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1-0—New Zealand loss before the United Nations Working Group on Arbitrary Detention

A landmark decision was issued by the UN Working Group on Arbitrary Detention today enhancing right of prisoners especially the intellectually disabled.

The Working Group is a UN-mandated body of independent human rights experts that investigates cases of arbitrary arrest and detention that may be in violation of international human rights law.

Human Rights Lawyer Dr Tony Ellis welcomes the first victory any NZ lawyer has achieved before the Working Group in *A v New Zealand*.

Mr A 59 year old, who has been detained in custody for the last 45 of 46 years has been found to have been arbitrary detained for the last 11 years, and discriminated against because of his intellectual disability, and the Working Group calls for his release from prison and compensation.

The Government has not yet been in touch, despite having the decision for two weeks. I am writing to the Attorney-General today seeking a response, which if not satisfactory will result in High Court action next month.

Mr A had been detained in various psychiatric hospitals for 26 years from the ages of 12-38, then released for a year, then sentenced to preventive detention in 1993. He has remained in prison ever since.

Only one other person has been detained longer, and I am considering his case.

Arbitrary detention is both a breach of domestic and international law.

Section 22 of the New Zealand Bill of Rights Act reads:

22 Liberty of the person

Everyone has the right not to be arbitrarily arrested or detained.

Article 9(1) and (5) of the International Covenant on Civil and Political Rights say:

1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.

5. Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.

The Working Group was set up by the UN in 1991, for information see <http://www.ohchr.org/EN/Issues/Detention/Pages/WGADIndex.aspx>

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The Working Group visited New Zealand last year, and issued a media release following its visit.

<http://www.scoop.co.nz/stories/PO1404/S00106/un-working-group-on-arbitrary-detention-statement.htm>



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