Canada practicing “Torture by any other name”–Experts denounce continued use of solitary confinement in country’s prisons

Hugo Maltais
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A report released on February 23 by two prominent criminologists highlights the brutality with which the Canadian state treats those held in federal penitentiaries.

The report exposed, in particular, the phony nature of the measures the Justin Trudeau Liberal government has implemented with the purported aim of abolishing solitary confinement under pressure from prisoner support groups, human rights organizations and, ultimately, the courts.

Entitled “Solitary Confinement, Torture, and Canada’s Structured Intervention Units,” the report by Anthony Doob of the University of Toronto and Jane Sprott of Ryerson University concludes that Canada, despite the Trudeau government’s assertions to the contrary, continues to practice solitary confinement in federal penitentiaries, which amounts to “torture by another name.”

According to the United Nations Standard Minimum Rules for the Treatment of Prisoners (also known as the Nelson Mandela Rules), solitary confinement is “the confinement of prisoners for 22 hours or more a day without meaningful human contact.” The Nelson Mandela Rules state that solitary confinement should be used “only in exceptional cases as a last resort” and be prohibited for persons with mental or physical disabilities. Prolonged solitary confinement, that is, for more than 15 consecutive days, constitutes torture according to the UN.

In 2018 and 2019, rulings by the Ontario Court of Appeal and the British Columbia Court of Appeal declared that the method used by the Correctional Service of Canada (CSC) under the euphemism of “administrative segregation” constituted solitary confinement within the meaning of the Nelson Mandela Rules and “cruel and unusual punishment.” The latter is expressly prohibited under Section 12 of the Canadian Charter of Rights and Freedoms. The courts also ruled as unconstitutional the provisions of the Corrections and Conditional Release Act that authorized “administrative segregation” without limiting the duration of segregation to 15 days or less and without providing a mechanism for independent oversight and review of segregation decisions.

The courts’ description of “administrative segregation” is shocking: inmates are confined for 22 hours a day in cells as small as seven square meters and often without windows, with no meaningful human contact and no access to the physical, social, and intellectual activities of the prison, nor to assistance or rehabilitation programs. It is not uncommon for prisoners to remain incarcerated in these conditions for hundreds of days. There is evidence of prisoners being held in solitary confinement for 1,000 days and, in one case, 6,000 days (over 16 years).

According to experts heard by the courts, solitary confinement causes “severe and terrible” psychological effects, some of which can be permanent. Specific harms include anxiety, withdrawal, hypersensitivity, cognitive dysfunction, hallucinations, irritability, aggression, rage, paranoia, hopelessness, and feelings of impending emotional breakdown. Individuals in solitary confinement are at increased risk for self-harm, and suicidal thoughts and behaviors.

In 2007, a 19-year-old inmate, Ashley Smith, hanged herself in her isolation cell in a federal penitentiary in Ontario while four guards looked on. They did not intervene, as they had been ordered not to enter the cell “until she stopped breathing” so that she would not “seek attention.” At the time of her death, the young woman had spent 11.5 months in solitary confinement. Various reports and investigations concluded that her death was “preventable” and constituted a homicide.

In 2010, a 22-year-old aboriginal man named Edward Snowshoe hanged himself in his isolation cell at Edmonton Penitentiary in Alberta after spending 162 days there.

Pressed by the public in the wake of these tragic cases and forced by court rulings to remedy the law’s unconstitutionality, Justin Trudeau’s federal Liberal government announced its intention to “reform” administrative segregation. On October 16, 2018, Public

Safety Minister Ralph Goodale introduced Bill C-83, which was passed by Parliament on June 21, 2019, despite strong criticism from experts that the changes it brought were grossly inadequate.

The Liberal reform is mere window dressing, with the main change to the legislation being purely semantic. New "structured intervention units" (SIU) replaced "administrative segregation," without prohibiting the placement of mentally ill persons in them or seclusion periods exceeding 15 days. The restrictions and monitoring measures put in place are minimal, largely cosmetic, and not even respected by CSC.

For example, the new legislation states that an inmate placed in an SIU should spend at least four hours a day outside his or her cell and should have an "opportunity to interact" with others for at least two hours a day.

Yet the report by criminologists Doob and Sprott reveals that nearly 39 percent of inmates in SIUs do not have access to four hours outside their cells every day. For those who spend 16 or more days in the SIU, the four hours of out-of-cell time per day is not allocated for 76 percent of the days spent in segregation.

Doob and Sprott also conclude that more than 28 percent of stays in SIUs still constitute solitary confinement since inmates do not have access to meaningful human contact for at least two hours per day, and that 10 percent are torture since these conditions last for at least 15 consecutive days. This represents hundreds of cases of cruel and unusual punishment and torture.

Finally, Doob and Sprott also report that the independent committee established by the new legislation has no real oversight of SIUs and almost never intervenes to reverse a decision to place an inmate in segregation or to shorten its duration.

The CSC has sought to impede any meaningful oversight of its use of SIUs, including by systematically failing to provide data on their use. For this reason, caution the experts, their report only "scratches the surface" of the problems associated with solitary confinement in Canadian penitentiaries. Due to the dearth of information a thorough review is simply not possible.

The reaction to the February 23 report demonstrates the Canadian government's indifference to the revelations of torture and the CSC's resistance to any real change. The supposed "progressive" Trudeau made a terse statement that ending solitary confinement was "important" to his government and that he intended to "move forward" without specifying how or when.

CSC falsely stated that SIUs were "fundamentally different from the previous model" of administrative segregation. It also blamed the inmates themselves, stating that "often" the failure to meet the daily requirement of four hours out of the cell occurs because "the inmates refuse to avail themselves of the opportunity." If an inmate refuses to leave his or her cell for safety reasons, however, the responsibility lies with CSC. It should be providing a safe environment for all inmates without having to lock them up in a tiny cell virtually all day.

But the reality is quite different. Life for the more than 13,000 people incarcerated in Canada's penitentiaries is unhealthy and dangerous. Food is inadequate and of very poor quality–CSC allocates a food budget of $5 per day per prisoner. Crime and violence are rampant. Mental health disorders are 2 to 3 times more prevalent than in the general population and about 60 percent of inmates may suffer from them. On average, more than 10 suicides occur each year in penitentiaries, a rate seven times higher than in the general population. In 2017, there were 70 drug overdoses.

Along with the mentally ill, minorities are overrepresented in Canadian penitentiaries. Aboriginal people, who comprise about 4.3 percent of the Canadian population, make up 30 percent of the prison population. They are also more likely to be placed in isolation.

Over the past few decades, all sections of the political establishment—from the Conservatives and Bloc Québécois to the social-democratic NDP—have been clamoring for tougher sentences. This shift is part of a rejection of the liberal-capitalist conception of rehabilitation. Rooted in the conquests of the Enlightenment, this conception was based, at least to some extent, on the understanding that violence and crime, as well as drug addiction with which they are often associated, have deep social roots.

In the final analysis, solitary confinement and prison conditions in general are nothing more than an expression of the brutality of the Canadian capitalist state, along with militarism and police violence. The gargantuan security apparatus exists to suppress any social and political opposition to the monopolization of all social wealth by the financial oligarchy. It is an integral part of Canadian capitalism that cannot be "reformed" and must rather be overthrown along with it.