SOLITARY CONFINEMENT

Solitary confinement can be broadly defined as the separation of a detainee from the general prison population where the prisoner is housed alone in a cell for most of the day (usually 22 hours or more).

ANTIGONE
PER I DIRITTI E LE GARANZIE NEL SISTEMA PENALE

BULGARIAN HELSINKI COMMITTEE

Hungarian Helsinki Committee

LUDWIG BOLTZMANN INSTITUTE
Fundamental and Human Rights

SOLITARY CONFINEMENT

Solitary confinement can be broadly defined as the separation of a detainee from the general prison population where the prisoner is housed alone in a cell for most of the day (usually 22 hours or more).

In a prison setting, solitary confinement can be found as a form of punishment for **disciplinary** offenses, as a **protective** measure for detainees finding themselves in a situation of vulnerability (e.g. sex offenders, LGBTIQ detainees, juveniles), as an **administrative** tool to handle specific groups of prisoners or as a **health** instrument to prevent the spread of contagious diseases. It can also be imposed by a court during **pre-trial detention** or as part of a **prison sentence**. Several jurisdictions also offer the option of voluntary solitary confinement

Main issues related to solitary confinement:

1. Prolonged isolation may constitute inhuman or degrading treatment or even torture in itself.
2. The material conditions of the cells and other spaces are often severely degraded compared to the rest of the institution.
3. It has detrimental effects on the physical and mental health of detainees.
4. It creates a greater risk of violence and torture due to the separation from the rest of the prison population
5. Lack of adequate procedural safeguards for the person concerned.
6. The risk of a de-facto non-formalised isolation, which may be combined with special regimes, such as high security regimes.

What do international standards say?

Key standards

-2020 European Prison Rules Rules (see sections on solitary confinement and segregation)

-The UN Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) Rules 43-45

-The European Court of Human Rights' Factsheets and Jurisprudence on solitary prison conditions

-The CPT Standards on solitary confinement

When does the use of solitary confinement amount to torture or ill-treatment?

Solitary confinement can in itself amount to ill-treatment or torture. Whether this is the case should be assessed on a case-by-case basis, taking in consideration: the purpose of the application of solitary confinement, the conditions, length and effects of the treatment as well as the individual situation of each prisoner.

It is prohibited to isolate:

-Children under the age of 18
-Pregnant, breastfeeding mothers and mothers with small children
-Detainees with mental health problems or with intellectual and psychosocial disabilities
-Death-row detainees

It is recommended to find alternatives to solitary confinement:

-To protect detainees in a situation of vulnerability
-As a response to suicide attempts or self-inflicted harm
-During pre-trial detention without a case-by-case assessment and as part of the prison sentence
-For detainees in high-security regimes, who have caused, or are considered likely to cause, serious harm to others or who present a very serious risk to the safety or security of the prison. These regimes often entail isolation (or de-facto isolation) and serious restrictions to detainees' rights.

What standards are important to reduce the use and harmfulness of solitary confinement?

Solitary confinement should be used as a measure of **last resort** and for the **shortest possible time**. Its use should be **exceptional and not the rule**, it should **not be imposed on arbitrary grounds** and it should be **duly regulated and subjected to judicial review**. **Effective remedies** against solitary confinement as a disciplinary measure should be available. Additionally, the reasons for the imposition of the sanction should be recorded along with its duration.

-**Prolonged solitary confinement** (i.e. the isolation of a detainee for more than 15 days) **should be prohibited;**

-**When an inmate is kept "segregated" from other detainees, s/he must always have at least two hours of meaningful social contact a day;**

-**The medical staff has the duty to check the mental and physical health of the detainees** prior to their placement in solitary confinement as well as once per day for the whole duration of the measure and advise the prison director on the termination of the measure if the mental or physical health of the inmate is worsening.

National Preventive Mechanisms, established under the UN Optional Protocol to the Convention against Torture (OPCAT), are mandated to visit places of detention to prevent torture and ill-treatment and examine factors that contribute to its occurrence. They can therefore play an important role in monitoring solitary confinement and reducing its use.

What should prison staff and administrations consider?

1. Are there situations that might constitute solitary confinement or de-facto solitary confinement?
2. What are the root causes for the use of solitary confinement?
3. Are isolated inmates getting at least two hours of meaningful social contacts?
4. Are there possible solutions to the need to provide at least two hours of meaningful social contacts to all isolated detainees?
5. Do health professionals monitor the mental and physical health of isolated detainees?
6. Can health professionals advise the prison director on the termination of the measure?
7. Do detainees have at disposal effective procedural safeguards?
8. Are prison staff trained in international solitary confinement standards?
9. Are prison staff involved in the consideration of alternatives to solitary confinement?

✓ Good practice

Keeping good records of isolation sections helps to reduce grey areas in the rights of detainees and allows the judge to check the validity of allegations of violence.

To find out more about solitary confinement, please consult our Handbook:
"Monitoring Solitary confinement: A Handbook for National Preventive Mechanisms".

For further information on other thematic issues, please refer to our publications on:
Prison violence, Persons in a situation of vulnerability, Complaint procedures