**Mauri Tū, Mauri Ora: Taking action to ensure a fair go for all**

Speech by Human Rights Commissioner Karen Johansen to the

Indigenous Nurses Aotearoa Conference

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He mihi tēnei ki ngā hau e whā, ki ngā maunga tapu, ki ngā awa tapu hoki o te motu.

Otirā, ki ngā whānau, hapū me ngā iwi katoa, ki ngā karangatanga maha, tēnā koutou katoa. Ka rere atu ngā mihi mahana ki a koutou ngā nēhi, ngā kaitiaki o te hauora, i runga i ngā āhuatanga o tēnei kaupapa whakahirahira.

***Introduction***

This paper discusses structural discrimination by first explaining what structural discrimination is; discussing research the Human Rights Commission has done into this topic; and finally, speaking about actions needed to address it and some examples of what’s working.

The notion of everyone getting a fair go is a deep-rooted principle of New Zealand society. Perhaps this comes from New Zealand’s migrant origins in seeking a better life. It certainly found early expression in the Treaty of Waitangi’s promises of partnership, protection, participation and of an equal entitlement to “the rights and privileges of British subjects”.

But do all New Zealanders, regardless of the colour of their skin, ethnicity or national origin, get the same opportunity for good health, a good education, decent work and an adequate standard of living?

We know that the answer to that is no. Despite the many efforts of communities and successive governments, social and economic inequalities remain high. These include disparities in health outcomes which continue to exist for predominantly Māori, Pacific, disabled people and migrants.

The Commission’s 2012 research into structural discrimination found evidence in report after report spanning decades that structural discrimination is a real and ongoing issue in New Zealand. In interviews and workshops, people movingly described the negative impact of receiving inadequate services. In health, education, criminal justice, and in public services, Māori, Pacific peoples and ethnic communities are disproportionately disadvantaged by a ‘one size fits all’ model of provision. The formal equality of universal provision does not result in the substantive equality of significantly improved outcomes for everyone. Put simply, Māori, Pacific peoples and ethnic communities are not getting a fair go.

These issues are long-standing and widely recognised. Furthermore, they are consistently raised by international human rights bodies as a blot on our national human rights record. [[1]](#footnote-1) In 2014 New Zealand’s overall human rights record was examined by the United Nations Human Rights Council. Around 30 of the 155 recommendations made to New Zealand by member States related to social and economic disparities, particularly in relation to education, health, employment and justice.[[2]](#footnote-2) Many of these specifically highlighted the role of structural discrimination, and the need to proactively investigate and address this.[[3]](#footnote-3)

So what is structural discrimination, and what can we do about it?

***Defining structural discrimination***

Structural discrimination is sometimes known as systemic discrimination or institutional racism. Structural discrimination takes place “when an entire network of rules and practices disadvantages less empowered groups while serving at the same time to advantage the dominant group”.[[4]](#footnote-4)

Structural discrimination can be based on a variety of factors (including physical ability, ethnicity and sexual orientation). However, this paper focusses specifically on the impacts of structural discrimination on the basis of ethnicity, and particularly the impacts for Māori.

Examples of structural discrimination can include:

* Measures that have a disproportionately negative effect on minority ethnic groups, e.g. cutting funding to specific targeted programmes that are shown to improve outcomes for minority groups or implementing one-size-fits-all standards that do not account for different needs and values.
* Under- or mis-representation of particular ethnic groups in the media.
* Insufficient, patchy or poor-quality data collection on ethnicity.
* Medical services that fail to account for the different health needs and cultural values of different communities.
* Barriers to employment or professional advancement, including difficulty obtaining interviews because of overseas qualifications and ‘foreign-sounding’ names.

In 1988, the groundbreaking *Pūao-te-atu-tū* report, by the then Department of Social Welfare, described how institutional racism (another term for structural discrimination) takes effect:

National structures are evolved which are rooted in the values, systems and viewpoints of one culture only. Participation by minorities is conditional on their subjugating their own values and systems to those of ‘the system’ of the power culture.[[5]](#footnote-5)

Structural discrimination can occur unintentionally, through practices that have become embedded in everyday organisational life and effectively become part of the system. In other words “how we do things around here”. Put simply, it can be discrimination by habit, rather than intent.

Because it is located in habits and built into structures and systems, structural discrimination can be more difficult for those in power to identify than individual discrimination or personal bias. Organisations or systems may not consciously realise that their rules and practices discriminate against specific ethnic groups.

Yet these unconscious practices perpetuate disadvantage. Deliberately examining organisational rules, systems and practices through the ‘lens’ of structural discrimination and human rights allows possible bias to come into view.

In order to combat the effects of structural discrimination, the *Pūao-te-ata-tū* report called for:

a conscious effort to make our institutions more culturally inclusive in their character, more accommodating of cultural difference. This does not begin and end at ‘the counter’. The change must penetrate to the recruitment and qualifications which shape the authority structures themselves.

***Treaty of Waitangi***

In the context of the Treaty of Waitangi, these issues have been examined recently by the Waitangi Tribunal in its 2011 report on the Wai 262 claim.[[6]](#footnote-6) The claim concerned the place of mātauranga Māori (Māori knowledge and cultural values) in law, policy and practice. The Waitangi Tribunal found:

[The] lack of a place for Māori culture in contemporary law and policy compounds a wider picture of social disparity, reflected for example in educational performance, employment and incomes, and the current crisis in Māori health. It also continues a national story in which the Crown, either deliberately or through neglect, has largely supported one of New Zealand’s two founding cultures at the expense of the other. [[7]](#footnote-7)

The Tribunal warned that:

Unless it is accepted that New Zealand has two founding cultures, not one; unless Māori culture and identity are valued in everything government says and does; and unless they are welcomed into the very centre of the way we do things in this country, nothing will change. Māori will continue to be perceived, and know they are perceived, as an alien and resented minority, a problem to be managed with a seemingly endless stream of taxpayer-funding programmes, but never solved.[[8]](#footnote-8)

In order to address this imbalance, the tribunal recommended the development of genuine partnership bodies at the governance level and an array of reforms to laws, policies or practices relating to (among others) health, education, resource management, and in relation to the Māori language.

In short, addressing structural discrimination means that systemic changes are required – “a conscious effort” to make institutions more inclusive. In the New Zealand context this means recognising and valuing Māori culture and upholding the Treaty of Waitangi. Effective partnership and participation as affirmed in the Treaty of Waitangi are integral to addressing this issue and successful approaches demonstrate how this can be implemented.

***Structural discrimination project***

In 2012, the Human Rights Commission examined how structural discrimination operates in New Zealand, and some of the approaches being taken to address it.[[9]](#footnote-9) The project looked at structural discrimination across four key systems: the health, education and justice systems and in the public service. It identified common elements of structural discrimination across those systems. The project also highlighted case studies of promising approaches and identified common success factors.

The Commission found that promising approaches are those that involve first and foremost an acute awareness of structural discrimination and commitment to addressing it. They involve proactive relationship building with communities, targeted programmes that meet the specific needs of groups and robust monitoring and evaluation. Meaningful partnership and consultation with Māori, and the incorporation of Māori models and values are key elements of successful approaches.

Looking at promising initiatives, some of the common elements that emerged as successful strategies and approaches were:

* Collaboration between and amongst government agencies. Where an issue impacts on outcomes throughout a system or across systems, initiatives are more effective where there is a consistent approach and partnership by government agencies
* Cultivating an understanding of what structural discrimination is, an organisational and individual awareness of how it can manifest, and a commitment to developing initiatives to address it. Initiatives are most effective where this exists at all levels – with both a “top down” and “bottom up” commitment
* Willingness to have honest conversations about the underlying causes of structural discrimination and what policies exist that may unintentionally sustain systemic barriers to equality
* Meaningful partnership and consultation with Māori, Pacific and ethnic communities to develop and sustain effective interventions to address disparities and ethnic inequalities in all sectors
* Targeted programmes with clear objectives that specifically address the needs of Māori, Pacific and ethnic communities – as opposed to programmes developed for all New Zealanders – are most effective
* A strong evidence base and evaluation processes that identify areas for improvement and effective practice
* Adequate resources – both financial and in terms of staff with relevant expertise (e.g. language skills or cultural knowledge) – training, and support materials are vital.

These common elements were further distilled down into actions relating to:

* Organisational commitment;
* Being proactive;
* Involving communities; and
* Developing targeted programmes.[[10]](#footnote-10)

***Successes***

One of the case studies examined in the Commission’s research was the Whānau Hauora Village which was set up at Te Matatini. The success of the Village reflected the fact that it:

* Brought health services into a Māori cultural setting (Te Matatini);
* Was based on a Māori health framework;
* Brought together different organisations under a single brand and a united kaupapa; and
* Created a comfortable, welcoming atmosphere.

The Whānau Hauora Village clearly demonstrated:

* Organisational commitment – across several different agencies;
* Being proactive and innovative;
* Involving communities – going to where communities gather and reflecting their needs; and
* Targeting initiatives to specific groups and communities in order to make health interventions accessible, appropriate and effective.

There will be many other examples of similar successes. I note that many of the more recent case studies relating to Māori health that are highlighted on the Ministry of Health website, also reflect the same principles that the Commission’s research identified.[[11]](#footnote-11)

Despite the ongoing existence of disparities, we cannot overlook the gains being made. For example, while Māori life expectancy remains significantly lower than that of non-Māori, it is (slowly) increasing.[[12]](#footnote-12)

And while the proportion of Māori who smoke remains the highest of any ethnic group, smoking cessation rates are showing significant decreases for Māori young people, and an increase in the number of Māori boys who have never smoked.[[13]](#footnote-13) Māori immunisation rates have also seen improvements, with the gap between Māori and non-Māori progressively narrowing.[[14]](#footnote-14) These are two areas (smoking and immunisation) where there have been major, targeted pushes to address entrenched disparities and improve Māori health. And it would seem that these are paying off.

Approaches like Whānau Ora and the frameworks and approach adopted in the recently refreshed *Māori Health Strategy – He Korowai Oranga*, with their basis in Māori frameworks and focus on intersectoral collaboration, also reflect a new way of thinking – one that recognises that a one-size-for-all health system doesn’t work for Māori.[[15]](#footnote-15) While not without their challenges, these initiatives have huge potential for addressing structural discrimination and making a difference to inequalities.

***Māori health workforce***

Key to the success of initiatives like these is a workforce that is diverse and reflective of its communities, and which has the cultural capability to meet communities’ needs. Increasing and adequately valuing and supporting the Māori health workforce, is vital.

This brings me to two of the key structural barriers identified in the Commission’s research in relation to the health system. Those structural barriers were: workforce diversity (and the under-representation of Māori in the health workforce) and pay equity. In 2012, the structural discrimination report noted a pay gap of up to 25 per cent between Māori and Iwi health workers and their counterparts in hospital settings.

The Commission’s *Tracking Equality at Work* tool, released in July this year highlights continuing gender and ethnic pay gaps across the public service.[[16]](#footnote-16) The results showed again that Māori and Pacific women continue to be disproportionally affected when it comes to employment and are still paid a lower rate than European women doing the same work. Furthermore the Commission found that these pay gaps have shown little improvement over the last five years.

However, again we can identify factors for success by examining those agencies that are finding solutions and managing to address pay equity issues. In 2014, the Commission evaluated all public service departments to see which were doing better in terms of Equal Employment Opportunities (EEO), and explored what they did to get there.[[17]](#footnote-17) The standout agencies consistently identified three strategies:

1. There was strong organisational commitment, led from the top through clear, unequivocal leadership from the CEO to advance equity in the organisation. The CEO had to believe it, drive it and take their senior management team with them.
2. There were deliberate strategies such as recruitment and promotion processes, to advance the EEO groups in the organisation. Equity does not happen by accident.
3. The departments were clearly focussed on their community. Their EEO practices had evolved to meet the needs of the public they served.

Looking at these common elements, the links with the earlier structural discrimination research is clear.

**Conclusion**

To conclude, entrenched inequalities experienced by Māori have been an enduring feature of New Zealand’s human rights record. A continued, clear focus on eliminating these inequalities is needed; as the *Pūao-te-ata-tū* report stated almost thirty years ago, a “conscious effort to make our institutions more culturally inclusive”. The Commission’s research has highlighted the need for responses to structural discrimination to be: targeted, proactive, underpinned by strong organisational commitment and involve the communities they are intended to serve.

We can be positive about the increasing understanding and awareness of structural barriers; widening acceptance of the fact that one size doesn’t fit all; and the range of policies and programmes that incorporate and provide for Māori values and world views. Your role in this is crucial: many of the positive initiatives in the health sector illustrate the key role of Māori practitioners driving change and forging links between Māori communities and the health system.

I would like to finish with a quote from the Commission’s 2012 structural discrimination report, *A Fair Go for All*. It is a quote by your own Kerri Nuku, Kaiwhakahaere of Te Rūnanga o Aotearoa, NZNO. It captures one of the key factors for addressing structural discrimination: the critical role of Māori health professionals and the need to ensure that you are valued and empowered. She said:

Māori health improvements require Māori health workers, so whether talking about smoking cessation programmes or a whānau-based approach to Māori well-being, Māori health professionals are the key to success. Unless we achieve pay equity, our highly prized and overworked ‘Māori for Māori’ workforce will continue to be a limited resource, and any new initiatives will continue to fail.[[18]](#footnote-18)

1. For example: Committee on the Rights of the Child (2011), *Concluding Observations: New Zealand*, CRC/C/NZL/CO/3-4, at para 24-25, 37-42; Committee on Economic, Social and Cultural Rights (2012) *Concluding Observations: New Zealand* E/C,12/NZL/CO/3, at para 12, 25; Committee on the Elimination of Discrimination Against Women (2012), *Concluding Observations: New Zealand* CEDAW/C/NZL/CO/7, at para 30-37; Committee on the Elimination of Racial Discrimination (2013), *Concluding observations: New Zealand*, CERD/C/NZL/CO/18-20, at para 15; Committee Against Torture (2015), *Concluding Observations: New Zealand,* CAT/C/NZL/CO/6, at para 14. [↑](#footnote-ref-1)
2. UN Human Rights Council (2014), *Report of the Working Group on the Universal Periodic Review; New Zealand*, A/HRC/26/3. Further information on all these recommendations, as well as government responses to them, is available via the National Plan of Action on human rights, at: <http://npa.hrc.co.nz/#/issue/health> [↑](#footnote-ref-2)
3. Ibid. For example, recommendations included: Continue to promote measures to find a positive solution to the Māori population's land claims and promote public policies to reduce the social and economic gap between the Māori people and the rest of the population of New Zealand (recommendation 87, Ecuador); Intensify the fight against inequalities (recommendation 68, Gabon); Establish strategies across all sectors, in particular health, education and justice, to identify and remedy structural discrimination (recommendation 75, Switzerland). [↑](#footnote-ref-3)
4. State Services Commission (1997). *EEO Policy to 2010: Future Directions of EEO in the New Zealand Public Service,* at <http://www.ssc.govt.nz/resources/967/all-pages> . (<http://www.ssc.govt.nz/node/5282> for direct link). [↑](#footnote-ref-4)
5. The Report of the Ministerial Advisory Committee on a Maori Perspective for the Department Of Social Welfare*Puao-te-atu-tu (Daybreak)*, section 46 p 18. Accessible online at <http://www.msd.govt.nz/documents/about-msd-and-our-work/publications-resources/archive/1988-puaoteatatu.pdf>. [↑](#footnote-ref-5)
6. The Tribunal is a permanent Commission of inquiry, established under legislation to hear claims of breaches of the Treaty of Waitangi. [www.waitangitribunal.govt.nz](http://www.waitangitribunal.govt.nz) [↑](#footnote-ref-6)
7. Waitangi Tribunal, (2011), *Ko Aotearoa Tēnei* *– Factsheet 1: Key Themes*. Available at: <http://www.justice.govt.nz/tribunals/waitangi-tribunal/documents/generic-inquiries/flora-and-fauna/wai-262-key-themes>. [↑](#footnote-ref-7)
8. Waitangi Tribunal, (2011), *Ko Aotearoa Tēnei*, at p 2. [↑](#footnote-ref-8)
9. Human Rights Commission, (2012), *A Fair Go for All? Rite tahi tātou katoa*. available online at: <https://www.hrc.co.nz/files/2914/2409/4608/HRC-Structural-Report_final_webV1.pdf>. [↑](#footnote-ref-9)
10. Ibid., at p 49. [↑](#footnote-ref-10)
11. <http://www.health.govt.nz/our-work/populations/maori-health/maori-health-case-studies> [↑](#footnote-ref-11)
12. Statistics NZ, (2015), *NZ Social Indicators: Life Expectancy*, available at: <http://www.stats.govt.nz/browse_for_stats/snapshots-of-nz/nz-social-indicators/Home/Health/life-expectancy.aspx>. [↑](#footnote-ref-12)
13. ASH, (2015), *Factsheet: Māori Smoking*. Available at: <http://www.ash.org.nz/wp-content/uploads/2015/03/Maori-smoking-2013-14.pdf> [↑](#footnote-ref-13)
14. Statistics NZ, (2014), *NZ Social Indicators: Childhood Immunisation Coverage*, available at: <http://www.stats.govt.nz/browse_for_stats/snapshots-of-nz/nz-social-indicators/Home/Health/childhood-immunisation.aspx>. [↑](#footnote-ref-14)
15. See: <http://www.health.govt.nz/our-work/populations/maori-health/he-korowai-oranga/pae-ora-healthy-futures> [↑](#footnote-ref-15)
16. The online tool is accessible at: <http://tracking-equality.hrc.co.nz/#/>. [↑](#footnote-ref-16)
17. Human Rights Commission, (2014), *What’s Working: Improving EEO in the public service*. Available at: <https://www.hrc.co.nz/your-rights/employment-opportunities/our-work/whats-working-improving-equal-employment-opportunities-public-service/>. [↑](#footnote-ref-17)
18. Human Rights Commission (2012), at p 22, citing NZNO presentation to Māori Affairs Select Committee. [↑](#footnote-ref-18)