



# CITIZENS COMMISSION ON HUMAN RIGHTS NEW ZEALAND

Established by the Church of Scientology in 1969

United Nations Committee Against Torture  
OHCHR-CAT <[ohchr-cat@un.org](mailto:ohchr-cat@un.org)>

Dear CAT Secretariat

This submission concerns the State's response to Historical abuse State care and the matter concerning the cases of Zentveld v. New Zealand and Richards v. New Zealand and article 22 of the Convention.

The Committee against Torture (the Committee) adopted concluding observations (CAT/C/NZL/CO/7) on New Zealand's seventh periodic report (CAT/C/NZL/7)

*(b) Implement the Committee's decisions under article 22 of the Convention concerning the cases of Zentveld v. New Zealand and Richards v. New Zealand, including by conducting prompt, thorough, impartial and independent investigations into all allegations of torture and ill-treatment made by the complainants, prosecuting the alleged perpetrators and, if convicted, punishing them with appropriate penalties, providing the complainants with access to full redress, including fair compensation and rehabilitation, and intensifying its efforts to disseminate the content of the Committee's decisions widely.*

The New Zealand government apologised to Messrs Zentveld and Richards, along with all survivors of torture and ill-treatment at Lake Alice psychiatric hospital in a public address on 24 July 2024 delivered in Parliament.

After this New Zealand responded to the Committee's concluding observations in August 2024 (in part):

*52. The Government formally accepts there is undisputed evidence that, based on the criteria set out in the Convention, some children and young people were tortured at the Lake Alice Unit. Survivors were informed of the Crown's acknowledgement, followed by a public statement when the final report of the Royal Commission was presented to Parliament. 1 The full text of the Prime Minister's speech to Parliament is attached.*

By stating that some children and young people were tortured at the Lake Alice Unit appears to omit that ALL of the children who went through that Unit were subjected to torture, cruel, inhuman, degrading treatment and punishment (articles 1 and 16).

Even children who were in the Lake Alice Unit for one or two weeks and received no paraldehyde or electroshocks were deeply scarred by the experience, as the environment was one of torture and intense fear.

To cite one individual who did not receive any electroshocks, but was administered paraldehyde and experienced another form of torture, which was being made to watch the electroshocking of another boy who was being punished for stealing \$20. He said this punishment was performed in front of him and other young people present, and it was this incident that changed him, witnessing the boy being punished, screaming in agony while being administered the electroshocks by the psychiatrist. Watching this torture made him give up on mankind and adopt a death wish and to forever distrust anyone in authority. It is this experience that still haunts him today.

## **Redress**

Subsequent to this apology the Minister now in charge of the government's response to the Royal Commission's findings —Erica Stanford—made two announcements of assistance to Lake Alice survivors: the first being a rapid payment of \$20,000 to those with six months left to live as certified by a doctor and more recently the return of legal fees for the claimants of the first civil suit which was settled in 2001.

It is known that two people claimed the \$20,000—one just days before passing away. With the return of legal fees survivors can now claim anything between \$15,000 to \$55,000 of legal fees to provide equity to the second round of claimants who had these fees returned circa 2006-07. It should be noted that the returning legal fees in 2024 does not include adjustments for inflation which could have added as much as a third more to the total. Nor will the government be paying the legal fees to families of deceased Lake Alice victims.

In the government's August 2024 response to the Committee's concluding observations they wrote (in part):

*53. Government consideration of further redress for Mr Zentveld, Mr Richards, and other Lake Alice survivors is being progressed as a matter of priority, with decisions expected by the end of the year. Any new redress for torture would be separate to the existing claims payments administered by the Ministry of Health, which remains open to new claims. New Zealand acknowledges the delays in the process of considering redress for Lake Alice Unit survivors and the frustrations this causes for them.*

There is still no redress for the victims of torture and ill treatment at Lake Alice, and the end of the year has now turned into early in 2025 per the latest government announcements. There is clearly a lack of any real plan of how to go about this.

The phrase *...further redress for Mr Zentveld, Mr Richards and other Lake Alice survivors...* implies some redress has previously been provided. This is not so. The survivors were given ex gratia payments which were an out-of-court settlement of a legal suit in 2021, not redress for torture and ill treatment, nor compensation. At the time of these settlements (2001-2007) the government deliberately avoided the term *torture* in its statements about Lake Alice even though the evidence was in the files of the victims. This denial of torture and ill treatment carried on until recently with the Prime Minister's first official and public acknowledgement of it on 24 July.

The government established a Crown Response Unit in 2018 to address the Royal Commission's work, especially in the area of redress. The Royal Commission's report on redress was published at the end of 2021 with 95 recommendations to be implemented. The CRU purportedly had been working on the redress matter but there is no evidence they took into account redress for torture despite being sent various documents by us, including the Istanbul Protocol.

This became even more evident following the Prime Minister's apology on 24 July when Minister Stanford held meetings with small groups of Lake Alice survivors, including Malcolm Richards and Paul Zentveld.

Two survivors, Malcolm Richards and Leoni McInroe, highlighted to the Minister that she needed to follow the Istanbul Protocol. She was not aware of this nor any processes established under the Convention. In subsequent correspondence with the Minister and her office it has been requested that survivors be allowed Crown-funded independent legal representation while this redress process is worked through. To date this has not been granted.

These issues have not been resolved, all the while the government has announced they are working "at pace" making Lake Alice redress "a priority".

## National apology

On November 12 there was a national apology for all survivors in care. Making those apologies were the various Ministries involved in State care and the Prime Minister and Leader of the Opposition. Each apologised for the abuse of the past and acknowledged they had not listened to the voice of people who had complained about the abuse and ill treatment inflicted upon them. Of note, not one of the agencies—Crown Law, Ministry of Health, Police, Ministry of Social Development, Oranga Tamariki (Child Welfare), Ministry of Education and the Public Service Office—apologised for the covering up of the abuse as it was being reported to them. The main offender being the Ministry of Health, who for decades fought back against the survivors of Lake Alice and covered up the torturous abuse from the nation and the United Nations. Where other Ministries have put the Zentveld and Richards CAT decisions on their websites, the Ministry of Health has not.

## Redress and non-repetition

*28 (c) Improve the provision of gender- and age-specific and culturally appropriate medical services to all persons deprived of their liberty, particularly those with intellectual or psychosocial disabilities;*

Redress includes non-repetition of the factors and even laws that enabled the torture at Lake Alice to occur. Primary then is the mental health law that allowed the psychiatrist and mental health staff to treat people against their will and hide behind the guise of therapy, when in fact the treatments were acts of cruelty and torture. The Mental Health Act of 1961 offered no protection to the children of Lake Alice, nor other victims of psychiatric ill-treatment.

The new Act of 1992 was little better and allowed for enforced compulsory treatment inside new mental health facilities as well as in the community.

A new Mental Health Bill was tabled in Parliament on 1 October this year.

[https://www.legislation.govt.nz/bill/government/2024/0087/latest/whole.html?search=sw\\_096be8ed81e9da7c\\_mental+health+bill\\_25\\_se&p=1#LMS995239](https://www.legislation.govt.nz/bill/government/2024/0087/latest/whole.html?search=sw_096be8ed81e9da7c_mental+health+bill_25_se&p=1#LMS995239)

The background to this Bill was a 2018 report: *He Ara Oranga: Report of the Government Inquiry into Mental Health and Addiction* which identified how the 1992 Mental Health Act was out of date and how it is: *inconsistent with New Zealand's international treaty obligations, embeds risk-averse attitudes towards mental health, and can result in trauma and harm to people receiving compulsory mental health care.*

The newly proposed Mental Health Bill says it reflects a human rights-based approach but it does not try to eliminate compulsory nor coercive treatment and therefore is not in accordance with the CRPD article 12.

The word *psychiatrist* cannot be found in the Bill as if there is an effort to conceal their primary role in mental health care where they hold power over the individual and the treatments they are given. The term *responsible practitioner* as well as *qualified mental health practitioner* is used in its place throughout the Bill. The *responsible practitioner* is a *qualified mental health practitioner* (psychiatrist) and it is they who determines whether or not the person has capacity to make decisions about mental health care and can prescribe such treatments as electroconvulsive therapy if they consider it to be in the best interest of the person.

The Bill states how it *promotes a person's decision-making capacity, including while the person is subject to compulsory care* and goes on to say: *compulsory care should serve a therapeutic purpose: this includes to protect, promote, and improve a person's mental health.*

The Bill does not address how compulsory treatment is never seen as therapeutic which is discussed in the *Committee on the Rights of Persons with Disabilities Eleventh session, General comment No. 1 (2014), Article 12: Equal recognition before the law:*

*Forced treatment is a particular problem for persons with psychosocial, intellectual and other cognitive disabilities. States parties must abolish policies and legislative provisions that allow or perpetrate forced treatment, as it is an ongoing violation found in mental health laws across the globe, despite empirical evidence indicating its lack of effectiveness and the views of people using mental health systems who have experienced deep pain and trauma as a result of forced treatment. The Committee recommends that States parties ensure that decisions relating to a person's physical or mental integrity can only be taken with the free and informed consent of the person concerned.*

Instead the Bill attempts to have the person consent to compulsory treatment with *Compulsory Care Directives*, which the psychiatrist or responsible practitioner can override if they perceive a need for emergency compulsory treatment or if the person's preferences are not reasonable or practicable. (Section 12)

In the Bill there are sections where the responsible clinician can challenge the patient's nominated person (Section 22) and deny visitors and communication. ((Sections 34 and 35)

Children and young persons can be given electroconvulsive therapy if there is a perceived emergency. (Sections 38 and 51(2)(a))

Seclusion is allowed for even though there is a clause stating it needs to be reduced and eliminated. (Section 49)

Electroconvulsive therapy can be given without consent if a mental health practitioner considers it in the interest of the patient. (Section 50)

There are no references to turning over complaints to the Health and Disability Commission, nor the Medical Council and Nursing Council.

The Bill only requires District Inspectors (appointed lawyers) to take complaints to higher mental health authorities who are uniformly psychiatrists within the Ministry of Health.

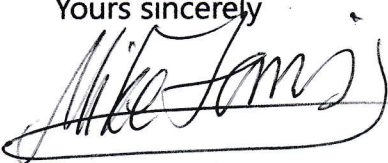
There is one provision that nothing in this new Mental Health Act limits the Crimes of Torture Act. (Section 161)

In its present state the Bill is not human-rights based as it purports to be which, given New Zealand's track record of human rights abuse and ill-treatment within the psychiatric mental health system, is surprising.

The Bill has had its first reading in Parliament and submissions are being called for to be evaluated by the Select Committee on health.

In putting together this report to the Committee there has been further research looking into New Zealand's history on the subject of torture since the ratification of the convention and the passing of the Crimes of Torture Act 1989. This research went into how the State was responding to the Committee over the successive periodic reviews and the numerous occasions where torture in New Zealand was denied. The work is near completion and we would like to send this to the Committee as a separate report to this one.

Yours sincerely



Mike Ferriss  
Director