

PLEASE TAKE ME TO A SAFE PLACE

THE IMPRISONMENT OF ASYLUM SEEKERS IN AOTEAROA NEW ZEALAND

“Please take me to a safe place” are the desperate words of a 20-year-old African asylum seeker pleading to be released from prison in Auckland. After fleeing danger in his home country, he thought he would finally be safe in Aotearoa New Zealand. However, he was instead arrested and detained in a criminal prison solely on immigration grounds. He was only released after his refugee status was recognised, seven months later.

In Aotearoa New Zealand, law and practice enables the arrest and detention of some asylum seekers, including in criminal justice facilities.

“You see we have arrived here as refugees, and we want to be treated well; to be treated as human beings, and we want to be recognised as human beings. We have thrown away everything we had and have run here to New Zealand because we were persecuted in [home country]; and the world sees the protection you are offering immigrants. We want to be treated well, and as refugees, when we arrive here; to treat them well, and not to put them in prison. New Zealand is well recognised around the globe as a country that observes and respects human rights; and so, they should treat us well.”

Detaining asylum seekers specifically in criminal justice facilities is contrary to the standards set by international human rights bodies, including the United Nations Working Group on Arbitrary Detention in 2018. However, this practice continues in Aotearoa New Zealand. Our report shows that in the years 2015 - 2020, 86 people seeking asylum have been locked in prisons while they await the outcome of their claim. In some instances, the cases investigated by Amnesty International constitute human rights violations.

Asylum seekers facing prison are subject to a complex and overwhelming maze of immigration and criminal justice processes. The road to prison can begin with interviews by immigration officials, three to four nights in a police cell without a lawyer or interpreter, appearing in the District Court and ultimately being sent to prison. Amnesty International found that at every stage, there were failures to ensure basic rights to a fair process.

“So, in the prison this is what I was having, and the moment of my last days; I have injuries, head injuries. One guy, the last fight I had two days before I came out and got really get smashed in the head. He was a big guy, he just would fight, and he overpowered me. So I was down, and he was just smacking me. I had to defend myself. I got injured; I’m on medicine now.”

Our investigations have documented the serious harms of this policy for the people at the centre of it. We documented a case where a reported survivor of torture, later recognised as a refugee, was allegedly raped whilst being double bunked in prison. Immigration New Zealand admitted to imprisoning several other people, later also recognised as refugees, who were past survivors of torture, mistreatment or sexual or gender-based violence.

We also interviewed a case where a man reported being caught up in the notorious “fight clubs” at Mt Eden Corrections Facility. Three men spoke of how their treatment led them to want to end their life. All spoke of the negative impacts on their well-being from their prison experience, and the shock that Aotearoa New Zealand would detain asylum seekers.

“There wasn’t any translator. Even if you wanted something there was nobody to translate, and then that makes the process harder... A lot of times I used to cry. I couldn’t speak and everything is within you. There was nobody to talk to. I was feeling destroyed. There was nothing that I could communicate easily.”

One man spent over three years of his life in limbo in prison as his claim for asylum was processed and his hand was broken in an altercation with a cellmate.

All those we interviewed reported being double bunked at some point and it was standard practice to be strip searched. Language barriers for some meant they suffered in silence and couldn’t even ask for help. Three were detained in prison despite a community group or family member offering to host them in the community.

“It was really difficult. It was my first time in custody, or in prison. My first time ever. I didn’t know. I didn’t want to do it. It was really difficult. I was thinking like I will die inside there. At that time I was 20 years [old]. It was my first time in a police cell and I didn’t know what was going on. I came here for the safety; not to be in a difficult situation or to be punished...”

Alternatives

The enjoyment of personal liberty should be a person’s default condition. While detention on immigration grounds (which are the grounds asylum seekers are detained on) is not completely prohibited under international law, it must be shown to be necessary, proportionate, humane and only used as a last resort. Critically, detention in these circumstances in a criminal justice facility is contrary to international human rights standards.

There are alternatives to prison and detention available to the Government that are not being utilized, provided, or properly funded. The Refugee Resettlement Centre in Auckland is operating as a facility where some asylum seekers can reside. Similarly there’s the community-based Asylum Seeker Support Hostel, where asylum seekers can also be released on conditions. However, since 2013 the Government has not consistently funded this body.

Amnesty International is calling for immediate and urgent reform to end the use of criminal justice facilities such as police stations and prisons to detain asylum seekers or migrants