

INTERNATIONAL JOURNAL OF LAW MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

Volume 7 | Issue 3

2024

© 2024 *International Journal of Law Management & Humanities*

Follow this and additional works at: <https://www.ijlmh.com/>

Under the aegis of VidhiAagaz – Inking Your Brain (<https://www.vidhiaagaz.com/>)

This article is brought to you for “free” and “open access” by the International Journal of Law Management & Humanities at VidhiAagaz. It has been accepted for inclusion in the International Journal of Law Management & Humanities after due review.

In case of **any suggestions or complaints**, kindly contact Gyan@vidhiaagaz.com.

To submit your Manuscript for Publication in the **International Journal of Law Management & Humanities**, kindly email your Manuscript to submission@ijlmh.com.

An Empirical Study on the Solitary Confinement and a Comparison between Countries

SHERLY J.¹ AND HARINI E.²

ABSTRACT

In India there are various intensive orders gave by the court to the caught. However, the capital confinement of capital punishment is the best most outrageous controls. The bit of capital punishment is the solitary confinement. Solitary confinement is a kind of confinement where a detainee is withdrawn from any human contact, every now and again aside from people from prison staff, for 22–24 hours out of every day, with a sentence going from days to decades(Brinkley-Rubinstein and Johnson). It is generally used as a kind of control past detainment for a prisoner, ordinarily for encroachment of prison headings. In any case, it is moreover used as an additional proportion of security for weak detainees. By virtue of prisoners at high threat of suicide, it tends to be used to prevent access to things that could empower the prisoner to self-hurt. Regardless, this kind of order is incredibly intensive. The physiological effect of this order impact the minds of the repelled individuals. Later there isn't any increasingly solitary confinement gave regardless of the way that the individual presents a serious movement. There are various clarifications behind the execution and the rejection of the solitary confinement. The legitimate procedural execution is furthermore so veritable. In order to research this kind of control under law, an investigation has been made. Casing this paper we can find something about the solitary confinement.

Keywords: *solitary confinement, prison isolation, prison effects, conditions of confinement.*

I. INTRODUCTION

Solitary confinement is a kind of confinement inside which a prisoner is separated from any human contact, as a general rule aside from people from detain masters, for 22–24 hours step by step, with a sentence starting from days to decades. It is generally utilized as a variety of social control on the far side confinement for a prisoner, regularly for encroachment of prison rules(Mohamed et al.). Nevertheless, it's likewise used as an extra live of affirmation for weak detainees. inside the occasion of prisoners at high threat of suicide, it may be used to stop access to things that would enable the detainees to self-hurt. A sentence of solitary confinement can be

¹ Author is an LLM student at Tamil Nadu Dr. Ambedkar Law University, Chennai, TamilNadu, India.

² Author is an LLM student at Tamil Nadu Dr. Ambedkar Law University, Chennai, TamilNadu, India.

apportioned only for offenses under the remedial code. The control can be allowed for offenses under exceptional infringement (Shahzad Bokhary,1970). Solitary confinement reveals what the devastation brought by the torment of solitary confinement edify us with respect to being human(Brinkley-Rubinstein and Johnson). It battles that separation revealed the wise with others on which our existence as sense making creature depends.(Jackson)

Solitary confinement is past the political brutality (THE EXPERIENCE OF SOLITARY CONFINEMENT:). Solitary confinement when can be requested. The sentence of solitary confinement is a method of experiencing the sentence of thorough punishment. It's anything but a substantive sentence without anyone else's input. Solitary confinement is extremely uncommon and utilized for genuine and hazardous guilty parties. In spite of the fact that capital punishment is one of the previously mentioned six classes of punishments, it is rarely applied in the act of the legal punishment under Indian Penal Code.(Polizzi and David) (Polizzi 2017)

There are numerous new enhancements in the punishments and new alterations of segments including numerous adjustments in the sorts of punishment. To consider anything relating their training and faults , it is important to take an investigation on the cause and the past progression of the act of such punishment.(“Civil Rights--Eighth Amendment--Third Circuit Holds Parents of Mentally Ill Young Man Held in Solitary Confinement Stated Claims of Cruel and Unusual Punishment.--Palakovic v. Wetzel, 854 F.3d 209 (3d Cir. 2017)”; Francis and Gibson) Here this paper endeavors to learn regarding for what reason do the solitary confinement ought not be given, and for what reason do the act of such punishment is limited and not being used. This paper even attempts to learn about solitary confinement, to examine the impacts, effects of the solitary confinement, to look at the solitary confinement as a punishment in the present and the past cases in the Indian legal executive.(“Civil Rights--Eighth Amendment--Third Circuit Holds Parents of Mentally Ill Young Man Held in Solitary Confinement Stated Claims of Cruel and Unusual Punishment.--Palakovic v. Wetzel, 854 F.3d 209 (3d Cir. 2017)”). The aim of the paper is to find the impacts of the solitary confinement and to compare the solitary confinement in other countries.

(A) Objectives :

- To know about the solitary confinement.
- To know about the effects of solitary confinement.
- To analyse the impact of the solitarily confined prisoners .

(B) Research Questions:

1. Does solitary confinement is still prevailing in some parts of our country ?
2. Do you agree that solitary confinement of prisoners reduces crime rate?

(C) Review of literature:

In a research, Andersen (2000) met very nearly 133 detainees under solitary confinement and 93 from the non solitary confinement. He directed overviews with numerous survey and took the cooperation of the detainees (Andersen et al.). (Sastry 2005). The outcomes shows that the psychological instability is more with the individuals in the solitary confinement as the discipline given for the wrongdoing. What's more, the typical detainees were not so much rationally influenced. Andersen in his examination in 2000 previously utilized the term 'disorder' which implies the issues including brutal driving forces, ceaseless tiredness, complete breakdown of the self character, suicidal propensities and creating correspondence issues. These impacts were altogether taken into the researches for the productive end respect the solitary confinement. (O'Donnell)

Brodsky and Scogin (1988 , P 279) likewise bring up that the social disconnection is the primary driver for the negative psychological wellness impacts in single cell confinement. Brodsky tested the impacts by taking 69 detainees and requested to finish Isolation Sentence-Completion Test was to learn about the psychological articulation of the detainees. In the exploration he discovered that two – third of the detainees have psychiatric syndrome, 45% of them were with the anxiety and 36% of them were with the interminable misery. (Scogin)

The U.N. Board of trustees Against Torture has more than once censured the utilization of solitary confinement in the U.S. In 2011, The United Nations Submitted a provide details regarding torment cautioning that solitary confinement can add up to torment or remorselessness, barbaric or corrupting treatment when it is given as a discipline in the legal. End of solitary confinement in US penitentiaries. (Polizzi)

Danold O. Hebb (1951) also wanted to express how the sensory has been affected by the imprisonment especially Solitary Confinement. He also proved that their sensory were affected after the solitary confinement. Many researchers suggest that the solitary confinement has bad ill effects on the prisoners. ("Time Has Come to Save Mentally Ill Inmates From Solitary Confinement")

Barker the Southern Chiefs' Organization is in the process of discussing and implementing its own measures in the hopes of rehabilitating youth in their own communities has opposed to in correctional facilities such as pepper sprays or segregation. (Patterson)

"Fear doesn't rehabilitate our youth — love does," said Barker.

II. COMPARISON

(A) Solitary confinement in Germany :

German statute permits solitary confinement only when it is deemed indispensable, and even then, restricts it to three months a year.¹³ The British system is closer to Canada's, relying largely on the discretion of individual prison administrator, but its use remains relatively rare. (Committee on Causes and Consequences of High Rates of Incarceration et al.)

(B) Solitary confinement in France:

In France, the use of solitary confinement is subject to judicial review, both on its initiation and at thirty-day intervals thereafter; however, prison authorities often disregard these rules. All E.U. states are, in fact, subject to review under Article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms, but again, the application of that article may leave something to be desired. Denmark, in particular, uses solitary confinement liberally.(Foucault)

(C) Solitary confinement in Japan:

In 2003, Japan implemented a 60-day limit on solitary confinement, although conditions during confinement remain overwhelmingly strict. In Chinese prisons, solitary confinement is an accepted punishment even for minimal misbehavior, although it is theoretically limited under law to 15 days.(Conley)

(D) Solitary confinement in United States

The United States, meanwhile, has pioneered the practice of permanent solitary confinement in its "supermax" prisons, such that an estimated 80,000 people were in solitary confinement in the US in 2000. Shane Bauer, who spent 26 months in Iran's notorious Evin Prison, points out that in some ways conditions in American prisons are actually worse than those he faced: he had a proper mattress, a window, and limited access to a phone.(Conley)

(E) Solitary confinement in Canada:

It would appear that global approaches to the problem of solitary confinement vary significantly, yet most countries are far from achieving compliance with the UN Special Rapporteur on torture's proposed moratorium on any isolation lasting more than 15 days. If Canada can find ways to comply, it could serve as a progressive example of how states can avoid the systematic torture of their own citizens.(Reiter)

(F) Materials and methods :

The study deals with empirical research non-doctrinal study. It deals with both primary as well as secondary source of data and various secondary sources like books, articles, research papers etc. were used as reference. The study deals with survey method and the main tool for calculating or analysing the results in pearson chi-square table and the crosstabulation count. The method of collecting is through direct survey method by getting people's opinion and answers to the questionnaires.

Sampling Method:

Random sampling method was used for the purpose of this study.

Sample Size:

There are a total of 701 samples collected with regard to this study.

Independent variable:

Age, Gender, Education qualification.

Dependent Variable:

Solitary confinement is still prevailing in some parts of our country,

Reduction of crime rate due to solitary confinement of prisoners.

III. ANALYSIS AND DISCUSSION

TABLE 1

gender

	Frequency	Percent	Valid Percent	Cumulative Percent
Valid female	246	35.1	35.1	35.1
male	410	58.5	58.5	93.6
prefer not to say	45	6.4	6.4	100.0
Total	701	100.0	100.0	

From the above table it is understood that female are of frequency 246 out of 701 and percent of 35,1 out of 100 and valid percent of 35.1 out of 100 and cumulative percent of 35.1. Male are of frequency 410 out of 701 and percent of 58,5 out of 100 and valid percent of 58,5 out of 100 and cumulative percent of 93.6. People who prefer not to say are of frequency 45 out of

701 and percent of 6.4 out of 100 and valid percent of 6.4 out of 100 and cumulative percent of 100.0.

(A) Hypothesis

a. Null Hypothesis

There is no significant association between solitary confinement is still prevailing in some parts of our country and educational qualifications of the defendant.

b. Alternative Hypothesis

There is a significant association between solitary confinement is still prevailing in some parts of our country and educational qualifications of the defendant.

TABLE 2

Crosstab

Count

		Does solitary confinement is still prevailing in some parts of our country ?			Total
		yes	no	maybe	
gender	female	146	76	24	246
	male	134	210	66	410
	prefer not to say	6	25	14	45
Total		286	311	104	701

From the above table it is understood that among 246 Female responses, 146 people answered “YES” that the solitary confinement still prevails in some parts of our country and 76 people answered “NO” that the solitary confinement still prevails in some parts of our country and 24 people answered “MAYBE” that the solitary confinement still prevails in some parts of our country . From 410 Male responses 134 people answered “YES” that the solitary confinement still prevails in some parts of our country and 210 people answered “NO” that the solitary confinement still prevails in some parts of our country and 66 people answered “MAYBE” that the solitary confinement still prevails in some parts of our country. From 45 Prefer not to say responses 6 people answered “YES” that the solitary confinement still prevails in some parts of

our country and 25 people answered “NO” that the solitary confinement still prevails in some parts of our country and 14 people answered “MAYBE” that the solitary confinement still prevails in some parts of our country From the total sample 701, 286 people answered “YES” that the solitary confinement still prevails in some parts of our country and 311 people answered “NO” that the solitary confinement still prevails in some parts of our country and 104 people answered “MAYBE” that the solitary confinement still prevails in some parts of our country.

TABLE 3

Chi-Square Tests

	Value	df	Asymptotic Significance (2-sided)
Pearson Chi-Square	64.116 ^a	4	.000
Likelihood Ratio	64.543	4	.000
Linear-by-Linear Association	52.992	1	.000
N of Valid Cases	701		

a. 0 cells (0.0%) have expected count less than 5. The minimum expected count is 6.68.

From the above table it is clear that the chi square test value is less than 0.05. Hence the **ALTERNATIVE HYPOTHESIS** is accepted and the Null hypothesis is rejected.

(B) Hypothesis:

a. Null Hypothesis:

There is no significant association between the reduction of crime rate due to solitary confinement of prisoners .

b. Alternative Hypothesis:

There is a significant association between the reduction of crime rate due to solitary confinement of prisoners .

TABLE 4**Crosstab**

Count

		Do you agree that solitary confinement of prisoners reduces crime rate?				
		yes	no	maybe		
gender	female	126	90	30	246	
	male	152	194	64	410	
	prefer not to say	12	27	6	45	
	Total	290	311	100	701	

From the above table it is understood that among 246 Female responses, 126 people answered “YES” that the solitary confinement of prisoners reduces crime rate and 90 people answered “NO” that the solitary confinement of prisoners reduces crime rate and 30 people answered “MAYBE” that the solitary confinement of prisoners reduces crime rate. From 410 Male responses 152 people answered “YES” that the solitary confinement of prisoners reduces crime rate and 194 people answered “NO” that the solitary confinement of prisoners reduces crime rate and 64 people answered “MAYBE” that the solitary confinement of prisoners reduces crime rate. From 45 prefer not to say responses, 12 people answered “YES” that the solitary confinement of prisoners reduces crime rate and 27 people answered “NO” that the solitary confinement of prisoners reduces crime rate and 6 people answered “MAYBE” that the solitary confinement of prisoners reduces crime rate. From the total sample 701, 290 people answered “YES” that the solitary confinement of prisoners reduces crime rate and 311 people answered “NO” that the solitary confinement of prisoners reduces crime rate and 100 people answered “MAYBE” that the solitary confinement of prisoners reduces crime rate.

TABLE 5**Chi-Square Tests**

	Value	df	Asymptotic Significance (2-sided)
Pearson Chi-Square	17.877 ^a	4	.001
Likelihood Ratio	17.849	4	.001
Linear-by-Linear Association	11.180	1	.001
N of Valid Cases	701		

a. 0 cells (0.0%) have expected count less than 5. The minimum expected count is 6.42.

From the above table it is clear that the chi square test value is less than 0.05. Hence the **ALTERNATIVE HYPOTHESIS** is accepted and the Null hypothesis is rejected.

Indian landmark cases alluding solitary confinement

1. Sunil Batra v. Delhi Administration, 1979 SC

Supreme Court obviously clarified that the solitary or single cell confinement is earlier for the dismissal of the benevolence petitions aslike different cases by the President of India, and that was unlawful. For this situation the solitary confinement was given under the area 30 of subclass(2).

Here the Supreme Court says that the aftereffects of long solitary confinement are deplorable to the physical and mental sick well being for the individuals who are exposed to it. For this situation the court pronounces that the solitary confinement is canceled in UK however it was still by and by in U.S.A.

Here they proclaims there are some act of solitary confinement.

2. Unni Krishnan and Ors. v. Province of Andhra Pradesh and Ors., 1993 SC

According to the request from Supreme Court —Right against solitary confinement is one of the rights that falls under Article 21 (Right to Life) of the Constitution. For this situation, the Apex court pronounces that the right against solitary confinement falls under the Right to Life in Article 21 of the Indian Constitution.

3. T.V.Vatheeswaran V State of Tamil Nadu SC 1983

In T.V Vatheeswaran case, which the scholarly Senior Counsel for the candidate and the educated Amicus Shri Ram Jethmalani were set, the two-Judge Bench thought about whether the appealing party, who was indicted for the offense of homicide and was condemned to death in January 1975 and was additionally kept in solitary confinement for a long time alongside the substitution of the capital punishment. The Court previously confronted the thought of the litigant's supplication by mentioning numerous objective facts.

IV. RECOMMENDATION

There are many effects due to the solitary confinement as a practice of punishment in the judiciary. (“THE EXPERIENCE OF SOLITARY CONFINEMENT:”) There are psychological illnesses and physical illness suffered by the prisoners under the solitary confinement. The researches made by many researchers clearly stated that the prisoners who are under solitary confinement has been affected by Visual and hearing hallucinations, Hypersensitivity to noise and touch, Insomnia and many other sleeping sickness, Uncontrollable feelings of fear and death, increased rate of suicide by many deprivations, dangerous perceptions and many traumatic diseases and disorders.(Shalev)

Medical examination shows that the separation from significant human contact can cause 'disengagement disorder', the side effects of which incorporate uneasiness, sorrow, outrage, subjective unsettling influences, perceptual bends, distrustfulness, psychosis, self-damage and suicide(Shalev; Waldner). Drawn out seclusion can annihilate an individual's character and their emotional well-being and its belongings may keep going long after the finish of the time of isolation. (Bargu)

V. CONCLUSION

In this research it is analysed and found out that the person who are put in the solitary confinement suffers a lot of medical issues. Solitary confinement builds the danger of torment or abuse going unnoticed and undetected, and it can in itself establish torment and abuse, specifically where it is delayed or inconclusive. Any type of confinement ought to be utilized uniquely in very extraordinary conditions, if all else fails, for as short a period as could reasonably be expected, and with proper procedural defends set up. Where solitary confinement is utilized, jail systems must guarantee that detainees have significant social contact with others, for instance by: raising the degree of staff-detainee contact; enabling access to social exercises with different detainees and more visits; orchestrating inside and out chats with Psychologists,

Psychiatrists, strict jail work force and volunteers from the nearby network; keeping up and creating associations with loved ones; and by giving important in cell and out of cell exercises.

VI. REFERENCE AND BIBLIOGRAPHY

1. Andersen, H. S., et al. "A Longitudinal Study of Prisoners on Remand: Psychiatric Prevalence, Incidence and Psychopathology in Solitary vs. Non-Solitary Confinement." *Acta Psychiatrica Scandinavica*, vol. 102, no. 1, July 2000, pp. 19–25.
2. Bargu, Banu. *Starve and Immolate: The Politics of Human Weapons*. Columbia University Press, 2014.
3. Brinkley-Rubinstein, Lauren, and Terence Johnson. "Solitary Confinement and Health." *North Carolina Medical Journal*, vol. 80, no. 6, Nov. 2019, pp. 359–60.
4. "Civil Rights--Eighth Amendment--Third Circuit Holds Parents of Mentally Ill Young Man Held in Solitary Confinement Stated Claims of Cruel and Unusual Punishment.--Palakovic v. Wetzal, 854 F.3d 209 (3d Cir. 2017)." *Harvard Law Review*, vol. 131, no. 5, Mar. 2018, pp. 1481–88.
5. Committee on Causes and Consequences of High Rates of Incarceration, et al. *The Growth of Incarceration in the United States: Exploring Causes and Consequences*. National Academies Press, 2014.
6. Conley, Anna. "Torture in US Jails and Prisons: An Analysis of Solitary Confinement Under International Law." *ICL Journal*, vol. 7, no. 4, 2013, doi:10.1515/icl-2013-0402.
7. Foucault, Michel. *Discipline and Punish: The Birth of the Prison*. Penguin UK, 2019.
8. Francis, Sahar, and Kathleen Gibson. "Isolation and Solitary Confinement of Palestinian Prisoners and Detainees in Israeli Facilities." *Threat*, pp. 212–24, doi:10.2307/j.ctt183p121.24.
9. Jackson, Michael. *Prisoners of Isolation: Solitary Confinement in Canada*. University of Toronto Press, 1983.
10. Mohamed, Zameer, et al. "Time Matters: Point of Care Screening and Streamlined Linkage to Care Dramatically Improves Hepatitis C Treatment Uptake in Prisoners in England." *The International Journal on Drug Policy*, vol. 75, Nov. 2019, p. 102608.
11. O'Donnell, Ian. "Solitary Confinement." *Oxford Bibliographies Online Datasets*, 2013, doi:10.1093/obo/9780195396607-0110.
12. Patterson, Lindsey. *Fostering Strengths in Incarcerated Youth: The Development of a Measure of Psychological Empowerment in Oregon Youth Authority Correctional Facilities*. 2000, doi:10.15760/etd.1086.

13. Polizzi, and David. *Solitary Confinement: Lived Experiences and Ethical Implications*. Policy Press, 2017.
14. Polizzi, David. "The Developmental History of Solitary and Supermax Confinement: Toward a Phenomenology of the State of Exception." *Solitary Confinement*, 2017, doi:10.1332/policypress/9781447337539.003.0003.
15. Reiter, Keramet. "Solitary Confinement and Supermax Custody." *Routledge Handbook of Corrections in the United States*, 2017, pp. 382–89, doi:10.4324/9781315645179-35.
16. Scogin, Ron. "Isoenzymes of *Datura Meteloides* (Solanaceae). Developmental Patterns and Tissue Specificities." *Aliso*, vol. 8, no. 3, 1975, pp. 275–79, doi:10.5642/aliso.19750803.07.
17. Shaley, Sharon. *A Sourcebook on Solitary Confinement*. 2008.
18. "THE EXPERIENCE OF SOLITARY CONFINEMENT:" *Solitary Confinement*, pp. 1–18, doi:10.2307/j.ctt1t89f9n.5.
19. "Time Has Come to Save Mentally Ill Inmates From Solitary Confinement." *Human Rights Documents Online*, doi:10.1163/2210-7975_hrd-9970-20180321.
20. Waldner, Liz. "A Solitary and Semi-Musical Confinement." *The Iowa Review*, vol. 30, no. 2, 2000, pp. 100–100, doi:10.17077/0021-065x.5269.
