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**HAUT COMMISSARIAT DES NATIONS UNIES**  
**AUX DROITS DE L'HOMME**

**PROCEDURES SPECIALES DU**  
**CONSEIL DES DROITS DE L'HOMME**

**Mandate of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment**

**UNITED NATIONS**  
**OFFICE OF THE UNITED NATIONS**  
**HIGH COMMISSIONER FOR HUMAN RIGHTS**

**SPECIAL PROCEDURES OF THE**  
**HUMAN RIGHTS COUNCIL**

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Excellency,

I have the honour to address you in my capacity as Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment pursuant to Human Rights Council resolution 16/23.

In this connection, I would like to bring to your Excellency's Government's attention information I have received concerning **alleged excessive use and practices of prolonged solitary confinement conducted in California Department of Corrections and Rehabilitation (CDCR), alleged poor conditions of detention and alleged retaliatory measures being taken against prisoners who are protesting through a hunger strike since 8 July 2013.**

According to the information received:

*Solitary confinement:*

There are approximately 80,000 prisoners in the United States who are subjected to isolated confinement, including about 25,000 prisoners in super maximum security prisons. It is estimated that California holds nearly 12,000 prisoners in isolation, including approximately 4,000 "Security Housing Units" (SHU) prisoners who are detained in isolated segregated units for indefinite periods or determinate periods of many years, including at least one thousand inmates in the Californian Pelican Bay maximum security prison. It is reported that in many cases the cells where inmates are isolated are 8 by 12 foot rooms and lack minimum ventilation and natural light. The prisoners are allegedly forced to remain in their cells for 22 to 23 hours per day, and allowed only one hour of exercise alone in a cement lot where they do not necessarily have any contact with other inmates.

Furthermore, it is reported that thousands of California prisoners endured solitary confinement for indeterminate periods of time, allegedly often several decades, often solely based on their alleged gang membership or association ("Petition"). It is alleged that in the State's maximum security prison in Pelican Bay more than 400 prisoners have been held in solitary confinement

for over a decade, and that the average time a prisoner spends in solitary segregation is 7.5 years. It is alleged that the extraordinary large population of prisoners in solitary confinement is a result of California's policy to place prisoners in solitary confinement for mere alleged gang membership or association without the need to show any wrongdoing or threatened wrongdoing. It is furthermore reported that prisoners remain in solitary confinement until they can prove they have been "gang free" for six years, or agree to become an active "informant," a dangerous option very few prisoners are willing to take. In this context it is reported that currently informants in SHU units are compelled by offers of fewer restrictions and the possibility of release from SHU to give incriminating "evidence" of other prisoners' insubordination to justify solitary confinement as a legitimate disciplinary measure.

Furthermore, it is alleged that a high percent of inmates held in solitary confinement have mental disabilities and that practice of prolonged solitary confinement caused irreparable physical and mental harm to prisoners without initial mental conditions.

It is also reported that many of the State's policies regarding the use and assessments of solitary confinement are secret and that inmates have no access to a fair process to assess the reasons for being placed in solitary confinement. In this context it is reported that several hundred prisoners have joined a request for disclosure under the California Public Records Act which the CDCR has allegedly failed to answer.

*Hunger strike:*

It is reported that on 8 July 2013 over 561 officially confirmed prisoners in nine separate prisons started a hunger strike; 385 of which have not had water since the beginning of the hunger strike. According to the information received, the protest originated in the solitary confinement unit of Pelican Bay State Prison, California and thousands of prisoners allegedly joined the peaceful hunger strike to protest use of solitary confinement.

Allegedly in July 2011, a similar hunger strike lasted 20 days before prison officials negotiated with the hunger strikers. The CDCR officials agreed to make changes according to the agreement they made with the hunger strikers, but did not follow through with the agreed terms, resulting in current strike.

Reportedly, the demands concern the same core problems as the July 2011 strike namely, the request to the authorities to comply with the recommendations of the US Commission on Safety and Abuse in America's Prisons and to end long-term solitary confinement; to abolish the debriefing (informant) policy and to modify active/inactive gang status criteria; to eliminate group punishment and administrative abuse; to provide adequate food and nutritious food ; and to create and expand constructive programming

It is reported that reprisals are being taken against the hunger strikers. Of the 40 additional demands, the second and third request the prison officials to

refrain from issuing punitive measures against the hunger strikers. It is alleged that during the first week of action, at least fourteen prisoners considered “leaders” of the hunger strike were subjected to further isolated confinement and punishment, including cancellation of family visits. It is also reported that the temperature is being lowered to “break the will” of the hunger strikers and that legal documents have been confiscated. Allegedly, there have also been no medical checks given to the hunger strikers, except for those who voluntarily ended their strikes. Concern is also expressed regarding the possibility of force feeding. Reportedly, the Correction Secretary stated that he will seek a court order to force feed the hunger strikers.

*Conditions of detention:*

It is also reported that in addition to the core demands, hunger strike organizers have made an additional 40 demands in a letter to Governor of California Jerry Brown. Of the 40 additional demands, there are several that indicate allegedly deficient living conditions and overly restrictive prison policies, as well as concerns regarding retaliatory measures being taken against the prisoners. Many of the demands suggest a lack of basic necessities, such as being permitted to make at least 1 weekly phone call, be provided with an adequate mattress, and having access to materials to pursue a hobby or have reading material that is in reasonably good condition. Currently, it is reported that prisoners are only allowed phone calls when a family member has died, and books are limited and in disrepair. They are also allegedly demanding family visits longer than 90 minutes, when visits used to be 4-6 hours in the 1990s. Due to Californian Pelican Bay State Prison’s remote location, family members are forced to travel 200 miles or more, and are allegedly harassed by prison staff, discouraging future visits by family members. Furthermore, it is reported that the food portions are meager and rations are used as punishment against prisoners.

It is also alleged that there are arbitrary “potty” watches to prevent contraband from being hidden in cavities of the body, and the use of PVC tube restraints. Reportedly the use of Polyvinyl chloride tube restraints (PVC) has been used to search prisoners “on a whim” without being given the option of a screening through an X-ray machine. Also, it is alleged that Pelican Bay State Prison officials conduct PVC tube restraint techniques in public spaces, reportedly humiliating the prisoner to have a bowel movement visible to prison tours.

Serious concern is expressed about the alleged excessive use and practices of prolonged solitary confinement by the California Department of Corrections and Rehabilitation. Serious concern is also expressed regarding the conditions of detention in Californian State prisons. Concern is expressed about the threat of retaliatory measures being taken against the prisoners participating in the hunger strike as well as the threat of force feeding the prisoners, as they are reaching the one month mark of their hunger strike.

Without in any way implying any conclusion as to the facts of the case, I would like to appeal to your Excellency’s Government to seek clarification of the circumstances regarding the allegations outlined above. I would like to stress that

each Government has the obligation to protect the right to physical and mental integrity of all persons under its jurisdiction. This right is set forth inter alia in the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR) and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment (CAT). In this connection, I would like to draw attention of your Excellency's Government to article 10, paragraph 1 of the ICCPR, which provides that "All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person."

With regard to the allegations of the use of prolonged solitary confinement, I would like to draw the attention of your Excellency's Government to paragraph 6 of General Comment No. 20 of the Human Rights Committee. It states that prolonged solitary confinement of the detained or imprisoned person may amount to acts prohibited by article 7 [on the prohibition of torture and other cruel, inhuman or degrading treatment or punishment] of the ICCPR (adopted at the 44th session of the Human Rights Committee, 1992). In this regard, I would also like to draw your attention to article 7 of the Basic Principles for the Treatment of Prisoners, which provides that "efforts addressed to the abolition of solitary confinement as a punishment, or to the restriction of its use, should be undertaken and encouraged" (adopted by the General Assembly by resolution 45/111 of 14 December 1990).

In addition, I would like to draw the attention of your Excellency's Government to my interim report to the General Assembly of 5 August 2011 (A/66/268) stating that where the physical conditions and the prison regime of solitary confinement cause severe mental and physical pain or suffering, when used as a punishment, during pre-trial detention, indefinitely, prolonged, on juveniles or persons with mental disabilities, it can amount to cruel, inhuman or degrading treatment or punishment and even torture. Paragraph 26 of the report states that, "of particular concern to the Special Rapporteur is prolonged solitary confinement, which he defines as any period of solitary confinement in excess of 15 days. He is aware of the arbitrary nature of the effort to establish a moment in time which an already harmful regime becomes prolonged and therefore unacceptably painful. He concludes that 15 days is the limit between "solitary confinement" and "prolonged solitary confinement" because at that point, according to the literature surveyed, some of the harmful psychological effects of isolation can become irreversible."

In this context, I would also like to recall paragraph 1 of Human Rights Council Resolution 16/23 which "Condemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment."

With regard to the conditions of detention, I would like to draw the attention of your Excellency's Government to the Standard Minimum Rules for the Treatment of Prisoners. (Adopted by the Economic and Social Council by resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977). I would also like to draw your attention to the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment adopted by the General Assembly on 9 December

1988. (Adopted by General Assembly resolution 43/173 of 9 December 1988). The Committee against Torture and the Human Rights Committee have consistently found that conditions of detention can amount to inhuman and degrading treatment.

With regard to family visits, I would like to draw the attention of your Excellency's Government to Principle 19 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment adopted by the General Assembly on 9 December 1988 which states that, "A detained or imprisoned person shall have the right to be visited by and to correspond with, in particular, members of his family and shall be given adequate opportunity to communicate with the outside world [...]". I would also like to draw your attention to rule 37 of the Standard Minimum Rules for the Treatment of Prisoners adopted on 30 August 1955 by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, which provides that "Prisoners shall be allowed under necessary supervision to communicate with their family and reputable friends at regular intervals, both by correspondence and by receiving visits."

In view of the urgency of the matter, I would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of the above-mentioned persons in compliance with the above international instruments.

Moreover, it is my responsibility under the mandate provided to me by the Human Rights Council, to seek to clarify all cases brought to my attention. Since I am expected to report on these cases to the Human Rights Council, I would be grateful for your cooperation and your observations on the following matters, when relevant to the case under consideration:

1. Are the facts alleged in the summary accurate?
2. Please provide information on measures taken by your Excellency's Government to reduce the use of solitary confinement and to abolish prolonged solitary confinement and other extreme isolation practices within the penitentiary system.
3. Please provide information on steps taken by your Excellency's Government to define a maximum term beyond which solitary confinement would be considered prolonged and therefore banned.
4. Please describe what measures your Excellency's Government takes to prevent retaliatory measures being taken against prisoners participating in the hunger strike.

I undertake to ensure that your Government's response to each of these questions is accurately reflected in the report I will submit to the Human Rights Council for its consideration.

While waiting for your response, I urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of the persons mentioned above are respected and, in the event that your investigations support or suggest the above allegations to be correct, the accountability of any person

responsible of the alleged violations should be ensured. I also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

In the light of the potentially serious implications of this case, I am considering to publicly express my concern in the near future.

Please accept, Excellency, the assurances of my highest consideration.

Juan E. Méndez  
Special Rapporteur on torture and other cruel, inhuman or degrading treatment  
or punishment