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Criminal Justice Issues and Prisoners' Rights

<https://solitarywatch.org/2016/10/28/un-report-compares-solitary-confinement-practices-around-the-world/>

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by [Joshua Manson](#) | October 28, 2016

Last week, the UN Special Rapporteur on Torture, Juan E. Mndez, presented a report to the General Assembly detailing and comparing solitary confinement practices around the world. The report, notably, was Mendez's last as Special Rapporteur, as was his appearance before the UN.

The report, [*Seeing into Solitary: A Review of the Laws and Policies of Certain Nations Regarding Solitary Confinement of Detainees*](#) was the subject of a UN event on October 17 featuring speakers from the ACLU, National Religious Campaign Against Torture, and Vance Center for International Justice, among others.

The report includes within its scope 35 jurisdictions, including eight U.S. states (California, Colorado, Florida, Illinois, Maine, New York, Pennsylvania, and Texas) and twenty-six countries, including the U.S. federal prison system and immigration detention system.

Seeing into Solitary builds on a prior groundbreaking report by Mndez, presented to the UN in 2011, that for the first time declared that solitary confinement may amount to cruel, inhuman, or degrading treatment and in some cases torture, and may thus, under certain conditions, be prohibited under international law. In that 2011 report, Mndez further called for a categorical ban on subjecting juveniles and people with mental illness to solitary confinement, and to end the practice of prolonged and indefinite solitary confinement.

The 2016 report contains six substantive areas of focus:

the ostensible purposes of solitary confinement across jurisdictions,
how the practice is authorized,
whether and how its imposition can be challenged or appealed legally,
what limits are in place,
regulations pertaining to physical conditions such as the use of restraints, and
general trends or developments toward reform.

Purpose

The report found that seven of the thirty-five jurisdictions analyzed allow for solitary confinement to be used only for disciplinary purposes, one of which is the U.S. state of Colorado. It further found that solitary confinement is often imposed in response to remarkably minor offenses. According to research from the Vera Institute of Justice cited in the report, 85 percent of people held in solitary confinement in Illinois state prison system were sent there as punishment for minor infractions, such as abusive language. Mndez has long opposed the use of even short-term solitary for punishment, as opposed to safety reasons.

The other thirty-two jurisdictions claim other justifications, usually in addition to discipline, for using solitary confinement. The most common, according to the report, are for protection of vulnerable people, to maintain security, or as a method of prison administration and managing cell space. However, consideration of specific policies, many from the United States, prove that these justifications are similarly disproportionate or arbitrary.

In both the U.S. immigration detention and federal prison systems, for example, people can be held in solitary confinement for the sole reason that they will be released, removed, or transferred within 24 hours. Also under U.S. federal law, people can be held in solitary confinement if they are HIV-positive and there is reliable evidence that they may pose a health risk to others.

In California, people may be subject to isolation just because they are a relative or associate of a staff member. In Pennsylvania, people may be subject to solitary confinement, against their will and consent, because they are at a high risk of sexual victimization if there exists no alternative means of separation from the likely abuser. Also in Pennsylvania, people may be subject to solitary confinement simply because there is no other appropriate bed space.

Authorization

The report also highlights another instance in which U.S. states practices are remarkably out-of-step representation by legal counsel. In the United States, where solitary confinement is most often applied as a prison administrative measure and not a judicially-sanctioned punishment, a tremendous amount of deference is given to prison officials to impose solitary confinement as they see fit, often without any meaningful transparency or accountability. Under the Prison Litigation Reform Act of 1997, for example, a person held in solitary confinement cannot challenge their isolation in the courts until every possible administrative remedy is first exhausted and even if they manage to reach the courts, their cases seldom succeed.

As a result of the imposition of solitary confinement being removed from the courts and placed within the power and duties of prison officials, in some U.S. states, is there a generic xanax xr including Colorado, Florida, and New York, representation by legal counsel is specifically excluded in administrative proceedings, while in most other states it is simply not provided.

Limits

The report notes that, especially when considering duration of solitary confinement when used as a disciplinary mechanism, the U.S. imposes among the most punitive regimes of solitary confinement in the world. Despite diversity in policies and practices across U.S. states and the federal prison system, the report notes that there is a remarkable similarity across domestic jurisdictions: Many of these laws are written such that prisoners could be held in solitary confinement indefinitely.

The report cites various state laws that regulate how much time, often in days or months, one person may be subject to in solitary confinement at a time but, this is essentially made meaningless, as often there are no laws that regulate how many times that regulated duration may be applied consecutively.

In Pennsylvania, for example, there is a 90-day limit per charged violation; however, there is no overall aggregate limit for individuals charged with multiple violations. Maine, Florida, and Illinois similarly lack aggregate limits for disciplinary violations. California has a limit of 60 months, reserved for murder; this 60-day sanctioned can be renewed indefinitely, however. Colorado's limit is 6-12 months, but this can be renewed in exigent circumstances. In the federal system, the limits are 12, 6, or 3 months depending on the nature of the violation; these terms can be served consecutively, however, subjecting the individual to a far longer period of isolation.

International Context

As the report makes clear, it is difficult to definitively compare the United States with other jurisdictions, as there is a diverse range of variables that can be used to compare countries. While the U.S. stands out among its international peers in certain areas, such as its allowance of indefinite punitive solitary confinement, it is not as stark of an outlier in other areas, such as providing for regulations for the environment despite allowing for the use of physical restraints.

Further, even with decided variables, there is great variation within the United States. In California, Maine, and Pennsylvania, for example, there are three levels of administrative review of a solitary confinement decision. Other states lack that standard, making it difficult to rank the U.S. as a whole.

The report makes clear that one area in which the United States is increasingly distinguished from its international peers is in reforms advocated by civil society. The report cites several recent developments curtailing the use of solitary confinement in the U.S., including many policy changes. At the federal level, the President has recently banned subjecting juveniles in the federal prison system to solitary confinement; at the state level, Colorado has narrowed the criteria of who may be subject to solitary confinement; and at the city level, New York City recently banned solitary confinement for juveniles and disabled people. It also mentions pending legislation at the state level, including proposed legislation in New York to create alternatives to solitary confinement, and in Illinois to limit who may be subject to isolation. Lastly, legal settlements have further distinguished the U.S. from its peers, including agreements in New York and California that have greatly reduced who may be subject to isolation.

Conclusion

The report ends on a largely optimistic note, observing a general trend, though not without exception, toward reform. Specifically within the United States, it notes a number of policy changes or legal settlements that have chipped away at the use of solitary confinement. These include efforts by the federal government, including President Obama's announcement that juveniles in the federal prison system will no longer be held in solitary confinement. They also include state-level reforms, such as Colorado policy to reserve the use of isolation for only the most violent and dangerous offense types, pending legislation in Colorado and Pennsylvania to lessen the use of solitary confinement, and further reform efforts at more local levels including New York City's ban on solitary confinement of those who are under 21 years of age, are seriously mentally ill, or are physically disabled.

Mendez's six-year term as special rapporteur comes to an official end on October 31. His successor will be Dr. Nils Melzer, an expert in international human rights law who has been serving as the Human Rights Chair at the Geneva Academy of International Humanitarian Law and Human Rights.

Joshua Manson is a freelance writer and editor based in Brooklyn, New York. He focuses on issues related to policing, prison conditions, and the dangerous health outcomes associated with incarceration. He is on Twitter @joshua_k_manson.

Accurate information and authentic storytelling can serve as powerful antidotes to ignorance and injustice. We have helped generate public awareness, mainstream media attention, and informed policymaking on what was once an invisible domestic human rights crisis.

Only with your support can we continue this groundbreaking work, shining light into the darkest corners of the U.S. criminal punishment system.

by [Juan Moreno Haines](#)

October 25, 2022

by [Solitary Watch Guest Author](#)

October 13, 2022

by [Vaidya Gullapalli](#)

September 29, 2022

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I've served approx. 17 yrs in prison. out of those yrs I've served about 6 yrs in ad/seg and SHU. in pelican bay I then returned to prison again only to serve 4 yrs straight in SHU single celled. in total I've served about over 14 yrs in ad/seg and SHU. collectively over all. this is a rudimentary estimation. but I've been out of prison for 9 yrs now am yet to go back to work or have a relationship with a member of the opposite sex. I was married but lost my marriage due to my lengthy terms. I have a daughter whom I have little to no relationship with her. She has made me a grandfather and I have no connection with my grandson at all. I've continued to struggle with drug addiction. since self medicating is the best way I know how to fill some kind of calmness and just the only way I can function. yet mental health look at me as if I'm putting on. I don't know what to do other than continue to do what works for me but I've tried psychotropic medications only to find nothing that allows me to function as well as the self medicating does. I'm at a loss.

I recently was transferred from Japan where I spent over five and a half years in solitary confinement as per U.N. definition. I am a 71 year old man who unwittingly did something stupid by bringing a suitcase containing drugs into their country. As a result, I was exposed to a level of abuse I could never have dreamed of. The fears, depressions and physical hardships were extraordinary. Coming back to the US was like entering into a country club. I am available for further comments.

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