

Solitary Watch

Criminal Justice Issues and Prisoners' Rights

<https://solitarywatch.org/2012/12/18/at-u-n-prisoners-rights-meeting-u-s-resists-limits-on-solitary-confinement/>

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by [Jean Casella and James Ridgeway](#) | December 18, 2012

David Fathi, who directs the ACLU's National Prison Project and its [Stop Solitary](#) initiative, has been reporting from the U.N. Intergovernmental Expert Group Meeting on revising the Standard Minimum Rules for the Treatment of Prisoners (SMR), held last week in Buenos Aires. [Fathi reported](#) that the United States delegation proposed some concrete and positive changes to the SMR but fell far short when it came to limiting solitary confinement.

Unfortunately, the U.S. continues to defend the use of long-term solitary confinement. Several governments and NGOs endorsed a 15- or 30-day limit on solitary confinement, as well as an absolute ban on solitary for vulnerable groups like juveniles, pregnant women, and persons with mental illness. The U.S. delegation rejected all of these proposals. To be fair, the U.S. was not the only government resisting meaningful restrictions on solitary confinement, and the U.S. proposal did contain some positive elements, such as a provision that visiting shall not be restricted for prisoners in solitary absent security justifications. But it's notable that the Chinese government endorsed without hesitation a 15-day limit to the use of solitary confinement.

In addition, [Fathi reports today](#), the U.S. seems to have pulled a fast one at the last minute. [A]s the meeting was drawing to a close, he writes, the U.S. suddenly insisted that the Draft Report be amended to state that none of the recommendations hammered out over the previous three days had actually been agreed to. Instead, the Draft Report now says only that [t]he Expert Group *identified for consideration* the following issues and Rules for the revision of the Standard Minimum Rules (emphasis added).

A related post, published on the ACLU Blog of Rights to mark the 64th anniversary of the Universal Declaration on Human Rights, discusses [The Human Rights Implications of Solitary Confinement in the United States](#). The U.S. was a leader in developing the declaration, but has fallen behind in translating it into domestic laws and policies, the piece argues. For example, when it comes to the punishment of criminals and the treatment of persons deprived of their liberty, the U.S. is an outlier, continuing to use practices that have become increasingly rare as the world moves towards compliance with human-rights norms including widespread and prolonged solitary confinement.

James Ridgeway (1936-2021) was the founder and co-director of Solitary Watch. An investigative journalist for over 60 years, he served as Washington Correspondent for the Village Voice and Mother Jones, reporting domestically on subjects ranging from electoral politics to corporate malfeasance to the rise of the racist far-right, and abroad from Central America, Northern Ireland, Eastern Europe, Haiti, and the former Yugoslavia. Earlier, he wrote for The New Republic and Ramparts, and his work appeared in dozens of other publications. He was the co-director of two films and author of 20 books, including a forthcoming posthumous edition of his groundbreaking 1991 work on the far right, *Blood in the Face*. Jean Casella is the director of Solitary Watch. She has also published work in The Guardian, The Nation, and Mother Jones, and is co-editor of the book *Hell Is a Very Small Place: Voices from Solitary Confinement*. She has received a Soros Justice Media Fellowship and an Alicia Patterson Fellowship. She tweets [@solitarywatch](#).

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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<http://www.theatlantic.com/politics/archive/2012/12/scandal-alert-congress-is-quietly-abandoning-the-5th-amendment/266498/>

Scandal Alert: Congress Is Quietly Abandoning the 5th Amendment

Excerpts:

Meet the prominent legislators who think its okay to throw Americans in jail forever without charges or trial.

It may seem like the American citizens who vocally fret about the importance of adhering to the text of the Constitution would object as loudly as anyone to the prospect of indefinite detention.

But it isnt so.

The casual news consumer cannot rely on those seemingly reasonable heuristics to signal that very old norms are giving way, that important protections are being undermined, perhaps decisively.

Weve lost the courage of our convictions were that scared of terrorism (or of seeming soft on it).

News junkies likely know that Im alluding to a specific law that has passed both the Senate and the House, and is presently in a conference committee, where lawmakers reconcile the two versions. Observers once worried that the law would permit the indefinite detention of American citizens, or at least force them to rely on uncertain court challenges if unjustly imprisoned. In response, Senator Dianne Feinstein tried to allay these concerns with an amendment:

An authorization to use military force, a declaration of war, or any similar authority shall not authorize the detention without charge or trial of a citizen or lawful permanent resident of the United States apprehended in the United States, unless an Act of Congress expressly authorizes such detention.

You'd think the part about American citizens being protected from indefinite detention would be uncontroversial. It wasnt. But the amendment did manage to pass in the United States Senate.

Afterward everyone forgot about it pretty quickly. But not Charlie Savage. Hes a journalist at The New York Times. If every journalist were more like him the United States government would be far less able to radically expand the presidents unchecked authority without many people noticing.

Here is his scoop:

Lawmakers charged with merging the House and Senate versions of the National Defense Authorization Act decided on Tuesday to drop a provision that would have explicitly barred the military from holding American citizens and permanent residents in indefinite detention without trial as terrorism suspects, according to Congressional staff members familiar with the negotiations.

Says Adam Serwer, another journalist who treats these issues with the urgency that they deserve:

Of the four main negotiators on the defense bill, only one of the Democrats, Rep. Adam Smith (D-Wash.), opposes domestic indefinite detention of Americans. The Chairman of the Senate Armed Services Committee, Senator Carl Levin (D-Mich.), believes detaining Americans without charge or trial is constitutional, and only voted for the Feinstein amendment because he and some of his Republican colleagues in the Senate convinced themselves through a convoluted legal rationale that Feinsteins proposal didnt actually ban the practice. Both of the main Republican negotiators, House Armed Services Committee Chairman Howard Buck McKeon (R-Calif) and Senator John McCain (R-Ariz) believe its constitutional to lock up American citizens suspected of terrorism without ever proving theyre guilty.

There is a complication, as he notes: Civil liberties groups arent shedding any tears over the demise of the Feinstein-Lee amendment, because they objected to the fact that it protected only U.S. citizens and permanent residents, rather than all persons present in the United States. While I respect that principled stand, the more important thing is that this outcome puts us all at greater risk of having a core liberty violated, and that Senators McCain, Levin, and many other legislators suffer no consequences for failing to protect and defend the United States Constitution.

As Serwer puts it, The demise of the Feinstein-Lee proposal doesnt necessarily mean that Americans suspected of terrorism in the US can be locked up forever without a trial. But it ensures that the next time a president tries to lock up an American citizen without trial as President George W. Bush previously tried it will be left up to the courts to decide whether or not its legal.

Dont let the dearth of attention fool you this is a scandal. Congress has turned its back on safeguarding a core Constitutional protection and a centuries old requirement of Western justice.

Rage, rage against the dying of the 5th.

The following shows why fewer voices of decent are being heard.

<http://billmoyers.com/episode/full-show-big-media%E2%80%99s-power-play/>

SENATOR BERNIE SANDERS: When you have more and more control of the media in the hands of a few of these giant billion-dollar corporations, I think you're not going to have the kind of debate and discussion and information that makes our democracy the kind of democracy it should be.

I am a member of JAC Jail Action Coalition NYC. I became involved when I discovered much to my dismay that mentally ill inmates spend 23 out of 24 hours a day in solitary confinement not for acts of violence against correction officers or fellow inmates but for not following the tons of rules and regulations the Department of Corrections produces at Rikers Island and other city jails. A prisoner's death in October has been made a homicide by the Medical Office. Poor supervision led to the inmate not receiving timely medical care it is alleged. Rumor has it a supervisor who in the past has been accused of violence against inmates is now being proposed for a significant position of responsibility. What message is being sent to officers? Violent behavior leads to promotions. The culture at Rikers because of the Commissioner is one of blindness to the dehumanization of both inmates and correction staff. allan feinflum / Member of JAC allanfeinflum@aol.com

The political relationship between the UN and the US has been strained for years now; to expect the US to admit their concept of solitary confinement is cruel and unusual punishment would open the doors up to mass litigation. The draft of such a beginning is admirable but still far and likely put on the back page of such planning or research stages and not ready for implementation unless a court orders it ~ so the drama unfolds and the meeting was a dud however, the discussion is most helpful for future meetings and findings to resolve this matter as long as dialogue is maintained.

visiting shall not be restricted for prisoners in solitary absent security justifications.

Oh that leaves a lot of wiggle room huh? Aren't security concerns the main reason they quote to put these people in solitary in the first place?

..when it comes to the punishment of criminals and the treatment of persons deprived of their liberty, the U.S. is an outlier

Indeed!

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