

UN torture investigator barred from US prisons

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On Tuesday, Juan Méndez, the United Nations' Special Rapporteur on Torture, Cruel, Inhuman or Degrading Treatment or Punishment, accused the United States government of refusing him access to Guantánamo Bay and other federal prisons, where he wishes to investigate the use of solitary confinement. Méndez said he has been in talks with US officials for two years without receiving a positive answer.

In his latest report delivered in Geneva, Méndez said he wants to visit federal prisons in New York and Colorado and state prisons in New York, California, Louisiana and other states. He claims that while the US State Department has purportedly been working to help him gain access to state prisons, in one of his last conversations, "they said that federal prisons were unavailable."

Méndez said he sought to investigate US federal prisons because "it is not rare" for prisoners to spend between 25 and 30 years in solitary confinement—locked in a cell with no human contact for 23 hours a day.

He also related that he was offered access to Guantánamo Bay in 2012, but under "unacceptable" conditions—namely that US officials would only allow him to see limited areas of the compound and would not allow him to have any conversations with inmates, whether monitored or unmonitored. Méndez declined this invitation and asked the United States to provide him with a new invitation that is "acceptable," but none has been offered.

The American Civil Liberties Union (ACLU) reports that more than 80,000 inmates are held in solitary confinement on any given day in the United States, and Méndez has stated that he is particularly concerned about the use of this technique on underage offenders. Solitary confinement for children, he said, "should

never happen, even for a single day." He further claimed that this type of punishment is widely considered cruel for adults and even more harmful to children "because of their state of development and their special needs."

Méndez has further condemned the United States for being the only country that allows children to be imprisoned for life without possibility of release. "Life sentences without the possibility of release for children are expressly prohibited by international law and treaties," he wrote in his report. "Significantly, the United States of America is the only State in the world that still sentences children to life imprisonment without the opportunity for parole for the crime of homicide."

"In addition, laws, policies and practices that allow children to be subjected to adult sentences are inherently cruel, inhuman or degrading because they fail to consider any of the special measures of protection or safeguards that international law requires for children," he wrote. "Children should never be treated as if they were adults. Because children are less emotionally and psychologically developed, they are less culpable for their actions and their sentencing should reflect the principle of rehabilitation and reintegration."

According to the Sentencing Project, approximately 2,500 people in the United States are serving life sentences without parole for crimes committed when they were children.

This issue arose in the 2012 case *Miller v. Alabama*, when the US Supreme Court barred mandatory life sentences without parole for youth under 18 years of age, stating that the practice was cruel and unusual and therefore a violation of the Eighth Amendment to the US Constitution.

“Mandatory life without parole for a juvenile precludes consideration of his chronological age and its hallmark features—among them, immaturity, impetuosity and failure to appreciate risks and consequences,” Justice Elena Kagan wrote at that time. “It prevents taking into account the family and home environment that surrounds him—and from which he cannot usually extricate himself—no matter how brutal or dysfunctional.”

Only 12 US states and the District of Columbia have banned life sentences without the possibility of parole for juveniles, and two thirds of the children who have already received such sentences come from just five states: Pennsylvania (472), Michigan (356), Florida (355), California (293) and Louisiana (228).

Méndez also pointed to abuse of immigrant children, urging that the US government “should, expeditiously and completely, cease the detention of children, with or without their parents, on the basis of their immigration status.”



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