



# CITIZENS COMMISSION ON HUMAN RIGHTS NEW ZEALAND

Committee on Civil and Political Rights  
Secretariat  
ohchr-ccpr@un.org

6 January 2025

Re: List of issues prior to reporting—New Zealand

## Introduction

The Citizens Commission on Human Rights (CCHR) was co-founded in 1969 by the Church of Scientology and Professor of Psychiatry Emeritus Dr. Thomas Szasz at a time when patients were being warehoused in institutions and stripped of all constitutional, civil and human rights. The New Zealand branch was established in 1975.

One of the early activities of CCHR in New Zealand was to inspect several psychiatric hospitals including the Lake Alice Child and Adolescent Unit. It was in their tour of Lake Alice in January 1976 that the members of CCHR interviewed a number of the children incarcerated there and found that they were being given electroshocks and drugs as punishment.

We have followed this issue ever since, including making submissions to the Committee Against Torture from 2010 onward, including formal complaints.

## Article 2.3

**The provision of effective remedies by a State for breach of an individual's rights or freedoms is mandated by article 2(3) of the ICCPR. Article 2(3) provides that:**

**Each State Party to the present Covenant undertakes:**

- (a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;**
- (b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;**
- (c) To ensure that the competent authorities shall enforce such remedies when granted.**

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**We ask the Committee to include in the list of issues how New Zealand is dealing with redress for victims of abuse, torture, cruel, inhuman or degrading treatment in State and faith-based care which has been exposed and documented by the Royal Commission of Inquiry into Abuse in Care.<sup>1</sup>**

In its White Paper form, the New Zealand Bill of Rights was to contain a remedies clause (providing for *such remedy as the Court considers appropriate and just in the circumstances*). Amendment of the Bill during its passage through Parliament saw this remedies provision removed. The resulting New Zealand Bill of Rights Act (NZBORA) contains no express remedies clause.<sup>2</sup>

The Human Rights Committee has repeatedly expressed its concern about the absence of express provision for remedies for all those whose rights under the Covenant or the NZBORA have been violated. Notwithstanding the absence of an express remedies clause in NZBORA, remedies have been granted by the courts where breaches of the rights and freedoms contained therein have occurred. Three principal remedies have been developed by the courts: compensation and civil damages; the grant of a stay of execution for undue delay and/or the failure to allow for testing of evidence; and declarations of incompatibility.

However, in practice the courts have been reluctant to award a NZBORA remedy, generally only awarding such a remedy where other common law remedies are unavailable or insufficient. The current practice of the courts to treat NZBORA remedies as residual is not consistent with promoting human rights, nor does it fully reflect New Zealand's obligations under the ICCPR. It would therefore be desirable to include an express remedies clause in NZBORA. The realities of getting New Zealand to redress torture and the cover up of torture emphasize the need an express remedies clause in NZBORA.

The Abuse in Care Inquiry published a preliminary report on redress for survivors of abuse in care in December 2021.<sup>3</sup> It has taken three years since this report was published for the first redress package to be announced. It should be noted that the Inquiry period of investigation was from 1950 to 1999 and many of the survivors are in their advancing years (60s, 70s and older).

## **Redress for torture**

The first redress announced is for the victims of torture at the State-run Lake Alice psychiatric hospital in the 1970s.<sup>4</sup>

The announcement made on 18 December 2024 came four years after a decision by the Committee Against Torture that found New Zealand was in breach of articles 12, 13 and 14 of the Convention Against Torture.<sup>5</sup>

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<sup>1</sup> <https://www.abuseincare.org.nz/reports/whanaketia>

<sup>2</sup> For discussion of this, see *Simpson v Attorney-General (Baigent's case)* [1994] 3 NZLR 667, 698- 699

<sup>3</sup> <https://www.abuseincare.org.nz/reports/from-redress-to-puretumu>

<sup>4</sup> <https://www.1news.co.nz/2024/12/18/redress-plan-for-torture-survivors-at-lake-alice-unit-outlined/>

<sup>5</sup> CAT/C/68/D/852/2017 <https://documents.un.org/doc/undoc/gen/g20/018/77/pdf/g2001877.pdf>

The proposed redress is for torture of children and young people incarcerated in Lake Alice from 1972 to 1977. The redress package is on a Government website describing the criteria for survivors to apply.<sup>6</sup>

The new offer limits redress for torture at Lake Alice to just the unmodified electroshocks (ECT) and the use of paraldehyde<sup>7</sup> as punishment administered to many (but not all) of the children who were in there. There were an estimated 350 children and young people who went through the facility.

The Government are asking survivors to confirm admission to the Lake Alice Child and Adolescent Unit, between 1972 and 1977, and to provide a declaration they received either unmodified ECT and/or a paraldehyde injection.

There is no eligibility for redress for the families of those victims who have died. Many of them have, some by suicide.

There is no eligibility for survivors from Lake Alice who were subject to other forms of torture, punishment and ill treatment. One common example was second degree torture where children were made to watch the electroshocking of other children while they were fully conscious. Shocks were applied to various parts of their bodies; arms, legs and even in a few cases, the genitals.

The majority of the children inside Lake Alice were there for behavioural reason, they were not mentally ill. They were subjected to other forms of ill treatment which included physical punishment, various psychiatric drugs, seclusion, rape, placement with mentally ill adults who were considered dangerous, and other cruel, degrading and inhuman treatment. The Child and Adolescent Unit at Lake Alice was a place of torture.

The full details of what happened at Lake Alice can be found in the Royal Commission into Abuse in Care report Beautiful Children released in December 2022.<sup>8</sup>

### **Time limits to apply for redress for torture**

The Government is not attempting to contact all known survivors of the ill treatment and torture at Lake Alice and has only made announcements through the media, yet they have placed time limits on making applications for redress of torture giving the victim a choice of two pathways:

- an expedited payment of \$150,000
- or an individual payment process where each claim is assessed by an independent arbiter who will make determinations on payment amounts.

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<sup>6</sup> <https://www.abuseinquiryresponse.govt.nz/for-survivors/torture-redress/>

<sup>7</sup> Paraldehyde was injected into the buttocks and thighs which had crippling painful effects which lasted for days. In some instances it was injected between the fingers of the hand and other parts of children's bodies.

<sup>8</sup> Abuse in Care Beautiful Children: <https://www.abuseincare.org.nz/reports/inquiry-into-the-lake-alice-child-and-adolescent-unit>

Both pathways to be administered through the Crown Response Office. Up to \$22.68 million has been set aside, including operating costs.

For those choosing the first pathway they have until 30 September 2025; for the second pathway until 30 April 2025.

## **Torture covered up**

In 1977 the New Zealand Government conducted a magistrate's inquiry into the treatment of a Niuean boy at Lake Alice. Our group submitted at the time that the electroshocking of the children at Lake Alice was torture and a violation of the article 5 of the Universal Declaration of Human Rights. The magistrate heard that children were subjected to electroshocks without anaesthetics but this was justified by psychiatric advisors who claimed it was less dangerous as their bones were supple and would not break while convulsing.<sup>9</sup>

The magistrate's inquiry found no wrong doing and no one was censured. In 1977 the New Zealand Medical Council investigated an allegation of young boys electroshocking another boy at the behest of the psychiatrist—Dr Selwyn Leeks—at Lake Alice for punishment. The Medical Council found no wrongdoing and gave the psychiatrist a certificate of good standing so as he could continue his work in Victoria, Australia.<sup>10</sup> That same year the NZ Police investigated claims of children being shocked and drugged for punishment, but this too ended with no convictions when a leading psychiatrist—Dr McLaughlan—wrote a long letter to the police justifying the treatment methods the Lake Alice psychiatrist and nursing staff were using.

The Royal Commission into Abuse in State Care found that:

*The Crown has accepted the Government has an obligation to detect and prevent torture, which arose as a matter of international law before the enactment of the Crimes of Torture Act 1989.[1808] It also accepted that by 1998 a sufficient evidential basis existed for an investigation into whether torture had occurred at Lake Alice.[1809] However, it acknowledged the allegations were treated like any other civil claim, whereby the focus was on assessing potential liability, whether the allegations could be proven, what defences were available and, where appropriate, settling the claims.[1810] The Crown has told us it now works with agencies to ensure claims that provide credible allegations of torture or other cruel, inhuman or degrading treatment are recognised and sent to the appropriate agency for investigation.[1811]<sup>11</sup>*

<sup>9</sup> <https://www.stuff.co.nz/national/300332238/man-says-shock-therapy-at-lake-alice-like-a-sledgehammer>

<sup>10</sup> <https://www.stuff.co.nz/nz-news/350356142/medical-council-apology-too-little-too-late-lake-alice-survivors>

<sup>11</sup> Aotearoa New Zealand's obligations under torture convention Ngā herenga o Aotearoa i raro i ngā tikanga whakamamae <https://www.abuseincare.org.nz/reports/inquiry-into-the-lake-alice-child-and-adolescent-unit/2-4-attempts-at-independent-investigation-accountability-and-redress/2-4-9-aotearoa-new-zealands-obligations-under-torture-convention>

New Zealand ratified the Convention Against Torture in 1989 and in subsequent submissions to the Committee Against Torture New Zealand has never admitted torture of its citizens. This was especially significant in the mid to later 1990s when Lake Alice survivors were coming forward with legal complaints and media exposes. By the early 2000s the Government had settled a legal suit with ex-gratia (no liability) payments to 200 survivors amounting a total of \$13.5 million, but no accountability even though the Government now possessed a mass of evidence that the treatment at Lake Alice was unacceptable ill treatment even for the standards of the time and showed potential criminal wrongdoing.<sup>12</sup>

By 2010 the New Zealand Government was having to answer to submissions made to the Committee Against Torture regarding Lake Alice and the lack of a full independent and impartial inquiry or investigation. For the next five years the Government denied any allegations of torture at Lake Alice nor the need for any further investigations which led to our group filing a formal complaint on behalf of a survivor culminating in it being upheld at the beginning of 2020.<sup>13</sup> This was followed by a second survivor complaint which was upheld in 2022.<sup>14</sup>

The seventh periodic review in July 2023 by the CAT was the first time New Zealand representatives admitted there was torture of children at Lake Alice. This led to the Committee stating in their concluding observations:

*48. The State party should urgently:*

*(a) Implement the recommendations of the Royal Commission of Inquiry in order to provide victims of torture and ill-treatment in State care and in the care of faith-based institutions with full redress, including compensation and the means for as full a rehabilitation as possible;*

*(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.<sup>15</sup>*

One year later on July 24, 2024, four days before the follow up report was due to be sent to the Committee Against Torture, the New Zealand Prime Minister—Chris Luxon—publicly admitted and acknowledged the torture at Lake Alice in Parliament.<sup>16</sup> They had

<sup>12</sup> <https://newsroom.co.nz/2024/10/14/crown-cover-up-the-timeline/>

<sup>13</sup> <https://www.abuseincare.org.nz/reports/inquiry-into-the-lake-alice-child-and-adolescent-unit/2-4-attempts-at-independent-investigation-accountability-and-redress/2-4-9-aotearoa-new-zealands-obligations-under-torture-convention>

<sup>14</sup> <https://documents.un.org/doc/undoc/gen/g22/406/00/pdf/g2240600.pdf>

<sup>15</sup> <https://documents.un.org/doc/undoc/gen/g23/154/64/pdf/g2315464.pdf>

<sup>16</sup> Abuse in Care Whanaketia – Through pain and trauma, from darkness to light. The final report on the abuse and neglect of children, young people and adults in the care of the State and faith-based institutions in Aotearoa New Zealand between 1950 and 1999. <https://www.abuseincare.org.nz/reports/whanaketia>

denied any torture in New Zealand before that date from its earliest report to the Committee Against Torture.

Four months later in his apology in November 2024 the previous Prime Minister, now Leader of Opposition—Chris Hipkins—specifically acknowledged the torture and noted his regret that the Governments he led or was part of had not advanced redress for the torture of children at Lake Alice.<sup>17</sup>

## **Redress for the torture of Lake Alice survivors lacks structure and principles**

In the UN Resolution adopted by the General Assembly on 16 December 2005 (60/147. *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*)<sup>18</sup> the General Assembly affirmed the importance of addressing the question of remedies and reparation for victims of gross violations of international human rights law.

### ***VII. Victims' right to remedies***

*11. Remedies for gross violations of international human rights law and serious violations of international humanitarian law include the victim's right to the following as provided for under international law:*

- (a) Equal and effective access to justice;*
- (b) Adequate, effective and prompt reparation for harm suffered;*
- (c) Access to relevant information concerning violations and reparation mechanisms.*

These principles apply to survivors of torture and all forms of ill treatment, yet the New Zealand Government is not taking these into account when providing redress to the Lake Alice torture victims.

They have been denied justice concerning the perpetrators and accessories to crimes of torture and ill treatment. No one has been held accountable in any medical or criminal jurisdiction.<sup>19</sup>

Adequate, effective and prompt reparation for harm suffered has been denied them and instead the victims are being offered a choice of payment or assessment which does not come close to being proportional to the gravity of the harm suffered.<sup>20</sup>

The State has not developed means of informing the public and the victims regarding

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<sup>17</sup> [https://www.parliament.nz/en/pb/hansard-debates/rhr/combined/HansDeb\\_20241112\\_20241112\\_08](https://www.parliament.nz/en/pb/hansard-debates/rhr/combined/HansDeb_20241112_20241112_08)

<sup>18</sup> 60/147. Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law <https://www.ohchr.org/sites/default/files/2021-08/N0549642.pdf>

<sup>19</sup> Ibid page 6, VIII. Access to justice

<sup>20</sup> Ibid page 7, IX. Reparation for harm suffered

gross violations of international human rights law and serious violations of international humanitarian law of the rights and remedies and of all available legal, medical, psychological, social, administrative and all other services to which victims may have a right of access.<sup>21</sup>

The lack of any real structure around redress and a principled approach that embraces human rights law indicates that the New Zealand is attempting to buy its way out of serious wrongdoing in regards to ill treatment of people in care. It has not placed the victims of torture and ill treatment at the centre of the redress process with a right to remedies and reparation. There is no acknowledgement of the generational harm caused by the ill treatment nor any real effort to help rehabilitate the people involved.

The offer being made by the Government appears to be taking advantage of the fact these people are now into their 60s with many of them unwell and still very vulnerable. Some will take the \$150,000 payment offered as they are tired and the sum of money is larger than anything they have seen in their lifetime. Others are bitterly disappointed given the pain and trauma they have suffered along with almost 50 years of denial and cover up.

This issue goes further because there are many other institutions that harmed children, young people, disabled and adults and it appears that one of the fears the New Zealand Government has is that Lake Alice was not alone in the torturous abuse and ill treatment of people in care.

## **Article 7**

**No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.**

In 2018 the Royal Commission of Inquiry into Abuse in Care started. It was New Zealand's longest and most comprehensive inquiry and after six years their final report was tabled in Parliament on 24 July 2024.<sup>22</sup> It was at this time that the Government publicly announced for the first time that children were tortured at Lake Alice.<sup>23</sup>

The report detailed widespread abuse and ill treatment from 1950 to 1999 across State and faith-based care facilities. Comprising 3000 pages over 16 volumes the final report laid bare the ill treatment of people in care. And while the report did not explicitly state torture as one of the abuses, it also did not discount the possibility that people—including children and disabled—were tortured:

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<sup>21</sup> Ibid page 9, X. Access to relevant information concerning violations and reparation mechanisms

<sup>22</sup> Abuse in Care Whanaketia – Through pain and trauma, from darkness to light. The final report on the abuse and neglect of children, young people and adults in the care of the State and faith-based institutions in Aotearoa New Zealand between 1950 and 1999. <https://www.abuseincare.org.nz/reports/whanaketia>

<sup>23</sup> 24 July 2024 Government acknowledges torture at Lake Alice: <https://www.beehive.govt.nz/release/government-acknowledges-torture-lake-alice>

**Take steps to determine liability for torture, or cruel, inhuman or degrading treatment or punishment**

119. *The Inquiry does not have the power to determine whether any person or institution is legally responsible (i.e. liable under civil or criminal law, or in a disciplinary sense) including for acts such as torture. However, it can recommend that further steps be taken to determine liability.*

120. *During the Inquiry period, there was evidence in many care settings indicating acts of abuse and neglect that may have elements of torture, or cruel, inhuman, or degrading treatment or punishment. The use of electric shocks and paraldehyde as punishment at the Lake Alice Child and Adolescent Unit met the definition of torture as stated by the Solicitor-General. The Inquiry's findings in relation to Te Whakapakari Youth Programme, Marylands School and Hebron Trust, Hokio Beach School and Kohitere Boys' Training Centre, Kimberley Centre, Van Asch and Kelston deaf schools give rise to concerns about these matters too.*

121. *The United Nations Convention against Torture requires Aotearoa New Zealand to carry out a prompt and impartial investigation wherever there are reasonable grounds to believe that torture or cruel, inhuman or degrading treatment or punishment has occurred in places under its jurisdiction.[49] As referred to in the Inquiry's interim report *Stolen Lives, Marked Souls*, the United Nations Committee Against Torture has concluded that international legal obligations to investigate alleged torture may apply regardless of whether the alleged acts of torture occurred before or after the State ratified the applicable human rights treaty.[50]*

122. *Aotearoa New Zealand has recognised the international legal right to be free from torture and cruel, inhuman or degrading treatment or punishment since 1978 when it ratified the International Covenant on Civil and Political Rights. Those subjected to breaches of their right to be free from torture and cruel, inhuman or degrading treatment or punishment have a right to effective redress for those breaches.[51]*

123. *Acts of abuse and neglect of this nature may constitute breaches of Aotearoa New Zealand's criminal and civil law. Investigating these acts (including the systemic factors that contributed to these occurring), holding those responsible to account, and providing redress to survivors is the right thing to do.*

124. *Allegations of abuse and neglect must be considered from a human rights perspective. Serious abuse and neglect, including but not limited to sexual abuse and neglect, may well amount to torture or cruel, inhuman or degrading treatment or punishment. Allegations of serious abuse and neglect need to be investigated and otherwise addressed based on that understanding.*

125. *NZ Police must work proactively to ensure that survivors, their whānau and support networks know about investigations into possible torture or cruel, inhuman or degrading treatment or punishment in State or faith-based care. This should include communication and advertising that is culturally appropriate and tailored to survivor needs to take account of barriers that may prevent people from contacting NZ Police.*



*Recommendation 6*

*Where there are reasonable grounds to believe that torture or cruel, inhuman or degrading treatment or punishment have occurred in care directly or indirectly on behalf of the State or faith-based entities, and the relevant allegations have not been investigated by NZ Police or credible new information has arisen since the allegations were investigated, NZ Police should:*

- a. open or re-open independent and transparent criminal investigations into possible criminal offending*
- b. proactively and widely advertise the intent to investigate and ongoing investigations*
- c. provide appropriate assistance and support to survivors, their whānau and support networks who contact them in relation to the investigations.<sup>24</sup>*

**We ask that in the list of issues for the New Zealand State to address should be to uphold recommendation #6 by the Royal Commission into Abuse in Care and to investigate all forms torture or cruel, inhuman or degrading treatment or punishment.**

Kind regards

Mike Ferriss  
Director

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<sup>24</sup> Abuse in Care Whanaketia part 9 The Future: <https://www.abuseincare.org.nz/reports/whanaketia/part-9/chapter-4> (paragraphs 119-125)