

UN Remains Barred From Visiting US Prisons Amid Abuse Charges

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Image: Matt York/AP

A recent visit to a federal penitentiary by President Obama has prompted the United Nations to give another shot at seeking permission to visit the U.S. prison system.

When U.S. President Barack Obama visited the El Reno Correctional Facility in Oklahoma last week to check on living conditions of prisoners incarcerated there, no one in authority could prevent him from visiting the prison.

Obama, the first sitting president to visit a federal penitentiary, said “in too many places, black boys and black men, and Latino boys and Latino men experience being treated different under the law.”

The visit itself was described as “unprecedented” and “historic.”

But the United Nations has not been as lucky as the U.S. president was. Several U.N. officials, armed with mandates from the Geneva-based Human Rights Council, have been barred from U.S. penitentiaries which are routinely accused of being steeped in a culture of violence.

Back in 1998, Radhika Coomaraswamy, the U.N. Special Rapporteur on Violence Against Women, was barred from visiting three Michigan prisons to probe sexual misconduct against women prisoners.

Although she had made extensive preparations to interview inmates, Michigan Governor John Engler barred Coomaraswamy on the eve of her proposed visit.

The late Senator Jesse Helms, former chairman of the powerful Senate Foreign Relations Committee, blocked a proposed prison visit by Bacre Waly Ndiaye, head of the U.N. Human Rights Office in New York, who was planning to observe living conditions in some of the U.S. prisons.

Obama’s visit has prompted the United Nations to give another shot at seeking permission to visit the U.S. prison system.

The U.N. Special Rapporteur on torture, Juan E. Méndez, and the Chairperson of the Working Group on Arbitrary Detention, Seong-Phil Hong, have jointly called on the U.S. government to facilitate their requests for an official visit to U.S. prisons to advance criminal justice reform.

"I look forward to working with the U.S. Department of Justice on the special study commissioned by the President on the need to regulate solitary confinement, which affects 80,000 inmates in the United States, in most cases for periods of months and years," Méndez said early this week.

"The practice of prolonged or indefinite solitary confinement inflicts pain and suffering of a psychological nature, which is strictly prohibited by the Convention Against Torture," he said.

"Reform along such lines will have considerable impact not only in the United States but in many countries around the world," he noted.

Hong, who leads the U.N. Working Group on Arbitrary Detention, said a visit to federal and state institutions "will be an excellent opportunity to discuss with authorities the 'Basic Principles and Guidelines on the right to anyone deprived of their liberty to bring proceedings before a court', and to promote its use by the civil society."

The Working Group has already drafted a set of Principles and Guidelines that "will help establish effective mechanisms to ensure judicial oversight over all situations of deprivation of liberty."

The document will be considered by the Human Rights Council in September.

According to published reports, there have been charges of unhealthy living conditions and physical beatings, specifically against minorities, including African-Americans and Latin Americans, in the U.S. jail system.

Last month, the administration of New York City Mayor Bill de Blasio and the office of the U.S. Attorney for the Southern District announced far reaching reforms, including the proposed appointment of a Federal Monitor to probe continued prisoner abuses in Riker's Island, described as the second largest jail system in the United States.

Other measures include restrictions on the use of force by prison guards and the installation of surveillance cameras.

Asked whether U.N. Special Rapporteurs (UNSRs) have previously been permitted into U.S. prisons, Tessa Murphy at Amnesty International (AI), told IPS that Juan Mendez hasn't visited any U.S. supermaximum facility prisons in his role as UNSR.

He has, however, visited Pelican Bay in California as an expert witness in ongoing litigation there.

She also said AI has called on the U.S. State Department to extend an invite repeatedly requested by the UNSR to visit the United States to examine the use of solitary confinement in federal and state facilities, including through on-site visits.

"AI believes this external scrutiny is particularly important in the case of 'super-maximum' security facilities where prisoners are isolated within an already closed environment. We continue to call for this access to be provided."

She pointed out that AI has released several reports calling for access – based on an

extensive body of work on long-term solitary confinement and its damaging effects.

Antonio M. Ginatta, Advocacy Director, U.S. Programme at Human Rights Watch (HRW), told IPS it is a momentous time in the United States as it re-examines and moves to reform its criminal justice system.

President Obama himself just spoke to the need for this reform, and specifically highlighted the harms caused by solitary confinement.

“Yet the State Department continues to fail to allow the Special Rapporteur on torture access to U.S. confinement facilities to review their use of solitary confinement. It’s as if they missed the President’s speech,” he said.

Ginatta said an invitation to the Special Rapporteur is years overdue.

“In light of the president’s speech and his visit to the El Reno prison, the U.S. Department of State should change course and immediately extend an unrestricted invitation to Special Rapporteur Mendez and the Working Group on Arbitrary Detention,” he declared.

After his prison visit, Obama said: “My goal is that we start seeing some improvements at the federal level and that we’re then able to see states across the country pick up the baton, and there are already some states that leading the way in both sentencing reform as well as prison reform and make sure that we’re seeing what works and build off that.”

Providing details of its meetings with U.S. State Department officials, Amnesty International told IPS that in February it met with Deputy Assistant Secretary Scott Busby in the Bureau of Democracy, Human Rights and Labor and Director William Mozdzierz in the Bureau of International Organization Affairs, Human Rights and Humanitarian Affairs to emphasise the importance of facilitating external scrutiny by the SRT as well as to hand over a petition to the State Department (with over 20,000 signatures, on the same issue.)

AI said SRT Mendez has provided them with a list of prisons he wishes to visit, including in Louisiana, California, Arizona, Pennsylvania, New York, and the Federal Bureau of Prisons.

Secretary Mozdzierz, stressed to AI that the State Department has a strong national interest in ensuring that the United States lives up to international treaty obligations.

Deputy Assistant Secretary Scott Busby emphasised how committed the U.S. government is in providing access for the SRT.

However, Secretary Mozdzierz emphasised that access to state prisons is dependent on the individual governors and state Attorney Generals being amenable, and there are no mechanisms by which the State Department can ensure a positive response.

He also made it clear that he would stress to state authorities the importance of facilitating the SRT’s requests. Both Directors acknowledged that BOP ADX prison in Colorado was ‘unavailable’ to SRT Mendez.

SRT Mendez, who met with AI prior to the meetings above, asked AI to seek an explanation for the reason that he had been told in correspondence with State Department that federal prisons were “unavailable” to him.

Secretary Mozdierz confirmed that the reason federal prisons were “unavailable” to the SRT was because of ongoing litigation in ADX; Cunningham V BOP, which has been in a structured settlement process since last year.

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