



## 5. Human Rights and Race Relations

Whakawhanaungatanga a iwi

**“We will pursue a policy of eliminating racial discrimination in all its forms.”**



## We will pursue a policy of eliminating racial discrimination in all its forms.

Convention on the Elimination of Racial Discrimination, Preamble (edited)

### Introduction Tīmatatanga

#### WHAT ARE THE HUMAN RIGHTS ISSUES IN RACE RELATIONS?

Harmonious race relations depend on the equal enjoyment of human rights by all, regardless of ethnic or national origins or skin colour. The New Zealand Statement on Race Relations identifies 10 factors that form a framework for harmonious race relations:

- the Treaty of Waitangi
- freedom from discrimination
- freedom of expression
- safety
- participation in public affairs
- decent work, education, health and housing, and an adequate standard of living
- recognition of the rights of migrants
- education for diversity
- the right to cultural identity (including language)
- responsibilities to others.<sup>1</sup>

#### WHAT ARE HARMONIOUS RACE RELATIONS?

'Harmonious race relations' refers to the ways in which peoples who are ethnically diverse positively interact with one another. Such positive interaction is based on mutual respect for, and realisation of, each other's rights, non-discrimination, and the recognition of and support for cultural diversity. Developing harmonious race relations also depends on eliminating racism. Racism uses biological differences – whether imagined or real – to assert the superiority of one group over another to justify aggression or privilege. Racism is any individual action, or institutional practice backed by institutional power, which subordinates or negatively affects people because of their ethnicity.

#### HUMAN RIGHTS COMMISSION INITIATIVES SINCE 2004

Since 2004, the Commission – in partnership with other organisations – has established a framework for addressing race relations issues. This comprises:

- the New Zealand Diversity Action Programme, bringing together organisations with a shared commitment to action on cultural diversity, with networks for media, religious diversity, language policy and refugee issues
- the annual New Zealand Diversity Forum, where existing and new diversity initiatives can be discussed and diversity networks can meet
- a system for acknowledging positive contributions to race relations on a monthly and annual basis (the New Zealand Diversity Awards)
- observance of a national day (Race Relations Day) to promote community celebration of cultural diversity and discussion of race relations, and a calendar of 'diversity dates'
- key partnerships to promote Māori Language Week and Samoan Language Week to the wider community
- publication of national policy statements on language diversity, religious diversity and race relations
- an annual race relations report as a basis for identifying key issues and accounting to the United Nations Committee on the Elimination of Racial Discrimination
- a relationship with this UN committee and a mechanism for feeding into and following up on its recommendations.

<sup>1</sup> This summary of rights and responsibilities is drawn from the Human Rights Commission's Statement on Race Relations. Accessible online at <http://www.hrc.co.nz/home/hrc/racerelations/tengirathenzdiversityactionprogramme/statementonracerelations.php>

The right to religion and belief is dealt with in a separate chapter. Many of the members of the growing religious communities in New Zealand are of non-European and non-Māori origin and there is thus an overlap between religion and ethnicity in some instances. Muslims encountered negative attitudes and stereotypes following the 11 September 2001 attacks in New York because of a degree of association in the public mind between Islam and terrorism, and Sikhs also experienced abuse. There have been issues of reasonable accommodation in education, at work and in the community because of the wearing of religious attire and requirements for religious observance, particularly affecting Muslims and Sikhs.

Many other chapters of the status report refer to race relations issues. These include the chapters on human rights and the Treaty of Waitangi, the rights of migrants, and the rights of refugees and asylum-seekers. Other chapters have race-related dimensions. These include the chapters on the right to freedom of expression; the rights of women, children and young people, and people with disabilities; the right to justice; and the rights to work, health and an adequate standard of living. This chapter of the report does not, therefore, dwell on those topics in detail. Rather, it focusses primarily on racial discrimination, cultural diversity and harmonious relations between diverse peoples.

## International context

### Ki ngā kaupapa ā taiao

The two key international treaties on the human rights of all people are the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICECSR). Both these and subsequent human rights treaties, such as the Convention on the Elimination of Discrimination against Women, the Convention on the Rights of the Child, the Convention on the Protection of All Migrant Workers and Members of their Families and the Convention on the Rights of People with Disabilities, explicitly affirm the

right to freedom from racial discrimination and the rights of all people to practise their own culture, religion and language.

Because of the pervasive and destructive impact of racism and racial discrimination, a specific **Convention on the Elimination of Racial Discrimination** was adopted by the United Nations in 1965. This convention defines racial discrimination as:

**Any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.**

The convention requires governments to eliminate racially discriminatory policies, prohibit racial discrimination and encourage intercultural communication. It commits governments to declare unlawful the dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination and acts of racial violence, and to prohibit organisations that incite racial hatred. It declares all people, without distinction as to race, colour, national or ethnic origin, to be equal before the law and in the enjoyment of civil, political, economic, social and cultural rights, and it provides for special measures to be instituted to achieve equality.<sup>2</sup> Governments are required to provide protection and remedies against racial discrimination and to adopt measures to combat prejudice and promote understanding and tolerance.

The **Convention on the Rights of the Child** (1989) requires that “in those states in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her religion, or to use his or her own language”.

<sup>2</sup> Treating groups who have been discriminated against in the past the same as those who have not been can perpetuate existing inequalities. As a result, to ensure genuine equality, at times it will be necessary to treat individuals or groups differently. Special measures should therefore not be seen as discrimination but rather as a way of realising equality for everyone. The Commission has published guidance on special measures. Human Rights Commission (2010) Guidelines on Measures to Ensure Equality (Auckland, HRC), accessible online at [http://www.hrc.co.nz/hrc\\_new/hrc/cms/files/documents/03-Mar-2010\\_16-12-18\\_Special\\_Measures\\_Feb\\_10.pdf](http://www.hrc.co.nz/hrc_new/hrc/cms/files/documents/03-Mar-2010_16-12-18_Special_Measures_Feb_10.pdf).

The **Declaration on the Rights of Indigenous Peoples** (2007) sets out universal human rights as they apply to Indigenous peoples. The declaration is discussed more fully in the chapter on human rights and the Treaty of Waitangi.

### DURBAN DECLARATION AND PROGRAMME OF ACTION

The United Nations World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, held in Durban in 2001, adopted a declaration and a wide-ranging World Programme of Action to Combat Racial Discrimination. The programme has 219 separate recommendations, but its main themes relevant to New Zealand are:

- **effective legal mechanisms** to address instances of racism and racial discrimination
- **targeted programmes to reduce inequalities** experienced by indigenous peoples and ethnic minorities
- **public education in schools and workplaces**, and through public information programmes, about racism and racial discrimination, Indigenous peoples and migrant communities
- **promotion of cultural diversity** as a positive value in society, including the protection of the languages and cultures of Indigenous peoples and ethnic minorities
- **diversity in government and business** to remove institutional barriers, provide equal access to services and enable equal participation by Indigenous peoples and ethnic minorities
- **research, data collection and measurement** to enable progress to be monitored in achieving racial equality.

A Durban Review Conference was held in Geneva in 2009. The outcome document reaffirms the 2001 Durban Declaration and Programme of Action; re-emphasises a number of issues, including those listed above; and identifies further issues that have assumed greater prominence since 2001.<sup>3</sup> Those with particular relevance to New Zealand include:

- **strengthening implementation of the Convention on the Elimination of Racial Discrimination (ICERD)**

through adoption of the complaints procedure under Article 14, improved interaction with the Committee on the Elimination of Racial Discrimination (CERD), mechanisms for developing CERD reports in consultation with human rights institutions and civil society, and effective monitoring and evaluation of the Committee's recommendations

- **ensuring** the protection of human rights in the context of **anti-terrorism** legislation and activities
- **protecting the rights of migrant workers** through a comprehensive and balanced approach to migration, and countering xenophobia
- **collecting reliable data on hate crime**, as well as developing a comprehensive system of data collection and analysis on racial discrimination and racial equality
- **working with sporting codes** to ensure freedom from racism and discrimination in sport.

In the 2006 Census, New Zealanders identified their ethnicity as follows:

<b>European</b>	<b>2,609,592</b>	<b>67.6%</b>
<b>Māori</b>	<b>565,329</b>	<b>14.6%</b>
<b>New Zealander</b>	<b>429,429</b>	<b>11.1%</b>
<b>Asian</b>	<b>354,552</b>	<b>9.2%</b>
<b>Pacific</b>	<b>265,974</b>	<b>6.9%</b>
<b>MELAA*</b>	<b>36,237</b>	<b>0.9%</b> <sup>4</sup>

\*Middle Eastern, Latin American and African

Young people are even more diverse. The ethnicity of New Zealand children attending primary and secondary school in 2009 was:

<b>European</b>	<b>424,242</b>	<b>55.8%</b>
<b>Māori</b>	<b>166,998</b>	<b>22.0%</b>
<b>Pacific</b>	<b>73,081</b>	<b>9.6%</b>
<b>Asian</b>	<b>68,784</b>	<b>9.0%</b>
<b>Other</b>	<b>18,225</b>	<b>2.4%</b> <sup>5</sup>

3 Accessed 18 September 2010 from [http://www.un.org/durbanreview2009/pdf/Durban\\_Review\\_outcome\\_document\\_En.pdf](http://www.un.org/durbanreview2009/pdf/Durban_Review_outcome_document_En.pdf)

## New Zealand context

### Kaupapa o Aotearoa

#### NEW ZEALAND'S ETHNIC DIVERSITY

There has been a marked increase in multiple ethnicities among younger generations. In the 2006 Census, only 10 per cent of all New Zealanders identified with more than one ethnic group. By contrast, 25 per cent of babies born in 2008 had more than one ethnicity. Two-thirds of Māori babies and almost half of Pacific babies belonged to multiple ethnic groups, as did nearly a third of babies of European and Asian descent.<sup>6</sup>

National ethnic population projections to 2026 reflect these changes. In 2010, Statistics New Zealand projected that New Zealand's Asian and Pacific populations will grow faster than other groups:

- the European or Other population is projected to reach 3.47 million by 2026, an increase of 260,000 (0.4 per cent a year) over the estimated resident population at 30 June 2006 of 3.21 million.
- the Māori population is projected to reach 810,000 by 2026, an increase of 190,000 (1.3 per cent a year) over the 2006 estimate of 620,000.
- the Asian population is projected to reach 790,000 by 2026, an increase of 390,000 (3.4 per cent a year) over the 2006 estimate of 400,000.
- the Pacific population is projected to reach 480,000 by 2026, an increase of 180,000 (2.4 per cent a year) over the 2006 estimate of 300,000.<sup>7</sup>

#### Collection of ethnicity identity data

Statistics New Zealand collects ethnicity data in the five-yearly Census, and the definition of ethnicity for this

purpose is a matter of continuing debate and review. The current ethnicity standard, which allows people to identify multiple ethnicities, uses two classifications:

- The 'total response' classification counts the number of people who have reported each ethnic category, no matter how many they reported.
- The 'single and combined response' classification allocates individuals to unique ethnic categories, reflecting the mix of responses they reported if more than one.

After a 2004 review, the 'prioritised' classification – which prioritised responses into five groups (European, Māori, Asian, Pacific and Other) in order to simplify the presentation of data – was removed from the standard. The move away from this classification was partly because it increasingly under-counted Pacific peoples and other minority groups as multiple reporting increased.<sup>8</sup>

In the 2006 Census, partly as a result of a privately run campaign, there was a marked increase in people who reported their ethnicity as 'New Zealander': the number of 'New Zealander' responses to the ethnicity question increased from more than 90,000 in 2001 to more than 400,000 in 2006, making 'New Zealander' the third largest response group in the 2006 Census after 'New Zealand European' and 'Māori'. Although subsequent analysis revealed that around 90 per cent of these respondents were 'New Zealand European', they were coded in 'Other', skewing the results in both categories. In reviewing the ethnicity standard, Statistics New Zealand noted that conflating ethnicity with national identity was a growing trend overseas, but decided against listing 'New Zealander' as an option in the 2011 Census.<sup>9</sup>

4 People were able to identify with more than one ethnic group, so percentages do not add up to 100%. Statistics New Zealand, QuickStats about Culture and Identity: Ethnic Groups in New Zealand, accessed on 24 August 2010 from <http://www.stats.govt.nz/Census/2006CensusHomePage/QuickStats/quickstats-about-a-subject/culture-and-identity/ethnic-groups-in-new-zealand.aspx>

5 July School Roll Returns (2009), Student Numbers by Age and Ethnic Group, Education Counts. Accessed 5 May 2010 from [http://www.educationcounts.govt.nz/statistics/maori\\_education/schooling/6028](http://www.educationcounts.govt.nz/statistics/maori_education/schooling/6028)

6 See Tables 2.02 and 2.04, Statistics New Zealand, Demographic Trends 2009. Accessed 24 August 2010 from [http://www.stats.govt.nz/browse\\_for\\_stats/population/estimates\\_and\\_projections/demographic-trends-2009.aspx](http://www.stats.govt.nz/browse_for_stats/population/estimates_and_projections/demographic-trends-2009.aspx)

7 Statistics New Zealand, National Ethnic Population Projections: 2006 (base)–2026 update. Accessed 5 May 2010 from [http://www.stats.govt.nz/browse\\_for\\_stats/population/estimates\\_and\\_projections/nationaethnicpopulationprojections\\_hotp2006-26.aspx](http://www.stats.govt.nz/browse_for_stats/population/estimates_and_projections/nationaethnicpopulationprojections_hotp2006-26.aspx)

8 Statistics New Zealand, Final Report of a Review of the Official Ethnicity Statistical Standard 2009. Accessed 11 May 2010 from <http://www.stats.govt.nz/publications/populationstatistics/review-of-the-official-ethnicity-statistical-standard-2009.aspx>

9 Statistics New Zealand, Review of the Official Ethnicity Standard 2009. Accessed 9 November 2009 from <http://www.stats.govt.nz/publications/populationstatistics/review-of-the-official-ethnicity-statistical-standard-2009.aspx>

The census questions were reviewed after the 2001 Census, and Statistics New Zealand proceeded with the same questions in 2006. Overall, for the 2011 Census there will be minimal change, no new topics and improved data quality.<sup>10</sup> A key objective is not only to take account of changing definitions of ethnicity, but also to develop more consistency across all data collection by government agencies.

## THE TREATY OF WAITANGI

The Treaty of Waitangi is a fundamental reference point for race relations and human rights in New Zealand. The chapter on human rights and the Treaty deals specifically with indigenous rights and the relationship between Māori iwi, hapū and whānau and the Government, but the Treaty is the founding document of the nation and applies equally to all. It recognises the right of everyone to belong in New Zealand and to enjoy equal rights.

### Legislation

The **New Zealand Bill of Rights Act 1990** (BoRA) guarantees freedom from discrimination and the rights of minorities. It states that a person who belongs to an ethnic, religious, or linguistic minority in New Zealand shall not be denied the right, in community with other members of that minority, to enjoy the culture, to profess and practise the religion, or to use the language, of that minority.

The **Human Rights Act 1993** (HRA) establishes the Human Rights Commission with primary functions to:

- advocate and promote respect for, and an understanding and appreciation of, human rights in New Zealand society
- encourage the maintenance and development of harmonious relations between individuals and among the diverse groups in New Zealand society.

The HRA provides for the position of Race Relations Commissioner to lead the Commission's work on race relations.

The HRA prohibits discrimination on the grounds of colour, race, and ethnic or national origins, and also prohibits (in specified circumstances) racial harassment and inciting or exciting racial disharmony. It provides exceptions to

the grounds of discrimination for special measures to achieve equality. The Commission is required by the act to promote understanding of the human rights dimensions of the Treaty of Waitangi.

The HRA provides a dispute-resolution mechanism for complaints about racial discrimination, racial harassment and creating racial disharmony. Where disputes cannot be resolved by mediation and related options, complaints can be referred to the Human Rights Review Tribunal. The Office of Human Rights Proceedings may provide legal representation subject to certain criteria.

The **Broadcasting Act (1989)** provides for the Broadcasting Standards Authority to set broadcasting standards and to consider public complaints about breaches of these. The standards include a requirement for accuracy, fairness and balance, and no denigration of ethnic groups.

The **Summary Offences Act 1981** contains a range of offences, including disorderly behaviour, offensive behaviour, offensive language, intimidation, assault and damage to property that apply to instances of racially motivated hate crime. Although the Summary Offences Act does not list offences that are specifically racially motivated, the **Sentencing Act 2002** makes it an aggravating factor in sentencing if the offender commits an offence partly or wholly because of hostility towards a group of persons who have an enduring common characteristic, such as race, colour, nationality, religion, gender identity, sexual orientation, age, or disability.

Racial discrimination in employment and accommodation are further prohibited in the **Employment Relations Act 2000** and the **Residential Tenancies Act 1986**. The Employment Relations Service and Tenancy Services offer mediation to settle differences. If these cannot be resolved, they can be referred to the Employment Relations Authority or the Tenancy Tribunal.

Other relevant legislation, including the **Education Act** and **Electoral Act**, are discussed in other sections of this report. See especially the chapters on human rights and the Treaty of Waitangi, the right to education and democratic rights.

10 Statistics New Zealand, 2011 Census Content Report. Accessed 9 November 2009 from <http://www.stats.govt.nz/Census/2011-census/2011-census-content-report.aspx>

## CENTRAL AND LOCAL GOVERNMENT

A number of government departments focus on specific aspects of race relations, Indigenous peoples, minority rights and cultural diversity. They are the Ministry of Māori Development (Te Puni Kōkiri), the Ministry of Pacific Island Affairs, the Office of Ethnic Affairs, the Office of Treaty Settlements and the Ministry for Culture and Heritage.

All public agencies have a responsibility to ensure equitable access to their services and to address inequalities, and there are many agency strategies and policies to give effect to this responsibility. A telephone interpretation service for government agencies, Language Line, was established by the Office of Ethnic Affairs in 2003. The Government has policy frameworks to meet the needs of ethnic communities<sup>11</sup> (Office of Ethnic Affairs, 2002) and to address responsiveness to Māori and Pacific peoples.

Key social and economic policy ministries with a particular responsibility for reducing disparities include the Ministry of Social Development, the Ministry of Health, the Ministry of Education, the Department of Building and Housing, the Department of Labour, the Ministry of Justice and the Ministry of Economic Development. The New Zealand Police also have specific strategies for Māori, Pacific and ethnic communities.

The State Services Commission (SSC) has responsibility for ensuring that government departments meet their obligations under the State Sector Act 1988 regarding equal employment opportunities (EEO). In 2008, under section 6 of the act, the SSC launched Equality and Diversity, the new EEO policy for the public service. Applying to all departments in the public service, the policy is aimed at basing appointments on merit while recognising the employment aspirations of Māori, ethnic and minority groups, women, and people with disabilities.<sup>12</sup>

Local authorities are required, under the **Local Government Act 2002**, to promote the social, economic, environmental and cultural well-being of their communities; to have regard to the diversity of

their communities; and to ensure that Māori are able to contribute to the decision-making process. Councils are required to develop long-term community outcomes and have a community plan for their implementation. Local authorities also have significant responsibilities in relation to Māori under the Resource Management Act 1991. Many councils have well-established relationships with local iwi, hapū and whānau, and some also with Pacific and other ethnic groups.

## CIVIL SOCIETY

A range of organisations that represent different ethnic communities take an active role in the wider community. Such organisations include both iwi (particularly post-settlement groups such as Te Rūnanga o Ngāi Tahu) and pan-Māori institutions (such as the New Zealand Māori Council), and organisations representing most ethnic communities, such as the New Zealand Chinese Association, the Indian Central Association and the Samoan Advisory Council. While many of these organisations work hard to promote and celebrate diversity, they focus less on underlying race relations principles. One example of an organisation whose role is to foster relationships between communities is the Federation of Multicultural Councils, which acts as a national umbrella organisation for the ethnic communities of New Zealand. The federation's primary purpose is to advocate, lobby, support and share information among the regional councils and New Zealand's ethnic communities. The federation aims to provide an opportunity for people from all segments of New Zealand's diverse society to address the challenges facing our multicultural communities.<sup>13</sup>

The New Zealand Diversity Action Programme (NZDAP) provides a mechanism through which community organisations who seek to enhance their diversity capability and foster harmonious race relations can take action. The programme started from community reaction to the desecration of Jewish gravestones in two Wellington cemeteries in July and August 2004. The sixth anniversary of the NZDAP was marked at the Diversity Forum in Christchurch in August 2010.

11 Office of Ethnic Affairs (2002), 'Ethnic Perspectives in Policy: Helping ethnic people be seen, heard, included and accepted.' Accessed 23 June 2004 from [http://www.ethnicaffairs.govt.nz/oeawebsite.nsf/Files/EthnicPerspectivesPolicyPartOne/\\$fileEthnicPerspectivesPolicy-PartOne.PDF](http://www.ethnicaffairs.govt.nz/oeawebsite.nsf/Files/EthnicPerspectivesPolicyPartOne/$fileEthnicPerspectivesPolicy-PartOne.PDF)

12 State Services Commission, 'Equality and Diversity: New Zealand Public Service Equal Employment Opportunities Policy.' Accessed 6 May 2010 from <http://www.ssc.govt.nz/display/document.asp?DocID=6908>.

13 See New Zealand Federation of Multicultural Councils website, accessible online at <http://www.nzfec.org.nz/page/about-us.aspx>

In the past six years, the NZDAP has grown to approximately 250 organisations – with 661 registered projects in 2009 – taking practical initiatives to:

- recognise and celebrate the cultural diversity of our society
- promote the equal enjoyment of everyone's civil, political, economic, social and cultural rights, regardless of race, colour, ethnicity or national origin
- foster harmonious relations between diverse peoples.

Networks have been established for people interested in religious diversity, language policy, media and refugee issues. Through the networks, the Commission has developed a Statement on Religious Diversity (2007),<sup>14</sup> a Statement on Language Policy (2008)<sup>15</sup> and a Statement on Race Relations (2008).<sup>16</sup>

Organisations can register any programme or project that contributes to a diverse, equal and harmonious Aotearoa New Zealand. Registered projects include:

- organisation of and participation in diversity events
- promotion of diversity in the workplace and catering for the diverse needs of clients and customers
- development of policies and programmes for diversity, equality and harmony
- assisting with the settlement of new migrants and refugees
- educational programmes, research and publications
- workshops, conferences and forums on diversity, human rights and harmonious relations
- intercultural and interfaith dialogue and co-operation.

## **New Zealand today** **Aotearoa i tēnei rā**

This section examines New Zealand's compliance with international standards, and explores race relations in three key areas: discrimination and harassment; safety; and recognition and support for cultural diversity.

Assessments of New Zealand today in other chapters of this report – including those on human rights and the Treaty of Waitangi; the rights of migrants; the right to asylum; the right to freedom of opinion and expression; and the right to freedom of religion and belief – should be read in conjunction with this section.

### **COMPLIANCE WITH INTERNATIONAL STANDARDS**

New Zealand ratified the Convention on the Elimination of All Forms of Racial Discrimination in 1972. It has not made the declaration provided for in Article 14, which enables individuals to complain directly to the UN Committee for the Elimination of Racial Discrimination (CERD). It has, however, activated the parallel ICCPR procedure, which also provides for individual complaints about racial discrimination. In response to the Universal Periodic Review of New Zealand by the UN Human Rights Council in 2009, the Government indicated that it would consider adopting the Article 14 procedure.

New Zealand generally complies with and exceeds international standards in terms of its legislation and policies on race relations. CERD assessments of New Zealand have generally been positive, while identifying areas for further attention. In its most recent report in 2007, the committee welcomed:

- the importance given to the principle of self-identification when gathering data on the ethnic composition of the population
- the adoption of the 2004 New Zealand Settlement Strategy and the Settlement National Plan of Action
- the New Zealand Diversity Action Programme
- the reduction of socio-economic disparities between Māori and Pacific peoples on the one hand, and the rest of the population on the other hand in particular in the areas of employment and education
- the significant increase in the number of adults, including non-Māori, who can understand, speak, read and write the Māori language

14 Statement on Religious Diversity, accessible online at [http://www.hrc.co.nz/hrc\\_new/hrc/cms/files/documents/27-Aug-2009\\_09-44-53\\_Religious\\_Diversity\\_09\\_Web.pdf](http://www.hrc.co.nz/hrc_new/hrc/cms/files/documents/27-Aug-2009_09-44-53_Religious_Diversity_09_Web.pdf)

15 Statement on Language Policy, accessible online at [http://www.hrc.co.nz/hrc\\_new/hrc/cms/files/documents/21-May-2009\\_15-42-34\\_Statementonlanguagepolicy.html](http://www.hrc.co.nz/hrc_new/hrc/cms/files/documents/21-May-2009_15-42-34_Statementonlanguagepolicy.html)

16 Statement on Race Relations, accessible online at [http://www.hrc.co.nz/hrc\\_new/hrc/cms/files/documents/21-May-2009\\_14-36-48\\_Statement\\_on\\_Race\\_Relations.html](http://www.hrc.co.nz/hrc_new/hrc/cms/files/documents/21-May-2009_14-36-48_Statement_on_Race_Relations.html)

- the ratification of the 1961 Convention on the Reduction of Statelessness in 2006
- the increase in the budget provided to the New Zealand Human Rights Commission.

The Committee also recommended that the Government:

- take steps to implement the New Zealand Action Plan for Human Rights
- promote continued public discussion on the constitutional status of the Treaty of Waitangi and its place in legislation
- ensure that affected communities participate in any review of targeted policies and programmes, and inform the public about the importance of special measures to ensure equality
- ensure that the cut-off date for lodging historical Treaty claims does not unfairly bar legitimate claims
- consider granting the Waitangi Tribunal legally binding powers of adjudication, and increase funding for the Tribunal
- further engage with the Māori community on the foreshore and seabed
- include references to the Treaty in the new New Zealand curriculum
- increase efforts to address the over-representation of Māori and Pacific people at every stage of the criminal justice system
- ensure that schools are open to all undocumented children
- put an end to the detention of asylum-seekers in correctional facilities, and ensure grounds for refusing asylum-seekers are consistent with international standards,
- collect statistical data on complaints, prosecutions and sentences for racially motivated crimes
- adopt pro-active measures to improve access to procedures for complaints about racial discrimination.

Some of these recommendations have subsequently been addressed, such as further engagement with Māori on

the foreshore and seabed, including references to the Treaty in the new school curriculum, and taking steps to enable undocumented children to attend school. The Government has indicated that it is not willing to explore some other recommendations, such as strengthening the powers of the Waitangi Tribunal. Still other recommendations, such as increasing efforts to address the over-representation of Māori and Pacific people in the criminal justice system, relate to entrenched issues that require sustained resourcing and the attention of successive governments.

## DISCRIMINATION AND HARASSMENT

Non-discrimination is a basic right for everyone living in New Zealand. Yet evidence from a variety of national and local surveys indicates that people from racial and ethnic minorities continue to experience a significant degree of discrimination and racism in their daily lives, ranging from verbal abuse and denial of opportunity to physical violence.

### Experience and perceptions of discrimination

In 2009, Statistics New Zealand released the first information from the New Zealand General Social Survey (GSS). The GSS provides new information about key social and economic outcomes, and includes questions relating to experience of discrimination. According to the GSS 2009, one in 10 people had been discriminated against in 2008–9. The most common were grounds of race, ethnicity, nationality or skin colour.<sup>17</sup> Just over 23 per cent of Asian peoples, 16 per cent of Māori and 14 per cent of Pacific peoples had experienced discrimination in the period, in contrast to just under 8 per cent of Europeans. A Māori Social Survey, which aims to expand insights from the GSS on Māori, is in development and will be put into the field in 2011.<sup>18</sup>

UMR Research regularly surveys New Zealanders' perceptions of discrimination. This gives an indication of what people observe in their own social context. The most recent survey was in December 2009. In unprompted

17 Statistics New Zealand, General Social Survey: 2008: 'Hot Off the Press', pp 1,10. Accessed online on 9 November 2009 at [http://www.stats.govt.nz/browse\\_for\\_stats/people\\_and\\_communities/Households/nzgss\\_HOTP2008.aspx](http://www.stats.govt.nz/browse_for_stats/people_and_communities/Households/nzgss_HOTP2008.aspx)

18 Statistics New Zealand, He Kohinga Whakaaro: Maori Social Survey Discussion Document accessed online on 9 November 2009 at <http://www.stats.govt.nz/reports/papers/maori-social-survey-discussion-paper.aspx>

questioning, respondents named the groups of people that they think are generally most discriminated against in New Zealand today. Two-thirds of respondents (64 per cent) nominated an ethnic group. This was an increase from 47 per cent in 2008, and is now the highest since 2001 when the survey was first conducted. A total of 28 per cent identified Asians (up from 18 per cent in 2008), followed by 10 per cent identifying Māori (up from 7 per cent in 2008), 5 per cent identifying Pacific peoples (no change), and 13 per cent identifying Europeans (up from 5 per cent in 2008). In prompted questioning, 75 per cent of respondents considered that Asians were subject to a great deal of or some discrimination. Recent immigrants were thought to be subject to a great deal of or some discrimination by 63 per cent of respondents, and refugees by 61 per cent.<sup>19</sup>

In 2010 the Centre for Applied Cross-cultural Research at Victoria University published a meta-analysis of all research relating to the experience of discrimination by Asian New Zealanders. The results, presented at the Diversity Forum in August 2010, included the following:

- Asians are the ethnic group that experienced the most discrimination.
- Of these, East Asians (for example from China, Japan and Korea) were most likely to report discrimination, followed by South-East Asians (for example from Indonesia, Malaysia and the Philippines).
- Asian people experienced most discrimination in a public place such as a street (public harassment): this could take the form of racist epithets or having things thrown at them.
- Asian people experienced significant discrimination both working at and applying for jobs, and had higher rates of unemployment and under-employment than other ethnic groups.
- Despite these experiences, Asian people have reported high levels of life satisfaction in New Zealand, and are

accustomed to using coping strategies to deal with experiences of discrimination.

- Meaningful and extended contact between Asian peoples and other New Zealanders should be encouraged as it has been shown that the more contact people have with Asians the 'more warmly' they feel towards them.

The presentation aimed to begin a dialogue on action to be taken in the future to lessen discrimination experienced by Asian peoples.<sup>20</sup>

#### Complaints about discrimination under the Human Rights Act

Racial discrimination – which includes racial harassment, discrimination based on ethnic or national origin, and inciting racial disharmony – accounted for the largest number of complaints received by the Human Rights Commission in 2008–2009. Of the 1405 formal complaints received, 434 (31 per cent) were race related. A total of 28.2 per cent of these complaints related to employment and 20.7 per cent to the provision of goods and services.

The proportion of complaints received by the Commission relating to race-related grounds has increased in the last five years, as shown in Table 1.

**TABLE 1: PROPORTION OF RACE RELATED COMPLAINTS TO THE COMMISSION**

Year	Number of formal complaints	Number of race-related complaints	Percentage of race-related complaints
2004-5	1862	465	25%
2005-6	2058	539	26%
2006-7	1665	453	27%
2007-8	1326	389	29%
2008-9	1405	434	31%

19 UMR research undertaken by a telephone survey of 750 individuals aged 18 or over. Key variables in the research include area (Auckland, provincial, Christchurch, Wellington, rural), gender, age, occupation, income, ethnicity, disability/health condition, and experience of discrimination. The 2008 results are accessible online under 'Surveys/Research' at [http://www.stats.govt.nz/browse\\_for\\_stats/population/estimates\\_and\\_projections/demographic-trends-2009.aspx](http://www.stats.govt.nz/browse_for_stats/population/estimates_and_projections/demographic-trends-2009.aspx)

20 Summarised from Adrienne N, Girling, James H, Liu and Colleen Ward (2010), 'Confident, Equal and Proud? A discussion paper on the barriers Asians face to equality in New Zealand.' Unpublished paper presented at the annual Diversity Forum, Christchurch, 23 August 2010. Accessible online at <http://www.slideshare.net/nzhumanrights/barriers-to-asian-equality-discussion-paper>

### Racially offensive public statements and behaviour

Section 61 of the HRA prohibits expression that is threatening, abusive, or insulting, and considered likely to excite hostility against or bring into contempt a person or group of persons on the ground of their colour, race or ethnic or national origins. It is the effect of what is said that counts, not whether the person did or did not intend to excite hostility.

Although the Commission receives regular complaints about racially offensive or divisive public statements, many of these fall outside its complaints jurisdiction because they do not meet the legal threshold of section 61 of the HRA, when weighed against the BoRA protection of the right to freedom of speech. If such statements are published or broadcast, however, alternative complaints procedures under the codes administered by the Broadcasting Standards Authority can be used, or complaints can be lodged with the self-regulatory New Zealand Press Council (NZPC) and Advertising Standards Authority (ASA).

The Commission considers that there is a legitimate public issue about the efficacy of section 61, if racial disharmony complaints seldom reach the threshold at which it may intervene. The Commission believes it is time for a review of section 61, to see if it is fulfilling its purpose and to consider whether legislative amendments are required. The reasons for this are more fully explored in the chapter on the right to freedom of opinion and expression.

### The media

The media, in exercising their right to freedom of expression, have a responsibility not to denigrate ethnic groups and to report in an accurate, fair and balanced way. Freedom of expression also implies a positive role for the media to promote racial harmony through the airing of plural voices, the promotion of tolerance and the provision of information that aids public understanding. There are pockets of the media, especially on talkback radio, that continue to inflame race relations from time to time.

Since 2004, New Zealand media have become more diverse. There are now, for example, two Māori television channels, an iwi radio network, World TV in Chinese and Korean, Triangle TV, Radio Tarana, Skykiwi.com, Pacific Media Network, access radio programmes and community

newspapers in a range of languages. Initiatives aimed at promoting diversity in the media, including the Excellence in Reporting Diversity awards and the Fairfax cadet scheme, have played a role in increasing the number of journalists from diverse backgrounds in mainstream media. The numbers of Māori, Pacific and Asian journalists in the mainstream media, however, still remain disproportionately low.

Details of race-related complaints made to the NZPC, ASA and Broadcasting Standards Authority (BSA) over the past five years are included in the Human Rights Commission's annual Race Relations Report. The NZPC received the lowest number of race-related cases (seven) in the period 2005–09. The BSA received 19 complaints, seven of these in 2009. The ASA received the most complaints (45), but the ratio of race-related complaints to the total number of complaints was very low. For example, in 2009 the ASA released decisions on 647 complaints of which only 10 were race-related. Overall, the level of race-related complaints about the media to standards bodies remains very low.

**TABLE 2: NUMBER OF RACE-RELATED COMPLAINTS TO MEDIA COMPLAINTS BODIES 2005-9**

Year	NZPC	BSA	ASA
2009	2	7	10
2008	0	2	10
2007	4	5	12
2006	1	2	5
2005	0	3	8

### SAFETY

Safety and security of the person is a fundamental human right. The general picture of discrimination above also includes more serious incidents of racially motivated crime. Ensuring the safety of all in New Zealand from racially motivated crime is a central part of achieving harmonious race relations. This section focusses on the collection of data on hate crime; regional strategies to identify, report and deal with racially motivated

crime; and police strategies for engagement with ethnic communities.

### Monitoring hate crime

In the absence of systematic data on racially motivated crime, information about when and how this is occurring is available only in an ad hoc way from localised studies and media reports. Examples of incidents of racially motivated crime reported in the media include racial abuse, vandalism (such as defiling property with racist messages) and physical assaults.

The actual number of such complaints, prosecutions and convictions is still not recorded by the New Zealand Police. In the course of the UN Human Rights Council review of New Zealand's human rights performance in May 2009, the issue of recording police complaints was raised again (it had previously been raised by CERD in 2007). The Government accepted the recommendation that this data be collected, but said it was not a priority.

The Review of Crime and Criminal Justice Statistics Report 2009 noted that measuring the motivation or basis for an offence is inherently challenging. It therefore concluded that consistently and reliably identifying offences as crimes of prejudice was problematic.<sup>21</sup> Offences are recorded by police irrespective of the motivation of offenders. The justice sector as a whole is making improvements to its statistical recording of data in line with the review of criminal justice statistics.

In 2009 the Nelson/Tasman community took significant steps toward combating racial harassment and violence in the community. The report *Towards a Reporting System for Racist Incidents in Nelson/ Tasman – Diverse Communities Speak* was launched in Nelson in August 2009.<sup>22</sup> Written by visiting Northern Ireland human rights lawyer Debbie Kohner, the report was based on 30 focus groups, involving 184 people of 48 ethnicities. The report found that 81 per cent of participants had experienced racism and 86 per cent had witnessed it. The frequency varied from once (or not at all) to daily

abuse. The report recommended the establishment of a local reporting system, which was supported by the police, the Human Rights Commission and local councils. The Nelson Multicultural Council is following up on the recommendation, with support from other organisations, and the Speak Out Nelson Tasman racist reporting system is in the final stages of development.<sup>23</sup>

### International student safety

The rights of international students were identified, at the annual Australia and New Zealand Race Relations Round Table in November 2009, as a significant human rights concern for national, state and territory human rights commissions in Australia and New Zealand. Commissioners viewed instances of racial harassment, abuse and violence directed at international students as symptoms of human rights issues that need to be addressed. These include international students' rights to non-discrimination; equality of treatment; security of the person; access to justice, housing and information; freedom of religion and culture; and labour rights. The Ministry of Education administers a Code of Practice for the Pastoral Care of International Students for schools, state tertiary institutions and private training establishments with New Zealand Qualifications Authority accreditation.

The Commissioners resolved to:

- highlight the treatment of international students as a major current human rights and race-relations issue and stress the importance of addressing it from a human rights perspective
- note that the harassment and abuse of international students cannot be adequately addressed if the existence of racism as a significant factor is denied
- call for more research into the experience of discrimination and harassment of international students in specific communities and contexts, including regular surveys of students by education providers to provide a better evidence base for policy decisions

21 Statistics New Zealand, Review of Crime and Criminal Justice Statistics 2009. Accessed accessed 24 August 2010 from [http://www.stats.govt.nz/browse\\_for\\_stats/people\\_and\\_communities/crime\\_and\\_justice/review-of-crime-and-criminal-justice-statistics.aspx](http://www.stats.govt.nz/browse_for_stats/people_and_communities/crime_and_justice/review-of-crime-and-criminal-justice-statistics.aspx).

22 Debbie Kohner (2009). *Towards a Reporting System for Racist Incidents in Nelson/Tasman: Diverse Communities Speak* (Nelson / Tasman: Nelson / Tasman District Councils). Accessible online at [http://www.hrc.co.nz/hrc\\_new/hrc/cms/files/documents/05-Aug-2009\\_15-45-39\\_Diverse\\_Communities\\_Speak\\_-\\_final.pdf](http://www.hrc.co.nz/hrc_new/hrc/cms/files/documents/05-Aug-2009_15-45-39_Diverse_Communities_Speak_-_final.pdf)

23 Nelson Multicultural Council, 'Racist Reporting System'. Accessed 4 August 2010 from <http://www.nelsonmulticultural.co.nz/ONGOING+PROJECTS/Racism+Reporting+System.html>

- call on the police to record complaints and incidences of racially motivated crime, and for education providers, local government and other stakeholders to provide accessible reporting systems for racial harassment and discrimination, including web-based systems
- encourage the provision of reliable and accessible web-based information to prospective international students, including about their human rights and the support available
- monitor progress in addressing the human rights of international students and support student organisations in their advocacy and support for an improved experience for international students in Australia and New Zealand
- increase public awareness of the rights of international students; their contribution to the Australian and New Zealand economies and societies; and the importance of speaking out when they witness instances of harassment, discrimination and abuse.

In New Zealand, a coalition of Christchurch organisations, including tertiary institutions, the police, the Human Rights Commission and Ngāi Tahu, established the 'Report It!' website in August 2008.<sup>24</sup> The site provides international students with information on racial harassment and a simple way to report it. In the first year, 2204 individuals visited the site. In 2009, the coalition received 36 reports, of which 26 requested follow-up action. Some reports involved serious physical assaults.

#### Police ethnic strategy

The New Zealand Police have developed both national and regional strategies for engagement with ethnic communities. In 2004 the police developed a foundation strategy for 'Working Together with Ethnic Communities Towards 2010'. The foundation strategy focussed on reducing the fears of ethnic communities about being targets of crime, and increasing their confidence in the

police. In order to achieve this, two outcomes were identified: building police capability and capacity to engage with ethnic communities and implementing culturally appropriate strategies with communities to increase their safety, and prevent and reduce crime, road trauma and victimisation.<sup>25</sup> The foundation strategy is under review. In building on its first ethnic strategy, the police are actively considering priorities in relation to ethnic communities that will achieve their desired outcomes for all New Zealanders of 'confident, safe and secure communities' and 'less actual crime and road trauma, [and] fewer victims'.<sup>26</sup>

In addition to the strategy, police have undertaken a range of initiatives to improve their responsiveness to ethnic communities and increase the number of ethnic police officers. Some of these include:

- tailoring police recruitment and marketing strategies in response to changing New Zealand demographics to specifically target Māori, Pacific and Asian people and recruit a more culturally diverse and responsive workforce
- encouraging ethnic communities' participation in community safety initiatives and developing formal partnerships to encourage their input into policing and to enable better understanding of crime and safety issues<sup>27</sup>
- establishing Asian safety patrols in Auckland to provide greater police visibility and engagement with communities, to reduce crime, victimisation and road traumas
- establishing Asian-ethnic advisory boards in major districts to enable communities to engage directly with senior police
- sponsoring ethnic football tournaments and the Race Unity speech awards with the aim of fostering positive race relations among youth and communities

24 'Report It!'. Accessible online at <http://report-it.org.nz/>

25 New Zealand Police, Working Together with Ethnic Communities – Police Ethnic Strategy Towards 2010, pp 4–5. Accessed 6 May 2010 from <https://admin.police.govt.nz/resources/2005/ethnic-strategy/index.html>

26 New Zealand Police, Strategic Plan to 2010. Accessed 21 September from <http://www.police.govt.nz/resources/2006/strategic-plan-to-2010/index.html>

27 Examples include MOUs with NZ Federation of Multicultural Councils and the Federation of Islamic Councils of New Zealand

- partnering with agencies and community organisations in Christchurch and Nelson to develop critical incident-response systems.

## RECOGNITION AND SUPPORT FOR CULTURAL DIVERSITY

Non-discrimination and safety from racially motivated crime form part of what is required for harmonious race relations. The other equally important part is recognition and support for cultural diversity. This involves not only recognising and accepting racial and ethnic diversity, but actively supporting it. This section therefore focusses on public attitudes (recognition), participation, education for diversity and diversity action (support). The section concludes with a brief overview of socio-economic inequalities by ethnic group, which indicate that greater government and community action is needed to more fully realise the rights that support cultural diversity.

### Public attitudes to race relations

In December 2009, UMR Research Ltd issued a 'Mood of the Nation' report based on the results of its omnibus surveys throughout 2009. It revealed that race relations was no longer in the 'top five issues worrying New Zealanders' in 2009. It had last topped the list in 2004. Race relations was second on the list of areas which New Zealanders felt would be 'much better' in 10 years' time. Overall, 38 per cent said they expected race relations to get better, while 29 per cent said they expected them to get worse.<sup>28</sup>

### Political participation

The MMP electoral system has boosted the representation of Māori, Pacific and other ethnic groups in Parliament. The 2008 general election resulted in the most ethnically diverse Parliament in New Zealand history, although it still did not fully reflect the population of New Zealand. Although the number of Māori MPs reduced by one, the number of Pacific MPs increased from three to five and the number of Asian MPs doubled from three to six. In 2009, some MPs resigned from Parliament, and

their replacements have slightly altered these results: the number of Māori increased to 21 and the number of European/other decreased by one.

In local government, the number of successful Māori, Pacific and Asian candidates in the 2007 council elections was disproportionately low, with Māori comprising 4.8 per cent and all others who did not identify as European comprising only 6.3 per cent. Environment Bay of Plenty remains the only local authority with dedicated Māori constituencies. A survey of territorial and regional authorities conducted by the Commission in 2010 revealed that many local authorities are not taking up the options in the Local Electoral Act 2001 to explore the introduction of Māori wards or constituencies.<sup>29</sup> Māori were better represented on district health boards after the 2007 elections and ministerial appointments, with 19.2 per cent of members, but the percentage of Pacific and Asian members was negligible. There were also elections for school boards of trustees in 2007. Māori comprised 15.4 per cent of trustees after the election, Pacific peoples 3.5 per cent and Asian peoples 0.9 per cent. Board elections were again held in May 2010, but representation statistics are not yet available.

In 2009 the reorganisation of eight Auckland councils into the single Auckland Council raised serious concerns about representation and participation, particularly given the size and diversity of Auckland's population. In 2008 a Royal Commission recommended that one Auckland council be established. In addition to the mayor, it recommended that the council comprise 23 councillors, two of whom should be elected by voters on the Māori electoral roll, and one of whom should be appointed by mana whenua through a specified mechanism. It also recommended the establishment of Pacific and ethnic advisory panels. The Government decided, however, that Pacific and ethnic advisory panels would only be established for the first term of the new Auckland Council. After the first term, the council could determine its own arrangements for Pacific and ethnic

28 UMR Research Ltd, Mood of the Nation Dec 2009, pp 9, 36. Accessed 11 May 2009 from <http://www.umar.co.nz/Reports.php#>

29 Human Rights Commission 2010. Māori Representation in Local Government. Powerpoint presentation given at the annual Diversity Forum, 23 August. Accessed 25 August 2010 from <http://www.slideshare.net/nzhumanrights/maori-representation-in-local-govt-survey-results-19-august-2010>. A draft discussion paper on the issue was also presented to the forum and is being finalised. This paper is accessible online at <http://www.hrc.co.nz/home/hrc/racerelations/newzealanddiversityforum/2010diversityforum/maorirepresentationinlocalgovernment.php>

participation. For Māori, the Government decided to establish an independent statutory board, which would consist of up to nine members, with up to seven of these coming from mana whenua groups. The new council can, however, establish Māori seats under existing legislation if it chooses.

### Policy initiatives

In addition to services such as Language Line and the telephone interpreting service, and programmes such as Building Bridges, the Office of Ethnic Affairs is implementing a range of new initiatives to address the challenges of diversity. These include:

- collaboration across government agencies to develop robust statistical data, reporting and monitoring mechanisms on ethnic communities
- collaboration across government agencies to inform policy advice on immigration, settlement, health, economics and civic participation
- developing a national database for interpreters
- facilitating business forums to build constructive relationships between business communities, government organisations and business councils
- working with government agencies and private organisations to develop, train and maintain a culturally diverse workforce.

### Education for diversity

A revised New Zealand curriculum was introduced in 2008. It includes the following core principles:

- The Treaty – acknowledging the principles of the Treaty of Waitangi, and the bicultural foundations of Aotearoa New Zealand. All students must have the opportunity to acquire knowledge of te reo Māori me ōna tikanga.
- Cultural diversity – reflecting New Zealand’s cultural diversity and valuing the histories and traditions of all its people.
- Inclusion – being non-sexist, non-racist, and non-discriminatory; ensuring that students’ identities, languages, abilities and talents are recognised and affirmed and that their learning needs are addressed.

Throughout the curriculum, students are also to be encouraged to value diversity, as found in our different cultures, languages and heritages; equity, through fairness and social justice; community and participation for the

common good; and respect for themselves, others and human rights.

Following the introduction of the new curriculum, there is a need for teacher training and support as well as educational resources to deliver these components.

### Linguistic diversity

The first Action Plan for Human Rights in New Zealand (2005–10) identified a long-term outcome for language: “by the bicentenary of the signing of the Treaty of Waitangi in 2040, New Zealand is well established as a bilingual nation, and communities are supported in the use of other languages”. A series of actions were identified in order to achieve this goal. Since 2005, a range of initiatives have been implemented in order in relation to these actions. These include:

- New Zealand Sign Language (NZSL) became New Zealand’s third official language and the first NZSL week took place.
- A ‘Statement on language policy’ was developed as part of the New Zealand Diversity Action Programme.
- Learning languages became a core learning area in the new New Zealand curriculum.
- The Māori Language Act and Te Taura Whiri i te Reo Māori turned 20.
- A survey of the health of te reo Māori showed improvements.
- The Māori Language Strategy was reviewed.
- The *Te Reo* television channel was launched.
- The Pacific Languages Strategy was initiated.
- Samoan Language Week was launched and increasingly celebrated.
- New community language resources for Cook Island Māori, Niuean and Tokelauan were developed.
- A national approach to translation and interpreting services was investigated.

Resourcing remains a challenge, particularly in the provision of teachers with high degrees of fluency in te reo. The timely provision of information – particularly relating to health and government – in a range of community languages is similarly challenging. English-only policies in the workplace have repeatedly been the cause of complaints to the Human Rights Commission.

### Social and economic inequalities

Harmonious race relations are difficult to achieve when peoples from different ethnic groups are fundamentally unequal. There continue to be significant social and economic inequalities between different ethnic groups, despite a wide range of government policies and community actions that seek to address them. There has been progress in recent years in reducing disparities in areas such as employment, life expectancy, income and educational achievement, but there is still a long way to go and gains may be fragile in the face of changing economic conditions.

Such entrenched disparity between ethnic groups can be considered a form of structural discrimination. Unlike personal discrimination, structural discrimination is “observed from its effects. It is a bias in our social and administrative institutions that automatically benefits the dominant race or culture, while penalising minority and subordinate groups”.<sup>30</sup> In practice, this means that apparently neutral policies can disproportionately affect ethnic minorities. Special measures are one means of addressing such effects.

The Ministry of Development’s *Social Report 2009* assessed the social and economic wellbeing of New Zealanders across a range of indicators.<sup>31</sup> It found higher rates of unemployment for young people, Māori, Pacific peoples and other ethnic groups, and lower rates of median hourly earnings for the same groups. The report also found that 14 per cent of the population live in low-income households. Housing affordability was particularly difficult for Pacific peoples, other ethnic groups and those on low incomes, and household overcrowding was disproportionately experienced by Māori and Pacific peoples. Health indicators such as health and

life expectancy have improved, although Māori continue to have lower outcomes than other groups. Cigarette smoking rates have declined since 2003 but, along with obesity rates, remain higher for Māori and Pacific peoples. Potentially hazardous drinking<sup>32</sup> is also higher among Māori and Pacific peoples. Rates of participation in licensed early childcare services have improved, although they remain lower for Māori and Pacific peoples. Participation in tertiary education has improved, and there were higher rates for Māori under 18 years and over 25 years. Rates of educational attainment in the adult population have also improved, but are proportionally lower for Māori and Pacific peoples.<sup>33</sup>

The 2009 General Social Survey found that Māori, Asian and Pacific peoples were more likely than Europeans to report that they did not have enough money to meet their everyday needs. Māori and Pacific peoples (62 per cent each) were more likely to report major problems with their house or neighbourhood than Europeans (49 per cent). Asian peoples felt least safe walking alone in their neighbourhoods at night (45.6 per cent).<sup>34</sup>

Barriers to employment and promotion continue to be one of the major issues for migrants and refugees, as do equal employment opportunities for Māori and Pacific peoples across the full range of occupations. These issues are discussed more fully in the chapter on the right to work.

## Conclusion Whakamutunga

New Zealand generally complies with and exceeds international standards in terms of its legislation and policies on race relations. Public opinion polling has shown that

30 Ministerial Advisory Committee on a Maori Perspective for the Department of Social Welfare 1988, *Puao-te-ata-tu* (Wellington: Department of Social Welfare). Accessed 16 September 2010 from <http://www.msd.govt.nz/documents/about-msd-and-our-work/publications-resources/archive/1988-puaoateatatu.pdf>

31 Ministry of Social Development (2010). *The Social Report* (Wellington: MSD). Accessible online at <http://www.socialreport.msd.govt.nz>

32 “Potentially hazardous drinking” is defined in the *Social Report 2009* as “the proportion of the population aged 15 years and over who drink alcohol, who scored eight or more on the Alcohol Use Disorders Identification Test (AUDIT)”, as measured in the New Zealand Health Surveys conducted by the Ministry of Health in 1996–97, 2002–03 and 2006–07. The AUDIT is a 10-item questionnaire covering alcohol consumption, alcohol-related problems and abnormal drinking behaviour’. In 2006–07, 22.9 per cent of all adult drinkers had a potentially hazardous drinking pattern.

33 See *Social Report 2009* for further details

34 Statistics New Zealand, *General Social Survey 2008: Hot off the Press*, pp 10–11

New Zealanders are more positive about race relations than they were in 2004, and public institutions, particularly Parliament, are now more ethnically diverse.

There have been many positive developments in race relations since the last *Review of Human Rights in New Zealand Today* in 2004, indicating increasing recognition and support for cultural diversity. Many of these developments will have long-term benefits in enhancing race relations. A central example of this is the New Zealand curriculum introduced in 2008, which contains the core principles of the Treaty of Waitangi, cultural diversity and inclusion. Curriculum requirements to learn a language will further expedite the development of language policy and resourcing.

A range of initiatives have been implemented to further the goal of establishing New Zealand as a bilingual nation by 2040, and supporting other languages in the community. In addition to new curriculum requirements to learn a second language, these include the development of new strategies, resources and media, the establishment and increasing profile of awareness-raising language weeks, and making New Zealand Sign Language an official language of New Zealand.

New Zealand media have become more diverse, with a range of media (radio, television, newspapers and websites) available in a variety of languages and formats. Initiatives aimed at promoting diversity in the media have played a role in increasing the number of journalists from diverse backgrounds in mainstream media.

The Office of Ethnic Affairs has established Language Line, the telephone interpreting service, and programmes such as Building Bridges. By collaborating across government departments, it is in the process of implementing a range of new initiatives to address the challenges of diversity through developing robust monitoring mechanisms, improving policy advice, establishing business forums and developing, training and maintaining a culturally diverse workforce.

The New Zealand Police have developed both national and regional strategies for engagement with ethnic communities. Their foundation strategy for working with ethnic communities is currently being reviewed. In addition to the strategy, the police have undertaken a range of initiatives to improve their responsiveness to

ethnic communities and increase the number of ethnic police officers.

The New Zealand Diversity Action Programme has grown from a small number of community organisations seeking to enhance their diversity capability and foster harmonious race relations to approximately 250 organisations with more than 660 projects. Networks have been established for people interested in religious diversity, language policy, media and refugee issues, and policy statements on race relations, language and religious diversity have been developed through them.

Challenges remain, however. These include promoting public understanding of diversity, combating discrimination and harassment, meeting the needs of diverse communities and fostering harmonious relationships. Anti-discrimination provisions would be enhanced by adopting the Article 14 complaints procedure in Convention on the Elimination of Racial Discrimination (see the 'New Zealand Today' section of this chapter).

Enduring priorities dealt with in other chapters of this report are to:

- address outstanding issues in relation to the Treaty of Waitangi
- reduce social and economic inequalities between different ethnic groups
- better support the settlement and integration of migrants and refugees
- review section 61 of the HRA to ensure it fulfils its legislative purpose
- promote understanding between people of different beliefs.

The Commission consulted with interested stakeholders and members of the public on a draft of this chapter. The Commission has identified the following areas for action to advance human rights and race relations:

#### **Asian New Zealanders and international students**

Countering the relatively high level of prejudice, discrimination and harassment experienced by Asian New Zealanders and international students.

#### **Structural discrimination**

Investigating the extent to which structural discrimination underlies entrenched racial inequalities in the enjoyment

of civil, political, social, economic and cultural rights and developing programmes to address it.

**Diversity action**

Encouraging organisations and communities to develop their own diversity-action projects and programmes, especially inter-cultural activities.

**Languages**

Developing and implementing a national languages policy and dedicated strategies for Māori, Pacific and community languages, and interpreting and translation services.

**Diversity education**

Ensuring that teachers are appropriately trained, supported and resourced to teach diversity in the new curriculum.