WMA STATEMENT ON SOLITARY CONFINEMENT

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PREAMBLE

In many countries, a substantial number of prisoners are held in solitary confinement. Solitary confinement is a form of confinement used in detention settings where individuals are separated from the general detained population and held alone in a separate cell or room for upwards of 22 hours a day. Jurisdictions may use a range of different terms to refer to the process (such as segregation, separation, isolation or removal from association) and the conditions and environment can vary from place to place. However, it may be defined or implemented, solitary confinement is characterised by complete social isolation; a lack of meaningful contact; and reduced activity and environmental stimuli. Some countries have strict provisions on how long and how often prisoners can be kept in solitary confinement, but many countries lack clear rules on this.

Solitary confinement can be distinguished from other brief interventions when individuals must be separated as an immediate response to violent or disruptive behaviour or where a person must be isolated to protect themselves or others. These interventions should take place in a non-solitary confinement environment.

The reasons for the use of solitary confinement vary in different jurisdictions and it can be used at various stages of the criminal justice process. It may be used as a disciplinary measure for the maintenance of order or security; as an administrative measure, for the purposes of investigation or questioning; as a preventive measure against future harm (either to the individual or to others); or it may be the consequence of a restrictive regime that limits contact with others. It can be imposed for hours to days or even years.

Medical impacts of solitary confinement

People react to isolation in different ways. For a significant number of prisoners, solitary confinement has been documented to cause serious psychological, psychiatric, and sometimes physiological effects. These include insomnia, confusion, hallucinations, psychosis, and aggravation of pre-existing health problems. Solitary confinement is also associated with a high rate of suicidal behaviour. Negative health effects can occur after only a few days and may in some cases persist when isolation ends.

Certain populations are particularly vulnerable to the negative health effects of solitary confinement. Persons with psychotic disorders, major depression, or post-traumatic stress disorder or people with severe personality disorders may find isolation unbearable and suffer considerable health harms. Solitary confinement may complicate treating such individuals and their associated health problems successfully later in the prison environment or when they are released back into the community. Prisoners with physical disabilities or other medical conditions often have their conditions aggravated, not only as a result of the physical conditions of isolation, but also as the particular health requirements linked to their disability or condition are often not accommodated.

For children and young people, who are in the crucial stages of developing socially, psychologically, and neurologically, there are serious risks of solitary confinement causing long-term mental and physical harm. A growing international consensus about the harms of solitary confinement on children and young people has resulted in some jurisdictions abolishing the practice completely.

International norms on solitary confinement

The increasing documentation on the harmful impact of solitary confinement on the health of prisoners led to the development of a range of international norms and recommendations seeking to mitigate the use and the harmful effect of solitary confinement.

The United Nations Standard Minimum Rules for the Treatment of Prisoners (SMR) were first adopted in 1957, and revised in 2015 as the Nelson Mandela Rules unanimously adopted by the United Nations Assembly. The SMR constitute the key international framework for the treatment of prisoners.

Other international standards and recommendations, such as the United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Sanctions for Women Offenders (the Bangkok Rules), the United Nations Rules for the Protection of Juveniles Deprived of their Liberty and the observations of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, support and complete the Nelson Mandela Rules.

The misuse of solitary confinement can include indefinite or prolonged solitary confinement (defined as a period of solitary confinement in excess of 15 days), but can also include corporal or collective punishment, the reduction of a prisoner's diet or drinking water, or the placement of a prisoner in a dark or constantly lit cell. Misuse of solitary confinement in these ways can constitute a form of torture or ill-treatment and as such must be prohibited in line with international human rights law and medical ethics.

The WMA and its members reiterate their firm and long-standing position condemning any forms of torture and other cruel, inhuman or degrading treatment or punishment and reaffirm the basic principle that doctors should never participate in or condone torture or other cruel, inhuman or degrading treatment.

RECOMMENDATIONS

1. Given the harmful impact of solitary confinement, which can on occasion result in a form of torture or ill-treatment, the WMA and its members call for the implementation of the Nelson Mandela Rules and other associated international standards and recommendations, with a view to protect the human rights and the dignity of the prisoners.

2. The WMA and its members emphasize in particular the respect of the following principles:

- In light of the serious consequences solitary confinement can have on physical and mental health (including an increased risk of suicide or self-harm), it should be imposed only in exceptional cases as a last resort and subject to independent review, and for the shortest period of time possible. The authority imposing the solitary confinement must be acting in line with clear rules and regulations as to its use.

- All decisions on solitary confinement must be transparent and regulated by law. The use of solitary confinement should be time-limited by law. The detainee should be informed of the duration of the isolation, and the period of duration should be determined before the measure takes place. Prisoners subject to solitary confinement should have a right of appeal.

- Solitary confinement should not exceed a time period of 15 consecutive days. Releasing the prisoner from solitary confinement for a very limited period of time, with the intention that the individual will be placed in solitary confinement immediately again to get around the rules on length of stay must also be prohibited.

Prohibitions of the use of solitary confinement

3. The indefinite or prolonged solitary confinement should be prohibited as amounting to torture or other cruel, inhuman or degrading treatment or punishment [1].

4. Solitary confinement should be prohibited for children and young people (as defined by domestic law), pregnant women, women up to six months post-partum, women with infants and breastfeeding mothers as well as for prisoners with mental health problems given that isolation often results in severe exacerbation of pre-existing mental health conditions.

5. The use of solitary confinement should be prohibited in the case of prisoners with physical disabilities or other medical conditions where their conditions would be exacerbated by such measures.

6. Where children and young people must be separated, in order to ensure their safety or the safety of others, this should be carried out in a non-solitary confinement setting with adequate resources to meet their needs, including ensuring regular human contact and purposeful activity.

Conditions of solitary confinement

7. The human dignity of prisoners confined in isolation must always be respected.

8. Prisoners in isolation should be allowed a reasonable amount of meaningful regular human contact, activity, and environmental stimuli, including daily outside exercise. As with all prisoners, they must not be subjected to extreme physically and/or mentally taxing conditions.

9. Prisoners who have been in solitary confinement should have an adjustment period, including a medical examination, before they are released from prison. This must never extend their period of incarceration.

Role of physician

10. The physician's role is to protect, advocate for, and improve prisoners' physical and mental health, not to inflict punishment. Therefore, physicians should never participate in any part of the decision-making process resulting in solitary confinement, which includes declaring an individual as "fit" to withstand solitary confinement or participating in any way in its administration. This does not prevent physicians from carrying out regular visits to those in solitary confinement to assess health and provide care and treatment where necessary, or from raising concerns where they identify a deterioration in an individual's health.

11. The provision of medical care should take place upon medical need or the request of the prisoner. Physicians should be guaranteed daily access to prisoners in solitary confinement, upon their own initiative. More frequent access should be granted if physicians deem this to be necessary.

12. Physicians working in prisons must be able to practice with complete clinical independence from the prison administration. In order to maintain that independence, physicians working in prisons should be employed and managed by a body separate from the prison or criminal justice system.

13. Physicians should only provide drugs or treatment that are medically necessary and should never prescribe drugs or treatment with the intention of enabling a longer period of solitary confinement.

14. Healthcare should always be provided in a setting that respects the privacy and dignity of prisoners. Physicians working in the prison setting are bound by the same codes and principles of medical ethics as they would be in any other setting.

15. Physicians should report any concerns about the impact solitary confinement is having on the health and wellbeing of an individual prisoner to those responsible for reviewing solitary confinement decisions. If necessary, they should make a clear recommendation that the person be removed from solitary confinement, and this recommendation should be respected and acted upon by the prison authorities.

16. Physicians have a duty to consider the conditions in solitary confinement and to raise concerns with the authorities if they believe that they are unacceptable or might amount to inhumane or degrading treatment. There should be clear mechanisms in place in each system to allow physicians to report such concerns.

Reference

[1] Rule 43 SMR