California defies court-ordered prison population reduction

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On April 11 in Sacramento, a panel of Federal District Court judges threatened to hold Governor Jerry Brown and other state officials in contempt of court if they continue to blow off a court-ordered deadline to reduce the population of its grossly overcrowded network of prisons.

The state's willful human rights violations in prisons—deemed "cruel and unusual punishment" by the US Supreme Court—are not a new development. Based just on the duration of the lawsuits over inadequate prison health care, the state has been committing these violations on a massive scale for nearly two decades.

According to Judge Lawrence Karlton—one of the panel of federal judges overseeing the states progress, "Systemic failures persist in the form of inadequate suicide prevention measures, excessive administrative segregation of the mentally ill, lack of timely access to adequate care, insufficient treatment space and access to beds, and unmet staffing needs."

California prison suicides have skyrocketed, exceeding the national average by 48 percent. Judge Karlton noted that up to 70 percent of the suicides could have been prevented with proper care.

This is the current state of affairs despite the fact that Judge Karlton has himself issued more than 100 court orders in the past 17 years to improve the mental health care after an inmate class-action suit was filed in 1995. The state proved so determined, however, to maintain the appalling condition of inmate mental health care that the court was forced to put it in federal receivership in 2005, calling the state's system of treatment "depraved."

According to the *Los Angeles Times*, "Mental health costs are so high because about a third of the state's prisoners are mentally ill." However, there is an important historic connection between the great numbers of seriously mentally ill in California's prisons and the state's effort to shutter most of the asylums in the 1960's and 70's—part of a national "cost-cutting" measure—which frequently goes overlooked.

There is a crucial lesson here about the long term impact of the protracted cuts to social spending that have reached a fever pitch worldwide since the global economic meltdown in 2008. While the state's Democratic and Republican parties carried out the closure of asylums under the guise of "patient's rights" that once housed and treated tens of thousands of mentally ill patients, the "war on poverty" was abandoned and a bipartisan "war on crime" was declared in its place.

Jerry Brown himself imposed the first determinate sentencing law which marked the beginning of a move to mandatory, draconian punishments for even minor crimes; an important aspect of overcrowding.

The last several decades have seen a great expansion of the repressive power of the state, a severe weakening of basic due process rights and the de facto criminalization of nearly every social problem, including being poor and mentally ill. The combination of this trend towards a police state and the elimination of the asylums led quite naturally to a transfer of the indigent mentally ill population from the asylum to the prison, accounting for a considerable portion of the explosion in the prison population from 1970—when it held no more than 20,000 inmates.

Instead of receiving the care they require in a humane setting, many in this vulnerable population were thrust to the streets with the general populace and then into the state's prisons. It is hard to imagine a more costly or chaotic solution to society's mental health needs. *Brown v. Plata* —the largest-ever prison class action lawsuit—ultimately reached the Supreme Court in 2011, arguing systemic rights violations in California prisons were inextricably linked to extreme overcrowding.

Although the court was largely motivated by the hard reality of the economic crisis—noting that failure to reduce the prison population would "all but bankrupt the state"—it was also forced to acknowledge the nightmarish reality of California's modern-day dungeons. A witness cited by the court, Doyle Wayne Scott, the former head of corrections in Texas 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."

In *Plata*, the Supreme Court ultimately endorsed the findings and recommendations of the panel of federal judges—including Judge Karlton—in finding that gross overcrowding and its effect on inmate health care constituted "cruel and unusual punishment." Specifically, it backed the panel's order that California reduce its prison population of 143,000 by at least 36,630 over the next two years, with the very modest goal of

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bringing the population to 137.5 percent of the system's design capacity.

Although the state has since significantly reduced its prison population via a legislative scheme—dubbed "realignment"—to send great numbers of nonviolent offenders to county jails, it still remains out of compliance with the Supreme Court-ordered reduction. The state's prisons are still greatly over capacity holding 119,542 inmates, or 149.5 percent of the number they were designed to hold (a mere 80,000), according to the most recent report by the department of corrections.

Today, California prisons constitute one of the largest, closely documented and persistent human rights violations in the world, which if it had occurred in a country such as Iran, Syria or North Korea would likely be denounced *de rigueur* by US media corporations. Yet, California freely flouts the authority of the court and now defiantly indicates it will do nothing more to cure the violations.

In response to the court's rejection of California's request to eliminate judicial oversight of the prisons and its threats to hold Brown himself in contempt, Governor Jerry Brown was disgustingly cavalier.

From Shanghai, China last week, Brown said his administration will not comply with the federal court order indicating his desire to allow the constitutional violations persist "until the Supreme Court tells us that we're not on the right track."

Since January, Brown began denouncing the "highly paid attorneys" who he dismissed as merely "running around the prisons looking for problems." Scoffing at the wretched, inhuman conditions in the prisons, Brown refused to "gold plate," as he said, the prison system. But in response to the courts most recent ruling Brown—once a self-styled leftist—has begun to echo Justice Scalia's reactionary dissent in *Brown v. Plata* by appealing to popular ignorance of the situation and fear mongering saying, "I'm sure the people in L.A. would like to see more prisoners out on the streets."

Beyond being an appeal for popular support of what amounts to a filthy gulag, the comment was a calculated lie. The state's realignment scheme does not mandate the release of a single prisoner. Rather it diverts only nonviolent offenders to increasingly overcrowded local county jails, as Brown well knows. Brown exceeds in cynicism by adding that California's horrific prisons actually provide "among the best health care in America and probably in the world" without batting an eyelash.

With the state's Republican Party rendered impotent by resounding defeats in last year's elections, ostensibly liberal Democrats such as Brown are now the front line defenders of the state's criminally wealthy economic elite while the state's workers suffer like never before.

California boasts more billionaires than any other state while tens of millions live in horrid poverty and desperation. Through the promotion of apolitical lifestyle choices such as electric cars or organic foods, and increasingly divisive racial and gender politics they have created a liberal Trojan horse full of right-wing politics to further pauperize the state's workers, attack basic democratic rights and, in this case, gleefully sustain a massive human rights violation.

The political danger of Brown's comments was not lost on the *Los Angeles Times* —perhaps the most powerful voice of the Democratic Party in the state. In a recent editorial on the court's ruling it paints Jerry Brown as the real victim pleading, "the governor deserves some sympathy for his political plight" because he is being pressured by "Republican lawmakers." This is also a lie, presuming extreme popular ignorance. The *Times* is well aware that the Democratic Party now enjoys what Political Science professor Bruce Cain of Stanford University refers to as "a stranglehold on the two-thirds majority" which includes staggering majorities in both houses of the Legislature and control of every statewide elected office.

Ultimately, the crisis in California's prisons has been greatly abetted by the courts as well, despite their favorable rulings on behalf of prisoners in recent years. As it has for nearly twenty years, the panel of judges ultimately gave the state yet another extension—the former deadline of June 2013 for prison population reduction has been extended to December 2013—despite all of its widely publicized threats to perhaps, someday hold someone accountable. In reality, only the workers will hold the ruling class and its representatives accountable for their manifold social crimes.

The virtual elimination of the Republican Party from California politics demonstrates a shift by workers to the left. The real task for workers, however, remains the ouster of the Democratic Party and all its fake left agencies such as the Green Party and the ISO through a social revolution and the expropriation of the state's billionaires to provide a high quality of life to everyone.

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