

US Supreme Court decision exposes barbaric conditions in California prisons

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A decision of the US Supreme Court earlier this week has cast a spotlight on the horrific conditions of California's prisons. In a narrow majority opinion, the court supported a panel of three federal judges in finding that gross overcrowding and its effect on inmate health care constitute "cruel and unusual punishment" in violation of the 8th Amendment to the Constitution.

The court also supported the panel's order that California must reduce its prison population of 143,000 by 36,630 over the next two years, with the modest goal of bringing the population to 137.5 percent of the system's design capacity.

In the face of overwhelming evidence of inhumane conditions—which, if they were present in a country like Iran, would lead to charges of torture and human rights violations—what is remarkable about the Supreme Court decision is both its narrow majority, the timidity with which it addresses the issue, and the absence of any serious remedy.

The 52-page decision is signed by Associate Justice Anthony Kennedy and supported by Justices Stephen Breyer, Ruth Bader Ginsburg, Sonia Sotomayor, and Elena Kagan. Two dissenting opinions were given, one by Justices Antonin Scalia and Clarence Thomas and another by Justices Samuel Alito and John Roberts.

The majority opinion is replete with photos and a wide variety of expert opinion, leaving no legitimate doubt that inmate health care in California prisons is an abominable human rights violation. The majority opinion found that overcrowding is responsible for at least "one needless death per week."

The opinion begins by noting that California's prisons, frequently topping 150,000 inmates, are designed to house a population just under 80,000, while reception centers for processing tens of thousands of new or returning inmates often exceed 300 percent of design capacity. In addition, understaffing of health care professionals is chronic and extreme. In some cases, professional staffing was as low as 54 percent of bare minimum requirements.

The court points out that even if all staff vacancies were filled, severe overcrowding would still prevent adequate health care provision, adding, "There would be insufficient space for the additional staff."

The result is an extreme backlog of ill patients, filth and the spread of disease, tortuously crowded housing situations and increased violence.

Among other things, the opinion noted that suicidal inmates are held in telephone-booth sized cages without toilets for prolonged periods while waiting for treatment. One psychiatric expert "observed such an inmate catatonic in a puddle of his own urine after having spent nearly 24 hours in such a cage." Prison heads explained they had "no place to put him."

Unsurprisingly, the ruling noted that "the suicide rate in California's prisons was nearly 80 percent higher than the national average for prison populations."

Another correctional officer testified that up to 50 sick inmates were "held together in a 12 by 20 foot cage for up to five hours awaiting medical treatment." Still another noted that "after one prisoner was assaulted in a crowded gymnasium, prison staff did not even learn of the injury until the prisoner had been dead for several hours."

Doyle Wayne Scott, the former head of corrections in Texas—which has the country's second-highest incarceration rate and is not known for its humanitarianism—described conditions in California's prisons as "appalling ... inhumane ... and unacceptable," saying that "in more than 35 years of prison work experience, I have never seen anything like it."

As a consequence of such conditions, doctor Ronald Shansky, former medical director of the Illinois state prison system, concluded that extreme departures from the standard of care—referring to the legal standard required to prove malpractice—were "widespread" and that the proportion of "possibly preventable or preventable" deaths was "extremely high."

Yet, in the face of such horrors, decades of litigation and court orders to remedy the widespread violations, conditions only got worse. The matter only came to the Supreme Court after two separate, successful lawsuits against California for the constitutional violations were consolidated. The first action, *Coleman v. Brown*, began 21 years ago, while the more recent action, *Plata v. Brown*, commenced in 2001. In both cases, the constitutionally inadequate health care was conceded by the state.

Only after repeated failures to remedy the conditions did the

Coleman and Plata plaintiffs seek the aid of California's federal district courts to convene the panel of the three federal judges empowered by the Prison Litigation Reform Act to order reductions in the prison population. The panel then granted a consolidation of both cases. By 2009, after a full trial and extensive fact findings, the panel ordered a 137 percent reduction in the number of inmates within two years.

One factor motivating the court, as well as sections of the political establishment calling for a reduction in the prison population, is the sheer cost of the vast network of holding facilities. The court cited comments noting that failure to reduce the prison population would "all but bankrupt the state."

Over a 23-year period, under both Democratic and Republican governors and with a Democratic-dominated legislature, California erected 23 prisons, each costing roughly \$100 million annually to operate. In the same period, the state added just one campus to its university system. California now has 33 prisons in total. At current rates, California is projected to spend over \$15 billion per year on prisons by 2013.

The Supreme Court decision constrains itself to upholding the authority of the three-judge panel, while at the same time goes a long way to reassure California that it is not bound to release a single prisoner if it can find some alternative method to resolve the problem.

California, the justices wrote, must be afforded "considerable latitude" in finding ways to correct the violations. The high court ordered the three-judge panel to "give due deference to informed opinions as to what public safety requires" and should consider extending a deadline for what amounts to an inadequate resolution to prison overcrowding to five years. As the state takes action to move some prisoners to county jails, the majority writes, the three-judge panel "should evaluate whether its order remains appropriate."

The timidity of the majority stands in contrast to the semi-hysterical dissent from Scalia and Thomas, with the former reading parts of the dissent from the bench. With the additional dissent from Alito and Roberts, four of the justices supported a position that amounts to preventing any effective legal challenge to the establishment of a gulag prison system.

Scalia called the majority decision "the most radical injunction issued by a court in our Nation's history."

Both big business parties have worked to cultivate "anti-crime" hysteria in the population for decades, building a powerful and well-funded constituency for a police state, clearly reflected in the raving dissent of Scalia, who provocatively describes prisoners who may be released early as "fine physical specimens who have developed intimidating muscles pumping iron in the prison gym." In his one dissent, Alito referred to potentially released prisoners as "the equivalent of three Army divisions."

Scalia went on to state that if any prisoners were released and then committed crimes, the majority justices would be directly responsible.

Regardless of the Court's decision, the underlying political and social conditions that have created the US prison-industrial complex remain. For decades, the American ruling class has responded to growing social inequality and poverty—and the attendant social ills that invariably come with it—with a concerted attack on due process protections and ever more draconian sentencing.

The US currently incarcerates approximately 2.3 million people in prison or jail, more than any other country in the world, including a much more populous China. Over 90 percent of those incarcerated are the responsibility of state or local governments, many of which maintain grossly over-packed prisons like California.

California's prison population held no more than 20,000 inmates in 1970. Since then the "war on poverty" was replaced with the "war on crime," becoming the measure by which Democratic and Republican politicians are vetted.

In tandem with increased social inequality and diminished living standards came a concerted attack on basic democratic rights, extended prison terms for minor and nonviolent offenses and a broad criminalization of all social problems. The Supreme Court has played a critical role in sanctioning legislative and executive branch moves toward authoritarian forms of rule, greatly facilitating the monstrous increase in incarceration.

According to the California Department of Corrections almost 85,000 parolees were sent back to prison in 2009, most of them for two- and three-month sentences, indicating minor or technical violations such as a "dirty drug test" or failure to report to one's parole agent.

"Some inmates are serving life sentences for stealing a \$2 pair of socks or \$20 work gloves," according to Michael Romano of Stanford Law School. Speaking on the high rate of incarceration, Vermont Governor Peter Shumlin said, "We underestimate the number of nonviolent offenders we have in our systems throughout the country."

Ultimately, only a mass socialist movement can usher in the sweeping changes needed to cure the horrors of the prison industrial complex.



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