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Criminal Justice Issues and Prisoners' Rights

<https://solitarywatch.org/2012/10/06/extradited-to-a-future-of-torture-in-a-u-s-supermax-prison/>

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by [Solitary Watch Guest Author](#) | October 6, 2012

Last week, the Grand Chamber of the European Court of Human Rights rejected appeals from five terror suspects challenging their [extraditions from Britain](#) to the United States. The unanimous decision from the judges affirmed the Courts earlier ruling that detention conditions and length of sentences of five alleged terrorists would not amount to ill-treatment if they were extradited to the U.S. and held in solitary confinement in ADX, the U.S.s only federal supermax prison. The decision is profoundly troubling, not only its outcome, but also the process by which the Court rendered its decision and in the public silences surrounding it.

The decision stands in stark contrast to international opinion that has grown increasingly critical of the use of prolonged isolation, viewing it in some instances as a form of torture. Indeed, the week after the Court released the decision, the UN Special Rapporteur on Torture [resoundingly condemned](#) it: As we speak my office is sending a communication, dealing with the possible extradition to the US of five people who will be subjected to solitary confinement. The UN Convention Against Torture states you cannot extradite or deport someone to any place if he or she could be tortured. He concluded, I think there [are] very good arguments that solitary confinement and SAMs [special administrative measures, which impose severe restrictions on communication with other inmates or the outside world] would constitute torture and prevent the UK from extraditing these men.

Yet in the days since the European Court issued its decision, the silence from human rights organizations and the American media has been deafening. The silence is especially striking in light of the considerable and warranted criticism of the use of prolonged solitary confinement in correctional facilities other than our federal prisons. This past week alone saw condemnation of Californias supermax prisons in a [report by Amnesty International](#) that criticized conditions in the strongest terms. Conditions that are, in the main, nearly the same as those at ADX. Other reports have highlighted the detrimental mental health effects of prolonged solitary confinement. And at a time when the conditions of the men detained in Guantanamo still appropriately command significant attention from human rights advocates who have repeatedly decried the lack of accountability for Bush-era torture, the discussion of ongoing torture in our domestic federal prisons has received significantly less coverage.

Its hard not to wonder whether the silence from human rights groups about the European Courts decision is born of the same mindset underlying the decision itself, namely, the resistance to believing that the U.S. could be engaging in torture in its federal prisons. Or perhaps this abuse is harder to see because it runs counter to current campaigns focused on the states, on massively overcrowded California prisons or deep South prisons that seem like holdovers from Jim Crow days with the implicit corollary that federal penitentiaries are well run and well regulated. Maybe the reluctance to speak stems from the still-pervasive Islamophobia that makes us blind to the treatment of Muslims, especially those who are being prosecuted for terrorist crimes. Given the prioritization of advocacy urging the closure of Guantanamo and the prosecution of terror suspects in the federal courts, many human rights groups and advocates have been reluctant to scrutinize and speak out against the practices in our federal prisons for fear of complicating their message. If torture is happening at ADX, what does it mean for these groups to be calling for men to be tried in the federal system?

Opened in 1994 and run by the federal government with its roster of famous prisoners, the United States Penitentiary Administrative Maximum, or ADX, in Florence, Colorado, holds many people convicted of serious crimes. And so it becomes harder to see, and to condemn, the torture that lies there. When the prison is located in the United States, rather than China, when it is run by the federal government, not some Arizona sheriff, when the prison has state-of-the-art technology and gleaming floors, not overcrowded cells and decrepit facilities, it is harder to believe that torture happens there. In holding that ADX conditions dont violate the European Convention on Human Rights, the Courts highlighting of certain details is telling. The judges specifically noted, for example, that ADX prisoners received a free, daily copy of USA Today, and have access to fifty television channels and seven FM radio channels. The implication, of course, is that torture cannot, does not, happen in such modern places.

But its important to entertain the idea that maybe, sometimes, this is also what torture looks like. In judging other countries human rights records, the State Department has regularly treated the use of prolonged solitary confinement as a human rights violation. In 2009 for instance, the State Department Human Rights report condemned countries from Indonesia to Iran to Israel to Yemen for the use of solitary confinement. And with good reason. Held alone in their cells, sometimes for years on end, the toll of isolation is unbearable and devastating. But the wreckage, though sometimes physical, is more often mental and therefore less visible or quantifiable. What if torture is, as a former warden described ADX, a clean version of hell?

Indeed, the European Court was presented with considerable evidence detailing the isolating conditions at ADX. An ADX cell is an 87-square-foot universe of poured concrete within which inhabitants must eat, read, write, sleep, walk, urinate and defecate 23 hours a day. The only time prisoners are regularly allowed outside of their cells is for an hour of limited exercise, which occurs either in a comparably small cell that is empty except for a pull-up bar, or in an outdoor, kennel-like cage that is smaller than the U.S. governments space standards for farm animals. Because the warden can cancel recreation for any reason he deems appropriate, prisoners sometimes go for days without ever leaving their cells.

ADX was specifically designed to limit all communication between the people it houses. Accordingly, its cells have thick concrete walls and two doors, one with bars and a second that is made of solid steel. The only contact ADX prisoners have with other inmates is by attempting to shout through their toilets, vents or walls. Perhaps most significant for many Muslim prisoners, religious practice at ADX is severely curtailed. Services are held on closed-circuit television and group prayer is strictly prohibited.

In order to reach its no ill treatment conclusion, the European Court relied on misleading information and characterizations provided by the U.S. government about both the conditions at ADX and the amount of time prisoners are confined there. In their submissions to the Court, for example, the U.S./U.K. characterized the ADX solitary confinement units described above as general population units. Out-of-cell recreation is used as a euphemism for solitary exercise in a cage, and the cages themselves are referred to secure, individualized recreation areas. The US describes these cages as having walls that do not obstruct the weather, but fails to mention that the walls prohibit a prisoner from seeing anything other than cement.

Communication between staff and prisoners at ADX, described by the US as interacting with an inmate, omits the fact that any such interaction takes place through the solid steel door and/or the bars of the prisoners cell. And the BOPs representation that ADX prisoners are able to talk in moderate tones to other inmates, is belied by other evidence showing that prisoners must shout to communicate with each other between cells, or put their faces in air vents and toilets in order to speak or hear one another. Perhaps most egregious is the U.S.s representation that seriously mentally ill prisoners are not housed at ADX, especially given the BOPs seemingly contrary acknowledgement that a diagnosis of bipolar affective disorder, depression, schizophrenia, or post-traumatic stress disorder would not preclude a designation to the ADX.

Taking the U.S. governments representations of the conditions at ADX at face value, the European Court concluded that [e]ven in the highest security units at ADX, there were opportunities for communication with other inmates, recreation, education, religious expression and engagement with the outside world. The mental and social needs of inmates were appropriately catered for and inmates could not be described as being detained in conditions that amounted to sensory isolation, still less indefinite solitary confinement, whether total or relative.

Also troubling was the European Courts reliance on the U.S.s representations about how long prisoners are held at ADX. After the Court made a series of requests to the British government during 2011 for details about detention at ADX requests that the U.S. government initially said would be impossible to accommodate the U.S. finally submitted a random sample of 30 prisoners, which purported to demonstrate that average stay for a prisoner at ADX is 3.18 years. Relying on this sample information from the U.S. government, the European Court found that there were practical and effective means for ADX prisoners to enter the step-down program, which could lead to transfer at another prison.

Perhaps the Courts conclusions should not be surprising, given its refusal to consider rebuttal evidence submitted by the applicant evidence that demonstrated that the U.S.s representations significantly understated the amount of time the average prisoner spends in ADX. Included in the rebuttal evidence was a much larger sample of 110 ADX prisoners, which identified a significantly longer average solitary confinement length of 8.2 years.

Finally, and perhaps most significantly, the European Court gave short shrift to the applicants evidence regarding pretrial conditions of confinement. That evidence showed that others who have been prosecuted in the federal courts for terrorism-related offenses have been kept in solitary confinement for years before they are tried, sometimes under especially restrictive communication restrictions known as Special Administrative Measures (SAMs). SAMs prisoners are held virtually incommunicado in extraordinarily isolating conditions conditions that the U.S. has intentionally imposed in Guantanamo and elsewhere to induce confessions. The director of the Defense Intelligence Agency, Vice Admiral Lowell E. Jacoby, suggested as much in his declaration in *Padilla v. Rumsfeld*, where he stated that Jos Padillas total isolation in a military brig for nearly a year was necessary to build the dependency interrogators required to exploit his intelligence value.

Despite all of this, ultimately, the European Court seemed unable to entertain the possibility of U.S. torture. Instead, it accepted at face value submissions from the U.S. that failed to account honestly for the brutal conditions of confinement and isolation at ADX that regularly contribute to acute and long-term psychological damage to prisoners housed there. The U.S. whitewashed the conditions at ADX, with the European Court as a knowing complicitor. It is incumbent on those who know better to speak out.

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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

Solitary Watch encourages comments and welcomes a range of ideas, opinions, debates, and respectful disagreement. We do not allow name-calling, bullying, cursing, or personal attacks of any kind. Any embedded links should be to information relevant to the conversation. Comments that violate these guidelines will be removed, and repeat offenders will be blocked. Thank you for your cooperation.

These prisons are justified by emphasising their impeccably modern, technologically advanced and sanitary conditions; and the fact that they hold the worst of the worst prisoners (how is this determined?), but this does look like a clean and polished, perpetually well-lit version of hell. Because there are ubiquitous cameras, and no assaults from other prisoners, does by no means assure that no torture is going on. If any prisoner in these facilities is close to sane, it is only by the grace of God.

That the European Court of Human Rights allowed these prisoners to be extradited to the well-known US prison system has me gobsmacked. The conditions of torture in federal prisons are no secret to a Canadian housewife the Court knows or should have known about them. The only reason these prisoners are being extradited is because they are alleged to be Muslim terrorists. Whether this is more because of the Courts racism or because of American political pressure on the Court matters little both are shameful

Thank you for this important article. Illuminating your statement about peoples misplaced belief that the Federal system is better. Reminded me of the excellent memoir by Susan Rosenberg, one of the political prisoners held at the infamous high-security isolation unit at the Federal Correctional Institution in Lexington, KY in the 1980s, describing the early use of isolation to torture political prisoners to change their beliefs (An American Radical.com).

The ruling came in a lawsuit filed by the ACLU, CCR and the Peoples Law Office challenging regulations that allowed the isolation of prisoners based on their political beliefs or affiliations. In its August 1988 report on the Lexington Control Unit, Amnesty International showed the courage it used to have.

What do you think the following terrorists have in common?

Ku Klux Klan
Stern Gang
Irgun
Raymond Davis
Anders Breivik
Adolf Hitler
Tony Blair
Ariel Sharon
9/11 (WTC7)
Eric Prince Blackwater
Wade Michael Page

Answer: they are WHITE or Jewish or both and not Muslim. In other words, those who have been going around saying that Muslims are terrorists, were it themselves all along.

England wants to preserve her superior Western heritage from Islam:

http://www.cbsnews.com/8301-201_162-57463466/u.k-blocks-extradition-of-accused-pedophile-shawn-sullivan-to-minnesota/

It is a completely political decision, which runs counter to accepted standards of justice accepted by the Court in dozens of prior cases. Simply put, Europe doesnt want to offend the US by speaking truth to power we torture our prisoners by holding them in isolation.

International standards consider 15 days in isolation to be tortuous. The US blows through that limit. Not 15 days. Not 15 weeks. Not even 15 months. Fifteen YEARS and counting. Without any human contact. Without any charge. Without any chance to mount a defense.

Sadly, the European Court buckled to political expediency, and lacked the courage to call torture by its name. Thank you, Laura Rovner, for having the courage to speak truth to power.

@Rovner I guess the Standards of Decency have not evolved enough to prevent this.

I heard Silversteins case, which referred to evolving standards, was just rejected.

For the readers you had filed this:

Case 1:07-cv-02471-PAB-KMT Document 401 Filed 03/27/12 USDC Colorado

ARGUMENT

I. Plaintiff Seeks to Admit Newly Discovered Evidence Regarding Evolving Standards of Decency With Respect to the Practice of Prolonged Solitary Confinement.

For the record what was the exact wording of the rejection?

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