

# Solitary Watch

## Criminal Justice Issues and Prisoners' Rights

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by [Aylin Manduric](#) | August 6, 2015

The United States prides itself in being a leader in the international community. But when it comes to some human rights issues including the use of solitary confinement the U.S. lags far behind most other nations.

Since the adoption of the Universal Declaration of Human Rights in 1948, many new declarations, treaties, and standards have been produced through international agencies to curb human rights abuses and ensure that people are treated with dignity and respect no matter who they are or where they come from.

Over the past few decades, the international community has started to pay increasing attention to the issue of solitary confinement. Juan Mndez, the [UN Special Rapporteur on Torture](#), has said that holding anyone in solitary confinement in excess of 15 days amounts to cruel, inhuman, or degrading treatment, and can rise to the level of torture as does any time in solitary for juveniles or people with psychological disabilities. But in the United States, more than 80,000 people are being held in solitary confinement, often in miserable conditions, for periods of time that qualify as torture.

The U.S. is subject to over half a dozen international instruments designed to protect citizens from this very circumstance. Some of these, like the [International Covenant on Civil and Political Rights](#), broadly ban cruel treatment for anyone in any circumstances. Others, like the [Mandela Rules](#), apply specifically to the treatment of people in detention, while the [Istanbul Statement](#) on the Use and Effects of Solitary Confinement is designed to combat the practice in its current form. The important question is whether and how these norms can be used to improve the lives of people in American prisons.

While not legally binding in the United States, international provisions have a distinct and important role to play in limiting the use of solitary and improving conditions for people in so-called segregated housing. Melissa Hooper, Director of the Pillar Project at [Human Rights First](#), took some time to explain how international law might impact solitary confinement in the United States. Human Rights First is a leading organization dedicated to fostering political change in support of human rights.

Prison policy is one area where the U.S. really lags behind many other countries in adopting international norms and in meeting them. The normalization of solitary confinement in the U.S. is the worst culprit, Hooper said, adding that in the United States, our entire philosophy about how we use solitary completely contradicts international norms and the perspective of international law on how it should be used. It should be a least restrictive measure. Solitary confinement has ceased to be a measure of last resort, and is used increasingly as a means of isolating people with minor disciplinary infractions, gang ties, or mental illnesses, as well as children and people in need of protection.

In American prisons, stays in solitary often stretch to years, and sometimes extend to decades, and the conditions of confinement are often the same regardless of the reason why an individual was placed there. Hooper criticized the practice of protective solitary confinement as it is practiced today, emphasizing that protective measures shouldn't be preventing someone from interacting with a doctor, from interacting with their family, [or] from interacting with legal counsel.

Civil society that is to say, non-governmental organizations, advocacy groups, activists, celebrities, and research institutions can generate support for international norms. Hooper calls NGOs the compliance mechanism that creates the pressure for governments to adopt international standards within their borders. If you are going to create change, there needs to be some active pushing and that comes from NGOs said Hooper. They are the entity that affects the media, that affects public opinion, that can create the pressure that can push on the prison system.

Governments have no motive to address a policy issue that they do not perceive as being important to the general public, and NGOs can use international standards to compare the United States to other countries, and as a source of authority for their cause. NGOs can bring historically little-known issues to the U.S. government and make a case for their importance with the language of international norms. It's a way of both showing where there are faults and demonstrating steps to a better way said Hooper, it's a measuring stick.

International laws and standards are also being used, with increasing creativity, in American courtrooms. Simply citing international standards and pointing out violations may serve as a criticism of current policies and practices, but the real application of international law in domestic cases lies in using the standards as one of a combination of tools to describe to the court why solitary confinement is at

cross-purposes with the interests of the prisoner, the prison staff, and the goals of prison administration. It used to be much more of a blunt instrument, and so lawyers would just cite the international standards it didn't get anywhere, Hooper explained. Now lawyers are getting more creative [Special Rapporteur] Mendez has been very helpful as an expert describing the purposes [international standards] are trying to serve, and how those purposes are similar to what the prison is trying to do.

Research on prison policy and the ill-effects of isolation on mental health and rehabilitation have brought the issue to the attention of prison administrations, who are looking to reduce medical care costs and overcrowding. When supported with relevant research, following international standards can be shown to be both strategically sensible, and more humane than current practices.

Since the turn of the century, more and more headlines cover matters of human rights and prison justice. Public discussions, fuelled by social media, are one sign that the issue of solitary confinement and prisoners rights more broadly is becoming more important to Americans in general, Hooper pointed out.

With such a high percentage of our population in prison, it is likely that first- and second-hand experiences have helped disseminate the truth about what goes on behind prison walls and how that influences formerly incarcerated peoples ability to re-integrate upon their release. Social media and the internet have also allowed everyday people to view how the United States prison policy measures up to other countries of comparable levels of development. International standards here serve as a universal benchmark for progress, allowing the most successful countries to stand out as a model for the world to follow. As Hooper put it, if you want to be a leader theres a clear guide.

Aylin Manduric was a research and reporting intern for Solitary Watch, and later held various positions related to global health and international human rights. She is now an attorney in the class action department of Siskinds LLP in Toronto.

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.

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September 29, 2022

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