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**SOLITARY CONFINEMENT IN EUROPEAN PRISONS – A
VIOLATION OF THE RIGHT NOT TO BE SUBJECTED TO
TORTURE OR TO CRUEL, INHUMAN OR DEGRADING
TREATMENT OR PUNISHMENT?**

Master's thesis

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I hereby declare that I have compiled the thesis independently and all works, important standpoints and data by other authors have been properly referenced and the same paper has not been previously presented for grading.

The document length is 19675 words from the introduction to the end of the conclusion.

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(date)

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ABSTRACT

Solitary confinement takes place in prisons and while solitary confinement might protect prisoners from other inmates who are dangerous to others or violent, it is not known how prisoners in Europe should be held in solitary confinement so that the right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment would not be violated. So, the aim of this thesis is to find out how prisoners in Europe should be held in solitary confinement so that the right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment would not be violated. The author will do this by analyzing EU and international legislation as well as some court decisions. In addition to that, the author will analyze legislation as well as court decisions from the United States of America regarding solitary confinement and will make a comparison of solitary confinement in prisons between Europe and the United States of America. The author will also propose some solutions to the solitary confinement legal problem in Europe.

This research uses the qualitative research method where scientific books, scientific articles, EU and international legislation, other countries' legislation as well as court decisions are used.

The hypothesis of this thesis is that prisoners in Europe should be held in solitary confinement for a very specific amount of time and not longer and that way the right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment would not be violated.

Keywords: Solitary confinement, European prisons, violation, right, torture.

INTRODUCTION

Solitary confinement is putting imprisoned people in segregation cells and holding these prisoners in these cells for 22 to 24 hours a day.¹ Imprisoned people are put in solitary confinement for various reasons. In some cases, imprisoned people are put in solitary confinement as penalty because of a disciplinary violation. Also, certain prisoners are put in isolated confinement due to the fact that prison officials think that it is absolutely necessary. It is frequently said that this makes the prison more secure. In addition to that, a lot of prisons use a prisoner isolation form to house imprisoned people who are in protective custody and who just cannot be held secure elsewhere in the prison.² So, even though solitary confinement can assist to maintain security in prisons, some people dispute that it is morally wrong and it can cause mental risks. Also, there are some who have characterized prisoner isolation as inhuman and cruel punishment as well as torture. Furthermore, concerns have been raised regarding the lawfulness of solitary confinement.³

Although solitary confinement in prisons can keep prisoners safe from other violent or dangerous inmates, it can also create health issues for people and it is not known whether solitary confinement in European prisons is actually legal or not.

The aim of this master's thesis is to find out how prisoners in Europe should be held in solitary confinement so that the right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment would not be violated. The author will do this by analyzing EU and international legislation as well as some court decisions. In addition to that, the author will analyze legislation as well as court decisions from the United States of America regarding solitary confinement and will make a comparison of solitary confinement in prisons between Europe and the United States of America. The author will also propose some solutions to the solitary confinement legal problem in Europe. In order to achieve the aim of the master's thesis, the following research question will be answered:

¹ Siennick, S. E., Picon, M., Brown, J. M., & Mears, D. P. (2022). Revisiting and Unpacking the Mental Illness and Solitary Confinement Relationship. *Justice Quarterly*, 39(4), p. 772.

² Haney, C. (2018). Restricting the Use of Solitary Confinement. *Annual Review of Criminology*, 1, p. 287.

³ Siennick *et al.*, *supra nota* 1, p. 772.

1. How should prisoners in Europe be held in solitary confinement without violating the right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment?

The hypothesis is that prisoners in Europe should be held in solitary confinement for a very specific amount of time and not longer and that way the right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment would not be violated.

The qualitative research method will be used in this thesis where scientific books, scientific articles, EU and international legislation, other countries' legislation and court decisions will be used because these sources will allow the author to conduct his research and find an answer to his research question.

The thesis is divided into four parts. Chapter one talks about punishment in prisons. This chapter begins with some other punishment forms that are in prisons. The first one is physical force against prisoners and the second one is overcrowding in prisons. Then, coronavirus is talked about and that is followed by alternatives to imprisonment. After that, it is all about solitary confinement. Firstly, it is explained what solitary confinement is. Then, history of solitary confinement is discussed, including when and where it originated from. Following that, solitary confinement in the present is described and this chapter ends with the purposes and effects of solitary confinement.

Chapter two is about the use of solitary confinement. This chapter talks about solitary confinement in different types of prisons. It starts with the description of solitary confinement in supermax prisons. Then, solitary confinement in women's prisons is discussed and this chapter ends with solitary confinement in juvenile prisons.

Chapter three is about the legality of solitary confinement. This chapter starts with human rights, which talks mostly about the history of human rights. Then, the right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment is discussed, which talks mainly about legislation. This chapter ends with violation, which for the most part is about court cases.

Chapter four, which is the final chapter is about the main findings and the proposed solutions. In this chapter, the author talks about the most important findings from his research as well as makes some proposed solutions to the solitary confinement legal problem in Europe.

1. PUNISHMENT IN PRISONS

Prisons are closed places of confinements where prison staff as well as prisoners are working and living. Prison workers make decisions that influence the lives of inmates, while inmates cannot take part in those decisions.⁴ Prisoners have to comply with the rules that are in the place of confinement. If prisoners do not act in accordance with the rules, then there are cases where prison workers either threaten the prisoners or use force against the inmates.⁵ One other form of punishment in prisons is overcrowding because if there are more inmates in a prison than there should be, then that can affect prisoners psychologically and it can also have an effect on a prisoner's behavior.⁶ Finally, there is solitary confinement and prisoners are isolated from other inmates when they do not act in compliance with the rules of the prison.⁷

1.1. Physical force against prisoners

Prison officers have official power in prisons and they often have to make inmates do something that they do not really want to do. Prison officers have control strategies that they can use in prisons. They can use control by depending on their power. Also, prison officers can try to convince inmates to follow directions. Convincing contains, for instance, telling inmates the benefits of complying with prison rules as well as the probable effects of indiscipline. Furthermore, incentives can be offered to ensure conformity with rules. Some of these incentives may be, for instance, doing some kind of a favour or giving a little present. Moreover, collaboration can be acquired via manipulation that contains submitting inmates with deceptive or wrong info. In addition to that, prison officers can use force if the before mentioned strategies do not work out.⁸ The final control strategy that prison officers can use is that they can force to make inmates to

⁴ Meško, G., & Hacin, R. (2019). Social Distance Between Prisoners and Prison Staff. *The Prison Journal*, 99(6), p. 708.

⁵ *Ibid.*, p. 710.

⁶ Huey, M. P., & McNulty, T. L. (2005). Institutional Conditions and Prison Suicide: Conditional Effects of Deprivation and Overcrowding. *The Prison Journal*, 85(4), pp. 493-494.

⁷ Steiner, B., & Wooldredge, J. (2018). Prison Officer Legitimacy, Their Exercise of Power, and Inmate Rule Breaking. *Criminology*, 56(4), p. 755.

⁸ Wortley, R. (2002). *Situational Prison Control: Crime Prevention in Correctional Institutions*. Cambridge: Cambridge University Press, p. 127.

comply with prison rules.⁹ The use of force is unavoidable in a place of confinement, however, excessive dependence on the use of force in order to preserve order is not justified since prison guards have restricted sanctions in their hands as well as since excessive dependence on the use of force can diminish prisoners' beliefs concerning the legality of prison guards' authority.¹⁰

When it comes to the different types of physical force that prison officers use against prisoners, then there are first of all blows, body as well as head hits and pushes. These kind of physical force types are meant for small offences between prison guards and prisoners like inmates being aggressive towards officers, prisoners not following prison rules or inmates disputing with a prison guard.¹¹ One other type of physical force that officers use against inmates takes place when prisoners disobey even more severe prison rules like threatening a prison guard or disputing a prison guard's power. An example of this kind of physical force is using riot batons against prisoners.¹² There is another kind of physical force and that is a very serious beating. These kind of beatings take place rarely and beatings like this happen when prisoners break out or try to break out of prison or when they assault a prison worker.¹³ Also, there are prisons where prison officers punish prisoners by hitting their feet. This kind of punishment hurts the prisoner a lot and it can actually injure an individual permanently.¹⁴ This type of punishment is named as the falanga.¹⁵

1.2. Overcrowding

Overcrowding in prisons takes place when the prison population increases over the aims of managers as well as beyond the designed and scheduled volume of prisons. An example of this is when a prison is made to hold a specific number of prisoners, however, it finds itself with way more inmates than what it planned.¹⁶ Prison overcrowding is always looked at negatively. A lot of people view this as a huge obstacle to humane housing of prisoners.¹⁷ Also, it is not unexpected that many people are aware of overcrowding in prisons since the number of prisoners nearly at all

⁹ *Ibid.*, p. 128.

¹⁰ Steiner, Wooldredge, *supra nota* 7, p. 755.

¹¹ Marquart, J. W. (1986). Prison Guards and the Use of Physical Coercion as a Mechanism of Prisoner Control. *Criminology*, 24(2), p. 351.

¹² *Ibid.*, p. 352.

¹³ *Ibid.*, p. 353.

¹⁴ Rejali, D. (2007). *Torture and Democracy*. Princeton, New Jersey: Princeton University Press, p. 273.

¹⁵ *Ibid.*, p. 274.

¹⁶ Wener, R. E. (2012). *The Environmental Psychology of Prisons and Jails: Creating Humane Spaces in Secure Settings*. New York: Cambridge University Press, p. 139.

¹⁷ Bonta, J., & Gendreau, P. (1990). Reexamining the Cruel and Unusual Punishment of Prison Life. *Law and Human Behavior*, 14(4), p. 350.

times appears to increase over the capacity as well as because administrators frequently say that the rising number of inmates are an issue for efficient and secure management of places of confinement.¹⁸ Workers in places of confinement need to deal with overcrowding's effects on a regular basis and it is usual to notice that many people say that overcrowding can result in prison riots.¹⁹ The lawful, governmental as well as the social forces who demand that the amount of inmates in prisons be expanded have at all times been way more resistant compared to those who attempt to reduce rates of imprisonment. Also, the grown use of narcotics as well as immigration increases usually result in more arrests which lead to more inmates in places of confinement.²⁰

When it comes to the effects of prison overcrowding, then overcrowding in prisons can give rise to mental problems among a lot of prisoners. On the other hand, these mental issues are determined by the age of the inmate as well as by the seriousness of the situation. Overcrowding can also cause prisoners to act more aggressively.²¹ Regarding the mental problems that overcrowding might bring about, then one of them is stress because of the rising amount of prisoners in a room.²² Also, the more prisoners there are in a place of confinement, the more prison breakouts might occur.²³ Furthermore, if there are more inmates in a prison than there should be, then that can raise the probability of suicide. In addition to that, being able to get access to education as well as therapy could be more restricted in a prison where there are more prisoners than there should be and that can also add to the possibility of a suicide taking place.²⁴ Moreover, overcrowding can damage the safety that prison workers can provide.²⁵

1.3. Coronavirus

A little bit time before the start of april 2020, more than 20 percent of people in the entire world was in some kind of isolation and about 33 percent of people in the whole world had some kind of movement limitations, which resulted in a lot of individuals to compare this isolation to incarceration.²⁶ The coronavirus has depicted a lot of danger to public safety universally since it

¹⁸ Wener, *supra nota* 16, p. 137.

¹⁹ *Ibid.*, p. 138.

²⁰ *Ibid.*, p. 137.

²¹ Bonta, Gendreau, *supra nota* 17, p. 355.

²² Wener, *supra nota* 16, p. 147.

²³ *Ibid.*, p. 148.

²⁴ Huey, McNulty, *supra nota* 6, p. 494.

²⁵ Wener, *supra nota* 16, p. 149.

²⁶ Batelaan, K. (2023). "It's like living in a black hole": Reevaluating the use of solitary confinement during COVID-19. *Journal of Human Rights*, 22(5), p. 626.

started. Because of the danger of the coronavirus to people, states worldwide have been met with commands to remain at home, the excess capacity of medical institutions as well as enormous amount of people being unemployed.²⁷ During the coronavirus, a lot of people said that they are sad as well as concerned about this virus mainly on social media. Furthermore, many psychological health specialists reported a rise in people who need psychological health services as well as said that after the coronavirus, there will be a lot of psychological health crises, especially in mental diseases as well as people killing themselves in the near future. Psychological health crises at the time of global diseases have been observed at the time of other worldwide viruses like the flu in Spain in the year 1918. This flu in Spain resulted in a lot of people killing themselves and many believe that it was because of these individuals being segregated from others as well as being scared at the time of this virus. At the start of the 21st century, the SARS virus took place in Hong Kong and a lot of people killed themselves because of this disease. In addition to that, around 33 percent of people who killed themselves due to this virus were in segregation.²⁸

The USA was definitely not ready for the consequences of the coronavirus as it surpassed a lot of other states in the world in confirmed cases.²⁹ There have been many people who have killed themselves because of the coronavirus in America, the UK and in other states in the world that have been reported in the mass media. Furthermore, there were way more calls to suicide prevention hotlines in America at the time of the coronavirus. The increasing of stress-related disorders as well as people killing themselves has been tied to factors containing segregation, fright of viruses as well as money problems. At the time of as well as after the coronavirus, there is a possibility that the amount of people killing themselves will grow in a lot of states worldwide. A rise in the amount of people killing themselves is a big issue in America. Since America had one of the biggest amount of coronavirus cases as well as deaths, there is a possibility that there will be a rise in people killing themselves due to the coronavirus.³⁰

One factor that adds to the psychological toll on individuals is not being able to communicate with others. In addition to that, even though medical institutions have resumed to take care of sick persons, it is not quite the same when it comes to psychological health facilities, the outcome of this is that individuals who have psychological health issues just wait in hospital emergency rooms

²⁷ Hughes, M. H., & Prior, N. (2021). Impacts of Incarceration on Health Focusing on Minority Males: Considerations for COVID-19 and Future Pandemics. *Journal of Contemporary Criminal Justice*, 37(4), p. 506.

²⁸ Batelaan, *supra nota* 26, p. 626.

²⁹ Hughes, Prior, *supra nota* 27, p. 506.

³⁰ Batelaan, *supra nota* 26, p. 626.

that are full of persons so they can receive the assistance they require, which could be a discouragement for a certain amount of individuals to get resources. Even though telemedicine services as well as suicide hotlines are within reach even up to this day, they take a lot more waiting time than they did before because the need for them has grown. This implies that some people who are thinking about killing themselves are not able to get help.³¹ In terms of places of confinement and the coronavirus, then since the start of this virus, it has been one of the biggest problems in prisons.³²

America has one of the biggest amount of prisoners in the entire world and during the coronavirus, those inmates were at a very big risk to get infected with this virus. A lot of very bad illnesses among prisoners together with overcrowded inmates, limited access to hygiene facilities as well as reserves, not enough room for segregation procedures, the recognition of the coronavirus in places of confinement became extremely serious at the time of this pandemic. Even more worrying was that places of confinement could not be closed, which enabled the passing of the coronavirus to the surrounding people via prison guests, guards as well as convicts.³³ In order to fight against the passing of the coronavirus, a lot of places of confinement tried their best to stop COVID-19 from getting into these prisons by containing these outbreaks via limited access to confinement places as well as testing convicts frequently. In spite of these attempts as well as the passing of the coronavirus, American places of confinement still continued to be not ready for the effect that the coronavirus had on the inmates as well as on prison workers.³⁴ Because there is a lot of aggressive conduct in places of confinement, inmates and prison workers are at a bigger risk for the passing of very bad diseases that are not usually diagnosed in the general population, like tuberculosis.³⁵ Having too many convicts in places of confinement, which does take place in the United States, makes it troublesome to comply with the social distancing as well as quarantine recommendations that can decrease the passing of the coronavirus.³⁶

Right before the start of January 2021, more than a quarter million inmates as well as prison workers got infected with the coronavirus and about 1700 died from it in the United States.³⁷ At

³¹ *Ibid.*, p. 627.

³² Smith, M., & Glidden, M. D. (2022). COVID-19 in Prisons: State Health Care Contracting and the Pandemic Behind Bars. *Journal of Correctional Health Care*, 28(3), p. 164.

³³ Hughes, Prior, *supra nota* 27, p. 506.

³⁴ *Ibid.*, p. 507.

³⁵ *Ibid.*, p. 508.

³⁶ Smith, Glidden, *supra nota* 32, p. 164.

³⁷ Warf, B. (2021). The Coronavirus Pandemic and American Neoliberalism. *Geographical Review*, 111(4), p. 501.

the time of the coronavirus, comparisons were made between isolating yourself from others in order to protect you from the virus and segregation cells in places of confinement. That being said, these two situations are not exactly the same. Not like inmates who are in a confinement place with other strangers, people who were in segregation to protect themselves from the virus communicated more with individuals who are close to them and in addition to that, they noticed the absence of their relatives as well as friends more compared to convicts in prisons. Furthermore, people who were separated from others so as to defend themselves from the coronavirus spent smaller amount of time reflecting about their liberty as well as requiring control in their life, even if they felt not as free as they did before, their feeling of liberty was still bigger compared to convicts in places of confinement, because they are still able to organize their everyday routines. Since inmates have a lot of severe psychological health problems, regular visits from their family members are a big support for them. In addition to that, prison visits do not just give psychological aid to convicts, a lot of inmates depend on these visits for important things like cash as well as hygiene supplies that are given to convicts by relatives or charities. If a prisoner visit by a relative gets revoked, then that leaves individuals with unresolved matters regarding the health of their family members as well as aid systems, like sacred and educational programs, also, meetings with attorneys. Moreover, lockdowns in places of confinement restricted the work of supervision as well as observation of the treatment of inmates. In terms of comparing prisoners in confinement places to people who are in segregation due to a virus, then these individuals who isolate themselves because of a virus still have access to rooms in their homes as well as access to hygiene products. On the contrary, in confinement places, access to toilet paper is restricted.³⁸

In terms of COVID-19, then there were some places of confinement at the time of the coronavirus that decreased their populations a little bit, but the stability as well as the passing of the virus still continued.³⁹ Prior to the coronavirus, there were about 60 000 inmates in isolation cells in the United States. In 2023, about 300 000 convicts in places of confinement in America are segregated from others. For the most part, convicts are not able to leave their cells for food, workout or get visited by their friends or family members. When the coronavirus comes to an end, people who are not in places of confinement will probably go back to a life with unlimited movement, while convicts in confinement places will carry on to live with restricted motion and do not have a lot of control in their lives.⁴⁰ At the time of the coronavirus, the psychological burden of segregation on

³⁸ Batelaan, *supra nota* 26, p. 631.

³⁹ Warf, *supra nota* 37, p. 501.

⁴⁰ Batelaan, *supra nota* 26, p. 632.

people has given promise to prison activists that this grown awareness will highlight the use of isolation cells in places of detention in America as well as in Canada. Even though segregation at the time of the coronavirus has definitely been difficult, individuals have been imprisoned to their homes that usually contain a kitchen, a bathroom with hygiene supplies, and further rooms to walk around in, also the capability to go out of the house and to supermarkets and apothecaries at the time of even the most severe isolation measures. Furthermore, even though physical distancing as well as restrictions on the amount of meetups have stopped physical contact for some individuals, they have still been allowed to see their close ones insofar as they obey public health recommendations, and in situations where that is not able to be done, using a phone or a computer to get in contact with others assists to keep individuals connected.⁴¹

Regarding the coronavirus, the danger of being put in an isolation cell, especially for the aim of quarantining, can be regarded as well as treated as a bigger danger than an individual's vulnerability to the possibly deadly COVID-19 itself. The use of isolation cells in places of confinement, except if it is demanded by a person, is not voluntary. Convicts are not just segregated from other inmates, it is also a possibility that their visits by their relatives get cancelled and for that reason they are distanced from their close ones. In addition to that, inmates who are segregated from others in confinement places miss out on other benefits as well, like access to a shower, the ability to call someone as well as being able to go outside and get some fresh air.⁴² In terms of the coronavirus, COVID-19 in places of confinement does not only endanger inmates, it also is a threat to prison guards, people visiting the prison as well as other prison workers.⁴³ In America, some places of confinement have been under pressure to allow inmates a sooner release to fight the passing of the coronavirus, however, legal advocates have preserved that the amount of people being released has not grown. One more problem that is concerning is if inmates who do get released are being screened for coronavirus before going back to their family and friends.⁴⁴

1.4. Alternatives to imprisonment

⁴¹ *Ibid.*, p. 633.

⁴² *Ibid.*, p. 635.

⁴³ Warf, *supra nota* 37, p. 501.

⁴⁴ Batelaan, *supra nota* 26, p. 637.

Alternatives to imprisonment include a lot of plans to decrease levels of places of confinement. One very important alternative to places of confinement is definitely community service.⁴⁵ It is actually not easy to identify precisely the start of community service. The thought of doing useful work as a penalty has a long history in the majority of states. Community service took place prior to as well as at the time of the Second World War. Back during that time, judges commanded lawbreakers to do useful community work as part of stipulations of trial period.⁴⁶ Official community service started in America in the year 1966. Back then, judges ordered a big amount of individuals condemned of traffic violations to do community service as a penalty. Doing useful community work began in England a little bit before the start of the 1970s.⁴⁷ Doing useful community work has increased quickly in America as well as in a lot of other countries. A little bit before the start of the 1980s, doing useful community work also took place in Canada, New Zealand and in some other countries. During the 1980s, this kind of work also happened in a few states in Europe, like in Portugal, Denmark, France as well as in a couple of other states.⁴⁸

When it comes to states like Spain as well as Finland, then doing useful community work was not implemented extensively until the 1990s. Finland swiftly accomplished a great amount of useful community work orders every year as well as was capable to prevent a large proportion of short-term sentences in places of confinement. Spain, however, was capable to entirely carry out useful community work as an included demand for suspended short incarcerations or as punishment in its own right from the year 2008. This kind of implementation was able to be done after useful community work had also been established as the other option or as an extra punishment for an amount of restricted crimes, which includes traffic violations.⁴⁹ In terms of benefits of useful community work, then it is able to decrease recidivism. Secondly, it is able to decrease expenses since incarcerating an individual costs quite a bit actually. In addition to that, it gives another penalty for misdemeanor courts that are not satisfied with prison or a fine. While there are benefits about useful community work, there are also some negatives. The first negative about this is that there are claims that it is carried out in a way that is not fair, also, some individuals get discriminated while doing this work. The security of the public, the abilities as well as the

⁴⁵ Austin, J., & Krisberg, B. (1982). The Unmet Promise of Alternatives to Incarceration. *Crime & Delinquency*, 28(3), p. 376.

⁴⁶ Davis, J. R. (1991). Community Service As an Alternative Sentence. *Journal of Contemporary Criminal Justice*, 7(2), p. 107.

⁴⁷ *Ibid.*, p. 108.

⁴⁸ *Ibid.*, p. 109.

⁴⁹ Faraldo Cabana, P. (2020). Paying off a fine by working outside prison: On the origins and diffusion of community service. *European Journal of Criminology*, 17(5), p. 635.

behaviors of the criminals, the severity of the crime as well as the availability of the useful community work has to be taken into consideration. One more issue with this is the amount of time required to complete it.⁵⁰

Sentences to useful community work establish that criminals have to do certain amount of unpaid work for nonprofit or public agencies.⁵¹ The understanding of useful community work was reinforced when civil society began to get structured around leisure as well as spare time. If people do not see spare time as a desirable commodity, then the missing of it is not able to be viewed as an essential element of a criminal sentence. The increasing commodification of leisure has led to a progressive rise in the necessity to do more work in order to get more money. One after another, this change has added worth to spare time as well as grown the disciplinary bite of a punishment imposed on spare time. With its beginnings strongly set in the basis of disciplinary modernism, useful community work can, in this sense, be redefined as well as adjusted along a novel continuum of penalty within which it is seen as a severe as well as quite cheap sanction for individuals who are at fault of less severe crimes. The clear display of disciplinary credentials truly changed into an important part of the search for legality of useful community work in the United Kingdom as well as in America. This development decreased the possibility of cutting down the use of places of confinement since useful community work did not succeed at redirecting otherwise prison-bound criminals from institutions. It was used not so much as the other option to places of confinement than as the other option to other non-custodial punishments: in some situations the novel measure was included to or substituted a less suppressive sentence, making a rise in both punishment as well as expenses. It was like this in countries like Wales as well as England and in these states the rise in punishments occurred mainly at the cost of fines, which experienced a substantial decline at the time of the period. In this sense, the possibility of community service as the other option to incarceration became certainly less essential than its retributive attributes. As expected, this promoted the novel profile of useful community work as a novel independent punishment, beyond its traditional role as a replacing punishment for default incarceration as well as short punishments in confinement places.⁵²

The reasoning behind useful community work was significantly distinct in other states that also experienced the disciplinary shift like Germany, however, in spite of that did not have frameworks

⁵⁰ Davis, *supra nota* 46, p. 110.

⁵¹ Austin, Krisberg, *supra nota* 45, p. 378.

⁵² Faraldo Cabana, *supra nota* 49, p. 636.

of close collaboration with the public. The thought that the public participates in solving criminal issues that the country is not able to settle itself is extremely embedded in the lawful, political and cultural context of Wales as well as England. In states like these, public obviously indicates to the fact that not only is this punishment carried out out of the place of confinement, but its implementation includes several forms of participation as well as aid by the public to integrate criminals into society again.⁵³ Community service is viewed as a tempting form of sanction in that it makes it simpler to rehabilitate criminals by preventing incarceration and by making available a symbolic reparation for the harm created.⁵⁴ Community service is not the only alternative to imprisonment, there is also electronic home arrest and the use of it began in the year 1983. This kind of arrest is actually a very popular punishment in America.⁵⁵

While electronic house monitoring was initially used in the 1980s, it has been used a lot more in the previous decade, increasing to more than 100 000 people on electronic house monitoring across the United States.⁵⁶ The use of the electronic house monitoring is increasing in every state in America. The electronic house monitoring program in Cook County is one of the biggest in America with over a couple of thousand individuals observed every day. Between 2013 and 2014, Cook County grew the amount of people on electronic house monitoring by a whole lot, also, some changes were made to bails in the year 2017 and that increased the rise of electronic house monitoring even more as the other option to a money bail. The debate over electronic house monitoring in Cook County floats between quite a few conceptions of control as well as sanction. Program administrators have sometimes talked about electronic house monitoring as a straight alternative to imprisonment and in other times they have depicted it as a less disciplinary punishment that is equal to the discomfort of paying bond or being on trial period. There is no explicit agreement on which objectives of the criminal justice system electronic house monitoring is planned to accomplish. The outcome is that electronic house monitoring is anticipated to complete every objective and is carried out at several stages of the process, containing pretrial monitoring, trial period, parole as well as punishment in itself. In Cook County, pretrial electronic house monitoring is usually designated at a bail hearing after a detention. It is able to serve as a condition of release or as the other option to prison both for people who are rejected bond as well

⁵³ *Ibid.*, pp. 636-637.

⁵⁴ *Ibid.*, p. 638.

⁵⁵ Brown, M. P., & Elrod, P. (1995). Electronic House Arrest: An Examination of Citizen Attitudes. *Crime & Delinquency*, 41(3), p. 332.

⁵⁶ Kirk, G. (2021). The Limits of Expectations and the Minimization of Collateral Consequences: The Experience of Electronic Home Monitoring. *Social Problems*, 68(3), p. 643.

as for individuals with expensive bonds. When it comes to electronic house monitoring, then people have to carry an ankle monitor for 24 hours a day. Every person who is given electronic house monitoring is processed in the place of confinement, after that they are given time to search for a relative or some kind of a different authorized spot that will accommodate them. However, that spot has to have a landline telephone connection to have a communication with the receiver box. A contract is signed with a third-party firm and that firm does the observation and calls are made to the box itself if an infringement is discovered. The costs that are related to this unit are evaded for those who are thought of as indigent and that takes place around 75 percent of the time.⁵⁷ Over time, electronic home confinement has become more and more popular.⁵⁸

Some people were actually interviewed about electronic house monitoring and about 20 percent of these individuals who were on pretrial electronic house arrest every day in Cook County were allowed to go out of their place of residence for work. The majority of people who were interviewed either got sacked or took leaves from their places of work when they were put on electronic house arrest.⁵⁹ Individuals who are under electronic house arrest are given approval to work at the discretion of a judge. Being refused motion for work was a very well-known difficulty that the interviewees faced in keeping employment. In addition to that, employment on electronic house monitoring was limited via program demands on the timing of the job as well as the geographic location. Allowed employment in this case is work that does not surpass 40 hours a week as well as is located in just one place.⁶⁰ Supporters of electronic house arrest argue that it enables people to remain in their own place of residence as well as keep their family ties, however, the majority of interviewees stated that remaining in their own place of residence was not a choice. Half of the interviewees said that they were not able to stay in their place of residence. Even though a house is the place for punishment when it comes to electronic house arrest, the program structure limits the definition of satisfactory housing situations. People who are on electronic house arrest have to have a constant place of residence to remain in and that place must have a telephone, running water as well as heat. A legal resident who has a valid identification listing the location of the house has to be there when the person is dropped off, also, they have to give their permission to permitting the person to live in that house. Demands like the ones just mentioned necessitate people have strong connections to relatives who have the financial resources to help them.⁶¹ The

⁵⁷ *Ibid.*, pp. 645-646.

⁵⁸ Brown, Elrod, *supra nota* 55, p. 333.

⁵⁹ Kirk, *supra nota* 56, p. 650.

⁶⁰ *Ibid.*, p. 651.

⁶¹ *Ibid.*, p. 652.

use of electronic home monitoring has increased mainly because of there being way too many inmates in places of confinement.⁶²

1.5. Definition of solitary confinement

Segregation is very important as well as fundamental to every aspect of incarceration. At the end of the day, confinement is segregation from relatives and public. One of the most important aims of imprisonment is the requirement to separate the person from the community so that they would not be able to break the law anymore. Segregation means that a person is separated from the community, however, not usually separated from other inmates in a place of confinement.⁶³ When an inmate is separated from others in a prison, then that is called solitary confinement.⁶⁴ Solitary confinement is the captivity and segregation of inmates from other convicts for at least 22 hours a day.⁶⁵

Solitary confinement is also known as either by isolation in prisons or segregation in prisons. At times using these names is just different in different countries.⁶⁶ That being said, prison workers especially do not really like the name “solitary confinement“ and they want it to be called something else. It is because changing the name of solitary confinement would allow prison workers to reply to judicial disputes criticizing and denouncing their prison isolation practices by telling them that they do not put inmates in isolation in prisons anymore, and for that reason any criticisms would not be effective anymore.⁶⁷

Prisoners are usually put in solitary confinement for severe rule violations.⁶⁸ In addition to that, some inmates are put in isolation if they are way too harmful either to other prisoners or themselves. Also, convicts who are psychologically ill are also put in prison segregation.⁶⁹ However, segregation in prisons can affect the mental health of prisoners.⁷⁰

⁶² Brown, Elrod, *supra nota* 55, p. 333.

⁶³ Wener, *supra nota* 16, p. 161.

⁶⁴ *Ibid.*, p. 162.

⁶⁵ Rubin, A. T., & Reiter, K. (2018). Continuity in the Face of Penal Innovation: Revisiting the History of American Solitary Confinement. *Law & Social Inquiry*, 43(4), p. 1607.

⁶⁶ Wener, *supra nota* 16, p. 162.

⁶⁷ Shalev, S. (2022). 30 years of solitary confinement: What has changed, and what still needs to happen. *Torture*, 32(1-2), p. 154.

⁶⁸ Wener, *supra nota* 16, p. 162.

⁶⁹ Shalev, *supra nota* 67, p. 148.

⁷⁰ Wener, *supra nota* 16, p. 170.

1.6. History of solitary confinement

Solitary confinement started in the 18th century, in the 1790s to be more precise and it first took place in the Walnut Street Jail where a few prisoners were isolated from the rest of the inmates.⁷¹ This place of confinement was constructed with the aim of not only penalizing lawbreakers but also of restoring them back to normal so that they would not break the law anymore. Convicts were segregated from others in prisons since it was truly believed that solitary confinement would make prisoners regret the crimes that they had committed and would make them understand that they have to change and be better citizens.⁷²

In 1826, the Cherry Hill prison was built and the convicts in that prison were not allowed to talk and they were also held in solitary. This kind of place of confinement actually was an inspiration to other prisons all over the world. However, these kind of prisons caused inmates to have many health problems.⁷³ In the 1830s, there were statements that inmates who were segregated from others in confinement places had many psychological illnesses. Some prisoners had gone completely insane and some experienced delusions.⁷⁴ As health as well as judicial authorities started to see that isolation in prisons did not succeed at its planned aim and brought about pain and psychological issues, places of confinement stopped segregating prisoners from other inmates.⁷⁵ So, from 1830s to 1880s many prisons left solitary confinement behind.⁷⁶ In 1913, isolating convicts from other inmates in prisons was officially deserted.⁷⁷

Even though segregating inmates from other prisoners in places of confinement disappeared for a while, then that did not last very long.⁷⁸ In 1934, the Alcatraz prison was opened.⁷⁹ The main aim of the Alcatraz prison actually was not to just treat prisoners in a more severe and punitive way. The fundamental objective of the Alcatraz prison was literally to punish prisoners. Until this moment, segregating inmates from other convicts in prisons was used in particular cases but

⁷¹ Reinert, A. A. (2018). Solitary Troubles. *Notre Dame Law Review*, 93(3), p. 938.

⁷² Story, B. (2014). Alone inside: solitary confinement and the ontology of the individual in modern life. *Geographica Helvetica*, 69(5), p. 357.

⁷³ Bennion, E. (2015). Banning the Bing: Why Extreme Solitary Confinement Is Cruel and Far Too Usual Punishment. *Indiana Law Journal*, 90(2), pp. 746-747.

⁷⁴ Story, *supra nota* 72, p. 357.

⁷⁵ Cloud, D. H., Drucker, E., Browne, A., & Parsons, J. (2015). Public Health and Solitary Confinement in the United States. *American Journal of Public Health*, 105(1), p. 19.

⁷⁶ Bennion, *supra nota* 73, p. 747.

⁷⁷ Story, *supra nota* 72, p. 357.

⁷⁸ Cloud *et al.*, *supra nota* 75, p. 19.

⁷⁹ Polizzi, D. (2017). *Solitary confinement: Lived experiences and ethical implications*. Bristol, UK: Policy Press, p. 24.

Alcatraz's main goal was to segregate prisoners from other inmates. Prisoners who were physically aggressive toward others or convicts who tried to break out of the prison were put in unique solitary confinement cells.⁸⁰ However, a couple of decades after Alcatraz was opened, people who were against solitary confinement started to criticize and condemn the methods that the Alcatraz prison used against its inmates. Because of this, in 1963, the Alcatraz prison was shut down. A couple of months after this, a novel prison was opened in the city of Marion. When the Alcatraz prison was closed, then many of the prisoners who were in that prison were taken to other confinement places. Convicts who were not moved to somewhere else were imprisoned in the new Marion prison.⁸¹

In the 1960s, isolating convicts from other inmates in prisons came back once again.⁸² This kind of practice in prisons really started to broaden in the middle of the 1960s since it was a reaction to grown physical behavior in places of confinement. Prisons started to gradually segregate inmates from other convicts even longer and there was less and less human contact between isolated prisoners and staff.⁸³ From the beginning of the 1980s, solitary confinement in prisons has become one of the quickest increasing conditions of imprisonment.⁸⁴ This is because, from the second half of the 1970s, the number of inmates in prisons started to increase very quickly.⁸⁵ One other reason is because there was a lot of violence in prisons and isolating convicts from other inmates was the prison staff's response to that.⁸⁶

1.7. Solitary confinement nowadays

Nowadays, isolating prisoners from other inmates in prisons is mainly done to punish prisoners. Inmate segregation from others in prisons is done the most in America. The amount of convicts who are isolated from others in prisons in the United States of America is almost the same as the number of prisoners in the whole UK, where approximately less than 500 prisoners are segregated from other convicts at any moment.⁸⁷ There are about 80 000 prisoners isolated from other convicts

⁸⁰ *Ibid.*, p. 25.

⁸¹ *Ibid.*, p. 26.

⁸² Story, *supra nota* 72, p. 357.

⁸³ Reinert, *supra nota* 71, p. 940.

⁸⁴ Story, *supra nota* 72, p. 357.

⁸⁵ Bennion, *supra nota* 73, p. 747.

⁸⁶ *Ibid.*, p. 750.

⁸⁷ Charleroy, M., & Marland, H. (2016). Prisoners of Solitude: Bringing History to Bear on Prison Health Policy. *Endeavour*, 40(3), p. 144.

in prisons in America.⁸⁸ The amount of prisoners who were segregated from other inmates from the year 1995 to 2005 grew by 40%. Even in prisons where the number of inmates has decreased lately, the amount of isolated convicts has increased. One example of this is that, from the year 2008 until 2013, the amount of prisoners segregated from other inmates increased by 17%.⁸⁹

Lately, isolating prisoners from other convicts in prisons has received criticism in America.⁹⁰ In the summer of 2013, about 30 000 convicts in the state of California took part in one of the biggest hunger strikes that has ever happened in California. These inmates were against prisoner segregation in places of confinement. Actually, there were a couple of strikes like this one that took place in the year 2011. In 2011, approximately 12 000 inmates did not eat anything in order to show people that segregating convicts from other inmates in prisons is an issue.⁹¹ Journalists in the US and in other countries noticed this and then some states in America made a couple of changes to inmate isolation from other convicts in prisons. For example, in some states, psychologically sick inmates were no longer put in isolation. Also, in some states, convicts were no longer segregated from others in places of confinement for as long as they were before. In addition to that, some states started to alleviate the cruel conditions that were in prisoner isolation cells. Then again, there were states who did not change anything.⁹²

These days, like it was in the 1800's, convicts in solitary confinement are not allowed to talk to other inmates and they also do not have access to their hobbies.⁹³ Convicts in solitary confinement are usually held in a very little prison cell for about 22 hours a day. In the prisoner isolation cells, there are no windows and food is given to prisoners who are isolated from others via a little door slot.⁹⁴

1.8. Purposes of solitary confinement

⁸⁸ LaPlant, K. M., Fairbanks, B. R., & Bolsen, T. (2020). Locked in a Box: How Activist Art Affects Opinions about Solitary Confinement. *New Political Science*, 42(3), p. 289.

⁸⁹ Cloud *et al.*, *supra nota* 75, pp. 18-19.

⁹⁰ Rubin, Reiter, *supra nota* 65, p. 1611.

⁹¹ Story, *supra nota* 72, p. 355.

⁹² Rubin, Reiter, *supra nota* 65, pp. 1611-1612.

⁹³ Charleroy, Marland, *supra nota* 87, p. 144.

⁹⁴ LaPlant *et al.*, *supra nota* 88, p. 289.

Inmates are put in segregation cells in prisons for many purposes. Firstly, to control prisoners who are dangerous and who cause harm to others.⁹⁵ So, many people think that those prisoners who are physically harmful to others are put in isolation cells in prisons. While that may be the case, in several countries, the major part of convicts in isolation cells in prisons are not physically violent towards others, but they are put in isolation cells for small rule violations.⁹⁶ Actually, a lot of inmates are put in segregation cells in prisons for an intolerable amount of small rule infringements.⁹⁷

Another purpose for isolating inmates from other convicts in prisons is that there are prisoners who want to be protected from harm and being in an isolation cell enables them to achieve that.⁹⁸ Also, prisons sometimes segregate inmates from others so that they could carry out some kind of investigations. In addition to that, at times there are convicts in prisons who are put in isolation cells since they are witnesses and the prison wants to prevent that some other prisoners might influence the witness before the court case.⁹⁹

One more purpose for segregating inmates from other convicts in prisons is that there is a very big amount of prisoners who are put in isolation cells since they are psychologically sick and a lot of the symptoms of very serious psychological sickness can make it extremely tough to comply with prison rules.¹⁰⁰ Furthermore, there is a monumental amount of prisoners who are put in isolation cells since they are part of a gang.¹⁰¹

1.9. Effects of solitary confinement

Putting and holding inmates in isolation cells in prisons can have harmful effects on prisoners. Segregating convicts from other inmates in prisons can give rise to emotional harm as well as mental suffering.¹⁰² For example, solitary confinement can cause prisoners to have delusions as

⁹⁵ Bennion, *supra nota* 73, p. 752.

⁹⁶ Cloud *et al.*, *supra nota* 75, p. 20.

⁹⁷ Bennion, *supra nota* 73, p. 752.

⁹⁸ Tayer, L., Einat, T., & Antar, A. Y. (2021). The Long-Term Effects of Solitary Confinement From the Perspective of Inmates. *The Prison Journal*, 101(6), p. 653.

⁹⁹ LaPlant *et al.*, *supra nota* 88, p. 293.

¹⁰⁰ Bennion, *supra nota* 73, p. 752.

¹⁰¹ Cloud *et al.*, *supra nota* 75, p. 20.

¹⁰² Haney, C. (2003). Mental Health Issues in Long-Term Solitary and “Supermax” Confinement. *Crime & Delinquency*, 49(1), p. 130.

well as irrational thinking.¹⁰³ Also, segregation cells in prisons can give rise to amnesia and nervousness among inmates.¹⁰⁴ Furthermore, isolating convicts from other prisoners can bring about eating disorders, insomnia as well as anger among inmates.¹⁰⁵ So, isolation cells in places of confinement can make prisoners go completely insane.¹⁰⁶ That can decrease the ability of inmates to follow commands.¹⁰⁷

Segregation cells in places of confinement can make prisoners hurt themselves and some might even attempt suicide. In addition to that, some inmates might assault prison workers.¹⁰⁸ However, all of these effects are different for different prisoners. Then again, the possibility of being affected in a bad way by being in an isolation cell in a prison is still enormous. Also, isolation cells are not the same in different prisons. In some segregation cells, there is no sound or light at all. In other isolation cells, there is way too much light. However, different sensorial aspects like the ones just mentioned are still detrimental to people's mentality.¹⁰⁹

A large amount of convicts in isolation cells are in pain and those inmates who already have a psychological sickness before being segregated from others have a bigger possibility of this pain intensifying into something that is way more serious. Inmates who have frequent mood swings as well as those who are always very sad have the biggest possibility of this pain intensifying even further. A lot of inmates, like the ones just mentioned, are probably incapable of tolerating segregation cells.¹¹⁰ Human beings have to do something physically as well as psychologically in order to stay physically as well as psychologically healthy. In other words, people have to move around and they also have to do some kind of physical activity and that way they can continue to function like they usually do. Segregation cells where there are very serious limitations can have a negative effect on inmates' welfare. Prohibiting convicts to do regular as well as essential human activity puts them in danger of mental pain.¹¹¹

¹⁰³ Simes, J. T., Western, B., & Lee, A. (2022). Mental health disparities in solitary confinement. *Criminology*, 60(3), p. 541.

¹⁰⁴ Charleroy, Marland, *supra nota* 87, p. 144.

¹⁰⁵ Haney (2003), *supra nota* 102, p. 130.

¹⁰⁶ Rogers, R. (1993). Solitary Confinement. *International Journal of Offender Therapy and Comparative Criminology*, 37(4), p. 341.

¹⁰⁷ Simes *et al.*, *supra nota* 103, p. 541.

¹⁰⁸ Haney (2003), *supra nota* 102, p. 131.

¹⁰⁹ Haney (2018), *supra nota* 2, p. 289.

¹¹⁰ Haney (2003), *supra nota* 102, p. 142.

¹¹¹ Haney (2018), *supra nota* 2, p. 294.

Prison workers should check on inmates who are segregated from others in places of confinement and check their psychological well-being, however, since convicts in isolation cells do not really do anything, then the chances for the worsening of psychological well-being of inmates to be followed by prison workers are very restricted.¹¹² Also, a lot of prisons do not allow anyone to visit inmates who are in segregation cells. This indicates that some convicts in isolation cells do not get to interact with anyone. However, human interaction is very important because without it, people could become very miserable and some might even attempt suicide.¹¹³

¹¹² Haney (2003), *supra nota* 102, p. 144.

¹¹³ Haney (2018), *supra nota* 2, p. 297.

2. THE USE OF SOLITARY CONFINEMENT

Solitary confinement is used in places of confinement all around the world.¹¹⁴ It usually takes place in institutions that are not open. It is especially used in prisons.¹¹⁵ One type of prison where convicts are held in isolation cells is the supermax prison.¹¹⁶ Solitary confinement also takes place in women's prisons.¹¹⁷ Inmates are also segregated from others in juvenile prisons.¹¹⁸

2.1. Solitary confinement in supermax prisons

Supermax prisons actually depict a very noteworthy change in the established practice of segregating convicts from other inmates in prisons. Inmates have hardly ever been held in isolation cells permanently.¹¹⁹ However, that is not the case when it comes to super-maximum security prisons. In these kind of prisons, convicts are held in almost complete segregation. Inmates in these type of places of confinement can leave their isolation cells only occasionally. Usually, inmates get to be outside of their segregation cells for just one hour per day.¹²⁰ That is just one of the many rough conditions that convicts in these kind of prisons are placed under. Prisoners in these type of places of confinement cannot do any work, they also cannot communicate with other convicts.¹²¹ Also, inmates in super-maximum security prisons are frequently observed by cameras and they communicate via interphones instead of talking to prison officers face to face.¹²²

Super-maximum security prisons divide the most dangerous criminals from other prison inmates. The main aim of these prisons is to expand control over aggressive convicts. Another objective of

¹¹⁴ Tayer *et al.*, *supra nota* 98, p. 653.

¹¹⁵ Shalev, *supra nota* 67, p. 148.

¹¹⁶ Pizarro, J., & Stenius, V. M. K. (2004). Supermax Prisons: Their Rise, Current Practices, and Effect on Inmates. *The Prison Journal*, 84(2), p. 249.

¹¹⁷ Severson, R. E. (2019). Gender Differences in Mental Health, Institutional Misconduct, and Disciplinary Segregation. *Criminal Justice and Behavior*, 46(12), p. 1721.

¹¹⁸ Cooper, A. Q. (2017). Beyond the Reach of the Constitution: A New Approach to Juvenile Solitary Confinement Reform. *Columbia Journal of Law and Social Problems*, 50(3), p. 351.

¹¹⁹ Haney (2003), *supra nota* 102, p. 125.

¹²⁰ *Ibid.*, p. 126.

¹²¹ Lippke, R. L. (2004). Against Supermax. *Journal of Applied Philosophy*, 21(2), p. 109.

¹²² Haney (2003), *supra nota* 102, p. 126.

these prisons is to isolate the most threatening convicts so as to defend prisoners as well as prison officers. In addition to that, supporters of these prisons argue that the risk of the severity of these places of confinement actually discourages other convicts from carrying out crimes in prisons. Order as well as security is extremely essential in managing places of confinement. Due to this, places of confinement have traditionally had isolation cells in order to safely house troublesome as well as aggressive convicts. Some people argue that the Alcatraz prison laid the foundation for current super-maximum security prisons.¹²³ That is because inmates who physically attacked prison workers or those convicts who attempted to break out of there or those who murdered other inmates were put and held in isolation cells for a long time.¹²⁴

When the Alcatraz prison was shut down, it was substituted for a novel place of confinement in Marion. At the start of the 1970s, the amount of brutality as well as physical attacks aimed at other convicts as well as prison workers increased very quickly. Due to this, many troublesome inmates were sent to the Marion confinement place. A couple of years later, a new unit was constructed at the Marion prison and it was made so as to isolate those convicts who caused trouble in the prison from the other inmates. Another aim of this unit was to help people change their manners. The increasing brutality in places of confinement resumed until the middle of the 70s. The physical attacks on prison workers by convicts had grown tremendously. Because of this, at the end of the 70s, it was suggested that a completely novel unit should be included in places of confinement. After some time, the Marion confinement place turned into the initial supermax prison. The aim of this prison was to isolate inmates who physically attacked prison workers or other convicts or who tried to break out of the prison.¹²⁵ At the beginning of the 80s, many physical attacks on inmates and prison workers took place in the Marion prison. A lot of convicts and a couple of prison workers were killed.¹²⁶ Because of this, in 1983, the Marion prison was closed.¹²⁷

In 1994, a completely novel super-maximum security prison was built. It was the ADX Florence.¹²⁸ This place of confinement took the place of the Marion prison.¹²⁹ Some errors were made with the Marion prison and when constructing the ADX Florence prison, those errors were

¹²³ Pizarro, Stenius, *supra nota* 116, pp. 249-250.

¹²⁴ Ward, D. A., & Werlich, T. G. (2003). Alcatraz and Marion: Evaluating super-maximum custody. *Punishment & Society*, 5(1), p. 55.

¹²⁵ Pizarro, Stenius, *supra nota* 116, pp. 250-251.

¹²⁶ Ward, Werlich, *supra nota* 124, p. 57.

¹²⁷ Pizarro, Stenius, *supra nota* 116, p. 251.

¹²⁸ Richards, S. C. (2008). USP Marion: The First Federal Supermax. *The Prison Journal*, 88(1), p. 15.

¹²⁹ King, R. D. (1999). The rise and rise of supermax: An American solution in search of a problem? *Punishment & Society*, 1(2), p. 171.

taken into consideration so that they would not be made again. For example, this new prison used technology that had not been used before and it also used completely novel safety means so that it could achieve its aim. This place of confinement is actually extremely silent. Surveillance cameras as well as very advanced and armored control centers observe the whole prison. So, similar to the Marion confinement place, the ADX Florence is a prison in which the workers use cruel ways in order to penalize disobedient inmates.¹³⁰

When it comes to the cost of separating convicts from other inmates in places of confinement, then prison workers claim that it is actually quite cheap. They say this because inmates in isolation cells get less services and benefits than others. However, in reality, this is incorrect. It is about twice as expensive to separate an inmate from others in a super-maximum security prison compared to other confinement places.¹³¹ Also, it is extremely expensive to build a super-maximum security prison due to the requirement for parts that ensure that the prison has high security. Some of these parts include, for instance, advanced electronic equipment as well as strengthened walls.¹³²

In terms of supermax prisons in Europe, then Parkhurst as well as the Whitemoor place of confinement were prisons that made the majority of high security confinement places.¹³³ A couple of escapes actually took place from these places of confinement. The first one took place in the year 1994 and that was from Whitemoor. The second one took place at the beginning of 1995 and that was from Parkhurst. A lot of people were very surprised by these escapes. People were already discussing on how to stop these kind of incidents from happening again.¹³⁴ The inmates who broke out of these prisons were recaptured a little while later. Then again, the fact that these escapes did indeed take place was not excusable. After these escapes, very quick as well as important solutions were discussed.¹³⁵ Learmont was the one who made a lot of suggestions for improving the security at places of confinement so as to avoid escapes in the future. One of the biggest suggestions from Learmont was to construct a couple of new confinement places. One being a high security confinement place for those convicts who are a threat to others. The other being a place of confinement with the purpose of housing inmates who are psychologically sick. These suggested places of confinement were described as super-maximum security prisons and a project team was

¹³⁰ Richards, *supra nota* 128, pp. 15-16.

¹³¹ *Ibid.*, p. 18.

¹³² Pizarro, Stenius, *supra nota* 116, pp. 253-254.

¹³³ King, *supra nota* 129, p. 178.

¹³⁴ Drake, D. (2011). The “dangerous other“ in maximum-security prisons. *Criminology & Criminal Justice*, 11(4), p. 372.

¹³⁵ *Ibid.*, p. 373.

created so as to take into consideration the suggestions that were made by Learmont as well as to make their own suggestions. This team actually went to see some places of confinement in the United States of America and based on what they saw, they suggested to construct just a single super-maximum security prison which contains inmates who are a threat to others in one unit and convicts who have severe control issues in another unit.¹³⁶ At first, this team was of the opinion that super-maximum security prisons would provide benefits in dealing with the safety issue given that it was not just a further tier. Then again, it would be useful just in the event when economies could be accomplished by removing just a single or even multiple supermax places of confinement from high security. This team just reluctantly began to see that it would be correct to focus the inmates who have control issues by placing current little units into the novel place of confinement. This team refused every proposal of there being prison isolation cells on the side of a slightly more programme-rich environment, while still supporting an extremely high security specification. Work had already started on improving safety in super-maximum security confinement places. However, the thought of constructing a new super-maximum security place of confinement was left behind.¹³⁷

Northern European states have the largest welfare expenditures as well as the smallest number of inmates in places of confinement. In addition to that, these states have the smallest levels of fright as well as the biggest levels of faith from people. However, that is not the case with the majority of eastern European states as well as the United Kingdom. A lot of states in East-Europe as well as the United Kingdom have the biggest level of fright as well as the smallest levels of faith from people. They also have the biggest number of inmates in places of confinement.¹³⁸ In terms of super-maximum security prisons in Europe, then the status in other countries in Europe is not that distinct compared to the previously mentioned UK supermax confinement places. For example, France constructed a couple of high security places of confinement in the year 1975, however, they did give up on these prisons a couple of years later. Also, Sweden, The Netherlands as well as Belgium have had highly secured places of confinement for inmates who are a threat to others. There have been times where the regimes in such prisons have been very segregative and because of that they have had to be altered or given up.¹³⁹

¹³⁶ King, *supra nota* 129, p. 179.

¹³⁷ *Ibid.*, p. 180.

¹³⁸ Snacken, S. (2010). Resisting punitiveness in Europe? *Theoretical Criminology*, 14(3), p. 277.

¹³⁹ King, *supra nota* 129, p. 181.

Regarding the amount of inmates in places of confinement, then states in Europe, especially Portugal, Spain as well as Italy have increased their number of convicts significantly.¹⁴⁰ That could be because of many foreign nationals, migrant workers as well as refugees coming to European countries. For example, in Holland, the amount of non-Dutch inmates from the year 1981 until 1992 more than doubled.¹⁴¹ In terms of isolation cells, then segregating convicts from other inmates in places of confinement has been in the Netherlands since the 19th century. Isolating prisoners from other inmates was believed to give rise to ethical improvement. Harsh supervision as well as quietness were expected to hold back bad conduct.¹⁴² Holding prisoners in isolation cells for years would give rise to the reduction of immoral behavior. It was like this in the Netherlands, however, it ended right before the start of the 20th century when the Dutch started to take into consideration the severe mental effects of complete segregation.¹⁴³

2.2. Solitary confinement in women's prisons

When it comes to females in places of confinement, then psychological sickness is way more widespread in female confinement places compared to male confinement places.¹⁴⁴ Females in places of confinement probably go through different emotions than men. Insufficient services as well as physical attacks in confinement places can distinctively affect females. Furthermore, there are less female confinement places than male confinement places. Shortage like this can cause disadvantages like being held in a place of confinement that is far away from communal backings. Regarding stress management as well as the adaptation to the place of confinement, then female convicts do not deal with that the same way as male inmates do. Males usually show their wrath as females answer to that with sorrow.¹⁴⁵ So, females in confinement places have bigger psychological health necessities than males. Also, female inmates probably have had more trauma in their past and they want to communicate with others more than male convicts.¹⁴⁶

¹⁴⁰ Downes, D. (2001). The macho penal economy: Mass incarceration in the United States – a European perspective. *Punishment & Society*, 3(1), p. 67.

¹⁴¹ *Ibid.*, p. 70.

¹⁴² Molleman, T., & van den Hurk, A. A. (2017). A Matter of Balance: About the Abstract Goals of Imprisonment and Ambiguous Tasks of Dutch Prisons. *The Prison Journal*, 97(3), p. 389.

¹⁴³ *Ibid.*, p. 390.

¹⁴⁴ Severson, *supra nota* 117, p. 1719.

¹⁴⁵ *Ibid.*, p. 1722.

¹⁴⁶ Labrecque, R. M., Mears, D. P., & Smith, P. (2020). Gender and the Effect of Disciplinary Segregation on Prison Misconduct. *Criminal Justice Policy Review*, 31(8), p. 1198.

In terms of segregating convicts from other inmates in places of confinement, then that does not happen only in male prisons, it also takes place in female confinement places. Relationships are actually very important to females and they assist them adapt to prison. Since isolation cells in prisons segregate convicts from other inmates, then for that reason they can be very hurtful to female prisoners, for whom communication with others is essential.¹⁴⁷ So, communication with others is able to give female inmates a feeling of self-determination. However, female convicts are not able to talk to others while being in segregation cells and therefore these segregation cells can crucially damage females. There is a chance that female inmates answer to segregation in an active way. Female convicts can look for a specific method, which would enable them to get back a bit of control that segregation cells remove from them. Female inmates have hurt themselves so that they could be taken out of isolation cells. This would just be for a limited amount of time, but at least these female prisoners can delay the mental inconvenience of isolation.¹⁴⁸ So, female convicts go through the disadvantages of the place of confinement in their own way.¹⁴⁹

2.3. Solitary confinement in juvenile prisons

The majority of juveniles break the law in groups. This contains brutal as well as property offences.¹⁵⁰ One probable result of breaking the law at the time of adolescence is youngster imprisonment.¹⁵¹ Similar to places of confinement for grown-ups, juvenile prisons limit the personal freedoms of youngsters. The main aim of juvenile prisons is to punish inmates.¹⁵² It is not easy for youngsters to be in these prisons as the conditions in these places of confinement are very cruel.¹⁵³

Segregating juvenile convicts from other inmates in juvenile prisons may be a very brutal as well as detrimental practice. Juveniles cannot deal with isolation cells the same way as grown-ups can.¹⁵⁴ Separating convicts from other prisoners causes unique damages to young inmates since

¹⁴⁷ Aranda-Hughes, V., Turanovic, J. J., Mears, D. P., & Pesta, G. B. (2021). Women in Solitary Confinement: Relationships, Pseudofamilies, and the Limits of Control. *Feminist Criminology*, 16(1), p. 48.

¹⁴⁸ *Ibid.*, p. 53.

¹⁴⁹ Severson, *supra nota* 117, p. 1723.

¹⁵⁰ Amemiya, J., Monahan, K. C., & Cauffman, E. (2016). Leaders and Followers in Juvenile Offending: Distinguishing Correlates and Adjustment to Incarceration. *Criminal Justice and Behavior*, 43(7), p. 900.

¹⁵¹ *Ibid.*, p. 902.

¹⁵² Fagan, J. (2010). The contradictions of juvenile crime & punishment. *Daedalus*, 139(3), p. 43.

¹⁵³ *Ibid.*, p. 44.

¹⁵⁴ Cesaroni, C., & Peterson-Badali, M. (2013). The Importance of Institutional Culture to the Adjustment of Incarcerated Youth and Young Adults. *Canadian Journal of Criminology and Criminal Justice*, 55(4), p. 569.

the brains of youngsters are especially affected by segregation cells. Also, youngsters frequently think of segregation cells as being permanent and that hurts them even more than it hurts grown-ups. In addition to that, there is a possibility that some youngsters in segregation cells might commit suicide.¹⁵⁵

¹⁵⁵ Cooper, *supra nota* 118, pp. 351-352.

3. LEGALITY OF SOLITARY CONFINEMENT

Even though inmates are usually put in isolation cells in places of confinement when they disobey a rule, being segregated from other convicts can have very serious effects for prisoners.¹⁵⁶ That being said, the progressively extensive consensus among a lot of people on the negative effects of isolation cells has led many important psychological well-being as well as lawful institutions to issue proposals that authorize vital limitations on if isolation cells in prisons ought to be used and the longest time that convicts can be held in segregation cells.¹⁵⁷ These institutions issue these proposals so that the use of isolation cells in prisons would be legal.¹⁵⁸

3.1. Human rights

At the time of the Second World War, a couple of countries like the UK as well as the USA debated that countries should have an obligation to honor fundamental civil rights as well as to help people with their main necessities. Although these objectives got a lot of backing from plenty of states, there was substantial difference of opinion regarding the meaning of such intentions in reality. However, these different views were kept in secret at first.¹⁵⁹ In 1948, the UN General Assembly accepted the Universal Declaration of Human Rights¹⁶⁰. This Declaration happens to be the originating instrument of current human rights doctrine. A universal board of specialists acting on behalf of a lot of good morals were the ones who made this Declaration.¹⁶¹ The extent of human rights acknowledged in this Declaration is actually quite extensive.¹⁶² Then again, human rights in this Declaration were specified pretty vaguely. Also, this Declaration is not actually a treaty and nobody back then thought of it as being legally binding.¹⁶³

¹⁵⁶ Shalev, *supra nota* 67, p. 148.

¹⁵⁷ Haney (2018), *supra nota* 2, pp. 299-300.

¹⁵⁸ *Ibid.*, p. 301.

¹⁵⁹ Posner, E. A. (2014). *The Twilight of Human Rights Law*. New York: Oxford University Press, p. 15.

¹⁶⁰ UN General Assembly, Universal Declaration of Human Rights, 10 December 1948.

¹⁶¹ Beitz, C. (2003). What Human Rights Mean. *Daedalus*, 132(1), p. 36.

¹⁶² Guinn, D. E. (2016). Human Rights as Peacemaker: An Integrative Theory of International Human Rights. *Human Rights Quarterly*, 38(3), p. 772.

¹⁶³ Posner, *supra nota* 159, p. 17.

The Soviet Union and America had different perspectives regarding human rights. The USA claimed that human rights included the right to talk openly, to choose your own belief as well as to vote for whoever you want.¹⁶⁴ The Soviet Union debated that human rights included the right to go to school and study, to get medical help as well as to get a job. Human rights were a major part of the dispute between the Soviets and Americans. People were in favor of either socialism or political rights.¹⁶⁵ The UN was getting ready to make a new human rights covenant.¹⁶⁶ However, in the year 1952, the UN General Assembly determined to make not just one, but two treaties.¹⁶⁷ In 1966, the UN General Assembly accepted the International Covenant on Civil and Political Rights¹⁶⁸ as well as the International Covenant on Economic, Social and Cultural Rights¹⁶⁹. These treaties were affected by representatives of evolving states that were previously under imperial power.¹⁷⁰

In 1979, the UN General Assembly accepted the Convention on the Elimination of All Forms of Discrimination Against Women¹⁷¹. In 1980, this treaty was introduced to representatives of countries so that they would sign it. There were 57 countries that gave a signature to this treaty and by the end of 1981, this treaty had received the 20 ratifications required to give this treaty legal force.¹⁷² This treaty advances many rights regarding females. It corrects discrimination issues in law fields, taking part in politics, getting medical help as well as getting a job and going to work. This treaty also improves the legal abilities of females in civil problems as well as in issues concerning family and marriage. This treaty enables females to deal with their issues in a way that is most suitable to their cultural as well as social locations.¹⁷³

¹⁶⁴ *Ibid.*

¹⁶⁵ *Ibid.*, p. 18.

¹⁶⁶ Jayawickrama, N. (2002). *The Judicial Application of Human Rights Law: National, Regional and International Jurisprudence*. New York: Cambridge University Press, p. 43.

¹⁶⁷ *Ibid.*, p. 44.

¹⁶⁸ UN General Assembly, International Covenant on Civil and Political Rights, 16 December 1966.

¹⁶⁹ UN General Assembly, International Covenant on Economic, Social and Cultural Rights, 16 December 1966.

¹⁷⁰ Twiss, S. B. (2004). History, Human Rights, and Globalization. *Journal of Religious Ethics*, 32(1), p. 43.

¹⁷¹ UN General Assembly, Convention on the Elimination of All Forms of Discrimination Against Women, 18 December 1979.

¹⁷² Fraser, A. S. (1999). Becoming Human: The Origins and Development of Women's Human Rights. *Human Rights Quarterly*, 21(4), p. 900.

¹⁷³ Twiss, *supra nota* 170, p. 48.

In the year 1984, the United Nations General Assembly accepted the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment¹⁷⁴. This treaty forbids torture.¹⁷⁵ In addition to that, this treaty imposes that torture cannot be given a justification for.¹⁷⁶ There are a lot of countries that are parties to this treaty including every European Union country as well as America.¹⁷⁷ In the year 1989, the United Nations General Assembly accepted the Convention on the Rights of the Child¹⁷⁸. This treaty unites the self-determination as well as prosperity of kids. This treaty enables kids to have a lot of rights.¹⁷⁹ This treaty is a very important global standard for the rights of kids. It is the initial human rights convention regarding kids' rights. Nearly every country in the world has ratified this convention.¹⁸⁰

When the 90s arrived, there truly was unity between a lot of countries that every state has to honor human rights. Not every state in the world has ratified every single convention there is, however, the majority of states have ratified many conventions.¹⁸¹ So, human rights have developed into something that is part of people's everyday lives.¹⁸² When it comes to Europe, then human rights have been more and more essential in the EU. The EU states have honored human rights due to their own constitutional regulation, however, these countries were of the opinion that human rights should have a bigger role in European regulation. In addition to that, they have demanded that states who want to join the European Union so as to get the financial advantages of being in the European Union have to honor human rights too.¹⁸³ In the year 2001, 9/11 happened. Back then, a lot of americans were in favor of torture. There were actually some polls made and the majority of them detected that a huge amount of americans supported torture. However, a lot of countries, non-governmental organizations as well as analysts criticized America for torture which ultimately led America to fall back.¹⁸⁴

¹⁷⁴ UN General Assembly, Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 10 December 1984.

¹⁷⁵ Welch, R. M. (2017). National Human Rights Institutions: Domestic implementation of international human rights law. *Journal of Human Rights*, 16(1), p. 98.

¹⁷⁶ Stanley, E. (2004). Torture, Silence and Recognition. *Current Issues in Criminal Justice*, 16(1), p. 5.

¹⁷⁷ Bronsther, J. (2019). Torture and Respect. *Journal of Criminal Law & Criminology*, 109(3), p. 434.

¹⁷⁸ UN General Assembly, Convention on the Rights of the Child, 20 November 1989.

¹⁷⁹ Bessell, S., & Gal, T. (2009). Forming Partnerships: The Human Rights of Children in Need of Care and Protection. *The International Journal of Children's Rights*, 17(2), p. 288.

¹⁸⁰ Lynch, N. (2010). Restorative Justice through a Children's Rights Lens. *The International Journal of Children's Rights*, 18(2), p. 166.

¹⁸¹ Posner, *supra nota* 159, p. 22.

¹⁸² Guinn, *supra nota* 162, p. 775.

¹⁸³ Posner, *supra nota* 159, p. 24.

¹⁸⁴ *Ibid.*, p. 25.

In the year 2006, the UN General Assembly accepted the Convention on the Rights of Persons with Disabilities¹⁸⁵. This treaty came to be the initial global human rights treaty to disprove the understanding that disabled people are viewed as missing the self-determination needed to have human rights.¹⁸⁶ This treaty was backed by a lot of southern states, especially in Africa as well as South America. This treaty has been declared as a huge breakthrough for persons with disabilities.¹⁸⁷ In terms of human rights, then there are a lot of states who are not supportive of human rights. One of those states is definitely China due to the fact that China has worked silently to make global human rights organizations weaker and it has also dismissed worldwide condemnation of the political suppression of its people. Also, China has given financial as well as political assistance to countries who violate human rights like Sudan, a country that western states have attempted to segregate from others. In addition to that, China has joined with a lot of other states who are opposed to human rights like some muslim states as well as Vietnam so as to reject a lot of principles that human rights defend.¹⁸⁸

3.2. The right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment

In Europe, article 3 of the European Convention on Human Rights¹⁸⁹ states that “no one shall be subjected to torture or to inhuman or degrading treatment or punishment”¹⁹⁰. In addition to that, article 1 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment¹⁹¹ states that “there shall be established a European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as “the Committee“). The Committee shall, by means of visits, examine the treatment of persons deprived of their liberty with a view to strengthening, if necessary, the protection of such persons from torture and from inhuman or degrading treatment or punishment”¹⁹². This means that not only do people in Europe have a right not to be subjected to torture as well as to inhuman,

¹⁸⁵ UN General Assembly, Convention on the Rights of Persons with Disabilities, 13 December 2006.

¹⁸⁶ Skarstad, K. (2018). Human rights through the lens of disability. *Netherlands Quarterly of Human Rights*, 36(1), p. 25.

¹⁸⁷ Meekosha, H., & Soldatic, K. (2011). Human Rights and the Global South: the case of disability. *Third World Quarterly*, 32(8), p. 1384.

¹⁸⁸ Posner, *supra nota* 159, p. 26.

¹⁸⁹ Council of Europe, European Convention on Human Rights, 4 November 1950.

¹⁹⁰ *Ibid.*, art. 3.

¹⁹¹ Council of Europe, European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, 26 November 1987.

¹⁹² *Ibid.*, art. 1.

degrading treatment and punishment, the European Committee goes to prisons and investigates behavior towards convicts so as to defend these inmates from torture.

There are a lot of universal documents in which the ban of torture is stated.¹⁹³ One of those documents is the Universal Declaration of Human Rights and article 5 of this Declaration states that “no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment”¹⁹⁴. Even though this document is not legally binding, it has been politically as well as ethically impactful. This Declaration has been impactful in the making of the laws of countries as well as conventional international law.¹⁹⁵ Also, article 7 of the International Covenant on Civil and Political Rights states that “no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation”¹⁹⁶.

Article 2, paragraph 1 of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment states that “each state party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction”¹⁹⁷. Moreover, article 4, paragraph 1 of the same convention states that “each state party shall ensure that all acts of torture are offences under its criminal law. The same shall apply to an attempt to commit torture and to an act by any person which constitutes complicity or participation in torture”¹⁹⁸. Also, article 4, paragraph 2 of the same convention states that “each state party shall make these offences punishable by appropriate penalties which take into account their grave nature”¹⁹⁹. In addition to that, article 16, paragraph 1 of the Convention Against Torture states that “each state party shall undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in article I, when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. In particular, the obligations contained in articles 10, 11, 12 and 13 shall apply with the substitution for references

¹⁹³ Danelius, H. (1989). Torture and Cruel, Inhuman or Degrading Treatment or Punishment. *Nordic Journal of International Law*, 58(2), p. 173.

¹⁹⁴ Universal Declaration of Human Rights, *supra nota* 160, art. 5.

¹⁹⁵ Farrell, B. (2009). Habeas Corpus and the Drafting of the Universal Declaration of Human Rights. *Journal of the History of International Law*, 11(1), p. 97.

¹⁹⁶ International Covenant on Civil and Political Rights, *supra nota* 168, art. 7.

¹⁹⁷ Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, *supra nota* 174, art. 2, para. 1.

¹⁹⁸ *Ibid.*, art. 4, para. 1.

¹⁹⁹ *Ibid.*, art. 4, para. 2.

to torture or references to other forms of cruel, inhuman or degrading treatment or punishment²⁰⁰. This means that the right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment does not apply just to Europe, this right is recognized globally.

Article 5 of the Basic Principles for the Treatment of Prisoners²⁰¹ states that “except for those limitations that are demonstrably necessitated by the fact of incarceration, all prisoners shall retain the human rights and fundamental freedoms set out in the Universal Declaration of Human Rights, and, where the state concerned is a party, the International Covenant on Economic, Social and Cultural Rights, and the International Covenant on Civil and Political Rights and the Optional Protocol thereto, as well as such other rights as are set out in other United Nations covenants²⁰². Also, principle 6 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment²⁰³ states that “no person under any form of detention or imprisonment shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. No circumstance whatever may be invoked as a justification for torture or other cruel, inhuman or degrading treatment or punishment²⁰⁴.”

Rule 1 of the United Nations Standard Minimum Rules for the Treatment of Prisoners²⁰⁵ states that “all prisoners shall be treated with the respect due to their inherent dignity and value as human beings. No prisoner shall be subjected to, and all prisoners shall be protected from, torture and other cruel, inhuman or degrading treatment or punishment, for which no circumstances whatsoever may be invoked as a justification. The safety and security of prisoners, staff, service providers and visitors shall be ensured at all times²⁰⁶. These Rules are not legally binding like duties in a convention, though. Then again, these Rules are the most broadly spread as well as the most popular document for making prison conditions better.²⁰⁷”

²⁰⁰ *Ibid.*, art. 16, para. 1.

²⁰¹ UN General Assembly, Basic Principles for the Treatment of Prisoners, 14 December 1990.

²⁰² *Ibid.*, art. 5.

²⁰³ UN General Assembly, Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, 9 December 1988.

²⁰⁴ *Ibid.*, principle 6.

²⁰⁵ UN General Assembly, United Nations Standard Minimum Rules for the Treatment of Prisoners, 17 December 2015.

²⁰⁶ *Ibid.*, rule 1.

²⁰⁷ Mackay, A. (2017). The relevance of the United Nations Mandela Rules for Australian prisons. *Alternative Law Journal*, 42(4), pp. 279-280.

3.3. Violation

Solitary confinement is mentioned in a couple of documents, for example, article 7 of the Basic Principles for the Treatment of Prisoners states that “efforts addressed to the abolition of solitary confinement as a punishment, or to the restriction of its use, should be undertaken and encouraged”²⁰⁸. In addition to that, rule 37(d) of the United Nations Standard Minimum Rules for the Treatment of Prisoners states that “the following shall always be subject to authorization by law or by the regulation of the competent administrative authority: any form of involuntary separation from the general prison population, such as solitary confinement, isolation, segregation, special care units or restricted housing, whether as a disciplinary sanction or for the maintenance of order and security, including promulgating policies and procedures governing the use and review of, admission to and release from any form of involuntary separation”²⁰⁹. Furthermore, rule 43, paragraph 1 of the same document states that “in no circumstances may restrictions or disciplinary sanctions amount to torture or other cruel, inhuman or degrading treatment or punishment. The following practices, in particular, shall be prohibited: indefinite solitary confinement; prolonged solitary confinement; placement of a prisoner in a dark or constantly lit cell; corporal punishment or the reduction of a prisoner’s diet or drinking water; collective punishment”²¹⁰. Moreover, rule 44 of the same document states that “for the purpose of these rules, solitary confinement shall refer to the confinement of prisoners for 22 hours or more a day without meaningful human contact. Prolonged solitary confinement shall refer to solitary confinement for a time period in excess of 15 consecutive days”²¹¹. Also, rule 45, paragraph 1 of the same document states that “solitary confinement shall be used only in exceptional cases as a last resort, for as short a time as possible and subject to independent review, and only pursuant to the authorization by a competent authority. It shall not be imposed by virtue of a prisoner’s sentence”²¹². Finally, rule 45, paragraph 2 of the same document states that “the imposition of solitary confinement should be prohibited in the case of prisoners with mental or physical disabilities when their conditions would be exacerbated by such measures. The prohibition of the use of solitary confinement and similar measures in cases involving women and children, as referred to in other United Nations standards and norms in crime prevention and criminal justice, continues to apply”²¹³. Like mentioned at the end of the previous sub-chapter, even though these rules are not legally binding,

²⁰⁸ Basic Principles for the Treatment of Prisoners, *supra nota* 201, art. 7.

²⁰⁹ United Nations Standard Minimum Rules for the Treatment of Prisoners, *supra nota* 205, rule 37(d).

²¹⁰ *Ibid.*, rule 43, para. 1.

²¹¹ *Ibid.*, rule 44.

²¹² *Ibid.*, rule 45, para. 1.

²¹³ *Ibid.*, rule 45, para. 2.

countries can still use them as inspiration in the future when they make new laws so as to make conditions in places of confinement better.

When it comes to court cases on solitary confinement in Europe, then there are quite a few of them. One of these court cases took place in the year 2005 and it was the Rohde v. Denmark²¹⁴ case.²¹⁵ What happened in this case was that the applicant was arrested because of narcotics trafficking. The City Court determined that Rohde will be put in an isolation cell. He was put into this segregation cell at the end of 1994. He was kept in this isolation cell until the end of 1995. After that, Rohde was held under standard pre-trial confinement till the middle of 1996. Right after that, the High Court cleared Rohde of narcotics charges. Later on, Rohde demanded compensation for being imprisoned for a year and a half. At the end of the year 2000, the Supreme Court appointed Rohde remuneration of about 1 million Danish kroner, which covered pecuniary damage for disability as well as not being able to work anymore. The Supreme Court said that Rohde had been treated in a correct way at the time of his pre-trial detention as well as that there was no infringement of article 3 of the European Convention on Human Rights in this case.²¹⁶

The Court repeated that holding Rohde in an isolation cell was not an infringement of article 3 of the Convention. Although being in an isolation cell for a long time was uncomfortable, if this kind of a measure fell within the ambit of article 3 depended on the specific conditions, the time as well as the impact on the individual. Rohde was in a segregation cell for eleven months as well as a couple of weeks. Even though being separated from others for such a long time can cause concern, the court took into consideration Rohde's conditions of imprisonment as well as the extent of his social segregation. Rohde was in a cell that had a TV, he also was given newspapers that he could read. Even though Rohde was separated from other convicts, he had contact with prison workers. Rohde was also visited by healthcare workers on a regular basis as well as by his relatives. In such situations, the court said that the time Rohde was in an isolation cell was not contrary with article 3.²¹⁷

The court said that Rohde was visited by health workers on a regular basis. In addition to that, these health workers grew their monitoring of Rohde when he had altered his conduct or mood.

²¹⁴ Rohde v. Denmark, no. 69332/01, ECHR 2005.

²¹⁵ *Ibid.*

²¹⁶ *Ibid.*

²¹⁷ *Ibid.*

Furthermore, the healthcare workers who visited Rohde did not notice any signs of psychological disorder in Rohde. In such situations, the court said that there was effective medical monitoring. Because of the reasons mentioned, the court came to the conclusion that article 3 of the European Convention on Human Rights was not infringed.²¹⁸ Based on this case, it can be said that whether solitary confinement in European prisons is legal or not, it depends on certain conditions. First of all, even if a prisoner is in an isolation cell for a long time, it can still be legal if that inmate has access to, for example, newspapers or a TV or he has contact with his relatives or prison workers. Also, being in a segregation cell for so long can be allowed if the convict gets visited by medical workers on a regular basis so that the mental health of the inmate would be in a good shape.

Another court case that took place in Europe about solitary confinement was in 2012 and that was the Horych v. Poland²¹⁹ case.²²⁰ What happened in this case was that in the year 2004, Horych was detained due to narcotics trafficking. At the time of the investigation, Horych's detention was lengthened many times. At the end of 2008, the court condemned Horych of narcotics trafficking. The court said that Horych would be sent to prison for 12 years. However, in the year 2005, one other court condemned Horych of narcotics associated crimes as well as said that Horych would have to spend 15 years in a place of confinement. Also, in the year 2009, there was another court who condemned Horych of narcotics related crimes as well as said that he would have to spend 14 years in prison. Horych was held in solitary confinement in a high-security place of confinement. Horych did not agree with this and said that even if he was convicted of narcotics trafficking, then that does not justify solitary confinement.²²¹

Horych said that his extremely long time in an isolation cage was in violation of article 3 of the European Convention on Human Rights. Horych also said that him being in an isolation cell for such a long time and him being separated from other inmates and his redundant separation from his relatives affected him psychologically. The court said that the nature of the crime carried out by Horych was not relevant for the purposes of article 3 of the Convention. Also, the evaluation of ill-treatment in article 3 of the Convention depends on the case, like on the length of the treatment, its psychological impacts as well as in certain cases on the gender of the person, how old the person is and how healthy he is. The court said that, in this case, the treatment was inhuman

²¹⁸ *Ibid.*

²¹⁹ Horych v. Poland, no. 13621/08, ECHR 2012.

²²⁰ *Ibid.*

²²¹ *Ibid.*

since Horych was under this kind of treatment for a very long time as well as it gave rise to psychological problems. When it comes to isolation cells, then inmates cannot be held in these kind of cells indefinitely. In addition to that, it has to be justified when a long period of solitary confinement is lengthened.²²²

Beginning from 2004 until 2012, Horych was kept in a segregation cage. During this time, Horych was entirely separated from other convicts. Horych did get visited by his relatives. However, within 4 years, he got visited by relatives just 5 to 10 times a year. The court said that this extremely restricted human contact did not lessen the effects of his long segregation. The court also mentioned that the prison in which Horych was in did not even try to provide him with psychological stimulation. Horych was only allowed to walk in an isolated area everyday. Taking into consideration the amount of time Horych was held in solitary confinement as well as the extremely restricted possibilities available to him for movement as well as contact with others, the court was certain that the long segregation of Horych more than likely gave rise to psychological problems. Moreover, the court said that places of confinement should operate carefully when putting an inmate in an isolation cell. The court came to the conclusion that taking into consideration what took place in this case, especially the consequences of the extremely long solitary confinement on Horych, there was an infringement of article 3 of the European Convention on Human Rights.²²³ Based on this case, it can be said that if a prisoner in Europe is in solitary confinement for a very long time and during that time the inmate rarely receives visits from his relatives and his movement is highly restricted, then this kind of solitary confinement is not legal.

One other court case that took place in Europe about solitary confinement was in the year 2016 and that was the *Prus v. Poland*²²⁴ case.²²⁵ What happened in this case was that in the year 2005, Prus was detained and he was held in custody. The next year after this, Prus was condemned of three counts of beating as well as theft and he was sentenced to a place of confinement for about 2-4 years. Prus was sent to solitary confinement in that place of confinement and that prison said that Prus was sent to an isolation cell since he was a dangerous inmate and he was a threat to the security of the confinement place.²²⁶

²²² *Ibid.*

²²³ *Ibid.*

²²⁴ *Prus v. Poland*, no. 5136/11, ECHR 2016.

²²⁵ *Ibid.*

²²⁶ *Ibid.*

Prus protested that he was categorized as a dangerous inmate and that his treatment was degrading, which is forbidden by article 3 of the European Convention on Human Rights. Prus said that, for the most part, he was kept in an isolation cell. Also, he mentioned that he was segregated from his relatives as well as from other convicts for a long time and that his segregation cage was observed by CCTV cameras. When Prus was sent to solitary confinement, then the place of confinement in which he was in justified that by saying that Prus was a dangerous inmate since he was trying to protest with other convicts against that prison. Prus clarified that some inmates as well as himself declined to eat their morning meal. Prus did not agree with what the confinement place had said about the protest. In such situations, the court is not convinced that it was rational for the place of confinement to think that, in order to guarantee safety in the confinement place, Prus ought to be sent to solitary confinement. The court said that Prus was in an isolation cell for 5 months as well as 3 weeks. However, Prus was not in a total segregation. The government of Poland said that Prus was still able to go to the library as well as to some other places in the confinement place and he was allowed to get visited by his relatives. The court concluded that considering the impact of solitary confinement on Prus, the court found that the place of confinement did not give adequate as well as appropriate reasons that could give a justification for the seriousness of measures taken. To be specific, the place of confinement was not able to show that the measures were needed in their totality to accomplish the legitimate purpose of guaranteeing safety in the confinement place. The court came to the decision that there was an infringement of article 3 of the European Convention on Human Rights.²²⁷ Based on this case, it can be said that solitary confinement in Europe is very serious and there has to be an actual reason that would justify putting as well as holding a prisoner in an isolation cell.

When it comes to the United States of America, then title 18 of the United States Code § 2340A²²⁸(a) states that “Whoever outside the United States commits or attempts to commit torture shall be fined under this title or imprisoned not more than 20 years, or both, and if death results to any person from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life“²²⁹. Also, § 2340A(b) of the same title states that “there is jurisdiction over the activity prohibited in subsection (a) if the alleged offender is a national of the United States; or the alleged offender is present in the United States, irrespective of the nationality

²²⁷ *Ibid.*

²²⁸ Title 18, United States Code § 2340A.

²²⁹ *Ibid.*, (a).

of the victim or alleged offender²³⁰. Also, § 2340A(c) of the same title states that “a person who conspires to commit an offense under this section shall be subject to the same penalties (other than the penalty of death) as the penalties prescribed for the offense, the commission of which was the object of the conspiracy²³¹. In addition to that, title 42 of the United States Code § 2000dd²³²(a) states that “no individual in the custody or under the physical control of the United States Government, regardless of nationality or physical location, shall be subject to cruel, inhuman, or degrading treatment or punishment²³³. When taking this into consideration as well as article 5 of the Universal Declaration of Human Rights, article 7 of the International Covenant on Civil and Political Rights and articles in the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment that were mentioned in the previous sub-chapter, then it can be said that people in the United States of America have the right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

In terms of court cases about solitary confinement in the United States of America, then there are a couple of them. The first one took place in the year 2005 and it was the *Wilkinson v. Austin*²³⁴ case.²³⁵ What happened in this case was that in the year 1998, Ohio disclosed its super-maximum security prison, the OSP. Solitary confinement in this place of confinement is way worse compared to other confinement places in Ohio. In the OSP, nearly everything about a prisoner is checked as well as observed. In this place of confinement, a convict has to be in his cage for 23 hours a day. Also, prisoners are held in this confinement place indefinitely, limited by a convict’s sentence. A completely novel policy, which determined how prisoners were sent to OSP, was approved. Because of this, Austin as well as some other prisoners took legal action against Wilkinson. Austin claimed that this policy infringed the right of Austin and other convicts to a due process. The US district court came to the conclusion that prisoners had a defended liberty interest in avoiding assignment to the Ohio super-maximum security prison as well as that this policy met every constitutional demand. The Appeals Court was of the same opinion when it came to the liberty interest, however, it ordered some changes to the policy of the place of confinement. After that, Wilkinson filed an appeal to the Supreme Court.²³⁶

²³⁰ *Ibid.*, (b).

²³¹ *Ibid.*, (c).

²³² Title 42, United States Code § 2000dd.

²³³ *Ibid.*, (a).

²³⁴ Supreme Court of the United States, 545 U.S. 209 (2005), *Wilkinson v. Austin*.

²³⁵ *Ibid.*

²³⁶ *Ibid.*

The Supreme Court said that prisoners had a defended liberty interest in preventing assignment at the super-maximum security prison in Ohio. This court was pleased that placement of convicts in the super-maximum security prison in Ohio establishes such difficulty in comparison to any believable baseline from which to assess the places of confinement in Ohio. If a prisoner is put in the super-maximum security prison in Ohio, then nearly all contact with other people is forbidden, for example, chatting with others is not allowed from cage to cage as well as a convict can exercise just 1 hour a day in a little room. This is the case in isolation cells in other places of confinement as well, however, there are a couple of additional components in the super-maximum security prison in Ohio. The first component is the time in an isolation cell. Prisoners are held in the super-maximum security prison in Ohio indefinitely. The other component is that putting a prisoner in this super-maximum security prison in Ohio disables an otherwise eligible prisoner for parole consideration. Altogether conditions like these cause an unusual as well as noteworthy difficulty in the disciplinary context.²³⁷

The Supreme Court said that the novel policy was adequate to fulfill due process. First of all, the prisoner's interest in preventing incorrect placement at the super-maximum security prison in Ohio has to be assessed in the context of places of confinement in general as well as its attendant limitation of liberties. The freedom of inmates in legitimate imprisonment is curtailed by definition, so their procedural defences are more restricted compared to cases where the right at stake is the right to be free from every imprisonment. Secondly, the danger of incorrect placement is reduced by the demands of the novel policy. This was because under the novel policy, it was always explained to convicts why they were put in the super-maximum security prison in Ohio. Due to these explanations, prisoners also could argue against them. Thirdly, the interest of Ohio is a dominant consideration. The primary duty of Ohio has to be to make sure that inmates as well as prison workers are safe. The Supreme Court came to the conclusion that the procedure of Ohio for sending prisoners to the super-maximum security prison in Ohio was sufficient to protect a prisoner's liberty interest in preventing being sent there.²³⁸ Based on this case, it can be said that in the United States of America, when a person is sent to a super-maximum security prison, where solitary confinement of prisoners is the norm, then it has to be explained to inmates why they are being put there and not somewhere else.

²³⁷ *Ibid.*

²³⁸ *Ibid.*

One other court case about solitary confinement that took place in the United States of America was in the year 2023 and that was the Johnson v. Prentice²³⁹ case.²⁴⁰ What happened in this case was that Johnson, who is a severely psychologically sick inmate was kept in an isolation cell in a place of confinement for almost 3 years. That confinement place was a couple of hours away from Chicago. Johnson was in a cage that had no windows and he was in that cage almost all day, every day. His cage did not have a good ventilation, which resulted in intolerable heat as well as poisonous odors. Also, the isolation of Johnson from others was very difficult in a different respect. The place of confinement where Johnson was entirely removed Johnson of exercise for almost all of his time in that prison. In addition to that, during the 3 years Johnson was in this prison, he was not allowed to even go outside. Because of the previously mentioned conditions in this place of confinement, the psychological state of Johnson worsened very quickly. After this, Johnson was sent to a psychological-health care unit and his health got better there.²⁴¹

Prior to the transfer of Johnson, he sued the Pontiac place of confinement, which removed him of exercise. Johnson made some arguments about the Eight Amendment as well as asked the court to appoint him a lawyer. The court declined to do that and because of that Johnson had to litigate this case himself. After that, the court gave summary judgment to the Pontiac place of confinement. The Court of Appeals affirmed. The Court of Appeals, first of all, said that not being able to go outside the prison for a long time as a punishment for misbehavior does not cause cruel as well as unusual punishment on a prisoner in isolation. Secondly, this court said that not being able to go outside the prison for a long time for misbehavior infringements does not infringe the Eight Amendment except if the punishments were meted out for a totally insignificant infringement of the punitive rules of the place of confinement. The Court of Appeals said that Johnson was not able to dispute that his misbehavior was insignificant and therefore the summary judgment for the Pontiac confinement place was suitable. After that, Johnson asked the Appeals Court to rehear his appeal, however, the court refused to do that.²⁴²

The Supreme Court said that when it comes to not allowing Johnson to go outside the prison, then a couple of factors have to be considered. First of all, if taking away exercise endangered the well-being or safety of the inmate as well as secondly, if the place of confinement knowingly and

²³⁹ Supreme Court of the United States, 22-693 (2023), *Johnson v. Prentice*.

²⁴⁰ *Ibid.*

²⁴¹ *Ibid.*

²⁴² *Ibid.*

unreasonably ignored that risk of damage. In simpler terms, the focus of the right evaluation is on the proof regarding the risks presented to the prisoner as well as the place of confinement's knowledge of as well as reaction to these risks. Also, for summary judgment to be correctly given to the Pontiac confinement place, there cannot be any real debate regarding the inadequacy of the inmate's showing about the dangers caused by the complained-of status or the place of confinement's knowing as well as intentional ignoring of these dangers. The Supreme Court said that the Appeals Court did not take into consideration the effect of taking away exercise on Johnson's psychological well-being or what the place of confinement knew about the dangers of taking away exercise. However, the Supreme Court still rejected Johnson's appeal.²⁴³ Based on this case, it can be said that in the United States of America, a prisoner can be held in solitary confinement for a long time if he behaves very badly in prison or breaks major prison rules. However, if a prisoner's misbehavior is insignificant or he breaks prison rules that are not very significant, then he cannot be held in solitary confinement for a long time.

When comparing solitary confinement in European prisons to prisons in the United States of America, then based on the previously mentioned European as well as American court cases, it can be said that in both European and in American prisons, there has to be an actual reason for putting as well as holding an inmate in solitary confinement. In terms of differences between European and American prisons, then in Europe, solitary confinement is legal if the inmate, while being in the isolation cell for a long time, has access to, for example, newspapers or a TV or he has contact with prison workers or his relatives on a regular basis and he gets visited by medical workers on a regular basis and his movement is not highly restricted, while in the United States, solitary confinement is legal if a prisoner has previously behaved very badly or has broken major prison rules.

²⁴³ *Ibid.*

4. MAIN FINDINGS AND PROPOSED SOLUTIONS

When it comes to the main findings, then first of all, the research question of this thesis is the following: how should prisoners in Europe be held in solitary confinement without violating the right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment? The answer to this question is the following: in order to not violate the right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment when it comes to holding prisoners in solitary confinement in Europe, then first of all, there has to be an actual reason that would justify putting as well as holding a prisoner in solitary confinement. In addition to that, if an inmate is held in solitary confinement for a long time, then he has to be somehow connected with the world that is outside the prison, whether that be him having access to a television or newspapers or having contact with prison workers or relatives on a regular basis and he has to get visited by medical workers on a regular basis and the movement of the prisoner while being in solitary confinement cannot be highly limited. If these conditions are fulfilled, then the right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment when it comes to holding prisoners in solitary confinement in Europe would not be violated.

The author also researched solitary confinement in prisons of the United States of America and did a comparison at the end of the thesis, comparing solitary confinement in European prisons to American prisons. The author did this because there are different laws as well as different court cases in different countries and also, the author wanted to find out and show to the reader just how different solitary confinement is in Europe compared to the United States. In terms of solitary confinement in American prisons, then in order to not violate the right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment, it has to be explained to prisoners why are they being put in solitary confinement. Also, a prisoner can be held in solitary confinement in America if he has previously behaved very badly in prison or has broken major prison rules.

Regarding the differences as well as similarities between solitary confinement in European prisons and prisons in the United States of America, then what is similar is that in both European and American prisons, there has to be an actual reason for putting as well as holding an inmate in

solitary confinement. However, what is different is that in Europe, solitary confinement is legal if the inmate, while being in the isolation cell for a long time, has access to, for example, a television or newspapers or he has contact with his relatives or prison workers on a regular basis and he gets visited by medical workers on a regular basis and his movement is not highly restricted, whereas in America, solitary confinement is legal if a prisoner has previously behaved very badly or has broken major prison rules.

In terms of proposed solutions, then the author suggests that there should be a specific legislation on solitary confinement in Europe. Even though there is the Basic Principles for the Treatment of Prisoners as well as the United Nations Standard Minimum Rules for the Treatment of Prisoners that mention solitary confinement, these documents, as stated previously in the thesis, are not legally binding. Also, in order to find out under what conditions is solitary confinement legal in Europe, then court cases would have to be searched and only court cases would answer that question. So, there should be a specific legislation on solitary confinement in Europe that is legally binding.

This proposed legislation should first of all include that there has to be an actual reason that would justify putting as well as holding a prisoner in solitary confinement. This was previously mentioned in the thesis, in the *Prus v. Poland* court case and the author definitely agrees with this because places of confinement cannot put and hold an inmate in an isolation cell just because, there has to be a reason that justifies that. In addition to that, what also should be contained in this law is that if an inmate is held in solitary confinement for a long time, then he has to be somehow connected with the world that is outside the prison, whether that be having access to, for example, television or newspapers or having contact with his relatives or prison workers on a regular basis and he has to get visited by medical workers on a regular basis so that the mental health of the inmate would be in a good shape and his movement cannot be highly restricted. These conditions were previously mentioned in the thesis, in the *Rohde v. Denmark* and *Horych v. Poland* court cases and the author agrees with them because if a convict is held in solitary confinement for a long time and he has no contact with anyone during that time, then his psychological health might worsen.

The author agrees with some of the rules that are in the United Nations Standard Minimum Rules for the Treatment of Prisoners that were previously mentioned in the thesis and when taking those into consideration, the author suggests that some of them should also be in this new European

legislation. First of all, if an inmate is sent to solitary confinement and it is not decided when exactly the inmate would get out of the isolation cell, then this should not be allowed. The author thinks that this should not be allowed because if there is no exact date when the convict gets out of the isolation cell, then the place of confinement could hold that prisoner in there for as long as they want and some confinement places might not even let a prisoner out of solitary confinement at all. Also, the author thinks that there should be a definition of solitary confinement like there is in the United Nations Standard Minimum Rules for the Treatment of Prisoners, but the author thinks that the definition of solitary confinement should state that solitary confinement is imprisonment as well as segregation of inmates from others for at least 22 hours per day. This definition should also be in the new European law.

The United Nations Standard Minimum Rules for the Treatment of Prisoners also mentions prisoners with psychological disabilities as well as juveniles and females and the rules regarding them were previously mentioned in the thesis, but the author does not agree with the rules that were mentioned about them. The author thinks that what also should be in this law is that prisoners with psychological disabilities should still be held in solitary confinement but not as long as inmates who have no psychological disabilities. The author thinks that they should still be held in solitary confinement because, despite having mental problems, they can still break prison rules or behave badly in prison. However, they should not be held in solitary confinement for a very long time because they have mental problems. In terms of juveniles and females, then the author also thinks that they too should still be held in solitary confinement, but not as long as men. The author says this because juveniles and women can still break prison rules and behave badly in prison. However, they should not be held in solitary confinement for as long as men because, as previously stated in the thesis, they are not mentally as strong as men are.

CONCLUSION

Solitary confinement takes place in prisons and it is able to punish inmates who break rules as well as keep inmates safe from other dangerous or violent convicts. Even though solitary confinement has its advantages, at times it can still be a violation of the right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

The aim of this thesis was to find out how prisoners in Europe should be held in solitary confinement so that the right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment would not be violated. The author did this by analyzing EU and international legislation as well as some court decisions. In addition to that, the author analyzed legislation and court decisions from the USA regarding solitary confinement and did a comparison of solitary confinement in prisons between Europe and the United States of America. The author also proposed some solutions to the solitary confinement legal problem in Europe.

The main results of this thesis are that in order to not violate the right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment when it comes to holding prisoners in solitary confinement in Europe, then first of all, there has to be an actual reason that would justify putting as well as holding a prisoner in solitary confinement. In addition to that, if an inmate is held in solitary confinement for a long time, then he has to be somehow connected with the world that is outside the prison, whether that be him having access to a television or newspapers or having contact with prison workers or relatives on a regular basis and he has to get visited by medical workers on a regular basis and the movement of the prisoner while being in solitary confinement cannot be highly limited.

The author proposes that there should be a legally binding, specific legislation on solitary confinement in Europe. This legislation should include the following:

1. There has to be an actual reason that would justify putting as well as holding a prisoner in solitary confinement.

2. If an inmate is held in solitary confinement for a long time, then he has to be somehow connected with the world that is outside the prison and he has to get visited by medical workers on a regular basis and his movement cannot be highly restricted.
3. If an inmate is sent to solitary confinement, then it has to be decided when exactly he is going to get out of the isolation cell.
4. Solitary confinement is imprisonment as well as segregation of inmates from others for at least 22 hours per day.
5. Prisoners with psychological disabilities should be held in solitary confinement if they behave very badly in prison or break major prison rules, but not as long as inmates who have no psychological disabilities.
6. Juveniles and females should be held in solitary confinement if they behave very badly in prison or break major prison rules, but not as long as men.

In conclusion, the author thinks that there should be a legally binding, specific legislation on solitary confinement in Europe. This legislation would not only protect prisoners in solitary confinement, but also prisons who put as well as hold inmates in isolation cells. When a person is sent to as well as held in solitary confinement, then it has to be made sure that the right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment would not be violated.

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