

Inhumane Prison Conditions in California

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Global Research, June 06, 2011
[Revolution #235](#) 6 June 2011

Region: [USA](#)

Theme: [Crimes against Humanity](#), [Law and Justice](#)

Cruel and Unusual Punishment in California Prisons

On May 23, the U.S. Supreme Court ruled that prison conditions in California violate the Eighth Amendment's ban on cruel and unusual punishment and ordered the state to reduce its prison population of 140,000 by 30,000 people. The court was sharply split on this case with a 5-4 decision. Justice Anthony Kennedy wrote the majority opinion while two extremely conservative judges, Antonin Scalia and Samuel Alito, wrote dissenting opinions.

This case, *Brown v. Plata*, grew out of two class-action lawsuits. One, going back to 1990, was filed by seriously mentally ill prisoners. The other, from 2001, came from prisoners with acute medical conditions. The Supreme Court has now upheld a 2009 ruling in this case by a panel of three federal judges that ordered California to reduce its prison population. The *New York Times* reported: "State officials in California will have two years to comply with the order, and they may ask for more time. Justice Kennedy emphasized that the reduction in population need not be achieved solely by releasing prisoners early. Among the other possibilities, he said, are new construction, transfers out of state and using county facilities."

Before discussing the significance of the Supreme Court's decision in this case, it's worth stopping to look at the brutality prisoners in California have been subjected to for a very long time. Many, many horror stories have come out—such as this account of an incident in 1996 at California's Security Housing Unit at Pelican Bay, known as the SHU:

"Vaughn Dortch, a prisoner with a life-long history of mental problems, was confined after a conviction for grand theft. There, the stark conditions of isolation caused his mental condition to 'dramatically deteriorate,' to the point that he 'smeared himself repeatedly with feces and urine.' Prison officials took Vaughn to the infirmary to bathe him.... Six guards wearing rubber gloves held Vaughn, with his hands cuffed behind his back, in a tub of scalding water. His attorney later estimated the temperature to be about 125 degrees. McMillan proceeded with the bath while one officer pushed down on Vaughn's shoulder and held his arms in place. After about fifteen minutes, when Vaughn was finally allowed to stand, his skin peeled off in sheets, 'hanging in large clumps around his legs.' Nurse Barbara Kuroda later testified without rebuttal that she heard a guard say about the black inmate that it 'looks like we're going to have a white boy before this is through, . . . his skin is so dirty and so rotten, it's all fallen off.' Vaughn received no anesthetic for more than forty-five minutes, eventually collapsed from weakness, and was taken to the emergency room. There he went into shock and almost died."¹

This is the kind of extreme brutality that has gone on in California prisons, along with many other forms of abuse, like rape, cell "extractions" where a whole gang of guards rush into a

cell and beat a prisoner, and isolation units where prisoners are tortured with sensory deprivation.

Inhumane Conditions... an Inhumane System

The highest court in the land has delivered a decision that not only admits that prison conditions in the most populous state in the U.S. constitute *cruel and unusual punishment* and are unconstitutional—but offers a lot of explicit evidence to make this argument.

The Supreme Court's decision in *Brown v. Plata*, titled, "Serious constitutional violations in California's prison system," says that there has been continuing injury and harm resulting from these serious constitutional violations. It argues that, "For years the medical and mental health care provided by California's prisons has fallen short of minimum constitutional requirements and has failed to meet prisoners' basic health needs. Needless suffering and death have been the well-documented result."

The majority decision, written by Kennedy, includes stark examples of the "cruel and unusual punishment" prisoners in California are subjected to: hundreds of prisoners jammed into open gyms where the beds are only inches apart; suicidal inmates "held for prolonged periods in telephone-booth sized cages without toilets"; and mentally ill prisoners who "languished for months, or even years, without access to necessary care."

And there are many examples of how prisoners with serious health problems have been callously neglected, brutalized and literally left to die:

"Adequate housing for the disabled and aged does not exist. The medical facilities, when they exist at all, are in an abysmal state of disrepair. Basic medical equipment is often not available or used. Medications and other treatment options are too often not available when needed. . . . Indeed, it is a misnomer to call the existing chaos a 'medical delivery system'—it is more an act of desperation than a system."

"A psychiatric expert reported observing an inmate who had been held in such a cage for nearly 24 hours, standing in a pool of his own urine, unresponsive and nearly catatonic. Prison officials explained they had 'no place to put him.'"

"A prisoner with severe abdominal pain died after a five-week delay in referral to a specialist; a prisoner with 'constant and extreme' chest pain died after an eight-hour delay in evaluation by a doctor; and a prisoner died of testicular cancer after a 'failure of MDs to work up for cancer in a young man with 17 months of testicular pain.'"

Kennedy includes the fact that suicide rates in the California prisons have been 80 percent higher than the average for prisoners nationwide and cites a lower court which said it was "an uncontested fact" that "an inmate in one of California's prisons needlessly dies every six or seven days due to constitutional deficiencies."

The Supreme Court's order to California rests on the assumption that overcrowding is the major reason behind the abuses it describes. And the way prisoners are jam-packed together is by itself inhumane. But the systematic brutalization of prisoners goes way beyond the problem of prisons being overcrowded. Overcrowding does not explain why prisoners are subjected to isolation for years, cattle prods, stun guns, and attack dogs.

President Nixon: "the whole problem is really the blacks"

We need to step back and ask, why are 140,000 people in California and 2.3 million nationwide being kept behind bars in the first place? Why is it that African-Americans are 13 percent of the general population in the U.S., but *over 50 percent of the prison population*? Why is it that so many prisoners are kept in isolation chambers, subjected to the kind of mental torture that is considered a war crime when carried out against prisoners of war?

Official propaganda whipped up the lie that the vast use of drugs was an urgent and serious threat to society and launched what they called a “war on drugs” in 1972. But in reality, what was behind this “war on drugs” was not genuine concern for the millions of lives destroyed by drug abuse and addiction—abuse which is largely driven by the widespread desire of people living under this brutal system to numb themselves.

The top aide to Nixon wrote this about what the president was thinking after the tumultuous 60s: “[Nixon] emphasized that you have to face the fact that the whole problem is really the blacks. The key is to devise a system that recognizes this while not appearing to.” [2](#)

This “war on drugs” was engineered from the highest offices (first President Richard Nixon and then Ronald Reagan) and came at a time when the system was facing great challenges around the world and on the home front. And from the very beginning, this “war on drugs” has been a war on the people aimed at controlling and repressing a whole section of the population the system sees as volatile and potentially threatening to the system. The so-called “war on drugs” came in the wake of the 1960s—a time of urban rebellions, prison rebellions, the Black Panther Party, and widespread militant mass struggles against the oppression of Black people that influenced and intersected with other struggles in the 60s like the anti-war movement and the struggle for women’s liberation. These struggles shook the system to its foundations, calling its very legitimacy into question for millions of people.

Indeed, the “war on drugs” was a way to, as Nixon put it, target Black people but “devise a system that recognizes this while not appearing to.”

Since the Sixties... New and Intensifying Forms of Oppression

Since the 1960s, major changes have taken place in the world, and there have been changes within U.S. society—including the inclusion of a section of Black people in the “middle class” —precarious as that has been, and even the election of a Black president. But the basic conditions of millions and millions of African-Americans have become, if anything, more desperate.

Some of these changes are related to globalization. Factories producing goods were moved first from the inner cities to the suburbs and then to other countries—while the masses of Black people remained locked in those urban cores due to continued housing segregation and deprivation. Simultaneously, the inner cities were deprived of funds and allowed to become economic and cultural dead-zones. The drug trade and the gangs involved in that trade to a certain degree arose spontaneously—but they were also systematically manipulated and in some cases promoted to fill the economic and political void left in the ghettos and barrios by economic abandonment and by the counter-revolutionary suppression of the movement.

And the same system that created this situation has then turned around and demonized millions of African-Americans in the inner cities and prisons. Typical of this, and further inciting racism, were the comments of Supreme Court Justice Scalia in his dissenting

opinion, railing that the court ruling would release “fine physical specimens who have developed intimidating muscles pumping iron in the prison gym.” Such rhetoric evokes the hatred and fear of the slaves whipped up by the slave masters and their ideologues in slave days, and later by the plantation owners and the Klan who routinely depicted African-American men as fearsome predators to justify their brutal exploitation and oppression of Black people.

A special issue of *Revolution* on prisons and prisoners in the U.S., “[From the Hellholes of Incarceration to a Future of Emancipation](#),” says:

“The rulers used all this, along with other attacks, to create a ‘pariah class’³ in the inner cities—that is, social outsiders for whom normal considerations and rights did not apply. And they in turn used the presence of that pariah class as an outlet and target for the resentments building up among a large section of white people, many of whom were also facing economic setback and instability, re-fitting and reinforcing the ‘tool’ of white racism for these times.”

“A Drug War Waged Almost Exclusively Against Poor People of Color”

As a result of all this, the prison population in the U.S. went from about 500,000 in 1980 to over 2.3 million—the number of prisoners today. And, continuing the framework laid out by Nixon, this has taken the form of various versions of the “war on drugs.”

Convictions for drug offenses were the *single* most important cause of this boom in mass incarceration. Drug offenses alone account for two-thirds of the rise in the federal inmate population and more than half of the rise in state prisoners between 1985 and 2000. Drug arrests have tripled since 1980. More than *31 million people* have been arrested for drug offenses since the “war on drugs” began.⁴ The “war on drugs” which put so many people in prison has been stamped through and through with the white supremacy that has been part of the foundation of the U.S. since its very beginnings. For example, there are huge racial disparities in convictions and sentencing. African-Americans make up more than 80% of the people convicted of crack cocaine—vs. powder cocaine which is more widely used among white people.⁵ A 1986 law meant a person convicted of crack cocaine possession got the same mandatory prison term as someone with 100 times the same amount of powder cocaine. (Legislation in 2010 reduced this ratio to about 18-to-1.) And although the majority of illegal drug users and dealers nationwide are white, three-fourths of all people imprisoned for drug offenses have been Black or Latino.

Michelle Alexander’s book, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*, notes:

“[H]istorians will undoubtedly look back and marvel that such an extraordinarily comprehensive system of racialized social control existed in the United States. How fascinating, they will likely say, that a drug war was waged almost exclusively against poor people of color—people already trapped in ghettos that lacked jobs and decent schools. They were rounded up by the millions, packed away in prisons, and when released, they were stigmatized for life, denied the right to vote, and ushered into a world of discrimination.” [See accompanying article: “[The Criminalization of a Generation and the Oppression of African-American and Latino People](#).”]

USA #1 in Mass Incarceration

There is no doubt a complexity of factors involved in why a section of the U.S. ruling class feels it has to address the situation in California's prisons (and as indicated by Scalia's comment quoted earlier, there was very sharp disagreement on the court over this ruling). The State of California does face a serious financial crisis and currently spends \$10 billion a year on its 33 prisons. But this doesn't fully explain what is behind such an unprecedented ruling—and the sharp intra-ruling class disagreements that are evident. It will take further study and analysis to understand what this decision reflects about possible disagreements within the ruling class and larger contradictions the U.S. faces domestically and internationally.

But one factor in this ruling is what the massive incarceration of minorities says about the U.S. anointing itself as "leader of the free world" and the most fair and just country in the world. The U.S. has 5 percent of the world's population, but 25 percent of its prisoners. The U.S. portrays itself as a land of equality, a color-blind society. Yet African-Americans and Latinos are incarcerated at rates far higher than that of whites. Around the world, people widely perceive this as an expression of the oppression and racist subjugation of Blacks and Latinos. And the astronomical rates of incarceration in the U.S. have the potential to cause people to question the very legitimacy of the U.S. judicial system, and indeed, the whole system of capitalism-imperialism we live under. Kennedy's decision hints at this ruling class problem where it says: "A prison that deprives prisoners of basic sustenance, including adequate medical care, is incompatible with the concept of human dignity and has no place in civilized society..."

Lessons of Change

There are many examples from history, but this calls to mind the articles in *Revolution #233* on the 50th Anniversary of the Freedom Riders. Here was a group of people determined to fight for justice and to do away with Jim Crow in the South. (Jim Crow, formally and informally, mandated segregation between Black people and whites in all aspects of life.) As the Freedom Riders courageously fought for justice, the stories and images of Black people being denied their most basic rights were being splashed across the front pages of newspapers in this country and around the world. This was a major factor in the necessity of the U.S. ruling class to bring about some changes in the way Black people were treated—at least in terms of the way discrimination and segregation was blatantly enforced by the police and upheld by prevailing laws.

The end of legal segregation and Jim Crow laws would not have come about without tremendous struggle and sacrifice by the people. The Supreme Court decision in *Brown v. The Board of Education* said separate public schools for Black and white students were unconstitutional. And courts outlawed the segregation of buses traveling interstate. But this did not actually lead to any real change. The U.S. government only felt compelled to enforce these decisions in the face of determined, mass struggle which challenged the very legitimacy of the system.

Today, we face a situation where a mass movement is urgently needed to fight a determined and uncompromising struggle against the brutal imprisonment of millions in the U.S. *More African-American adults are in prison or jail, on probation or parole, than were enslaved in 1850, a decade before the Civil War began.* This is intolerable!

There are many ways, and pathways, for people of all nationalities and from all quarters of society—from artists, intellectuals and lawyers to people who are catching hell from this

every day, to students and youth to take this up. As a key part of this, mass political resistance is indispensable.

History teaches us that the U.S. ruling class won't feel any compulsion to address any of the horrendous problems this recent Supreme Court decision speaks to without such a struggle. It teaches us that with such struggle broad numbers of people—including many who today are oblivious to what is really happening or believe the lies that this is all about controlling criminals and crime and that people in prison only have themselves to blame—can learn to look at things in a whole other way and feel compelled to fight.

The inhumane mass incarceration of millions of people is a manifestation of the reality that this is a system based on brutal oppression and exploitation. While there may be changes and adjustments to the forms of oppression and exploitation under this system, the only way to actually *uproot and get rid of* this oppression and exploitation is through communist revolution.

As the Message and Call from the RCP says: “The days when this system can just keep on doing what it does to people, here and all over the world...when people are not inspired and organized to stand up against these outrages and to build up the strength to put an end to this madness...those days must be GONE. And they CAN be.”

In doing research for this article a number of people with expertise on the subject of mass incarceration in the U.S. contributed their ideas, articles and papers. This is very appreciated and will also be helpful in ongoing Revolution coverage of this important issue.

Notes

1 “If the Shu Fits: Cruel and Unusual Punishment at California’s Pelican Bay State Prison;” Romano, Sally Mann, *Emory Law Journal*, Summer, 1996.

2 *The Haldeman Diaries: Inside the Nixon White House*, p. 53, by H.R. Haldeman, cited in *Smoke and Mirrors: the War on Drugs and the Politics of Failure*, by Dan Baum.

3 The concept of the targeting of Black people and Native Americans as a “pariah class,” dating back to the early days of the U.S., and the overall way in which white supremacy has served to blunt class-consciousness in the U.S. since then, has been drawn on and further developed by Bob Avakian in the important work, *Communism and Jeffersonian Democracy*. Available in print (2008, RCP Publications) and online at revcom.us.

4 “Disparity By Geography: The War on Drugs in America’s Cities,” The Sentencing Project, 2008.

5 “ACLU Releases Crack Cocaine Report, Anti-Drug Abuse Act of 1986 Deepened Racial Inequity in Sentencing,” www.aclu.org, October 2006.

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