 2002 | 62.2 | 37.8 |
| 2005 | 80.2 | 19.8 |

Table 3

| Party | Vote share (%) | |
|---------------|----------------|------|
| | 2002 | 2005 |
| NZ First | 10.4 | 5.7 |
| Green | 7.0 | 5.3 |
| Maori | — | 2.1 |
| United Future | 6.7 | 2.6 |
| ACT NZ | 7.1 | 1.5 |
| Progressive | 1.7 | 1.1 |

Stalwarts versus new blood: National's rejuvenation in the polls is reflected in the new blood in its parliamentary ranks: it has almost twice the number of MPs it had in the previous parliament. In contrast, Labour's benches contain many party stalwarts: its eight MPs who lost their electorate seats remained in parliament through the party list. That said, three ministers resigned from Cabinet after the election, allowing Clark to revitalise her administration.

Beyond personality parties: In this term and the next, the smaller parties founded by major-party defectors shortly before the first MMP election will face the challenge of handing over from the older generation of high-profile 'personality' leaders to the new generation of relative unknowns. Four of the current six minor parties are in this category: ACT NZ, the Progressive Party, United Future and New Zealand First. ACT NZ has already lost both its founders (Labour defectors Roger Douglas and Richard Prebble), the Progressive's Anderton (a Labour defector) is now aged 67, and New Zealand First's Peters (a National defector) is now aged 60. United Future's Dunne (a Labour defector) is only 51, but he has been in parliament since 1984.

Dealing with party-jumpers: The anti-party-jumping law that was implemented in 2001 to prevent MPs who quit their parties from retaining their seats in parliament, expired at this election. However, media reports suggest it will be resurrected at the request of Peters. Given that Clark is juggling tightly balanced numbers, the law's reintroduction could give her a safety net should one of the MPs from any part of her team choose to leave his or her party.

'Healing' a divided society: Clark stated on election night that she wanted to 'heal wounds', meaning the race and geographical divisions revealed in the results. Since then, she has indicated that healing would also bring a shift in Labour's focus from what has been described as its 'social engineering' program, which included legalising prostitution and civil unions, to economic growth and productivity. National is maintaining its pressure on Labour in this area: Brash has appointed a 'spokesperson on political correctness eradication'.

Inevitably, the slim margin between the two major parties has prompted concerns about potential challenges for the returning government, notably the difficulty of maintaining enough parliamentary support to ensure stability for the next three years. However, while the path may be rocky, it is one that Clark has negotiated successfully since 1999.

1. Under current thresholds for seats, a party that wins 4.9 per cent of the party vote but no electorate seats would *not* be entitled to any seats in parliament; a party that wins 1.5 per cent of the party vote and an electorate seat gains two seats.
2. R. Miller, *Party Politics in New Zealand*, Oxford University Press, South Melbourne, 2005, p. 166.
3. H. Tunnah, 'Foreign policy slips out quietly on National website', *New Zealand Herald*, 6 September 2005.
4. C. James, 'Slurs, wit and desperation in feisty campaign', *New Zealand Herald*, 16 September 2005.
5. New Zealand Press Association, 'Brash says he would be tougher if PM was a man', 23 August 2005.

6. The Greens claimed the party was the victim of 'an imported dirty tricks campaign' because the leaflets were almost identical to anti-Green pamphlets distributed in Tasmania before the 2004 federal election.
7. After the election, ACT NZ leader Rodney Hide noted that National's strategy of maximising its own party vote was ill-suited to the MMP environment.
8. R. Callick, 'Touch of the ridiculous gives campaign colour', *Australian Financial Review*, 16 September 2005, p. 51. Brash was reported to have responded: 'I don't want any candidates to be talking about their testicles, to be quite frank'.
9. K. List, 'Party leaders exclusion "irrational and capricious"', 10 August 2005, <http://www.scoop.co.nz/stories/HL0508/S00089.htm>.
10. The 'worm' is an instant measure of a studio audience's response to what the leaders are saying.
11. K. List, 'TV3 has "public responsibility" to include leaders', Scoop Independent News, 11 August 2005, <http://www.scoop.co.nz/stories/HL0508/S00091.htm>.
12. A. Young, 'Parties clamour for TV spot', *New Zealand Herald*, 13 August 2005.
13. M. Kay, 'TV3 ruling worries media', *The Press*, 12 August 2005, p. 2.
14. A. Saunders, 'Voter turnout "heavy", but lower than predicted', *The Dominion-Post*, 19 September 2005.
15. Since 1949, National has won four third terms, but its vote share has fallen between 1 and 10.2 percentage points each time. That said, its vote-share increased 1.8 points the only time it won a fourth term (1969).
16. R. Berry, 'Maori Party gets suicide warning', *New Zealand Herald*, 11 October 2005.
17. For example, the Greens did not win an electorate seat, but could claim six seats through its 5.07 per cent preliminary share of the party vote. Had it dropped below the 5 per cent threshold in the final count, it would have lost all its seats.
18. Peters is also Minister of Racing and Associate Minister for Senior Citizens. Dunne is also Associate Minister of Health.
19. The Ministerial List ranks ministers, including Anderton, inside and outside Cabinet, but it has a separate section—without numbers—for Peters and Dunne.
20. B. Orsman, 'Setup takes NZ into unknown territory', *New Zealand Herald*, 18 October 2005.
21. Miller, *op. cit.*, p. 162.
22. During negotiations, she said her bottom line was 'stability and durability' and options to ensure that included assurances on confidence votes and abstentions. AAP, 'Clark sounds out parties for majority', *Canberra Times*, 4 October 2005.
23. See, for example, A. Lijphart, *Patterns of Democracy*, Yale University Press, New Haven, 1999.
24. J. Armstrong, 'Tails line up to wag biggest dog', *New Zealand Herald*, 19 September 2005.
25. P. Crewdson, 'Clark faces coalition headache', *New Zealand Herald*, 2 October 2005.
26. I. Chapple, 'Gone by vote-time is experts' pick', *Sunday Star-Times*, 2 October 2005. Chapple notes that, despite Brash's pledge that he would lead National's next campaign, 'analysts believe he is likely to quit within 18 months'.

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