

By Colyn Dayan

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MORE than 1,700 prisoners in California, many of whom are in maximum isolation units, have gone on a hunger strike. The protest began with inmates in the Security Housing Unit at Pelican Bay State Prison. How they have managed to communicate with each other is anyone's guess — but their protest is everyone's concern. Many of these prisoners have been sent to virtually total isolation and enforced idleness for no crime, not even for alleged infractions of prison regulations. Their isolation, which can last for decades, is often not explicitly disciplinary, and therefore not subject to court oversight. Their treatment is simply a matter of administrative convenience.

Solitary confinement has been transmuted from an occasional tool of discipline into a widespread form of preventive detention. The Supreme Court, over the last two decades, has whittled steadily away at the rights of inmates, surrendering to prison administrators virtually all control over what is done to those held in “administrative segregation.” Since it is not defined as punishment for a crime, it does not fall under “cruel and unusual punishment,” the reasoning goes.

As early as 1995, a federal judge, Thelton E. Henderson, conceded that so-called “supermax” confinement “may well hover on the edge of what is humanly tolerable,” though he ruled that it remained acceptable for most inmates. But a psychiatrist and Harvard professor, Stuart Grassian, had found that the environment was “strikingly toxic,” resulting in hallucinations, paranoia and delusions. In a “60 Minutes” interview, he went so far as to call it “far more egregious” than the death penalty.

Officials at Pelican Bay, in Northern California, claim that those incarcerated in the Security Housing Unit are “the worst of the worst.” Yet often it is the most vulnerable, especially the mentally ill, not the most violent, who end up in indefinite isolation. Placement is haphazard and arbitrary; it focuses on those perceived as troublemakers or simply disliked by correctional officers and, most of all, alleged gang members. Often, the decisions are not based on evidence. And before the inmates are released from the barbarity of 22-hour-a-day isolation into normal prison conditions (themselves shameful) they are often expected to “debrief,” or spill the

beans on other gang members.

The moral queasiness that we must feel about this method of extracting information from those in our clutches has all but disappeared these days, thanks to the national shame of “enhanced interrogation techniques” at Guantánamo. Those in isolation can get out by naming names, but if they do so they will likely be killed when returned to a normal facility. To “debrief” is to be targeted for death by gang members, so the prisoners are moved to “protective custody” — that is, another form of solitary confinement.

Hunger strikes are the only weapon these prisoners have left. Legal avenues are closed. Communication with the outside world, even with family members, is so restricted as to be meaningless. Possessions — paper and pencil, reading matter, photos of family members, even hand-drawn pictures — are removed. (They could contain coded messages between gang members, we are told, or their loss may persuade the inmates to snitch when every other deprivation has failed.)

The poverty of our criminological theorizing is reflected in the official response to the hunger strike. Now refusing to eat is regarded as a threat, too. Authorities are considering force-feeding. It is likely it will be carried out — as it has been, and possibly still continues to be — at Guantánamo (in possible violation of international law) and in an evil caricature of medical care.

In the summer of 1996, I visited two “special management units” at the Arizona State Prison Complex in Florence. A warden boasted that one of the units was the model for Pelican Bay. He led me down the corridors on impeccably clean floors. There was no paint on the concrete walls. Although the corridors had skylights, the cells had no windows. Nothing inside could be moved or removed. The cells contained only a poured concrete bed, a stainless steel mirror, a sink and a toilet. Inmates had no human contact, except when handcuffed or chained to leave their cells or during the often brutal cell extractions. A small place for exercise, called the “dog pen,” with cement floors and walls, so high they could see nothing but the sky, provided the only access to fresh air.

Later, an inmate wrote to me, confessing to a shame made palpable and real: “If they only touch you when you’re at the end of a chain, then they can’t see you as anything but a dog. Now I can’t see my face in the mirror. I’ve lost my skin. I can’t feel my mind.”

Do we find our ethics by forcing prisoners to live in what Judge Henderson described as the setting of “senseless suffering” and “wretched misery”? Maybe our reaction to hunger strikes should involve some self-reflection. Not allowing inmates to choose death as an escape from a murderous fate or as a protest against continued degradation depends, as we will see when doctors come to make their judgment calls, on the skilled manipulation of techniques that are indistinguishable from torture. Maybe one way to react to prisoners whose only reaction to bestial treatment is to starve themselves to death might be to do the unthinkable — to treat them like human beings.

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