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Committee against Torture

REFERENCE: CAT/Follow-up – New Zealand

14 January 2025

Excellency,

In my capacity as Rapporteur for Follow-up to Concluding Observations of the Committee against Torture, I have the honor to refer to the follow-up to the consideration of the seventh periodic report of New Zealand, in accordance with the Guidelines for follow-up to concluding observations (CAT/C/55/3).

At its 77th session, held from 10 to 28 July 2023, the Committee transmitted its concluding observations to your Permanent Mission. The Committee's concluding observations (CAT/C/NZL/CO/7, para. 57) requested the State party to provide within one year further information on the specific areas of concern identified in paragraphs 28 (c), 32, 38 (c) and 48 (b) of its concluding observations.

On behalf of the Committee, allow me to express appreciation for your letter of 8 August 2024 providing your Government's response on the above-mentioned paragraphs (CAT/C/NZL/FCO/7) and to make the following comments:

Conditions on detention (para. 28 (c) of the concluding observations)

The Committee takes note of the information provided by the State party on the initiatives foreseen as part of implementation of Disability Action Plan 2023–2027, the launch of the Department of Corrections Ageing Well Action Plan 2023–2026, and the extension of the cervical cancer screening programme for female prisoners. While acknowledging the State party's efforts to identify and address the specific needs of detainees with physical disabilities and to address age-related changes in the prison population, the Committee regrets the absence of detailed information on the accessibility and coverage of psychological, psychiatric, and physical health care for all inmates, on the specific needs assessment and the adaptation of medical services for prisoners with intellectual and psychosocial disabilities, and on the adequacy of health services for the ageing population. The Committee also regrets the lack of detailed information on the integration of gender-sensitive and culturally appropriate medical services, in particular for women and lesbian, gay, bisexual and transgender persons. Lastly, the Committee notes the measures taken by the State party to address cultural appropriateness, such as the development of a preliminary framework for bicultural approaches in psychology (1/B2).

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Indigenous People in the criminal justice system (para. 32 of the concluding observations)

The Committee takes note of the information provided by the State party, including on the implementation of prevention programmes facilitated by Māori-led community panels and their formal evaluation, which showed a 22 per cent reduction in harm caused by recidivism, and on rehabilitation and skills-based programmes for different groups of detainees. It also notes the information provided in the State party's report on the capacity-building initiatives that include a Māori cultural component introduced for police, correction and judiciary personnel, as well as the creation of the new position of Deputy Chief Executive Māori. However, the Committee observes the State party's plans to introduce stricter measures in its criminal justice system, such as harsher sentencing for violent crimes and the possible reintroduction of the Three Strikes Legislation, which could lead to an increase in the overall prison population, including Māori, and limit judicial discretion in deciding certain cases. While recognizing the prerogative of the State party to shape its criminal legislation based on its public safety needs, the Committee regrets that it has not received any information on whether a prior assessment of the underlying causes of the high incarceration rates of Māori has been carried out and what the outcome was, and whether the recommendations contained in the *Waitangi* Tribunal report (*Tū mai te Rangī!*), to address the disparity in reoffending rates between Maori and non-Maori have been given due consideration. The Committee also lacks information on how the use of non-custodial measures and diversion programmes has been enhanced and what the specific results have been. The Committee further notes the information provided on programmes supported by local iwi aimed at supporting Māori defendants, victims and their families throughout the criminal justice process. Nevertheless, it lacks details on specific measures taken to address access to culturally sensitive legal assistance services, including interpretation and translation services, for marginalized and disadvantaged people, such as Maori and Pasifika (2/B2).

Juvenile justice system (para. 38 (c) of the concluding observations)

The Committee takes note of the information facilitated by the State party on the availability of non-custodial sentences and the detention of less than 10 per cent of children in conflict with the law, the intervention and prevention programmes implemented for child offenders and their families, as well as the introduction of a pilot military-style academy to provide rehabilitation and address the root causes of recidivism. The Committee, however, regrets the lack of statistical data on the non-judicial measures promoted, such as diversion, mediation and counselling for children accused of criminal offences and on non-custodial sentences applied since the consideration of the State party's seventh periodic report including the criteria applied in such cases. Furthermore, the Committee takes note of the information regarding the introduction of the pilot military-style academy and would appreciate further details about its relation to Oranga Tamariki, safety and security arrangements, curricula, adequately trained staff, safeguards in place to prevent ill-treatment, and how the trauma-informed rehabilitation programmes have been integrated into such a military setting. In this connection, it requests the State party to ensure that the practices of the academy are fully consistent with a human rights-based approach and to provide regular updates on its implementation (2/B2).

Historical abuse in State care and in the care of faith-based institutions (para. 48 (b) of the concluding observations)

The Committee takes note of the information provided in the State party's follow-up replies regarding the final report and recommendations published by the Royal Commission of Inquiry into Historical Abuse in June 2024 and the public statement made to Parliament in relation to it. It also notes the Government's plans to prioritize the recommendations relating to a public apology for abuse in care and decisions on redress. Nevertheless, the Committee regrets

the delay in providing comprehensive redress, including fair compensation and rehabilitation, to the victims of torture and ill-treatment in the cases of *Zentveld v. New Zealand* and *Richards v. New Zealand*, as acknowledged by the State party. It also regrets the lack of details on the rehabilitation programmes designed and made available to the victims, as well as the timeline for the implementation of the recommendations of the Royal Commission of Inquiry. Furthermore, the Committee notes with concern that the State party's failure to promptly initiate investigations into the torture and ill-treatment suffered by the complainants at the Lake Alice Hospital adversely affected their effectiveness since most of the former staff of the Lake Alice Unit being deceased and the investigations initiated against two individuals had to be discontinued due to their ill health and age. Lastly, the Committee takes note of the publication of the Committee's decisions on the websites of the Crown Response Unit and the Police and encourages the State party to further strengthen its efforts (2/B2).

Implementation plans (para. 57 of the Committee's concluding observations)

The Committee notes the State party's information about the development of an online tool to monitor the recommendations by the United Nations human rights mechanisms and the status of their implementation by national authorities and expects further details about specific plans for implementing, within the coming reporting period, the recommendations included in its concluding observations (B).

The Government of New Zealand is encouraged to provide additional information, if there is any, which would further contribute to the Committee's analysis of the progress made regarding the specific issues of concern cited above. This additional information may be provided in any subsequent report by the State party pursuant to the Committee's request in its concluding observations on the seventh periodic report of New Zealand or other future periodic reports.

The Committee looks forward to a continued constructive dialogue with the authorities of New Zealand on the implementation of the Convention.

Accept, Excellency, the assurances of my highest consideration.



Bakhtiyar Tuzmukhamedov
Rapporteur for Follow-up to Concluding Observations
Committee against Torture