

# Solitary Watch

## Criminal Justice Issues and Prisoners' Rights

**<https://solitarywatch.org/2017/01/30/looking-back-on-six-years-of-leadership-against-solitary-confinement-with-un-torture-expert-juan-mendez/>**

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by [James Ridgeway](#) | January 30, 2017

Juan E. Mndez stepped down from his position as United Nations Special Rapporteur on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment on October 31, 2016, ending six years of investigating and reporting on the use of torture in the 193 UN member states. He traveled the world on fact-finding visits, made urgent appeals to countries on behalf of individuals at risk of torture, and submitted reports and recommendations to the Human Rights Council and General Assembly. Yet after six years of investigating filth and overcrowding at prisons throughout Africa, the Middle East, and Asia, the most inaccessible dungeons turned out to be right here in the United States, in our supermax prisons and solitary confinement units.

A soft-spoken man with a natural air of dignity and conviction, Mndez sat down with me in his small office at American University's Washington College of Law, where he is Professor of Human Rights Law and oversees the [Anti-Torture Initiative](#). There, he spoke at length about his efforts to shine light on solitary confinement in U.S. prisons.

Mndez knows about torture firsthand. After being arrested as a young human rights lawyer in his native Argentina in the 1970s, he was held briefly in solitary confinement, and then moved to a crowded pen where people were taken every day to cells and tortured, or marched out to be killed. He experienced himself the terror of not knowing if or when he might join the ranks of the disappeared.

Mndez moved the issue of solitary confinement front and center when he equated it with torture in his [very first annual report](#) as Special Rapporteur on Torture, in which he urged member states to ban almost all solitary confinement. The report called for a ban on prolonged solitary for longer than 15 days, as well as solitary confinement of any duration even hours of children, those with mental disabilities, and pregnant or breastfeeding women.

What I advocated in 2011 has now become part of the UN operating framework, said Mndez. The restrictions from his 2011 report were included in 2015 revisions to a [UN document](#) called the Standard Minimal Rules for the Treatment of Prisoners. The document is a non-binding declaration, yet Mndez said, Its very authoritative. Its been around since the 1950s, and its always been considered standard minimum rules on prison and detention centers. In 2015, the UN General Assembly approved a set of amendments to the document called the Nelson Mandela rules, which included the first international limitations on the use of solitary confinement, based on Mendez's 2011 report. I completely agree with the Mandela rules. I was surprised they agreed with my suggestion but they did, said Mendez.

The United States, Mndez says, did participate in conversations leading to [the Nelson Mandela Rules], and signed off on those reforms. They did not object to them, Mendez said. Of course, it does not automatically describe an obligation, just a moral one. They agreed with it as a sort of aspiration. Still, he said, its important that the United States participated, and participated actively.

The limits proposed by Mndez in 2011 and added to the Standard Minimum Rules in 2015 are based on psychiatric literature, including studies that show children suffer isolation differently than adults, and that after 15 days the mind works differently and may sustain lasting damage. That doesnt mean you cant use solitary confinement for someone who wants to be protected and for as long as they want to be protected in that way, said Mendez. Or even isolating a predator so he doesnt prey on weak people, or for serious disciplinary offenses like picking a fight or assaulting a guard but then it should be for periods not lasting more than 15 days. And of course not renewable.

In his role as UN Special Rapporteur on Torture, Mndez visited prisons in 12 countries, including Mexico, Brazil, Turkestan, Guyana, Tunisia, and Sri Lanka. Every country gave him the prison access he required except for the Gambia and the United States. Other countries that havent invited him to visit prisons are Iran, North Korea, and Russia.

I talked to inmates of my own choosing, he said of most countries he visited. And not in the presence of guards, not even in eyesight of guards. I make a point of it. Otherwise you put people in jeopardy. In some, the conditions were absolutely horrible and they knew I would write bad things about them but they invited me anyway. This level of access is standard: His predecessor visited prisons in China without difficulty.

Yet Mndez spent the last six years attempting unsuccessfully to gain access to U.S. prisons, wrangling with bureaucrats in the U.S. State Department directly supervised by Secretarys of State Hillary Clinton and John Kerry. He repeatedly ran into the same obstacles that confront activists, non-political fact-finding organizations, journalists, the general public, and anyone else who attempts to figure out what goes on within U.S. prison walls, and particularly in solitary confinement.

The United States welcomed Mndezs assistance and expertise when it came to other projects outside his mandate. He worked behind the scenes to help [free Alan Gross](#), a USAID worker who spent five years imprisoned in Cuba, and he was invited to speak at several U.S. congressional hearings, usually about non-solitary confinement issues in other countries. He declined to speak at the hearings, even the one time he was invited to speak at a Senate hearing on solitary confinement. It seemed a little untoward to testify before the Senate when I was trying to get invited [into the prisons] so as to have a better opinion about it, he said.

Mndez did visit some U.S. prisons while helping with UN inquiries into U.S. treatment of minorities and those of African descent. And he managed a glimpse of the heavily secured, 69 ft inner sanctums of two prisons when he served as an expert witness in solitary confinement litigation at Californias Pelican Bay and a prison outside Philadelphia. But when it came to arranging visits under his UN mandate to inquire into torture or cruel and unusual punishment the door slammed shut.

When I report to the Human Rights Council and then to the General Assembly When I have complained about lack of access, the U.S. always takes the floor in response, Mndez said. But the response always has been, Well, were working on it. He never received concrete reasons explaining why he was been denied access.

If the US were to sign the [Optional Protocol to the Convention Against Torture](#) then they would be required to allow the UN to visit prisons in the US, he said. But they wont do so.

Mndez also spent years trying to conduct a fact-finding mission in Guantanamo Bay. The United States offered him highly restricted access to the facility without the ability to interview detainees in private, but he declined, as the restrictions would prevent him from fulfilling his responsibility as a UN independent expert. Its the same terms they gave my predecessor in 2004 when they had 800 people in Guantanamo, he said. Now they have only 60. Supposedly things have changed for the better. They still offer the same [visiting] conditions. They claim these are the same rules they give to journalists and members of the U.S. Congress. He told the United States he could not accept the terms making it clear he was eager to visit under different terms. They have never changed the terms.

I have very publicly engaged the U.S. on Guantanamo, he said. The upper echelons of the U.S. say we dont torture. Obama has said that. He spoke before the Senate Select Committee on Intelligence, submitted a report on the need to prosecute cases on the so-called War on Terror, and said he has maintained an open dialogue with U.S. leaders on the issue. I didnt get too far but they know my position.

Looking back on his work to end the use of prolonged solitary confinement by the United States, he said it is very hard to get any real change, although there are efforts. Mendez is widely credited by advocates as having added fuel to those efforts, and helping to enable the incremental changes that have at last begun to take place. Dozens of activist groups have adopted the 15-day rule and other guidelines set out by Mndez as a goal for change, and all have found his practical and moral leadership an invaluable asset to their work. As a new era of even greater [tolerance for torture](#) in the United State dawns, his leadership will be deeply missed.

James Ridgeway (1936-2021) was 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.

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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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Ironically my daughter, whos happens to be moving to NY, had just sent me her Continuing Legal Education Slides on Solitary Confinement this morning when I also found this article in my inbox. Its heartening that such courses are now being offered to young lawyers that may one day end up challenging the status quo.

Thanks to both you, and Mr. Mndez for your efforts to bring about said change.

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