

CPT

EUROPEAN COMMITTEE FOR THE PREVENTION
OF TORTURE AND INHUMAN OR DEGRADING
TREATMENT OR PUNISHMENT



Solitary confinement in prisons and its alternatives: a human rights perspective



Strasbourg, 24-25 September, Council of Europe

Solitary confinement

- 17th century Pennsylvania
 - « noble experiment that was an absolute failure » Stuart Grassian
- Solitary confinement
 - 22 hours or more
 - Small group isolation
- Absence of meaningful social contact is the essence of solitary confinement



Why should solitary confinement be limited?

Linked to host of negative psychological and physical symptoms

- anxiety, depression, ruminations,
- irritability and anger,
- paranoia, disturbed sleep and appetite,
- cognitive impairment,
- social withdrawal,
- cardiovascular disease, impaired vision,
- self-harm and suicide.

➤ Adverse effects may persist after time in solitary confinement ends

Why should solitary confinement be limited?

In addition to absence of meaningful social contact:

- deprived of access to positive environmental stimulation (units where solitary confinement undertaken bleak and hostile)
- lack of meaningful recreation, work, treatment,
- contacts with outside world limited

➤ Literature is robust and well documented

Why should solitary confinement be limited?

International consensus:

- 2008 Istanbul Statement
- 2015 UN Standard Minimum Rules for the Treatment of Prisoners (Mandela Rules)

“the most forbidding aspect of prison life,”

“there was no end and no beginning...
only one's own mind, which can begin to play tricks.”

Nelson Mandela

CPT approach -PLANN

- **Proportionate** ➤ further restrictions linked to harm the prisoner has caused or will cause by their actions
- **Lawfull** ➤ domestic law should specify the precise circumstances
- **Accountability** ➤ full records should be maintained of all decisions
- **Necessary** ➤ only restrictions necessary for the safe and orderly confinement of the prisoner
- **Non-discriminatory** ➤ Ensure not used disproportionately against certain groups

Types of solitary confinement and safeguards (I)

1. Solitary confinement as the result of a court decision
 - Pre-trial detention in interests of the criminal investigation
 - Open court, reasoned judgment, appealable
 - Psychological pressure  Nordic countries
 - Automatic part of some sentences
 - CPT considers that solitary confinement should never be imposed as part of a sentence.
 - Example of Italy (Article 72 CC - "*isolamento diurno*") from two months to three years.

Types of solitary confinement and safeguards (II)

2. Solitary confinement as a disciplinary sanction

- used only as a last resort, and for the shortest possible period.
 - no higher than 14 days for a given offence, and preferably lower
 - prohibition of sequential disciplinary sentences
- CPT will examine procedures, safeguards in place and whether fully documented (incl. daily visits by director and healthcare staff)
- Prohibition on children, pregnant women, breastfeeding mothers or parents with infants in prison (Rule 60.6.a EPR) and on persons with mental or physical disabilities when condition would be exacerbated by it (Rule 60.6.b EPR)

Types of solitary confinement and safeguards (III)

3. Administrative solitary confinement for preventative purposes

- prisoners who have caused, or likely to cause, serious harm to others or who present a very serious risk to the safety or security of the prison
- Can last for prolonged periods and needs robust safeguards
 - Measure confirmed by outside body (supervisory prosecutor/judge)
 - Interdisciplinary case conference and plan (involve prisoner)
 - Reasoned decision and appealable
 - Reviews after 1 month then every 3 months
 - But CPT expects more resources to reintegrate into ordinary regime (step-down unit)

Types of solitary confinement and safeguards (IV)

4. Solitary confinement for protection purposes

- Due to nature of offence, co-operation with the criminal justice authorities, inter-gang rivalry, debts or the general vulnerability of the person, etc.
- Risk to some such that need to separate – duty of care
- Own request or management – last resort and for shortest period possible
- If against their will – consultation and possibility to appeal
- Frequent reviews



Example of Ireland – Wheatfield Prison

Material conditions in solitary confinement

- designed to exacerbate the punishment
- basement



Solitary confinement wing in basement of prison

- austere/minimally furnished
- limited reading materials
- new prisons – cells are functional but clinical

Solitary confinement cell
with outer door open



- mattress removed /bed up in day
- 23 hours in cell

Typical solitary confinement cell
in former Soviet block prisons
(Kartzer)





- Limited contact with staff



- Walking yards austere / small cages

The good and the less good

- Positives
 - Persons serving punishments in their cells
 - More and more countries limiting solitary confinement as a disciplinary punishment to 14 days or less
 - Estonia – 45 to 14;
- Less positive
 - Administrative solitary confinement expanded
 - Persons in SC for periods of a year or more – *carousel* system
 - Retreat completely into themselves

Mentally unwell prisoners

- Disruptive and unpredictable and deemed unsuitable to be held safely on an ordinary wing
 - neurodivergent wings - less restrictions, more staffing and better material conditions
 - similar wings for persons with intellectual disabilities or mental disorders established
- But too many still held in SC instead of being sent to hospital
 - Example of women held in Corton Vale Prison, Scotland 2018

Conclusion

- Positive developments to reduce length and conditions of solitary confinement as a disciplinary punishment
- guard against regime akin to solitary confinement emerging in new high security regimes

Administrative solitary confinement

- individual regime plan, geared to addressing the reasons for the measure
- all prisoners separated from others, including high security, offered at least two hours of meaningful contact per day (Rule 53 of EPR)



Thank you!

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