

The Durban Declaration and Action Programme on Racism, Racial Discrimination, Xenophobia and Related Intolerance, September 2001

Joris de Bres, Race Relations Commissioner, September 2003

From 31 August to 8 September 2001, delegates from throughout the world attended the World Conference on Racism, Racial Discrimination, Xenophobia and Racial Intolerance in Durban, South Africa. The conference produced a declaration and a programme of action which together form the most recent comprehensive world view on issues of race relations and what member states of the United Nations can do about them. New Zealand is under an obligation to address the actions identified in the Action Programme.

The Declaration

The Declaration canvases relevant United Nations decisions and current trends, and notes that despite decades of effort the scourge of racism continues to influence events in many parts of the world. It addresses:

- the sources, causes, forms and contemporary manifestations of racism;
- the victims of racism;
- measures of prevention, education and protection aimed at the eradication of racism;
- the provision of effective remedies, recourse, redress, and compensatory and other measures at the national, regional and international levels; and
- strategies to achieve full and effective equality, including international cooperation and the enhancement of the United Nations and other international mechanisms in combating racism

The Declaration recognises the urgent need to translate the stated objectives into a practical and workable Programme of Action. The full text of the Declaration and Programme of Action can be found on the website of the United Nations Office of the High Commissioner for Human Rights at www.unhchr.ch.

The Programme of Action

The Programme of Action follows the headings of the Declaration. A number of the recommendations are not applicable to New Zealand domestically (although they will help to inform our foreign policy), or they address issues for which there are existing programmes, policies or provisions. This does not mean that New Zealand does not need to account for its actions in these areas, but given the large number of recommendations in the Programme of Action, it is appropriate here to focus on those recommendations that require action in addition to what is already underway or in place. The recommendations in the Programme of Action are directed at states, non-government organisations, the private sector and international organisations.

VICTIMS OF RACISM

The plan of action identifies as particular targets of racism the following groups:

- Africans and people of African descent
- Indigenous peoples
- Migrants
- Refugees
- Others, including victims of trafficking, Roma/Gypsies/Sinti/Travellers, people of Asian descent, national, ethnic, religious and linguistic minorities, women and girls, children, people with disabilities and people suffering from HIV/Aids.

In terms of New Zealand's domestic situation, the most common targets of racial prejudice, discrimination or harassment are Maori, Pacific Island peoples (both New Zealand born and migrants), people of Asian descent (both New Zealand born and migrants), other migrants, Muslims and refugees.

Maori

Many of the recommendations in relation to indigenous peoples are already New Zealand government policy, although that does not mean that the purpose of the recommendations has been achieved. The questions one might ask are as follows:

- Is enough being done to promote knowledge of and respect for Maori culture and heritage?
- To what extent do Maori have equality in education and training, and equal access to housing, employment, health, justice, social services and democratic participation?
- To what extent is the Treaty of Waitangi respected?
- What actions are being taken to overcome racism, racial discrimination, and intolerance against Maori and what have these achieved?
- What has been done to promote public understanding of special measures to overcome disadvantages, and how successful has this been?
- To what extent are Maori consulted in the process of decision-making concerning policies and measures that directly affect them?

Pacific Island Peoples

Pacific Island peoples, both those born in New Zealand and those who have migrated here, form a significant part of the New Zealand population. The questions one might ask in relation to Pacific Island peoples in particular (as well as general questions relating to migrants below) are:

- To what extent do Pacific Island peoples have equality in education and training, and equal access to housing, employment, health, justice, social services and democratic participation?
- What has been done to promote public understanding of special measures to overcome disadvantages, and how successful has this been?

- To what extent are Pacific Island peoples consulted in the process of decision-making concerning policies and measures that directly affect them?

Migrants

New Zealand has a large permanent migrant population, mainly comprising people from the United Kingdom, Continental Europe, Asia, Southern Africa, Australia and the Pacific, but also (in smaller numbers) from most other parts of the world. A “white New Zealand policy” operated for a long time, but this has now been changed, and the New Zealand population is increasingly diverse. The questions one might ask in relation to migrants in general are:

- Are our immigration laws, policies and practices devoid of racial discrimination and compatible with our obligations under international human rights instruments?
- Do we promote education on the rights of migrants and engage in information campaigns to ensure the public receives accurate information regarding migrants and migration issues, including the positive contribution and the vulnerability of migrants?
- Are there specific measures involving the host community and migrants to encourage respect for cultural diversity, promote fair treatment and facilitate integration into social, cultural and political life?
- Are police, immigration officials and other public officials trained to treat migrants in a dignified and non-discriminatory manner?
- Are the educational, professional and technical credentials of migrants recognised?
- Are migrant women and children treated equitably and are their particular issues addressed?
- Do migrants enjoy adequate social services, in particular in the areas of health, education and adequate housing?

Refugees

New Zealand meets its obligations through an annual refugee quota and provisions for family reunification. Recent refugees have come predominantly from countries in Africa, the Middle East, and Asia. Refugees face particular problems of settlement and integration as a result of their traumatic experiences. Questions one might ask in relation to refugees are:

- Are there strategies to counter discrimination against refugees and to ensure that refugees fully enjoy their human rights?
- Are asylum seekers treated in accordance with international responsibilities?

Other Victims

Among other victims of racial discrimination identified in the declaration, those most relevant to New Zealand are people of Asian descent (both New

Zealand born and migrants), Muslims and women, children and people with disabilities. The increased migration of people from countries in Asia, including the high number of Asian students coming here for secondary and tertiary education and English language courses has resulted in some negative public attitudes and behaviour. The after-effects of September 11, the “war on terror” and the war in Iraq have likewise made Muslim migrants and refugees feel vulnerable. Questions one might ask in relation to these other victims are:

- Are we addressing problems of racism against people of Asian descent, and are we taking all necessary measures to eliminate the barriers faced by them in participating in economic, social, cultural and political life?
- Are we ensuring that persons belonging to national or ethnic, religious and linguistic minorities can enjoy their own culture, profess and practice their own religion, and use their own language, in private and in public, freely and without interference, and participate effectively in the cultural, social, economic and political life of the country?
- Are women and girls who are targets of racism fully able to exercise their rights in all spheres of public and private life, and are they able to participate in public decision-making?
- Are children adequately protected from racism and racial discrimination?
- Are there adequate measures to ensure that people with disabilities who are subject to racism are able to fully enjoy their human rights and be integrated into all fields of life?

MEASURES OF PREVENTION, EDUCATION AND PROTECTION

Legislative, judicial, regulatory, administrative and other measures

This section calls for a national policy and plan of action to combat racism, and suggests actions to address issues of exploitation of migrant workers, trafficking in persons, misconduct by police and other law enforcement personnel, racial profiling by police, the use of genetic research to promote racism, lack of diversity in the police force, and means of reducing racial violence. One might ask the following questions:

- Will the proposed Race Relations Strategy in the NZ Action Plan for Human Rights address the issues raised in the Durban Programme of Action?
- Are there effective measures in place to prevent racism in the police force and to create a high quality and diverse force?
- Is racial profiling used by police and other law enforcement officers as a basis for subjecting persons to investigatory activities or determining whether an individual is engaged in criminal activity?
- Are there incidents of racial violence in New Zealand, and are there strategies to address them?

Ratification and effective implementation of international instruments

The Programme of Action lists 13 international instruments agreements which it urges states to sign up to, if they have not already done so. New Zealand has ratified or acceded to all of these except (with Government position on them):

- ILO 138 (Minimum Age, 1073) – would prohibit employment of children for newspaper delivery, other protections are already provided for in domestic law
- Optional Protocol to the United Nations Convention on the Rights of the Child - New Zealand is working towards ratification
- ILO 169 - Indigenous and Tribal Peoples, 1989 – no consensus from consultation with Maori, some feeling that its standards are too low
- ILO 143 and Migrant Workers Convention – generally protections are provided in domestic law
- Convention on Trafficking of Persons – primarily concerned with prostitution, conflicts with the Prostitution Law Reform Act.

The question one might ask is:

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| <ul style="list-style-type: none">• Should New Zealand reconsider its position on any of the instruments it has not ratified or acceded to? |
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Prosecution of perpetrators of racist acts

The Programme calls on States to combat criminal acts motivated by racism, to promote measures to deter the emergence of and to counter neo-fascist, violent nationalist ideologies which promote racial hatred and discrimination and to provide training to those in the criminal justice system to ensure fair and impartial application of the law. The questions one might ask are:

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| <ul style="list-style-type: none">• Is there a significant level of criminal acts motivated by racism in New Zealand?• Is there a significant presence of neo-fascist or racist groups?• Are racist crimes appropriately dealt with by the criminal justice system? |
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Independent specialised national institutions and mediation

States are urged to establish, strengthen review and reinforce the effectiveness of independent national human rights institutions, particularly on issues of racism, and to ensure adequate financial resources, competence and capacity for investigation, research, education and public awareness. Questions one might ask are:

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| <ul style="list-style-type: none">• Is the Human Rights Commission sufficiently resourced to address issues of racial discrimination?• Are those individuals or groups who are victims of racism able to participate fully in the Commission? |
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Data collection and disaggregation, research and study

The Programme calls on states to collect, analyse, disseminate and publish reliable statistical data on racism and racial discrimination, with the objective of monitoring the situation of marginalised groups. The information should take into account economic and social indicators including health and health status, infant and maternal mortality, life expectancy, literacy, education, employment, housing, land ownership, mental and physical health care, water, sanitation, energy and communications services, poverty and average disposable income in order to elaborate social and economic development policies with a view to closing the existing gaps in social and economic conditions. It also calls for long term studies on all phases and aspects of migration which deal effectively with both its causes and manifestations. The questions one might ask are:

- Do we have a comprehensive system of data collection at both the national and local level to identify disadvantage associated with race or ethnicity?
- Is there effective cooperation between government agencies, non-government organisations, academic organisations and the private sector in improving concepts and methods of data collection and analysis, in promoting research and in developing indicators of progress and participation of affected individuals and groups?

Action oriented policies and action plans

The Programme encourages states to develop an elaborate national action plan to promote diversity, equality, equity, social justice, equality of opportunity and the participation of all. These plans should aim at creating conditions for all to participate effectively in decision making and realise civil, cultural, economic and social rights in all spheres of life on the basis of non-discrimination. States are urged to establish, on the basis of statistical information, national programmes, including affirmative or positive measures, to promote access by affected individuals and groups. The question one might ask is:

- Will the NZ Action Plan for Human Rights address this need?

Employment

The Programme calls for the creation of workplaces free of discrimination through a multifaceted strategy that includes civil rights enforcement, public education and communication within the workplace, and to promote the rights of workers who are subject to racism and racial discrimination. It also calls for states, non-governmental organisations and the private sector to foster businesses in disadvantaged areas, and to improve the prospect of targeted groups facing the greatest obstacles in finding, keeping or regaining work, including skilled employment. The question one might ask is:

- Is enough being done to achieve equal access to employment and to remove racial discrimination in the workplace?

Health, environment

The Programme calls on states to enhance measures to fulfil the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, with a view to eliminating disparities in health status which might result from racism and racial discrimination. It calls on governments, non-government organisations and the private sector to take steps to ensure equal access to comprehensive, quality health care affordable for all, including primary health care for medically underserved people, facilitating the training of a health workforce that is both diverse and motivated to work in underserved communities, and work to increase diversity in the health care profession by recruiting on merit and potential men and women from all groups, representing the diversity of their societies, for health care careers and by retaining them in the health care professions. The question one might ask is:

- Is enough being done to achieve equal access to health services and to improve the health status of Maori, Pacific Island and other ethnic minority groups?

Equal participation in political, economic, social and cultural decision-making

The Programme urges States to promote effective and equal access of all members of the community, especially those who are victims of racism and racial discrimination, to the decision making process in society at all levels and in particular at the local level, and encourages the private sector to facilitate their effective participation in economic life. The question one might ask is:

- To what extent have we achieved effective access of Maori, Pacific Island and other ethnic minorities to the decision making process in national and local government and in the private sector?

Role of politicians and political parties

The programme underlines the key role that politicians and political parties can play in combating racism and calls on them to develop voluntary codes of conduct which include internal disciplinary measures for violations thereof, so their members refrain from public statements and actions that encourage or incite racism, racial discrimination, xenophobia and related intolerance. The question one might ask is:

- Do any of our political parties have internal codes of conduct relating to statements and actions that encourage or incite racism and racial discrimination?

Education and awareness-raising measures

The Programme urges states, working with other relevant bodies, to commit financial resources to anti-racism education and to media campaigns promoting the values of acceptance, tolerance, diversity and respect for the

cultures of indigenous peoples within their national borders. In particular, states are encouraged to promote an accurate understanding of the histories and cultures of indigenous peoples. The question one might ask is:

- What campaigns are being conducted, and what information is provided to the general public about Maori history and culture?

Access to education without discrimination

The Programme calls for a commitment to ensuring access to education for all, including access to adults to lifelong learning and education, to take appropriate measures to eliminate obstacles to access, to measure and track the educational performance of disadvantaged children and young people, to support efforts to ensure safe school environments, and to provide financial assistance programmes to enable all students to access higher education. The question one might ask is:

- What is our progress in achieving equitable educational outcomes at all levels for Maori, Pacific Island and other ethnic groups?

Human rights education

The Programme encourages states to support and implement public formal and non-formal education programmes designed to promote respect for cultural diversity and to counter racism and racial discrimination, to develop educational materials and to review textbooks and curricula to include human rights education and anti-racism education. The question one might ask is:

- Are there adequate public education programmes to promote respect for cultural diversity and human rights?

Human rights education for children and youth

The Programme urges states to introduce and reinforce anti-discrimination and anti-racism components in human rights programmes in school curricula and to develop and improve relevant educational material, including history and other textbooks, and to ensure that teachers are effectively trained and adequately motivated to shape behavioural patterns based on the principles of non-discrimination, mutual respect and tolerance. It also calls for activities aimed at educating young people in human rights and democratic citizenship, and to counter ideologies based on the fallacious theory of racial superiority. States are encouraged to support extracurricular activities to raise awareness, including observation of the International Day for the Elimination of Racial Discrimination (21 March). A question that might be asked is:

- Is there adequate provision in the school curriculum for education in cultural diversity and anti-racism?

Human rights education for public officials and professionals

The Programme calls for a range of actions to develop and strengthen anti-racist and gender-sensitive human rights training for public officials, including those involved in law enforcement, correctional and security services, health-

care, schools and migration authorities, and in local government. The question one might ask is:

- Do public officials receive adequate training in relation to human rights, cultural diversity and racism?

Information, communication and the media, including new technologies

The Programme recognises both the positive contribution that media can make to good race relations, and the negative aspects of unfair portrayal of ethnic minorities and the reinforcement of stereotypes. There is a particular focus on the new information technologies, and the dissemination of hate speech and racist material through the internet. The Programme calls for programmes that reflect different cultures and languages and for a voluntary code of ethics for media aimed at combating racism and notions of racial superiority, promoting the equitable representation of diverse groups in their medium and on their staff, promoting respect and tolerance through support of public awareness campaigns, avoiding stereotyping and encouraging the objective and balanced portrayal of people, events and history. The Programme also calls on internet providers to develop voluntary codes of conduct and Government action to counter racism and xenophobia on the internet. It also notes disparities in access to the internet. Some questions that one might ask are:

- Are there adequate voluntary codes for media in relation to the fair and balanced representation of diverse peoples in New Zealand?
- Are diverse groups adequately represented on the editorial and management staff of media in New Zealand?
- Are there adequate voluntary codes for internet providers in relation to hate speech and racist material?
- Is legislation and enforcement adequate to deal with hate speech and racist material on the internet?

International

The Programme contains a wide range of recommendations in relation to the international sphere, covering a very broad range of issues. These are not addressed in this paper, but are a useful reference point in measuring New Zealand's contribution to international efforts to combat racism, racial discrimination and xenophobia. The question one might ask is:

- Is New Zealand making a positive contribution to international efforts to combat racism, racial discrimination and xenophobia?

WHAT ARE THE PRIORITIES FOR NEW ZEALAND?

The above summary only represents a selection of the 219 recommendations in the Programme of Action, and others might well select differently from this extensive menu and ask different questions in relation to New Zealand. In

order to focus down on the key issues that the Programme of Action raises for New Zealand it is necessary to reduce the list even further. It is suggested that the key issues might be:

1. The development of the New Zealand Action Plan for Human Rights, including a Race Relations Action Plan.
2. Public understanding of the Treaty, indigenous and human rights of Maori.
3. The promotion of cultural diversity, and the human rights of migrant and ethnic minorities.
4. The treatment of refugees and asylum seekers.
5. Human rights and anti-racism education and training – in educational institutions, public agencies, workplaces, and for the general public.
6. The development of comprehensive data, measures and outcome indicators and a coordinated programme of research to provide an ongoing framework for measuring the state of race relations in New Zealand.
7. Equity in education, health, housing, justice, employment.
8. Effective consultation with and participation in decision making by Maori, Pacific Island and other ethnic groups.
9. Balanced representation of Maori, Pacific Island and other ethnic groups in the media, and effective measures to combat hate speech and racist information on the internet.
10. Advocacy for and participation in international measures in support of the Durban Programme of Action.

CONSULTATION ON AGENDA NEW ZEALAND

A national consultation conducted by the Race Relations Commissioner in 1999 identified the following priorities:

- national identity
- personal attitudes
- immigration
- the media
- education
- economic and social disparity
- institutional racism
- the Treaty of Waitangi

To a large extent these overlap with the key issues identified from the Durban Programme of Action, with the exception of the issue of strengthening and developing our sense of national identity, which provides an important framework within which to advance the other issues.