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Letter in Support of Reform Legislation on Solitary Confinement in Connecticut

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Honorable Committee Members:

I write to advise this Committee about the status of solitary confinement under international human rights law and to express my strong support for the passage of Connecticut's HB 7302 "An Act Concerning Isolated Confinement and Correctional Staff Training and Wellness" (hereinafter "CT Solitary Confinement Act").

As the former United Nations (UN) Special Rapporteur on Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (2010-2016), I investigated and reported on issues involving torture worldwide. I examined some of the most egregious human rights violations around the globe—acts that reflect a denial of basic human rights. In my capacity as Special Rapporteur, I examined the global practice of solitary confinement under the framework of the international prohibition of torture and ill-treatment, and provided recommendations to all nations regarding the use of solitary confinement.

I have also previously worked closely on the use of solitary confinement units in New York's prisons and detention centers, and participated in civil society support for the HALT Bill that is being debated in the New York Legislature to regulate and reduce the use of solitary confinement in that State. I have also rendered expert testimony on the international law standards regarding solitary confinement in *Ashker v. Brown*, a class action litigation in federal courts of California regarding the use of solitary confinement as a means of prison administration in that State. The lawsuit has been settled and the State has agreed to release 90% of the tens of thousands of inmates that were held in prolonged or indefinite solitary confinement, and to amend prison regulations so that they drastically reduce its use in the future. I was also an expert witness in *Shoatz v. Wetsel*, a single-plaintiff lawsuit seeking damages for Mr. Shoatz's isolation lasting thirty years. That case was also settled with the State paying compensation to Russell Maroon Shoatz. In both cases, I interviewed plaintiffs and inspected premises used for solitary

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confinement before I rendered my expert testimony. I have also presented briefs *amicus curiae* on similar matters before the Supreme Court of Brazil and the European Court of Human Rights, and expert testimony before courts in Canada. On February 25, 2014, I presented written testimony before the Second Congressional Hearing on Solitary Confinement “Reassessing Solitary Confinement II: The Human Rights, Fiscal, and Public Safety Consequences,” in Washington, D.C.

In 2011, I conducted a comprehensive examination of solitary confinement and published my findings in a report to the UN General Assembly (A/66/268). That report applied the definition included in the *Istanbul Statement on Solitary Confinement* of 9 December 2007 (a document issued by legal and medical specialists at the International Psychological Trauma Symposium) and consequently defined solitary confinement as the physical and social isolation of individuals who are confined in their cells for 22 to 24 hours a day. Based on my research, I later presented another thematic report at the 68th session of the UN General Assembly in 2013, where I recommended to all nations that the United Nations Standard Minimum Rules for the Treatment of Prisoners (SMRs) be amended to prohibit the use of solitary confinement for prolonged or indefinite periods, and prohibit the practice in all circumstances against certain vulnerable populations, including juveniles and persons with mental and physical disabilities.

In December 2015, the UN General Assembly unanimously approved the revised SMRs, named the “Nelson Mandela Rules” in honor of President Nelson Mandela, who spent decades in prison, much of it in solitary confinement, during Apartheid-era South Africa. The Nelson Mandela Rules were negotiated for the previous three years by States, independent experts, and civil society organizations under the auspices of the UN Organization on Drugs and Crime (UNODC); my Rapporteurship and I participated actively in those discussion. The Nelson Mandela Rules are an updated version of a 1955 document that is considered the most authoritative development of human rights standards as they apply to prisons and prisoners. In the new version, they outline minimum standards regarding fundamental issues such as accommodation, medical services, discipline and punishment, and contact with the outside world. Importantly, the Nelson Mandela Rules incorporated my findings and recommendations from the 2011 report regarding the use of solitary confinement, and they ban prolonged and indefinite solitary confinement and prohibit its use against certain vulnerable populations in Rules 43 through 45. While not strictly binding, the Nelson Mandela Rules are regarded by all countries as setting universal minimum standards, and are the key framework used by monitoring and inspection mechanisms.

The Nelson Mandela Rules define prolonged solitary confinement as any period of solitary confinement in excess of 15 days. This definition was based on the large majority of scientific studies, which indicate that after 15 days of absolute isolation harmful psychological effects



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often manifest and may even become irreversible. Even if isolation is somehow mitigated, there should still be a maximum term beyond which solitary confinement is considered prolonged and is therefore categorically banned. Research on the effects of isolation indicate that the practice can lead to the development of certain psychotic disorders, including a condition known as “prison psychosis,” the symptoms of which include anxiety, depression, anger, cognitive disorders, distortions of perception, paranoia, and psychosis and self-inflicted injuries. For these reasons, I concluded in my 2011 report that any imposition of solitary confinement beyond 15 days constitutes torture or cruel, inhuman or degrading treatment or punishment. Furthermore, due to the lack of witnesses and the solitude in which such practices are carried out, solitary confinement may give rise to other acts of torture or ill-treatment. Short-term isolation may be legitimate, but it should also be regulated and surrounded with due process and health-care safeguards.

Connecticut’s prison system should be commended for taking a number of positive steps on solitary confinement in the last few years, such as reducing the number of people held in isolation and restricting the use of solitary confinement for juveniles and people with serious mental illnesses. However, without concrete law to codify these steps, Connecticut’s prison system could easily return to its past practices of confining inmates in isolation for months, years, and even decades at a time. Furthermore, the prison system may revert to using solitary confinement against vulnerable populations such as juveniles and persons with serious mental and physical disabilities. Finally, without law to codify due-process safeguards, inmates may be subjected to solitary confinement for minor, nonviolent rule violations. Such practices would violate the international obligations of the United States.

I strongly support the passage of the “CT Solitary Confinement Act”, which was introduced in the Connecticut State Legislature on February 8, 2017. The “CT Solitary Confinement Act” would prohibit any person from being held in isolation for more than 15 consecutive days without periodic review and clear and convincing evidence justifying prolonged isolation. In line with my conclusion that juveniles and people with disabilities should never be placed in solitary confinement for any duration of time, the “CT Solitary Confinement Act” would limit isolation for particularly vulnerable groups. Moreover, the “CT Solitary Confinement Act” would restrict the criteria that can result in isolation as a disciplinary sanction, making it unavailable for minor infractions.

The “CT Solitary Confinement Act” reflects both safe and effective prison policy and respect for human rights, and statutorily aligns Connecticut with international law and human rights standards. This legislation will help codify reasonable limits for the use of solitary confinement

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in Connecticut prisons and jails and ensure that people held there are guaranteed the necessary protections against torture and ill-treatment.

I attach the following supporting documents:

1. My expert testimony in *Ashker v. Brown*;
2. The Istanbul Statement on Solitary Confinement;
3. My report on Solitary Confinement to the UN General Assembly;
4. The "Nelson Mandela Rules" (UN Standard Minimum Rules on the Treatment of Prisoners);
5. My testimony to the US Congressional Hearing on Solitary Confinement

I am grateful to the Honorable Committee Members for their attention to this matter.



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