

NETWORK FOR SURVIVORS OF ABUSE
in Faith-Based Institutions and their Supporters

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United Nations Convention against Torture: New Zealand's seventh periodic review – shadow report

Introduction

1. Thank you for the opportunity to provide information for the Committee Against Torture to consider in its examination of New Zealand.
2. Our submission is of particular relevance to the Article 14 questions 28, 29 and 30, and General Information question 34 in the List of Issues prior to reporting.[1]
3. We are a Network of survivors, their whānau, supporters, and experts in the field of abuse. Our focus is on Human Rights and the State's responsibility to protect ALL children and vulnerable adults from harm and ensure those harmed receive appropriate redress.
4. Our purpose is to raise public awareness and advocate for the Government to act on its obligations under CAT to provide and support survivors of abuse in institutions to have Government act on its obligation to protect all children and vulnerable adults in the care of institutions and where they fail, to provide redress. We have been doing this since 2017.
5. Operating solely on voluntary and pro bono input, the Network provides advocacy, peer support and access to professional assistance. Most survivors in the Network were abused in the care of faith-based institutions; some were abused in State care and some in both State and faith-based care. We also provide guidance and support to survivors reporting their abuse or engaging with redress processes.
6. We serve as a platform for our survivors who are vulnerable and have been marginalized to give them a collective "voice" to have their concerns heard and addressed. We have presented resolutions and submissions to Government and the Royal Commission of Inquiry into Historical Abuse in State Care and in the Care of Faith-based Institutions (the Royal Commission).

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7. Our report will follow a format where we voice our concerns followed by recommendations and then questions we would like to see being put before the State.

Terms we have used in this document and how they map to terms used by the CAT

Term	Definition
Crown	The executive Government conducted by Ministers and their public service agencies
Cabinet	Central decision-making body of the executive Government
Abuse	Torture and other cruel and inhuman or degrading treatment or punishment
Royal Commission	Royal Commission of Inquiry into Historical Abuse in State Care and in the Care of Faith-based Institutions. Often referred to as the Abuse in Care Inquiry

Concern - Abuse in care has been widespread and still continues

8. The United Nations Committee against Torture and the Rapporteur for Follow-up on its Concluding Observations have repeatedly raised concerns about New Zealand’s failure to act on reports of torture and ill-treatment in institutions.
9. The Royal Commission has established that abuse in care has been widespread. Children and vulnerable adults^{1 2} have been tortured. Many more have experienced cruel, degrading or inhuman treatment or punishment. The abuse has often had serious and lifelong impacts, including on survivors’ mental and physical health, personal relationships, cultural connections, self-identity, sexual behavior, education, work and finances. The stories of some survivors are included in reports from the Royal Commission^{3 4}.

¹<https://www.abuseincare.org.nz/assets/Document-Library/Royal-Commission-of-Inquiry-Abuse-in-Care-Information-booklet-Easy-Read-PDF.pdf> Pg 8 - What is a vulnerable adult?;

²https://www.legislation.govt.nz/act/public/1961/0043/latest/DLM327394.html?search=sw_096be8ed81d369a9_vulnerable_25_se&p=1&sr=1 - New Zealand Crimes Act.

³<https://www.abuseincare.org.nz/our-progress/library/v/194/tawharautia-purongo-o-te-wa-interim-report>
Interim report from the Royal Commission into Abuse in Care

⁴<https://www.abuseincare.org.nz/our-progress/reports/from-redress-to-puretumu/> Royal Commission into Abuse in Care Redress report - Volume 2 contains specific case studies and survivor accounts.

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10. A report done for the Royal Commission made an indicative estimate that from 1950 to 2019 between 114,000 and 256,000 people may have been abused while in State and faith-based care ⁵ ⁶ Abuse that occurred outside of this time frame is not within the scope of the Royal Commission. Neither is the abuse that occurred in other non-State or faith-based institutions, for example, sporting organisations.
11. In 2021 the Cabinet modified the scope and terms of reference and removed the ability of the Royal Commission to examine current abuse that continues to occur in the care of these institutions. This has prevented an examination of whether the systemic issues that enabled historical abuse still exist ⁷.
12. The Network is deeply concerned that institutional abuse continues to happen - please see below and the alternative report from the Childrens' Rights Alliance Aotearoa New Zealand to the Committee on the Rights of the Child and the Committee's Concluding Observations (CRCC/NZL/CO/6).⁸

Recommendation

13. Government be asked to give a public commitment to survivors of historic abuse in institutions, before Parliament dissolves, that they will action Recommendation 75 of the Inquiries redress report, He Purapura Ora, he Māra Tipu, and initiate the necessary processes to ensure the introduction of a comprehensive overriding statute that safeguards all children and vulnerable adults from abuse in care.

Questions to put to the State party

14. New Zealand is one of the few western countries that does not require mandatory reporting of abuse. Given what is now known from survivor and expert reports to the Inquiry, will the Government be introducing mandatory reporting in New Zealand?

⁵<https://www.abuseincare.org.nz/our-progress/library/v/197/research-report> - Royal Commission into Abuse in Care Research Report -

⁶<https://www.abuseincare.org.nz/our-progress/library/v/195/size-of-cohorts-and-levels-of-abuse-in-state-and-faith-based-care-1950-to-2019> Royal Commission into Abuse in Care - Size of cohorts and levels of abuse in State and faith-based care 1950 to 2019

⁷<https://www.abuseincare.org.nz/our-progress/library/v/3/terms-of-reference> Royal Commission into Abuse in Care - Terms of Reference are amended by Government

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<https://static1.squarespace.com/static/608737f129c8f67c2c6932b2/t/638e8db4947d2641b1973aea/1670286781916/Childrens+Rights+Alliance+Aotearoa+NZ+CRC+Report+Final+15+August+circulation+copy+202210%5B9%5D.pdf>

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15. What steps have been taken by the State party to action Recommendation 75 of the Inquiry's Redress Report and create in legislation:
- a right to be free from abuse in care
 - a non-delegable duty on the Crown, faith-based institutions and any other care providers to ensure so far as is reasonably practicable the protection of this right, together with direct liability for any failure to meet this duty
16. Given the known limitations of the monitor setup in the Education Review Office and the Ombudsman's office, can the State party advise what measures it is planning to provide independent oversight of safeguarding protocols and policies in faith-based and other institutions that are not run by State Ministries and provide care for children and vulnerable adults. What accountability will be in place where institutions fail in their duty of care to prevent harm?

Concern - The Government are failing their obligation to provide redress to survivors subjected to torture and other cruel, inhuman and degrading punishment in state, faith-based and other institutions in New Zealand. The government continues to fail to protect children and vulnerable adults from these harms.

17. The Royal Commission has described the many ways in which State agencies and faith-based institutions have prevented survivors obtaining redress.
18. The ongoing failure to ensure redress is having a serious impact on survivors of abuse. Many survivors have told New Zealand's Royal Commission and the Network that they are still waiting 30 to 40 years after they were abused in care for redress. We know survivors who have waited up to 72 years. Some have died without receiving redress.
19. The Royal Commission recommended in its 2021 Redress Report, 'He Purapura Ora, he Māra Tipu From Redress to Purutumu Torowhānui' that a new independent body be set up to address the issue of redress for all survivors.⁹ Survivors are very disappointed by the Government's slowness to act on the Commission's recommendations. Many are living in difficult circumstances unable to afford proper food or health care, and sometimes homeless. Many are in great need of trauma-informed health and social services and some financial compensation for the impact that torture and ill-treatment has had on their lives.

⁹<https://www.abuseincare.org.nz/our-progress/reports/from-redress-to-puretumu/from-redress-to-puretumu-5/1-1-introduction-20/>

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- 20.** In 2021 the Government said that “final decisions about the new system would be made by Cabinet around mid-2023, with the new system to be introduced soon after that.”¹⁰ We recognise that the development of a proper redress system takes time, but there have been numerous delays. In June 2023, the group that will recommend “high level parameters” for design has only just been appointed and the Budget for the current financial year does not include redress payments under the new scheme. We are concerned at Cabinet’s response to the Royal Commission’s redress findings which stated that redress for faith-based survivors will be “subject to the Crown being able to agree on suitable funding mechanisms with those institutions to support the operation of the redress system”¹¹ and might need to be “phased in.” Survivors of abuse in faith-based care are at risk of further long delays or not having access to redress at all under the system proposed by the the Inquiry.
- 21.** The Royal Commission also recommended a mechanism be developed to deliver rapid advance payments to aged or seriously ill survivors in advance of the new independent redress scheme being set up because of the risk that they may not be alive to access the new scheme. They advised that these payments were to be meaningful, independent and inclusive. The Government has not done this. Instead survivors of abuse in State care are receiving very small sums after some Government ministries have been instructed to speed up the clearing of their backlogs. The Ministry of Social Development for example are offering between \$10 000 and \$25 000¹² (the median annual income in New Zealand was \$61 693 in February 2023¹³).
- 22.** The Inquiry’s Redress report describes how, in the period 2006 to 2010, the State party sought to test its litigation strategy in court with the White and Wiffin cases. Despite a requirement of the State party to act as a model litigant, instead “The Crown routinely relied on limitation defenses, the Accident Compensation Corporation (ACC) bar and immunities under mental health legislation”¹⁴ In doing so, it effectively showed that no legal remedy was available under the law. As the Judge in the White vs Crown case put it “The result, as one judge noted, has been to preclude survivors who “have undoubtedly undergone regrettable suffering during their childhood and adolescence” from seeking legal redress.”¹⁵

¹⁰<https://www.beehive.govt.nz/release/survivors-abuse-state-and-faith-based-care-will-have-access-new-independent-redress-process>

¹¹<https://www.abuseinquiryresponse.govt.nz/assets/Uploads/Cabinet-papers/2022-12-01-Cabinet-paper-Redress-system-design-arrangements.pdf> Point 8.

¹²<https://www.msd.govt.nz/documents/about-msd-and-our-work/work-programmes/historic-claims/rapid-payments-fact-sheet.pdf>

¹³<https://www.newzealandshores.com/new-zealand-job-search/salaries-new-zealand/#:~:text=The%20median%20income%20in%20New,a%2040%2Dhour%20week>).

¹⁴ He Purapura Ora, he Māra Tipu - Pg 141

¹⁵ He Purapura Ora, he Māra Tipu - Pg 231

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- 23.** Under current legislation, survivors have no remedy via the courts (see 35). In 2019, at the direction of Crown Law, the Ministry of Justice began a review of the Statute of Limitation Act because the Royal Commission identified it as a major barrier to legal remedy for survivors. There has been no public report as yet about the progress of this review.
- 24.** We assert that the State is acting with impunity because its current Alternative Dispute Resolution (ADR) process is the only option. Repeating this response for thousands of survivors is a key example of the Government acting with impunity and infringing on survivors' human rights.
- 25.** Survivors report being pressured into signing full and final settlement agreements, despite the Royal Commission recommending that all settlements be considered "interim" from the point that they released the redress report. ¹⁶ Survivors of abuse in faith-based institutions are excluded from the Government's rapid advance payments scheme¹⁷ and were instead advised to seek redress directly from the faith-based institution where they were harmed.
- 26.** We know of hundreds of faith-based institutions where abuse occurred. Many do not have any processes in place for reporting or applying for redress, for example the Jehovah's Witnesses and Exclusive Brethren. Some no longer exist or have left New Zealand, leaving the survivor with no access to redress. Institutions usually require substantiating evidence which can be impossible to obtain. This happens, for example, when records have been lost, not kept, or destroyed and/or when someone abused as a child does not know the name of their assailant or could not recognise them because their abuse occurred in the dark.
- 27.** Survivors of abuse in State care are required to have their complaint of abuse substantiated by one of four different State ministries. Some survivors have to report to more than one ministry, and/or to a faith-based institution. The Royal Commission has described the extraordinary lengths the Crown has gone to deny claims and redress.¹⁸
- 28.** In the case of those abused in faith-based institutions (38% of all those historically abused in NZ ¹⁹), or placed into the care of faith-based institutions by the State, the entities to approach number in the hundreds. There are, for example, hundreds of Catholic and Anglican organisations alone in New Zealand when you include not just the churches but their affiliated schools and social services in areas such as retirement homes.

¹⁶<https://www.newsroom.co.nz/msd-offers-abuse-victims-full-and-final-settlement-despite-royal-commission-report>

¹⁷<https://www.stuff.co.nz/national/crime/129540179/we-will-die-first--religious-abuse-survivors-speak-up-after-exclusion-from-government-payouts>

¹⁸<https://www.abuseincare.org.nz/our-progress/reports/from-redress-to-puretumu/> Royal Commission into Abuse in Care Redress report

¹⁹Economic Cost of Abuse in Care- Pg 3

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- 29.** The only other option available to survivors for redress is the compensation and rehabilitation component available to survivors from the Accident Compensation Corporation (ACC). This is limited to physical injuries or sexual abuse. There can be considerable barriers to accessing entitlements as described in the John Miller Report on “Issues faced by ACC claimants”²⁰. If their claim is accepted, survivors can receive grossly insufficient financial payments and professional mental health support. However there is a long-standing unaddressed shortage of qualified mental health practitioners to deliver it. The Commission has reported on the negative impacts for many survivors who engage with ACC and its deficits.²¹
- 30.** The Inquiry’s Redress report devotes many pages to detailing the various statutes that prevent an historic abuse survivor from gaining legal remedy. All redress provided is established solely by the entity from whom it is sought. The quantum varies widely but is common in one theme and that is that it is nowhere near the amount of \$857,000²² calculated in the Martin Jenkins Report, commissioned by the Inquiry.
- 31.** Survivors cannot achieve ‘Satisfaction’ (an independent verification of facts and a public Statement of truth) while they don’t have access to the courts. Satisfaction will also be denied survivors if the Government acts on the recommendation of the Royal Commission that the proposed independent entity for redress keep its redress decisions confidential. This will also mean that the consistency, transparency and accountability survivors asked for will not be achieved.
- 32.** Very few survivors have their cases upheld in the criminal courts as the standard of proof required is very high. The criminal court is also focussed on appropriate punishment for the perpetrator rather than redress for the survivor.
- 33.** The civil courts are inaccessible to the majority of survivors because they are costly to access and very few qualify for financial legal aid (a loan to assist). Many survivors are:

 - time barred by the Statute of Limitations (six years) or
 - ACC law barred (mental and physical injuries cannot be claimed) or
 - denied justice because faith based institutions are set up in such a way as to not be a legal entity (Ellis defense) or they claim not to be employers because their staff are volunteers or because their clergy are employed by God or they claim no vicarious liability for the perpetrator that worked for them.

²⁰<https://www.abuseincare.org.nz/our-progress/library/v/411/issues-faced-by-acc-claimants> - John Miller - Issues Faced By ACC Claimants report to the Abuse in Care Inquiry

²¹<https://www.abuseincare.org.nz/our-progress/library/v/411/issues-faced-by-acc-claimants> - John Miller - Issues Faced By ACC Claimants report to the Abuse in Care Inquiry

²²Economic Cost of Abuse in Care- Pg 3

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34. Those that do persevere with a civil court case face long delays, financial risk and a judiciary that are not well trained in understanding abuse and the effects of it.

Recommendations

35. We urge the Government to urgently provide appropriate and adequate redress to all survivors of historic abuse in institutions.

36. Given that Government have indicated that the Puretumu Torowhānui scheme recommended by the Inquiry will take some time to be established and given that Cabinet has not made a decision that faith-based survivors will have access to it. We submit that the Government urgently needs to take the interim measure of setting up a mechanism to ensure faith based survivors who have reported their historic abuse immediately receive the financial and professional support deserved and needed. The mechanism needs to be inclusive, independent, and the amounts paid need to be meaningful.

37. Government be asked to publicly report on the scope and progress of the review by the Ministry of Justice and NZ Law Society on barriers to survivors seeking legal remedies.

Questions to put to the State party

38. Given the greatest number of survivors of historic abuse were not under the legal guardianship of the State, can the State party explain what measures it is putting in place to require redress payments to those survivors to meet its human rights obligations?

39. The Martin Jenkins report²³ was commissioned by the Abuse in Care Inquiry to estimate the number of New Zealand citizens affected by abuse in care (under the scope of the Inquiry) and the cost of abuse to survivors. Given the cost of abuse was estimated at \$857,160, how does the State party defend its monetary redress in the Ministry of Social Development (MSD) alternative disputes resolution process of \$10,000 for 1 to 5 years in care, \$20,000 for 5 to 15 years in care and \$30,000 for greater than 15 years in care?

40. Further, financial redress for faith-based survivors ranges from \$5000-\$15000. The current average payment is \$30,000 with recent increases in one church institution to between \$80000 and \$90000. Many church institutions do not provide any redress. How does the State party defend its decision to leave rapid redress in the hands of faith-based institutions?

²³<https://www.abuseincare.org.nz/our-progress/library/v/195/size-of-cohorts-and-levels-of-abuse-in-state-and-faith-based-care-1950-to-2019> Royal Commission into Abuse in Care - Size of cohorts and levels of abuse in State and faith-based care 1950 to 2019

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41. Can the State party explain why Cabinet has not committed to giving all survivors of abuse in care access to the proposed independent redress entity and has made it dependent on whether the faith-based institutions where survivors were abused will contribute funds. Can they explain how this complies with the obligations the Government has under CAT for all survivors of abuse?
42. Further, can the State advise how this fits with the recommendation from the Royal Commission in its Redress Report that the State require faith-based institutions to cease investigating themselves and refer all complaints and redress requests to the proposed independent entity?
43. Deeds of settlement for both State and faith-based are full and final, unless the Government gives them access to reapply for an updated payment from the new entity when it is established. Can the State Party confirm that it will be responding to survivors and abuse experts request to confirm they will waive the 'full and final' clause in any Deeds of Settlement and ensure all survivors are entitled to updated payments?

Concern - Many survivors have reported to our Network that accountability and prevention of further harm are an essential part of redress and yet they are faced with no 'Guarantees of Non-repetition' from the Government.

44. The Royal Commission has investigated and held public hearings about past abuse in the Catholic, Anglican, Presbyterian and Methodist churches, the Salvation Army, and Gloriavale Christian Community. Some survivors of abuse in other faith-based institutions have reported to the Royal Commission. The Network is very concerned that there are faith-based institutions where there are known risk factors of power hierarchies and religious justification of gendered oppression where there has been no scrutiny by the government or Royal Commission and where cultures of fear and secrecy may prevent people speaking out about abuse.
45. There is no independent oversight of faith-based institutions occurring to ensure safety standards are being met despite the high rates of abuse in these settings reported to the Royal Commission. The Government has not taken measures to ensure faith-based institutions have safe, fair and competent complaint and redress processes despite recommending aged and ill survivors go back to them for advance payments.²⁴ The ongoing battle for many years by the Gloriavale leavers to get the Government to investigate abuse occurring in their community is evidence that the government cannot be relied on to do this.²⁵

²⁴<https://www.beehive.govt.nz/release/rapid-payments-starting-historical-abuse-claimants>

²⁵<https://www.gloriavaleleavers.org.nz/legal/>

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46. Existing State based systems continue to fail and we believe a major contributing factor is that there is no statutory accountability. By way of example, in May 1, 2023, The Oversight of the Oranga Tamariki System Act came into effect in New Zealand and an independent children's monitor was established.²⁶ This year they reported that Oranga Tamariki was not meeting minimum standards overall for children in care and that there had been a 250 % increase in staff physical assaults on children.²⁷ There is a new 'Integrity Sport and Recreation Bill' currently proposed to provide an independent body to make sure sporting clubs have good complaints processes and to protect the safety and wellbeing of participants.²⁸ Yet, there is no similar bill proposed to protect the safety and wellbeing on those in the care of faith based institutions, despite them being a focus of the Inquiry. The Government appear to be taking a scattered approach to oversight when they should in fact be actioning recommendation 75 of the inquiry and placing in statute a right to be free from abuse in any setting.

Concern - New Zealand has not removed its reservation to Article 14 of the Convention Against Torture and while New Zealand has the Crimes Against Torture Act, ill-treatment and, in particular, the Convention's provisions around redress have not been fully incorporated into domestic legislation.

47. The Government of New Zealand reserves the right to award compensation to torture victims only at the discretion of the Attorney-General of New Zealand. There has been no progress on this, New Zealand's disregard of its obligations under the Convention is shown in the slowness of the Government to act on the Committee's decision concerning Mr Malcolm Richards (CAT//C/73/D/934/2019).

48. The Government's response to the Committee infers that redress will be provided once the independent redress body, recommended by the Inquiry, is in place. Cabinet papers indicate this will be no earlier than 2025. There is no mention of the Convention in initial scoping documents for the independent redress body.

49. Human rights breaches are still being reported across all the institutions.

²⁶<https://aroturuki.govt.nz/>

²⁷<https://www.rnz.co.nz/news/national/483518/reported-assaults-on-children-by-oranga-tamariki-staff-up-250-percent-in-2-years>

²⁸<https://www.legislation.govt.nz/bill/government/2023/0243/17.0/whole.html>

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- 50.** More recently and of particular concern are the reports from high-demand closed faith-based organisations such as Gloriavale, the Jehovah’s Witnesses and the Exclusive Brethren, where there are reports of ongoing human rights breaches including abuse, the denial of the freedom of association, the denial of voting rights, the removal of freedom of movement within New Zealand, and the denial of access to information. While the latter are contained within the New Zealand Bill of Rights Act, its application is confined to the actions of public bodies ²⁹, it is simply not broad enough.
- 51.** The Human Rights Act³⁰ is the other key piece of human rights legislation in New Zealand and it does apply to all. It addresses discrimination, conversion therapy and sexual harassment but doesn’t include many other human rights abuses as stated by UNCAT.
- 52.** Churches are excluded from various legislation. As an example, they don’t come under the Children’s Act ³¹so legally are exempt from safety-checking people who will be working with children and are exempt from having policies to ensure people’s safety. There is no mandatory reporting of abuse in New Zealand so faith-based institutions are not required to notify anyone of abuse reported to them.
- 53.** It can be argued that the people living under the control of high-demand closed religions are effectively living in detention but they are not monitored in the way that other detention facilities are. Survivors in our Network from such religions report that they “escaped”. They have said leaving was very difficult because of psychological barriers and punishments. These include: indoctrination from birth to believe that those living outside of the faith are to be feared; being taught by the leaders that they are God’s chosen people and to leave will mean losing their salvation and the replacement of eternal life in heaven with eternal torment in hell; being denied access to information via such mediums as the internet that could mean they would question church teachings; refusal of permission to question the teachings of the male elders; living in dependency on the community and fully losing these financial and social resources on departure; and shunning. Shunning is a severe punishment for leaving, they are not allowed to have contact with their family members and friends in the religious community who are instructed to no longer associate with them because the leaver is now “worldly” and “evil.”

²⁹New Zealand Bill of Rights Act:

<https://www.legislation.govt.nz/act/public/1990/0109/latest/whole.html#DLM224799>. Note 3: Application

³⁰Human Rights Act: <https://www.legislation.govt.nz/act/public/1993/0082/latest/DLM304212.html>

³¹Children’s Act 2014

<https://www.legislation.govt.nz/act/public/2014/0040/latest/whole.html#DLM5501673>

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Recommendation

54. Remove the article 14 reservation that leaves the decision about redress in the hands of the Attorney General.
55. Fully incorporate the Convention Against Torture and in particular its provisions for redress into legislation.

Concern - The right to be free from abuse in care is still not enshrined in Statute.

56. This is a key recommendation of the Royal Commission in its 2021 report on redress³² and required under Article 15. The Government has ignored this recommendation and does not mention it when addressing other recommendations from the Royal Commission.

Concern - The Government's initial exclusion of survivors of abuse in faith-based care from the Inquiry and subsequent amendment of its scope in 2021.

57. A Royal Commission is the highest form of independent inquiry into matters of great importance and difficulty and what survivors requested of Government. Under the Inquiries Act 2013 (link <https://www.legislation.govt.nz/act/public/2013/0060/48.0/DLM1566106.html>),
58. a Royal Commission and its appointed Commissioners must act independently, impartially and fairly. In practice there are various ways in which a government has the potential to constrain the activities of a Royal Commission.
59. The Cabinet, after receiving advice from officials, sets the scope and terms of reference, appoints the Commissioners, and determines the funding. The Solicitor-General appoints the consul that assists the inquiry. The Executive Director who manages the Commission's secretariat is appointed by the Department of Internal Affairs. Officials advise the Cabinet on responses to the Commission's findings and recommendations and whether and how these recommendations can be acted on. The Cabinet decides on responses which government agencies are then responsible for implementing.
60. Survivors of abuse in faith-based institutions, the largest group, had to lobby the Government to be included in the scope of the Inquiry and were impacted by the reduction of scope announced by the Government in 2021.³³
61. Further, throughout the term of Royal Commission, survivors of both State and Faith-based institutional abuse have raised concerns about the possible ongoing influence of those who previously denied their access to redress, and whom they see as not being held accountable for breaches of the human rights of children and vulnerable adults in care.

³²He Purapura Ora, he Māra Tipu - Pg 331

³³ <https://www.beehive.govt.nz/release/royal-commission-historical-abuse-scope-adjusted-avoid-timeline-delay>

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62. Of particular concern to survivors is the amendment of the Terms of Reference in 2021. This constrained the Commission's focus about abuse in faith-based care to those who were under the legal guardianship of the State. It also stated that, "the inquiry is not permitted to examine or make findings about current care settings and current frameworks to prevent and respond to abuse in care, including current legislation, policy, rules, standards, and practices (Clause 15D) (link to <https://www.abuseincare.org.nz/our-progress/library/v/3/terms-of-reference>). This amendment was made despite it being clear from survivors' testimony at that time, that many systemic factors contributing to abuse in care still existed and continue to be a barrier for prevention of abuse.
63. Some survivors have come to believe that the Inquiries Act needs strengthening to protect and ensure the independence of an inquiry that is examining the actions of the Government.
64. Despite the Government promising to action the recommendations of the redress report, it has instead taken a selective approach to which recommendations to action and has restated them to meet it's own goals as evidenced by not providing a rapid redress process for faith-based survivors.
65. In doing so, the Government maintains that its responsibility is limited to those children and vulnerable adults who were in the legal guardianship of the State denying the scope of its responsibility under UN Conventions and Treaties.

Conclusion

66. New Zealand continues to be in breach of its obligations under the Convention. The Government's response to address abuse in institutions has not been adequate; not included all survivors; not ensured all survivors who have been have tortured and/or subjected to cruel, degrading and inhuman treatment or punishment in institutions have the timely redress required; and not ensured the future protection of children and adults from such harm.

We thank the committee for their time in reading and considering our shadow report.

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