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Anders Breiviks Legal Victory Over Solitary Confinement in Norway

by [Carol Schaeffer](#) | April 26, 2016

Almost as soon as the handcuffs came off, Anders Behring Breivik delivered a Nazi salute to the courtroom gathered for his lawsuit against the Norwegian state. He is about as loathsome as it gets a white supremacist mass murderer, taking every opportunity to spread a message of hate. In 2011, Breivik massacred a summer camp of teenaged leaders and bombed a government building. He claimed he was saving Norway from Marxists and Muslims. The attacks left 77 dead; 33 were under the age of 18. They remain among the most horrific and heinous attacks in recent European memory.

In a head-spinning turn, Breivik was in court to argue that his human rights were being violated by the Norwegian prison system. Last Wednesday, a court in Oslo ruled in his favor. (Today, the Norwegian government [appealed the ruling](#), but it seems likely to stand in higher courts as well.) For the past five years, Breivik had been kept isolated from other prisoners a condition which he argued was a violation of his human rights according to Articles 3 and 8 of the European Convention on Human Rights ([ECHR](#)).

The ruling has ignited responses from around the world. Many have scoffed at the conditions which Breivik has argued are inhumane: his coffee is lukewarm, he eats microwave dinners which are [worse than waterboarding](#), and his three-room prison cell includes a TV, a computer (without internet) and video games, but not the latest version of Playstation. Breivik has claimed that the notoriously humane and progressive prison system in Norway is in fact the most torturous in the Western world.

The general public response has been that it is exceptionally difficult to feel sorry for Breivik. [One video](#) with nearly 75,000 views shows Twitter responses: You killed 77 people you're not at summer camp, says one. What a world. Breivik and human rights in the same sentence, says another. Photos of his cell, which appears more like the dorm room of a university student in a wealthy Western country than prison lodging, have been shared by the thousands, accompanied by incredulity at the audacity of his claims of violated rights. Compared with other prison conditions in Europe and especially the United States, his complaints about food, coffee and outdated electronic equipment appear piddling and pathetic.

But the court decision hinged largely on Breivik's solitary confinement. Last year the United Nations, in creating a new set of minimum standards for the treatment of prisoners (called the [Mandela Rules](#)) condemned the use of solitary confinement in excess of 15 days. Solitary has been widely defined as any regime where a person is confined to a cell for at least 22 hours a day with little or no meaningful contact with other human beings. Such definitions say nothing about the size of the cell or what it might contain, since their focus is on levels of isolation, not of comfort. Breivik's treatment indeed fits this description.

The UN Special Rapporteur on Torture, Juan E. Mndez, has declared solitary confinement in excess of 15 days to be cruel, inhuman, and degrading treatment that, when prolonged, often rises to the level of torture. A growing body of evidence shows that solitary confinement debilitates both the mind and body, causing symptoms that range from hypersensitivity to stimuli, perceptual distortions and hallucinations, increased anxiety and nervousness, irrational anger, fears of persecution, lack of impulse control, and severe and chronic depression to weight loss, heart palpitations, headaches; problems sleeping, confusing thought processes, nightmares, dizziness, self-mutilation, and lowered brain function. It is also associated with greatly increased risk of suicide and self-harm.

While Breivik's living conditions are certainly far better than any solitary housing unit in the United States, the condition of social isolation is one that remains troubling. While cramped living spaces and little to do to occupy the mind other than stare at a wall for 23 hours a day intensifies the misery of solitary confinement, the refusal of social contact is itself a stressor that can be only partially mitigated by better physical conditions.

Breivik has been sentenced to the maximum term allowed in Norway 21 years. However, his sentence can be extended in increments of five years, depending upon assessments of his rehabilitation. It is unlikely that Breivik will ever be deemed properly rehabilitated, and no longer a threat to society. His release is improbable, and he could well die in behind bars and, without the relief provided by the court, in solitary confinement.

According to Are Hoidal, the warden of another of Norway's maximum security prisons, Halden Prison, the central principle of

Norwegian corrections is that people in prison are to be given opportunity for normalcy they retain all rights other than the restriction of their liberty. Even the argument that Breivik's ideas themselves are dangerous, and must be contained lest they infect others, is countered by the belief that treating all people with humanity is the most powerful antidote to both criminal behavior and vile ideas.

Breivik thought his life was above those that he killed. He violated the most fundamental human right of 77 people the right to life itself. Yet Norway and other Scandinavian nations consider the right to social life to be an inalienable part of human existence, and thus a human right and their position is supported by the ECHR. The only way to combat Breivik's attitude of superiority over others is to apply the law of humanity to all, even him. The prohibition of inhuman and degrading treatment represents a fundamental value in a democratic society, the court said in its ruling. This applies no matter what also in the treatment of terrorists and killers.

On an emotional level, it is certainly easy to dismiss Breivik's entitlement to human rights. But the very fact that it is so easy makes it even more imperative to protect them. A human right is an immutable one, and to remain consistent in that employs Breivik's own hateful supremacist logic against him. The Norwegian courts decision is a reminder that the supremacy of human dignity is immune to selective justice, which can be heinously abused and manipulated by such figures as Breivik himself.

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It's funny because what this guy faced in solitary confinement is NOTHING compared to what most prisoners in the United States face. Decades of solitary confinement with no laptops or computers or TV. Norway understands that everyone has fundamental rights, even this guy who committed horrific crimes. Yet for some reason the US can't get it right. Why is that so many people are in solitary confinement and the courts have still not recognized their rights as HUMAN BEINGS. The United States needs to start drastically stepping away from solitary confinement and it needs to happen immediately.

I agree. Mr. Breivik committed absolutely atrocious crimes. His lack of any kind of remorse for his actions does not suggest a high likelihood that he will necessarily improve his way of relating to the world. While I do not know Mr. Breivik, his actions and attitude certainly suggest that he may be a huge ongoing risk to others who do not share his ideology or fit his mental image of how people should be especially if he were living in the community rather than in a prison. This is troubling and tragic. However, Mr. Breivik is a human being like everyone else and he deserves to have people with whom he can speak.

If Mr. Breivik is truly a security risk to the general population in prison or is in serious danger from them, it may be reasonable to limit his contact to people who have been specifically cleared to speak with him, such as psychologists, clergy, correctional staff, and others. However, this decision needs to be based on objective data, not peoples unfounded fears of how Mr. Breivik may behave with others in prison. When in doubt, it is better to err on the side of giving people more freedom to be integrated into the general population in prison. In any case, Mr. Breivik should receive ample, caring, ongoing social contact with others.

Mr. Breivik's statements of his frustration that his video games are not to his liking and his frustrations about his coffee show just how unhealthy and warped Mr. Breivik's mental and moral development is. While others who have committed serious actions of harm might feel deep remorse for what they have done, Mr. Breivik shows none of this. This is why it is necessary that Mr. Breivik is living in a secure setting, in this case a prison.

Even people who have committed very serious actions that have harmed others may be able to be reintegrated into society quickly if they are truly remorseful for what they have done and are able to change their ways of relating. I do not believe it is helpful to confine people who have committed actions such as murder or harmful actions of a similar severity in prison for years and years unless they truly pose a serious ongoing risk of harm. If people are remorseful and show evidence of growth and change, confining people in prison for the lengths of time that often occurs is unhelpful. However, Mr. Breivik clearly is not feeling remorse and may well wish to commit similar actions again. This is why it is good that he is living in a secure setting where he is much less capable of doing this.

People could work with Mr. Breivik to try to evaluate his ability to change his ways of thinking and relating. It may be that this is not something he is interested in doing or has the capacity to do very well. I am glad that at the moment Mr. Breivik is in a secure setting where he is unable to hurt anyone. I also care about Mr. Breivik's human rights and believe he should be treated with respect and dignity. He should have people with whom he can speak. He should be treated in humane ways. His stunted and warped emotional and moral

development is concerning and tragic. Treating him with disrespect and isolating him from all other people is not a good response to that.

I agree with the decision made by the court in Norway that Mr. Breivik should have social contact. What this contact looks like exactly should be based on a variety of security assessments, which take into account the need for the safety of others in prison, the safety of others in Norway, and the safety of Mr. Breivik. These assessments should be based on objective data and analysis, not peoples fears and frustrations with Mr. Breivik.

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