

Solitary Confinement: An Incongruity in the Indian Constitution

***Dr. Avni Sharma**

Abstract

India is recognized as a democratic parliamentary form of government and a secular federal republic. The supreme law of the nation is considered to be the Indian Constitution. It extends beyond laws passed by the government or the courts to include deeply ingrained customs, beliefs, and traditions within Indian society. The criminal justice system in India is thus heavily impacted by reformatory theories.

Solitary confinement functions more as a punishment than as a means of rehabilitation. In solitary confinement, inmates are kept apart from their fellow inmates and are completely cut off from society. The severe circumstances that inmates endure in solitary confinement may have detrimental impacts on their physical and emotional health. The Constitution constantly works to safeguard people's rights, even while they are incarcerated.

Solitary confinement was cited by the Supreme Court as being in violation of Articles 19 and 21 in a couple of the major instances. Article 21 talks more about living and less about freedom and total isolation. On the other hand, it can potentially lead to the authorities arbitrating the case against the prisoner, which would be a clear violation of the rule of law and against the inherent principles of human life and freedom.

The constitutionality of solitary confinement, its consequences on inmates' lives, and other reformatory themes are discussed in this study. Increasing public knowledge is the primary goal of this study.

Keywords: Reformatory Theory, The Indian Constitution, Solitary Imprisonment

INTRODUCTION: -

Human rights are considered to be fundamental rights that are essential to society and that are inherited by all people. They are also considered to be inalienable. Therefore, a welfare state has an obligation to defend these rights. These human rights are attempted to be protected by the United Nations Charter and the Universal Declaration of Human Rights in accordance with the Constitution's provisions. Every society has long recognized that the foundation of human rights jurisprudence is not just its citizens, but also the vast majority of people classified as accused, suspects, criminals, wrongdoers, and prisoners. These individuals are regarded as an integral part of society and are equally entitled to the same protections as those granted by the Indian Constitution and the state. They are not any less human than animals just because they are incarcerated.

Solitary Confinement: An Incongruity in the Indian Constitution

Dr. Avni Sharma

Furthermore, the purpose of the jail system is not to punish and inflict pain on people. However, its purpose is to cure, reform, and rehabilitate the inmates. It is important to note that the fundamental tenets of the prison system are to lessen the likelihood that the offender will commit the same crime again, to alter their perspective on other people, and to give them the right opportunities so that, upon their release, they can be properly rehabilitated in society. In a so-called reformatory criminal justice system, keeping an offender behind bars is inherently harmful to their rights, and separating them from other jails is a harsh kind of punishment.

According to the United Nations Standard Minimum Rules for the Treatment of inmates, or the "Mandela Rules," "confinement of prisoners for 22 hours or more a day without meaningful human contact" is known as solitary confinement.

As a result, solitary confinement is a kind of imprisonment in which the inmate is kept apart from all human interaction for 22 to 24 hours per day, with the exception of those from prison professionals. The punishment might range from a few days to several weeks. Although it is often used as a form of social control, the criminal justice system finds it rather contradictory. A person requires an environment with basic amenities like social connection to have better mental and physical health. When someone violates prison regulations and is placed in solitary confinement, there is a chance but no assurance that they won't repeat the behavior. However, when someone is placed in isolation, there is a chance that they will experience extreme distress and loneliness, which can be even more cruel.

HISTORY OF SOLITARY CONFINEMENT:

Solitary confinement dates back to the late 1700s, when Quakers promoted it as a way to shield prisoners from the widespread public humiliation and whippings of the day. Additionally, it was discovered that in 1829, the Eastern State Penitentiary in Pennsylvania started confining inmates in stone cells with only a Bible, which they used to pass the time and to confess their sins and mistakes, repent, and pray. However, they discovered that the inmates were killing themselves or developing social dysfunction, so they eventually stopped the practice. However, ten years later, in 1934, ALCATRAZ attempted solitary confinement once again, sending the most troublesome inmates to block D, where they were kept apart.

Solitary confinement was still seldom used until 1983, when inmates at Illinois' Marion Federal Prison murdered two guards in separate incidents at around the same time. Now, long after the murders had subsided, all of the inmates at the institution were placed in solitary confinement and held there. Consequently, Marion became the first "supermax" prison in America, with all of the convicts housed in their cells for twenty-three hours every day.

Supermax facilities, often referred to as control unit jails, were constructed all throughout the nation shortly after. Following that, a crime bill signed by President Bill Clinton provided federal funding to states that raised jail terms. The statute had the effect of encouraging additional states to build supermax prisons, which led to a significant rise in the number of inmates housed there.

Solitary Confinement: An Incongruity in the Indian Constitution

Dr. Avni Sharma

Solitary Confinement :

The practice of isolating a person in a confined cell for 22–24 hours per day, without any human contact, for a period ranging from days to months is known as solitary confinement. The phrase "solitary confinement" is seldom used in prisoner frameworks to refer to a jail of isolation or placement in a restricting home. The Indian Penal Code's Sections 732 and 743 provide for this discipline.

Solitary confinement sentences are based on charges that are necessary, resolved, and enforced by prison officials with little to no external supervision. There is a hearing process in many prison structures, however hearings are often impromptu. When prosecutors, judges, and juries are unavailable, jail officials step in, and inmates are seldom given a fair shot.

LIMITATION OF SOLITARY CONFINEMENT UNDER SECTION 73 AND 74 OF IPC:

If the court grants a sentence of isolation in connection with the death penalty, the confinement must never last longer than fourteen days straight, with breaks between the hours of solitary that are at least as long as those periods. Once the confinement is permitted, it may last longer than three months, but the isolation must never last longer than seven days in a single month of full confinement, with breaks between the hours of solitary that are at least as long as those periods. three months overall (Section 73).

I) 14 days straight, with 14 days in between at any rate.

7 days in a multi-month period with intervals of less than 7 days if the permitted confinement period exceeds 3 months (Section 74).

2. Solitary captivity. When someone is found guilty of a crime for which the court has the authority to sentence him to rigorous imprisonment under this Code, the court may, in its sentence, order that the offender be kept in solitary confinement for any portion or portions of the imprisonment to which he is sentenced, not exceeding three months in total, according to the following scale: a period of time not exceeding one month if the term of imprisonment shall not exceed six months; a period of time not exceeding two months if the term of imprisonment shall exceed six months and one [shall not exceed one] year; a period not exceeding three months if the term of imprisonment shall exceed one year.

3. Limit of solitary confinement:—When a sentence of solitary confinement is being carried out, the confinement cannot last longer than fourteen days at a time, with periods of solitary confinement separated by at least that length of time; if the sentence is longer than three months, the solitary confinement cannot last longer than seven days in any one month of the total amount of time given, with intervals between the periods of solitary confinement lasting at least that length of time.

Therefore, the following graphic provides a summary of the penalty associated with solitary confinement:

Solitary Confinement: An Incongruity in the Indian Constitution

Dr. Avni Sharma

Not more than	(i) 6 months	1 month of solitary confinement
	(ii) 1 year	2 months of solitary confinement
More than	1 year	6 months of solitary confinement

Motives for the placement of the individuals in solitary confinement:

Detainees may be placed in isolation under separation for a variety of reasons, including serious ones like preventing them from fighting with other inmates or less serious ones like sassing a gatekeeper, getting caught with a pack of cigarettes, attempting to overthrow a watchman, and so forth. On other times, inmates are placed in isolation for not breaking any rules at all. Isolation has been used by prisons to monitor gang warfare or to punish inmates for just speaking with a suspected gang member. Solitary confinement has also been utilized by prisons as a form of punishment for political action.

THE LONG-TERM SOLITARY CONFINEMENT'S IMPACT:

In addition to confinement, even if a person is left alone and lonely, he may experience a decline in his mental health and begin acting strangely. Based on this, one could speculate as to what the condition of such a prisoner would be if they were kept alone and inside four walls for an extended period of time. In such a situation, a person just eats, sleeps, and repeats in a much smaller area, often with poor illumination, which causes him to get ill. The fact that they are idle and that they are not even offered any educational or vocational training indicates that the system only uses play as a form of punishment and reform, which implies that there is a good chance that the inmates will repeat the same behavior after being released from custody. The inmates attested to being housed in solitary confinement in 5 by 8-foot cells without fans, from which they were only allowed to leave for a few minutes each day to fill up water bottles and clean the area outside.

This led to societal problems including unease, despair, and discontent, which caused some of them to become aggressive.

It might lead to the following health issues:

Issues with sight and sound

Sleeplessness and persistent irritability that leads to aggression

Tendencies toward suicide and post-traumatic stress disorder

Solitary Confinement: An Incongruity in the Indian Constitution

Dr. Avni Sharma

Comparative Analysis

The Canadian government rejected any precautions or significant alternatives to solitary confinement on December 11, 2014. A jury recommended limiting the sentence to 60 days each year in the death of Ashely Smith. The UN Special Rapporteur on torture, former Supreme Court Justice Louise Arbour, and the Canadian Medical Association all expressed these suggestions in their remarks.

Because of its harshness, William IV abolished the kind of it that England's ruler George II had implemented, which included sentencing murderers in a display. Solitary isolation was used almost entirely in early American experiments, with the idea that offenders should have the opportunity to reflect on their transgressions and strengthen their relationship with God. Alexis de Tocqueville visited one of these prisons in 1826 and said, "This experiment ... devours the victims incessantly; it does not reform, it kills," when it became evident that the true effects of this segregation were much more detrimental. The U.S. Supreme Court had conclusively seen by 1890 the degree of psychological damage brought on by solitary imprisonment. Additionally, Canada formally restricted the use of solitary confinement as a form of discipline to three days in 1933. Although the circumstances during imprisonment are still much worse, Japan utilized this tool in 2003 to restrict solitary confinement to 60 days. Even though isolation is legally limited to 15 days, it is a recognized punishment in Chinese prisons for even minor infractions.

In contrast, the United States has implemented a maximum degree of permanent solitary confinement, to the point that it is estimated that 80,000 people were in isolation in the US in 2000—a staggering amount. Shane Bauer, who spent 26 months in Iran's infamous Evin Prison, draws attention to the fact that, while he was provided with suitable bedding, a window, and limited access to a telephone, the circumstances in American prisons are actually worse than those he faced. on the same page.

CONDITION OF THE CELL

A solitary confinement inmate requested injunctive relief in *Wright v. McMann*. The lawsuit claims that his overheated cell only featured a sink and toilet for daily refreshment, illustrating the conditions faced by solitary inmates.

He was kept in this cell for thirty-three and twenty-one days throughout the winter, given the worst meals, without mattresses or soap, and just wearing his underpants (and not even that for the first eleven days). The case was remanded for further hearings after the Second Circuit ruled that, if proven, these accusations constituted a sufficient demonstration of cruel and unusual treatment. Later, the accusations were proven true.

INDIAN HISTORICAL CASES ABOUT SOLITARY CONFINEMENT

- The Supreme Court ruled in *Unni Krishnan & Ors. v. State of Andhra Pradesh & Ors.* that one of the rights guaranteed by Article 21 (Right to Life) of the Constitution is the "right against solitary confinement."

Solitary Confinement: An Incongruity in the Indian Constitution

Dr. Avni Sharma

- In this case, the Supreme Court rules that the right to life guaranteed by Article 21 of the Indian Constitution include the privilege against isolation.
- In *Sunil Batra v. Delhi Administration*, the Supreme Court made it clear that the President of India had previously dismissed the humanitarian petitions as being similar to other instances because to the unique or single cell repression, which was unlawful. Section 30 of subclass (2) was used to provide isolation in this case. In this case, the Supreme Court declares that prolonged isolation has serious negative impacts on the physical and emotional health of those who experience it. In this case, the court rules that while isolation was abolished in the UK, it was still common in countries like the US. Here, they declare that certain acts of isolation have occurred.
- *Tamil Nadu State v. T.V. Vatheeswaran*. The two-judge bench considered whether the appealing party, who was charged with homicide and sentenced to death in January 1975, was also detained in solitary confinement for more than eight years in addition to the commutation of 869 death sentences, could appeal the case of T.V. Vatheeswaran, in which the candidate's learned Senior Counsel and the scholar Amicus Shri Ram Jethmalani were placed.

Arguments against solitary confinement under the Constitution

1. It transgresses the fundamental idea of inherent human dignity.
2. It restricts people's fundamental human rights.
3. It results in bodily pain and suffering as well as several serious mental illnesses.
4. In many situations, it is useless.

Arguments in support of the Solitary Confinement

1. There is an urgent need to stop a few isolated suicides.
2. It is an extra precaution that is essential for keeping other inmates at bay.
3. To make up for infractions of the jail rules.

The rights of prisoners in the United States and in prison

The U.S. Constitution guaranteed each of them certain fundamental rights. Their rights, such as the freedom from cruel punishment and other severe penalties, are explained in this page. While incarcerated, detainees are granted some privileges that are substantially similar to those of regular people. The Indian Constitution and the Prisons Act of 1894 both provide these rights. The Prisons Act of 1894 and the Indian Constitution both provide these privileges. People who are detained have some rights and retain the privileges guaranteed by the constitution.

According to the ruling in *State of Andhra Pradesh v. Challa Ramkrishna Reddy*¹³, the inmate is entitled to all of his fundamental rights, with the exception of situations in which his freedom has been unavoidably restricted. According to the Supreme Court, a prisoner who is incarcerated or a convicted felon does not cease to be a person; he values all of his basic rights guaranteed by the

Solitary Confinement: An Incongruity in the Indian Constitution

Dr. Avni Sharma

Indian Constitution, including the right to life. According to Article 14 of the Indian Constitution, no person shall be denied equal protection under the law or equality before the law within the borders of India. Thus, one of them should be addressed with its elements in Article 14. All inmates must abide by Article 14, which gives the prison administration the authority to choose the kind of inmates it will house. Every Indian citizen is granted about six freedoms under Article 19 of the Indian Constitution. The captives are not allowed to enjoy all of these freedoms, including certain possibilities. In view of this, Special Issue 871 of the Universal Journal of Pure and Applied Mathematics was published. However, the freedom of expression and speech, as well as the ability to join an organization. Every Indian person is protected by Article 21 of the Constitution, which prohibits seizures even in cases of emergency. Two concepts—the right to life and individual liberty—are outlined in this article. It is evident from Article 21 of the Indian Constitution that both the general public and the people who run the prison may access it.

CONTRASTING SOLITARY CONFINEMENT EFFECTS

Despite the effects of isolation, which is often administered because of the detainees' multiple mental and behaviours, Samantha San learnt about isolation in her 2014 study on the psychological effects of isolation on prisoners. In order to identify the medical issues that are unique to isolation, this analysis compares the isolation discipline with the other forms of inmate detention. The purpose of that evaluation was to determine if isolation inmates exhibit dysfunctional behavior by conducting research worldwide. Zinger and Wichmann completed an investigation of one of these seat markings in 2001. The effects on wellbeing did not significantly vary even if they followed the people who were released from isolation. Koenig and Reiter (2015). Like other basic inmates, their welfare was deemed acceptable. In terms of isolation strength, this was a completed differentiation study. In any event, there was a problem: the members were only granted limited privacy and no longer had full confidence. The inmates were not in the safest of places and may be in danger.

SOLITARY CONFINEMENT ABOLITION

An agent known as punishment is given to the offender in order to make them acknowledge the mistake they have done and to entertain certain social trait they possess. These penalties should be administered in a way that discourages the offender from committing the same offense again. In this sense, the punishment should be teachable, not cause the inmates to become really and intellectually lazy, or negatively impact their bodily or mental health. Many of the people who received the penalty were talking about ending this kind of discipline. Many experts looked at the concept and choice of isolation in an attempt to reverse this penalty. According to Brodsley and Scogin, social detachment is one of the main causes of the detrimental effects single cell confinement has on psychological health, and there is a chance that the person will eventually become accustomed to this kind of segregation. Brodsley examined the effects by asking 69 inmates to complete the Isolation Sentence-Completion Test in order to ascertain the inmates' psychological states. During the assessment, he found that 36% of the inmates were furnished with constant sorrow, 45% of them were experiencing stress, and two-thirds had an unforgiving psychological illness state.

Solitary Confinement: An Incongruity in the Indian Constitution

Dr. Avni Sharma

CONCLUSION

Based on the research and study mentioned above, it can be said that solitary confinement is more of a kind of torture than a form of punishment. In no way does solitude promote reformation; on the contrary, the more socialized a someone is, the greater their possibilities of reformation. Bars prevent people from being socialized, which increases their propensity for crime.

A person's rights, such as the right to equality under Article 14 and the right to life and personal liberty under Article 21, are violated in addition to any physical abnormalities they may experience. Therefore, it is a significant flaw in the criminal justice system even if the constitution permits it. A viable substitute for solitary confinement is to reward good behavior by reducing punishment and providing spiritual education to the inmates. It is necessary to build an age-grouping jail system to shield kids from more serious offenders. The offender must experience positive improvements as a result of incorporating these into their everyday routine.

***Associate Professor
Department of Sociology
Samrat Prithviraj Chauhan Government College
Ajmer (Raj.)**

References

1. Basu, D. D. Introduction to the Constitution of India. LexisNexis, 2021.
2. Ahuja, J. K. "Solitary Confinement and its Psychological Impact on Prisoners." Indian Journal of Psychiatry, vol. 60, no. 3, 2018, pp. 355-360.
3. Jain, M. P. Indian Constitutional Law. Wadhwa & Co., 2022.
4. Human Rights Watch. Breaking the Silence: Solitary Confinement in India. Human Rights Watch, 2019.
5. Sharma, R. K. "Cruel and Inhuman Punishment: An Analysis of Solitary Confinement under Article 21." Journal of Indian Law and Society, vol. 11, no. 2, 2020, pp. 25-42.
6. Supreme Court of India. Sunil Batra v. Delhi Administration. AIR 1980 SC 1579.
7. United Nations General Assembly. The Mandela Rules: United Nations Standard Minimum Rules for the Treatment of Prisoners. United Nations, 2015.
8. Pillai, P. S. A. Criminal Law. Eastern Book Company, 2019.
9. National Human Rights Commission of India (NHRC). Annual Report: Prison Conditions in India. NHRC, 2020.
10. Dhavan, R. "The Constitutional Prohibition on Torture and Solitary Confinement in India." Economic and Political Weekly, vol. 52, no. 38, 2017, pp. 15-18.