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**Presumed Guilty? Evaluating New Zealand's Pretrial
Detention Practices through an International Human Rights
Lens**

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Abstract

Individuals charged with an offence are often remanded in custody until they appear in court. Hence, their fundamental human rights are being compromised despite not yet being convicted of any crime. These are some of the most vulnerable prisoners, who are subjected to what is often described as the most volatile prison environments. Furthermore, those who are remanded in custody pending their court appearance are automatically deemed as maximum security, limiting their access to rehabilitation programmes, legal advisors, outdoor recreation time and access to meaningful activities. Various international human rights instruments exist to protect the rights of imprisoned individuals and guide practices in detention facilities. This paper examines the issues surrounding the treatment and conditions of New Zealand's remand prisoner population, explains how New Zealand is not meeting its international obligations in some areas, and suggests solutions for reform. This includes providing compensation to individuals who are remanded in custody but are subsequently found innocent, extending rehabilitation programmes to remand prisoners and addressing the key issue of understaffing in prisons.

Key Terms

“Remand”, “International Human Rights”, “Rehabilitation”, “Prison”.

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I Introduction

It is well established in international and domestic human rights law that everyone who is charged with a criminal offence has the right to be presumed innocent until proven guilty. However, many people are being punished in the form of imprisonment without any conviction or formal sentencing. Hence, in itself, remanding someone in custody pre-trial is a breach of the presumption of innocence. However, it has legal justifications in some circumstances making the practice permissible by international human rights standards.

While the practice of remand serves the purpose of ensuring public safety and the administration of justice, it is crucial to strike a balance between these objectives and the principles of fairness, the presumption of innocence, and respect for an individual's human rights. This balance requires a thorough assessment of the circumstances and a presumption in favour of the individual's liberty.

In this paper, I examine the international human rights instruments relating to the human rights of individuals who have been imprisoned. I also look at the relevant domestic legislation regarding the practice of remanding individuals in custody. Through findings from monitoring reports mandated by New Zealand's international obligations as well as prison inspection reports, I discuss the conditions and treatment of people in remand units throughout New Zealand. I provide insights as to how the treatment of these individuals does and does not align with New Zealand's international obligations regarding the human rights of imprisoned individuals. In many aspects, this treatment does not align with the standards set by international law, highlighting areas of concerns.

New Zealand has ratified seven core international human rights treaties established by the United Nations. By becoming a party to these treaties, New Zealand has committed to upholding its obligations under international law to safeguard the human rights of all individuals. New Zealand has further committed to implementing domestic measures and enacting legislation that aligns with its obligations under the ratified treaties.

The International Covenant on Civil and Political Rights (ICCPR) sets out the fundamental rights and freedoms to which individuals are entitled, including the right to liberty and security of person. The United Nations Convention against Torture, Inhuman or Degrading Treatment or Punishment (CAT) prohibits the use of torture and other cruel, inhuman, or degrading treatment or punishment. It emphasises the importance of preventing such practices in places of detention.

Concerns have been raised regarding the conditions and treatment of remanded prisoners in New Zealand as well as the increasing duration that individuals are spending on custodial remand as will be discussed. As at 31 July 2022, the longest-serving person on remand had spent almost 5 years (1801 days) on remand, a highly concerning statistic.¹ People on remand are the most likely to be victimised and face violence by other prisoners.² They also lack access to meaningful activities such as rehabilitation programmes, education, or work. This highlights the need for improvements to be made to New Zealand’s practices surrounding pre-trial detention in order to better meet obligations under international human rights law.

I argue that certain improvements need to be made to New Zealand’s practices surrounding pre-trial detention in order to better meet international human rights obligations. Firstly, a need for compensating individuals who have been remanded in custody but are subsequently found innocent. Secondly, the need to extend access to all rehabilitation programmes provided in prisons to the remand prisoner population in New Zealand. Thirdly, more work needs to be done to address the understaffing issues faced by the vast majority of prisons throughout New Zealand.

II Background of Remand

Individuals charged with an offence can be remanded in custody until they appear in court. Individuals who have been convicted and are awaiting sentencing can also be remanded in custody. There are a variety of reasons why these individuals are remanded in custody while awaiting their appearance in court. These reasons include public safety in that the accused does

¹ Ministry of Justice “Longest Serving Remand Prisoners” (Obtained under Official Information Act 1982 Request to Ministry of Justice).

² David Tie and Elizabeth Waugh Prison “Youth Vulnerability Scale”.

not offend again and ensuring that the accused does not evade justice. It is important to consider that while custodial remand serves these specific purposes, it is essential to balance these purposes with the principles of fairness, the presumption of innocence, and the individual's human rights.

Māori make up a significant portion of New Zealand's remand prisoner population. Māori are also most likely to face injustice by being remanded in custody. Data from 2018 demonstrated that Māori made up 54% of the people who were remanded in custody but subsequently not convicted of any crime. Changes in legislation in 2013 led to a rapid increase in Māori who are remanded in custody, making up 55% of the total growth in the number of remand prisoners. Concerns about the number of Māori remanded in custody pre-trial have been raised by the United Nations Committee against Torture based on New Zealand's most recent report under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.³

III The Bail Act 2000

The Bail Act 2000 sets out the rules for granting or refusing to grant bail. Certain people are "bailable as of right" if they are charged with an offence which is not punishable by imprisonment or if they are charged with an offence that carries a maximum term of imprisonment of three years or less.⁴ However, a person is not "bailable as of right" if they are charged with certain violent offences despite the offences carrying a maximum term of imprisonment of fewer than three years.⁵

Where a person is not "bailable as of right", they still may be granted bail at the discretion of the court. There must be "just cause" for the continued detention of an individual.⁶ Section 8(1) of the Act provides factors which the court must take into account to determine whether there is "just cause". These factors include the risk of the defendant failing to appear in court, the risk of the defendant interfering with witnesses or evidence and the risk that the defendant could offend

³ United Nations "Experts of the Committee against Torture Welcome New Zealand's Detailed Report, Ask about the High Number of Remand Prisoners and the Over-Representation of Māori in Prisons" (19 July 2023) United Nations Human Rights Office of the High Commissioner <www.ohchr.org>.

⁴ Bail Act 2000, s 7.

⁵ Section 7.

⁶ Section 8.

while on bail.⁷ One or more of these factors *must* be considered.⁸ Section 8(2) of the Act provides factors which *may* be considered in determining whether there is “just cause”.

The court considers the nature of the offence with which the defendant is charged, assessing whether it is a grave or less serious offence of its kind. Additionally, the strength of the evidence and the likelihood of conviction are examined. The seriousness of the potential punishment and the expected severity of the sentence also play a role in the court's decision-making process. The defendant's character, past conduct, and any previous criminal behaviour are taken into consideration, particularly proven criminal behaviour. The court evaluates whether the defendant has a history of offending while on bail or breaching court orders, including those related to bail conditions. The likely length of time before the matter comes to a hearing or trial is also considered, along with the potential prejudice to the defence if the defendant is remanded in custody. Lastly, any other special matters that are relevant in the particular circumstances of the case may be taken into account. These factors collectively assist the court in determining whether continued detention is justified.⁹ If there is no “just cause” for the continued detention based on the statutory criteria, there is no discretion to refuse bail.¹⁰

Generally, the police or prosecution carries the onus of satisfying the court that there is just cause for someone to be refused bail. However, in some situations, there is a presumption that the defendant will be remanded in custody and the onus reverses to the person seeking bail to satisfy the court that bail should be granted. One of these situations is where the case involves a history of offending.¹¹ Another situation is where the person has been convicted of an offence but is awaiting sentencing.¹² Lastly, it includes situations where the person has been charged with a specified offence, including violent crimes such as murder and manslaughter as well as sexual violations.¹³ If any of these circumstances are present, the person seeking bail must satisfy the court that bail should be granted rather than the prosecutor needing to satisfy the court that the defendant should not be granted bail. It is more difficult for the defendant to prove that they

⁷ Section 8.

⁸ *Miles v R* [2010] NZCA 414 at [9].

⁹ Bail Act 2000, s 8.

¹⁰ *Taipeti v R* [2018] NZCA 56, [2018] 3 NZLR 308 at [51].

¹¹ Bail Act 2000, s 12.

¹² Section 13.

¹³ Section 10.

should be released on bail than it is to rebut the prosecution's arguments that the defendant should not be released on bail.¹⁴

A Bail Amendment Act 2013

The presumption of detention and reverse onus on the person seeking bail to satisfy the court that bail should be granted was introduced in the Bail Amendment Act 2013. The intention of the Bail Amendment Act 2013 is to improve public safety and ensure the overall integrity of New Zealand's bail system.¹⁵

The reverse onus is argued by University of Auckland professors of law Mark Hemaghan and Kris Glendhill to infringe human rights and international human rights standards.¹⁶ Generally, the default stance should be in favour of an individual's freedom, and it is the responsibility of the state to demonstrate why it should be taken away.¹⁷ This right is protected by Article 14 of the ICCPR which states that everyone has the right to be presumed innocent until proved guilty according to the law. Hence, there should be a presumption in favour of liberty of an accused individual.

The legislative changes brought in by the Bail Amendment Act 2013 can be attributed to a number of high-profile offences carried out by individuals on bail. Vast media coverage of these offences resulted in a public outcry for legislative changes to be made to New Zealand's bail laws. In particular, the high-profile murder of Christie Marceau sparked significant outrage. Her murder was carried out by Akshay Chand, an individual who was released on bail following charges relating to the kidnapping and assault of Marceau.¹⁸ A legal campaign with 58,000 public supporters, known as 'Christie's Law', petitioning for changes to be made to the bail law in New Zealand arose out of the murder.¹⁹

¹⁴ Beehive "Bail Amendment Bill FAQs" <www.beehive.govt.nz>.

¹⁵ (2 July 2013) 691 NZPD 11518.

¹⁶ Ripu Bhatia "Bail law changes reversing burden of proof 'breached human rights' - law experts" (23 July 2020) Stuff <www.stuff.co.nz>

¹⁷ Ripu Bhatia "Bail law changes reversing burden of proof 'breached human rights' - law experts" (23 July 2020) Stuff <www.stuff.co.nz>

¹⁸ See generally: *R v Chand* [2012] NZHC 2746.

¹⁹ Stricter bail decisions thanks to 'Christie's Law' - NZ Herald Isaac Davison "Stricter bail decisions thanks to 'Christie's Law'" (5 December 2013) New Zealand Herald <www.nzherald.co.nz>

The campaign attracted the attention of Parliament, hence it can be said that legislative changes made in 2013 arose largely out of Christie Marceau’s murder and the petition that followed.²⁰ Unsurprisingly, this law change has led to a significant increase in the number of people remanded in custody.²¹ Data shows that the number of prisoners on remand has more than doubled since the amendment to the Bail Act in 2013. Between June 2014 and June 2020, the population of those on remand increased from 21 percent to 36 percent of the prison population.²² Currently, 40 percent of the overall prison population in New Zealand is being remanded in custody.²³ It is estimated that this figure will reach 50 percent over the next ten years.²⁴ This is seriously concerning as half the prison population will be made up of individuals who have not yet been sentenced to a term of imprisonment and may never be sentenced to a term of imprisonment. This could potentially result in an increase in the number of innocent people being remanded in custody.

IV International Human Rights Instruments

Various international human rights instruments are relevant to the practice of remanding individuals in custody pending trial. New Zealand has ratified seven core international human rights treaties. By becoming a party to these treaties New Zealand has committed to upholding its obligations under international law safeguard the human rights of all individuals.²⁵ New Zealand has further committed to implementing domestic measures and enacting legislation that aligns with its obligations under the ratified treaties.²⁶

²⁰ (2 July 2013) 691 NZPD 11518.

²¹ Justice Sector Public Consultation Long Term Insights Briefing “Imprisonment In Aotearoa” (2022) at (22).

²² At (22).

²³ At (4).

²⁴ At (4).

²⁵ Ministry of Justice “Constitutional Issues & Human Rights” (5 March 2020) Ministry of Justice <www.justice.govt.nz>

²⁶ Ministry of Justice, above n 25.

A International Covenant on Civil and Political Rights (ICCPR)

The International Covenant on Civil and Political Rights was ratified by New Zealand on 28 December 1978.²⁷

Article 9 of the International Covenant on Civil and Political Rights provides:²⁸

“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.

2. Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.

3. Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgement.

4. Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.

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

²⁷ Ministry of Justice, above n 25.

²⁸ International Covenant on Civil and Political Rights 999 UNTS 171 (opened for signature 16 December 1966, entered into force 23 March 1976), art 9.

Comments

The preservation of personal liberty and security is invaluable in its own right, as well as being crucial because the restriction of these freedoms has historically been a primary method of undermining the enjoyment of other rights.

Remanding an individual in custody is a practice of depriving someone of liberty, established in law. According to Article 9, if it is established by law, liberty can be deprived. This requires the law to have a high degree of certainty and predictability as per the principle of legality.²⁹ This standard requires that laws are sufficiently precise to prevent any risk of arbitrary actions and enable individuals to reasonably anticipate the consequences of their actions in a given situation. There also needs to be a high threshold when depriving liberty in order to provide a strong foundation to justify both the initial and ongoing deprivation of liberty.³⁰ The deprivation of liberty must be compatible with international law as well as domestic law and must not violate the safeguards contained in Articles 9.2 to 9.4 of the ICCPR.³¹

Article 10 of the International Covenant on Civil and Political Rights states that:³²

1. All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.

2.
 - (a) Accused persons shall, save in exceptional circumstances, be segregated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons;

 - (b) Accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication.

²⁹ Amnesty International “The Human Rights Committee’s New General Comment On The Right To Liberty And Security Of Person” Amnesty International Publications (2012) at (5).

³⁰ At (5).

³¹ At (5).

³² International Covenant on Civil and Political Rights, art 10.

3. The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation. Juvenile offenders shall be segregated from adults and be accorded treatment appropriate to their age and legal status.

Comments

New Zealand has made and still maintains reservations to the ICCPR. New Zealand retains the authority to refrain from implementing Article 10(2)(b) or Article 10.3 in situations where a lack of appropriate facilities necessitates the unavoidable mixing of juveniles and adults. Additionally, the government reserves the right to not apply Article 10.3 when the interests of other juveniles in a facility require the removal of a specific juvenile offender or when mixing is deemed to be beneficial for the individuals involved.³³

Article 14 of the International Covenant on Civil and Political Rights states that:³⁴

“2. Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.

3. In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality:

(a) To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him;

(b) To have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing;

(c) To be tried without undue delay.”

³³ Ministry of Justice “International Covenant on Civil & Political Rights” (19 August 2020) Ministry of Justice <<https://www.justice.govt.nz>>

³⁴ International Covenant on Civil and Political Rights, art 14.

B United Nations Convention against Torture, Inhuman or Degrading Treatment or Punishment (CAT)

The United Nations Convention against Torture, Inhuman or Degrading Treatment or Punishment (CAT) is another relevant convention to custodial remand. New Zealand ratified the CAT on 10 December 1989.³⁵

According to Article 11:³⁶

“Each State Party shall keep under systematic review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction, with a view to preventing any cases of torture.”

According to Article 16:

³⁷“1. Each State Party shall undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in article I, when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.”

C Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT)

The Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) is an international human rights treaty aimed at helping parties to the CAT fulfil their responsibilities to prevent torture and ill-treatment in facilities where individuals are deprived of their liberty.³⁸ New Zealand ratified the Optional

³⁵ Ministry of Justice “Convention Against Torture & Other Cruel, Inhuman or Degrading Treatment or Punishment” (23 August 2020) Ministry of Justice <www.justice.govt.nz>

³⁶ United Nations Convention against Torture, Inhuman or Degrading Treatment or Punishment (opened for signature 10 December 1984 and entered into force on 26 June 1987), art 11.

³⁷ United Nations Convention against Torture, Inhuman or Degrading Treatment or Punishment, art 16.

³⁸ Human Rights Commission “Annual report of activities under the Optional Protocol to the Convention against Torture” (2015) at (18).

Protocol on 14 March 2007.³⁹ The Crimes of Torture Act (COTA) gives effect to New Zealand's international obligations under OPCAT.⁴⁰ Under COTA, the Independent Policy Conduct Authority, the Office of the Children's Commissioner, the Office of the Ombudsman, and the Inspector of Penal Service Establishments are designated as National Preventive Mechanisms (NPMs). These NPMs are responsible for the monitoring of detention facilities across New Zealand.⁴¹ The NPMs play a crucial role in conducting regular assessments of detention conditions and the treatment of detainees, with the aim of identifying areas for improvement and providing recommendations accordingly.⁴²

D The United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)

The Nelson Mandela Rules are made up of standards of the treatment of incarcerated individuals and the administration of correctional facilities. These rules are not specifically binding on New Zealand.

According to rule 4, the purposes of a sentence of imprisonment or similar measures deprivative of a person's liberty are primarily to protect society against crime and to reduce recidivism. Those purposes can be achieved only if the period of imprisonment is used to ensure, so far as possible, the reintegration of such persons into society upon release so that they can lead a law-abiding and self-supporting life.

Rule 11(b) of the United Nations Standard Minimum Rules for the Treatment of Prisoners states that untried prisoners shall be kept separate from convicted prisoners.⁴³

According to rule 13, All accommodation provided for the use of prisoners and in particular all sleeping accommodation shall meet all requirements of health, due regard being paid to climatic conditions and particularly to cubic content of air, minimum floor space, lighting, heating and ventilation.

³⁹ Ministry of Justice "Optional Protocol to the Convention Against Torture" (5 March 2020) Ministry of Justice <www.justice.govt.nz>.

⁴⁰ Human Rights Commission, above n 38, at (18).

⁴¹ Human Rights Commission, above n 38, at (18).

⁴² Human Rights Commission, above n 38, at (18).

⁴³ The United Nations Standard Minimum Rules for the Treatment of Prisoners, rule 11.

According to rule 45, solitary confinement should only be used as a last resort. Rule 44 defines solitary confinement as isolation from meaningful human contact for a duration exceeding 22 hours.⁴⁴

According to rule 12, Where sleeping accommodation is in individual cells or rooms, each prisoner shall occupy by night a cell or room by himself or herself. If for special reasons, such as temporary overcrowding, it becomes necessary for the central prison administration to make an exception to this rule, it is not desirable to have two prisoners in a cell or room.

According to Rule 105, recreational and cultural activities shall be provided in all prisons for the benefit of the mental and physical health of prisoners.

V Human Rights Issues With Remand

A Duration of Remand

The time an individual spends remanded in custody pending their trial reduces the time of that individual's final sentence by the amount of time spent remanded in custody.⁴⁵ This is favourable for those who are subsequently sentenced to a term of imprisonment. However, in certain cases, the time spent remanded in custody may exceed the actual sentence a person receives when convicted. This is concerning as it can lead some defendants to plead guilty to ensure they are released.⁴⁶

The average duration spent on custodial remand has been steadily increasing over time.⁴⁷ By 2032, it is projected that the average time people will spend on remand will be 90 days compared to 76 days in November 2022.⁴⁸

⁴⁴ Rule 11.

⁴⁵ Justice Sector Public Consultation Long Term Insights Briefing “Imprisonment In Aotearoa” at (22).

⁴⁶ Jeremy Skipworth and Warren Brookbanks “New justice system responses to mentally impaired defendants in New Zealand” (2021) *Psychiatr Psychol Law* 29(4) at (549–562).

⁴⁷ Ministry of Justice “Justice Sector Projections 2022-2032” (2022) at (11).

⁴⁸ At (11).

Several factors contribute to this trend. Firstly, individuals are pleading guilty later in the criminal court process, leading to more court hearings and greater demand for court resources.⁴⁹ Secondly, the lack of court resources results in longer intervals between each court hearing for a case.⁵⁰ This delay further prolongs the time spent remanded in custody. Thirdly, there has been a rise in the number of court events that are adjourned because the parties involved are not prepared for the proceedings.⁵¹ Lastly, an increasing number of individuals are opting for jury trials instead of judge-alone trials which require more time and resources to reach a resolution.⁵² Changes in legislation, such as the introduction of the reverse onus on defendants in certain circumstances brought in by the Bail Amendment Act 2013 as previously explained, have also significantly contributed to the increase in time that individuals spend remanded in custody while awaiting trial.⁵³

According to Article 9.3 of the ICCPR: “Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release.” Significant delays in bringing individuals remanded in custody pending trial is a clear breach of this Article. It is crucial that we address the issues that are contributing to these delays in order to reduce the duration spent on custodial remand which is currently rising.

B Treatment of Remanded Individuals

Individuals remanded in custody are automatically deemed to be maximum security prisoners.⁵⁴ As a result, they spend the majority of their time locked in a cell and kept separate from the sentenced prisoner population as far as practicable. This separation of prisoners is mandated by the Corrections Regulations and is a requirement under the United Nations Standard Minimum Rules for the Treatment of Prisoners.⁵⁵ It is a protective measure ensuring that individuals who have not yet been convicted of an offence are safeguarded from those who have.

⁴⁹ At (11).

⁵⁰ At (11).

⁵¹ At (11).

⁵² At (11).

⁵³ At (11).

⁵⁴ The opportunity of a lifetime [2019] NZLJ 220.

⁵⁵ Ombudsman “Report on an unannounced inspection of Spring Hill Corrections Facility Under the Crimes of Torture Act 1989” (2 August 2017) at (37).

Remand prisoners must receive treatment that meets, at the very least, the same standard as that provided to sentenced prisoners.⁵⁶ This means the conditions endured by remand prisoners are intended to be very similar to sentenced prisoners. The standard of treatment of remand prisoners should consider the specific safety requirements of each individual prisoner, as well as any security concerns associated with them. This may require the standard of treatment for remand prisoners to potentially surpass the standard of treatment offered to convicted prisoners.⁵⁷ For example, visiting times for remand prisoners must be as flexible as possible.⁵⁸ This possibility of a higher standard of treatment is due to the fact that those remanded in custody pending trial may be found innocent. This also reflects the idea that the justification for the imprisonment of an individual on remand is not as strong as that of a convicted prisoner.

There could also be aspects of a case that grant the authority to implement measures that go beyond what would typically be applied to an average remand prisoner.⁵⁹ In the case of *Stockdale v Police*, where the defendant was suspected of carrying concealed drugs within their body, the prison manager had the authority to establish appropriate measures to ensure the defendant's health and safety and also to prevent any distribution of these hidden drugs to other individuals both inside and outside the prison.⁶⁰

C Effects of Remand

Being remanded in custody can have a number of negative impacts on the individual.⁶¹ These negative impacts include consequences such as unemployment, unstable housing situations, adverse financial impacts, diminished social support networks, deterioration of mental health and substance abuse problems.⁶² In a study conducted during 2014 which included remand prisoners, it was discovered that two thirds of prisoners were found to have received two or more mental health or substance use disorders.⁶³

⁵⁶ Corrections Regulations 2005, reg 185(1).

⁵⁷ Reg 185(1).

⁵⁸ Reg 185(1).

⁵⁹ *Stockdale v Police* [1994] 3 NZLR 378 (HC) at [7].

⁶⁰ At [7].

⁶¹ The opportunity of a lifetime [2019] NZLJ 220.

⁶² The opportunity of a lifetime, above n 60.

⁶³ "I am more than a piece of paper" [2019] NZLJ 297

D Access to Rehabilitation Programmes

A particularly significant impact is that the greater the amount of time spent remanded in custody, the less time available for individuals to participate in rehabilitation programmes after being sentenced.⁶⁴ This is because any time spent on custodial remand is taken off the individual's total sentence time. The issue of a general increase in the duration that individuals are spending on remand, due to factors previously discussed, further limits access to rehabilitation programmes worsening this issue. Furthermore, if an individual is required to complete certain programmes before becoming eligible for parole, they may need to spend longer in prison in order to complete these programs despite already serving their required sentence time on remand without access to these programmes.

Rehabilitation programs play a crucial role in reducing the chances of reoffending and interrupting the harmful patterns of criminal behaviour.⁶⁵ Out of the 29 rehabilitation programs provided in New Zealand prisons, only three are accessible to individuals remanded in custody.⁶⁶ Remand prisoners can enrol in courses relating to life skills such as parenting or managing finances. However, they are not eligible to participate in more important offence-based rehabilitation programmes, which address the root causes of serious offending.⁶⁷ Furthermore, prisoners are required to partake in certain rehabilitation programmes before they can be released on parole. This can extend the amount of time these individuals spend in prison as they will still have to complete these programmes before becoming eligible for parole.⁶⁸

According to international law, where it is permitted to deprive an individual of their liberty, the purpose of doing so is to rehabilitate them. Article 10.3 of the ICCPR states that the penitentiary system shall comprise the treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation.⁶⁹ Furthermore, according to rule 4 of the Nelson Mandela Rules, the purposes of a sentence of imprisonment or similar measures of deprivation of a

⁶⁴ Justice Sector Public Consultation Long Term Insights Briefing “Imprisonment In Aotearoa” at (22).

⁶⁵ Hon Mark Mitchell “National Will Deliver Rehabilitation To More Prisoners” (press release, 25 June 2023).

⁶⁶ Above n 65.

⁶⁷ Above n 65.

⁶⁸ Justice Sector Public Consultation Long Term Insights Briefing “Imprisonment In Aotearoa” at (22).

⁶⁹ International Covenant on Civil and Political Rights, art 9.

person's liberty are primarily to protect society against crime and to reduce recidivism. However, the evident absence of rehabilitation programs accessible to remand prisoners in New Zealand reveals a key gap within the prison system. This gap undermines the primary objective of fostering reformation and social rehabilitation as well as reducing recidivism for prisoners.

E Treatment of Remand Prisoners

According to the Corrections Regulations 2005, remand prisoners must receive treatment that meets, at the very least, the same standard as that provided to sentenced prisoners.⁷⁰ However, there is a clear trend for remand prisoners to receive treatment of a lesser standard compared to individuals in the sentenced prison population.

Despite this trend, at some prisons in New Zealand, standards of treatment for remand prisoners are more favourable, aligning with international human rights standards. A Whanganui Prison inspection in 2018 found remand prisoners had neither witnessed nor been subject to any violent behaviour or intimidation by other prisoners.⁷¹ The report also stated that remand prisoners had five to six hours of time outside of their cells each day.⁷² Remand prisoners also had access to a small library where they could obtain reading material and play board games.⁷³ There are also communal areas that have telephones, and prisoners reported no difficulties accessing these areas.⁷⁴ However, despite these positive aspects, no rehabilitation or learning programmes were available and no gym facility was available.⁷⁵

F Housing Conditions

The treatment and housing conditions of remand prisoners in New Zealand have come under scrutiny, raising significant human rights concerns. The 2015 Annual report of activities under the Optional Protocol to the Convention against Torture (OPCAT) found various issues regarding the treatment of remand prisoners which highlighted various issues regarding the housing

⁷⁰ Corrections Regulations 2005, reg 185(1).

⁷¹ Office of the Inspectorate "Whanganui Prison Inspections" (September 2018) Department of Corrections at (20).

⁷² At (20).

⁷³ At (20).

⁷⁴ At (20).

⁷⁵ At (18).

conditions of remanded prisoners demonstrating violations of international standards.⁷⁶ According to the report, the housing conditions for remand prisoners in Invercargill Prison and Manawatu Prison were deemed unacceptable with the majority of the remand cells at these prisons being dilapidated and double-bunked.⁷⁷ Cells in the Remand Unit at Invercargill Prison were in the basement, hence they were cold and dimly lit.⁷⁸ Many cells also contained vandalism and graffiti.⁷⁹ Invercargill Prison also saw the supply of basic prisoner clothing being limited for remand prisoners.⁸⁰

According to rule 12 of the United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela rules), where prisoners are provided with individual cells or rooms for sleeping, each prisoner should have their own designated cell or room during nighttime. It is not considered desirable to accommodate two prisoners within the same cell or room. Hence, according to this, the double bunking of remand prisoners at Invercargill Prison and Manawatu Prison is undesirable according to the Nelson Mandela rules.

Rule 13 of the United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela rules) states that all accommodation provided for the use of prisoners and in particular all sleeping accommodation shall meet certain health requirements with special attention being given to factors such as climatic conditions, adequate cubic air content, minimum floor space, proper lighting, heating, and ventilation. The cold and dimly lit cells at in the Remand Unit at Invercargill Prison are unlikely to meet the standard required by rule 13.

The 2015 Annual report also stated that some prisoners are even being locked in their cells for up to three days at a time demonstrating a clear breach of international human rights standards.⁸¹ However, it is unclear whether this includes remand prisoners but it is very likely that it does. The United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela rules) states that all prisoners have a minimum of one hour of outdoor exercise per day.⁸²

⁷⁶ Human Rights Commission, above n 38, at (20).

⁷⁷ Human Rights Commission, above n 38, at (20).

⁷⁸ Office of the Inspectorate “Invercargill Prison Unannounced Inspection” (May 2021) Department of Corrections at (35).

⁷⁹ At (35).

⁸⁰ At (9).

⁸¹ Catrin Owen “Maximum security prisoners kept in cells for three days, breaching human rights” (26 January 2023) Stuff <www.stuff.co.nz>.

⁸² The United Nations Standard Minimum Rules for the Treatment of Prisoners, rule 23.

Furthermore, according to rule 45, solitary confinement should only be used as a last resort. Rule 44 defines solitary confinement as isolation from meaningful human contact for a duration exceeding 22 hours.⁸³ These prolonged periods of being locked up are clear breaches of these rules. Such breaches have serious and lasting negative psychological impacts on prisoners.⁸⁴ This is a significant concern that the UN Committee against Torture has expressed about New Zealand's practices.⁸⁵

G Exercise and Recreation

Exercise and recreation is of particular importance as they effectively diminish stress and tension among prisoners, contributing to the preservation or enhancement of their mental well-being.⁸⁶

The 2015 Annual report of activities under the OPCAT also emphasised the absence of adequate indoor recreational areas and a lack of purposeful activities being available to remand prisoners. This is an issue that is widely seen in New Zealand prisons, beyond just Invercargill Prison and Manawatu Prison.⁸⁷ The only option for remand prisoners is to be locked in their cell or to be locked in the exercise yard.⁸⁸ Furthermore, according to a 2021 inspection at Invercargill Prison, the main prisoner population had access to a good range of exercise equipment while those in the Remand Unit had little access.⁸⁹ Additionally, the prison has a volunteer coordinator and a team of volunteers who provide access to constructive activities and life skills courses, none of which are accessible to remand prisoners.⁹⁰ This demonstrates treatment of differing standards between sentenced prisoners and remand prisoners. In many cases, remand prisoners also required staff to open the adjoining door to their cells to access their individual exercise yard meaning that if staff were occupied, the prisoner would end up being locked outside for prolonged durations, depriving them of access to essential facilities such as toilets, water, and shelter.⁹¹

⁸³ Rule 11.

⁸⁴ Owen, Above n 81.

⁸⁵ Emma Hatton "UN calls out poor management of mental health care in NZ prisons" (1 August 2023) Newsroom <www.newsroom.co.nz>.

⁸⁶ Association for the Prevention of Torture "Recreational activities" <www.apt.ch>.

⁸⁷ Human Rights Commission, above n 38, at (20).

⁸⁸ Human Rights Commission, above n 38, at (20).

⁸⁹ Office of the Inspectorate, above n 71, at (3).

⁹⁰ Office of the Inspectorate, above n 71, at (55).

⁹¹ Office of the Inspectorate, above n 71, at (3).

Furthermore, there is also little to no access to any other communal areas or the ability to socialise for these prisoners due to the fact that remand prisoners are classified as maximum security by default. Remand prisoners were even denied the ability to access group dining facilities and were required to eat their meals in their cell, next to toilets.⁹²

Access to basic sources of entertainment such as television is also very limited for remand prisoners, with 70% going without television.⁹³ This is mostly due to the lengthy process it takes for a television to be sourced and approved.⁹⁴ Communal televisions are accessible on a limited basis.⁹⁵ This is concerning as access to a television, particularly during the initial nights of imprisonment can serve as a valuable source of distraction, helping to alleviate anxiety and stress that a prisoner may experience.⁹⁶

H Safety

Remand prisoners also generally tend to feel less safe.⁹⁷ A general lack of staff supervision also fuels an existing culture of intimidation among prisoners.⁹⁸ According to the 2012 inspection at Invercargill Prison, every individual interviewed within the Remand Unit expressed that they had either experienced bullying, violence, or intimidation, or had witnessed such behaviour, leading to a sense of insecurity.⁹⁹ Prisons have also attributed the fact that many prisoners entering and leaving the remand units make it particularly difficult to establish order, resulting in a more turbulent environment.¹⁰⁰

The rates of assault on remand prisoners tend to vary throughout New Zealand. Department of Corrections statistics show that, in the year ending March 31, 2015, 115 prisoners were assaulted at Mt Eden, 63 being remand prisoners. Mt Eden Corrections Facility, which is made up of

⁹² Human Rights Commission, above n 38, at (20).

⁹³ *Mitchell v Attorney-General* [2014] NZHC 1339 at [11].

⁹⁴ At [11].

⁹⁵ At [11].

⁹⁶ At [11].

⁹⁷ Office of the Inspectorate, above n 71, at (21).

⁹⁸ Human Rights Commission, above n 38, at (20).

⁹⁹ Office of the Inspectorate, above n 71, at (21).

¹⁰⁰ Talia Shadwell “‘Anarchic’ Mt Eden is New Zealand's roughest prison, figures show” (24 July 2015) Stuff <www.stuff.co.nz>.

approximately 80 percent of remand prisoners, had approximately the same number of inmates as Rimutaka Prison during this period. However, Rimutaka Prison recorded no assaults on remand prisoners for this period. The high rate of assaults on remand prisoners is particularly concerning considering Article 10.2(a) of the ICCPR which states that accused prisoners shall be subject to separate treatment appropriate to their status as unconvicted persons. This means that the treatment that remand prisoners receive should take into creating the safest environment possible due to their status as accused prisoners.

I Separation of Sentenced and Remand Prisoners

This separation of sentenced and accused prisoners is mandated by the Corrections Regulations and is a requirement under the United Nations Standard Minimum Rules for the Treatment of Prisoners.¹⁰¹ Article 10.2(a) of the ICCPR also states that Accused persons shall, except in exceptional circumstances, be kept separate from convicted persons and be treated in a manner appropriate to their status.

In a 2017 report following an inspection of Hawke's Bay Regional Prison, it was reported that there was a mixing of remand and sentenced youth prisoners who share the same unit. Despite requests, inspectors encountered difficulties in accessing the required necessary authorisations permitting the mixing of the different categories of youth. Remand prisoners are required to be kept separate from the sentenced prisoner population as far as practicable in order to protect individuals who have not yet been convicted of an offence from those who have.

J Access To Lawyers

Remand prisoners also tend to face greater difficulty and delays when attempting to access their legal advisors, as prison staff need to be available to facilitate these calls.¹⁰² According to a 2021 inspection at Invercargill Prison, prisoners in the general population had adequate access to

¹⁰¹ Ombudsman, above n 53 at (37).

¹⁰² Office of the Inspectorate, above n 71, at (21).

telephones in order to make confidential calls to their legal advisors.¹⁰³ However, this was not the case for prisoners in the Remand Unit who faced greater delays. These prisoners stated that they faced delays of two to three days before prison staff would facilitate their call to their legal advisors after putting in a request to do so.¹⁰⁴ Invercargill Prison stated that this was due to the numerous duties of the staff in the Remand Unit.¹⁰⁵

According to article 14.3(b) of the ICCPR, in the determination of any criminal charge against him, everyone shall be entitled to adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing.¹⁰⁶ The barriers that remand prisoners face in accessing legal advisors demonstrate that New Zealand is not satisfactorily adhering to its obligations under Article 14.3(b).

K Youth Remand Prisoners

Despite the aforementioned 2017 report following an inspection of Hawke's Bay Regional Prison, New Zealand's most recent report under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, submitted in 2019 shares information to the contrary. It stated that no mixing occurs between remanded youth and sentenced youth, unless the Chief Executive determines that extraordinary circumstances warrant such mixing.

Furthermore, the report stated that New Zealand's youth remand units have introduced new programmes targeted at young people such as a youth alcohol and drug programme, youth activities coordinators and education tutors.¹⁰⁷ This is in an effort to make the time spent on remand more meaningful. This better aligns New Zealand's practices with Article 10.3 of the ICCPR and ensures that the key purpose of imprisonment of rehabilitation is upheld.

¹⁰³ Office of the Inspectorate, above n 71, at (21).

¹⁰⁴ Office of the Inspectorate, above n 71, at (21).

¹⁰⁵ Office of the Inspectorate, above n 71, at (21).

¹⁰⁶ International Covenant on Civil and Political Rights, art 14.

¹⁰⁷ *Seventh periodic report submitted by New Zealand under article 19 of the Convention pursuant to the simplified reporting procedure, due in 2019* CAT/C/NZL/7 (25 September 2019).

L Police Detention

Prisoners on remand may spend time in Police custodial facilities on behalf of Corrections on a temporary basis on remand or after sentencing.¹⁰⁸ However, Police cells are not designed for long custodial stays. Prisoners on remand may spend up to a week in Police custodial facilities with the option to extend this period under specific circumstances.¹⁰⁹

Despite the legal duty of care owed by Police to people in custody to assess detained people for any risks to their health and wellbeing and put in place appropriate risk management strategies, this was found to not be happening consistently.¹¹⁰ This is highly concerning considering that the Police officers are regularly holding in custody individuals with mental impairment or suicidal tendencies.¹¹¹

New Zealand's most recent report under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment stated that a nationwide programme focused on improving the condition, design concerns, and suicide prevention measures in police holding cells was created.

However, the report did raise concerns about young people being held in Police cells prior to being moved into a longer term remand unit for extended periods. The report stated that the Children's Commissioner recommends that the option to remand youth to Police cells after their first court appearance should be removed from legislation due to their particular vulnerabilities as youth.

VI Reform

It is evident that New Zealand faces critical challenges in aligning its practices with international human rights standards in various areas as explained above. As explained, a key issue revolves around the the lack of access to key rehabilitation programmes for the remand prisoner

¹⁰⁸ Department of Corrections "Remand" <www.corrections.govt.nz>.

¹⁰⁹ *Seventh periodic report submitted by New Zealand under article 19 of the Convention pursuant to the simplified reporting procedure, due in 2019*, above n 107.

¹¹⁰ 27 March 2015 IPCA Generic Report - Review of Police custodial management.pdf Independent Police Conduct Authority "Review of Police Custodial Management" (27 March 2015) at (37).

¹¹¹ At (37).

population. Another key issue is the understaffing of prisons leading to prolonged periods of prisoners being locked in cell without adequate exercise or recreation time and limited access to telephones to contact legal advisors. Addressing these issues will allow New Zealand to better meet its international obligations.

A Access to Rehabilitation Programmes

It is crucial that eligibility for all rehabilitation programmes is extended to the remand prisoner population in New Zealand. As discussed, a significant role of imprisonment is rehabilitation in order to reduce the chances of reoffending. Article 10.3 of the ICCPR states that the penitentiary system shall comprise the treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation.¹¹²

A key part of fostering this rehabilitation for prisoners comes through the rehabilitation programmes offered in prisons. As previously mentioned, only three rehabilitation programs are accessible to individuals remanded in custody and these programmes are not offence-based rehabilitation programmes meaning they do not address the key needs of prisoners.¹¹³ As prisoners must participate in specific rehabilitation programs before becoming eligible for parole, this can prolong their time in prison as they must complete these programs but cannot complete these until after they have been sentenced.¹¹⁴ Furthermore, 23 percent of all prisoners complete their entire sentence while remanded in custody.¹¹⁵ This means that a significant proportion of remand prisoners are likely to fall into the category of spending an extended amount of time in prison in order to complete these programmes after sentencing. Hence, it is vital to make these rehabilitation programmes available to remand prisoners in order to reduce the likelihood of them being imprisoned for a longer period than is justified. This would better align New Zealand's practices with Article 10.3 of the ICCPR and ensure that the key purpose of imprisonment is upheld.

¹¹² International Covenant on Civil and Political Rights, art 9.

¹¹³ Mitchell, above n 65.

¹¹⁴ Justice Sector Public Consultation Long Term Insights Briefing "Imprisonment In Aotearoa" at (22).

¹¹⁵ Mitchell, above n 65.

B Compensation

Currently, compensation is not available for the time an individual spends remanded in custody pending their trial if they are subsequently not sentenced to imprisonment. However, the statistics surrounding the number of individuals remanded in custody who are subsequently not sentenced to imprisonment following their trial are concerning. Considering this large proportion of individuals who are remanded but not sentenced to imprisonment, it is necessary to consider implementing measures to compensate the individuals for their time spent imprisoned to recognise the injustice and unjustified breach of their fundamental human rights.

According to Article 9.5 of the ICCPR: “Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.” Although it is not strictly unlawful for a person to spend time remanded in custody despite not being sentenced to imprisonment following their trial, it is a serious breach of that individual's right to liberty and arguably an example of arbitrary detention. Hence, it could demonstrate a breach of Article 9.1 of the ICCPR which provides the right to liberty and security of person and also provides that no one shall be subjected to arbitrary detention.

When a person has been convicted and served a sentence of imprisonment and is subsequently found innocent, they are usually compensated for the time spent imprisoned and the miscarriage of justice. The base rate for compensation is \$150,000 for each year spent in prison.¹¹⁶ However, this is not a legal right, rather it is a matter of the Government exercising its discretion.¹¹⁷ This discretionary right to compensation should be extended to those who are remanded in custody but are subsequently not convicted and potentially also to those who are convicted but not sentenced to imprisonment. This would bring New Zealand’s practices further in line with Articles 9.5 and 9.1 of the ICCPR.

¹¹⁶ Ministry of Justice “Compensation for wrongful conviction & detention” (14 April 2023) Ministry of Justice <<https://www.justice.govt.nz>>.

¹¹⁷ Ministry of Justice, above n 116.

C Understaffing

A serious underlying issue that contributes to the poor standards of treatment of remand prisoners is the significant understaffing of prisons in New Zealand. Only one prison in New Zealand is currently adequately staffed, with the worst being 34% understaffed.¹¹⁸ This issue significantly contributes to the treatment which violates international human rights standards faced by remand prisoners. As explained, remand prisoners not having adequate access to telephone hindering their ability to contact lawyers as well as spending excessively long periods locked in their cells without exercise time can be attributed to this issue.¹¹⁹ According to Amnesty International, given the length of time of up to 3 days of denial of the minimum entitlement of time outside a cell, the staffing issues do not justify the human rights restriction.¹²⁰

Working to increase staff numbers will help reduce these issues and bring New Zealand's practices further in line with Article 14.3(b) of the ICCPR and Rules 44 and 45 of the United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela rules).

Furthermore, the United Nations Committee against Torture based on New Zealand's most recent report under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment acknowledged that the Department of Corrections was identifying means to deal with staffing issues in prisons such as transferring prisoners to better staffed facilities to increase safety.¹²¹

D Alternatives to Remand

The overall use of custodial remand should be decreased with a greater favour for more community based options. These options often produce less harmful outcomes for those awaiting trial, suffering mental illness and reduce burdens on the prison system. They also avoid disrupting the housing and family relationships of accused individuals.¹²²

¹¹⁸ Jono Galuszka "All prisons short of Corrections officers as jailhouse population climbs" (15 November 2022) Stuff <www.stuff.co.nz>.

¹¹⁹ Galuszka, above n 118.

¹²⁰ Amnesty International "Aotearoa New Zealand Joint Submission To The UN Committee Against Torture" IOR 40/6871/2023 (July 2023) at (4).

¹²¹ United Nations, above n 5.

¹²² United Nations, above n 5.

Electronic monitoring as a condition of bail is an alternative to remanding individuals in custody pending their trial in certain cases. Electronic monitoring involves the individual wearing an electronic monitoring device at all times which tracks their location, ensuring they either remain at home or at locations approved by the Court such as their place of employment.¹²³ This method is less infringing on an individual's fundamental human rights. It keeps individuals out of an already overcrowded prison system and largely achieves the same purposes as remanding an individual in custody.

E Mental Health Courts

In North America, there has been the establishment of Mental Health Courts which take into account the mental health requirements of accused individuals and favour community based options over imprisonment. International evidence demonstrates that Mental Health Courts help to reduce offending. Imprisonment has a very significant negative impact on those already suffering from severe mental illness.¹²⁴

In New Zealand, 91 percent of prisoners have been diagnosed with either substance abuse or other mental health disorder. Rates of mental health issues are higher in remand populations.¹²⁵ Considering that the vast majority of prisoners are affected by mental health issues, placing a greater focus on an individual's mental health needs when determining whether they are remanded in custody or are given bail would reduce the number of remand prisoners and potential harm to these prisoners. In turn, reoffending rates are also likely to decrease based on international evidence.¹²⁶

¹²³ Department of Corrections "Electronic monitoring: Important information for defendants" <www.corrections.govt.nz>.

¹²⁴ Skipwortha, above n 46.

¹²⁵ Skipwortha, above n 46.

¹²⁶ Ministry of Justice "Mental Health Courts Evidence Brief" (August 2016) at (1).

VII Conclusion

The principle of the presumption of innocence is not merely a legal concept; it is a fundamental human right that must be safeguarded in practice. Alongside the the presumption of innocence, principles of fairness and respect for an individual's human rights underpin the criminal justice system, on a domestic and international level. The practice of remanding individuals in custody pending trial plays a critical role in maintaining public safety and ensuring the proper administration of justice. However, it is imperative that we strike a balance between these objectives and the fundamental rights of individuals protected by international law.

The concerns raised regarding the conditions and treatment of remanded prisoners in New Zealand demonstrate the need for ongoing efforts to better align New Zealand's practices with international human rights standards. New Zealand's commitment to various international human rights instruments outlined places a significant responsibility to protect and uphold the rights of all individuals within its jurisdiction.

As we move forward, it is crucial for New Zealand to continue to assess and reform pre-trial detention decisions and practices in several key areas. This includes extending access to rehabilitation programmes to remand prisoners to facilitate their reintegration into society and reduce recidivism. Additionally, providing compensation for those remanded but not sentenced to recognise the violation of their right to liberty. We also need to extend the use of community-based alternatives to custodial remand to mitigate harm and reduce the strain on an overcrowded prison system. Furthermore, we need to address the critical issue of prison understaffing.

These reforms are essential to improving prison conditions, addressing the aims of imprisonment and upholding fundamental human rights of remanded individuals protected by international law. These changes will also help New Zealand can create a more equitable and effective justice system that better serves both the individual human rights of individuals and the broader goals of public safety and rehabilitation.

Word length

The length of this paper (excluding abstract, table of contents, footnotes and bibliography) is approximately 7,879 words.

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