

3 | The decision to place prisoners and detainees in solitary confinement

The extreme nature of solitary confinement and its potentially harmful effects on prisoners' physical and mental wellbeing require prison authorities to be particularly cautious in imposing it, even for short periods of time. By extension, long-term prison regimes based entirely on solitary confinement run contrary to two of the primary goals of imprisonment, namely rehabilitation and social reintegration. This chapter examines the different uses of solitary confinement and some of the human rights provisions and recommendations that apply to them. Where current human rights standards and provisions are lacking, it seeks to explore how they may be developed and strengthened.

3.1 When and why are prisoners and detainees placed in solitary confinement?

Where prisoners and detainees are held in solitary confinement, whether in an especially designed free-standing isolation unit or in a designated segregation wing in a general population prison, this is typically on one of the following official grounds:

Punishment: punitive segregation is used as a form of punishment for prisoners' misconduct whilst in custody, and is typically imposed for a set, limited period of time, following some form of a disciplinary hearing within the prison. Segregation is considered as the most severe form of punishment for the most serious prison offences. Cell fittings in punitive segregation units are often minimal, and prisoners are allowed fewer provisions and personal belongings than those afforded to prisoners in 'normal location'. Prisoners held in punitive isolation typically only leave their cell for a one-hour period of solitary exercise a day, but in some jurisdictions, exercise as well as access to family visits, are restricted even further. Legislation in some jurisdictions also permits courts to impose periods of solitary confinement as a part of the sentence for certain crimes. In Peru, for example, under the rule of its former president, Alberto Fujimori, those convicted of crimes against the State were automatically placed in solitary confinement for the first year of their imprisonment. In Pakistan, the Penal Code allows for convicted prisoners to be sentenced by the court for up to three months in solitary confinement at the beginning of their sentence (Pakistan Penal Code, Act XLV of 1860).

Protection: protective segregation is used for holding vulnerable prisoners separately from the general prison population for their own protection, either at the prisoner's request or at the discretion of staff. Vulnerable prisoners may include, for example, sex offenders, police informants,

former police or prison officers, debtors, prisoners at risk of self harm and those who might be harmed by other prisoners. In some jurisdictions these prisoners are allowed to associate with each other, whilst in others they are held in regimes of strict solitary confinement, identical to those in punitive segregation, for the duration of their prison sentence.

Prison management: managerial or administrative segregation is used as an internal tool for isolating prisoners variously defined as potentially dangerous, disruptive or otherwise posing a management problem, for example gang members. The rationale is that isolating such prisoners will reduce incidents of violence across the prison system and maintain prison order and discipline. This form of solitary confinement is usually imposed through an internal process governed by administrative rules. In some jurisdictions, prisoners are offered structured regimes starting with strict solitary confinement followed by gradually improved provisions and opportunities to engage with other prisoners, whilst in others, prisoners will be held in strict separation for the duration of their sentence. Where small group isolation is used, prisoners are held in single cells but allowed to associate with one to five other prisoners at designated times, usually during exercise periods.

National security: protecting the public and/or national security is, and has historically been, used as a justification for placing those suspected or convicted of politically motivated crimes and of senior membership of major organised criminal gangs in solitary confinement. The rationale is to prevent the prisoner from contact with 'terrorist' or 'subversive' groups or organised crime gangs outside the prison, or to prevent the dissemination of State secrets. Convicted prisoners isolated on grounds of national security will typically spend their prison sentence in strict solitary confinement.

Pre-charge and pre-trial investigation: suspects may be held in isolation without being charged whilst their interrogation is ongoing. In most jurisdictions such pre-charge detention is limited by law to a few hours or a few days, but some jurisdictions now have provisions for lengthier periods. In the UK, for example, terror suspects may be detained without any charge being brought against them for up to 28 days and, subject to a Bill introduced by the Government being enacted in its present form, this period may be extended to 42 days. Noting that the current provision of 28 days is already controversial, critics have called for this proposal to be scrapped. Pre-trial detainees, particularly those charged with crimes against the State, are also often isolated during the investigation or interrogation process. In some countries, most notably in Scandinavia, criminal suspects are also sometimes isolated pending investigation. The rationale in such cases is to prevent the detainee from compromising the investigation. In some cases detainees are isolated without access to legal counsel. This form of detention, called 'incommunicado', may be illegal under international law and is subject to special provisions³³.

Lack of other institutional solutions: prisoners are also sometimes held in solitary confinement because there are no appropriate alternatives available for housing them. For example, mentally ill prisoners may be isolated because there are no available secure hospital beds for them. These prisoners may not necessarily pose a danger to others or to themselves, but they are vulnerable to abuse and their behaviour may disturb or unsettle other prisoners and prison staff. Prisoners may also be segregated due to prison overcrowding whilst waiting for space to become available in a setting appropriate to their security classification.

In countries which still use the death penalty, and in those where it was only recently abolished, Death Row prisoners are also typically held in strict solitary confinement. Finally, prisoners may also be held in de-facto solitary confinement – sometimes remaining locked up in single occupancy cells due, for example, to staff shortages. To illustrate, in a recent report from the Chief Inspector of Prisons in England and Wales, 30% of prisoners surveyed in local prisons in 2006/7 (some of whom were held in single cells) claimed that they were unlocked for less than two hours a day (HMCIP Thematic Report, Time out of Cell, 6 June 2008).

Case study: Solitary confinement in England & Wales

Prisoners may be held in solitary confinement for periods of 22-24 hours a day in the following circumstances:

- In police custody, where they will invariably be held in a single cell. Most police detainees are released within less than 24 hours, but some may be held longer for questioning. Authority for this has to be granted from a senior police officer at nine hourly intervals up to 72 hours, at which point authority for continued detention has to be sought from a court. Those suspected of terrorism may be held in police custody for up to 28 days.
- If they are placed in segregation overnight for adjudication the following day (in which case their confinement may not exceed 24 hours).
- If they are awarded cellular confinement as a punishment, in which case this will last no more than 14 days in the case of young prisoners or 28 days in the case of adult prisoners.
- If they are placed in segregation to preserve good order or discipline (GOOD) or for their own protection (OP), in which case the period of time is open-ended. In these circumstances prisoners are subject to a local review of their confinement after the first 72 hours and weekly thereafter.
- If they are placed in the Close Supervision System (CSC) within a restricted regime, in which case they are provided with in-cell activities and a high level of staff engagement, and are subject to local monitoring and ongoing case management from the CSC selection committee within the High Security Directorate.
- When a CSC prisoner is transferred to a segregation unit in a high security prison and held in a designated CSC cell or high control cell* for a period of time-out, in which case they are subject to ongoing case management by the CSC selection committee within the High Security Directorate, but in practice to little local monitoring.
- When a prisoner with mental health problems is held in a single cell within the prison hospital under the care of health care staff.

*A high control cells are equipped with a feeding hatch in the cell door which allow for food and other provisions to be delivered without unlocking the prisoner at all.

3.2 Placement in solitary confinement: procedural safeguards, and special provisions and recommendations regarding the isolation of specific categories of prisoners

As solitary confinement is a harsh measure with potentially harmful consequences for the prisoner involved, the decision to isolate a prisoner, be it as short-term punishment, for longer term management or for his own protection, must not be taken lightly or in an arbitrary manner. Good practice dictates that it must always be taken by a competent body, in accordance with the law and in adherence with the requirements of due process. The authority making the decision must justify its decision in writing, and be accountable for it. This authority should not be the prison doctor, nor should the doctor certify the prisoner 'fit for isolation' (this issue is discussed further in some detail in Chapter Five). Another important safeguard where solitary confinement is imposed is to ensure that the decision to segregate a prisoner, or to continue his segregation, is substantially and regularly reviewed by an independent body, and that the prisoner has a right to appeal against the decision.

Such reviews should always be based on the continuous assessment of the individual prisoner by staff specially trained to carry out such assessment. Moreover, prisoners should as far as possible be kept fully informed of the reasons for their placement and, if necessary, its renewal; this will inter alia enable them to make effective use of avenues for challenging that measure (CPT 11th General Report, CPT/Inf (2001) 16, section 32).

Review hearings: good practice example

At Woodhill prison's (UK) Close Supervision Centre, where some of those considered to be amongst the most challenging prisoners in the prison system are held in solitary confinement, prisoners' placement is reviewed monthly, and prisoners' legal representatives are invited to attend their clients' review hearings.

The general procedural requirements and guarantees outlined above apply to the decision to place a prisoner in solitary confinement, regardless of the reason for his placement. In addition, some specific issues arise in relation to detainees and particular categories of prisoners who are placed in solitary confinement.

Punitive segregation

Punitive or disciplinary segregation is the most serious punishment which can be imposed on prisoners, and as such should be reserved for the most serious prison offences and be proportional to them. It must only be imposed as last resort and for as short a time as possible, lasting days rather than weeks or months.

Rule 30 of the UN Standard Minimum Rules for the Treatment of Prisoners (SMR) stipulates that:

(2) No prisoner shall be punished unless he has been informed of the offence alleged against him and given a proper opportunity of presenting his defence. The competent authority shall conduct a thorough examination of the case.

Article 6 of the ECHR, which guarantees the right to a fair trial, also elaborates on some of the necessary safeguards:

1. In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law ...
3. Everyone charged with a criminal offence has the following minimum rights:
 - to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusations against him;
 - to have adequate time and facilities for the preparation of his defence;
 - to defend himself in person or through legal assistance ... ;
 - to examine ... witnesses against him ... ;
 - to have the free assistance of an interpreter if he cannot understand or speak the language used in court.

It has been established that these protections also apply to prison adjudication proceedings, particularly when a harsh penalty is imposed on the prisoner³⁴:

Pre-trial and pre-charge detainees

The isolation of those who have not yet been convicted of any crime is particularly problematic, as it inflicts punitive and potentially harmful conditions on people who are innocent until proven guilty, and serves to coerce them.

Typically, in addition to being held in isolation from others, pre-trial detainees are subjected to further restrictions on visits and communications with the outside world. In Denmark and Norway, for example, remanded detainees may be held in solitary confinement for up to three months (or indefinitely, if the crime they are charged with will result in a prison term of more than six years if they are found guilty), allowed only supervised weekly visits lasting 30 minutes, prohibited from making telephone calls and may have their communications restricted or withheld. Such practices have been the subject of ongoing concern and criticism by international and regional monitoring bodies. The UN Human Rights Committee, for example, called on the government of Denmark to *"reconsider the practice of solitary confinement so as to ensure that it was imposed only in cases of urgent need... except in exceptional circumstances, solitary confinement should be abolished, especially for pre-trial detainees..."*³⁵.

Over time, through its visits to places of detention in Europe, the Committee for the Prevention of Torture has developed the following safeguards concerning the isolation of pre-trial detainees³⁶:

- Solitary confinement of pre-trial detainees should only be resorted to in exceptional circumstances, should be strictly limited to the requirements of the case, and should be proportional to the needs of the investigation;
- Restrictions should be authorised by a court;
- Detainees should have an effective right of appeal to a court or another independent body;
- Detainees should have access to a doctor whose written report should be forwarded to the competent authorities;
- Detainees should be offered purposeful activities in addition to outside exercise and guaranteed appropriate human contact.

These safeguards should be followed as a minimum in all cases. Isolating pre-trial detainees may also pressurise them to provide confessions in order to ease their conditions of confinement. The CPT has reported that in Denmark, for example, it was 'not unusual' for confessions to be immediately followed by a discontinuation of solitary confinement regimes³⁷. This amounts to a form of coercion which, as stated in the introduction, should be prohibited.

The use of solitary confinement for those who have not yet been charged with any offence must be strictly limited by law and must only be used in exceptional circumstances, with judicial oversight, for as short a time as possible, and never for more than a matter of days. The misuse of solitary confinement in secret detention centres, particularly those linked with the so-called 'war on terror' as a means of coercing or 'softening up' detainees for the purpose of interrogation should be prohibited, as the deliberate infliction of mental and physical suffering for such purposes amounts to cruel, inhuman or degrading treatment and even torture.

The mentally ill

There is consensus amongst observers, experts and, increasingly, the courts, that the mentally ill and those at risk of self harm should not be held in solitary confinement – *"The already mentally ill, as well as persons with borderline personality disorders, brain damage or mental retardation, impulse-ridden personalities, or a history of prior psychiatric problems or chronic depression ... For these inmates, placing them in [isolation] is the mental equivalent of putting an asthmatic in a place with little air to breath"* (Madrid v. Gomez judgement, 1995). Yet, reports indicate that segregation is widely used to manage mentally ill prisoners, and that mentally ill prisoners are overrepresented in segregation units³⁸.

The particular vulnerability of mentally ill prisoners means that prison authorities must be especially vigilant in their treatment. The Inter-American Court on Human Rights has stated that *"... when the person kept in isolation in a penitentiary institution has a mental disability, this could involve an even more serious violation of the State's obligation to protect the physical, mental and moral integrity of persons held under its custody"*³⁹. Thus, those suffering from mental illness must not be placed in solitary confinement and under no circumstances should the use of solitary confinement serve as a substitute for appropriate mental health care.

Challenging, dangerous, or disruptive prisoners

As noted above, in some jurisdictions prisoners who are classified as dangerous or chronically disruptive are placed in prolonged solitary confinement as a prison management tool. The practice of “isolating risk”, as one commentator termed it (Riveland 1999), is widely criticised. Supermax prisons in the United States, for example, have been criticised by the courts, the UN Human Rights Committee, the Committee Against Torture and the UN Special Rapporteur on Torture. All have stated that conditions of confinement in these prisons may amount to cruel, inhuman or degrading treatment in violation of international human rights law. Both the European Court of Human Rights and the Committee for the Prevention of Torture have expressed similar concerns about the ‘special security’ regimes imposed on prisoners in a number of European states. Referring to isolation at the Extra Security Institution (EBI) in the Netherlands, the CPT has stated that “*to subject prisoners classified as dangerous to such measures could well render them more dangerous still*” (CPT re Netherlands, 1998, para.69), and the ECtHR has stated on a number of occasions that it shares these concerns (for example, *Mathew v. the Netherlands*, 2005).

Addressing the use of ‘reinforced security’ units for holding dangerous prisoners, the Council of Europe’s Committee of Ministers called on the Governments of Member States⁴⁰:

1. To apply, as far as possible, ordinary prison regulations to dangerous prisoners;
2. To apply security measures only to the extent to which they are necessarily required;
3. To apply security measures in a way respectful of human dignity and rights;
4. To ensure that security measures take into account the varying requirements of different kinds of dangerousness;
5. To counteract, to the extent feasible, the possible adverse effects of reinforced security conditions;
6. To devote all necessary attention to the health problems which might result from reinforced security;
7. To provide education, vocational training, work and leisure time occupations and other activities to the extent that security permits;
8. To have a system for regular review to ensure that time spent in reinforced security custody and the level of security applied do not exceed what is required;
9. To ensure, when they exist, that reinforced security units have the appropriate number of places, staff and all necessary facilities;
10. To provide suitable training and information for all staff concerned with the custody and treatment of dangerous prisoners.

It is also worth noting that studies suggest that solitary confinement is not an effective tool for managing those defined as ‘problem’ or ‘difficult’ prisoners and may even be counter-productive. A study of the ‘incurable units’ in North Carolina in the late 1950s, where prisoners were subjected to a regime of strict and prolonged solitary confinement, concluded that *“the over-all impact of the incurable unit in penal practice probably is one that intensifies tendencies to criminal attitudes and behavior”* (McCleery, 1961:306). Other studies identified isolation regimes as central factors leading to prison riots. One study of events leading to the 1980 riot in the New Mexico Penitentiary (USA), for example, attributed the riot directly to the strategy of isolating prisoner leaders, which led to the fragmentation of prisoner solidarity and in turn led to growing violence. A study of ‘order and discipline’ in prisons in England and Wales concluded that *“to impose additional physical restrictions, especially of a severe character, will almost certainly lead to a legitimacy deficit; and that deficit may well in the end play itself out in enhanced violence”* (Bottoms, 1999:263).

Similar findings emerge with regard to the isolation of gang members. One study found that the policy of placing gang members in solitary confinement in special security units in California led to an increase in gang activity, as *“prison authorities’ efforts to contain the spread of gangs led, unintentionally, to a vacuum within the prison population within which new prison groupings developed”* (Hunt et al. 1993:403). Leadership struggles among these new groupings then resulted in gang related murders in general population prisons (Parenti, 1999:209). Data on prison violence before and after the introduction of special security (or ‘supermax’) units, similarly indicates that the isolation of prisoners classified as dangerous or disruptive did not result in a reduction of prison violence in general population prisons⁴¹.

In short, though solitary confinement may be a convenient tool for managing challenging prisoners in the short term, in the long term it is not effective, and may prove to be counter-productive. Further, as Chapter Two illustrated, prolonged solitary confinement may have very serious health consequences for the individual concerned and may also affect his chances of successful reintegration into society. Every effort should therefore be made to reverse the trend towards supermax prisons and similar regimes which are wholly based on solitary confinement. Where it is absolutely necessary to hold a handful of extremely dangerous prisoners in separation from others, there should be ongoing assessment of the need to keep them isolated, and they should be afforded increased in-cell provisions, access to programmes, opportunities for meaningful human contact and so on.

3.3 The human rights position and case law regarding the placement of prisoners in solitary confinement

The potentially harmful effects of solitary confinement are recognised by human rights bodies, who view it as an undesirable prison practice which can only be justified in extreme cases⁴², must only be used for the shortest time possible⁴³, and which, in certain circumstances, may be in violation of international law.

The Human Rights Committee has expressed the view that

“solitary confinement is a harsh penalty with serious psychological consequences and is justifiable only in case of urgent need; the use of solitary confinement other than in exceptional circumstances and for limited periods is inconsistent with article 10, paragraph 1, of the Covenant”⁴⁴ and may amount to acts prohibited by Article 7 (torture and cruel, inhuman or degrading treatment or punishment)⁴⁵.

The UN Committee Against Torture (CAT) has been critical of practices involving prolonged solitary confinement and has stated that these may amount to treatment in violation of the prohibition against torture or inhuman treatment. For example, the CAT has expressed grave concerns regarding the strict and prolonged solitary confinement in supermax prisons in the United States (CAT, 2000); lack of time limits on placement in solitary confinement and the number of detainees isolated for more than ten years in Japan (CAT, 2007); and, the isolation of pre-trial detainees in Denmark and Norway (CAT, 2002).

A joint report issued by UN Rapporteurs on the situation of detainees held by US forces at Guantanamo Bay stated that *“the general conditions of detention, in particular the uncertainty about the length of detention and prolonged solitary confinement, amount to inhuman treatment and to a violation of the right to health as well as a violation of the right of detainees under article 10 (1) of ICCPR to be treated with humanity and with respect for the inherent dignity of the human person”* (Report to the UN Commission on Human Rights, 62 Session, 15/2/06, UN DOC E/CN.4/2006/120).

The European Committee for the Prevention of Torture (CPT) has taken the view that solitary confinement, for whichever reason, requires particular attention. In assessing any one case,

“the principle of proportionality requires that a balance be struck between the requirements of the case and the application of a solitary confinement-type regime, which is a step that can have very harmful consequences for the person concerned”⁴⁶.

Grounds which were accepted by the European Court of Human Rights (ECtHR) as justifying solitary confinement include: the prisoner's extremely dangerous behaviour⁴⁷, the prisoner's *"ability to manipulate situations and encourage other prisoners to acts of non-discipline"*⁴⁸ and the prisoner's safety⁴⁹. The *"general situation regarding terrorist climate at the time"* was also found to justify severe security measures, including solitary confinement⁵⁰. Ten years later, in 1992, the Court somewhat narrowed this view when it stated that *"the undeniable difficulties inherent in the fight against crime, particularly with regard to terrorism, cannot result in limits placed on the protection to be afforded in respect of the physical integrity of individuals"*⁵¹. These protections are not dependent on the individual's conduct: *"The Court is well aware of the immense difficulties faced by States in modern times in protecting their communities from terrorist violence. However, even in these circumstances, the Convention prohibits in absolute terms torture or inhuman or degrading treatment or punishment, irrespective of the victim's conduct"*⁵². In a more recent case, whilst the Court reaffirmed that the absolute prohibition against torture, inhuman or degrading treatment extends even to the *"most difficult circumstances, including the fight against terrorism and organised crime"*, and that solitary confinement must never be imposed on prisoners indefinitely, it ruled that holding a man who, at the time, was *"considered to be the most dangerous terrorist in the world"* in solitary confinement for 8 years and two months did not constitute a breach of Article 3 of the ECHR⁵³.

But the Court's willingness to accept that prolonged solitary confinement may be justified in exceptional cases, particularly those involving offences against the State, does not extend more generally. The placement of a prisoner in solitary confinement because he could not adapt to an ordinary prison setting was not accepted as sufficient grounds, and was found to constitute inhuman treatment in breach of Article 3⁵⁴. A breach of Article 3 was also found where a regime of strict solitary confinement was imposed for more than three years on a former Death Row prisoner yet *"the government have not invoked any particular security reasons ... and have not mentioned why it was not possible to revise the regime"*⁵⁵.

Hence, while it is generally accepted that in the prison setting short-term solitary confinement may sometimes be necessary, its use is subjected to close scrutiny to ascertain whether it serves a legitimate purpose, and is absolutely necessary in any given case. Once it is established that the placement of a prisoner in solitary confinement has been undertaken in accordance with due process requirements and serves a legitimate purpose, the physical conditions and regime afforded to isolated prisoners are addressed. These are the subject of the following chapter.

Key points

- The decision to place a prisoner in solitary confinement, for whatever reason, must always be made by a competent body and in accordance with due process requirements, including the right to appeal against the decision.
- When used as punishment for prison offences, solitary confinement must only be used as a last resort, and then for the shortest time possible, no more than a matter of days.
- Ensuring that the process through which prisoners are isolated is transparent and adheres to due process requirements not only ensures that the decision is carried out legally and professionally, but may also contribute to prisoners' perception of their placement as being legitimate and fair and, in turn, positively affect their behaviour.
- The use of prolonged solitary confinement for managing prisoners is rarely justified, and then only in the most extreme of cases.
- Solitary confinement is an undesirable tool for the long term management of challenging prisoners, and may be counter-productive.
- Those suffering from mental illness must not be placed in solitary confinement and under no circumstances should the use of solitary confinement serve as a substitute for appropriate mental health care.
- The use of solitary confinement for pre-charge and pre-trial detainees must be strictly limited by law, must only be used in exceptional circumstances, with judicial oversight, and for as short a time as possible, never for more than a matter of days.
- The use of solitary confinement as a means of coercing or 'softening up' detainees for the purpose of interrogation should be prohibited.
- Solitary confinement should never be imposed indefinitely and prisoners should know in advance its duration.

Notes

- 33 Incommunicado detention involves the detainee being held without access to a lawyer, doctor and family members. The UN Special Rapporteur on Torture has proposed that this form of detention be declared illegal, as it is “*the most important determining factor as to whether an individual is at risk of torture*” and called on States to release all persons held incommunicado without delay (Report by the Special Rapporteur on the question of torture and other cruel, inhuman or degrading treatment or punishment (1999) UN doc. A/54/426, par. 42; Same, 1995 Report UN doc. E/CN.4/1995/34, par. 926). Successive resolutions of the UN Commission on Human Rights have reiterated this stance and stated that prolonged incommunicado detention can in itself constitute a form of cruel, inhuman or degrading treatment (see for example Commission on Human Rights resolutions 1997/38, 1998/37 and 1999/32). The UN Human Rights Committee called on States to make provisions against incommunicado detention (General Comment 20), and in considering individual cases involving incommunicado detention for varying periods of time found a violation of Articles 10 and/or 7 of the ICCPR (in many cases the applicant’s incommunicado detention was accompanied by other deprivations. See, for example: *de Polay v. Peru* (1997) Communication 577/1994; *Mukong v. Cameroon* (1994) Communication 458/1991; *Gilboa v. Uruguay* (1985) Communication 147/1983). The European Court of Human Rights (ECtHR) found a breach of Article 6 protections where detainees were held incommunicado for 24 hours in one case and 48 hours in another (*Averil v. UK*, ECHR 212, [2001] 31 EHRR 36; *John Murray v. UK*, ECHR 3, [1996] 22 EHRR 29). The Inter-American Court of Human Rights found a violation of the prohibition against torture, inhuman or degrading treatment where a detainee was held incommunicado for 36 days, and declared that this form of detention, in itself, may constitute a violation of human rights law (*Castillo Petruzzi et al. v. Peru*, Judgement of 30 May, 1999.).
- 34 *Ezeh and Connors v. UK*, Judgement of 9/10/2003, (violation of Article 6(3)); *Whitfield and others v. UK.*, Judgement of 12/7/2005 (violation of Article 6(1) and 6(3)c .)
- 35 UN Human Rights Committee (2001) A/56/156, Session of 3/11/2000.
- 36 See CPT reports, particularly report re Denmark (1991 para.29; 1997; 2001); Norway (1994; 1996; 2006); Sweden (1995 paras.19-27).
- 37 CPT/Inf (2002) 18, at para.39.
- 38 In the UK, for example, see: Dora Rickford and Kimmitt Edgar, *Troubled Inside: Responding the Mental Health Needs of Men in Prison*, Prison Reform Trust, 2005, in particular chapter 5, and HMCIIP report, *The Mental Health of Prisoners, A thematic review of the care and support of prisoners with mental health needs*, October 2007.; In the US, see: The Commission on Safety and Abuse in America’s Prisons: *Confronting Confinement*, June 2006. See also Prison Reform International (2003) Training Manual no. 1: *Human Rights and Vulnerable Prisoners*.
- 39 *Victor Rosario Congo v. Ecuador*, Case 11.427, Report No. 63/99, Inter-Am. C.H.R., OEA/Ser.L/V/II.95 Doc. 7 rev. at 475 (1998). April 13, 1999 para.58; See also ECtHR cases cited below
- 40 Recommendation concerning Custody and Treatment of Dangerous Prisoners (No. R (82) 17)
- 41 Shalev, S. (2007). ‘The power to classify: avenues into a supermax prison’ in: Downes, D., Rock, P., Chinkin, C. and Gearty, C. (Eds.) *Crime, Social Control and Human Rights: From moral panics to states of denial*, Devon: Willan Publishing, pp. 107-119. See also Briggs et al. (2003) ‘The effects of supermaximum security prisons on aggregate levels of institutional violence’, *Criminology*, Vol.41 (4) pp 1341-1376.
- 42 See for example the ECtHR judgements in *Ensslin, Badder and Raspe v FRG* , DR 14 (1978); *X v FRG*, Application 6038/73 Coll. 44 (1973).
- 43 *Mathew v the Netherlands*, Judgement of 29/9/2005 at Para. 199. See also CPT 2nd General Report CPT/Inf (92)3 par. 56
- 44 Human Rights Committee, Concluding Remarks on Denmark. 31/10/2000. CCPR/CO/70/DNK
- 45 General Comment 21/44, of 6 April, 1992.
- 46 CPT, 2nd General Report, 1992 par. 56.
- 47 *M v UK*, application 9907/82 DR 35 (1983)

- 48 *X v UK*, application 8324/78 unpublished
- 49 *X v UK*, application 8241/78 unpublished
- 50 *Krocher and Moller v Switzerland*, DR 34 (1982) p 54.
- 51 *Tomasi v France* A 241-A,1992
- 52 *Chahl v. The UK*, Judgement of 15/11/96, para.79
- 53 *Ramirez Sanchez v. France*, application no. 59450/00, Judgment of 27.1.05. The *Ramirez* case is quite unusual. Not only was he a very 'high profile' prisoner, but his conditions of confinement were relatively comfortable, he had frequent contact with people from outside the prison, and was in apparent good physical and mental health. In reaching its decision, the Court relied heavily on these factors and on the fact that he was later removed from solitary confinement and placed in an ordinary prison wing.
- 54 *Mathew v the Netherlands*, Judgement of 29.9.2005
- 55 *Iorgov v. Bulgaria* (2004) ECHR 113 (2005) 40 EHRR 7, ECtHR 185 par. 84

