

Committee on the Elimination of Racial Discrimination

*Statement by Joris de Bres, Race Relations Commissioner, New Zealand
Human Rights Commission, Geneva, 2 August 2007*

Mr Chair and Members of the Committee

Thank you for your invitation to address the Committee on behalf of New Zealand's National Human Rights Institution. Thank you also for the very warm welcome I have received. I acknowledge the members of the New Zealand delegation, and the representatives of Maori organisations and other civil society groups who have travelled so far to be a part of this process. Tena koutou katoa.

This is the first time that the Commission has appeared in its own right before a UN treaty body. I am thankful for the opening comments by the Country Rapporteur for New Zealand, Mr Sicilianos, and the very pertinent questions raised by Experts in the subsequent discussion. I appreciate the extent to which the Country Rapporteur has made reference to the achievements and challenges identified by the Commission in its annual review of race relations, *Race Relations in 2006*. I thank you for giving our National Human Rights Institution voice in this way. The challenges he referred to were:

- Reducing ethnic disparities, especially in health and criminal justice;
- Strengthening the Crown-Maori relationship;
- Providing for migration and settlement;
- Building connections between diverse communities; and
- Determining a government response to the New Zealand Action Plan for Human Rights.

You have asked whether the Commission feels that these issues are being addressed by government. I believe the government does accept their importance, but I would welcome the Committee's reinforcement of them. I will refer separately to the Action Plan.

I now turn to other questions raised by the Committee:

Funding of the Commission

The Commission this year made a strong case for increased funding to carry out its responsibilities effectively. I am pleased to say that the budget in May provided an additional \$7.5 million over the next four years to strengthen the Commission's capacity to deliver key programmes and services for the protection of human rights and the promotion of harmonious race relations. This represents a funding increase of over 20% per annum on an ongoing basis.

New Zealand Action Plan for Human Rights

The government this week determined its response to the New Zealand Action Plan for Human Rights, which, as noted, was an issue of key importance for us. The Minister of Justice will now refer the Action Plan

formally to chief executives of government departments directing them to consider the priorities for action in their annual planning process, and to indicate in their annual Statements of Intent what action points they intend to implement. The Human Rights Commission will monitor their progress. This approach will open the door to an active engagement with government departments on the Action Plan. In addition we will this year undertake a mid-term review to assess progress and re-examine priorities. We recognise that many actions by government are already underway despite the delay in a formal response. Other priorities in the realm of local government and civil society, are also already under action.

Special Measures

Throughout the extended public debate on special measures in 2004-2006 the Commission referred the government and the public to the provision for special measures in the CERD Convention, the New Zealand Bill of Rights Act and the Human Rights Act. In the Action Plan we identified public education about the nature of special measures as a priority. We have made it clear that special measures should not be confused with the government's Treaty obligations, indigenous rights, or general social and economic measures tailored to particular ethnic groups. Earlier this year, we issued our own guidelines on measures to ensure equality. I have provided a copy for you.

There is an ongoing need for public education about special measures, and what they do and do not constitute. We concur with the view expressed by a number of Experts that special measures are distinct from measures to settle Treaty grievances or to meet contemporary obligations under the Treaty in relation, for example, to land, resource management, customary use, language and culture. We would welcome your affirmation of this point in your concluding observations.

Criminal Justice System

Many questions were raised by Experts about the criminal justice system, youth offending, rates of imprisonment and domestic violence. The Commission fully shares these concerns, and we identified them as one of the key challenges in our annual review of race relations. The current rates of imprisonment, particularly of so many of our young people, are unsustainable. The same is true of the damage that is being done to families, women and children through the incidence of domestic violence. Everyone in New Zealand needs to take ownership of this problem. The Government has expressed its commitment to address the issues and has introduced a wide range of programmes and strategies, but the Commission would welcome the Committee highlighting the urgent priority of achieving significant progress in this area.

A Constitutional Conversation

A number of Experts raised issues concerning the status of the Treaty at law, the lack of a written constitution that enshrines indigenous and other human rights, the status and powers of the Waitangi Tribunal, and related constitutional questions. The Commission, in the Action Plan for Human

Rights, proposed a structured “constitutional conversation” as a means of developing public understanding of the issues, which are very complex and require public support to be effectively addressed. We were and remain reluctant to prescribe particular solutions because of the need for extensive and careful debate by both Maori and other New Zealanders. The Commission would welcome support for our recommendation that a constitutional conversation continue on these important issues, rather than any prescriptions at this point as to how they might be resolved. The Commission itself has just completed a three year community dialogue project on human rights and the Treaty of Waitangi in which many of these issues were canvassed, and we consider that more time is needed.

Foreshore and Seabed

With regard to the Foreshore and Seabed Act, the Commission believes that the essence of the Committee’s previous recommendation remains appropriate, namely that there should be renewed dialogue between government and Maori on the issue, that the implementation of the Act should be closely monitored, and that negative effects of the Act should be minimised. The legislation produced deep divisions and resentment in our society, and the responsibility to heal these lies with all elected representatives, not solely the Government of the day. The Commission hopes that in due course means will be found to establish more common ground, given that both Maori and the Crown have expressed a desire to guarantee both public access and Maori customary rights. The Commission’s priority of advocating for the strengthening of Crown-Maori relationships recognises that there is a need to rebuild these relationships at a number of levels, but this will take time. We support the Committee in reiterating its earlier recommendation and emphasising the need to strengthen Crown-Maori relationships at all levels.

Commission’s Forward Work Programme

The Commission’s own work programme for race relations in 2007-08 is set out in our Statement of Intent recently tabled in Parliament. I have provided the Committee with a separate summary of the main projects that we expect to undertake over the next year. These include in particular:

- Producing our fourth annual review of race relations, through which we seek to provide a record of developments as a resource for informed public discussion on race relations;
- Promotion of community action on race relations through the New Zealand Diversity Action Programme. The programme has over 200 partner organisations, and specific networks for national language policy, refugees, diversity and the media, and interfaith understanding;
- Ensuring that our disputes resolution service for complaints of unlawful discrimination is known and readily accessible to all who need it;
- Reducing barriers to employment for refugee, migrant and minority ethnic groups;

- Developing a network of government and Maori organisations working to strengthen the relationship between government and Maori at all levels; and
- Encouraging New Zealand participation in the Second UN Decade on the Rights of Indigenous Peoples.

Legislation and Policy

Among developments that we await with interest in the coming months are the completion of a review of the Police Act, the introduction of a new Immigration Act and the launch of a new school curriculum. These all represent significant opportunities for strengthening the human rights and race relations framework in New Zealand. The Commission has made submissions on all three. We have emphasised the need for:

- specific references to respect for human rights and diversity in the principles proposed to be included in a new Policing Act;
- references to international treaty obligations in the Immigration Act; and
- inclusion of human rights, diversity and the Treaty of Waitangi as fundamental principles in the school curriculum, along with appropriate recognition and prominence for Maori language as an official language of New Zealand.

We appear to be getting a reasonable hearing from the government on these issues, and I am reasonably confident that the issues raised about the education curriculum will be addressed when the final document is released in October.

Language diversity

We also celebrate with the representative of Te Puni Kokiri the extraordinary turnaround in the status of the Maori language. Yesterday was the twentieth anniversary of the coming into force of the Maori Language Act. As is so often the case, the Government's provision for this basic right to language was preceded by community initiatives and action, and the Commission salutes all those pioneers and volunteers in the Maori community, especially the many mothers and grandmothers, who worked so hard and gave so much to achieve this. In the Action Plan for Human Rights, the Commission also draws attention to the special responsibility of the New Zealand government to address the serious decline in the languages of Niue, the Cook Islands and Tokelau, the majority of whose people live in New Zealand and who have New Zealand citizenship. The Action Plan advocates a national languages policy to address the wide-ranging issues of language diversity in New Zealand, building on the good work already done.

Conclusion

Finally, as indicated in our annual review of race relations, the Commission hopes that the Committee's concluding observations will be such that they will be accepted as constructive by both the government and the people of New Zealand and will strengthen the confidence of both in the value of critical evaluation by an international committee of experts. We will certainly commit

to playing our part in promoting the importance of international accountability under the Convention, in accordance with our mandate as a National Human Rights Institution. We welcome the Committee's commitment, as evidenced in this session, to engage with the New Zealand government in a spirit of dialogue to identify ways forward cooperatively for the full realisation of human rights and racial equality.