Kia ora koutou,

I would like to start by recognising the mana whenua of this land and your enduring rights and expression of tino rangatiratanga.

Before I begin, I need to warn you that my presentation contains extremely distressing information. I will not be offended if you need to leave at any time.

Today, I was hoping to present a digested version of my Master’s thesis. My thesis examines 108 coroners findings into deaths in New Zealand prisons. It was an immense burden and responsibility to be granted such sensitive and important data. The fundamental lack of justice and dehumanisation that these people experienced meant that part of what I wanted to do was to ensure that their stories got told and that they experienced some justice.

The task of writing this presentation was simply impossible because of the responsibility. I struggled to keep my thesis within the 40,000-word limit and I was very lucky to have markers that simply ignored the fact that I doubled the word count. 20 minutes just simply isn’t enough. I’m presenting this to you acknowledging that I simply can’t say all that needs to be said about this topic. It also means I will leave numerous concepts unexplained, so please ask me for clarification if needed. Things will also appear on the PowerPoint that I will not explain but will hopefully provide some context, while I’m talking.

What I’m presenting today is primarily from my fourth chapter, titled ‘Vilification, Abjection, Dehumanisation’. The concept of dehumanisation is particularly important for understanding how conditions and norms of confinement prepare incarcerated people for death.

DEHUMANISATION AND ISOLATION

A core dehumanising component of the disciplinary regime of New Zealand prisons is cell confinement and isolation. From the cases I have that are not censored by section 71 of the Coroners’ Act, at their time of death, 12.50% of self-inflicted deaths (n = 2) occurred while on Directed Segregation. Directed Segregation, although practiced in different ways from prison to prison, amounts to a dehumanising condition of confinement. Recent investigations by the Office of the Ombudsman find that ‘Most prisoners placed on directed segregation were not receiving their daily minimum entitlement of one hour in the open air at Rimutaka, Mt Eden and Auckland’ prisons and that the standard of Directed Segregation accommodation in Auckland Prison particularly ‘could be considered cruel and inhuman’

Tipene Dawson was one of the 2 uncensored self-inflicted deaths that occurred in Directed

Segregation. Tipene’s case demonstrates that Directed Segregation can certainly amount to

cruel and inhuman treatment.

As a condition of his confinement, Tipene was denied the ability to associate with other prisoners for the first ten days in Directed Segregation. This means his only interaction with other people for ten days was with his imprisoners.

After thirteen days on solitary confinement, and one day before he was due to be transferred

to a mainstream unit, Tipene took his own life.

Although it is unclear from the findings exactly how many hours per day Tipene was confined in his cell, it is implied in the findings that Tipene may have spent up to 24 hours per day inside. Given that, in a report into prisons in 2013/14, the Ombudsman (2014) finds Directed Segregation prisoners at Rimutaka, where Tipene was confined, were denied their minimum one hour of fresh air daily, it appears that Tipene may have endured those conditions of total confinement prior to his death in 2014.

Despite what appears to be cruel and inhuman treatment of Tipene, Coroner Evans is not

convinced that his segregation status was a factor in his death. ‘Whether or not his Directed

Segregation was a factor influencing his decision to take his life cannot be known’ (Evans 2015, para. 50). Coroner Evans was, in this way, unwilling to question how the dehumanising treatment of Tipene made him more susceptible to taking his own life. In this instance, the state refuses to consider how its actions may establish zones of abjection that place those in its care at greater risk of death.

A second form of isolation that can amount to solitary confinement in New Zealand prisons are the At-Risk Units (ARUs). The ARUs ‘comprise of solitary cells where prisoners are transferred in efforts to prevent the risk of personal harm or injury to themselves’ (Harris 2015, 40). ARUs play a vital role in almost all coroners’ findings into self-inflicted deaths. Many of these findings start with the assumption that ‘good strategies’ for managing suicidal people is to place them in a ‘suicide-proof’ ARU. Many findings discuss at length the various at-risk assessments that prisoners underwent during their incarceration. The purpose of this is to determine if a mistake was made in failing to place the deceased in the ARU.

Yet the conditions in ARUs have been exposed as degrading and inhumane. Shalev finds that ‘the appearance, conditions and regime in most of the At Risk units we visited were as impoverished and stark as those in punitive segregation units and units for the management of difficult prisoners. Since segregation is a known risk factor for self-harm and suicide, it follows that the people at risk of such behaviour should not be segregated’ (Shalev 2017, 34). According to Harris’ (2015) study of ARUs, prisoners are locked in ARU cells for up to 23 hours per day.

Coroner Scott’s discussion of the ARU and suicide-proof cells is a refreshingly candid account of the state’s approach to suicidal prisoners. Coroner Scott states ‘At the hearing, counsel for [Piri’s]36 family asked a senior prison officer if prison cells could be made totally safe or suicide-proof. The answer that he received was “yes but only by dehumanising the cell environment or [sic] the prisoner”. He went on to describe how this in fact could be done and how in fact it was done in a very limited number of high risk cells’ (2012c, para. 26). This is a clear admission by Corrections and acceptance by the coroner that there are dehumanising cells in New Zealand prisons. Coroner Scott then comments that imprisonment in suicide-proof cells ‘would be a grossly excessive extra penalty to impose on prisoners’ (2012c, para. 28).37 Coroner Scott states ‘I have very strong views on anything which tends to make prisons any more dehumanised than they must be to secure the population’ (2012c, para. 28, emphasis added). In these striking paragraphs, Coroner Scott states that suicide-proof cells are dehumanising and a grossly excessive penalty on prisoners. He also rejects the dehumanisation of prisoners any more ‘than they must be’. Implicit in these contradictions is the recognition that prisons must dehumanise incarcerated people in order to ‘secure the population’.

Importantly, although ARUs dehumanise the people who endure them, suicides still occur in these supposedly suicide-proof cells.

Probably the most widely reported prison death in New Zealand media, the death of Antoine Dixon, happened while he was in an ARU (Evans 2013). Antoine took his own life while a prisoner at Auckland Prison in 2009.

Several elements of the circumstances of Antoine’s death are shocking, none more so than the way he was treated in the lead up to his death. During his period on remand since 2008, Antoine spent almost the entire time at Auckland Central Remand Prison (ACRP). The coroner comments that Antoine’s mental health deteriorated while at ACRP, leading to an apparent suicide attempt on February 1, 2009. As a result of this incident, officers placed Antoine in the ARU in waist restraints, ‘meaning that his hands were handcuffed to a belt around his waist’ (Evans 2013, para. 21). The handcuffs created severe discomfort for Antoine, causing cellulitis which required intravenous anti-biotic for treatment. Antoine never received this treatment ‘due to logistical difficulties in taking Mr Dixon to hospital’ (Evans 2013, para. 54). He was in waist restraints for thirty-one uninterrupted hours.

On February 2, 2009, Antoine was transferred to Auckland Prison because there was a tiedown bed in that prison’s ARU. The tie-down bed and waist-restraint are two of the most punitive technologies that are used in ARUs. Antoine was placed in a tie-down bed until the afternoon of February 4. Inspector Aumua told the coroner that since Antoine’s ‘placement in waist restraints and on the tie-down bed he had access to drinking water only when staff provided it. He said no record was maintained in relation to the times food and water were offered to Mr Dixon and whether such food or water were accepted or refused’ (Evans 2013, para. 32).

Dr Pillai, a forensic psychiatrist, saw Antoine while he was in a tie-down bed on February 3. Dr Pillai was highly concerned about the use of the tie-down bed. Dr Pillai found Antoine was exhibiting features of delirium, ‘secondary to a number of causes, including his deteriorated physical state (infection and dehydration), sleep deprivation and ongoing restraints’ (Evans 2013, para. 54). Dr Pillai recommended that Antoine be removed from the tie-down bed, telling Coroner Evans that ‘the tying-down of people on beds to manage the risk of self-harm is not something that happens in a mental health context. He said he and his colleagues feel very uncomfortable about such practice’ (Evans 2013, para. 64). Antoine was removed from the tie-down bed on the afternoon of February 4.

Once Antoine was removed from the tie-down bed, he was placed in a ‘tear proof’ stitch gown in the ARU and placed under fifteen-minute observations, meaning an officer needed to physically check him every fifteen minutes. On the evening of February 4, a Corrections officer, ‘heard a thump and went to Mr Dixon's cell, he saw him standing behind the door holding a cord around his neck’ (Evans 2013, para. 46). The Corrections officer, however, did not open the cell at the time, even though he had the key. Instead, he waited seven minutes until three other officers arrived before he opened the door. In that time, the officer saw Antoine collapse. The officer waited for three other officers, as the prison’s policy was that Antoine’s cell was not to be opened without four officers present.

In Antoine Dixon’s case, Corrections officials continually stressed the necessity of treating Antoine in a dehumanising manner, such as the waist restraints and tie-down bed. The coroner states

Mr Dixon had a history of unpredictability, aggressiveness and selfharming. On occasions, he had appeared to be compliant, but on other occasions his behaviour was described as extreme and manipulative. He was regarded as a high-risk prisoner who demanded the strictest management regime, in order to ensure the safety of both himself and of those who came into contact with him. (Evans 2013, para. 2)

Within this context, the bed and waist restraints were described by officials as the ‘only option’ (para. 29), ‘the most appropriate place for Mr Dixon’ (para. 29), and ‘reasonable and practical’ (para. 84).

Particularly unmanageable prisoners are placed in heightened precarity. Prisoners who are forced into Directed Segregation or cell confinement, as a way to manage them as a threat to prison security or punish them for misbehaviour, are exposed to the dehumanising practices of isolation. For prisoners like Antoine Dixon, inhumane and degrading practices such as waist and bed restraints are the technologies through which their basic bodily movement is restricted, as a way to mitigate risk. In other words, because prisoners are abject beings and part of a population that needs to be managed, practices that dehumanise prisoners re-enact the normative presupposition that prisoners are not human. These practices reproduce the ideal that these abject bodies are worth less than human bodies within the normative regime.

GRIEVING PRISON DEATH

Quoting butler: ‘Ungrievable lives are those that cannot be lost, and cannot be destroyed, because they already inhabit a lost and destroyed zone’ (Butler 2010, xix). For the life of the inhabitants of this abject zone, their destruction ‘might even seem like a kind of redundancy, or a way of simply ratifying a prior truth’ (Butler 2010, xix). The death of the prisoner, often premature, preventable and in dehumanising conditions, merely affirms a ‘truth’ – the ‘truth’ that prisoners are worthy of dehumanisation.

In some of the findings, the prisoners see themselves as ungrievable or unworthy of life. A prisoner who took his own life wrote on the walls of his cell: ‘three whom love me shouldn't ... if it makes you happy ... why are you so sad ... one less bad in the world’ (McDowell 2009, para. 17, ellipses original). The prisoner here accepts that he is a ‘bad’, someone who does not deserve life. He believes he is undeserving of love and that those who love him should not be saddened by his death. At the same time, he recognises that those who love him will be sad, that they will have to grieve his death. He, however, rejects the need for that sadness because his life was a bad one, unworthy of grief.

The families of the deceased are, in many cases, the human faces to which coroners are required to express their impossible grief. Coroners, in their findings often say something to the effect of ‘I extend my sincere condolences to Mr Kahu's family on their loss’ (na Nagara 2008, para. 82).

However, these condolences, although not always expressed, obscure the conflicting interests and narratives of the families and the state. Families often reject the official account of the deceased’s death. In the case of Nicholas Ward Harris, who died while being restrained by Corrections officers, Coroner Ryan comments that although the evidence from the Corrections officers involved may be ‘self-serving’, he has ‘no reason to doubt their integrity’ (2012b, para. 61). The family in this case strongly dispute the coroner’s account of Nicholas’ death.51 In the findings, Coroner Ryan notes multiple factual disputes the family had with Corrections’ evidence, but prefers Corrections’ evidence in all instances. It was also reported in the Waikato Times that Nicholas’ brother-in-law interrupted evidence provided by Detective Sergeant Ross Patterson. Waikato Times quote Nicholas’ brother-in-law as saying: ‘The first call we got was that he committed suicide. You're fucking murderers, that's what you are’ (Kidd 2012, n.p., expletive deleted in original).

For many coroners, the very purpose of coronial inquests into deaths in prisons is about confidence. Coroner Shortland comments that ‘Any death in prison is one too many, which always casts suspicions and doubts on the system and individuals who work within it’ (Shortland 2013, para. 101). While outlining the purpose of their inquests into deaths in prison, Coroners Greig (2012b, para. 90), McDowell (2009, para. 43), and Evans (2015, para. 55)54 state emphatically that it ‘is important that the public should have confidence in the New Zealand prison system’. In other words, self-inflicted deaths in prison are inevitable and yet undermine confidence in the prison system. The purpose of coroners’ inquests is thus to reaffirm confidence in the prison system by identifying small policy failures, where, if they are even present, should be avoided in the future. The Coroners Court, as an ideological state apparatus, is thus a tool for the maintenance of the prison system and confidence in it.

Given this purpose, and the wider conditions of imprisonment, the coroners effectively foreclose the possibility of the state grieving the death of the prisoner. At a normative level, the prisoner’s life is ungrievable. It is ungrievable because it is normatively expelled from the meaning of human. Prior to their death, prisoners inhabit a zone of abjection, where their bodies are constructed through the practices of imprisonment as bodies unworthy of support and not quite a life. Because these lives are not fully recognisable as lives, the loss of them is ungrievable according to the normative standards that deny their lives. In this sense, although I can count the number of people who have died in prison, their ethnicity, gender, age, and prisoner type, I cannot make the lives of these people count. Within a normative framework that denies prisoners the social conditions of a life worthy of living, their death cannot count. Their lives are ungrievable.

The state itself is a fractured, contradictory, and incomplete subject that must come to terms with the loss of a person in its custody. While it attempts to mourn the loss of the prisoner, it cannot truly do so if it accepts the inevitability of preventable custodial death and the dehumanising social conditions of imprisonment. For Butler, ‘one mourns when one accepts the fact that the loss one undergoes will be one that changes you, changes you possibly forever, and that mourning has to do with agreeing to undergo a transformation the full result of which you cannot know in advance’ (2004, 18). The state and its prison system, however, remain constant in the face of the loss of a prisoner.

These trends within the coroners’ reports are part of the state’s broader inability to accept the loss of the prisoner and its role in creating the conditions for the loss. The loss of this abject being cannot be fully mourned by the state, as by accepting the inevitability of such losses, it refuses to be transformed by them. In that sense, to truly mourn the death of the prisoner, a material transformation in the social conditions that facilitate carceral death is required.

To take on the loss of the prisoner, to be transformed by it, and to prevent its reoccurrence, the conditions that lay the groundwork for the loss must be addressed. If the social conditions of imprisonment are inherently dehumanising and preventable deaths are inevitable, then the problem that must be addressed is the prison itself. As long as the prison remains, it will be a factory of misery and death. To mourn the death of the prisoner, we must undo the structures that kill them. We must abolish the prison.

However, prison abolition is not enough. The death of the prisoner is so intrinsic to this social system of simultaneous abundance, obscene wealth, immiseration, and dispossession that the death cannot be mourned within a system that necessitates it. The prison itself is so necessary to the capitalist mode of production that it cannot be abolished without a movement beyond settler-colonial capitalism. In this sense, we cannot mourn the death of the prisoner as long as we produce social conditions that enable it. However, these social conditions will only exist as long as we continue to reproduce them. If we choose to, we can, in time, mourn the death of the prisoner.