

*Rock College: An Unofficial History of Mount Eden Prison*  
By Mark Derby. Auckland: Massey University Press, 2020.  
RRP: \$45, ISBN: 978-0-9951318-5-9  
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2020 should not only be defined by the mass death and social devastation of the COVID-19 pandemic. 2020 was also a year for a long-overdue global confrontation with the socially unjust consequences of justice systems around the world. Following the police killing of George Floyd, millions of people around the world took to the streets demanding ‘Black Lives Matter’, alongside calls to defund and disband the police. Tens of thousands took part in the successful ‘Arms Down’ campaign in Aotearoa to end a trial of Armed Response Teams. These movements put the question of racism and the future of the criminal justice system at the forefront of public debate.

By the end of 2020, Aotearoa saw an uprising of another kind. For 6 days from the 29th of December, protesters at Waikeria Prison in Waikato climbed onto the roof of the ‘Top Jail’ and set fire to the prison. The protesters claim they took action to address inhumane prison conditions. The Waikeria Uprising echoed the numerous peaceful protests, strikes and riots which prisoners in New Zealand have taken over the past 170 years, often as a desperate response to deplorable conditions. It is in this context that Mark Derby’s (2020) *Rock College: An Unofficial History of Mount Eden Prison* provides an anchor for our social understanding of the history of the justice system in New Zealand. This anchor can inform how we transform our justice system in response to the challenges set forth by global movements for racial, and broader social, justice.

In the introduction, Derby worries that the thousands of people who pass by the old Mount Eden Prison buildings may not know the old prison has been shut down and ‘almost none are aware of the influential role it has played in forming, and perhaps deforming, New Zealand’s colonial history’. Throughout *Rock College*, Derby demonstrates the role Mount Eden Prison played in the suppression of Māori resistance to colonisation and the political imprisonment of Māori leaders. These included the Maniapoto prophet Te Mahuki, imprisoned for resisting the construction of the Main Trunk Railway on Maniapoto land, and Rua Kēnana, who refused to enlist and encourage his followers to enlist during the First World War. Derby notes that Rua’s imprisonment delighted Pākehā, as he remained a renowned ‘representative of unreconciled Māoridom’. Although Derby does not explicitly argue that the imprisonment of Rua, Te Mahuki and numerous other rangitira and tohunga was a tool for the political disempowerment of Māori, a critical reader of *Rock College* easily makes those links. A history of Mount Eden Prison could not fully unpack the intergenerational consequences of this tool.

2020 was also a year for the resurgence of debates about freedom of speech, with the political right arguing that their rights have been undermined by a nebulous ‘cancel culture’. *Rock College* provides a concrete reminder of the history of free speech in Aotearoa. It was not talk-back radio shock jocks or aggrieved small-business owners who were imprisoned for their impermissible speech in the early 20<sup>th</sup> century. It was unionised workers, organisers, conscientious objectors, and Māori leaders. In 1916, a conscientious objector and labour leader, James Thorn, was sentenced to 12 months imprisonment for the crime of ‘seditious utterance’ for giving a public speech against conscription. From the perspective of an emerging settler-colonial capitalist state, miners striking over pay and conditions, union organisers encouraging industrial action and socialist, religious and Māori objectors to war all constituted a threat to

the stability of the emerging social order. Mount Eden Prison was a site where those who dared to speak against the interests of the state would be punished, degraded, and humiliated.

Most of Mount Eden Prison's inhabitants were, of course, not political prisoners. The treatment of these 'ordinary' prisoners, however, is of similar importance to our understanding of social morality and attitudes toward criminalised and marginalised people. Derby's first chapter describes the 'feculent hovel' that preceded Mount Eden Prison. That metropolitan jail was built in response to the 'large population' of 'seafarers, ex-convicts, defaulting soldiers, needy women, and gamblers', who needed to be contained. From its inception, Mount Eden and its precursor recruited its inhabitants from the poorest segments of our society. The imprisonment of middle class or wealthy people at Mount Eden was exceptional, often resulting in exceptional treatment and even public sympathy.

Sympathy, compassion, and recognition of the basic humanity of prisoners has been fundamentally lacking at numerous times throughout Mount Eden's history. In 1867, an inquiry found that the disciplinary regime was immoral and 'that within its walls tyrannous acts of cruelty and torture have been committed'. This treatment included corporal punishment, as well as inhumane, unsanitary, and overcrowded conditions. Despite efforts from early reformers to abolish corporal punishment, it was not until the 1930s that the practice was abolished.

Following the abolition of corporal punishment, unsanctioned abuse carried out by or encouraged by state actors continued. Derby describes how, in the late 1950s, the punitive disciplinary regime increased tensions and violence at the prison. In April 1960, a group of men locked in solitary confinement cells were 'visited' in succession by a group of officers who seemingly inflicted serious injuries on these caged beings. In an interview, Jim Shephard describes how, during his time in the then-new high security in the late 1960s, he was:

subject to torture – lights on all night, gates going every 20 minutes. You couldn't sleep. The screws would bang on the cell doors with their batons just to be smartarses. There's nothing before or since to compare with that place. I realised later that it did a lot of damage to me psychologically. None of us came out in good shape.

Valerie Morse, a political prisoner arrested during the Operation 8 raids against Tūhoe leaders and left-wing activists in 2008, has described similar treatment during her time on remand at Arohata Women's Prison.

There are, thankfully, some significant ways in which our justice system has reformed and officially done away with some of its most inhumane practices. The history of Mount Eden Prison is also the history of capital punishment in New Zealand. Chapter 6 of *Rock College* describes the renaissance of the death penalty with the election of the first National government in 1949. All 16 men who were killed, on behalf of the people of New Zealand, were executed at Mount Eden Prison. Throughout the text, the spectacle of this form of punishment changed as public morality changed. The first hangings in Auckland were public, offering dubious deterrence and an experience of morbid fascination. Over time, this public spectacle was progressively privatised, hiding the brutality of multiple botched executions and avoiding an offence to developing moral sensibilities.

Derby describes how the candidates for execution were remarkably similar. A candidate was often a 'befuddled' man with 'little education or skills' who killed another person 'in a moment of rage, sometimes while drunk'. This describes Harry Whiteland, who was executed in

December 1953. His last words were ‘Merry Christmas’. Derby writes this execution ‘proved too much for the attending sheriff to bear. His two predecessors in this post had both suffered nervous breakdowns and resigned rather than witness further executions’. Although we have done away with the death penalty in New Zealand, our prisons continue to be filled with people with intellectual disabilities and severe mental illness.

For a critical reader, *Rock College’s* horrors are more frightening in the context of current conditions and experiences of our prison system. The history of penal attitudes and reform in New Zealand has been far from linear. Cycles of reform and reaction have led to significant improvements and subsequent deteriorations in prison conditions. It is the lasting inhumane and degrading practices in our prisons that speak to the consistency with which New Zealand has been indifferent to the human dignity of prisoners, a politically unpopular group of people. Since the birth of the prison in New Zealand, we have filled our prisons with people from the most disadvantaged segments of our society. This has remained remarkably consistent, with the notable exception of Māori incarceration rates which were low until the period of urbanisation, when Māori became overrepresented in our prison system.

In 1902, Mount Eden Prison Governor Severne gave evidence that people experiencing mental illness were being held in the prison because hospitals were overcrowded and there was nowhere else to house them. A similar practice exists today. In June 2021, 1news reported the story of a Christchurch woman who was experiencing psychosis and was held in prison for a month because there were no spaces available for her in a forensic mental health facility. A 2017 Ombudsman report into Christchurch Men’s Prison found the average wait-time to be transferred from prison to a mental health facility was four weeks. However, most people in prison do not receive this level of forensic intervention, despite Corrections estimating around 62% of prisoners had been diagnosed with a mental health disorder within the last year and 91% being diagnosed in their lifetimes. More than 100 years later, we continue to lock up and punish people who need care and support.

The Corrections’ research from 2014 suggests around 70% of prisoners do not have basic literacy skills required to cope with everyday life. From the 1840s, Derby recounts the efforts by Reverend John Churton to address the limited reading and writing skills of prisoners by introducing literacy programmes. For the last 180 years, we have been aware of the issue that we tend to incarcerate people with limited literacy. Over that time, Derby outlines how literacy programmes were introduced and removed following the cycles of reaction and reform. What remains, however, is that we continue to recruit our prisoners from the segment of the population that is the poorest, least educated, and most likely to have a disability or mental illness.

Prison labour features throughout *Rock College*. This labour has been forced and as a part of a punishment of ‘penal servitude’ or ‘hard labour’. Derby does not use this term, but another description for forced labour in prison with little, or no, monetary compensation is ‘penal slavery’. Penal slavery has played an essential role in the construction of Auckland, and New Zealand as a whole. From roads to state houses, un- or under-paid labour has built this country. The working conditions of incarcerated workers at Mount Eden Prison has been, at times, dangerous and has contributed to workplace injuries and fatalities. In 1935, an inspection of Mount Eden found incarcerated people were compelled to work in conditions that ‘no Government inspector would tolerate in a commercial factory’.

Throughout the text, Derby mentions the wages paid to incarcerated workers, with workers in 1864 being paid a third of the market rate if they met their daily quota and, from 1921, workers were paid half the average national pay rate, halved again for board. Derby does not note how, by 2011, when the old Mount Eden Prison was finally closed, most prisoners were earning between \$0 to \$0.60 per hour for their work. This means that incarcerated workers today are paid considerably less in relation to market wages than people sentenced to penal servitude and hard labour more than 100 years ago.

Understanding prison labour is key to understanding the social setting of the prison. Indeed, very few prisons could continue to exist without the un- and under-paid labour of countless incarcerated workers. It is interesting, considering this, that labour productivity has been used as a justification for addressing inhumane conditions where moral arguments failed. In the 1860s, the Provincial Council reluctantly agreed to improve the nutritional value of food provided to prisoners. The Council ‘calculated the cost of such a diet against the income it might receive from prison labour, estimated the potential added expense of treating men who fell ill from under-feeding, and approved the recommended changes’. This logic of cold consideration of cost, risk, or security, ahead of human dignity, remains a defining feature of the New Zealand prison system.

When it comes to archaic practices that New Zealand seems unable to shake off, few have more profoundly degrading impacts as our continued use of solitary confinement in our prisons. New Zealand’s use of solitary confinement, or the practice of socially isolating a person in a cell for 22-24 hours per day, has been criticised recently by international human rights observers and independent oversight bodies like the Ombudsman. Despite this, Corrections denies that it even uses solitary confinement.

Research into solitary confinement has consistently found that it can, especially in cases of prolonged solitary confinement of more than 14 days, cause long-term psychological and physiological damage and can make its victims more likely to be violent on release from solitary. *Rock College* provides a reminder that these findings have been clear for at least 150 years. In 1867, Mount Eden Prison’s chief warder told an inquiry that solitary confinement did not achieve its purpose in improving prison discipline, but made confined people ‘more reckless’. By the 1930s, Reverend George Moreton told the *New Zealand Herald* that if a person stays in solitary ‘long enough he begins to break out in sores produced by the rubbing of concrete; after four days he’s either a murderous maniac or a broken piece of humanity – most men are broken’. Derby quotes a former prisoner describing his experience in the then-newly build high security unit at Waikeria Prison in 1965:

We were let out for maybe ten minutes each day. In those few minutes we had to have a shower and clean our cell out... We were more or less living like animals. About eleven chaps were sent to mental hospital from there. Several fellows cut their wrists.

In 2011, the United Nations Special Rapporteur on Torture, Juan Mendez, told the United Nations General Assembly that solitary confinement for more than 15 days can amount to torture and needs to be banned. A Human Rights Commission investigation found that, in 2019, on 1339 occasions New Zealand’s Department of Corrections placed people in solitary confinement for more than 15 days. *Rock College* provides us with a reminder that some of the most shameful and inhumane practices the state does for our supposed protection are entrenched in the prison system.

Derby's final chapter, titled 'Death on remand 1970-2011', among other things, described the high rates of suicide in Mount Eden Prison, particularly in the 1990s, with 10 people taking their own lives in Mount Eden in 1997 alone. As my research background includes investigations of deaths in New Zealand prisons, I had high expectations for this chapter, particularly as it covered a more recent period. Derby did not realise these, perhaps, unfair expectations. I would have liked to have seen engagement with coronial investigations into deaths at Mount Eden Prison. By the late 2000s, these investigations recognised that the physical environment of the prison had been contributing to high rates of suicide and had not been adequately addressed by Corrections, despite numerous recommendations to do so.

I was struck more by descriptions of remand conditions in the 1870s at Mount Eden. Remand prisoners are people in prison awaiting trial or sentencing. Recent changes to bail laws in New Zealand have seen an explosion in our remand population, with some people languishing in prison for years before, if ever, being found guilty of a crime. Derby describes how, in 1873, remand prisoners 'faced conditions often worse than for those found guilty'. This included longer times locked in cells and less access to meaningful activities. Recent investigations by the Ombudsman have similarly found that people remanded in custody are more likely to experience solitary confinement, unlikely to have to access rehabilitation programmes, and have high rates of physical victimisation. Since 2013, the number of people on remand has more than doubled, with the majority of the prison population likely to be remand, rather than sentenced, prisoners in the next few years.

A sentiment echoed throughout *Rock College* is that 'cruel and brutal conditions breed cruel and brutal men'. This quotation, from an interview with Jim Shephard, speaks to the societal responsibility all New Zealanders have for a justice system that has, throughout its history, degraded and dehumanised people in prison. Not only do we all carry the moral burden of the cruelties done in our names, but we are also responsible for the cruelty that treatment produces. At its most powerful, *Rock College* demonstrates how experts, justice officials and politicians have known about the inefficacy and cruelty of our justice system for the last 150 years. In the 1868, an inquiry found prisons served to 'harden old offenders; to demoralise, corrupt, and debase those who are recently become criminals, and innocent person waiting for trial; and to afford opportunities for instruction and confederation in all kinds of crime ad vice'. Recent reviews of the justice system by the Prime Minister's Chief Science Adviser, Sir Peter Gluckman, share the same understanding.

Knowing this, why has there been so little change to this system? *Rock College* clearly demonstrates the dialectical, rather than linear, progress of penal history. Rather than little changing over the last 160 years, the history of Mount Eden Prison is a story of regular changes to the prison system. Over this time, there have been numerous reforms to improve the conditions or rehabilitative potential of prisons. There have also been consistent and punitive reaction to these reforms. Indeed, as I read about cycles of reform and reaction, I was struck by how these same debates are happening today. The claims of the Sensible Sentencing Trust today echo the sentiments of punitive reformers of the early 1900s, as much as the prison reformers such as the Howard League have been making the same claims about the inhumanity of prisons.

One reading of *Rock College* may suggest there was something special about the walls and buildings of Mount Eden Prison that made it a particularly cruel place to force human beings to live in. Those buildings were recognised as redundant and inhumane before construction had even been completed. In recognition of these inherently degrading conditions, successive

governments throughout the 20<sup>th</sup> century planned to close or demolish the prison. However, New Zealand's addiction to penal populism – an extremely punitive response to the crimes of the poor – meant these plans had to be cancelled to make room for more prisoners.

An understanding of Mount Eden that sees a particular cruelty in that prison specifically has led to calls from penal reformers for 150 years to build better prisons, to increase access to rehabilitation, or to treat people in prison with more dignity. Efforts to do this litter the pages of *Rock College*.

A more critical reading of *Rock College* suggests another option. Rather than being something specific to Mount Eden itself, there is something inherently broken, dehumanising, and ineffectual about prisons as an institution. This analysis found within the text, countless government inquiries, and criminological literature. A serious engagement with *Rock College* requires a consideration of whether there is a role for prisons in Aotearoa in the 21<sup>st</sup> century. To break this cycle of pointless suffering, it may be that we need stop using prisons and use other methods to respond to social harm.

Nelson Mandela argued that ‘no one truly knows a nation until one has been inside its jails. A nation should not be judged by how it treats its highest citizens, but its lowest ones.’ *Rock College* is essential reading for anyone wanting to understand New Zealand and its colonial history. It is a history of our collective capacity for cruelty, as well as our capacity to see beyond that cruelty. Although Derby does not lay out this question explicitly, preferring to allow the facts speak for themselves, *Rock College* asks us if we wish to be a country that accepts a racist justice system that punishes the poor and achieves little but immiseration. Perhaps it is time to try something different.