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200 Years is Too Long: It's Time to End the Use of Segregation

In the two centuries since solitary confinement was introduced as an alternative to killing people, international standards have been set recognizing solitary confinement as a violation of fundamental human rights that can amount to torture. With a court decision rendered this week, Canada missed an opportunity to rise to and even exceed these standards.

Ontario Superior Court Associate Chief Justice Frank Marrocco, in his decision of December 18, 2017, stated that the decision making of the Correctional Service of Canada (CSC) vis-a-vis administrative segregation is unconstitutional. He also found that the conditions of isolation experienced by prisoners in administrative segregation is equivalent to solitary confinement.

“Regrettably, although Mr. Chief Justice Marrocco accepted evidence adduced that segregation can very quickly result in long term trauma, he did not find that the use of segregation amounted to ‘cruel and unusual punishment’, and therefore failed to act in a manner that might result in actual change,” observed Kim Pate. “From the United Nations to other international and national organizations, most oversight bodies have found that the use of isolation can amount to torture in many instances, yet the Court failed to rule that the use of segregation contravenes s. 12 of the Canadian Charter of Rights and Freedoms.”

“This is so very frustrating and beyond disappointing,” continued Coralee Smith. “We are now more than ten years since my daughter, Ashley, died in segregation while the guards watched. It’s four years since the inquest jury found her death a homicide and recommended an end to the use of segregation. What will it take for Canada to end this kind of torture of prisoners? If the judge accepted the evidence that prisoners can be negatively impacted – sometimes permanently – how could he not consider segregation as cruel or unusual? How can that possibly make sense?”

Former Supreme Court Justice Louise Arbour, the Canadian and Ontario Human Rights

Commissions, the Canadian Association of Elizabeth Fry Societies, the Native Women's Association of Canada and the Disabled Women's Network (DAWN) have called for a total ban of all forms of segregation and isolation, commencing with youth, women prisoners and those with disabling mental health issues.

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