

A Prison is Not a Home: Troubling 'Therapeutic Remand' for Criminalised Women

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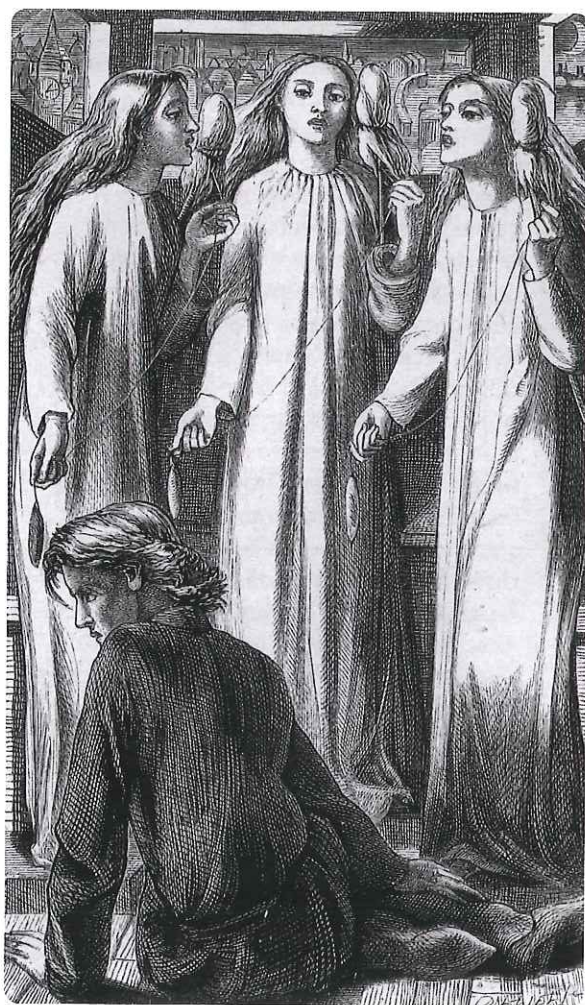
In this article we highlight some of the potential problems and effects of existing remand and bail practices in particular for women experiencing homelessness. This discussion is important especially in the context of a rapidly growing prison industry in Victoria. As an alternate framework, we suggest that decarceration strategies promote racial, gender, and economic justice, strengthening communities in place of prisons.

Remand and bail practices in Victoria form an integral part of the entrapment of people experiencing homelessness in the criminal injustice system. Within a 'tough on crime' political and legal climate, the criminalisation of homelessness and poverty is intensifying. We know that people experiencing homelessness are often subject to near-constant surveillance due to their daily routines being carried out in public spaces.¹ We also know that homelessness is likely to affect the provision of bail.^{2, 3, 4}

The Public Interest Law Clearing House (PILCH) and the Homeless Persons Legal Centre⁵ report that, under the Bail Act 'people who are homeless are remanded in custody in situations where, if it were not for their homeless status they would be able to obtain bail'. Put simply, for a person to be awarded bail, they must have an address to be bailed to, which presents significant barriers for people experiencing homelessness.

The prison population in Victoria in general has grown at an alarming rate over the past decade, from 3,624 people imprisoned in 2004 to 6,113

in 2014, representing an increase of 69 per cent.⁶ Almost half of this growth occurred in the last two years. This is despite recent reports that crime rates overall in Victoria remain lower than ten years ago.⁷



Frequent use of remand is cited as one of the key drivers for the hike in prison numbers (alongside more parole orders being cancelled and fewer granted, and increased prison sentences).⁸ Remand refers to the state practice of detaining someone who is un-sentenced.

Remand rates are rising in this state and particularly for women⁹ At 15 September 2014, a quarter of the

women's prison population was on remand (109 women).¹⁰ Compared to 2010–11, in 2013–14 there were 386 additional female remand receptions, which represents a 108 per cent increase. Very few women

remanded go on to receive a sentence (only 36 per cent).¹¹ Reports from social services also indicate that Aboriginal women, in particular, are less likely to be granted bail.^{12, 13, 14}

The escalation in the use of remand for women coincides with increasing rates of women experiencing homelessness in Victoria.¹⁵ For many of these women, violence is the primary reason for homelessness.¹⁶ For some, homelessness exacerbates mental health issues and for others homelessness is a contributing factor to their mental ill-health.¹⁷ Women experiencing homelessness often report a lack of safe accommodation and limited availability of support and resources.¹⁸ Yet, women's distinctive needs are often ignored in policy approaches because they make up a smaller proportion of the homeless population.¹⁹ These systemic issues (gendered violence, mental ill-health, lack of support) apply equally to women who are incarcerated.

For some women, their homeless status may be seen by the courts as contributing to their likelihood of 'reoffending'.²⁰ A Parliamentary Inquiry in 2010 documented instances of women being given a 'therapeutic remand' sentence by magistrates.²¹ In such cases, magistrates are likely to recognise the limitations of programs available outside of prison and choose to remand someone on the basis that

better help may be available to them in prison.²² However, the use of 'therapeutic remand' is particularly fraught considering that prison policies often limit women's access to 'therapeutic' programs and services whilst on remand.²³

Moreover, programs in prisons are often experienced by women as coercive.²⁴ Our view is that imprisonment should be challenged as a legitimate response to people experiencing often multiple forms of violence, disadvantage and stigma. Prison is an inherently violent institution and thus, imprisonment is likely to further entrench these conditions.

When remand is seen as the best or indeed only option for criminalised women, this suggests that initiatives and investments in the community to address inequality and injustice are urgently needed. The limited supports available in the community reflect broader political trends of defunding and undermining community support networks and organisations, while continually increasing prison budgets and expansion plans. Indeed, Kilroy et al²⁵ argue that the frequent refusal of bail because of a lack of housing, support and treatment options in the community is an example of the prison system perpetuating itself. As state spending on prisons and policing continues to grow, in-prison programs and 'treatment services' for women are used in lieu of providing community-based health and support services.

The problems with mass incarceration, however, extend far beyond their expenses. As activist Olive McRae points out, when the cost of incarceration is discussed it's frequently discussed in terms of the cost to the state. These conversations rarely account for the actual personal costs of forcibly removing someone from society. Alongside the severe emotional impacts, the personal costs of incarceration also have an economic dimension — through lost income, community participation, and care for dependents. Yet unless you experience it, you are unlikely to grasp the magnitude of the impact (the real 'costs') of sequestering someone from their loved ones and community.²⁶

In the context of heightened criminalisation and prison expansion in Victoria, alternate frameworks for transformative social change are urgently needed. Decarceration initiatives provide a means to look beyond imprisonment as a solution to complex social issues. Decarceration refers to decreasing the numbers of people who go to prison.²⁷ One way of doing this is to invest more in community-based initiatives, while discouraging the monumental growth in correctional industries. We believe that investing in communities — through housing, healthcare, education, income security and support — is what reduces harm overall. Corrections-oriented approaches typically reinforce pathologising views of individuals. Instead, we need to shift our gaze to scrutinise the systematic criminalisation of communities impacted by racism and poverty.

The refusal of bail due to homelessness reflects how structural disadvantages are refracted through criminal justice system practices. The increase in remand populations in Victorian prisons is part of a broader trend of burgeoning prison populations in this state, and this is particularly the case for rates of women imprisoned. This trend, coupled with massive defunding of social services compounds the disadvantages criminalised women face. We argue that practices of 'therapeutic remand' not only rely on the use of imprisonment, but also show a lack of investment in community alternatives. Initiatives focussed on decarceration and decriminalisation offer an alternative approach to strengthen and invest in communities, not prisons.

Flat Out is a Victorian state-wide support and advocacy service for women who have had contact with the criminal justice and/or prison system.

Endnotes

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