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Criminal Justice Issues and Prisoners' Rights

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by [Solitary Watch Guest Author](#) | August 8, 2013

Editors Note: As coordinator of the [American Friends Service Committees Prison Watch Project](#), Bonnie Kerness is a leading voice for humanitarian reform of U.S. prisons, jails and detention centers. Kerness is also a pioneer in raising awareness about the use of prolonged solitary confinement and in uncompromisingly identifying the practice as a form of torture. Since the 1990s, she has coordinated [AFSCs STOPMAX Campaign](#), which works to eliminate the use of isolation and segregation in U.S. prisons through research, grassroots organizing, public education and policy advocacy.

*On August 10, 2013, Kerness will be speaking at the film screening of *In the Land of The Free* at Riverside Church in New York City. This event, [End Solitary Torture](#), will feature expert panel from New York Campaign for Alternatives to Isolated Confinement (NYCAIC) and Jails Action Coalition (JAC), the artwork of political prisoner Ojore Lutalo and a photo exhibit of children in solitary confinement by Richard Ross. Register for the event [here](#).*

My early observations of oppression in this country began when I was 12 watching television and seeing children of African descent my age in the South being hosed by police and bitten by dogs for trying to go to school. I spent ten years in the civil rights movement in Tennessee, then moved north and began working with the American Friends Service Committee, the social action arm of the Religious Society of Friends, the Quakers, who have a 300-year history of commitment in dealing with human rights issues with prisoners.

I serve as a human rights advocate on behalf of men, women and children in prison throughout the U.S., coordinating the Prison Watch Project for the AFSC in Newark. Many of the men, women and children that I take testimony from call their imprisonment the war at home. From arrest, to sentencing, to the conditions of confinement in prison, racial profiling is practiced and the economic and political use of prisons is the law of the land.

In the criminal justice system, the politics of the police, the politics of the courts, the politics of the prison system and the politics of the death penalty are a manifestation of the racism, white supremacy and classism which governs the lives of all of us. Every part of the U.S. criminal justice system falls most heavily on the poor and people of color, including the fact that slavery is mandated in prisons by the 13th Amendment of the U.S. Constitution.

The 13th Amendment reads Neither slavery nor involuntary servitude, except as punishment for crime whereof the party shall have been duly convicted, shall exist within the United States. While most of us don't give this amendment a second thought, it is at the core how the labor of slaves was transformed, mandated and institutionalized into what people in prison call neo-slavery. The use of prison labor occurs throughout the country and is an integral part of what we have come to know as the prison industrial complex.

African descended, Latino and Aboriginal young people tell us that the police feel like an occupation army in their poor communities. They speak about school systems being used to feed young people of color into youth detention, jails and prisons where those bodies are suddenly worth a fortune.

People have said to me that the criminal justice system doesn't work. I've come to believe exactly the opposite that it works perfectly, just as slavery did, as a matter of economic and political policy. How is it that a 15 year old in Newark who the country labels worthless to the economy, who has no hope of getting a job or affording college can suddenly generate \$20,000-30,000 a year once trapped in the criminal justice system? The expansion of prisons, parole, probation, and the court and police systems has resulted in an enormous bureaucracy which has been a boon to everyone from architects, to food vendors all with one thing in common a pay check earned by keeping human beings in cages. The criminalization of poverty is a lucrative business and we have replaced the social safety net with a dragnet.

There is no contradiction that prisons are both hugely expensive and very profitable. Just like with military spending, the cost is public cost and the profits are private profits. Privatization in the prison industrial complex includes companies which run prisons for profit while at the same time gleaning profits from forced labor. In the state of New Jersey, food and medical services are provided by corporations which have a profit motive.

One recent explosion of private industry is the partnering of Corrections Corporation of America with the federal government to detain

close to 1 million undocumented people. Using public monies to enrich private citizens is the history of capitalism at its most exploitive. There are powerful economic and political interests in the business of the punishment regime which uses isolation as a form of torture.

I want to share some of the voices that I hear.

I went in when I was 14. They have what they call an MCU there, and its like the hole in a regular prison. Kids that fight go in there. If you refuse they come and get you. You get a shower once a week and they bring the food to you. I was so cold.

I was 12 so they put me in isolation. I heard people scream. I saw boys get strung out on meds. They make you take sleeping stuff in needles. They used pepper spray on this girl who was fighting one time directly in her mouth and she couldnt breathe. They kept hitting her. We told them that she had asthma, but they wouldnt listen.

The U.S. spends less than any other industrialized nation on nurturing its children. In spite of dismal poverty rates, violent juvenile crime has been declining for years. Yet at least 43 states have passed laws making it easier for children to be tried as adults. We cant escape the similarities with chattel slavery here as well. Not only are these mostly black and brown children taken from their families, they lose any chance for a future of their own choosing.

The voices of adult prisoners are haunting, as well. A social worker at Utah State Prison wrote John was directed to leave the strip cell and a urine soaked pillow case was placed over his head like a hood. He was walked, shackled and hooded to a different cell where he was placed in a device called the chair He was kept in the chair for over 30 hours, being forced to urinate and defecate on his own hands which were tucked under him.

Women who contact the AFSC describe conditions of confinement which include enduring sexual abuse by staff with one woman saying, That was not part of my sentence to perform oral sex with officers.

Another wrote, The guard sprayed me with pepper spray because I wouldnt take my clothes off I front of five males guards. They carried me to my isolation cell, laid me down on the bed and took my clothes off, leaving me with that pepper spray burning my face.

Some of the most poignant letters I get are from prisoners writing on behalf of the mentally ill like the man in California who spread feces over his body. The guards response to this was to put him in a bath so hot it boiled 30% of the skin off him. There are entire isolation prisons housing the mentally ill. The letters I get from these prisons are soul shattering.

How do you describe desperation to someone who is not desperate? began a letter to me from United States political prisoner, Ojore Lutalo, who went on to depict everyone in the NJ State Prison Management Control Unit being awakened by guards dressed in riot gear holding barking dogs at 1 AM every other morning. Once awakened, the prisoners were forced to strip, gather their belonging while feeling the dogs straining at their leashes snapping at their private parts. He described being terrorized, intimidated, and the humiliation of being naked and not knowing whether the masked guards were male or female. If we think back to slavery and to images of the civil rights movement, we understand that dogs have been used as device of torture for hundreds of years in the U.S.

The thread that binds the above testimonies is that they are from men, women and children who are being held in isolation and who are experiencing conditions and devices of torture in human cages where there are few witnesses.

These past years have been full of complaints from prisoners and their families, describing inhumane conditions including cold, filth, callous medical care, extended isolation often lasting years, use of devices of torture, harassment, brutality and racism. I have received vivid descriptions and drawings of four and five point restraints, restraint hoods, restraint belts, restraint beds, stun grenades, stun guns, stun belts, spit hoods, tethers, and waist and leg chains.

Often the worst torment people testify to is the psychological assault of no touch torture, which can include humiliation, sleep deprivation, sensory disorientation, extreme light or dark, extreme cold or heat, extended solitary confinement including other forms of intentional placement situations. This is a deliberate and systematic attack on all human stimuli.

Prolonged solitary confinement in the form of control units, security threat group management units, special needs units, communications management units, etc., has been a long time concern for many prison activists from both sides of the walls. It was during the tumultuous years of the civil rights era when, through the governments COINTELPRO program, large numbers of activists found themselves in U.S. prisons.

As 1970s activists monitored what was happening in U.S. prisons, we began to understand that not only was our generation being marked because of our rebellion, but that the prison industrial complex and the wider criminal justice system had become one of the largest businesses and used solitary confinement as a method to neutralize radical political education on the streets and within the prisons.

The history of the expansion of isolation includes its use on tribal native leaders so that Aboriginal political resistance would be less likely. The use of long term isolation to control political activism resurfaced during the movements of the 1960s and 1970s in the form of control units. I come from a generation which genuinely believed that each of us was free to dissent politically. In those years, people acted out this belief in a number of ways. Native youth contributed to the formation of the American Indian Movement dedicated to self-determination; Puerto Ricans joined the movement to free the island from U.S. colonialism; whites formed the Students for a Democratic Society and anti-imperialist groups, while others worked in the southern civil rights movements.

This was a time that the Black Panther Party for Self Defense was formed because children were (and still are) being shot in the streets, when there was a distinct rise in the prisoner rights movement and when television news had graphic pictures of State Troopers, Police, the FBI, and the National Guard killing our peers. It was a time when I saw on the evening news the bullet holes fired by police into Panther Fred Hamptons sleeping body, when young people protesting the Viet Nam War died on the Jackson and Kent State campuses killed by the National Guard, when civil rights workers were killed with impunity, and a time when we felt as if there was no opportunity to stop mourning because each day another activist was dead.

These killings and other acts of oppression led to underground formations such as the Black Liberation Army. No threat was more alarming to the government than the black liberation movement with its rejection of non-violent civil disobedience. Sensory deprivation was used extensively with imprisoned members of the Black Panther Party, Puerto Rican Independentistas, the American Indian Movement, white anti-imperialists, and the Black Liberation Army.

In later years, we found jail house lawyers, Islamic militants and prisoner activists placed in extended isolation. New Jersey prisoner Ojore Lutalo, was held in the Management Control Unit in New Jersey State Prison for 22 years because of his political beliefs. The collages that Ojore created during those incomprehensibly long years of internment in isolation are hanging around us.

Current efforts to expand the solitary confinement population involve the alleged spread of gang problems in the U.S. In the 1990s, the AFSC began receiving letters from people in street organizations placed in units called Security Threat Group Management Units, complaining of extreme isolation, brutality and racial profiling. This is particularly egregious because it is the government which gets to define who a security threat group is as exemplified by the Minnesota and Oregon Departments of Corrections listing Asians as gangs, which Minnesota further compounds by adding Native Americans.

The physical and chemical abuse in gang units is infamous to those of us who monitor the torment that these young people of color experience daily. One brave young man in NJ's Security Threat Group Management Unit the gang unit paid a guard for a small video camera with which he filmed for four months. You cannot give me a reason for the cruelty and torment that he filmed.

Right now, I know that most of us are aware of and deeply touched by the hunger strikers in both Guantanamo and California protesting these torture units.

The progression of the use of isolation is most recently known as Communications Management Units in federal prisons as a result of the U.S. government ordering Special Administrative Measures (SAMs) during the ongoing U.S. War on Terror. These units are specifically designed to restrict the communications of imprisoned Muslims with their families, the media and the outside world. This treatment of Islamic prisoners is replicated in U.S. secret prisons throughout the world, which are called Black Sites, where almost all of those kept in such places are people of color.

This treatment which profiles a specific religion is delineated in a report called Out of the Shadows: Getting ahead of Prisoner Radicalization by George Washington University's Homeland Security Policy Institute. The report states that the potential for radicalization of prison inmates poses a threat of unknown magnitude to the national security of the United States, noting that every radicalized prisoner becomes a potential terrorist threat. The report states that it focuses in particular on religious radicalization in conjunction with the practice of Islam.

For those of us monitoring U.S. prisons over decades, the targeting of radicalization, the targeting of specific groups, the surveillance and infiltration of those groups feels very familiar. Given the recent explosion of information on surveillance in this country, there can be no doubt that Islam is being targeted. I believe that what is happening to Imam Jamil Al-Amin is a vivid example of profiling because of his long history of activism and his religion.

The U.S. government, which has moved from the 1970s illegal Counter Intelligence Programs to the currently legalized Office of Homeland Security, continues to lock down people for their beliefs, and is still seeking to identify those who have the potential to politically radicalize others.

The conditions and practices that the imprisoned testify to are in violation of the U.N. International Covenant on Civil and Political Rights, the U.N. Convention Against Torture and the U.N. Convention on the Elimination of All Forms of Racial Discrimination all international treaties which the U.S. has signed. U.S. prison practices also fit the United Nations definition of genocide, which with this country has a long history.

Oppression is a condition common to all of us who are without the power to make the decisions that govern the political, economic and social life of this country. We are victims of an ideology of inhumanity and white supremacy on which this country was built. If we dig deeper into U.S. criminal justice practices, the political function that they serve is inescapable. Police, the courts, the prison system and the death penalty all serve as social control mechanisms. The economic function they serve is equally chilling. Just as in the era of chattel slavery, there is a class of people dependent on the poor, and on bodies of color as a source for income.

The Department of Corrections is more than a set of institutions. It is also a state of mind. That state of mind led to the acceptance of torture in Abu Ghraib, Baghram and Guantanamo and what is going on in U.S. prisons right this moment.

The AFSC has always recognized the existence and continued expansion of the penal system and the use of isolation as a profound spiritual crisis. It is a crisis which tries to silence dissent and one that allows children to be demonized. It is a crisis which legitimizes torture, isolation and the abuse of power. It is a crisis which extends beyond prisons into school and judicial systems. I know each time we send a child to bed hungry that is violence. That wealth concentrated in the hands of a few at the expense of many is violence, that the denial of dignity based on race, class or sexual preference is violence. And that poverty and prisons are a form of state-manifested violence.

For many of us, there are no former Jim Crow systems. The transition from slavery to Black Codes to convict leasing to the Jim Crow laws to the wars on poverty, veterans, youth and political activism in the 1960s has been a seamless evolution of political and social incapacitation of poor people of color. The sophisticated fascism of the practices of stop and frisk, charging people in inner cities with wandering, driving, running and walking while black, zip code racism these and many other de facto practices all serve to keep our prisons full and our young men of color in danger.

Trayvon Martin joins a long list of young people who received the death penalty simply for being black. In a system where over 60% of those who are imprisoned are people of color; where students of color face harsher punishments in school than their white peers, where 58% of African youth are sent to adult prisons; where black and brown women are 69% more likely to be imprisoned and where people of color receive longer sentences, the concept of color blindness doesn't exist. The racism around me is palpable in the testimonies that

the AFSC receives every day.

The 1960s, when the last of the Jim Crow laws were reversed, this whole new set of practices accepted by law enforcement was designed to continue to feed the money generating prison system, which has neo slavery at its core. This is graphically illustrated in Ojores collages featuring the chain gang women of Arizona today.

For me, I cannot achieve contentment while so many of my fellow human beings are torture in U.S. prisons. Nor can I have peace while this country continues its imperial outreach waging genocidal war at home on the poor and people of color, and in the wider world in Iraq, Afghanistan, including the drone and low intensity wars the U.S. is waging in Pakistan, Yemen, the Philippines, Thailand, Indonesia, Somalia and Columbia.

Ive been part of the struggle for civil and human rights for over 45 years. I have seen the horror that U.S. government war like policies wreak at home and abroad. I have never seen anything like what we are seeing now in U.S. prisons. My soul is haunted by what I read in my daily mail.

We need to alter the very core of every system that slavery, racism and poverty has given birth to, especially the criminal justice system. The U.S. must stop violating the human rights of men, woman and children. We need to decriminalize poverty, mental illness and in many cases, homosexuality. We must alter the 13th Amendment and change the racial and economic profiling of arrest and sentencing practices, and stop the use of no touch, physical and chemical torture.

Our work today needs to be embedded in struggle against this system and its continued use of isolation and torture as a tool of behavior modification and religious and political repression. You are here because you are activists. You have the power to create oversight of your local jail, detention and prison system and the entire re-entry process all of which are shameful.

We are responsible for understanding the politics of prisons and the economics of prisons. Whether we work to stop war, end white supremacy or oppose the oppression of globalization and U.S. imperialism, we need to see the connections in our work and the ways these issues connect to the domestic and international wars and punishment regimes. Until we recognize that the systems bottom line is social control and creating a business from bodies of color and the poor, nothing can change.

An elder of my generation, George Jackson, said, There is no turning back from awareness. If I were to alter my step now I would always hate myself. I would grow old feeling that I had failed in my obligatory duty that is ours once we become aware.

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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Ive just read this and forwarded it to my friends and family. Its brilliant but horrific reading that makes my blood boil with anger.

The only solution is for the working class to mobilise. Political unity is needed to counter the harmful effects of modern capitalism. The way this is happening in the UK is the birth of The Peoples Assembly, which is a response to the growing poverty caused the ruling classes new greed. Its a non political body. The other important thing to remember is the surveillance state. Protonmail needs to be used and spy proof search engines like ecosia.

Michael Moore needs to make a film about this subject. I feel lucky that I am not black and living in the United States. People must fight back.

All the penal policies and their associated arguments of today were formed long ago when the countries demographics were quite different.

For instance regarding solitary confinement the arrogance of the system can be heard in the annual report of 1869, which lists the arguments against the solitary system, refutes them, and concludes, We are justified in unequivocally asserting that the Pennsylvania system of penitentiary discipline understood and properly applied, is not injurious to the health, has no injurious influence on the mind, is neither inhuman nor cruel and that if properly administered, it is now the most philosophic and effective system for the treatment of crime as an actual condition of persons in all societies.

In the period after the Civil War, the expensive solitary regimen practiced at Eastern State Penitentiary was slowly being abandoned in

favor of double bunking. Historians have theorized that the rise in foreign immigrants, from Europe, among the prison population decreased public sympathy for prisoners and made expensive penal reform less politically popular during the postwar period. (The same is true today.)

As the history professor Rebecca McLennan, points out in her essay *When Felons Were Human* criminal disfranchisement occurred first in Northern states where there were significant prison populations and where the overwhelming majority of prisoners were white.

Others have argued for the racial origins of disfranchisement laws and their claim hold true for the New South but the North's disfranchisement of convicts came almost seventy years earlier and was not primarily aimed at black convicts, but, rather convicts drawn from the white laboring classes (and, subsequently, Irish and other immigrant populations, as well).

Since this article mentions Minnesota I'll share this bit of the state's history.

In 1866 the Minnesota Legislature established a 25-bed facility known as the House of Refuge. By the end of 1868, they were housing 36 boys, some less than 8 years old. That same year, because of concerns over a private corporation running the facility and subsequent conflicts of interest, the legislature modified the law and renamed it the State Reform School, located in St. Paul. Most of the youth were homeless, neglected and dependent children of European immigrants, and very poor.

Prison labor:

In 1889 The Minnesota Thresher Company received a two year lease on inmate labor at the State Prison. The infamous bank robber Bob Younger died from tuberculosis in the Minnesota State Prison during this period of time.

In 1916 Construction of the longest granite wall in the world built using prison labor was completed at the Minnesota State Reformatory. The wall is over one mile long, 22 feet high, four and one-half feet thick and constructed from granite quarried within the prison grounds. (CAs Folsom Prison is another example of such practices.)

Today with our President, and the Attorney General both being Black this article's focus on racism has been weakened. I note that:

In the current survey of Decision Makers (a National Journal selection of 250 officials), just 48 percent of the top officials were white males. This is down four percentage points from our 2009 survey (although that had a larger sample size, and our selection of Decision Makers isn't a random assortment). We don't have the data to prove it, but it's safe to say this is probably the first time white men are in the minority in high-ranking positions.

Where white males lose footing in the second-term administration, white females, blacks, and Hispanic gain. Blacks in the Administration are approaching numbers representing the population at large. According to the Census Bureau, 13.6 percent of Americans are black. Thirteen percent of Obama's top decision makers are black as well. Women, however, are still underrepresented in respect to their portion of the population.

In addition there are more Black Judges, Police Officers, and City Officials than ever before. Like the poor whites in the Nineteenth Century and today, the poor can still not expect relief from the elite no matter their color.

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