




## Miller & Carroll v New Zealand 2018

- To get a copy go to my website:
  - [http://www.tonyellis.co.nz/case\\_result/miller-carroll-v-nz/](http://www.tonyellis.co.nz/case_result/miller-carroll-v-nz/)
- It's a bit like an iceberg what I can say to you today domestic going to Rights  need to exhaust remedies before the UN Human Committee.



# Miller & Carroll v New Zealand 2018

## A progression of case law:

*Rameka v New Zealand 2002*

*M v Germany 2009*

*Fardon v Australia 2010*

*A v New Zealand 2015 UN Working Group on Arbitrary Detention*

*Vogel v New Zealand 2017 UN Committee*





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- Principal point is that those on preventive detention are not there for a lock them up and throw away the key, sentences are in two parts, tariff or punishment period, in this case ten years before consideration of parole, but post 2002 could be 5 years, 6, 7 etc.
- Following the ten-year period, and both clients have been detained for over 20 years, they should not be kept in punitive conditions as they are only detained for protection of public not punishment, to do so is **ARBITRARY DETENTION** in domestic terms breach of s 22 NZBORA and internationally breach of Article 9(1).
- Second breach of arbitrary detention for the way Mr Carroll was recalled to prison in 2004, 14 years ago.



## Miller & Carroll v New Zealand 2018

- The first oral hearing before any UN Human Rights Treaty Body held in Geneva October 2017.
- 20 mins – 15 mins – 10 mins – 5 mins
- What next?
- Awaiting NZ government reply to UN
- In Vogel paid compensation and contribution towards legal costs