

Twelve years after Christchurch earthquake, building collapse victims denied justice

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24 February 2023

While large parts of New Zealand are reeling from the flooding caused by Cyclone Gabrielle, which killed 11 people and destroyed thousands of homes and businesses, February 22 marked the twelfth anniversary of another catastrophic event: the earthquake which devastated Christchurch, the South Island city of about 380,000 people.

The quake, which was followed by months of damaging aftershocks, rendered entire suburbs uninhabitable. Tens of thousands of people were displaced and many spent years fighting insurance companies to replace or repair their homes. In the city centre, more than 1,200 buildings had to be demolished.

The earthquake claimed 185 lives. This toll was not simply the result of an unavoidable natural disaster: nearly two thirds of those who died, 115, were in the cheaply-constructed Canterbury Television (CTV) building, which collapsed in just 10 to 20 seconds.

Among the victims were employees of CTV, students and staff at an English language school, and medical centre staff and patients. They included citizens of New Zealand, Japan, China, the Philippines, Thailand, and South Korea.

There is overwhelming evidence that the CTV building failed to meet basic building standards and was extremely unsafe. Despite this, no one has been held accountable. Successive National Party and Labour Party governments, along with crown prosecutors and the police, have worked to protect the wealthy and well-connected individuals responsible for its design and construction.

All the capitalist parties bear responsibility for deregulating the construction industry to boost profits, during the 1980s and 1990s. As a result, tens of thousands of buildings and houses across the country are not watertight, and many face elevated risks of fire and/or earthquake damage.

A royal commission of inquiry into the earthquake in 2012 concluded that the CTV building design by Alan Reay Consultants was deficient and should never have been granted a permit by the Christchurch City Council in 1986. Its report noted that the council's inspector, engineer Graeme Tapper, feared that the design posed an earthquake risk but came under pressure from his superiors to sign off on it.

The inquiry also concluded that Dr Alan Reay failed to properly supervise his employee David Harding, the engineer immediately in charge of the project, who had no experience in designing multi-storey buildings.

Structural weaknesses were identified in 1990 by a prospective buyer of the CTV building. Some retrofitting work was carried out the next year but no permit was applied for and the inquiry found that the building "remained non-compliant for seismic actions."

A three-year police investigation from 2014 to 2017 uncovered more evidence against Reay and his company. Police commissioned work by engineering firm Beca, which found more than 300 deficiencies in the design of the CTV building. Based on this and the royal commission's findings, police recommended that the crown prosecute Reay and Harding for manslaughter.

The state's solicitors, however, rejected the recommendation. In November 2017 police announced that the prosecution would not proceed because it had little chance of success and was not in the "public interest."

Since then, the families of the victims have continued to fight for justice for the 115 preventable deaths.

Professor Maan Alkai, whose wife Dr. Maysoon Abbas died in the CTV building, has played a leading role as spokesman for the CTV Families Group. In April 2018, he and seven other family representatives signed an affidavit sent to the Labour Party government's Attorney-General David Parker, outlining their opposition to the non-prosecution decision.

The affidavit stated that during a meeting of senior Crown Law solicitors and police with the families on December 14, 2017, deputy solicitor-general Brendan Horsley appeared unaware of basic facts about the case. At one point, Alkai informed Horsley that there were 300 design deficiencies and that Reay was aware the building was unsafe. Horsley turned to crown solicitor Mark Zarifeh and detective superintendent Peter Read and said, in front of the families, that he did not know about this, and that it could be used to press charges for negligence.

The families demanded that the decision be reconsidered. Their affidavit also drew attention to Horsley's extraordinary and biased outburst during the meeting, in which he denounced the families for "baying for blood" by calling for Reay to face charges.

In the past five years the attorney-general has refused to respond to the issues raised in the affidavit. Meanwhile, the Labour government has promoted Horsley: in May 2020, then Prime Minister Jacinda Ardern announced his appointment to the position of Inspector-General of Intelligence and Security, which oversees the country's spy agencies.

The government has continually ignored and brushed aside the CTV families' appeals for justice. It has washed its hands of any responsibility for the refusal to prosecute over the building collapse.

Alkai told the *World Socialist Web Site* that Ardern had refused to meet him to discuss the case. "Whenever she saw me, she would look very uncomfortable and wanted to avoid any discussions," he said.

At an official function on the tenth anniversary of the earthquake, February 22, 2021, attended by Ardern and other senior politicians, Alkai gave a speech denouncing the "mistreatment and injustice" that the CTV families had endured for 10 years.

That afternoon "the prime minister came to me and said: 'Maan, you were not right about one of the things that you said in the statement.' She meant the mistreatment. I said: 'Okay, I would like to at least meet you for half an hour to discuss this.'" Ardern refused and referred him to Megan Woods, a Christchurch-based Labour MP.

In April 2021, Alkai met with Woods and then Police Minister Poto Williams, who told him that they would refer his complaint to Attorney-General Parker. After 10 more months of waiting for a reply, Alkai wrote to Ardern and Woods, who apologised for the delay. Parker then sent what Alkai described as a "generic reply: that we don't interfere

with the police decision, we're sorry for your loss, blah blah blah."

Alkaisi said "the attorney-general has not read his own job description," which states that he is responsible for intervening to ensure that justice is properly administered in cases of high public interest.

Alkaisi wrote again to Arden, Parker and the leaders of other parliamentary parties, outlining the CTV Families Group's complaint against Horsley. This letter, dated June 15, 2022, said that Horsley had "insulted and mistreated the quake victims' families in violation of Crown Law guidelines" and had displayed conduct "which falls short of the standard of competence and diligence expected of a reasonably competent lawyer."

The letter states: "There is no evidence of any behaviour or comments from the families in the past almost twelve years that suggests they were 'baying for blood' as Mr. Horsley claimed." It added that the statement "indicates Mr. Horsley's extreme bias when he advised the police not to prosecute."

Alkaisi objected to Horsley's statements that a prosecution over the deaths of 115 people was not in the "public interest"; that it would be too expensive; and that there was "no major departure" from normal practice in the CTV building's design and construction—a claim that flies in the face of the royal commission and the technical investigation by Beca.

He also noted that Horsley referred to Reay as a person of "good character" in a letter to families of the Japanese victims, dated September 2, 2019. Alkaisi wrote that this ignored the fact that "Mr. Reay was fully aware of the design deficiencies in the CTV building including the risk of collapse in case of earthquake, yet Mr. Reay did not take any effective action to rectify the design deficiencies or inform the council or the occupants," even after the building was damaged in the September 2010 earthquake.

Alkaisi also drew attention to revelations in a letter sent by police detective superintendent Peter Read to Crown Law on August 11, 2017 (made public through the Official Information Act). Read criticised Horsley for placing "undue emphasis" on a single affidavit in support of Dr Reay, which was "based on information supplied by Dr Reay... that Police believe is factually incorrect."

The same letter noted that there were "approximately 20 other signed statements [from experts] which all support the position that Mr Harding should never have been permitted to work on his own and that in taking on the commission, Dr Reay should have satisfied himself that Mr Harding was competent to carry out the design."

On October 11, 2022, Alkaisi finally received a four-page letter dismissing the families' complaint, signed by Solicitor-General Una Jagose. Jagose declared that she was "confident in the process by which Police reached their decision not to prosecute, and in the outcome itself." She offered no evidence to back up this assertion.

She also said Horsley told her he "does not recall" saying that the victims' families were "baying for blood," despite the statement being witnessed by several people.

Jagose claimed that the decision not to prosecute was made by police, that the Independent Police Conduct Authority (IPCA) had upheld the decision, and she would not "second guess" that finding. She refused to conduct "what would effectively be a peer review of the legal advice and/or the Police decision."

The implication that police could conceivably have prosecuted Reay and Harding against the advice of Crown Law is completely false. The decision not to lay charges was clearly taken at the highest levels of the state apparatus.

In a report defending the police, dated September 22, 2020, IPCA chair Judge Colin Doherty confirmed that "it would be rare for Police to lay a charge contrary to advice given by a Crown Solicitor and the Deputy Solicitor-General. In more than 23 years as a Judge, I cannot recall ever presiding over such a case. If it were to happen, it would be open to the

Crown Solicitor to withdraw the charge after he or she assumed responsibility for the prosecution."

Strikingly, the IPCA also found that police had decided "that a prosecution was unlikely to result in a conviction" but that the "precise basis for that decision appears never to have been documented."

Alkaisi was astonished by this. He told the WSWs: "This is the lives of 115 people. The police changed their position from 115 manslaughter charges to no charges at all, but there's no record of how that happened."

He noted that the CTV families had been left with nowhere to turn because "in our system those Crown lawyers' decisions or recommendations are not arguable. Nobody can discuss them, you can't review them. You're not supposed to question them."

Alkaisi said the experience of the CTV families had broader significance, particularly in light of the destruction caused by Cyclone Gabrielle. What had happened to those killed in the CTV building "can happen to anybody," he said. The whole country was at risk from earthquakes and other natural disasters and "we have to learn, we have to be careful, we have to be prepared."

The CTV families had spent 12 years "trying to hold somebody to account so that we could send a message to others. At the end of the day, why did Reay do a bad design? He took shortcuts and put less steel, less supportive systems, to make more money. A lot of those houses, bridges, roads destroyed by flooding, I'm sure, have similar stories."

Alkaisi also noted parallels with the 2010 Pike River mine disaster, in which 29 workers were killed in a series of underground explosions. To this day, no one has been held accountable, again despite overwhelming evidence from a royal commission of inquiry that Pike River Coal broke the law and cut corners on safety, turning the mine into a death trap. In 2021 the Labour government abandoned a manned reentry of the mine, refusing to retrieve bodies and recover vital evidence from the mine workings.

The CTV and Pike River cases are both damning examples of a system of class justice, in which the lives of ordinary working people are treated as expendable, while those who profit from deadly commercial practices go unpunished. Like the 2017 Grenfell Tower fire in London, the recent rail disaster and toxic spill in Ohio, and the catastrophic loss of life following the Turkey-Syria earthquake, these avoidable tragedies in New Zealand underscore the need for the working class to take power out of the hands of corporations and the rich, and for society to be reorganised on the basis of social need, not private profit.



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