

Mapping Solitary Confinement

Dr. Sharon Shalev



association for
the prevention
of torture



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Table of Contents

Acknowledgements	ii
Foreword	iii
1. Introduction	1
2. Solitary confinement and international human rights law	2
3. Mapping solitary confinement: preliminary observations on survey responses	4
4. Why and when was solitary confinement used?	5
4.1 What the standards say	5
4.2 What we found	5
5. Solitary confinement as disciplinary punishment - uses and maximum periods of duration	7
5.1 What the standards say	7
5.2 What we found	7
6. Daily regime, time out of cell and contact with the outside world in disciplinary solitary confinement	10
6.1 What the standards say	10
6.2 What we found	10
7. Minimum standards for material conditions and in-cell provisions in solitary confinement	14
7.1 What the standards say	14
7.2 What we found	14
8. Solitary confinement as a management tool, a protective tool, and in high security units - uses, regime, and maximum permitted duration	17
8.1 Solitary confinement for maintaining prison good order and preventing harm	17
8.2 Special high security units/regimes	19
9. The protection of persons in situations of vulnerability from solitary confinement placements	22
9.1 What the standards say	22
9.2 What we found	23
10. The role of medical staff in solitary confinement units	26
10.1 What the standards say	27
10.2 What we found	27
11. Summary and concluding remarks	29
12. Works referenced	31
Appendix 1: International and regional human rights standards relating to solitary confinements	35

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Sharon Shalev
London, January 2024

Foreword

A prison within the prison: Solitary confinement further reduces the rights enjoyed by detainees that are already highly limited when deprived of liberty.

It may be called ‘the hole’, ‘segregation’, ‘isolation’ ‘separation’, ‘cellular lockdown’, ‘supermax’, ‘special care unit’, ‘restricted housing’, ‘secure housing’, or a ‘calming down room’. Whatever the term used, the reality is the same: the inmate is kept alone in a cell, with almost no social or external contacts, for more than 22 hours a day.

The risk of torture and ill-treatment is high during solitary confinement. Away from the scrutiny of other inmates, staff, and relatives, the risk of deliberate ill-treatment or torture increases. In addition, solitary confinement, can have an extremely damaging effect for the mental and somatic health of detainees.¹ ‘Its prolonged, inappropriate or unnecessary use would amount to acts of torture, or cruel, inhuman, or degrading treatment or punishment’.² Finally, it could amount to torture ‘if used intentionally for purposes such as punishment, intimidation, coercion or obtaining information or a confession or for any reason based on discrimination’.³

Progress in standards regarding solitary confinement has been notable in the recent years, in particular with the introduction in 2015 of the Nelson Mandela Rules. The Rules propose a definition, safeguards, restriction of its use to an absolute minimum and increased accountability. They also prohibit prolonged (over 15 days) and indefinite solitary confinement as well as its use for juveniles, pregnant or breastfeeding women, and people with disabilities.

Sharon Shalev has been shedding light for many years on this risky practice, ‘a dark corner of the prison’ and has become a world leading expert on solitary confinement. The Association for the Prevention of Torture (APT) is proud to support the publication of this report by her, mapping the use of solitary confinement around the world. This report analyses and compares data gathered from 57 jurisdictions in 42 countries and is complemented by a website with detailed country reports provided by in-country experts. This report compares standards with existing practices in a thematic way and presents a very accessible overview of the existing gaps as well as some good practices. Overall, it shows the extent of the current use of solitary confinement and how much there is still to do to make it a ‘last resort’ option, as provided for in the Nelson Mandela Rules.

From a torture prevention and transparency perspective, solitary confinement and its use in practice should therefore be of central concern for oversight bodies, in particular National Preventive Mechanisms. They should examine the conditions of the cells, check all the documentation, and review the procedures, grounds for placement and its duration and above all, conduct interviews in private with prisoners in solitary confinement. Oversight bodies should also pay attention to any sign of disproportionate use of solitary

¹ CPT annual report CPT/Inf(2011) para

² Principle XXII-3 Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas

³ Report of the UN Special Rapporteur on Torture, A/68/295, para 60

confinement against a particular prisoner or particular groups of prisoners, in a form that could be discriminatory.

Sharon Shalev's mapping of solitary confinement – both this report and the website - provide useful analysis for all stakeholders involved in making prison a safe place for all and reduce the risks of torture and ill-treatment associated with the widespread use of solitary confinement.

The objective is to ensure that all prisoners are 'treated with respect due to their inherent dignity and value as human being' and they 'are not subjected to and protect from torture and other forms of cruel or inhumane or degrading treatment or punishment' (Nelson Mandela Rule 1).

A promise already made 75 years ago in the Universal declaration on Human Rights. It is time to make it a reality.

Barbara Bernath

Secretary General

Association for the Prevention of Torture

1 | Introduction

This report presents key findings from a project which set out to examine the use of solitary confinement in prison systems across the world.

Solitary confinement – also known as segregation, isolation, and separation, amongst many other terms- is an extreme form of detention. It is where the prison's most vulnerable individuals, and the most challenging ones, can spend upwards of 22 hours a day locked up in a small, sparsely furnished cell, for weeks, months and years, in conditions associated with a wide range of adverse health effects. Where torture, inhuman or degrading treatment happen in the prison, this is likely to take place in solitary confinement units. These units are also where the victims of such treatment elsewhere are most likely to be housed, out of sight of the general prison population. In its more 'routine' uses, solitary confinement is used as disciplinary punishment for prison offences; to house people who are threatening to, or threatened by, others; for those who are mentally unwell; and people at risk of self-harm. Within these broad categories, jurisdictions have their peculiarities and particularities.

To help explore how solitary confinement is used in different countries, we designed a questionnaire and distributed it to academics, National Preventive Mechanisms (NPMs) and other oversight bodies, non-governmental organisations (NGOs), and prison authorities across the globe. Fifty-seven 'country reports' from 42 jurisdictions spanning six continents have, at the time of writing, been obtained. Of these, 40% were submitted by academic colleagues; 30% by oversight bodies; 15% by NGOs; 13% by prison administrations; and 2% by lawyers.

The length and breadth of these reports varied, with some countries providing detailed, in-depth information, and others providing only a high-level overview. Some reports described what the regulations said but were unable to shed light on practices, whereas others were able to provide a nuanced analysis of both. Together, country reports illustrate the different, sometimes contradictory roles, that solitary confinement plays in places of detention across the world. We believe that illuminating the darkest corner of prison systems is key for preventing ill treatment and ensuring accountability, and hope that this project contributes to these aims.

The following report only provides a taste of the some of the rich and nuanced information contributed to the project. We were unable to address here all the aspects covered by country reports. In particular, this report does not analyse the administrative processes for solitary confinement placements, nor jurisprudence on solitary confinement practices. We encourage readers to consult the individual country reports on the www.solitaryconfinement.org website, and welcome additional contributions from jurisdictions not currently covered by Mapping Solitary project.

The report is structured around the relevant human rights standards on the use of solitary confinement, particularly the Nelson Mandela Rules (2015). Unless otherwise indicated, all the information and data cited in this report derives from country reports provided to this study. For ease of reading, we have omitted the citation of country reports in the body of the text. These are cited fully at the end of this report.

2 | Solitary confinement and international human rights law

People deprived of their liberty have the right to be treated with dignity, humanity, and respect, and they continue to enjoy their fundamental rights and freedoms, bar those which are limited by the very nature of imprisonment. The two fundamental rights most relevant to the use of solitary confinement, enshrined in a wide range of international law instruments and binding conventions, are the right to life (Article 3 of the Universal Declaration of Human Rights (UDHR) and Article 6 of the International Covenant on Civil and Political Rights (ICCPR)); and the right not to be subjected to torture, inhuman or degrading treatment or punishment (Article 5 of the UDHR and Articles 7 of the ICCPR). These protections are guaranteed in a large number of international, regional, and national laws.

Solitary confinement is directly referenced in the UN Basic Principles for the Treatment of Prisoners (1990), which call for:

Efforts addressed to the abolition of solitary confinement as a punishment, or to the restriction of its use, should be undertaken and encouraged. (Principle 7)

In 2015, the UN Standard Minimum Rules for the Treatment of Prisoners (SMR) underwent a major revision,⁴ which included the addition of a new section on solitary confinement. The Rules, re-named the Nelson Mandela Rules, are a ‘soft law’ instrument, and as such they are not legally binding. They do, however, represent the most up to date, comprehensive international expert opinion on the practice and principles of human rights law and good practice in relation to prisons.

The Nelson Mandela Rules define solitary confinement as “the confinement of prisoners for 22 hours or more a day without meaningful human contact”.

‘Meaningful human contact’ is understood to mean:

Such interaction requires the human contact to be face to face and direct (without physical barriers) and more than fleeting or incidental, enabling empathetic interpersonal communication. Contact must not be limited to those interactions determined by prison routines, the course of (criminal) investigations or medical necessity.⁵

Prolonged solitary confinement, defined in the Nelson Mandela Rules as “a time period in excess of 15 consecutive days” (Rule 44), is prohibited. Beyond this time frame it may constitute inhuman or degrading treatment, and accordingly prohibited under international law.

⁴ Resolution 70/175. United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), adopted by the General Assembly on 17 December 2015 [on the report of the Third Committee (A/70/490). Text online at: <https://daccess-ods.un.org/tmp/6727856.99367523.html>

⁵ ‘Essex paper 3: Initial guidance on the interpretation and implementation of the Nelson Mandela Rules’ Prison Reform International and the Human Rights Centre at the University of Essex, 2017. At pp 88-89.

Indefinite solitary confinement is also prohibited, as is placement in a dark or constantly lit cell, corporal punishment, or a reduction of a prisoner's diet or drinking water (Rule 43).

Within these parameters, Nelson Mandela Rule 45(1) requires solitary confinement to be used as a tool of last resort, reserved for exceptional cases, and subject to authorisation. People belonging to one of a number of categories listed in Nelson Mandela Rule 45(2) must never be isolated:

The imposition of solitary confinement should be prohibited in the case of prisoners with mental or physical disabilities when their conditions would be exacerbated by such measures. The prohibition of the use of solitary confinement and similar measures in cases involving women and children, as referred to in other United Nations standards and norms in crime prevention and criminal justice, continues to apply.

Alongside a growing number of international and regional standards (see Appendix 1 for a select list), the Nelson Mandela Rules recognise the potential harms of solitary confinement and require the practice to be reserved as a tool of last resort used in exceptional cases for a short, predefined period.

In what follows, we examine how practices in participating countries measured against these general principles, and what were some of the similarities and differences between them.

We adopt the Nelson Mandela Rules' definition, and use 'solitary confinement' as an umbrella term to describe practices corresponding with this definition, regardless of how they are termed locally.

Each section of the report examines, first, the relevant human rights standards, followed by an examination of their application in the jurisdictions surveyed. Where available, we highlight good practice.

3 | Mapping solitary confinement: preliminary observations on survey responses

In its foundations, solitary confinement appeared very similar in most jurisdictions surveyed: a person alone in a cell for upwards of 22 hours a day, physically and socially isolated from their peers and heavily dependent on prison staff for the provision of all their daily necessities and contact with the outside world.

Beyond this basic premise and the near identical appearance of solitary confinement cells and units in different countries, there were, however, some important differences in the length and 'depth' of solitary confinement; in the permeability of solitary confinement units to the outside world; and in the extent of its use.

In terms of the '**depth**' of solitary confinement – the degree of deprivations that isolated prisoners were subjected to- in some countries, for example, the isolated prisoner could keep nothing at all in their cell whilst in others, cells could be made quite homely. In some countries, prisoners could have access to work even when in solitary confinement, whereas in others all activities stopped once the person was isolated.

In terms of **permeability** – the porosity of solitary confinement units to the outside world – once again we found some variation, with some jurisdictions allowing daily phone calls, regular visits with family members, and access to a TV and a radio, whilst others prohibited any contact with the outside world, including in some cases access to newspapers and calendars.

In terms of **length**- there was a great variation, with some jurisdictions allowing only a few days in solitary confinement and others placing no maximum limit.

In terms of **extent of use** – or 'breadth' - how many people were placed in solitary confinement cells - in many jurisdictions it was difficult to obtain reliable data, either because it was not collected or because it was kept confidential. The lack of common names and definitions made any comparisons even more challenging. The data we were able to collect, though, indicated that there was great variation here too.

4 | Why and when was solitary confinement used?

4.1 What the standards say

The Nelson Mandela Rules see solitary confinement as an end-of-the-line, last resort tool, which should only be used sparingly and when all else has failed.

Nelson Mandela Rule 45 (1)

Solitary confinement shall be used only in exceptional cases as a last resort, for as short a time as possible and subject to independent review, and only pursuant to the authorization by a competent authority. It shall not be imposed by virtue of a prisoner's sentence.

The Rules also set out procedural requirements and safeguards for solitary confinement placements. These are examined in the survey questionnaires but will not be explored in this report. Readers are encouraged to consult individual survey responses.

4.2 What we found

There was significant commonality in the reasons for, and circumstances in which, a person could be placed in solitary confinement across the countries surveyed. Broadly, reasons included:

- As **disciplinary punishment**. This category included those charged with an offence committed in prison and punished with a specified number of days in solitary confinement, usually in a designated unit or wing within the prison.
- For the prisoner's **own protection**. This category included people who were self-harming or considered to be at risk of self-harm, people who were mentally unwell, and people who were deemed to be at risk from other prisoners. This also included solitary confinement being informally used with, for example, LBTQI+ people (e.g. in Italy and Japan).
- For **managing prisoners** classified as high risk. This category typically included those classified as high risk of escape; high ranking members of criminal groups; those posing a threat to wider society- primarily people suspected and convicted of terrorist offences; and, where the death penalty is still imposed, prisoners on death row (e.g. India, Japan, and the United States). Individuals belonging to one of these groups could be housed in special high-security units or prisons, or in cells in the prison's solitary confinement area.

We would note that, minor differences notwithstanding, the cells used for these different purposes: punishment, protection, management- were typically very similar if not identical. We were unable to obtain data on how often solitary confinement was used for each of these purposes for many of jurisdictions covered in this report.

Such data as we do have though tends to suggest that solitary confinement is used more often in Northern Europe (including the Nordic countries) than in Southern and Eastern Europe. Outside of Europe, for the countries where we have data, only Argentina appears to use solitary confinement with a comparable frequency to Northern European countries for which we have data. New Zealand and some US states appear to use solitary confinement significantly more frequently.

Solitary confinement in the United States: numbers & demographics

The Time-in-Cell: 2021 report estimated that there were between 41,000-48,000 people in restrictive housing in U.S. prisons as of July 2021, defined as isolation of 22 or more hours per day for 15 or more consecutive days. This estimate was based on data reported by 34 state prison systems and the Federal Bureau of Prisons.

Across the 35 state and federal jurisdictions that provided data in 2021, the percentage of people in restrictive housing ranged from 0% to 14.8% of the total custodial population, with a median of 3.2% (pp.5-6).

Across 34 jurisdictions providing information about how long individuals had been in restrictive housing, 19.1% had been in for 15 to 29 days; 18.7% for 30 to 60 days; 27.5% for 61 to 180 days; and 10.5% for between six months and one year. The remaining quarter of people had been in restrictive housing for between one year and over a decade (pp. 8-9).

Across reporting jurisdictions, Black and Hispanic or Latino/a people comprised a somewhat larger percentage of restrictive housing populations than they did in total custodial populations. The largest racial and ethnic differences were in facilities for women (Overview, at ix; see also pp. 26-40).

Source: **Time-In-Cell: A 2021 Snapshot of Restrictive Housing Based on a Nationwide Survey of U.S. Prison Systems (CLA and Liman Centre, 2022).**

Solitary confinement of women in New Zealand: numbers & demographics

A 2021 report, *First, Do No Harm*, found an overall high use of solitary confinement for women in New Zealand's prisons. In 2019, women were segregated significantly (73%) more often than men in New Zealand's prisons.

In 2019, women were segregated a total of 1,594 times in either a 'Separates Unit' (for those serving punishment; 20% of all segregations); 'Management Unit' (for those labelled challenging or disruptive; 40% of all segregations), or in an 'Intervention and Support Unit' (for vulnerable women; 40%).

On 101 occasions women were segregated for 15 days or longer.

Māori and Pacific women were disproportionately segregated. At Auckland Region Women's Correctional Facility, 78% and 75% of segregations in the Separates and Management Units respectively were of Māori women. As many as 93% of segregations lasting 15 days or longer in the most secure environment - the Management Unit- were Māori or Pacific women.

Source: **First do No Harm: Segregation, Restraint and Pepper Spray use in women's prisons in New Zealand. (Shalev, 2021)**

5 | Solitary confinement as disciplinary punishment- uses and maximum permitted duration

5.1 What the standards say

Solitary confinement is the harshest punishment which can be given by the prison authorities, and as such is meant to be reserved for the more serious prison offences.

The Nelson Mandela Rules require solitary confinement to be applied for ‘as short a time as is possible (Rule 45), and for prolonged solitary confinement, defined as “a time period in excess of 15 consecutive days” (Rule 44) to be prohibited altogether.

It should be noted that shorter periods in solitary confinement can also amount to prohibited treatment. In his report on solitary confinement, the former UN Special Rapporteur on Torture stated that “it is clear that short-term solitary confinement can amount to torture or cruel, inhuman or degrading treatment or punishment” and recommended an absolute prohibition on solitary confinement in excess of 15 days.⁶

The Nelson Mandela Rules also prohibit, in Rule 43(a), indefinite solitary confinement.

5.2 What we found

In the majority, but not all, of the countries surveyed, solitary confinement was used as a disciplinary punishment for offences committed in prison. The exceptions were Colombia, Norway, and Sweden, where solitary confinement may not, officially, be used as punishment at all, though it may still be used for other purposes, discussed later.

Though it was meant as a punishment reserved for more serious prison offences, in practice, in many of the jurisdictions surveyed, offences leading to placement in solitary confinement could range from minor disciplinary issues, such as speaking disrespectfully to staff, to not obeying a lawful order, to threats and intimidation, to actual violence. Many jurisdictions also had an open-ended category covering ‘other’ unspecified offences against prison order and discipline. The specific grounds and punishments varied between countries and are discussed in more detail in individual country reports.

In terms of duration, there was significant variation in the maximum allowed period in solitary confinement between jurisdictions. In many, the initial set period could be extended, in some cases with no upper limit on the number of extensions permitted. In others, there were some limitations on the total number of solitary confinement placements in the course of a year, and on the maximum permitted duration of stays. Punishments could be imposed consecutively or with a specified break in between each period of solitary confinement.

⁶ UN Special Rapporteur on Torture [report on Solitary Confinement](#), submitted to the General Assembly, 5 August 2011. UN Doc Number: A 66/268, at paragraph 88.

- In Ireland and Scotland, the maximum permitted duration of solitary confinement as punishment was 3 days; in Israel, punishments could last up to 7 days (and could be extended following a break of 7 days); in Chile, Bolivia, Romania the maximum was 10 days.
- Placements in solitary confinement as punishments could last 14 or 15 days in Albania, Belgium, Colombia, Croatia, the Netherlands, Sri Lanka, Venezuela, Italy (15 days, subsequent periods may be imposed), Yukon, Canada (15 days, subsequent periods may be imposed following a 5-day break, and for a total of no more than 60 days in the course of a 365 day period); Serbia (may be extended to 30), and Spain (may be served in the course of 7 weekends if the prisoner continues to work).
- In Turkey, the maximum permitted stay in solitary confinement was 20 days. In the Australian Capital Territory, Czech Republic, Denmark, and Poland, it was up to 28 days.
- The maximum was 30 days in Brazil, Croatia (could be extended for up to 3 months in very serious cases, but not more than twice a year), France, Japan (could be extended to 60 days), Peru (could be extended to 45 days), Switzerland (depending on the canton), and Western Australia. In other jurisdictions, solitary confinement could be imposed for significantly longer periods from the start. In Argentina's Federal prisons, for example, those committing serious offences could spend up to 42 days with a 24-hour interruption where the person served several disciplinary punishments. In Estonia and Ukraine, the maximum permitted time was 3 months.

There were also variations within countries, based on different factors. To illustrate, or example, the length of solitary confinement as punishment, could depend on:

- The person's age (reduced time for minors in Denmark and France)
- The severity of the offence (Argentina, Bolivia, Denmark, France, Venezuela, and Puerto Rico, where a misdemeanour could attract 30-45 days in solitary confinement, extended to 90 days and, in cases of felony, when the felon is a repeat offender, could be extended for 135 days)
- The person's sentence (in India, a punishment of solitary confinement could not exceed one month if the person's sentence was for up to 6 months, two months if the sentence was for between 6 months and a year, and three months for a sentence that exceeded 1 year)
- The person's security/risk classification (in Hungary, for example, people on a strict (high risk) regime received up to 25 days and low risk regime 10 days).
- On whether or not the person could continue prison work during their solitary confinement (in Slovenia, for example, the maximum permitted time for punishments of solitary confinement without the right to work was 14 days, rising to 21 with the right to work)
- On who imposed the punishment (in South Africa, for example, the maximum permitted time was 7 days if imposed by the head of the prison, rising to 42 days if imposed by a disciplinary official)
- On where the punishment was to be served (in Uruguay, for example, solitary confinement could be served in an isolation cell for a maximum of 10 days, or in the person's own cell for a maximum of 90 days- sometimes even longer if the person accumulated several sanctions).

Clearly, there could be a gap between what the regulations mandated, and practices on the ground. In Mexico, for example, the regulations allowed for a maximum of 5 days in solitary confinement, extended for up to a maximum of 15 days, but reports from international and national monitoring bodies indicated that in practice solitary confinement was regularly used for prolonged periods. Further, the ability to extend stays in solitary confinement beyond the initial period means that, in practice, stays in solitary confinement were indefinite, contrary to Nelson Mandela Rule 43(a).

It should be noted that practices could be affected by the social or political climate at the country at the time. In Denmark, for example, according to official statistics, the use of prolonged (over 15 days) solitary confinement had increased from 7 occasions in 2015, to as many as 705 in 2019. In Ireland, it was noted in 2020 that, since statistics on the use of 'restrictive regimes' began being collected in 2013, the number of prisoners on 22/23 hours, restricted regime had increased by 116 or 55% from 211 to 327.

It was impossible to ascertain the extent to which alternatives were considered and tried before a punishment of solitary confinement was imposed, but the extent to which solitary confinement was used indicated it was not always the last resort the Nelson Mandela Rules and good practice mandate. Recent legislation in Albania, discussed in the text box below, demonstrates what efforts to put protections in place to ensure that solitary confinement is not used as a default punishment may look like.

Safeguards regarding the imposition of disciplinary measures: good practice example from Albania

In 2020 a legal amendment (Law 81/2020) was introduced to include protective conditions which would apply to the imposition of disciplinary measures. Relevant provisions included:

- i. Disciplinary measures should be the last form of behavioural regulation. Where possible, the institution's staff should use mediation to resolve conflicts between prisoners or between prisoners and the institution's staff.
- ii. Disciplinary measures may not be taken against prisoners for a fact that is not expressly provided as a violation of this law.
- iii. The disciplinary measure can be given only after the prisoner exercised their right to be heard and to verify the allegations made against them.
- iv. Disciplinary measures are determined in accordance with the type and importance of the violation, the attitude of the prisoner towards it, his age, his personality, as well as the physical or psychological condition of the prisoner.
- v. In the case of juvenile prisoners, the types of disciplinary measures and the limits of their application are provided in accordance with the provisions of the Juvenile Criminal Justice Code.
- vi. Disciplinary measures are implemented in such a way as to promote the prisoner's sense of responsibility and ability to self-control.

Collective punishment, corporal punishment, punishment through confinement in dark rooms and other forms of degrading or humiliating punishment are prohibited.

6 | Daily regime, time out of cell and contact with the outside world in disciplinary solitary confinement

6.1 What the standards say

Solitary confinement by its very definition entails separation of the person from their peers and the prison at large, and some restriction of their contact with the outside world could be legitimately expected. This must not, however, mean complete separation from the outside world. The following minimum standards apply also when the person is isolated.

Nelson Mandela Rule 23 (Exercise and sport)

1. Every prisoner who is not employed in outdoor work shall have at least one hour of suitable exercise in the open air daily if the weather permits.
2. Young prisoners, and others of suitable age and physique, shall receive physical and recreational training during the period of exercise. To this end, space, installations, and equipment should be provided.

Nelson Mandela Rule 58 (Contact with the outside world)

1. Prisoners shall be allowed, under necessary supervision, to communicate with their family and friends at regular intervals:
 - (a) By corresponding in writing and using, where available, telecommunication, electronic, digital and other means; and
 - (b) By receiving visits.

6.2 What we found

The majority of jurisdictions surveyed allowed isolated prisoners a minimum of one hour of exercise in a dedicated outdoors yard. Beyond this minimum, there was great variation in the 'depth' and permeability to the outside world in solitary confinement units, as the examples in Table 1 demonstrate.

Beyond the basic regime, the number and type of provisions and the degree of contact with the outside world that isolated prisoners could enjoy in each jurisdiction varied.

Table 1: Minimum conditions in disciplinary solitary confinement: some examples

	Max initial duration ⁷ (days)	Outdoor exercise	Family visits	Telephone calls	TV	Canteen	Work
Albania	14	1 hour daily	1 during stay	Y			
Argentina (Federal)	15	1 hour daily	1 during stay	N			
Australian Capital Territory	28	1 hour daily	30 mins a week	Y	D		
Austria	28	1 hour daily	N	N	N		Y in cell
Belgium	14	1 hour daily	Y after 3 days		N		
Chile	10	1 hour daily	N	N			
Croatia	14	2 hours daily	Y	Y			
Denmark	28	1 hour daily	Y-1 hour weekly	Y	Y		
France	30	1 hour daily	Y-1 hour weekly	Y		N	
Hungary	25		N	N	N	N	
Ireland	3	2 hours daily	Y	Y	Y (if in Own cell)		
Japan	30	30 mins weekly	N	N	N	N	N
Mexico	15	1 hour daily	N	N	N		
Netherlands	14	1 hour daily	N	Y	N	N	
Peru	30	1 hour daily	Y- 1 visit of up to 4 hours every 15 days				Y
Poland	28	1 hour	N	N		N	N
Puerto Rico	45	1 hour daily	Y	N		N	N
Romania	10	1 hour daily	N	N	N	N	N
Scotland	3	1 hour daily & 1 hour gym		Y	Y		
Slovenia	14 (with work=21)	2 hours daily					Y
South Africa	7	1 hour daily	Y	Y		N	
Spain	14	2 hours daily				N	Y
Switzerland	30	1 hour daily	N	N	N		
Turkey	20	1 hour daily	N	N		N	N
Uruguay	10 (90 if in own cell)	1 hour daily	Y	Y	N	Y	

*Y= Yes; N= No; D= discretionary; Empty cell=missing/unknown/varied.

In Belgium, isolated prisoners retained the right to have meals served under appropriate conditions; the right to decent clothing and footwear; the right to take care of one's appearance and physical hygiene; the right to sufficient reading material; the right to spend at least one hour a day in the open air; the right to continue individual educational activities which were not incompatible with the solitary confinement; the right to correspondence; the right to practice their religion individually, and to receive daily visits from the representative

⁷ In some jurisdiction stays in disciplinary solitary confinement can be extended further, in some cases (e.g. Italy) indefinitely. See previous section.

of their religion; the right to have recourse to a lawyer and to psychosocial and medical assistance; and the right to be visited by the authorities responsible for the supervision, and control of prisons. After three days, they were entitled to family visits behind glass.

In Hungary, isolated prisoners were allowed no contact with the outside world – no visits, no TV, no radio, no newspapers, no visits to the prison's library. Conditions were similarly harsh in Israel. In Uttar Pradesh, India, the Jail Manual mandated that those in solitary confinement shall not leave their cells “except for bathing under the escort of a warder between 9 and 10 am before other convicts return from work. The prisoner cannot be taken out of the cell at any other time for any other purpose”.

In Japan, conditions varied between prisons, but were generally harsh. Except for legal visits and correspondence, prisoners in punitive solitary confinement could not access books, write, or receive letters, work, participate in religious services, receive visits or purchase canteen goods. Additional measures could be applied by the warden, for example a requirement to sit upright with their knees bent underneath them for 5-10 minutes every hour during the day (9am-5pm) in one prison. In North Korea, it was reported that prisoners could be kept in prolonged (up to 7 years) solitary confinement with no contact with the outside world, including lawyers. In Uruguay, regulations allowed for a degree of human contact. Visits were allowed only with a direct relative, and communications with the outside world were reduced, but isolated prisoners could still access at least one medium- radio/TV/newspapers.

In Ireland, the regulations specifically required that prisoners in solitary confinement be provided an opportunity for ‘meaningful human contact’ during their two hours out of cell. In Mexico, national laws obliged prison authorities to guarantee a minimum of meaningful human contact at least once every twenty-two hours for the duration of the person's solitary confinement. National laws also guaranteed isolated prisoners free access by their counsel, human rights protection agencies, the Public Prosecutor's Office and medical personnel who wished to visit him. However, prisoners were prevented from receiving visits and from hearing and seeing news (but they were allowed to read a newspaper), receiving or sending correspondence, and receiving or making calls.

In Poland, prohibitions for prisoners placed in disciplinary solitary confinement included a prohibition on visits, telephones, use of computer equipment, participation with others in cultural and educational activities and in religious services (although, “at the request of the convict, he should be allowed to participate directly in the service in conditions that prevent him from contact with other convicts”). Prisoners in solitary confinement were also prevented from purchasing food and tobacco products and from using their own clothing and footwear.

Lastly, in Romania, prisoners in disciplinary solitary confinement were subjected to similar restriction on participation in communal activities, receiving visits and making phone calls, and the opportunity to keep and use a television or radio, or a computer. Like their Polish counterparts, people isolated in Romania's prisons were also prevented from making canteen purchases, other than tobacco and personal hygiene products.

Access to human contact for isolated prisoners: some examples

In Austria, regulations required a prison officer to visit isolated prisoners at least once a day for at least half an hour to converse with them.

In Denmark, those isolated ('excluded from fellowship') for longer than 14 days were offered regular conversations with non-custodial staff- e.g. a priest or a psychologist.

In a number of Indian states, people held in 'cellular confinement' could have their meals with one or more fellow prisoners, and some prisoners undergoing solitary confinement could still work.

In Spain, the prisoner could serve the solitary confinement punishment by being in solitary confinement during the weekend (from 16:00 on Friday to 8:00 on Monday) to enable them to continue working during the week. In that case, the length of the sanction was calculated per weekend (e.g. 14 days = 7 weekends).

In Slovenia, in addition to the doctor or medical worker, the prison governor had to appoint an employee of the prison to visit the prisoner during solitary confinement daily.

In Goa, Prison Rules require that when a person had been sentenced to solitary confinement by a criminal court, they shall be employed in a suitable work. The Rules also require the Superintendent to visit all prisoners in solitary confinement at least once every working day, including weekends ('if necessary').

In Tamil Nadu, the Prison Manual requires continuous supervision of all occupied solitary confinement cells, and inspection of each prisoner on shift change. Labouring prisoners in solitary confinement should be supplied, according to their capacity, with suitable work which can conveniently be done in the cell (Rule 748).

To summarise this section, the vast majority of surveyed jurisdictions provided, at least on paper, the bare minimum required regime of one hour daily out of cell, typically in a barren yard. Beyond this minimum, the permitted degree of contact with the outside world for isolated prisoners varied significantly between countries, and within them, from no contact at all to access to family visits, telephone calls, and even work.

7 | Minimum standards for material conditions and in-cell provisions in solitary confinement

7.1 What the standards say

Minimum standards of confinement must be met also when the person is in solitary confinement. The Nelson Mandela Rules specify that:

Nelson Mandela Rule 13

All accommodation provided for the use of prisoners and in particular all sleeping accommodation shall meet all requirements of health, due regard being paid to climatic conditions and particularly to cubic content of air, minimum floor space, lighting, heating and ventilation.

Nelson Mandela Rule 14

In all places where prisoners are required to live or work:

- (a) The windows shall be large enough to enable the prisoners to read or work by natural light and shall be so constructed that they can allow the entrance of fresh air whether or not there is artificial ventilation;
- (b) Artificial light shall be provided sufficient for the prisoners to read or work without injury to eyesight.

Nelson Mandela Rule 15

The sanitary installations shall be adequate to enable every prisoner to comply with the needs of nature when necessary and in a clean and decent manner.

Nelson Mandela Rule 16

Adequate bathing and shower installations shall be provided so that every prisoner can, and may be required to, have a bath or shower, at a temperature suitable to the climate, as frequently as necessary for general hygiene according to season and geographical region, but at least once a week in a temperate climate.

Nelson Mandela Rule 22

1. Every prisoner shall be provided by the prison administration at the usual hours with food of nutritional value adequate for health and strength, of wholesome quality and well prepared and served.
2. Drinking water shall be available to every prisoner whenever they need it.

7.2 What we found

In some countries (for example, Austria, Belgium, the Netherlands, Denmark, Italy, and Uruguay), solitary confinement punishments could either be served in the prisoner's own cell (called 'House Arrest' in Austria), or in a dedicated solitary confinement unit/ wing. In Italy, the Penitentiary Law was modified in 2018 specifically to include several protections around the use of solitary confinement, including minimum conditions and regime provisions, and a requirement for disciplinary solitary confinement to be served in the person's own cell "even

when the detainee is continuing to behave in a disruptive or menacing way”, if the person is already housed in single cell (though it was noted that this was almost never the case).

Where punishment was served in a dedicated solitary confinement unit / wing, conditions varied. In Croatia, regulations required conditions in solitary confinement to comply with health requirements regarding space, lighting, ventilation, bed, and bedding, a desk and a chair, and unlimited access to water and sanitation. In Italy and Peru, regulations similarly set out minimum conditions including cell size, access to light, running water, and a toilet. In Mexico, regulations required solitary confinement cells to offer the same conditions as regular cells, and to offer an adjacent exercise area. Western Australia also reported regulations and minimum requirements regarding material cell conditions. Clearly, having regulations in place does not always mean that they are adhered to, but they at least provide a standard to hold prison administrations to.

In some jurisdictions, conditions in solitary confinement units were reported to be very poor. In Sri Lanka, a 2020 report by the Human Rights Commission exposed dire conditions within the solitary confinement punishment cells: "cells are characterized by darkness, dampness, inadequate ventilation, and often lack basic toilet facilities". At the Agunukolapelassa Closed Prison, "the G cells, designated as punishment cells for solitary confinement, had no light inside and outside." In North Korea, material conditions were reported by former detainees to be very harsh, with some empty, windowless cells measuring 60cmx2m with a height of 1.5 m. Conditions in some solitary confinement cells in Federal prisons in Argentina were also reported to be dire – some had no in-cell sanitation, no bedding, no access to drinking water, and prisoners were provided only with one meal per day, which they had to eat with their hands. In Estonia, cells were reported to be mouldy, with peeling paint and windows that did not close properly. Yards were "empty, gloomy concrete boxes with roof covering".

Elsewhere, conditions in solitary confinement cells were reported to be decent but basic, with only the bare minimum provided. In the Netherlands, for example, my own recent study found that solitary confinement (termed 'isolation' or 'iso' for short) cells were clean, but very austere. Furnishings were minimal, and some cells had no running water for drinking or flushing toilets, and cell windows were obscured so that the person could not look out.

Yet in other jurisdictions (e.g. Denmark and Scotland), solitary confinement cells had televisions, typically behind a protective screen, and prisoners could keep personal belongings, access library books, art materials and other means to occupy themselves.

Finally, some jurisdictions had special cells where conditions were even harsher than the 'regular' solitary confinement cells. These cells, known in England and Wales as 'strip cells' and elsewhere as 'secure cells' or 'security cells' (e.g., Norway), or 'round cells' (e.g., New Zealand), typically contain nothing but a mattress on the floor, sometimes monitored by CCTV, which could be used for individuals who were mentally distressed, or for individuals that were suspected of concealing drugs, for example.

Ensuring decent conditions in solitary confinement in Odisha, India

The Odisha Jail Manual (2020) lays out the maximum permitted length of solitary confinement in different circumstances and requires a register of prisoners in solitary confinement to be maintained, indicating reasons for the placement. The Odisha Jail Manual (Rule 953) requires that "All new cells for the separate or solitary confinement of prisoners should have a superficial area of not less than 96 superficial feet and a cubical capacity of not less than 1000 feet, there shall be thorough ventilation in every cell which, at the back of the cell, may be by a clerestory window and the Medical Officer should inspect all new cells, wards or compartments, which shall not be occupied until he certifies that they are in all respects fit for occupation."

Solitary confinement cells: Some examples



Photos by Sharon Shalev ©. Clockwise from the top left: cells in Denmark, New Zealand, Norway (a 'strip cell'), the Netherlands.

8 | Solitary confinement as a management tool, a protective tool, and in high security units - uses, regime, and maximum permitted duration

As well as its common use as a prison disciplinary tool, in many of the jurisdictions surveyed, people could be isolated for their own protection (this could be imposed by the prison or at the prisoner's own request); to protect others from them; to protect prison order; and, in the case of people sentenced for terrorist offences and heads of organised crime groups, to protect society at large.

Two other prisoner groups deserve particular mention: pre-trial detainees and prisoners on death row. In Slovenia, pre-trial detainees were excluded from disciplinary solitary confinement, whereas in Sweden remanded detainees were routinely placed in solitary confinement by order of the prosecutor or the court. Denmark, criticised by monitoring bodies over many years for its overuse of prolonged pre-trial solitary confinement, managed to reduce its use by as much as 97%- from 533 placements in 2001, to 17 in 2017.⁸ In Ukraine, pre-trial detainees could be isolated for up to 3 months as a protective measure or to prevent crime. Death row prisoners, in countries still practicing capital punishment, would usually be placed in solitary confinement. Examples included a number of US states, Sri Lanka and India.

With the exception of people serving capital punishment, who would normally be housed in a special, separate wing, people isolated for any of the reasons listed above could be housed in a 'regular' solitary confinement cell (i.e. similar to those in punitive isolation) or in special high security units. The duration of solitary confinement in such units could be significantly longer than that of a disciplinary punishment and was sometimes open ended. In some of the other countries which I researched, including England and Wales, various US states, and New Zealand, for example, this could mean a solitary-confinement like regime for the majority of the person's sentence.

8.1 Solitary confinement for maintaining prison good order and preventing harm

In Austria, those classified as being at a high risk of escape, self-harm, or suicide, and those posing a considerable risk to security and order, could be detained in solitary confinement for as long as it was absolutely necessary to address the danger that led to their solitary confinement. Although placements were not meant to be punitive, conditions of confinement were very restrictive: two hours outside the cell, no visitors or phone calls, no TV (a radio was provided). There was no maximum time limit on placements.

⁸ <https://anklagemyndigheden.dk/da/langt-faerre-bliver-varetaegtsfaengslet-i-isolation> Last accessed on 26 August 2023.

In South Africa, people could be placed in solitary confinement ('segregation') when they displayed threat of escape or violence, for a period of up to 7 days. This period could be extended by the National Commissioner for up to 30 days. They were entitled to spend an hour outdoors; use personal possessions; read the press and books; write and receive correspondence; listen to the radio and follow television programmes. They had to be visited at least by a doctor once a day, employees in the treatment service (educator) twice a week, and the manager of the institution once in 15 days.

People isolated under Albania's 'Special Supervision Regime' were able to access family visits, keep personal belongings and access canteen goods. Stays could last for a maximum of 3 months. In Belgium, placement in solitary confinement for the prisoner's own protection could last up to 30 days. Placement in 'Individual Special Security Regime' required specific reasoning and authorisation. Decisions were reviewed every 2 months.

In Slovenia, people who self-harmed or those suspected of preparing a riot, endangering themselves or others in any way, or destroying property, could be placed in solitary confinement under 'special supervision' for up to 12 hours, extended to 72 hours by the prison governor. A prisoner under 'special supervision' due to self-harm could be placed in a padded cell. Compared to other jurisdictions, these were relatively very short stays.

In Japan, a prison warden could authorize placement in Kakuri (administrative segregation) or Hogoshitsu Shūyō (protection cell). The Hogoshitsu Shūyō could be applied for up to 72 hours and extended every 48 hours when particularly necessary. Kakuri could be applied for no longer than three months but could be extended every month when particularly necessary. Inmates placed on Kakuri and Hogoshitsu Shūyō were not allowed contact with the outside world. Prisoners placed on 'Category 4' restrictions could spend decades in conditions of solitary confinement. To put things in perspective, as of October 2019, 894 people were in Category 4 in prisons across Japan (around 1.9% of the total prison population at the time).

In Israel, prisoners isolated for their own protection or because they were deemed to be high risk could be isolated for up to 6 months, extended indefinitely by court order every 6 months. The regime included yard time of no less than 1 hour and up to 2 hours; weekly family visits of 30 minutes each, conditional on 'good behaviour and safety considerations'; and 60 minutes daily telephone calls. An educational in-cell plan was put together for isolated prisoner. Access to TV, radio, furniture, and canteen was the same as for all other prisoners.

In Serbia, the measure of uninterrupted solitary confinement for a duration of up to 3 months could be imposed on a convicted person who repeatedly disturbed good order or who seriously threatened the security of the prison and presented a serious danger to other convicted persons. A measure of 'placement in a specially secured room without dangerous objects' could be imposed on those who showed signs of self-destructive or destructive behaviour. This measure could last up to a maximum of 48 hours. 'Special Measures' could be applied two times at most during one calendar year.

8.2 Special high security units/regimes

As well as longer-term stays in 'regular' solitary confinement units, a number of jurisdictions have built special high security units designed specifically for longer-term solitary confinement regimes of people labelled as particularly high risk. Typically this included a combination of people or influential outside the prison, people belonging to specific groups including, for example, people suspected of or sentenced for terror offences, members of criminal groups, prisoners serving capital punishment ('death row') and particularly dangerous individuals.

In Slovenia, the prison governor could place a prisoner under a special high security regime, if he posed an extreme risk of flight; his behaviour seriously disturbed other prisoners or employees; he endangered the life or health of others; or, he was endangered or threatened by other prisoners. The measure could be imposed for a period of one month (in case of reasons one, two or four above) or three months (in case of reasons under 3 above) and could be extended upon expiry for a further one or three months respectively. No upper limit was set on the total duration of the measure.

In Italy, the so-called 41-bis regime, was introduced in 1992 (and modified in 2003 and 2009) especially to prevent members of organised crime/mafia and terrorist groups from controlling activities outside whilst in prison. The law prescribes 22 hours per day of solitary confinement with the remaining two hours spent either outdoors or in common rooms in small "sociality groups" (3 to 4 detainees undergoing the same regime chosen by the Penitentiary Administration). There are limits on the number of books and pictures that can be kept in-cell; Family visits are limited to one visit per month and can be replaced with a 10-minute phone call per month. Family visits take place through a glass partition, but children under the age of 12 can cross the glass partition and spend the visit on the detainee's 'side'. Family visits are audio and videorecorded, and correspondence is not confidential and can be censored. Placement is by decree of the Minister of Justice on consultation with the public prosecutor. Initial placement is for 4 years, extended by 2 years at a time until it can be proven that the person's capacity to 'maintain ties' with the organisation has ceased, which is difficult to demonstrate.

In Scotland, prisoners could be housed in Separation and Reintegration Units (SRUs) for long periods, in conditions of solitary confinement. Other than 1 hour in the open area, a shower, and a telephone call, they spent the day locked up in their cell. Cells were equipped with a toilet and a sink, and basic furniture fixed to the wall or the floor. Normally, they would be provided with a TV, radio and sometimes a kettle, but these could be taken away.

In South Africa, high-risk male prisoners could be classified as maximum security and housed in one of two super-maximum centres. These prisons operated an intensive three year and three-phased behaviour modification programme: Phase 1, assessment: lasted a minimum of 6 months and involved a 23-hour lockup. Phase 2 lasted 24 months. During this time, a sentence plan was developed, and prisoners could access programmes. Those demonstrating good behaviour during stage 2 would be promoted to Phase 3 which involved sharing a cell and preparing for transfer out. During phases 1 and 2, prisoners could not access any communal activities. They could only access the minimum allowable amenities, minimum time out of cell, and no-contact family visits. They had no TVs and were housed in small cells

with bed, wash basin and toilet. They exercised alone in a cage with limited access to natural light. Prisoners were handcuffed whenever leaving the cell. This regime would last for a *minimum* of 30 months.

In Turkey, when the death penalty was abolished in 2002, it was replaced with 'aggravated life sentences'. These sentences entailed being held in single cells for up to 23 hours a day; 1 hour a day in the open air, with 2 other prisoners at most; visits twice a month for one hour at a time (but only by parents, children, and spouses)- one visit open, one visit closed; 2 phone calls of 10 mins each a month; access to canteen goods. Work was not available (despite being a constitutional right). In cell provisions included a television, radio, table, chair, fridge, and kettle. Musical instruments and pet birds were allowed in the cell. Duration was 36 years for non-political aggravated life prisoners, and until death for political prisoners. In 2014, the latest year for which we could obtain data, there were 1453 prisoners in this category (this represented 0.9% of the total prison population at the time).

In Chile, people considered to be particularly disruptive or dangerous, and those imprisoned for crimes of high social notoriety, could be housed in the Special High Security Unit of Santiago prison (UEAS). In this solitary confinement regime prisoners spent up to two hours daily in an outdoor yard with no recreational equipment. They had no access to education, exercise, therapeutic, educational, or work programmes or to places of worship. They could not make telephone calls. Stays lasted a minimum of 30 days and could last a long time. Stays lasting weeks, months or even years- were reported. Cells and adjacent yards were made of concrete, as was the cell furniture, and were reported to get very cold in the winter. Cell lights were kept on at night.

In Brazil, people who represented a high threat to the order and security of the prison or society or were suspected of being involved in any way with criminal groups or organizations (regardless of the severity of the disciplinary offences committed by the prisoner), may be subjected to a placement in differentiated disciplinary regime for a maximum duration of 2 years. Conditions included 22 hours in cell, fortnightly visits with a maximum duration of 2 hours and 2 people at the same time without physical contact. The 2 daily hours the prisoner could spend outside can be spent with a maximum of 4 other prisoners.

Lastly, special fortified solitary confinement cells could be especially designed to hold in long-term isolation a specific individual. In India, Mumbai's Arthur Road Jail had a fortified cell, called "Barrack 12", built for the lone terrorist who survived the 26/11/2008 attack. The cell is reported to be bullet-bomb- and chemical-proof and is protected by layers of metal and an unbreakable glass sheath. A high-voltage light, with the switch placed outside the cell, is on all the time so that the prisoner does not know whether it is day or night. The cell has no windows, and air supply is extremely limited. A small trapdoor allows prison guards to pass food to the prisoner. The prisoner is taken out occasionally but kept away from the other prisoners.

To summarise, alongside the more 'routine' uses of solitary confinement as a prison disciplinary measure for pre-defined durations, the majority of surveyed jurisdictions also used other forms of solitary confinement, with varying degrees of restrictions. These included special units for holding in solitary confinement individuals who were considered as 'high risk' – to prison security or to society at large, and solitary confinement in 'regular' segregation cells but for significantly longer periods than those in disciplinary segregation.

Conditions of detention in both the special units and the ‘regular’ solitary confinement tended to be somewhat better than those offered to prisoners serving a disciplinary punishment (e.g., in-cell television or radio, ability to keep more personal belongings, purchase canteen goods and so on). Lastly, individuals who were at high-risk of self were also held in solitary confinement in many jurisdictions, often in cells with very little furniture or personal belongings.

Limits to pain? Uruguay’s ‘Special Regimes’: a cautionary tale

Between 2015 and 2018 Uruguay had a “special regime” which was designed for “highly dangerous offenders”, or those who had participated in very serious crimes. Even though the regime was inaugurated with people that had committed kidnapping (a rather unusual crime in Uruguay), it was quickly filled with every kind of offender. It was not clear which crimes or profiles were prioritized for placement, and assignment to this regime was not based on risk assessment. Prisoners were allocated in individual cells with no belongings (included reading material) and had no opportunity to exit their cells except for their once-a-day visit to the toilet. They could not access recess or visits. This special regime was imposed without any formal regulation. To ensure that their identity remained secret, prison officers wore ski masks inside the units.

With the passing of time and pressure from advocates, families and inspection bodies, the regime was made more flexible, and prisoners were able to receive a visit each 25 days and to have access to a book. But conditions remained harsh and led to a riot in February 2016. Following the riot, prisoners were transferred to a different unit. In these new cells the regime was similar to the previous one, but prisoners could access a lavatory and they could go individually to an open-air patio three times a week for 30 minutes. The few visits they could receive were conducted through a screen. From 2017, prisoners were also allowed to hug one of their visitors for 5 minutes.

In June 2018, a new riot broke out, after which the ‘special regime’ was officially ended. However, a new ‘special regime’ was re-installed in 2 sectors of another prison. The regime consisted of allocation in individual cells for an indeterminate period, with individual access to recess for 1 hour a day. Even though it was said that this regime was destined to “high profile criminals”, it was not clear who was transferred to it and why. In December 2021, 10 prisoners were living there. They could make a telephone call twice a week and receive visits once every 15 days. They had no access to education, work, or treatment activities, and prison officers wore ski masks when in contact with prisoners.

Prevention is better than a cure: prison officer training in Norway

Following criticism from the Ombudsman’s office over solitary confinement practices and the lack of human contact in prisons, the University College of Norwegian Correctional Service (KRUS) established a course on solitary confinement, designed to provide training on a) preventing the use of solitary confinement through proactive work on the wings and identifying people who self-isolate, and b) preventing harmful effects once the isolation placement took place. The course offers historical, legal, social science and psychological perspectives on the problem of solitary confinement.

9 | The protection of persons in situations of vulnerability from solitary confinement placements

9.1 What the standards say

Nelson Mandela Rule 45(2) lists a number of categories of people who must never be isolated:

The imposition of solitary confinement should be prohibited in the case of prisoners with mental or physical disabilities when their conditions would be exacerbated by such measures. The prohibition of the use of solitary confinement and similar measures in cases involving women and children, as referred to in other United Nations standards and norms in crime prevention and criminal justice, continues to apply.

The reason for these prohibitions is rooted in the understanding that people belonging to these categories may be particularly vulnerable to the ill effects of solitary confinement. The standards referred to in Nelson Mandela Rule 45(2) are discussed, very briefly, below.

With regard to children, the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (Havana Rules) specifically state in Rule 67 that:

All disciplinary measures constituting cruel, inhuman, or degrading treatment shall be strictly prohibited, including corporal punishment, placement in a dark cell, closed or solitary confinement, or any other punishment that may compromise the physical or mental health of the juvenile concerned. The reduction of diet and the restriction or denial of contact with family members should be prohibited for any purpose.

These prohibitions are reiterated in Article 37 of the UN Convention on the Rights of the Child (UNCRC)(1989), which requires states to ensure that children are not subjected to torture or other cruel, inhuman or degrading treatment or punishment. In its General Comment No 10 (2007) on Children's Rights in Juvenile Justice, the Committee on the Rights of the Child (CRC) noted that:⁹

Any disciplinary measure must be consistent with upholding the inherent dignity of the juvenile and the fundamental objectives of institutional care; disciplinary measures in violation of article 37 of CRC must be strictly forbidden, including corporal punishment, placement in a dark cell, closed or solitary confinement, or any other punishment that may compromise the physical or mental health or well-being of the child concerned.

With regard to women, the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders ('the Bangkok Rules'), adopted in 2010, provide that:

⁹ CRC/C/GC/10, 25 April 2007. (section 89).

Bangkok Rule 22

Punishment by close confinement or disciplinary segregation shall not be applied to pregnant women, women with infants and breastfeeding mothers in prison.

Bangkok Rule 23

Disciplinary sanctions for women prisoners shall not include a prohibition of family contact, especially with children.

With regard to people with disabilities, the UN Committee on the Rights of Persons with Disabilities, interpreting the Convention on the Rights of Persons with Disabilities (CRPD) noted that “solitary confinement should never be used on a person with disability, in particular with a psychosocial disability or if there is danger for the person’s health in general.”¹⁰

With regard to LGBTQI+ people, the Yogyakarta Principles on the Application of International Human Rights Law in Relation to Sexual Orientation and Gender Identity provides, in Principle 9 that “Everyone deprived of liberty shall be treated with humanity and with respect for the inherent dignity of the human person. Sexual orientation and gender identity are integral to each person’s dignity”. Principle 9(d) provides that States shall “Put protective measures in place for all prisoners vulnerable to violence or abuse on the basis of their sexual orientation, gender identity or gender expression and ensure, so far as is reasonably practicable, that such protective measures involve no greater restriction of their rights than is experienced by the general prison population”.

9.2 What we found

As in other areas, our study demonstrated that different jurisdictions approached the issue of persons in situation of vulnerability in different ways. In a number of jurisdictions, no specific protections were prescribed for minors, women, or people with disabilities, whereas in others, special protections were put in place to ensure that people who are more vulnerable to the harms of solitary confinement do not have to endure it.

Children and young people

Some jurisdictions prohibited all use of solitary confinement as punishment for minors (e.g. Bolivia, Turkey, and Ukraine). In others, (e.g. Croatia), juveniles could not be isolated as punishment, but they could be placed in ‘separation’ because of dangerousness or special concerns. When that was the case, they could spend 3 hours a day outdoors, and engage in individualised work with the facility’s educators.

In Italy, minors could only be placed in solitary confinement in their own cell and for up to 10 days. They were obliged to continue attending school. As minors were not usually housed in

¹⁰ Observations on the Standard Minimum Rules for the Treatment of Prisoners, prepared by the Committee on the Rights of Persons with Disabilities, Nov. 20, 2013, Doc ref CRPD/SMR. Online: <https://www.ohchr.org/sites/default/files/Documents/HRBodies/CRPD/CRPDopinionSMR.doc> See also UN Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment Report of 1 February 2013, U.N. Doc. A/HRC/22/53.

single cells, however, solitary confinement for juveniles was interpreted in practice as exclusion from some activities.

In Mexico, it was reported that in Monterrey prison juveniles were frequently subjected to prolonged solitary confinement, sometimes handcuffed and naked, in cells with unacceptable conditions. They were subject to overbearing and disrespectful treatment by prison security staff and provided with less than one hour a week for outdoor physical activity. Those not subjected to punishment would still regularly spend more than 22 hours a day in their cells and could use the toilets only when authorised to do so.

In Albania, juveniles could not be housed in the longer-term solitary confinement, or 'special supervision' units. Juveniles with mental health issues and histories of abuse were excluded from solitary confinement. This is very good practice which should be replicated elsewhere.

In other jurisdictions, limits were placed on why, where and for how long minors could be segregated: for example, up to one week in own cell in Austria; "as short a time as possible" in Belgium; for 7 days maximum and only for listed reasons in Denmark. In France, 16–17-year-olds could be isolated for up to 7 days, and under 16s could be isolated for up to 3 days, and only in an ordinary cell where they could continue to access vocational and educational training. In Slovenia, minors could only be placed in solitary confinement as a "corrective measure" and then for maximum of 7 days with a right to work, or maximum of 3 days without work.

Yet elsewhere, for example in Poland and Brazil, there were no special provisions for young people who could be isolated in the same manner as adults.

Women

In Poland, women were excluded from disciplinary solitary confinement, but could be held in solitary confinement on other grounds (dangerousness or for their own protection). In Albania, women could only be punished for half of the permissible maximum duration for men (14 days) and were excluded from being housed in the longer-term solitary confinement and from placement in 'special supervision' units.

In Belgium, Bolivia and Peru, pregnant women and women with a child could not be placed in punitive isolation. The prohibition of solitary confinement of pregnant women and juveniles in Bolivia was also enshrined in the law. In Serbia, women who were pregnant, lactating or with child were excluded from solitary confinement. In India, practices varied between states, but the Government of India recommended that pregnant or lactating women must never be placed in disciplinary segregation.

Persons who are mentally unwell and those with disabilities

In Albania, prisoners with different abilities, physical, or mental health disorders were not subject to isolation if it could cause their condition to deteriorate, based on the medical report. This was in line with the Nelson Mandela Rules and with what we know about the relationship between isolation and increased risk of suicide.

In many of the other countries surveyed, however, mental unwellness in general and risk of self-harm in particular, were common grounds for placement in – rather than exclusion from– solitary confinement. In the Netherlands, people who were suicidal or self-harmed could be placed in a segregation cell for up to 14 days. In New Zealand, people at risk of self-harm or suicide could be placed in an ‘At Risk’ unit where conditions were akin to solitary confinement. In Sri Lanka, an oversight report revealed that severely ill or violent prisoners with severe psychiatric disorders were routinely sent to solitary confinement.

To summarise this section, there were pockets of good practice (see examples in the text box below) and some countries placed some restrictions on who may be placed in solitary confinement. However, few of the surveyed jurisdictions had in place sweeping prohibitions against the placement of vulnerable people in solitary confinement.

Protecting persons in situations of vulnerability: good practice examples

In the Federal system in Argentina, following a 2010 class action lawsuit, the "Protocol for the Implementation of the Protection of Persons in Situations of Special Vulnerability" was drafted. The Protocol established, among other things, but as a priority, the prohibition of turning protective measures into isolation regimes. Its implementation is reported to have resulted in hundreds of vulnerable inmates ending the severe confinement to which they were subjected from the beginning of their measures and beginning to live under "open door" regimes.

In Colombia, people with mental illness, especially those who were at risk of suicide, were specifically excluded from solitary confinement.

In the Yukon province in Canada, the Corrections Act provides specific prohibitions related to disciplinary and non-disciplinary segregation. Prisoners who are pregnant or have given birth within four weeks; who are suicidal or chronically self-harming; who have a mental disorder or an intellectual disability that meets prescribed conditions; who require medical observation; or have a mobility impairment that meets the prescribed conditions, must not be held in segregation.

In Ukraine, people with disabilities could not be placed in disciplinary isolation, solitary confinement, or a single cell.

Under Peruvian law, three groups were exempt from placement in solitary confinement under any circumstances: pregnant women; mothers who had children with them; and a more unusual category: those aged sixty or over. This category of older individuals is not listed as vulnerable in the Nelson Mandela Rules, but the prohibition on their isolation is in line with medical literature (see Williams, 2016).

10 | The role of medical staff in solitary confinement units

The potentially harmful health effects of solitary confinement make the role of health practitioners working in isolation units particularly important, and ethically complicated.

This is especially true for the requirement, in some jurisdictions, for health practitioners to play a role in the decision-making process regarding placement in solitary confinement, by confirming that a person can withstand the conditions in solitary confinement. The ethical position is clear: doctors must have no part in disciplinary processes, including a decision on the individual's 'fitness' for isolation.¹¹

There are convincing reasons why doctors should not have any part in the application of solitary confinement. The fact that doctors are asked to be involved in the application of solitary confinement clearly indicates that its harmful effects are known. As we noted elsewhere:¹²

If solitary confinement is safe, why must a physician check that someone can withstand it, and why must they be required to monitor their physical and mental health daily? No other legal disciplinary measure requires so much medical oversight. Furthermore, were the physician to decide that certain prisoners are not fit to undergo solitary confinement, those people may well be spared the punishment, but this also means that in other cases the physician is effectively authorising the punishment of placing another prisoner in solitary confinement. Not only are they certifying someone fit for punishment, but they are acquiescing in punishment that is known to adversely affect mental and physical health (pp 59-60).

As well as ethical questions, there are practical issues: what exactly is the physician asked to sign-off on? A national survey of doctors working in prisons in England and Wales identified the role which doctors are asked to play in segregation (solitary confinement) units as one of the key problematic aspects of their work. One respondent explained that when asked to certify someone as fit for isolation '*you don't even know what you're looking for*'.¹³ Lastly and importantly, these non-medical roles may harm the therapeutic relationship between the health practitioner and the patient/prisoner.

On the other hand, having medical staff visit places where people are held in solitary confinement is crucially important. It provides isolated individuals with contact with people from the outside world, and it allows for some monitoring of their health and well-being. This is a complex ethical issue which requires further exploration.

¹¹ See: Declaration of Tokyo (1975); UN Principles of Medical Ethics (Principle 4(b)); World Medical Association's Statement on Solitary Confinement (2014) (Principle 9).

¹² See: Shalev, S. (2007) *A Sourcebook on Solitary Confinement*. London: Mannheim Centre for Criminology.

¹³ Linda Marks, Andrew Gray, Sarah Pearce, (2006) "General practice in prisons in England: Views from the field", *International Journal of Prisoner Health*, Vol. 2 Issue: 1, pp.49-62 Online at: <https://doi.org/10.1080/17449200600743628>

10.1 What the standards say

The Nelson Mandela Rules attempt to address the fine balance between the need to provide healthcare and human contact to isolated individuals, but not to be complicit in punishment.

Nelson Mandela Rule 46

1. Health-care personnel shall not have any role in the imposition of disciplinary sanctions or other restrictive measures. They shall, however, pay particular attention to the health of prisoners held under any form of involuntary separation, including by visiting such prisoners on a daily basis and providing prompt medical assistance and treatment at the request of such prisoners or prison staff.
2. Health-care personnel shall report to the prison director, without delay, any adverse effect of disciplinary sanctions or other restrictive measures on the physical or mental health of a prisoner subjected to such sanctions or measures and shall advise the director if they consider it necessary to terminate or alter them for physical or mental health reasons.
3. Health-care personnel shall have the authority to review and recommend changes to the involuntary separation of a prisoner in order to ensure that such separation does not exacerbate the medical condition or mental or physical disability of the prisoner.

10.2 What we found

A requirement for some involvement of medical staff in the imposition and monitoring of solitary confinement placements was reported by the vast majority of jurisdictions surveyed. The extent of involvement, and the weight given to medical opinion varied.

In Albania, medical staff played an important role in the disciplinary decision-making processes. First, prior to the disciplinary hearing, medical staff had to prepare a medical report on the health condition of the prisoner against whom disciplinary proceedings had been initiated. The report was then made available to the disciplinary committee and reviewed by it for the purpose of determining the disciplinary measure. The doctor also participated in the meetings of the disciplinary committee and provided clarifications if these are required by the committee. They did not have a voting right.

In Argentina regulation required the doctor to inform the prison director, in writing, every day, of the state of health of the inmate, the medical prescriptions they needed, and, if necessary, of any need to mitigate or suspend, for health reasons, the sanction imposed. Spain had similar requirements. In the Australian Capital Territory, Justice Health (prison health staff) had to be immediately advised when a detainee has been placed on segregation, and were required to assess the prisoner as soon as possible, and no later than 2 hours after placement. In Sweden, prisoners need to be medically examined on placement in solitary confinement.

In Mexico, medical staff had a role to play before, during and after solitary confinement, as well as a role in its termination. Article 45 of the National Law of Penal Execution mandated that:

- The penitentiary center shall conduct a medical examination of persons deprived of liberty before, during and after serving a disciplinary measure of solitary confinement.
- The doctor must visit the isolated inmates daily to verify their physical and mental health, and that they have not been subjected to torture or cruel, inhuman or degrading treatment. In case they so require, they must provide them with medical assistance and report any anomaly.
- When, due to circumstances of seriousness in the psychic and mental health of the inmate, the doctor considers it necessary, he will request the Director, in a written and well-founded request, to suspend the isolation, or to soften it with ten-minute visits from family members or other inmates.

In Italy, Article 39 of the penitentiary law required medical staff to certify that the prisoner is fit to sustain a sanction of solitary confinement prior to the sanction being imposed and placed on them the duty to monitor his health in order to discover the insurgence of any pathological states. Article 80 of the regulation stated that if the prison doctor does not certify the inmate as fit for the punishment of solitary confinement, the application of the sanction would be suspended until the causes that did not allow the execution of the measure were removed.

In Slovenia, the prisoner had to be visited daily by a doctor or another medical worker of the institution. If the doctor determined that further serving of the disciplinary sentence of solitary confinement would endanger the prisoner's health, he/she informed the prison governor, who terminated the disciplinary sentence. Similarly, in South Africa, health staff (a registered nurse, psychologist, or a correctional medical practitioner) had to assess segregated prisoners at least once a day. If they determined that segregation posed a threat to the prisoner's health, it had to be discontinued. In Japan, the doctor's opinion was sought, and the 2005 Prison Act required the prison warden to "hear the correctional doctor's opinion" before placing a person in solitary confinement, but they were not obliged to follow it. In Peru, prisoners were examined before placement and periodically thereafter. Following the examination, the doctor reported to the prison director who might (or might not) suspend or modify the sanction.

To summarise this section, medical staff played some role with regard to people in solitary confinement in the majority of jurisdiction surveyed. As well as daily visits to ascertain health and wellbeing, medical staff were involved in the practice of 'certifying prisoner's fitness for isolation', despite directives to the contrary in both the Nelson Mandela Rules and guidance by professional bodies. The balance between providing healthcare to isolated individuals and not having part in disciplinary procedures was difficult to achieve and needed to be further clarified.

11 | Summary and concluding remarks

Solitary confinement shall be used only in exceptional cases as a last resort, for as short a time as possible and subject to independent review, and only pursuant to the authorization by a competent authority. It shall not be imposed by virtue of a prisoner's sentence. (Nelson Mandela Rule 45)

The *Mapping Solitary* project clearly demonstrates that, despite increased international efforts in the last decade to define, limit, reduce, and better regulate the use of solitary confinement, this practice is still prevalent in places of detention across the world.

The extent of the use of solitary confinement ('breadth'), the degree of deprivations inflicted on those isolated ('depth'), and the amount of time prisoners could expect to spend separated from others ('length') indicate that, overall, it could not be said that solitary confinement was always used as an exceptional, last resort measure, for the shortest time necessary, as mandated by Nelson Mandela Rule 45 and other international good practice principles. The requirement, in Nelson Mandela Rule 45, not to impose solitary confinement on a prisoner solely because of their sentence was also clearly not followed. People belonging to certain categories – for example, people serving a death sentence, high ranking members of criminal groups, people accused of crimes against the state – were regularly held in solitary confinement, sometimes in very harsh conditions and for very long periods of time.

Key findings from the *Mapping Solitary Confinement* project are:

- **Official reasons** for the use of solitary confinement were similar across the countries surveyed included: punishment/discipline; management of those who are persistently disruptive or considered to be dangerous; protection of people who were mentally unwell and those who self-harmed; and keeping those sentenced for terrorist or other offences against the state, and leaders of criminal groups, apart from others.
- The **key elements** of solitary confinement were also very similar: a person, confined alone to a small, minimally furnished cell, which they could only leave once a day (not always) for an hour long stay in a small, often barren, outdoors exercise yard, a shower, and an infrequent telephone call.
- Despite national variations in the permissible length of disciplinary solitary confinement, in a significant number of the countries surveyed, **solitary confinement as punishment** could be imposed for longer than the 15 days prescribed in the Nelson Mandela Rules, though in the majority of countries surveyed, the initial period imposed (but could then be extended) did not exceed 30 days.
- On the other hand, **solitary confinement as a prisoner management tool**, which could involve placement in either the prison's 'regular' solitary confinement unit or in a special unit, was imposed for significantly longer periods and was often open ended. Material conditions in special units were typically slightly better than those in punitive segregation, with more in-cell personal belongings allowed, but the social isolation and restrictions remained.
- People who were particularly **vulnerable to the ill effects of solitary confinement** and thus needed to be protected from such placement – including children and young

people, pregnant women and women with children, people who were mentally unwell and at risk of self-harm and suicide, continued to be isolated in a large number of the jurisdictions surveyed. Several countries did, however, put special protections in place to limit the use, length, and depth of such placements, or to prohibit them altogether.

- Contrary to ethical and professional guidance, **medical staff** played some role in isolation units in the majority of countries surveyed. In some jurisdictions, medical staff took part in disciplinary hearings, in others, they did not have a decision-making role, but they had to certify ‘fitness for isolation’ and could advise against it. As well as those roles, in the majority of jurisdictions, medical staff also had to visit isolated prisoners regularly, usually daily, monitor their health, and report to the prison director.
- Such **data** as we were able to collect suggested significant differences in the extent to which solitary confinement was used, and the level of contact the isolated prisoner had with the outside world, including with monitoring bodies.
- There were also significant differences in the openness of prison departments about solitary confinement practices, and the collection and publication of data on its use. This was in part due to the lack of an agreed definition for solitary confinement.

Broadly speaking, despite the significant cultural, economic, and legal differences between some of the jurisdictions surveyed, and the differences in their penal attitudes, philosophies and practices, the similarities in how solitary confinement was ‘done’ are noteworthy.

It is clear that solitary confinement is still used as the default option in certain situations, and that it is perceived by prison administrators as a necessary part and parcel of the fabric of the prison. This misconception needs to be challenged, and viable alternatives sought and tried. Solitary confinement, as it is currently practiced, is not inevitable. A good starting point would be to move away from prison officials’ discomfort around the term ‘solitary confinement’ and agree a definition which would encompass all restrictive practices, and which could be used by jurisdictions worldwide to measure and review their practices.

The *Mapping Solitary* project highlights the continued need to press for significant rethink about how solitary confinement is used, and its eventual elimination. We must urge prison administrators worldwide to reconsider their use of this extreme measure, and to find alternatives that do not compromise the health and wellbeing of people deprived of their liberty. Importantly, we need to continue shedding a light on this dark corner of the prison, and to report what we find.

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Online resources

Association for the Prevention of Torture Detention Focus: <https://www.apr.ch/knowledge-hub/dfd>

European Committee for the prevention of Torture (CPT) <https://www.coe.int/en/web/cpt/states>

European Prison Observatory: <http://www.prisonobservatory.org/>

Penal Reform International: <https://www.penalreform.org/>

Seeing Solitary, Yale Law School <https://seeingsolitary.limancenter.yale.edu/>

Solitary Confinement: <https://solitaryconfinement.org>

Solitary Watch: <https://solitarywatch.org/>

World Prison Brief: <https://www.prisonstudies.org/world-prison-brief-data>

Appendix 1 | International and regional human rights standards relating to solitary confinement.

Source: The Association for the Prevention of Torture's (APT) Detention Focus Database (Online: <https://www.apr.ch/knowledge-hub/dfd/solitary-confinement>)

International Covenant on Civil and Political Rights

Article 7

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment (...).

Article 10-1

All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.

United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)

Rule 38.2

For prisoners who are, or have been, separated, the prison administration shall take the necessary measures to alleviate the potential detrimental effects of their confinement on them and on their community following their release from prison.

Rule 43.1

In no circumstances may restrictions or disciplinary sanctions amount to torture or other cruel, inhuman or degrading treatment or punishment. The following practices, in particular, shall be prohibited:

- (a) Indefinite solitary confinement;
- (b) Prolonged solitary confinement;
- (c) Placement of a prisoner in a dark or constantly lit cell;
- (d) Corporal punishment or the reduction of a prisoner's diet or drinking water;
- (e) Collective punishment.

Rule 44

For the purpose of these rules, solitary confinement shall refer to the confinement of prisoners for 22 hours or more a day without meaningful human contact. Prolonged solitary confinement shall refer to solitary confinement for a time period in excess of 15 consecutive days.

Rule 45.1

Solitary confinement shall be used only in exceptional cases as a last resort, for as short a time as possible and subject to independent review, and only pursuant to the authorization by a competent authority. It shall not be imposed by virtue of a prisoner's sentence.

Rule 45.2

The imposition of solitary confinement should be prohibited in the case of prisoners with mental or physical disabilities when their conditions would be exacerbated by such measures. The prohibition of the use of solitary confinement and similar measures in cases involving women and children, as referred to in other United Nations standards and norms in crime prevention and criminal justice, continues to apply.

Rule 46

1. Health-care personnel shall not have any role in the imposition of disciplinary sanctions or other restrictive measures. They shall, however, pay particular attention to the health of prisoners held under any form of involuntary separation, including by visiting such prisoners on a daily basis and providing prompt medical assistance and treatment at the request of such prisoners or prison staff.

2. Health-care personnel shall report to the prison director, without delay, any adverse effect of disciplinary sanctions or other restrictive measures on the physical or mental health of a prisoner subjected to such sanctions or measures and shall advise the director if they consider it necessary to terminate or alter them for physical or mental health reasons.

3. Health-care personnel shall have the authority to review and recommend changes to the involuntary separation of a prisoner in order to ensure that such separation does not exacerbate the medical condition or mental or physical disability of the prisoner.

UN Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (Bangkok Rules)

Rule 22

Punishment by close confinement or disciplinary segregation shall not be applied to pregnant women, women with infants and breastfeeding mothers in prison.

Report of the UN Special Rapporteur on Torture, A/66/268, August 2011

Paragraph 26

Solitary confinement is also known as “segregation”, “isolation”, “separation”, “cellular”, “lockdown”, “Supermax”, “the hole” or “Secure Housing Unit (SHU)”, but all these terms can involve different factors. For the purposes of this report, the Special Rapporteur defines solitary confinement as the physical and social isolation of individuals who are confined to their cells for 22 to 24 hours a day. 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.

Paragraphs 84-89

84. The Special Rapporteur urges States to prohibit the imposition of solitary confinement as punishment — either as a part of a judicially imposed sentence or a disciplinary measure. He recommends that States develop and implement alternative disciplinary sanctions to avoid the use of solitary confinement.

85. States should take necessary steps to put an end to the practice of solitary confinement in pretrial detention. The use of solitary confinement as an extortion technique during pretrial detention should be abolished.

86. States should abolish the use of solitary confinement for juveniles and persons with mental disabilities. Regarding disciplinary measures for juveniles, the Special Rapporteur recommends that States should take other measures that do not involve the use of solitary confinement. In regard to the use of solitary confinement for persons with mental disabilities, the Special Rapporteur emphasizes that physical segregation of such persons may be necessary in some cases for their own safety, but solitary confinement should be strictly prohibited.

87. Indefinite solitary confinement should be abolished.

88. It is clear that short-term solitary confinement can amount to torture or cruel, inhuman or degrading treatment or punishment; it can, however, be a legitimate device in other circumstances, provided that adequate safeguards are in place. In the opinion of the Special Rapporteur, prolonged solitary confinement, in excess of 15 days, should be subject to an absolute prohibition.

89. The Special Rapporteur reiterates that solitary confinement should be used only in very exceptional circumstances, as a last resort, for as short a time as possible. He emphasizes that when solitary confinement is used in exceptional circumstances, minimum procedural safeguards must be followed.

Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, A/HRC/28/68, 5 March 2015

Paragraph 44

In many States, solitary confinement is still imposed on children as a disciplinary or “protective” measure. National legislation often contains provisions to permit children to be placed in solitary confinement. The permitted time frame and practices vary between days, weeks and even months. In accordance with views of the Committee against Torture, the Subcommittee on Prevention of Torture and the Committee on the Rights of the Child, the Special Rapporteur is of the view that the imposition of solitary confinement, of any duration, on children constitutes cruel, inhuman or degrading treatment or punishment or even torture (see A/66/268, paras. 77 and 86, and A/68/295, para. 61).

Paragraph 86

With regard to conditions during detention, the Special Rapporteur calls upon all States:

(d) To prohibit solitary confinement of any duration and for any purpose

Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, A/HRC/31/57, 5 January 2016

Paragraph 22

Solitary confinement can amount to torture or ill-treatment when used as a punishment, during pretrial detention, for prolonged periods or indefinitely and on juveniles. Solitary confinement of any duration must never be imposed on juveniles, or persons with mental or physical disabilities, or on pregnant and breastfeeding women, or mothers with young children. (A/66/268). Its use as a measure of retaliation against women who have complained of sexual abuse or other harmful treatment must also be prohibited. Female prisoners subjected to solitary confinement suffer

particularly grave consequences as it tends to retraumatize victims of abuse and women suffering from mental health problems. It places women at greater risk of physical and sexual abuse by prison staff and severely limits family visits.

Paragraph 35

Lesbian, gay, bisexual and transgender detainees report higher rates of sexual, physical and psychological violence in detention than on the basis of sexual orientation and/or gender identity than the general prison population (CAT/C/CRI/CO/2). Violence against these persons in custodial settings, whether by police, other law enforcement authorities, prison staff or other prisoners, is prevalent (A/HRC/29/23). Fear of reprisals and a lack of trust in the complaints mechanisms frequently prevent lesbian, gay, bisexual and transgender persons in custody from reporting abuses. Their placement in solitary confinement or administrative segregation for their own “protection” can constitute an infringement on the prohibition of torture and ill-treatment. Authorities have a responsibility to take reasonable measures to prevent and combat violence against lesbian, gay, bisexual and transgender detainees by other detainees.

Paragraph 70

With regard to women, girls, and lesbian, gay, bisexual and transgender persons in detention, the Special Rapporteur calls on all States to:

[...] (i) Absolutely prohibit the use of solitary confinement on pregnant and breastfeeding women, mothers with young children, women suffering from mental or physical disabilities and girls under 18 years of age and as a measure of “protection”; [...]

(t) Ensure that protective measures do not involve the imposition of more restrictive conditions on lesbian, gay, bisexual, transgender and intersex persons than on other detainees; [...]

Yogyakarta Principles on the Application of International Human Rights Law in Relation to Sexual Orientation and Gender Identity

Principle 9

Everyone deprived of liberty shall be treated with humanity and with respect for the inherent dignity of the human person. Sexual orientation and gender identity are integral to each person's dignity.

States shall:

d) Put protective measures in place for all prisoners vulnerable to violence or abuse on the basis of their sexual orientation, gender identity or gender expression and ensure, so far as is reasonably practicable, that such protective measures involve no greater restriction of their rights than is experienced by the general prison population.

European Prison Rules

Rule 43.2

The medical practitioner or a qualified nurse reporting to such a medical practitioner shall pay particular attention to the health of prisoners held under conditions of solitary confinement, shall visit such prisoners daily, and shall provide them with prompt medical assistance and treatment at the request of such prisoners or the prison staff.

Rule 43.3

The medical practitioner shall report to the director whenever it is considered that a prisoner's physical or mental health is being put seriously at risk by continued imprisonment or by any condition of imprisonment, including conditions of solitary confinement.

Rule 53A

The following provisions apply to the separation of a prisoner from other prisoners as a special high security or safety measure:

- a. prisoners who are separated shall be offered at least two hours of meaningful human contact a day;
- b. the decision on separation shall take into account the state of health of the prisoners concerned and any disabilities they may have which may render them more vulnerable to the adverse effects of separation;
- c. separation shall be used for the shortest period necessary to achieve its objectives and shall be regularly reviewed in line with these objectives;
- d. prisoners who are separated shall not be subject to further restrictions beyond those necessary for meeting the stated purpose of such separation;
- e. cells used for separation shall meet the minimum standards applicable in these rules to other accommodation for prisoners;
- f. the longer a prisoner is separated from other prisoners, the more steps shall be taken to mitigate the negative effects of their separation by maximising their contact with others and by providing them with facilities and activities;
- g. prisoners who are separated shall be provided, as a minimum, with reading materials and the opportunity to exercise for one hour per day, as specified for prisoners in Rules 27.1 and 27.2;
- h. prisoners who are separated shall be visited daily, including by the director of the prison or by a member of staff acting on behalf of the director of the prison;
- i. when separation is adversely affecting a prisoner's physical or mental health, action shall be taken to suspend it or to replace it with a less restrictive measure;
- j. any prisoner who is separated shall have a right of complaint in the terms set out in Rule 70.

Rule 60.6.a

Solitary confinement, that is the confinement of a prisoner for more than 22 hours a day without meaningful human contact, shall never be imposed on children, pregnant women, breastfeeding mothers, or parents with infants in prison.

Rule 60.6.b

The decision on solitary confinement shall take into account the current state of health of the prisoner concerned. Solitary confinement shall not be imposed on prisoners with mental or physical disabilities when their condition would be exacerbated by it. Where solitary confinement has been imposed, its execution shall be terminated or suspended if the prisoner's mental or physical condition has deteriorated.

Rule 60.6.c

Solitary confinement shall not be imposed as a disciplinary punishment, other than in exceptional cases and then for a specified period, which shall be as short as possible and shall never amount to torture or inhuman or degrading treatment or punishment.

Rule 60.6.d

The maximum period for which solitary confinement may be imposed shall be set in national law.

Rule 60.6.e

Where a punishment of solitary confinement is imposed for a new disciplinary offence on a prisoner who has already spent the maximum period in solitary confinement, such a punishment shall not be implemented without first allowing the prisoner to recover from the adverse effects of the previous period of solitary confinement.

Rule 60.6.f

Prisoners who are in solitary confinement shall be visited daily, including by the director of the prison or by a member of staff acting on behalf of the director of the prison.

Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas

Principle XXII-3

The law shall prohibit solitary confinement in punishment cells.

It shall be strictly forbidden to impose solitary confinement to pregnant women; mothers who are living with their children in the place of deprivation of liberty; and children deprived of liberty.

Solitary confinement shall only be permitted as a disposition of last resort and for a strictly limited time, when it is evident that it is necessary to ensure legitimate interests relating to the institution's internal security, and to protect fundamental rights, such as the right to life and integrity of persons deprived of liberty or the personnel.

In all cases, the disposition of solitary confinement shall be authorized by the competent authority and shall be subject to judicial control, since its prolonged, inappropriate or unnecessary use would amount to acts of torture, or cruel, inhuman, or degrading treatment or punishment.

In cases of involuntary seclusion of persons with mental disabilities it shall be ensured that the measure is authorized by a competent physician; carried out in accordance with officially approved procedures; recorded in the patient's individual medical record; and immediately notified to their family or legal representatives. Persons with mental disabilities who are secluded shall be under the care and supervision of qualified medical personnel.

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European Committee for the Prevention of Torture

CPT/Inf (2011) 28 - para 55

55. Solitary confinement further restricts the already highly limited rights of people deprived of their liberty. The extra restrictions involved are not inherent in the fact of imprisonment and thus have to be separately justified. In order to test whether any particular imposition of the measure is justified, it is appropriate to apply the traditional tests enshrined in the provisions of the European Convention on Human Rights and developed by the case-law of the European Court of Human Rights. The simple mnemonic PLANN summarises these tests.

(a) Proportionate: (...) Given that solitary confinement is a serious restriction of a prisoner's rights which involves inherent risks to the prisoner, the level of actual or potential harm must be at least equally serious and uniquely capable of being addressed by this means. This is reflected, for example, in most countries having solitary confinement as a sanction only for the most serious disciplinary offences, but the principle must be respected in all uses of the measure. The longer the measure is continued, the stronger must be the reason for it and the more must be done to ensure that it achieves its purpose.

b) Lawful: provision must be made in domestic law for each kind of solitary confinement which is permitted in a country, and this provision must be reasonable. It must be communicated in a comprehensible form to everyone who may be subject to it. The law should specify the precise circumstances in which each form of solitary confinement can be imposed, the persons who may impose it, the procedures to be followed by those persons, the right of the prisoner affected to make representations as part of the procedure, the requirement to give the prisoner the fullest possible reasons for the decision (it being understood that there might in certain cases be reasonable justification for withholding specific details on security-related grounds or in order to protect the interests of third parties), the frequency and procedure of reviews of the decision and the procedures for appealing against the decision. The regime for each type of solitary confinement should be established by law, with each of the regimes clearly differentiated from each other.

(c) Accountable: full records should be maintained of all decisions to impose solitary confinement and of all reviews of the decisions. These records should evidence all the factors which have been taken into account and the information on which they were based. There should also be a record of the prisoner's input or refusal to contribute to the decision-making process. Further, full records should be kept of all interactions with staff while the prisoner is in solitary confinement, including attempts by staff to engage with the prisoner and the prisoner's response.

(d) Necessary: the rule that only restrictions necessary for the safe and orderly confinement of the prisoner and the requirements of justice are permitted applies equally to prisoners undergoing solitary confinement. Accordingly, during solitary confinement there should, for example, be no automatic withdrawal of rights to visits, telephone calls and correspondence or of access to resources normally available to prisoners (such as reading materials). Equally, the regime should be flexible enough to permit relaxation of any restriction which is not necessary in individual cases.

(e) Non-discriminatory: not only must all relevant matters be taken into account in deciding to impose solitary confinement, but care must also be taken to ensure that irrelevant matters are not taken into account. Authorities should monitor the use of all forms of solitary confinement to

ensure that they are not used disproportionately, without an objective and reasonable justification, against a particular prisoner or particular groups of prisoners.

CPT/Inf(2011) 28 - para 55

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24th General Report of the European Committee for the Prevention of Torture

Paragraph 128

Any form of isolation of juveniles is a measure that can compromise their physical and/or mental well-being and should therefore be applied only as a means of last resort. In the CPT's view, solitary confinement as a disciplinary measure should only be imposed for very short periods and under no circumstances for more than three days. Whenever juveniles are subject to such a measure, they should be provided with socio-educational support and appropriate human contact. A member of the health-care staff should visit the juvenile immediately after placement and thereafter on a regular basis, at least once per day, and provide him/her with prompt medical assistance and treatment.

Paragraph 129

As regards solitary confinement for protection or preventive purposes, the CPT recognises that such a measure may, in extremely rare cases, be required in order to protect particularly vulnerable juveniles or to prevent serious risks to the safety of others or the security of the prison, provided that absolutely no other solution can be found. Every such measure should be decided by a competent authority, based on a clear procedure specifying the nature of the confinement, its duration, the grounds on which it may be imposed and providing a regular review process, as well as the possibility for the juvenile concerned to appeal against the decision. Juveniles deprived of their liberty under criminal legislation to an independent external authority. The juveniles concerned should always be provided with appropriate human contact and benefit from daily visits by a member of the health-care staff.

Likewise, the placement of a violent and/or agitated juvenile in a calming-down room should be a highly exceptional measure. Any such measure should not last for more than a few hours and should never be used as an informal punishment. Mechanical restraint should never be used in this context. Every placement of a juvenile in a calming-down room should be immediately brought to the attention of a doctor in order to allow him/her to look after the health-care needs of the juvenile concerned. In addition, every such placement should be recorded in a central register as well as in the juvenile's individual file.

Guidelines on the Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa

25. Procedural and other safeguards

States should have in place, and make known, laws, policies and standard operating procedures, which accord with Member States' obligations under the African Charter on Human and Peoples' Rights and other international law and standards, to:

f. Ensure that the use of solitary confinement is restricted, and that methods to anticipate crisis situations and de-escalate them without the need to resort to seclusion, restraint or forced treatment are developed and ingrained among law enforcement personnel.

32. Women

b. Safeguards for arrest and detention

If arrest, custody and pre-trial detention is absolutely necessary, women and girls shall:

Not be subject to close confinement or disciplinary segregation if pregnant, breastfeeding or accompanied by infants.



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This report and its website are part of the 'Mapping Solitary Confinement' project. This is a collaborative effort to paint a picture of the use of solitary confinement in places of detention across the world, building on surveys completed by in-country experts and published online at www.solitaryconfinement.org.

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