

POLITICS OF PUNISHMENT

Solitary confinement of prisoners &
detainees in Israeli prisons
Status Report



PHYSICIANS FOR HUMAN RIGHTS
רופאים אדם
לדכויות אדם لحقوق الإنسان
ISRAEL / إِسْرَائِيل

POLITICS OF PUNISHMENT

**Solitary confinement of prisoners & detainees in Israeli prisons
Status Report**

March 2016

written by : Adv. Ola Shtiwí.

Research: Amany Dayif, Adv. Ola Shtiwí.

Consultants: Amany Dayif, Anat Litvin, Dr. Noa Bar Haim,
Dr. Zeev Wiener, Adv. Tamir Blank, and Dr. Ruchama Marton.

Translation: Lahad Lazar.

Editing: Rebecca Arian.

Design: David Moscovitz.

Cover Photo: ActiveStills.

Illustration: Amjad Badran.

Acknowledgements: We wish to thank the experts and professionals who helped, read and offered advice as part of the thought process leading up to the report and in its writing. Of particular note was the tremendous engagement and contribution of Dr. Noa Bar Haim, a volunteer psychiatrist and member of PHR-Israel's Ethics Committee, to the organization's fight against the solitary confinement of prisoners. Noa was instrumental in accompanying, monitoring and assessing prisoners held in solitary confinement in prisons, in articulating ethical standards, and in devising a therapeutic program for gradually bringing patients suffering from mental issues out of solitary confinement.

Our thanks and great appreciation are also given to Adv. Anat Yaari, head of prisoner affairs at the Central District office of the Public Defense, for the time and effort spent reading the report and commenting on it, but mostly for her commitment to furthering the rights of prisoners held in solitary confinement.

TABLE OF CONTENTS

5	Executive Summary
10	Introduction
13	Chapter 1 Major Trends of Change in Prohibition of Solitary Confinement in International Law
16	Chapter 2 Solitary confinement in Numbers
19	Chapter 3 Trends and Changes in Israel
30	Chapter 4 The Involvement of Health Professionals in Solitary Confinement
34	Chapter 5 Summary and Conclusion
37	Chapter 6 Recommendations
41	Appendix
45	Responses



Executive Summary

With this report, Physicians for Human Rights - Israel (PHRI) seeks to set in motion a process that will help protect the rights of prisoners held in solitary confinement to eventually lead to a prohibition on the use of solitary confinement in Israeli prisons. This report presents the current trends in the use of solitary confinement in Israeli prisons and offers practical ways to end this practice.

Solitary confinement is a form of incarceration that is seriously detrimental to prisoners' short and long-term mental and physical health and in some circumstances constitutes torture. It involves the distancing of a prisoner from the other inmates, for 23-24 hours a day, indefinitely at times, cutting him off from virtually any meaningful human contact and social interaction. It is a cruel practice that runs fundamentally counter to any attempt to rehabilitate and treat prisoners.

The first chapter in the report reviews major trends of change in the prohibition of solitary confinement in international law. In particular, the first chapter reviews the trends in recent years in international views on solitary confinement and the intensifying call to limit-and stop-its use. The two most important changes have been: (1) the 2011 affirmation of the UN Special Rapporteur on torture that solitary confinement exceeding 15 days constituted torture or cruel and

degrading treatment or punishment; and (2) the adoption of the revised version of the Standard Minimum Rules for the Treatment of Prisoners, otherwise known as the Mandela Rules, by the UN General Assembly in December 2015. Unlike the old rules, the amended rules directly address the issue of solitary confinement, recognizing its negative impact on prisoners, and among other things, prohibit prolonged or indefinite solitary confinement, and define prolonged solitary confinement as one that exceeds 15 days. In addition, the revised rules absolutely prohibit solitary confinement in cases where prisoners suffer from physical or mental disabilities.

The second chapter in the report discusses the lack of transparency and oversight with regard to the extent to which the IPS uses solitary confinement as well as the growing use of solitary confinement under the separation ordinance, as these are reflected in the quantitative data. The IPS does not at all collect data on the holding of prisoners in punitive solitary confinement. The only figures provided by the IPS relate to the solitary confinement of prisoners under the separation ordinance. These figures indicate that some prisoners are held in solitary confinement for years on end. Moreover, the data also points to the greater, intensified use of solitary confinement under the separation ordinance, as manifest in the twofold increase in the number of placements in solitary confinement under the separation ordinance in the past two years. This increase in placements reinforce suspicions that the IPS is using this type of solitary confinement sweepingly rather than as a measure of last resort.

The report's third chapter elaborates on the various trends in the use of solitary confinement against prisoners in Israel by the IPS and the security authorities.

Protected wards: The IPS established so-called "protected" wards, where it holds prisoners under conditions of solitary confinement similar to those prevailing in solitary-confinement wards and cells, without this being subject to any limitations. Furthermore, because these wards are not defined by the IPS as solitary-confinement wards or cells, they are neither included in the statistics on solitary confinement nor are they subject to any form of review, judicial or otherwise.

Solitary confinement of prisoners suffering from mental health issues: This section dwells on solitary confinement as applied to the population of prisoners suffering from mental-health problems and on the failures of the mental-health system, which only exacerbate the harm caused to

this population. Worse still, even though solitary confinement harms the mental health, delays, and obstructs the psychological treatment of this population, the IPS uses solitary confinement as an easy, aggressive and offensive substitute for genuine, adequate treatment.

Punitive punishment: Prisoners are placed in punitive solitary confinement for committing disciplinary offenses listed in IPS ordinances. These offenses are given general, broad-based definitions in a way that they encompass practically all human behavior with the potential to be used as a means of retribution against prisoners. In addition, when used as a punitive tool, solitary confinement is employed arbitrarily without any true oversight mechanism. It is one and the same entity that decides whether a disciplinary offense was committed, imposes the punishment and carries it out.

Solitary confinement on grounds of protecting state security and solitary confinement of detainees during interrogations: Solitary confinement is used as a tool of political oppression and control against prisoners accused of security-related offenses. This mechanism is used by the various security agencies both during detention and interrogation and against convicted prisoners, on the grounds of protecting state security. Both situations predominantly involve Palestinian political prisoners, defined as "security" prisoners.

Unlike other situations, the decision to hold prisoners in solitary confinement on grounds of "protecting state security" falls to the intelligence agencies and the General Security Service. The decision to prolong solitary confinement is often made on the basis of confidential evidence, which prisoners cannot defend against.

Every year, hundreds of Palestinian detainees are put through the interrogation facilities. These interrogations are usually conducted with the prisoner held incommunicado in solitary confinement. Solitary confinement is chosen for the duration of interrogations precisely because of its devastating psychological effects on individuals. Coupled with other offensive methods of interrogation as an inherent part of the interrogation process, it not only deprives the detainee of basic protections but also has the potential to lead to false confessions being obtained by force from detainees.

The fourth chapter analyses the involvement of health professionals in approving and sustaining the practice of solitary confinement and discusses their ethical obligation as well as the responsibility of the health establishment to put a stop to the harm inflicted on imprisoned

patients through solitary confinement. There are various points at which prisoners held in solitary confinement come into contact with health professionals. Their cooperation with the security authorities allows the latter to use solitary confinement freely with the backing of the medical system and, frequently, its approval and validation. Such cooperation contradicts the ethical and professional obligations of health professionals, which prohibit their participation in harmful practices used against their patients, such as solitary confinement, and even binds them to take active steps to put an end to such practices. A significant number of prisoner medical files reviewed by PHRI suggest that the practice where health professionals in prisons give solitary confinement a medical validation is commonplace.

In the last two chapters, the report traces the structural and value changes that must take place to end the use of solitary confinement in Israeli prisons. We believe that the medical community in Israel, and first and foremost the Ministry of Health, should actively undertake and fight against the use of solitary confinement as a detention practice in Israel. At minimum, the medical community should prohibit medical involvement in the solitary confinement of prisoners.

As both the State of Israel's health regulator and the entity directly responsible for the mental-health system for prisoners, the Ministry of Health is doubly responsible for spearheading the fight against the solitary confinement of prisoners. The IPS's mental-health center (Maban) should operate independently, in compliance with ethical and professional medical standards regardless of any considerations and limitations of the IPS's security system. Likewise, Maban should take concrete steps to denounce the practice of placing prisoners in solitary confinement.

The Israeli Medical Association (IMA) and the Israel Psychiatric Association have thousands of health professionals as their members, who are bound to these organizations' ethical codes. This gives them the power to influence both the medical community and decision makers in the medical and health fields. It is also these organizations' responsibility to lead a struggle against solitary confinement and physicians' involvement therein. This holds particularly true for the IMA, which has positioned itself as a compass for medical ethics in Israel.

It is our opinion that it is the duty of the Ministry of Public Security and the IPS to maintain the health of those placed in their custody. The state cannot continue to ignore the devastating effects of solitary

confinement on prisoners. It is responsible to act to eradicate this harmful practice and desist from the use of solitary confinement as means of pressure to achieve serving political and punitive goals and as a tool for handling individuals coping with mental-health issues.

Introduction

Israeli legislation provides for the solitary confinement of prisoners and detainees (hereinafter: "**prisoners**") via three main procedures: solitary confinement for and during interrogation,¹ solitary confinement as a form of disciplinary punishment² (hereinafter: "**punitive solitary confinement**"), and solitary confinement under a procedure called separation³ (hereinafter: "**solitary confinement under the separation ordinance**"). Solitary confinement under the separation ordinance is supposed to be a measure of last resort meant to achieve the following goals: prison security, preventing serious disruption of discipline and normal prison routine, maintaining the well-being and safety of the prisoner or other prisoners, state "security" and preventing violence or drug offenses.

Besides these legislated procedures, the Israel Prison Service (IPS) holds many prisoners under conditions of solitary confinement, in so-called protected wards, without clear legal authority. As shall be specified in this report, detention in protected wards is tantamount to detention in solitary confinement without being subject to the provisions of the law governing detention in solitary confinement under the aforementioned procedures or to the review mechanisms and safeguards built into the law in cases of solitary confinement.

¹ Regulation 5B of Israel's Prisons Regulations, 5738 - 1978, S.H. 495.

² Article 58 of the Prisons Ordinance (New Version), 5732 - 1971, and IPS Commission Ordinance No. 04.14.00 "Detention in Isolation".

³ Article 19B of the Prisons Ordinance (New Version), 5732 - 1971, and IPS Commission Ordinance No. 04.03.00 "Holding Prisoners in Separation".

All the aforementioned procedures constitute solitary confinement, by means of which a prisoner is kept away from the rest of the prisoner population in a cell alone or with another prisoner for 23–24 hours a day from a single day to an indefinite stretch of time,⁴ cut off from virtually all significant human contact and social interaction. Beyond the health-related, mental and physical damage it causes in both the short-term and the long-term,⁵ solitary confinement represents a cruel practice that fundamentally runs counter to the attempts to rehabilitate prisoners, which is one of the objectives of the IPS.⁶

Physicians for Human Rights – Israel (PHRI) receives daily complaints from prisoners and detainees held in severe conditions of solitary confinement. These describe considerable suffering, deficient and insufficient medical treatment, inhumane detention conditions, ongoing punishment, and the deprivation of basic rights such as education, family visits, use of telephones, daily walks in the yard, etc.

The IPS's use of this cruel and inhumane practice remains unshaken, even after the media exposed suicide cases involving prisoners who had been held in solitary confinement and cases where solitary confinement resulted in dire consequences. Apart from the slight embarrassment for the IPS and policy-makers, neither did any real change ensue nor did any substantial examination of solitary confinement as a practice used in prisons take place.

The continued, unquestioned use of solitary confinement, despite its devastating effects on prisoners, is made possible in part by the immunity and validation granted by the medical community, in particular the Ministry of Health, and the community of institutional mental-health practitioners.

For years, PHRI has fought against solitary confinement and the participation of physicians in this practice. Physicians are duty bound to care for the health and well-being of prisoners. This includes the obligation to warn against and actively oppose any act, such as solitary

⁴ Punitive solitary confinement can last 14 days, provided it is no longer than seven days in a row; solitary confinement for interrogation can last 35 days, extendable by approval of the Attorney General; and solitary confinement under the isolation ordinance can last indefinitely. For further information, see PHRI, Al Mezan Ctr. for Human Rights, and Adalah, Solitary Confinement of Prisoners and Detainees in Israeli Prisons (June 2011).

⁵ For more on the health-related damages of solitary confinement, see, e.g., Stuart Grassian, Psychiatric Effects of Solitary Confinement, 22 Wash. U. J. L. & Pol'y 325 (2006); Peter Scharff Smith, The effects of solitary confinement on prison inmates: A brief history and review of the literature, 34 Crime and Justice 451 (2006); Ruchama Marton, Mental Effects of Solitary Confinement, Lecture given at the Tel Aviv University Security Prisoners or Political Prisoners Conference (Jan 8, 2006); Dr. Zeev Wiener, Psychiatric Opinion on the Mental Consequences of Prisoners' Solitary Confinement (2005).

⁶ Israeli Prison Service, <http://ips.gov.il/Web/En/Default.aspx> (last visited May 12, 2016), ("The IPS views as a key objective the treatment and rehabilitation of the prisoner and preparing him for re-insertion into society after serving his sentence").

confinement, that is liable to be detrimental to the health of their patients. PHRI's position is that all forms of solitary confinement in prisons should be stopped, and that the Ministry of Health, the Israeli Medical Association and the Israel Psychiatric Association must interface with the security authorities and the government in order to end to the use of solitary confinement in prisons and promote change with applicable legislation.

PHRI previously issued two position papers, in 2008⁷ and 2011,⁸ which reviewed solitary confinement as a mechanism used to control and oppress Palestinian prisoners. These include legal and political analysis as well as an overview of the health-related damages of solitary confinement. The present report is intended to be an update on trends in the use of solitary confinement in Israeli prisons. The report will provide data on the scale of the phenomenon, surveying continuing and new trends—both local and international—while touching on the role of the medical community in shaping these trends.

⁷ Tal Assif and Sahar Francis, *The sounds Of Silence: Isolation and Solitary Confinement of Palestinians in Israeli Detention*, PHRI AND Addameer Prisoner Support and Human Rights Association (2008).

⁸ PHRI, Al Mezan Ctr. for Human Rights, and Adalah, *supra* note 4.

Chapter 1

Major Trends Of Change In Prohibition Of Solitary Confinement In International Law

International and regional human rights law includes treaties, guidelines and rules seeking to limit or prohibit the solitary confinement of prisoners. For example, in 1992, the UN Human Rights Committee determined that prolonged solitary confinement of prisoners might constitute torture or cruel, inhuman or degrading treatment or punishment, thus violating Article 7 of the International Covenant on Civil and Political Rights.⁹ In 1999, the Inter-American Court of Human Rights determined that solitary confinement, under certain conditions, constitutes cruel, inhuman or degrading treatment or punishment as defined in the American Convention on Human Rights.¹⁰

In December 2007, the International Psychological Trauma Symposium adopted the Istanbul Statement on the use of solitary confinement and its effect on prisoners. According to the Statement, this practice should be absolutely prohibited when it serves as a mechanism meant to subject prisoners to psychological pressure; when it is part of the punishment for death row and life-sentenced prisoners; or when it is used against people who suffer from mental illness or against minors under the age of 18.¹¹

⁹ Office of the U.N. High Comm'r on Human Rights, U.N. Human Rights Comm. (HRC), CCPR General Comment No. 20: Article 7 (Prohibition of Torture, or Other Cruel, Inhuman or Degrading Treatment or Punishment), (Mar. 10, 1992).

¹⁰ Castillo Petruzzi et al. v. Peru, Merits, Reparations, and Costs, Judgment INTER-AM. CT. H. R. (ser. C) No. 52, 197 (May 30, 1999).

¹¹ The Istanbul Statement on the Use and Effects of Solitary Confinement, International Psychological Trauma Symposium in Istanbul (Dec. 9, 2007), available at http://solitaryconfinement.org/uploads/Istanbul_expert_statement_on_sc.pdf.

The Statement further says that solitary confinement should be limited to exceptional cases only, used only as a last resort and for the shortest duration possible.

In 2009, the UN Committee against Torture criticized Israel's use of solitary confinement against Palestinian prisoners, whether as a means of "encouraging" confessions from minors, of punishing disciplinary offenses, or during interrogations conducted in small cells with no ventilation or sunlight. The UN Committee Against Torture further stated that Israel had to amend its laws in order to ensure that solitary confinement would only be resorted to in exceptional cases and used for limited duration.¹² These points of criticism were included among the issues that the Committee asked Israel to address before its scheduled review in May 2016.¹³ Israel submitted its response on 16 February 2015.¹⁴

Recently, there has been a shift in international views on solitary confinement, and in particular, the shift has featured voices calling for significant limitation in the use of solitary confinement or its outright prohibition. In 2011, the UN Special Rapporteur on torture presented an interim report to the UN General Assembly which determined that the negative, acute and hidden physiological and psychological effects of prolonged solitary confinement amounted to severe mental pain or suffering as defined in Article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Consequently, **solitary confinement exceeding 15 days constitutes torture or cruel and degrading treatment**, depending on circumstances, prohibited by Article 7 of the International Covenant on Civil and Political Rights.¹⁵

This opinion was presented by the Rapporteur in 2013 to the Inter-American Commission on Human Rights, which adopted his position and stressed that "the OAS (Organization of American States) Member States must adopt strong, concrete measures to eliminate the use of prolonged or indefinite solitary confinement", and that "this practice may never constitute a legitimate instrument in the hands of the State". The Commission further stated that solitary confinement must never be used against minors or people with mental disabilities.¹⁶

In 2013, the Rapporteur submitted an opinion to Brazil's Supreme Court

¹² Office of the U.N. High Comm'r on Human Rights, U.N. Comm. against Torture (CAT), Concluding observations of the Committee against Torture: Israel, 23 June 2009, CAT/C/ISR/CO/4, ¶18.

¹³ Office of the U.N. High Comm'r for Human Rights, U.N. Comm. against Torture (CAT), List of Issues Prepared by the Committee prior to the Submission of the Fifth Periodic Report of Israel (CAT/C/ISR/5), adopted by the Committee at its forty-eighth session, U.N. Doc. CAT/C/ISR/Q/5, (7 May – 1 June 2012).

¹⁴ Office of the U.N. High Comm'r for Human Rights, U.N. Comm. against Torture (CAT), Consideration of reports submitted by States parties under article 19 of the convention pursuant to the optional reporting procedure, Fifth periodic reports of States parties due in 2013, Israel, U.N. Doc. CAT/C/ISR/5 (16 Feb. 2015).

¹⁵ U.N. Gen. Assembly, Interim Rep. of the Special Rapporteur of the Human Rights Council on Torture and other Cruel, Inhuman and Degrading Treatment or Punishment, 66th sess., U.N. Doc. A/66/268, p. 21 (5 Aug. 2011).

¹⁶ Inter-Am. Comm. on Human Rights, Press Release (3 Apr. 2013), http://www.oas.org/en/iachr/media_center/PReleases/2013/023A.asp.

regarding the constitutionality of a law allowing up to 360 days of solitary confinement extendable, without judicial review, to as much as one-sixth of the prisoner's prison term in the event of future offenses are committed. The opinion was submitted as part of a petition challenging the law filed by a Brazilian human rights organization. The Rapporteur reiterated his aforementioned opinion, stating that the law contradicted the Convention against Torture and the American Convention on Human Rights.¹⁷

In December 2015, the UN General Assembly adopted the amended version of the Standard Minimum Rules for the Treatment of Prisoners.¹⁸ These rules, initially adopted by the first UN Congress on Crime Prevention and Criminal Justice in 1955, were recently amended by a number of committees and experts in order to adapt them to needs and developments of the human rights and criminal justice fields. The rules were called "**Mandela Rules**", after Nelson Mandela, who was imprisoned for 27 years, some of which were spent in solitary confinement. Unlike the old rules, the revised rules directly address solitary confinement, recognizing its negative impact on prisoners. Rule 43, amongst others, prohibits prolonged or indefinite solitary confinement. Rule 44 states that prolonged solitary confinement is one that exceeds 15 days. In addition, rule 45 prescribes that solitary confinement shall only be used in exceptional cases, as a last resort, for the shortest period possible, subject to independent review, and only after authorization by a competent authority. The rule further states that solitary confinement should be prohibited in cases involving prisoners with physical or mental disabilities when their condition would be exacerbated by solitary confinement. The rule states that the prohibition of the use of solitary confinement according to other UN standards relating to prisoners who are minors,¹⁹ pregnant women, women with newborns and infants, and women who are nursing²⁰ shall continue to apply.

¹⁷ Special Rapporteur of the Human Rights Council on Torture and other Cruel, Inhuman and Degrading Treatment or punishment, Amicus Curiae Brief to the Supreme Federal Court of Brazil on the Constitutionality of the Differentiated Disciplinary Regime, from Special Rapporteur Juan E. Méndez addressed to Honorable Madam Justice of the Brazilian Supreme Federal Court of Brazil Rosa Weber (20 June 2013), available at http://www.ohchr.org/Documents/Issues/SRTorture/ParecerMendez_en.pdf.

¹⁸ United Nations Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules), G.A. Res. 70/175 U.N. Doc. A/Res/70/175, (29 Sept. 2015).

¹⁹ [United Nation Rules for the Protection of Juveniles Deprived of their Liberty](#), G. A. Res. 45/113, Rule 67 (14 Dec. 1990).

²⁰ [The Bangkok Rules](#), The United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders, G.A. Res. 65/299, Rule 22, (21 Dec. 2010).

Chapter 2

Solitary Confinement In Numbers

The data below solely relates to the solitary confinement under the separation ordinance. The IPS has no data on prisoners held in punitive solitary confinement.²¹

1. Number of prisoners held in solitary confinement

According to data from July 2015, 117 prisoners were held in solitary confinement.²² For purposes of comparison, 131 prisoners were held in solitary confinement in December 2006,²³ 150 in November 2010,²⁴ 121 in June 2012,²⁵ and 135 in October 2013.²⁶

According to IPS data, in July 2015:

Solitary v. dual confinement: 85 (73%) of all prisoners held in solitary confinement were held alone in cell, as compared to 32 (27%) who were held in dual confinement.

Criminal vs. political: Of all prisoners held in solitary confinement, 94 prisoners (80.3%) were defined as criminal prisoners, a category that

²¹ From the IPS's response dated 2 July 2015, at the request of PHRI based on the Freedom of Information Law.

²² Id. Despite PHRI's request, no figures were provided on the total number of prisoners isolated in 2015.

²³ From the IPS's response dated 21 December 2006, at the request of PHRI based on the Freedom of Information Law.

²⁴ From the IPS's response dated 22 November 2010, at the request of PHRI based on the Freedom of Information Law.

²⁵ Ministry of Justice, Public Def., Separated from their Rights, Report by the Public Def. Office on Holding prisoners in Solitary Confinement 8 (Sept. 2012).

²⁶ From the IPS's response dated 31 October 2013, at the request of PHRI based on the Freedom of Information Law.

accounts for 68% of the general population.²⁷ In comparison, 23 prisoners (19.7%) were categorized as "security" prisoners (i.e. Palestinian political prisoners),²⁸ a category that accounts for 32% of the general prisoner population.

Women and minors: Two (2%) of all prisoners held in solitary confinement were women, who constitute about 1% of the total prisoner population, while 7 (6%) were minors, accounting for 2% of the prisoner population.

2. Placement in solitary confinement²⁹

390 placements in solitary confinement were recorded in 2012, 570 in 2013 and 755 in 2014. The figures record the number of placements in solitary confinement, and thus the same prisoner might be accounted for in the data more than once. As is shown by the data, the number of placements in solitary confinement doubled from 2012 to 2014.

Number Of Placements In Solitary Confinement Vs. Number Of Prisoners Held In Solitary Confinement Under The Separation Ordinance 2006–2015

Based On Ips Data



²⁷ IPS data dated 31 July 2015, as furnished to B'Tselem.

²⁸ According to article 1 of Commission Ordinance No. 04.05.00, "Rather than being the result of some provision of the law, the classification of prisoners as security prisoners is an internal IPS administrative decision meant, amongst others, to facilitate the proper management of incarceration facilities by holding them apart".

²⁹ From the IPS's response dated 2 July 2015. This answer by the IPS came in response to a question regarding the number of prisoners held in solitary confinement, at any point, in the years 2012, 2013, 2014.

3. IPS Grounds for Isolating Prisoners

According to IPS data, in July 2015:

9 prisoners were held in solitary confinement on grounds of protecting "state security", most of them Palestinian political prisoners defined as "security" prisoners.

33 prisoners were held in solitary confinement on grounds of protecting prison security.

20 prisoners were held in solitary confinement on grounds of maintaining discipline in prison, among them were two women and two minors.

4. Solitary confinement Period

Data provided by the IPS indicates that 63 prisoners, accounting for 54% of all prisoners held in solitary confinement In July 2015, have been held in solitary confinement for six months or more, indicating that their solitary confinement term was extended by a court of law. Hence, 46% of all prisoners held in solitary confinement were held according to an IPS administrative decision that has yet to undergo judicial review.

Number of Prisoners	Solitary confinement period
28	One day to two months
26	Two to six months
20	Six months to one year
34	One year to three years
2	Three to five years
7	More than five years

Chapter 3

Trends And Changes In Israel

1. Number of prisoners held in solitary confinement and the growing number of placements in solitary confinement

The number of prisoners held in solitary confinement under the separation ordinance in July 2015 was lower than it was in 2013, 2012, 2010 or 2006; however, this fact does not indicate a drop in the number of prisoners held in solitary confinement each year. The number of prisoners held in solitary confinement according to the data furnished by the IPS holds true for a certain point in time and does not reflect the average or total number of prisoners held in solitary confinement that year. In the absence of such information, the figure provided by the IPS cannot indicate the extent to which solitary confinement under the separation ordinance is used.

In addition, the number of solitary confinement placements under the separation ordinance has risen sharply, doubling within two years. This sharp increase does not necessarily indicate a drop or increase in the total number of prisoners sent to solitary confinement in each year, as individual prisoners might have been placed in solitary confinement multiple times in the same year. However, the increase in the number of solitary confinement placements definitely suggests its greater use under the separation ordinance, reinforcing the suspicion that it is a measure applied by the IPS sweepingly rather than as a last resort. Israel's response³⁰ to the list of issues posed by the UN Committee

³⁰ Office of the U.N. High Comm'r for Human Rights, U.N. Comm. Committee against Torture (CAT), supra note 14.

against Torture³¹ explicitly stated that the IPS was unable to provide information on the scope of the use of solitary confinement against Palestinian prisoners, since this measure was used, according to them, for short periods of time, mostly two to three days.³²

It can be established with certitude, even without collecting data, that the IPS response above does not at all reflect a reality where Palestinian prisoners are held in solitary confinement for interrogation for as long as 35 days, or even more with the approval of the Attorney General. Furthermore, solitary confinement under the separation ordinance can last for periods of years or possibly indefinitely. The IPS response also clearly does not reflect the reality of all prisoners held in punitive solitary confinement for up to 14 days. This being said, it is impossible to gauge the scope of the phenomenon and the ways it is applied to political and criminal prisoners without the IPS starting to collect data, not only regarding number of prisoners held in solitary confinement but also about their identity (gender, nationality, age, type of prisoner and civil status), the grounds, periods, the alternatives considered, the rate at which decisions to use solitary confinement were subject to judicial review, and the outcomes of such review.

2. Protected Wards

IPS Commission Ordinance No. 03.01.00–Rules on the Operation of Prisons for Criminal Prisoners–defines the protected ward as follows: "1. A ward whose purpose is to house prisoners who, due to their negative behavior or due to their being at risk or posing a risk, are separated from the rest of the prisoners and do not take part in the various prison activities. 2. Life in the ward shall follow a normal routine, with the prisoners in this ward kept separate from the other prisoners in the other wards. 3. Prisoners in this ward are not defined as separated prisoners".³³

Despite the Ordinance's clear assertion that life in the protected ward should run normally and that prisoners are not defined as prisoners held in solitary confinement under the separation ordinance, PHRI has been and continues to be approached by prisoners who report that they are held in protected wards under conditions resembling solitary confinement, presumably without being defined as having been placed in solitary confinement by the IPS. A review report published by the Israeli Public Defense for the years 2013–2014³⁴ pointed out the existence of protected wards in which conditions

³¹ Office of the U.N. High Comm'r for Human Rights, U.N. Comm. Committee against Torture (CAT), supra note 13.

³² Office of the U.N. High Comm'r for Human Rights, U.N. Comm. against Torture (CAT), supra note 14.

³³ Article 2(D) of Commission Ordinance 03.01.00 – Rules on the Operation of Prisons for Criminal Prisoners.

³⁴ Ministry of Justice, Public Def., Conditions of detention and incarceration IPS Detention Facilities in 2013–2014. (July 2015), available at <http://www.justice.gov.il/Units/SanegoriaZiborit/DohotRishmi/Documents/prisonreport20132014.pdf>.

of imprisonment were similar to those prevailing in solitary confinement wards and cells; however, because the IPS does not define them as such, they are neither included in the statistics nor subject to any judicial review. Thus, for example, the entire solitary confinement ward in Ayalon Prison was closed, only to be replaced by a protected ward that serves the same purpose in reality:³⁵ to hold prisoners 23–24 hours a day alone in small cells with no significant possibility for human contact or interaction.

Mahdi (pseudonym), is a criminal prisoner who was brutally raped in prison, contracting HIV as a result. After declaring him a prisoner that required protection, the IPS held him in a protected ward. In the first seven months there, he was allowed to go on the daily stroll in the yard with other inmates, but subsequently he was prevented from doing so.

Mahdi asked PHRI to act in order to allow him to spend time near other prisoners. He described immense suffering in solitary confinement, especially late at night; his stay alone was the cause of severe mental anguish, and made him relive daily the hard sexual assault that he had gone through.

"I tried to commit suicide three times, but I am condemned to a life of misery... The prison's management sees me as a weirdo, a caveman... Every day I see my attacker—I see him in my food plate, in the glass I drink from; I wake up in the morning and open the faucet to wash my face, but see his face instead... no one can feel what I feel". *

Mahdi reported verbal and physical violence from guards and other prisoners and said that the medical staff ignored his complaints and bruises. The response received in October 2015 from the Prisoners Complaints Officer to our inquiry regarding his solitary confinement reads as follows: "As for the prisoner's stay in solitary confinement, an inquiry into the matter showed that the prisoner spent time in solitary confinement because he had cursed the ward's commander and threatened to harm himself; the prisoner spent his punishment period in solitary confinement under conditions of separation, and was returned to a protected ward on 12 August 2015".

The response did not at all address Mahdi's detention in conditions of solitary confinement in the protected ward. Mahdi was held in the protected ward for approximately two years, after which he was transferred to a normal ward, without any explanation. Throughout his stay in the protected ward, Mahdi was never brought before a judge to have his detention in solitary confinement extended.

* Taken from a letter sent by Mahdi to PHRI in the beginning of 2014.

³⁵ Id. at 12.

3. Solitary Confinement of Prisoners with Mental Disorders

Prisoners worldwide, with Israel as no exception, are known to be the most mentally-vulnerable population. This is due to a variety of reasons related to, among other things, the negative effects that the deprivation of freedom and the conditions of incarceration have on people. According to the State Comptroller's report for 2015, "approximately 73% of criminal detainees and prisoners imprisoned in 2009 were examined by psychiatrists, as compared to 1%-2% of the general population who were examined and treated by psychiatrists in the community".³⁶

Mental health is not listed in Israeli legislation as one of the grounds for placing prisoners in solitary confinement. Thus, holding prisoners in solitary confinement due to their mental health state is illegal. Moreover, solitary confinement is by no means a form of treatment. On the contrary, solitary confinement exacerbates existing mental conditions and even has the potential to cause irreversible mental health issues and damage. Still, the IPS continues to isolate prisoners who suffer from mental health issues as a way of dealing with their mental condition or as punishment for behavior they cannot control.

As mentioned, the detrimental effect of solitary confinement on the mental health of prisoners is greater when the mental-health system in charge of treating prisoners has many shortcomings and fails to meet the acute mental health needs of prisoners. In a report on his behalf, the State Comptroller severely criticized the conduct of the IPS's mental-health system and the huge discrepancy between prisoners' mental-health needs and the deficient, low-quality services provided in reality: "For about 15 years now, the mental-health system at the IPS has neither been adapted to meet the needs of the increasing prisoner population in general nor to meet the needs of the increasing number of prisoners requiring psychiatric treatment in particular. Furthermore, the response provided by the IPS does not, in actuality, satisfy the needs. This is due to the lack of consistency in treatment; to inefficiency brought about by the multiplicity of actors involved in treatment; to the absence of a body responsible for coordinating the management and training of all those involved; to the unavailability of psychiatrists; and to the absence of multi-professional work as a matter of routine. Even though the problems have been known for years to the IPS and the Ministry of Health, they have failed to come up with a practical, professional, and qualitative solution to an essential problem affecting one of the weakest populations in terms of mental health, which does not always receive optimal service in the right quantity".³⁷

³⁶ State Comptroller, Ministry of Public Security: Israeli Prison Services, The Medical System for Treating Prisoners in the Israel Prison Service, Annual Report 65C for 2014 and for the 2013 Financial Year Accounts 389 (2015).

³⁷ Id.

PHRI has frequently addressed this matter with the Ministry of Health, in charge of the psychiatric service at the IPS's Mental Health Center (Maban), with Maban's management and with the chairman of the Israel Psychiatric Association, requesting their intervention to stop the practice of putting prisoners suffering from mental health issues in solitary confinement. The response received from the Ministry of Health, in short, expressed their opinion that decisions pertaining to solitary confinement were strictly a matter of security to be made by the IPS alone.³⁸

Against this background, psychiatrists working on behalf of Maban sometimes recommend "supervision as per IPS procedures". Since the actual supervisory action required and the time allotted for such supervision are never indicated, recommending supervision as per IPS procedures is akin to recommending solitary confinement. In addition, hospitalized prisoners held in solitary confinement at Maban due to the deterioration in their mental condition are sometimes returned to solitary confinement after being stabilized in the absence of any other instruction from Maban. In most cases, these patients relapse, requiring re-hospitalization.

This being said, since 2011, following pressure by PHRI and the Public Defense and their explicit demand that Maban address the ramifications of isolation and its damaging effect on prisoners, we began to witness a new trend in some of the medical opinions submitted by Maban to court. These opinions are submitted in proceedings regarding the extension of solitary confinement for prisoners on the grounds that they pose a threat to themselves or others due to their mental state. These opinions have started to include a review of the literature on the psychological harm brought about by solitary confinement. As important as this change is, it is not accompanied by any change in conduct or in Maban's recommendations, and therefore, it is suspected that the inclusion of this literature is nothing more than a formality.

The aforementioned opinions fail to clearly state that the prisoner in question is being held in solitary confinement, do not address the effect of solitary confinement on the prisoner in question beyond the general statement presented in the form of the literature review, and do not make any recommendation to remove the prisoner from solitary confinement or devise a program for his integration in a normal ward. It follows that the literature review is included merely to go through the motions and has no effect on the recommendations made regarding the prisoners. This

³⁸ Tal Assif and Sahar Francis, *supra* note 7. See the response from Moshe Berger, Director of the Psychiatric Service at the IPS's Mental Health Center, dated 13 December 2007, and the response from Mr. Yair Amikam, Deputy Director-General for International Relations at the Ministry of Health. Also see the response received from the Ministry of Health and IMA in Chapter 4 in the present report regarding the involvement of medical practitioners in solitary confinement, which expresses the same notion.

conduct by the mental-health system in charge of treating prisoners is mainly the product of the lack of a decisive stance against solitary confinement as an incarceration practice for prisoners suffering from mental illness

Mu'tassem (pseudonym), was detained in 2006 and suffered from mental health issues prior to his arrest. In 2007, at the height of a psychotic episode, Mu'tassem attacked a prison guard and was kept alone in solitary confinement from that moment forward. In early 2010, after the Public Defense intervened during the periodic hearings regarding the extension of his detention in solitary confinement, the court ordered his removal therefrom. It was also determined, following psychiatric evaluation, that the assault on the guard took place during a psychotic episode, and that Mu'tassem should be provided with treatment while incarcerated.

As a result of the court's decision, Mu'tassem was moved to a cell in the protected ward together with two other prisoners. After several months, due to problems arising between Mu'tassem and his cellmates, he was returned to solitary confinement. His attorney's attempts to appeal his isolation were unsuccessful, especially given the opinion submitted by Maban emphasizing the potential danger he posed and the importance of solitary confinement "in curbing the danger". Maban's opinion regarding Mu'tassem's solitary confinement is contrary to the rules of medical ethics.

In 2011, a volunteer psychiatrist visited Mu'tassem in prison on behalf of PHRI and referred to his solitary confinement in his medical opinion: "As concerning the conditions of detention in separation, it seems that the need for these conditions stems from a difficulty in dealing with behavior that results from his illness while at the same time the illness is not being treated optimally and the conditions, in fact, serve as a sort of punishment for the illness, absurdly exacerbating his state, since the absence of stimuli from his surroundings and contact with others can contribute to the constant paranoid psychotic state he is in".

This opinion was submitted to the court during the argument regarding the extension of his solitary confinement. In spite of the opinion, the court granted IPS's request to extend his placement in solitary confinement. Mu'tassem is still being held in solitary confinement. While he continues to be taken for psychiatric hospitalization at Maban intermittently, he is returned to solitary confinement until his condition next deteriorates and he is subsequently re-hospitalized.

Aiman (pseudonym) was arrested in 2007 and moved to solitary confinement three years later due to his behavior. He was diagnosed with mental health issues. The first request to have Aiman's solitary confinement extended, made after six months, was accepted on the strength of an opinion by Maban indicating that he was "impulsive and aggressive and unfit for integration in a normal ward or even in dual separation".

The second request for an extension of his solitary confinement was consented to by both parties after the IPS promised to find an alternative solution for Aiman during that period. The IPS, however, failed to make good on this promise. It even submitted a third extension request, which the court approved.

Aiman appealed the decision through his attorney, backed by the psychiatric opinion of a PHRI volunteer who had evaluated him. According to her opinion, "[Aiman] suffers from personality disorder, and has a low frustration threshold and difficulty with delayed gratification. These personality components make his rehabilitation a complex process. His placement in solitary confinement perpetuates his problematic situation, causes cumulative mental damage, and sentences him to a life that is inhuman. [Aiman] has rehabilitative potential; he responds well to respectful treatment like the one he was given at Shita prison from the guards and the warden. He is aware of the potential chance and hope inherent in a gradual process of being moved to the wards". The psychiatrist, on behalf of PHRI, recommended a gradual program for his removal from solitary confinement. In August 2011, the IPS started implementing a program for Aiman's gradual removal from solitary confinement, and he is currently in a normal ward.

In most cases involving psychiatric problems in prisoners who are held in solitary confinement, the IPS lays the blame on the Ministry of Health and Maban. While the Ministry of Health and Maban do carry responsibility for treating prisoners who suffer from mental health issues, it is also the IPS's responsibility to see to it that prisoners are held in conditions that do not negatively affect their health or dignity. If IPS is incapable of providing such conditions, it is its duty to declare that it is not the right framework for imprisoning individuals with mental health issues.

4. Solitary Confinement On Grounds Of Protecting State Security

Unlike other situations, placing prisoners in solitary confinement on grounds of "protecting state security" is a decision that falls to intelligence agencies and the General Security Services (GSS). The difficulty in these cases is that unlike detention in solitary confinement based on other grounds, the decision to extend solitary confinement is often based on confidential evidence that a prisoner cannot, naturally, defend against. Also, the chances of a court of law rejecting requests to prolong solitary confinement on security grounds are slim. In the past year, two rulings were rendered where the court intervened and rejected the State's request to prolong the solitary confinement of two "security" Palestinian prisoners,³⁹ but these rulings are the exception rather than the rule.

This policy leaves considerable power in the hands of the security authorities and enables solitary confinement contrary to the law and its purpose. Indeed, the accepted legal rule is that the longer a person has been held in solitary confinement, the greater the burden becomes on the relevant authority to establish a crucial need for continued confinement. However, experience shows that this is not the case when it comes to Palestinian prisoners. For example, in 2012, approximately 18 Palestinian prisoners were taken out of solitary confinement after being placed there by GSS order, some of whom under court authorization, as the result of the hunger strike which took place that year. The IPS argued that the agreement with the Palestinian prisoners involved releasing from solitary confinement only those held by GSS order and not individuals placed in solitary confinement by IPS order based on the grounds of maintaining order and security in prisons.⁴⁰ This move reinforces the claim that placing these prisoners in solitary confinement was arbitrary and that the real reason behind it was punishment and vengeance.

Nimer (pseudonym) has been imprisoned since 2003. In March 2013, he was interrogated again by the GSS in Kishon prison. Two months after his interrogation, he was moved to solitary confinement. During the interrogation, his interrogators threatened that if he did not confess, he would spend his life in solitary confinement. On 20 November 2014, after spending nineteen months in solitary confinement, Nimer began a hunger strike in protest both his placement in solitary and the deprivation of his family visits. The conditions in solitary confinement "are hard and not meant for humans... What I ask is to be let out of solitary confinement into a

³⁹ [Prisoner Appeal 42099-03-15 State of Israel v. N. Murad \(prisoner\)](#), and [Prisoner Appeal \(Naz\) 42930-04-15 State of Israel v. Mohammed Al-Bal \(prisoner\)](#).

⁴⁰ Amany Dayif and Hadas Ziv, *The Hunger Strikes of the Palestinian Prisoners in Israeli Prisons: Between Political and Moral Challenges and Medical and Ethical Challenges in Treating Hunger Strikers* PHRI 13 (January 2013).

normal prison, and there is no reason for [my] solitary confinement apart from the threats of the interrogators at Kishon who threatened me with it if I did not confess to what they wanted". *

Nimer ended his strike on 19 December 2014 after reaching an agreement that allowed him to talk to his mother over the phone and allowed for her visitation. However, in the nine months since the end of his strike, Nimer has spoken to his mother four times over the phone and received one visit from her.

The conduct of the security bodies, including their consent to some of his demands following the hunger strike, reinforces the suspicion that placement in solitary confinement with its harsh conditions is an act of revenge and punishment with no correlation to the protection of state security as claimed.

* Interview with Nimer conducted by an attorney on behalf of PHRI, at Kishon Prison, Israel (23 October 2014).

5. Solitary confinement of detainees during interrogations

A lead interrogator may order the solitary confinement of a detainee and his separation from other detainees if—and as long as—this is required for the purposes of the interrogation.⁴¹ In addition, article 5(B) of Commission Ordinance 04.03.00—Holding Prisoners in Separation—states that, "A prisoner can be held in separation at the prison's initiative in light of information or an event in which the prisoner was involved or at the initiative of the Israeli police with respect to individuals held in pre-charge detention for interrogation purposes".

Every year, hundreds of Palestinian detainees are sent to interrogation facilities. Based on a temporary order,⁴² a judge may order the arrest of a person suspected of a "security" offense for a detention period of up to 35 days or longer subject to the Attorney General's approval. These interrogations are usually conducted with the prisoner held incommunicado throughout the entire interrogation period or a major part thereof without any external contact, including communication with family or an attorney.

Solitary confinement is used as a tactic during interrogations precisely because of its devastating psychological effects on individuals. Coupled with other abusive methods of interrogation, solitary confinement is an inherent part of the interrogation process. The process is meant to seclude detainees from their environment and from any familiar anchor

⁴¹ Regulation 5B of Israel's Prisons Regulations, 5738 – 1978.

⁴² Criminal Procedure Law (Detainee Suspected of Security Offense)(Temporary Order), 5770 – 2006, extended to 31 December 2016 by Amendment No. 4. On the extension to the Temporary Order, see Rima Ayoub, [The Criminal Procedure Law and the Absent 'Security Suspect': More Time to Interrogate and Torture](#), 105 Adalah (Haifa, Israel), June 2013.

or support. It is also meant to enhance the uncertainty, helplessness, and impact of the other torture and mistreatment methods used in interrogation. Thus, solitary confinement under inhumane conditions, where detainees are prevented from meeting an attorney alongside torture methods such as hours-long interrogation and sleep deprivation, leaves detainees at the mercy of their interrogators and breaks their spirit. In a study conducted by the Public Committee against Torture in Israel and the Palestinian Prisoner's Club,⁴³ solitary confinement and the deprivation of the right to counsel were described as a key element in the pressure placed on detainees by their interrogators: many have testified that fear, confusion, and uncertainty obscured their judgment and influenced their confessions. The study found that, in all cases examined but one, a person was not released from incommunicado detention or permitted to meet a lawyer before signing a confession.⁴⁴

6. Punitive solitary confinement

Punitive solitary confinement is imposed on both "security" and criminal prisoners following disciplinary offenses, which are defined in Commission Ordinance No. 04.13.00-Prisoners Disciplinary Rules. This ordinance lists various disciplinary offenses for four populations: prisoners, non-administrative detainees, administrative detainees, and unlawful combatants. The list of disciplinary offenses for the prisoner population is more detailed, but each group has a clause defining a general disciplinary offense that can accommodate practically any human behavior found not to the liking of the relevant authority within the prisons. For example, the list of disciplinary offenses for prisoners includes 41 offenses. The final offense, number 41, is a general catch-all encompassing: "Any act, behavior, disorder or neglect in violation of propriety or discipline, even if not specified in the previous paragraphs".⁴⁵ For the other groups, a similar clause with the wording "an act in breach of discipline and propriety in the place of detention" applies. These generalized, broad-based definitions leave much room for interpretation and might be used as a tool for retaliation against prisoners. Reports received by PHRI from several prisoners suggest that some of them are punished with solitary confinement for behavior that is within their rights as prisoners: filing petitions, repeated complaints to the clinic, filing a complaint against a prison guard to PHRI or some other outside bodies such as the Prisoners Complaints Officer, or an argument with a guard.⁴⁶

⁴³ The Public Committee against Torture in Israel and the Palestinian prisoner's-Club, [When the Exception Becomes the Rule: Incommunicado Detention of Palestinian Detainees \(Oct. 2010\)](#).

⁴⁴ Id. at 43.

⁴⁵ Commission Ordinance 04.13.00, Article D(2)(41).

⁴⁶ See also Ministry of Justice, Public Def., *supra* note 34, at 15.

In its response to the UN Committee against Torture, Israel noted that the IPS Commission Ordinance on Prisoners Disciplinary Rules, which was updated in September 2011, included a table defining the maximum punishment for each offense. Israel also noted, that according to the aforementioned table, some offenses do not carry solitary confinement as a punishment, while other offenses limit solitary confinement to seven days. Of the 41 offenses defined for prisoners, only five are not punishable by solitary confinement, and only 14 are punishable by solitary confinement with a limitation of seven days or less. This leaves 22 offenses that are punishable by solitary confinement for periods exceeding seven days.

Mu'in (pseudonym), a criminal prisoner suffering from kidney problems, was taken for examination in a hospital following the deterioration of his health condition. During his hospitalization, he was chained to the hospital bed by the same hand that was also connected to his intravenous therapy.

Mu'in complained to the prison guards and the medical team about the pains caused by the tightness of the handcuffs, but they refused to uncuff him or loosen the pressure slightly. The doctor in charge asked the guards to remove the handcuffs, as they hindered his treatment, but they turned down the Doctor's request as well. The doctor appealed to the prison warden to no avail. Due to the excruciating pain and the block in the flow of fluids, Mu'in asked to have the intravenous therapy removed and be returned to prison. The doctors told him and the guards that if he did not receive the treatment, his condition might worsen and he might lose his kidneys. One day after being hospitalized, Mu'in was discharged from hospital.

On his return to prison, he was punished with 14 days of solitary confinement on the grounds that he refused treatment. In the first three days, he was tied to bed by his hands and feet, with two handcuffs placed on the hand that was connected to the intravenous therapy. His restraints were only released during meal times.

He had to discharge his body waste in the bed. After three days, and after visiting the prison clinic, his handcuffs were removed but he continued to be held in solitary confinement for the full 14 days.

Chapter 4 Involvement Of Health Professionals In Solitary Confinement

The involvement of health professionals in the solitary confinement of prisoners constitutes a violation of the rules of medical ethics and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Yet, in IPS and Maban, the involvement of health professionals in the solitary confinement of prisoners is a matter of routine.⁴⁷

Under the rules of medical ethics, health professionals cannot approve, support, or take part in detention practices that are harmful to their patients.⁴⁸ The fundamental values of medical ethics place physicians under an obligation to prevent their patients from harm. This obligation means that "a patient's safety and health are a foremost value in medicine and that physicians will always act to keep patients free from harm, whether deliberate or resulting from an act or an omission".⁴⁹ The rules of ethics demand that "the physician act to cure the patient, relieve his suffering, protect him from diseases and minimize damage, and all this while providing professional and up-to-date medical care with compassion and respect for the patient's dignity and rights".⁵⁰ According to the WMA Declaration of Tokyo (1975),⁵¹ adopted by the Israeli

⁴⁷ For more on the issue of physicians' involvement in solitary confinement, see *supra* note 7 and 8.

⁴⁸ Israeli Medical Association – Ethics Board, *Medical Ethics: Rules and Position Papers* (2014), available at <http://www.ima.org.il/Ima/FormStorage/Type8/EthicalCode2014.pdf>.

⁴⁹ *Id.* ch. 2.

⁵⁰ *Id.*, ch. 3, sec. 3.

⁵¹ World Medical Association, *Declaration of Tokyo: Guidelines for Physicians Concerning Torture and other Cruel, Inhuman or Degrading Treatment or Punishment in Relation to Detention and Imprisonment* (Oct. 1975), available at <http://www.wma.net/en/30publications/10policies/c18/>.

Medical Association,⁵² a physician will not take part in, assist in, or directly or indirectly allow torture or cruel, inhuman or degrading treatment or punishment. The declaration obligates physicians to report to the relevant authorities any violation of the Geneva Conventions, including the Fourth Geneva Convention, which prohibits torture.⁵³ The Declaration of Tokyo was revised in 2005 and 2006, and the Israeli Medical Association approved the updates. In 2007, it even published a position paper on the prohibition of the participation of physicians in interrogations and torture, stating that "a physician who had witnessed an interrogation or torture conducted in contravention of international conventions shall report this to the competent authority".⁵⁴

The UN General Assembly and the World Health Organization likewise adopted a series of rules defining the duty of physicians to their patients, which is also applicable in cases of physicians treating prisoners. One example is the Principles of Medical Ethics⁵⁵ from 1982, which forbid any professional relationship between physicians and prisoners serving any purpose other than "to evaluate, protect or improve their physical and mental health".⁵⁶

Based on all the rules and provisions above, it is possible to argue that health professionals cannot in any way approve or sanction the use of solitary confinement for their patients, whether or not they are prisoners, as this is unequivocally harmful to their mental and physical health. Moreover, beside their duty to provide proper care and avoid directly or indirectly endorsing a patient's solitary confinement, **physicians are duty-bound to act to stop their patients' solitary confinement.**

A significant number of prisoner medical files received by PHRI suggest that it is commonplace practice for health professionals in prisons to give solitary confinement medical validation. This is done both directly when health professionals explicitly say that a prisoner is "fit for solitary confinement" or that "there is nothing to prevent solitary confinement in his case" and indirectly when they visit a prisoner in solitary confinement or know about a patients' solitary confinement but do nothing to stop it. In May 2015, we approached Prof. Chaim Hershko, the Public Complaints Commissioner at the Ministry of Health, and Dr. Leonid Eidelman, President of the Israeli Medical Association, presenting them with a long list of

⁵² Israeli Medical Association, <http://www.ima.org.il/MainSite/ViewCategory.aspx?CategoryId=1112> (last visited May 17, 2016).

⁵³ World Medical Association, supra note 51, art. 3

⁵⁴ Israeli Medical Association, Prohibition on the Participation of Physicians in Interrogations and Torture (Dec. 2007), available at: <http://www.ima.org.il/MainSite/ViewCategory.aspx?CategoryId=1112>.

⁵⁵ Principles of Medical Ethics relevant to the Role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, G. A. Res. 37/194, (18 Dec.1982) available at U.N. Doc. [A/RES/37/194](http://www.unhcr.org/refugees/doc/4a600000.html).

⁵⁶ Id., princ.3.

cases where health professionals actively or passively gave medical validation for solitary confinement.⁵⁷ In our letter, we demanded that an investigation be undertaken regarding the involvement of these health professionals in the solitary confinement of prisoners; that action be taken against those medical teams involved in the medical validation of solitary confinement for prisoners; and that steps be taken to issue and implement instructions prohibiting the involvement of health professionals' medical validation of prisoner solitary confinement through either direct sanction or by failing to intervene to stop it. A copy of our letter was also sent to Ministry of Health's Director General. To date, however, no reply has been received from any of these addressees. Further still, the individual complaints we submitted to the Ministry of Health on behalf of prisoners held in solitary confinement concerning their health condition, medical treatment, and their detention in solitary confinement were met with responses ranging from ignoring the issue to avoiding any responsibility. For example, in its February 2015 response, the Ministry of Health stated: "From the medical perspective, we see no justification for your complaint. The other matters brought up in your complaint letter lie outside our authority and framework within the Ministry of Health".⁵⁸ This approach is similar to that of the medical system in the IPS, which does not consider solitary confinement to be related to prisoner health. Our appeals to the IPS Chief Medical Officer to request the removal of prisoners from solitary confinement due to the health damage were not addressed on the ground that these were not considered to be medical matters.

Our May 2015 letter was not answered by the Israeli Medical Association (IMA). However, in reply to a letter concerning a prisoner kept in solitary confinement, Dr. Eidelman reiterated the organization's stance as enshrined in an IMA position paper, which recognized that "separation or prolonged solitary confinement might have negative effects on the physical and mental health of a prisoner. This is why the position paper determines, among other things, that a physician shall not medically sanction separation or solitary confinement. If a physician were to identify a concrete risk to the prisoner's health as a result of solitary confinement, he should exercise his professional authority to end it immediately". Concerning the physicians who had approved the prisoner's solitary confinement, Dr. Eidelman wrote, "our records, show that they are not IMA members, which makes it hard for us to locate them and request their response in this matter. However, once we find them, we shall do so"⁵⁹. Our follow-up query on the search for these physicians remains unanswered.

⁵⁷ Letter dated 25 May 2015, on the subject of solitary confinement receiving a medical validation.

⁵⁸ Response from Prof. Chaim Hershko, the Public Complaints Commissioner for medical professions at the Ministry of Health, dated 31 May 2015, communicated to us on 14 June 2015.

⁵⁹ Reply received from Dr. Leonid Eidelman in response to our request that they intervene in order to end the solitary confinement of a prisoner and consider the issue of physicians sanctioning solitary confinement and lending it legitimacy, dated 12 Jan.2015.

Notwithstanding the IMA's position on solitary confinement and the recognition that it constitutes a harmful practice, their ethical code only requires physicians to act to end solitary confinement as is indicated by in Dr. Eidelman's reply: "if the physician were to identify a concrete risk to the prisoner's health as a result of solitary confinement". This approach fundamentally contradicts the ethical obligations falling to physicians as detailed above whereby it is their duty to act in order to prevent harm to their patients rather than only to stop the harm after its occurrence.

Chapter 5 Summary And Conclusions

Solitary confinement is a form of incarceration that causes prisoners to suffer from grave mental and physical harm and in some circumstances constitutes torture or cruel, degrading, or inhuman treatment or punishment. The current prevailing trend in international human rights law is to ban the use of this practice. In Israel, however, the opposite trend is observed. The use of solitary confinement is growing and intensifying, as evidenced by a twofold increase in the number of placements in solitary confinement in the last two years and the creation of the protected wards that serve as a means to hold prisoners in solitary confinement without judicial review.

The use of solitary confinement by the State of Israel is one of the most extreme manifestations of its ethos of control and oppression of both political and criminal prisoners. It is this same ethos on which the security system of the State, in this case, the IPS and GSS, are founded. The State of Israel implements this practice while shirking any responsibility for the effects it has on the prisoner population. There are three significant uses of solitary confinement that reflect this notion.

The first is the use of solitary confinement as a substitute for proper psychological treatment and as a means for punishing prisoners who suffer from mental health issues for their illnesses. Individuals who

suffer from mental health issues belong to one of the most weakened groups within the prisoner population. Although international human rights law strictly prohibits the use of solitary confinement when it comes to mentally-ill prisoners, Israel has failed to adopt this prohibition. In fact, recent trends indicate that solitary confinement is being used to remove prisoners with mental health issues from the rest of the prison population as an easy method for dealing with their mental health issues. Solitary confinement in actuality, however, is an aggressive and offensive substitute for genuine, proper treatment. Given the acute needs of prisoners and severe deficiencies in the mental health system supposed to serve them, one would expect to see the Ministry of Health, as the body in charge of this system, investing resources to meet the needs and rectifying the deficiencies. Rather, the Ministry of Health has adopted this measure that not only punishes prisoners for something they are not to blame for, but also deteriorates their condition, which harms their health, irreversibly at times.

Secondly, solitary confinement also manifests as an oppressive and controlling tool used by the various security agencies during interrogation or in the name of protecting state security. Prisoners in these categories are predominantly Palestinian political "security" prisoners. Solitary confinement is much harder on those prisoners due to the fact that the Palestinian "security" prisoners are denied phone calls and limited in family visits, which exacerbates the conditions of their solitary confinement. In addition, requests to extend their solitary confinement are mostly based on confidential evidence, which the victims of solitary confinement neither have the opportunity to see nor the chance to defend against, that is usually accepted by the court.

Thirdly, solitary confinement is used as a punitive tool. Although this practice runs counter to the principles of international human rights law, it is resorted to arbitrarily, with no substantive review. One and the same entity decides whether a disciplinary offense was committed, imposes the punishment, and carries it out. Punitive solitary confinement is authorized based on a table of offenses that can cover virtually any behavior that is not to the liking of IPS personnel, leaving considerable room for abuse of discretion and the maltreatment of prisoners.

In each of the above uses of solitary confinement, there are various points at which the prisoners held come into contact with medical practitioners, whose cooperation, both active and passive, allows security authorities to use solitary confinement freely with the backing of the medical system and frequently its approval and validation. Such cooperation contradicts the ethical and professional obligations of health professionals, which

prohibit their participation in harmful practices used against their patients, such as solitary confinement, and even bind them to take active steps to end them.

Chapter 6 Recommendations

1. The Medical Community

We believe that the medical community in Israel—the Ministry of Health first and foremost but also the Mental Health Center for prisoners (Maban), the Israeli Medical Association and the Israel Psychiatric Association—should actively undertake and fight against solitary confinement as a detention practice in Israel. The Israeli medical community should likewise, at the very least, prohibit physicians' involvement with the practice.

Ministry of Health

As both the State of Israel's health regulator and the entity directly in charge of the mental health system for prisoners, the Ministry of Health is responsible for spearheading the fight against the solitary confinement of prisoners. Below are a number of recommendations that will assist the Ministry of Health in meeting this responsibility:

1. To invest the resources needed to fix the acute shortcomings in the mental health treatment system for prisoners.
2. To establish an investigation committee comprised of experts, including representatives from the relevant authorities, human rights organizations, and independent physicians, to examine the performance of the mental health system serving prisoners and prisoners' mental health needs and to suggest a

plan for a mental health system that would better meet those needs.

3. To denounce and ban the use of solitary confinement.
4. To direct health professionals on the prohibition, both active and passive, of their involvement in the solitary confinement of patients and their duty to uphold the pertinent rules of medical ethics.
5. To investigate complaints made against health professionals for taking part in solitary confinement and to take action to bring justice to bear on health professionals whose participation in solitary confinement has been proven.

Maban

Maban should operate independently and in compliance with ethical and professional medical standards regardless of any considerations of and limitations made by the IPS's security system. It should likewise take concrete steps to denounce the practice of placing prisoners in solitary confinement. Below, a few recommendations regarding this matter are offered:

1. To instruct physicians treating prisoners on behalf of Maban that every time they examine a patient held in solitary confinement, they should record in writing the following parameters: the fact that he is held in solitary confinement, the effects of solitary confinement on his mental health, and the manifestations of these effects. In addition, they should be directed to recommend the patient's removal from solitary confinement while constructing a plan for psychological and social treatment conducive to removing the patient from the destructive and vicious circle that results from solitary confinement.
2. In the medical opinions it submits to the courts, Maban should recommend removing each patient from solitary confinement and propose a plan for psychological and social treatment to allow the prisoner's gradual rehabilitation from the effects of solitary confinement and prepare him for integration in regular wards.
3. To abstain from giving psychiatric recommendations that prisoners be kept under "supervision" without any time limit and conditions, which actually means indefinite solitary confinement for patients.
4. To see that patients released from Maban into IPS custody have treatment recommendations, including the specific recommendation not to be held in solitary confinement.

The Israeli Medical Association

The Israeli Medical Association and the Israel Psychiatric Association have, as their members, thousands of health professionals who are bound to these organizations' ethical code, which is the source of these organizations' power to influence both the medical community and decision makers in matters of medicine and health. It is also their responsibility to lead the struggle against solitary confinement and physicians' involvement therein, especially the IMA, which has positioned itself as a compass for medical ethics in Israel. Here are a few recommended steps to be taken in fighting solitary confinement:

1. To modify the IMA's ethical code on solitary confinement, removing the stipulation requiring "tangible risk to a prisoner's health as a result of solitary confinement" as the condition that allows for a physician to intervene and demand the cessation of solitary confinement, instead instructing physicians to act to cease the use of solitary confinement under all circumstances.
2. To issue clear instructions to all health professionals, including IPS and Maban health professionals, clarifying the ethical prohibition on taking part in solitary confinement, regardless of whether damage was caused to the prisoner's health.
3. To investigate complaints made against health professionals for their involvement in solitary confinement and to take action to bring justice to bear on medical practitioners proven to have taken part in this practice.
4. To interface with the IPS and the Ministry of Health in order to put an end to the solitary confinement of prisoners.
5. To propose seminars for IPS health professionals on the effects of solitary confinement on prisoners and the rules of medical ethics.

2. Incarceration and Interrogation Authorities

It is our opinion that it is the duty of the Ministry of Public Security and the IPS to maintain the health of those placed in their custody. The state cannot continue to ignore the devastating effects of solitary confinement on prisoners, which is why it must act to eradicate this harmful practice and desist from the use of solitary confinement as a pressure tool serving political and punitive purposes and as a means for handling individuals suffering from mental health issues. The following actions are recommended as a way forward towards the elimination of solitary confinement:

1. To find proper alternatives for addressing disciplinary issues that are humane and respectful towards human dignity.
2. To interface with the Ministry of Health to reinforce and strengthen the mental health service system for prisoners.
3. To reinforce the social work service system.
4. To shut down the protected wards, which function as solitary confinement wards.
5. To collect data each year on the extent to which all types of solitary confinement are used—punitive solitary confinement, solitary confinement under the separation ordinance and solitary confinement for interrogation. This data should include prisoner identity (gender, nationality, age characteristics, type of prisoner, and civil status) and should also include the grounds for solitary confinement, its duration, the alternatives considered, the number of cases of solitary confinement that have undergone judicial review and the outcome of such review.
6. To set up an independent experts committee—comprised of medical practitioners, social workers and representatives from human rights organizations, the IPS, the Ministry of Health, the IMA and Maban—with the goal of developing a plan for the gradual abolishment of solitary confinement as a practice used in prisons, with priority given to prisoners who suffer from mental health issues and minors.
7. To act to spur legislative change banning all forms of solitary confinement.

Appendix

- Unclassified -

Legal Adviser's Office	
Date	12/07/2015
File	IPS: Legal Office: Freedom of Information Law
Reference	128485115

To

Adv. Ola Shtiwi

Physicians for Human Rights

Via email ola@phr.org.il

RE: Request for Information on Solitary Confinement – Response

Further to your letter of 18/02/15 and the extension notice of 01/04/15, following is our response. The information is provided as it stands on 31/05/15.

1. The data below relate to the holding of prisoners separate under IPS Commission Ordinance 04.03.00 "Holding Prisoners in Separation", made available to the public on the IPS website.

Solitary confinement is one of the punishments imposable on prisoners under disciplinary proceedings; these data are not available to us.

(see IPS Commission Ordinance 04.14.00 "Holding in Solitary confinement", made available to the public on the IPS website).

Section A

A Total of 117 prisoners are currently held in separation.

Subsections 2 +3: 85 of them are held in solitary separation, 32 in dual separation.

Subsections 1+5: 94 criminal prisoners and 23 security prisoners.

Subsection 6: 7 prisoners are minors.

Subsection 7: no candidates for expulsion or being sent away (self-styled asylum seekers or refugees) are kept in separation.

Subsection 8: 2 women in separation.

Subsection 9: this figure represents the number of entries into separation, which means that the same prisoner might be counted more than once.

2012 – 390

2013 – 570

2014 – 755

Section B

Separation periods:

Subsection	Period	No. of prisoners
10.	15 days to 2 months	28
11.	2 to 6 months	26
12.	6 months to 1 year	20
13.	1-3 years	34
14.	3-5 years	2
15.	Over 5 years	7
	Total	117

Section C

Grounds for separation as stated in Section 1A:

State Security:

Subsection 16: endangering state security: 9 prisoners held for this reason.

Subsection 17: no information available.

Subsection 18: no criminal prisoners held in separation on grounds of state security.

Subsection 19: 9 security prisoners on grounds of state security.

Subsection 20: asylum seekers/refugees- are not held in separation.

Subsection 21: no minors held in separation on grounds of state security.

Subsection 22: no women held in separation on grounds of state security.

Prison security:

It should be clarified that "maintaining prison security" and "preventing serious disruption of discipline and proper prison routine" are two separate grounds for separation.

Subsection 23: 33 prisoners are in separation on grounds of maintaining prison security and 20 on grounds of maintaining discipline.

Subsections 24 +25:

Prisoner	Prison security	Maintaining discipline
Criminal prisoners	2	11
Security prisoners	9	9
Total	33	20

Subsection 26: no asylum seekers or refugees are held in separation.

Subsection 27: no minors are kept in separation on grounds of prison security.

Two minors are kept in separation on grounds of maintaining discipline.

Subsection 28: no women are held in separation on grounds of prison security.

Two women are held in separation on grounds of maintaining discipline.

Subsections 29-34: maintaining the health and wellbeing of prisoners does not constitute grounds for separation, and therefore no prisoners are held in separation for this reason.

Subsections 35-40 psychological treatment: We have no information on this.
Subsections 41-46 Maban:¹ This information is not available to us; since Maban work under the Ministry of Health, you should address them.
Subsections 47-52 - education: see section 1 on solitary confinement.
Subsections 53-58 - accompaniment by social worker: see section 1 on solitary confinement.
Subsections 59-63 - working prisoners: see section 1 on solitary confinement.
Sections 64-69 - prisoners denied family visits: see section 1 on solitary confinement.
Sections 70-75 - supervision: We do not have computerized systems to support these data and/or centralize such data and are therefore unable to produce them.

2. For your information.

Sincerely,
Meital Vidal, First Sergeant

Signature

¹ Translator's note: The IPS's mental health division.

Responses

ISRAEL MEDICAL ASSOCIATION

23 February 2016
14 Adar A 5776
59-2016-m

TO

Adv. Ola Shtivi
Prisoners and Detainees Department
Physicians for Human Rights - Israel

Dear Madam,

RE: Report on Solitary Confinement in Israeli Prisons

We have received the referenced report and your request for our comments.

As mentioned in the report, the IMA Ethics Board has a clear stand on prisoner separation and solitary confinement.

This position recognizes that prolonged solitary confinement might cause prisoners mental harm. Alongside the obligation of physicians and the state to maintain prisoners' health and dignity, our position also recognizes the needs of the state to protect its security and that of prisoners.

For this reason, we cannot take a categorical stand on the issue of separation and solitary confinement, but what can be said is that these measures should be employed reasonably, proportionally and with the prisoner's wellbeing in mind. Moreover, there is no doubt, and the IMA's position states this, that solitary confinement is decided by the IPS and that physicians must not give it their validation or participate in it. Moreover, a physician who examines a prisoner held in solitary confinement must closely observe medical confidentiality and refrain from using any information available to him for non-medical purposes.

As regards the specific recommendations made at the end of the report, we see no cause for changing our ethical position. Physicians have no business taking action in order to stop solitary confinement under all circumstances, but only, as mentioned, in cases where they identify a tangible risk to a prisoner's health.

As concerns the complaints against physicians allegedly taking part in solitary confinement, we look into every complaint using the tools available to us.

We are favourably inclined towards your proposal to us to hold seminars for IPS physicians on the rules of medical ethics and the effects of solitary confinement, and shall take up its possible implementation with the Ethics Board and the Psychiatric Association.

Sincerely,

Dr. Leonid Eidelman
Israel Medical Association

Copies:

Dr. Tami Karni, Chairman of the Ethics Board

Prof. Haim Belmaker, President of the Israel Psychiatric Association

Israel Medical Association
Israel Psychiatric Association

29 February 2016

TO

Adv. Ola Shtivi
Policy Change Coordinator Prisoners and Detainees Department
Physicians for Human Rights - Israel

Copies:

Dr. Leonid Eidelman, President of the Israel Medical Association
Secretary of the Ethics Board, Israel Medical Association

RE: Report on Solitary Confinement in Israeli Prisons

Dear Madam,

In response to your letter to me dated February 16, I wish to join and second Dr. Eidelman's position as conveyed to you on February 23.

Sincerely,

Dr. Haim Belmaker
President, Israel Psychiatric Association

STATE OF ISRAEL

MINISTRY OF HEALTH

Medical Center for Mental Health and Community Service
Be'er Yaakov Nes Ziona MABAN-IPS
Affiliated to the Sackler School of Medicine, Tel Aviv University

Confidential - Medical

Date: 6 March 2016
26 Adar 5776

TO
Adv. Ola Shtiwi
Policy Change Coordinator
Prisoners and Detainees Department

RE: Report on Solitary confinement in Israeli Prisons

1. MABAN's comments on your letter of 16 February 2016 were communicated to Adv. Sharona Ever Hadani from the Ministry of Health.
2. A comprehensive answer covering all the issues raised shall be sent to you by the management of the Ministry of Health.

Sincerely
Dr. Moshe Birger
Manager, Forensic Psychiatry Division

STATE OF ISRAEL

MINISTRY OF JUSTICE

Counseling and Legislation Department (International Law)

Date: 30 Adar, 5776

10 March 2016

Reference: 6064

TO

**Adv. Ola Shtiwi, Policy Change Coordinator, Prisoners & Detainees
Department**

Physicians for Human Rights

Via email: ola@phr.org.il

Dear Madam,

RE: Reply to Draft Report on Solitary Confinement in Israeli Prisons

Your request for our comments on the referenced draft report was received at our offices and forwarded to the various parties concerned, and following is our response, as coordinated with the Ministry of Public Security and the Israel Prison Service (IPS):

We would first like to clarify that the factual errors contained in the report have made it hard to formulate a response in this matter, since the draft report is marked by material misconceptions giving rise to a certain distortion of data, as elaborated below.

1. According to the report, the figures for the number of people held in solitary confinement are based on information provided by the IPS following a request made under the Freedom of Information Law. However, the IPS's answer to you dated 12 July 2015 informed you that the IPS did not have data relating to prisoners held in solitary confinement, but only to prisoners held in separation. To quote the response:

"The data below relate to prisoners held in separation as per Commission Ordinance 04.03.00, "Holding Prisoners in Separation", published on the IPS website. Solitary

confinement is one of the punishments that can be imposed on prisoners in disciplinary proceedings; we do not have these data. (See Commission Ordinance 04.14.00, "Detention in solitary confinement", published on the IPS website)".

1. Thus, the figures given in the draft report are inaccurate. We would like to elucidate the important distinction between separation and solitary confinement, and this according to the Israel Prison Service Commission Ordinances:

"Separation"

- Separation is a preventive procedure. In other words, it is a measure meant to keep a prisoner from hurting himself, hurting another prisoner, violating discipline, disrupting normal prison life, etc. The grounds for holding prisoners in separation are listed in the law, and only if one of them applies will a prisoner be held separate from other prisoners. A prisoner in separation can be kept separate alone ("individual separation"/"single separation") or with another prisoner ("dual separation"), all according to need and to the circumstances of the grounds for separation as well as the prisoner's personality traits.
- Conditions of detention in separation are similar, in most parameters, to those of prisoners held under normal conditions. A prisoner held in separation may meet a lawyer or a social worker; he benefits from open or closed visits and possibly conjugal visits; and can even study education by correspondence (e.g. at the Open University).
- Living conditions for prisoners in the separation ward include, among others: television, a Sony PlayStation, telephone, books, newspapers, etc. They can buy products at the canteen, keep food products in their cell, an electric kettle, etc.
- Duration of detention in separation: Detention in separation varies in length according to need and to the period of time that the legal ground underlying the detention remains in effect. Also, given the considerable length of time that a prisoner might remain in separation, this preventive measure is subject to judicial review, revision procedures and appeal. In addition to this, individual separation for a period exceeding six months requires a court's decision, as does dual separation for

a period exceeding one year. All as specified in article B1 of Prisons Commission Ordinance 04.03.00 (hereinafter: The Commission Ordinance).

- All told, there are currently 133 prisoners held separate in Israeli prisons. Of these, only nine have been kept separate for more than three years. As reflected in the draft report, there has been a downward trend in the number of prisoners held in separation in recent years.
- It should also be emphasized that as far as minors are concerned, a minor may be held in separation only if his best interest demands it (article 19 B(6) of the Commission Ordinance). Let us further note that, even as we speak, the advisory committee to the Minister of Justice on the Youth Law (Adjudication, Punishment and Methods of Treatment) - 1971 is considering the arrangements relative to the separation of minors and currently putting together its recommendations on the subject.
- As regards interrogation situations, the lead interrogator is qualified to instruct in writing that a detainee should remain in separation if the interest of the investigation so requires. Contrary to the way in which these things are presented in the report, this mostly involves short periods of time meant to serve a specific need, barring exceptions.

2.2 "Solitary confinement"

- Solitary confinement is a means of punishment, and is very limited as such to short durations, with a punitive intent, after the prisoner has stood disciplinary procedure. Solitary confinement is in no way linked to detention in separation, and its purpose is altogether different. The punishment of solitary confinement is one of the forms of punishment available to the Israel Prison Service when a prisoner has committed a disciplinary offense for which this punishment has been prescribed. This list of offenses includes 41 offenses; for all 41, solitary confinement is limited to 7 days maximum, except for attempted escape, an offense for which solitary confinement may be extended up to 14 days only, according to the circumstances of the case. It should be emphasized, however, that even when such solitary confinement is extended, a seven-day break between the solitary confinement and the following seven-day period is obligatory. All this is in accordance with article D of Commission Ordinance 04.13.00. Hence, to say that "22 offenses

are punishable by solitary confinement exceeding seven days" is wrong. Be it noted that in the case of detainees as well, solitary confinement can be imposed in cases of offenses committed at the place of detention. Let us specify that even during such detention in solitary confinement, constant contact is maintained with the professional entities in the ward—guards, social workers and paramedics—to the extent that this is required.

- Contrary to the claim made in the report, it is not true that "each of the groups has a clause defining a general disciplinary offense that can accommodate practically any human behavior found not to the liking of the relevant authority within the prisons". Rather, the list is a closed-ended list of specific offenses (article 56(41) of the Commission Ordinance); it features one "basket" offense, for which the Commission Ordinance also states that, given the fact that it is a "general" offense, it shall be used to the extent possible, in cases where the act or omission do not fall under one of the specific offenses listed above.
- It should be emphasized that, as the Ordinance clearly suggests, the IPS does not impose solitary confinement on prisoners for attempts to exercise their rights, and this is an unfounded argument.
- Solitary confinement shall be decided on by a jailor with the rank of officer, after the prisoner has been tried before a disciplinary tribunal. These rules apply equally to criminal and security prisoners.
- Based on the above, the claim that "solitary confinement is employed arbitrarily without any true oversight mechanism" (page 18, paragraph 4) is obviously false.

1. Claims relating to "protected wards"

1.1 A protected ward is meant to be a transit ward for a prisoner who has been removed from separation and is still having a hard time, for various reasons, adapting and being exposed to other prisoners. It is a temporary transition stage, in anticipation of reintegration in a regular ward (Commission Ordinance 04.66.00).

1.2 It is important to note that, unlike prisoners in separation, prisoners in the protected ward do not (in the vast majority of cases) stay alone in their cell. There are a number of prisoners in each cell.

In addition, the yards too in the protected ward are shared and can have a number of prisoners in them.

1.3 Furthermore, prisoners in protected wards are entitled to private talks with a social worker, to common therapy workshops, and to educational activity that is either common or personal by correspondence.

2. Claims relating to prisoners who suffer from mental problems

Let us clarify that, contrary to the allegation made in the report, and as clearly implied from the above, solitary confinement is never used "as a substitute for proper psychological treatment and as a means for punishing prisoners who suffer from mental problems for their illnesses". Prisoners with psychiatric problems are hospitalized at the Ministry of Health's mental health centre (Maban) according to their medical condition. There may have been cases where it was feared that placing a certain prisoner amidst the general population would compromise his wellbeing or the wellbeing of other prisoners. In these cases, separation is considered as an option, subject to the considerations mentioned above, but this by no means constitutes a substitute for psychological treatment in cases requiring it.

3. Claims relating to health professionals

We wish to clarify that IPS health professionals are responsible for the health of prisoners found in IPS custody, and that the IPS health system has nothing to do with the decision to place a prisoner in solitary confinement, separation or in a protected ward.

4. The claim regarding "political prisoners"

According to the draft report, prisoners in both these situations are predominantly Palestinian political "security" prisoners (page 18, paragraph 3). Without further elaboration, let us note that the report already contradicts itself, since it says that "(80.3%) of all prisoners held in solitary confinement were defined as criminal prisoners" (page 5, paragraph 2).

5. To Conclude

There is a significant factual gap between the allegations made in the draft report and the findings on the ground. We hope that you will see fit to re-examine things in light of the clarifications detailed above.

Sincerely,
Adv. Dafna Dror



This Project is funded by the European Union
Joint project of Adalah, Al Mezan (Gaza) and
Physicians for Human Rights-Israel

The contents of this paper are the sole responsibility of
Physicians for Human Rights-Israel and can in no way be taken
to reflect the views of the European Union