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US should end solitary confinement

Washington is failing to uphold its legal obligations by blocking investigation into prolonged isolation

March 30, 2015 2:00AM ET

by [Lauren Carasik](#) [@LCarasik](#)

Since 2011, United Nations torture investigator Juan Méndez has [urged](#) member states to prohibit prolonged solitary confinement except in exceptional circumstances and to ban it altogether for vulnerable populations. The U.N. considers prolonged solitary confinement, defined as isolation for longer than 15 days, a “[cruel, inhuman or degrading treatment or punishment](#)” that inflicts lasting harm. The United States, which has the highest incarceration rate in the world, routinely violates this standard.

The U.S. government absurdly maintains that there is “[no systematic use of solitary confinement in the United States](#).” Yet it has repeatedly spurned requests for visits to U.S. prisons. Méndez has been trying to interview detainees at Guantánamo Bay since 2010. He has decried U.S. stonewalling after repeated requests for visits to various federal and state prisons went unanswered for more than two years. This has raised questions about what the U.S. might be hiding.

Solitary confinement is widely used in the U.S. for protection, discipline, administrative and health reasons. Approximately 80,000 people, disproportionately inmates of color, are in solitary in the U.S. at any given time. More than 40 states have supermax units or prisons, which house 25,000 inmates. [Studies](#) have demonstrated the deleterious consequences of isolation, often characterized by confinement to a small, windowless cell for 22 to 24 hours a day, with no meaningful social contact with others, sometimes for years. Even interactions with prison staff are managed through a small portal.

This level of isolation can inflict [physical harm](#) such as memory loss, insomnia, hypertension and deteriorating eyesight as well as psychological torments such as anxiety, depression, insomnia and phobias that last long beyond release.

[“Solitary confinement literally drives men mad,”](#) Supreme Court Justice Anthony Kennedy told a congressional subcommittee on March 22, adding that the U.S. corrections system is “broken.” “Once the adjudication process is over, we have no interest in corrections. We haven’t given nearly the study, nearly enough thought, nearly enough investigative resources to looking at our correction system.”

Evidence suggests that prolonged isolation is also counterproductive: Instead of deterring violence and recidivism, it increases both. For example, after [prison authorities in Missouri](#) transferred many inmates from segregated housing into the general population in 2006, incidents of serious violence decreased by nearly 70 percent.

Moreover, what happens in [prisons affects](#) those outside it when inmates who have suffered emotional and physical harm are released without any rehabilitation. They are less likely to be successfully reintegrated into society and may end up back in confinement. Solitary is [fiscally burdensome as well](#): It costs up to three times as much to house a prisoner in solitary, largely because of increased staffing needs. The costs of payments awarded to [aggrieved inmates](#) in lawsuits only drive up the fiscal toll.

Prolonged isolation of prisoners not only violates their fundamental human rights but also is counterproductive to prison management and criminal rehabilitation goals.

Méndez has requested full access to numerous federal and state facilities and the right to interview staff and inmates outside the watchful eye of prison officials. But authorities offered conditions that Méndez believes would compromise the integrity of his fact-finding mission. For example, [the U.S. government invited Méndez](#) to visit Guantánamo Bay in 2012, but refused to allow him to meet with detainees. He had good reason to doubt that he would elicit an unvarnished accounting without opportunities for unmonitored communication. Méndez has said [indefinite detention](#) and [force-feeding detainees](#) are a form of “cruel, inhuman and degrading treatment.” A torture survivor himself at the hands of the Argentinian military dictatorship in the late 1970s, Méndez was appointed as the U.N. special rapporteur on torture in 2010.

By design, solitary confinement separates prisoners that officials cannot manage in general populations: Those who have engaged in violent and aggressive conduct, need protection (such as sex offenders, informants, law enforcement officers or members of rival gangs) or present a security threat, including terrorism suspects or those who possess classified information. Those inmates could be confined to solitary even before they are convicted of a crime. And while some inmates are segregated for limited periods, many languish in solitary for decades.

Punitive isolation is intended to deter disruptive behavior and to discipline unruly inmates. However, it often creates the same restrictive conditions and lack of privileges for those isolated for their own protection. Though it can be employed to punish serious misconduct, solitary is also meted out for minor infractions. In February the [Electronic Frontier Foundation](#) found that South Carolina was placing prisoners in solitary for posting messages on Facebook. The average punishment for such an offense was 512 days.

In October the U.N. [Committee Against Torture](#) urged the U.S. to end the use of solitary confinement, expressing particular concerns for juveniles and those with intellectual or psychosocial disabilities, pregnant women and other vulnerable populations. Washington has repeatedly affirmed its pledge to cooperate with “the U.N.’s human rights mechanisms ... by responding to inquiries, engaging in dialogues and hosting visits.” In June 2013, 50 human rights organizations [wrote to the Department of State](#) urging the administration to meet its obligations under international law and respect its commitment to fully participate in and support the work of the U.N. Yet the U.S. government continues to refuse Méndez access.

Solitary confinement can [run afoul of domestic law](#) as well. It has prompted lawsuits over violations of due process protections and the Eighth Amendment prohibitions on cruel and unusual punishment. Most plaintiffs allege a flawed process for placing inmates in segregation, enduring damaging conditions while isolated and the unconscionable duration of their confinement to the segregated housing units.

In December, Méndez gained access to California’s Pelican Bay Prison, where abysmal conditions in solitary prompted inmates to protest through prolonged and widespread

hunger strikes. But his visit was not facilitated by President Barack Obama's administration or out of a commitment to U.N. mandates. Instead, a federal court judge approved his tour as an expert in a class action lawsuit challenging the constitutionality of prolonged solitary confinement. In 2012 the Center for Constitutional Rights [brought a suit](#) on behalf of inmates at the prison who had been held in solitary for 10 to 28 years.

The emerging consensus against the use of isolation has [engendered some progress](#). Last year New York [agreed to end solitary confinement](#) for juveniles, pregnant women and people with developmental disabilities. Other states have also implemented reforms. For example, Illinois [closed](#) the supermaximum security prison in Tamms in 2013, and Massachusetts excluded severely mentally ill inmates from solitary in 2012. But these initiatives provide piecemeal progress instead of the overarching reform necessary to end this inhumane practice.

Prolonged isolation of prisoners not only violates their fundamental human rights but is also counterproductive to prison management and criminal rehabilitation goals. If the U.S. stands by its claim that there is no systematic use of solitary confinement, it should permit Méndez unfettered access to its prisons. Blocking his investigation leads to the conclusion that Washington is not abiding by its legal obligations. More important, the U.S. should heed calls from torture experts and numerous civil groups and ban the routine use of solitary confinement.

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The views expressed in this article are the author's own and do not necessarily reflect Al Jazeera America's editorial policy.