

Survivors of abuse demand accountability over decades-long cover-up by the New Zealand state

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New Zealand's National Party-led coalition government is desperately seeking to minimise the fallout from the explosive findings of the Royal Commission of Inquiry into Abuse in Care.

The long-running inquiry released its final 3,000-page report in August, documenting in horrifying detail the physical, psychological and sexual abuse suffered by generations of children, young people and psychiatric patients. The 3,000-page report concluded that as many as 256,000 people between 1950 to 2019 were abused and neglected—about one third of the total numbers placed in state or religious institutions.

The commissioners found that state and religious leaders “knew, or should have known, about the abuse and neglect that was happening. They failed not only in their duty to keep people in their care safe from harm, but they also failed to hold abusers to account.”

They also wrote: “Political and public service leaders spent time, energy and taxpayer resources to hide, cover up and then legally fight survivors to protect the potential perceived costs to the Crown, and their own reputations.”

On November 12, Prime Minister Christopher Luxon and opposition Labour Party leader Chris Hipkins are scheduled to jointly deliver a national apology to survivors. The government says it will also reveal details of its response to the Royal Commission's report, which included recommendations for redress, independent oversight of care institutions and the reopening of police investigations into specific allegations.

The aim of the apology is to divert public attention from the role played by numerous current and former government ministers, senior public servants, church leaders and senior police officers in the decades-long cover-up.

On October 23, Attorney-General Judith Collins rejected calls by survivors for the resignation of Solicitor-General Una Jagose, the government's top legal advisor. Collins told *Newsroom* that she had confidence in Jagose even though

the latter “accepted that the way in which Crown Law—over the years—conducted its litigation has not necessarily been focused on victims.”

Jagose joined the Crown Law office in 2002. In 2015 she briefly served as head of the Government Communications Security Bureau, the country's spy agency, before being appointed to her current role in 2016.

Leoni McInroe, who was abused as a teenager at the Lake Alice psychiatric hospital during the 1970s, told *Newsroom*: “[Jagose] has made it very clear in all of their legal technicalities and assault on children that were abused—either in Lake Alice or in other situations—legally, she has fought vigorously and aggressively to have us go away.”

Jagose is mentioned numerous times in the Royal Commission's report as she played a major role in defending the Crown against allegations from victims.

McInroe and other Lake Alice patients were given electro convulsive therapy (ECT) as a form of punishment, which the Royal Commission said amounted to torture. In the 1990s she filed a civil claim over what she had endured, which Crown Law spent years fighting in the courts.

Newsroom points out that “The Crown held overwhelming documentary evidence these allegations of torture [against Lake Alice's Dr Selwyn Leeks] were true but withheld this evidence on numerous occasions.” In 1999, then Health Minister Bill English publicly admitted that there had been cases of torture at Lake Alice. Yet Leeks and other staff who abused more than 200 children and young people—including with electric shocks to the genitals and acts of rape—were never held accountable.

In a detailed analysis of the cover-up, *Newsroom* reporter Aaron Smale explains that “it was the Crown that held the largest body of documentary evidence [about the crimes committed at Lake Alice]. But if Leeks were held fully responsible, the Crown would be legally and financially liable.” Extensive evidence pointing to Leeks' guilt was kept secret and withheld from police.

In May 2000, Labour Party Prime Minister Helen Clark and Health Minister Annette King presented a Cabinet committee with options for dealing with the Lake Alice allegations. Their preference was for out-of-court settlements that limited liability and did not set a precedent.

Clark and King also recommended that Cabinet “seek Crown Law advice on the likelihood of success of technical defences” against the alleged victims. The prime minister and health minister expressed the hope that by putting “the onus on plaintiffs,” who had extremely limited resources, to prove their claims, “a denial of liability by the Crown may succeed.”

Smale concludes that “The victims of the state were effectively treated as legal enemies of the state. The victims of the state’s crimes were treated like criminals, while the real criminals walked.”

In another case examined by the Royal Commission, a man referred to by the pseudonym Earl White took legal action in 2007 against the Crown for trauma resulting from being sexually abused at Hokio Beach School. The Crown’s lawyers knew that the perpetrator Michael Ansell, the school cook, had been convicted for sexually abusing other children at the school in the 1970s, but this information was not provided to White’s lawyer. One of the government lawyers involved in the case was Jagose.

Smale reports that in the lead-up to the White trial, the Ministry of Social Development and Crown Law hired private investigators to “dig dirt” on White—a fact that was only admitted in 2018. The Crown accused White of an “abuse of process” and sought to discredit his claim that the abuse had caused him significant harm.

High Court Justice Forrest Miller sided with the Crown: despite finding that White had been abused at least 13 times, he declared that it had been “embarrassing, not traumatic,” and had not contributed to his severe mental health and addiction issues. Thus, the Crown avoided liability. Miller asserted, without any evidence, that White’s “difficulties” were caused by early childhood experiences and genetics. Jagose defended Miller’s extraordinary decision when White went to the Court of Appeal, which again ruled in favour of the Crown.

The Royal Commission’s report states that Hokio Beach School had a “culture of severe violence” including “severe corporal punishment, sometimes inflicted with weapons and to the genitals.” In addition, peer-on-peer violence was encouraged, “sexual abuse was pervasive,” “racism and cultural abuse was normalised” and “solitary confinement was misused.”

Jagose was also involved in representing the Crown against Keith Wiffin, who took legal action against the Ministry of Social Development in the 2000s over sexual

abuse at Epuni Boys Home in the 1970s. Crown Law withheld information from Wiffin’s lawyer Sonja Cooper, including the fact that the perpetrator Alan Wright-Moncrief had been convicted for sexually abusing other children.

In her evidence to the Royal Commission, Jagose admitted that the information should have been disclosed. Asked why it was not, she replied: “I don’t know, I can’t answer. It should have been.”

In September 2008, Crown Law wrote to Wiffin’s lawyer to dissuade him from proceeding with his criminal complaint. Wiffin told the Royal Commission he was led to believe that Crown Law was engaged in its own investigation of Wright-Moncrief, which it was not.

Newsroom’s Smale observes that “The political and official cover-up highlighted by the Royal Commission has had no direct consequences at all.” Several politicians, state officials, judges, lawyers and others implicated by the inquiry remain in positions of power and influence.

While the government and opposition parties prepare to deliver their national apology, the brutalisation of young people continues. Another 519 children were abused in state custody last year. The victims are overwhelmingly from poor, working class backgrounds, including large numbers of Māori.

The far-right coalition government recently reintroduced military-run “boot camps” for teenage offenders—despite the Royal Commission documenting cases of bullying, extreme violence and rape at similar programs.

The Royal Commission revealed the brutal reality of capitalism in New Zealand. As the global economic crisis intensifies, the business elite views hundreds of thousands of young people as surplus to requirements. They are condemned to a life of poverty, unemployment, incarceration or being pushed into the military to fight imperialist wars abroad.

For this reason, the continuing fight for justice for the victims of abuse at the hands of the state must be linked with the political struggle for socialism; that is, for a society that will put an end to all forms of social inequality, exploitation and militarism.



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