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Solitary Confinement: Is it considered Torture or Aid to the Prisoners?

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Solitary confinement [SC] has been one of the most important factors for punishing or making criminals good-minded in American prisons in the early 1800s. There are many criticisms and debates around this solitary confinement. It also raises some questions, will SC bring any change in minds of the criminal? Will SC provide humanitarian grounds to prisoners? In this journal article, we have discussed the background and history, and also it sheds a light on everything that prisoners experience and everything about solitary confinement. We have taken many statements from different case laws, and various acts such as the prison act. we have discussed the effects that the prisoners experience while they are kept in a fully packed closed room. This study shows that SC doesn't have any significant effect on violent people but instead torture.

Keywords: *solitary confinement, paranoia, amicus curie, genitourinary.*

INTRODUCTION

Solitary confinement is the type of prison where the prisoners have no contact with other people or other cellmates. It is like just keeping the prisoner alone in that room for some specific time. A prison may enforce strict rules and regulations with the top security and observation on the

prisoner.¹ They are confined to the cell for 22 to 24 hours. The duration of time in which the person experiences this confinement depends from person to person. Some of them spend hours and days while others spend weeks and months. In some extreme cases, people can spend decades as we take in 2016 Albert Woodfox was able to see society after the splurge spending of more than 40 years in isolation. Other names for solitary confinement include lockdown, isolation, and segregation.

HISTORY OF SOLITARY CONFINEMENT

This idea of isolating criminals came into India in the late 1700s and was proposed by Quakers. He saw it as a humanitarian way to let evildoers see the mistake of their ways. The Walnut Street Jail became the 1st one to separate violent offenders in Philadelphia, US. Then it started to spread to other countries also, it was believed that time that the person who commits violent crimes should be put separately so that they will remind of their mistake and penting their crimes. But the outcomes were far more dangerous. Many developed mental effects so the Risks of solitary confinement were recognized by US Supreme Court in 1890 and tried to gradually decrease it. In India, many cases deal with solitary confinement.

USE AND PURPOSE OF SOLITARY CONFINEMENT

The first and most important of this solitary confinement is, it makes the wrong person realize his mistake and tries to transform him into a good citizen in society. The use of SC has been growing at an alarming rate because many think that it increases systemwide order, safety, and control over people. Solitary confinement is not only in response to the most dangerous behaviours but also to the low-level and nonviolent behaviours. Prisoners can be placed here for many reasons like fighting with inmates or arguing with the higher authority or not listening to instructions and doing some unwanted things in prison. They use solitary confinement as a tool

¹ Sarthak Gupta, 'Right Against Solitary confinement: A detailed study' (*iPleaders*, 16 December 2020) <<https://blog.iplayers.in/right-solitary-confinement-detailed-study/>> accessed 18 November 2022

to control rude people and gangs and also for disciplinary segregation, temporary segregation, and administrative segregation.

IS THIS CONFINEMENT CONSIDERED TORTURE?

It has both effects on the person who experiences it like if we take the changing part of the view, the person rectifies his mistake and tries to avoid doing it next time so that he will again not go into it and the other side of it is like hell to the people because the room which they live in will not at least have windows or anything it is just like a closed room so many effects causes his health and other things such as no proper sunlight, no proper human life, sometimes they get only bread and water and also “ THE U.N CONVENTION AGAINST TORTURE’ defines torture as any state-sanctioned act by which severe pain or suffering is intentionally inflicted on a person for information or punishment or any intimidation or a reason based on discrimination. It also amounts to cruel, inhuman, and considered as torture.”

EFFECTS OF SOLITARY CONFINEMENT

Physical effects: Inmates subject to solitary confinement may experience adverse physical effects.² Psychological trauma is the obvious side effect and they may experience chronic headaches and develops genitourinary problems, hypersensitivity to light and noise, sleep problems, people lose weight due to lack of conditions in jail, and many other ill problems.

Mental effects:³ prisoners who are confined in a closed room may develop many mental effects like losing the mind where he or she will not be in a state of mind to calculate things and may have long-term psychological effects and also according to some studies men develop post-traumatic stress disorder, uncontrollable feelings of rage and fear, Insomnia and paranoia, increased risk of suicide.

² [Ramin Skibba](https://knowablemagazine.org/article/society/2018/hidden-damage-solitary-confinement), ‘THE HIDDEN DAMAGE OF SOLITARY CONFINEMENT’ (*Knowable magazine*, 22 June 2018) <<https://knowablemagazine.org/article/society/2018/hidden-damage-solitary-confinement>> accessed 18 November 2022

³ Margaret Fosmoe, ‘Solitary confinement’ (*Notre Dame Magazine*, 2020) <<https://magazine.nd.edu/stories/solitary-confinement/>> accessed 18 November 2022

SOCIAL PROBLEMS

Due to the confinement of these prisoners, they not only suffer while being in that but are also released outside because they can't adjust to the outside people or they will be in a huge dilemma to face society, They seek out confined small places because the public areas overwhelm their sensory stimulation, Even they find it difficult to reopen their mind in the society because of the time they be in the confinement and especially they may change their evil-mindedness but they can't think in a reasonable way as a normal person. They cannot maintain a strong bond with outside people because even the people outside have some different opinions on these people and may not get over it.

COST OF SETTING UP THE THIS CELL

The cost of setting up this type of cell is higher than the average prison because it needs more space where only one member needs to be fit, in the way there need to set up a lot of them so the cost of setting up is high. As per the study, the average and approximate cost of setting up this solitary confinement in a year for the taxpayers is \$75000.

POSSIBLE ALTERNATIVES

- The first and foremost alternative which can we think of is that the person lacks a lot of social relationships and family relations so to avoid these problems there should be frequent family visitations to keep up their morale and there should be counselling sessions by the jail authorities.
- The one who got a long-term sentence may develop a lot of things in his mind like aggression, pain, and many others so we should make sure that there should be some therapy hours and behaviour increment programs.
- They should reduce the full supermax solitary population by half and implement ' informal sanctions of restricted privileges rather than solitary as punishment for every infraction.
- Instead of making prisoner keeping in that cells for hours, the jail authorities should teach them values and make them know about the outside world.

- There should be a Progressive reform that is limiting the use of solitary confinement to some extent and can make prisoners free from the effects which they get usually.
- There should be a check on prisoners and if there is any possibility of rehabilitating that person then he should be shifted from there also other parameters should be taken into consideration like he should not abscond, or any other things like that.

CASE LAWS

*Sunil Batra v Delhi Administration and others:*⁴

It's a landmark judgement that helped secure the fundamental rights of prisoners, further it exposed the poor treatment of the prisoners with the subject being torture.

FACTS OF THE CASE

The petitioner Sunil Batra was a convict serving a death sentence at Tihar central jail. He wrote a letter to the judge of the Supreme Court about the conditions of prisons and the assault taking place against the prisoners. This letter converted into a habeas corpus writ and extended to a public interest litigation after this court appointed the respected DR YS Chintal and Shri Mukul Mudgal as amicus curie and authorized them to visit the prison and check the conditions and meet the prisoners. The amicus curie after visiting the prison and examining it. They confirmed that the prisoners sustained serious anal injuries and many other problems in the prison.

JUDGEMENT

The judgment was that the Supreme Court has the power to intervene and restore the fundamental rights of prisoners and protect them. The court made clear that it should not torture anyone without explicit permission or order from the apex court, But the court made also clear, that the person under death sentence may run the risk of being a danger so keeping them in a separate cell is necessary while keeping their rights in view.

⁴ *Sunil Batra v Delhi Administration* (1980) SCR (2) 557

*Kishore Singh Ravinder dev v State of Rajasthan*⁵

“ It is observed that solitary confinement should only use in an extreme situation and it is a brutal way of torturing.”

FACTS OF THE CASE

Jugta ram when he was going with a liquor bottle, constable Kishore sighed saw him in the way, and approached him about the same. When he told that he was carrying the bottle for someone else, the accused Kishore Singh asked to deliver that bottle to him or else give him money but he refused to do so, during this scuffle, the liquor bottle fell. Kishore Singh took him to the police station and tortured him a lot even cutting his penis.

JUDGEMENT

The court held that Jugta ram was wrongfully booked in the barrack and his penis was cut the medical evidence, is seen and established that there was permanent deprivation of penis with a sharp-edged weapon, and also the testimony was given by DR.madan Mohan so finally Kishore Singh and other appellants have been convicted for the charge of criminal conspiracy punishable under section 120B IPC and the court held that use of the third-degree method is violative of article 21.

⁶THE PRISONS ACT, OF 1894

The Prison Act, of 1894 is one of the oldest pieces of legislation in India dealing with laws enacted about prisons in India. This Act defines the term prison inclusively as buildings with the purpose to detain prisoners.

Chapter 2 deals with maintenance and officers of appointment of staff including superintendent, medical officer, jailer, and other officers.

⁵ *Kishor Singh Ravinder Dev Etc v State of Rajasthan* (1981) SCR (1) 995

⁶ Prisons Act 1894

Chapter 3 deals with the duties of the officers of the prison as enumerated under sections 8 to 20. Chapter 4 is all about the admission [that is taking in of prisoners], removal, and discharge of prisoners. Chapter 5 deals with the discipline of prisoners. In this, we have a total of 62 sections and 12 chapters.

SUMMARY: CONCLUDING REMARKS

After a thorough analysis of the facts and cases included here, we can conclude that solitary confinement is considered torture and made prisoners mentally ill. ⁷The findings also suggest that the consequences are extremely dangerous to the well-being of inmates for the prisoners it will be like monotonous, boring, or even soul-crushing experience of being locked up in solitary confinement and even many human rights advocates and activists oppose the practice, and try to save the prisoners. It was reasoned that if the purpose of Solitary confinement is to improve the behaviour of inmates, then this correctional practice should be evaluated to determine if it is effective in achieving its goal or not. They tend to be austere in nature because they do all the things in that 6 feet or 8 feet cells that is eat, sleep and defecate. Even if they put them in this cell the authorities should make sure that they are not sitting idle and given some education or vocational training. The use of SC segregation may be appealing to some correctional authorities because of its simplicity but as the findings from this, SC does not appear to be an effective strategy for reducing inmate misconduct. Finally, we can conclude that this type of confinement is grim, dehumanizing, and depriving environments of people.

⁷ Justice John Glasworthy, *A Critical Study by DR. Raghukul Tilak* (7th edn, 2020) 170