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GOTHENBURG



**Solitary Confinement as a Human Rights Concern:
A Case study of Burma's Political Prisoners.**

By

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SOA- 3902

*A dissertation submitted in partial fulfilment for the degree:
Master in Human Rights Practice*

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Autumn 2015

Declaration

The work I have submitted is my own effort. I certify that all the material in the Dissertation which is not my own work, has been identified and acknowledged. No materials are included for which a degree has been previously conferred upon me.

Signed Nola Weerwag

Date 11 November 2015

Acknowledgements

This dissertation would not have been possible without the help of the Assistance Association for Political Prisoners (Burma) (AAPP) for which I am extremely grateful. In particular I would like to thank AK, MZ, Ben Gates and Alysha Kambay for their fantastic professional and personal support.

A special thank you goes out to MZ for her assistance in arranging and interpreting the interviews, and her incredible patience while explaining anything Burmese. Further I want to express my sincere gratitude to the interviewees for their time, openness and courage.

In addition I would like to thank my supervisor Darren O'Byrne for his continued guidance and advice and the many discussions that stimulated and structured my ideas.

Finally I want to thank the people closest to me; my parents, my partner and all HRPP friends, from whom I have learned most of all.

Abstract

Solitary confinement has repeatedly been found to be detrimental to mental health, causing a range of symptoms, including anxiousness, depression, memory loss and paranoia in a significant amount of prisoners. This sparked a wider, ongoing debate on whether solitary confinement can amount to torture or cruel, inhuman or degrading treatment or punishment. The research that informed this debate however solely focused on Western and democratic states, leading a large gap for less democratic states.

This dissertation takes a new research angle, by studying the uses and human rights concerns of solitary confinement on former political prisoners from Burma (Myanmar), a semi-democratic state. Six semi-structured interviews with former political prisoners from Burma were carried out. In addition data from a survey with 1621 responses from Burmese former political prisoners was analyzed.

The research show that solitary confinement in Burma has been used in combination with torture, sleep and food deprivation, severely lacking health care and hygiene and unfair and secret trials, all of which are serious human rights concerns. Solitary confinement is at the core of all these human rights concerns, posing serious risks for mental and physical health. The political prisoners are left extremely vulnerable in the hands of their torturers. By breaking contact with others, solitary confinement enables the widespread torture and impunity in Burma.

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1. Introduction

Solitary confinement is the physical isolation of individuals who are confined to their cells for twenty-two to twenty-four hours a day. (HRFoT, 2007: 1) The prisoner is excluded from the general population of prison.¹ Solitary confinement is a prison within a prison, in which the already limited rights are further restricted (Smith, 2008). In many cases windows are small and air quality is sealed. If furniture is present, this is often basic and fixed to the floor and walls. In most cases meals are eaten in their cells. If the prisoner does get time outside the cell, usually this is into a small exercise cage (Mendez, 2011: §48). The central feature of solitary confinement however is the reduction of meaningful social contact to a bare minimum, which was proven to be insufficient to sustain mental health (HRFoT, 2007: 2); (Mendez, 2011: §54).

There are many studies indicating serious mental health effects that arise from solitary confinement. Symptoms can include from anxiety, depression, anger, cognitive disturbances, perceptual distortions, paranoia and psychosis. (Shalev, 2008: p16),(Haney, 2003; Grassian, 2006). This group of symptoms have been so prevalent that they have been coined SHU-syndrome, referring to Special Housing Units used in the USA's prisons(Grassian, 2006).

The 'psychologically toxic' effects are found on healthy prisoners and on prisoners with previously existing mental health conditions, for whom solitary confinement exacerbates their existing mental illness (Grassian, 2006). The longer solitary confinement lasts, or if uncertainty exists regarding the length, the higher the risk of mental illness becomes. At least some symptoms caused by solitary confinement can be irreversible, even long after the prisoner has been released (Mendez, 2011); (Grassian, 2006).

The severe mental suffering caused by solitary confinement has given rise to a debate whether solitary confinement constitutes torture or cruel, inhuman or degrading treatment or punishment. Among others, Subcommittee on Prevention of Torture (SPT) and the European Committee for the Prevention of Torture (CPT) have acknowledged the severity of solitary confinement. They have called on the international community to strive towards abolishment of solitary confinement (CPT, 2011); (Nowak, 2008: §80). The United Nations (UN) Special Rapporteur on Torture was one of the first to initiate this call.

¹ Solitary confinement can occur in other circumstances, but the focus of this thesis is on solitary confinement in

The debate is ongoing, but the current stance seems to be that solitary confinement can amount to torture or cruel, inhuman or degrading treatment or punishment, depending on the specific circumstances. These circumstances should be assessed on a case by case basis (Mendez, 2011; HRC, 1994). In practice this means that safeguards should be in place to ensure that solitary confinement is used only as a last resort measure, with adequate justification and for as short time as possible (eg *Rohde v. Denmark*, ECtHR, 2005, *Yong Joo-Kang v. Korea*, HRC 2003). The Special Rapporteur furthermore stated that in his opinion pre-trial detention and punishment will never be appropriate reasons for the severe measure of solitary confinement (Mendez, 2011)

In spite of this solitary confinement is still being used in prisons all over the world for a variety of reasons. Its use is even increasing² (Shalev, 2008: 3);(HRFoT, 2007). However, solitary confinement has mostly been studied in the USA and other Western countries with a strong rule of law. This leaves a gap for a large part of the world with less democratic states. In these states respect for human rights, rule of law and safeguards can be lacking.

In several countries solitary confinement has been used on political prisoners, for example in the independence struggle in Rhodesia (now Zimbabwe) (Alexander, 2011; Munochiveyi, 2015) and during apartheid in South Africa. (Foster, 1989; Young, 2009) Regarding his detention during apartheid Nelson Mandela wrote: *“I found solitary confinement the most forbidding aspect of prison life. There is no end and no beginning; there is only one’s mind, which can begin to play tricks. Was that a dream or did it really happen? One begins to question everything.”* (Mandela, *The Long Walk to Freedom*, 1995). Many of these studies also found psychological difficulties with solitary confinement on political prisoners as well, although this was generally not the focus of these studies. Furthermore, the conditions of detention and solitary confinement were worse than in most Western focused studies, with torture and deplorable hygiene conditions being widespread.

1.1 Burma / Myanmar

² Interestingly, in the USA, after decades of increase of so called ‘supermax’ prisons filled with solitary confinement cells, a decline in its use seems to have started. Mears DP. (2013) Supermax Prisons. *Criminology & Public Policy* 12: 681-719.

This study will research the use of solitary confinement on political prisoners from Burma (Myanmar)³. For the purpose of this study I will use the definition of a political prisoner as defined by the Assistance Association for Political Prisoners (Burma) (AAPP):

Anyone who is arrested, detained, or imprisoned for political reasons under political charges or wrongfully under criminal and civil charges because of his or her perceived or known active role, perceived or known supporting role, or in association with activities promoting freedom, justice, equality, human rights, and civil and political rights, including ethnic rights, is defined as a political prisoner. (AAPP, 2014)

Burma is a country in democratic transition. The ‘most free and fair elections yet’ (ALTSEAN, 2015) took place on November 8th, 2015. Unfortunately results are not fully known at time of writing. In any case this will only lead to a semi-democratic government, as 25% of the seats are still reserved for the military. Burma has a long history of imprisoning political opponents, with as most prominent example Nobel Prize laureate and opposition leader Aung San Suu Kyi.

Burma has a poor human rights record, with widespread ethnic violence, discrimination of minorities and women, sexual violence in conflict, media censorship, land right violations and a lacking rule of law (UN GA, 2015) (WLB, 2014). It has ratified only two of the UN core conventions, namely the Convention of the Rights of the Child (CRC, 1989) and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW, 1979). Studies and human rights organizations have indicated deplorable conditions in detention, with the use of torture and solitary confinement being widespread (Gyaw, 1991; AAPP, 2007; AAPP and FPPS, 2015; AAPP, 2010).

1.2 Research aims and questions

The aim of this thesis is to find out more about the use of solitary confinement on Burmese political prisoners. This will be analyzed using psychological, sociological and human rights perspectives. A secondary aim of the thesis is provide a new angle to add to the ongoing debate around the practice of solitary confinement.

³ As a small act of resistance to the authoritarian governments that has changed the name, the name Burma will be used throughout this dissertation.

The research questions are:

- 1.1 How has solitary confinement been used on political prisoners from Burma?
- 1.2 Which human rights concerns⁴ arise from this practice?

To answer these questions I will collaborate with the Assistance Association for Political Prisoners (Burma) (AAPP). This human rights organization is run by former political prisoners from Burma and advocates for ‘the release of all remaining political prisoners in Burma and the improvement of their quality of life during and after incarceration’ (AAPP, 2015)

1.3 Outline

Chapter 2 contains a further overview of the literature on solitary confinement, from both a psychological and a sociological standpoint. Chapter 3 will add on to this by explaining the relevant human rights framework, which provides the background to the human rights concerns. Chapter 4 discusses the methodology used in the research. Chapter 5 will then lay out the research findings. First it answers the question how solitary confinement has been used and what the conditions in these cells were. Then it analyzes a number of aspects of solitary confinement more in depth. Different sections will analyze the political trials, lack of hygiene, sleep deprivation, mental health, torture, health care, food and water, access to family, political prisoner support systems and release from a human rights perspective. Chapter 6 will then present the conclusions of this study, which is followed by recommendations for further research and Burmese and international human rights policies in chapter 7.

2. Literature Review

2.1 Psychological literature

The detrimental effects of solitary confinement on mental health have since long been known. Already in the 19th century studies linked solitary confinement to negative mental health effects. (Toch, 2003; Scharff-Schmidt, 2006; Shalev, 2008, and Grassian, 2006). For example, Toch

⁴ As Burma has not ratified only two of the UN core conventions, it is strictly not bound to follow most of the human rights soft law. Therefore thesis will speak of human rights concerns only, not of human rights violations as this implies legal obligations, which are beyond the scope of this thesis.

described an 1845 study in which many of the prisoners in solitary confinement “manifested decided symptoms of derangement.” (Cleveland, 1845 in Toch, 2003: 223)

A meta-review of recent studies found the following symptoms were common in solitary confinement: a) hyperresponsivity to external stimuli, b) perceptual distortions, illusions, and hallucinations, c) panic attacks, d) difficulties with thinking, concentration, and memory, e) intrusive obsessional thoughts, f) overt paranoia and g) problems with impulse control (Haney, 2003). This set of symptoms seems to specifically arise in solitary confinement and has been referred to as SHU syndrome (Grassian, 2006) or ‘isolation panic’ (Toch, 1992). (Grassian and Friedman, 1986; Haney, 2003; Shalev, 2008; Smith, 2006).

These symptoms can be highly prevalent. Haney (2003) found in his own research that up 91 % of the prisoners in solitary confinement in Pelican Bay Prison, California USA, reported anxiousness and nervousness. Up to 70% experienced ‘impending nervous breakdown’ which more clearly shows the intensity of these feelings. In the worst cases it can also lead to suicide, which is found to be far more prevalent on solitary confinement than in general prison cells, even though only a small percentage of all prisoners are placed in solitary confinement. (Kupers, 2008:1009); (Patterson and Hughes, 2008).

These mental health effects are consistent across time and conditions. The rare studies that do not report negative effects of solitary confinement are criticized for using invalid methods. For example, O'Keefe et al. (2013) did not find effects of solitary confinement using self-report questionnaires. This is likely because the self-report questionnaires are not reliable in prison settings, where showing vulnerability can be risky. The prison reports did show a significantly higher amount of psychiatric emergency incidents in solitary confinement. O'Keefe et al. (2013) failed to take this into analysis however. (Smith, 2012; Grassian and Kupers, no date)

As it is difficult carrying out experiments due to the ethical reasons, the direction of causality is difficult to establish. Two rare longitudinal studies of Danish prisoners on remand did lead to more definitive conclusions regarding this. In both studies the incidence of mental health problems was significantly higher in solitary confinement than in the control group. This was solely attributable to the conditions of solitary confinement. In other words, solitary confinement can be defined as a ‘mental health hazard’ or ‘psychologically toxic’ (p19, Andersen et al., 2000; Andersen et al., 2003) (Grassian, 2006)

It also appears that solitary confinement is extra detrimental for those who already have preexisting mental conditions. In those cases solitary confinement can exacerbate the symptoms of their mental illness (Grassian, 2006; Haney, 2003). It is generally understood that the longer the time in solitary confinement, the higher risk of mental illness. Moreover, if solitary confinement is used indefinitely, this is extra detrimental, due to the extra insecurity and hopelessness it brings about (Grassian, 2006); (Mendez, 2011); (Scharff Smith, 2006).

It is not completely clear yet whether these detrimental effects of solitary confinement are reversible. One study found that prisoners improve when they return to the general prison populations after isolation (Andersen, 2003: 174), indicating that at least part of the effects are temporary. However, Grassian (2006) reports that some symptoms do seem to remain long term, most notably a “continuing pattern of intolerance of social interactions” (p353). Hence it appears that at least some of the psychological damage of solitary confinement that can be irreversible.

Some studies have also found physical symptoms created by solitary confinement. These seem mainly somatic reactions to stress, such as poor appetite and other gastro-intestinal issues, insomnia and fatigue, heart palpitations and headaches. (Grassian & Friedman, 1986); (Haney 2003); (Shalev, 2008); (Scharff Smith, 2006)

2.2 Underlying causes

The main underlying causes for these symptoms experienced in solitary confinement are the lack of sensory stimulation and the social isolation. There are many studies that describe the disturbing effects of sensory deprivation: the lack of stimulation of the senses.

In a classic study this was simulated in empty, silent rooms, with paddings around the body. Volunteering participants pulled out after an average of 1 (men) or 2 (women) days. No one could bear the sensory deprivation for longer than four days (Smith and Lewty, 1959). These results of sensory deprivation have been replicated many times. In these experiments participants experienced perceptual distortions, hallucinations and vivid fantasies. Upon later testing participants also had cognitive impairment, free floating anxiety, derealization, hyper-reactivity to external stimuli. These symptoms are very similar to those found in the SHU-syndrome. (Brownfield and Helson, 1964; Grassian and Friedman, 1986; Solomon et al., 1959; Zubek, 1974).

Foster (1989) criticizes that the most of these extreme reactions only arose under the condition of anxiety, which was primed by the presence of a panic button. This could exactly be

the point however. If even in safe controlled environments voluntary participants experience hallucinations and anxiety, how must prisoners who are usually placed in solitary confinement against their wishes feel? This ‘anxiety condition’ is makes the studies actually more generalizable to solitary confinement.

Of course in solitary confinement the senses are not completely deprived. There is still room to move around and touch, prisoners do hear noises, smell and taste prison food. The relative deprivation is still strong however. Solitary confinement entails a reduction in both quantity and quality of stimuli (HRFoT, 2007).

In addition, meaningful social contact is severely diminished, sometimes even non-existent. Even if prisoners are allowed to exercise outside their cell, this often is without other people (Shalev, 2011, p154). Communication with staff in some cases goes through intercom systems (Scharff Smith, 2006: 443), even the contact with medical staff and mental health clinicians (Haney, 2003, p126). Alternatively, contact would go through the walls or the food slots. As Shalev (2011); (Shalev, 2008) points out, it is unlikely that any of this social contact in these conditions is meaningful.

Psychological studies of social isolations, such as among explorers, castaways and experiment found that social isolation is an independent and significant stressor. The stress created by social isolation hence is distinguishable from the reactions to cellular confinement and sensory deprivation (Foster, 1989: 65);(Grassian and Friedman, 1986; Coplan and Bowker, 2013). In solitary confinement the stress of social isolation and sensory deprivation are combined, a condition that is hardly ever found in normal life, especially not for prolonged periods.

2.3 Rationale for using solitary confinement

In spite of the clear psychological suffering, solitary confinement is still used in many countries over the world for a variety of reasons. Depending on the reason, the conditions in solitary confinement are stricter or less strict. For reasons of *national security* for example almost all communication might be cut off or recorded and it might be administered indefinitely, while this is not necessarily the cases in other circumstances.

Solitary confinement often is used as *punishment* for prisoners who do not abide prison rules. It can be used out of *protection*, for example among sexual offenders who can be at risk

among the other prisoners. In many cases it is also used as an *administrative* or *managerial* measure, such as in what in the USA often is referred to as administrative segregation or ad seg. In these cases the prisoner is segregated from the general population because an inmate is considered a risk to the order of the general prison population. This generally is based on alleged gang membership or a history of incidents, which often are due to psychological problems. Shalev (2008) hence also described the *lack of other appropriate institutions*, such as insufficient hospital beds as a reason (Shalev, 2008:25-26);(Mendez, 2011).

Another use of solitary confinement that mainly takes place in Denmark, Norway, Sweden and Iceland is the use *in pre-trial detention*. In those cases authorities argue that it is necessary to protect the investigation (Scharff-Smith, 2006). A particular worry of solitary in pre-trial detention, is that it can be used *to exert pressure* during interrogation (HRFoT, 2007).

Mostly these reasons remain implicit however. Mears focused on solitary confinement , in the USA and found that the aims of solitary confinement are ill-described, ill-founded and rarely achieved (Mears, 2013; Mears and Reisig, 2006).

2.4 Sociological approaches

Sociologists have longer claimed that prisons do not meet its claimed functions (Foucault, 1977; Goffman, 1961). From the studies above it seems that at least for the USA this can be extended to solitary confinement, as a prison within a prison. In this section I will shortly describe the theories of Goffman and Foucault relevant to solitary confinement.

2.4.1 Foucault

Foucault (1977) has been the one of the first to describe prisons as inherently political institutions. This was not in referral to political prisoners as defined previously, but regarding the place of prison in society and its power function. He described a historical shift from corporal punishment to a more mental form of punishment. The current type of prison he describes as a ‘coercive, corporal, solitary, secret model of the power’ (Foucault, 1977: 131).

In this model solitary confinement could be used as a ‘special punishment’ for the most dangerous prisoners (Foucault, 1977: 124). In Foucault’s view, the aim of prison is to exert control over the body. Foucault does not mention this specifically, but this theory of prison seems extendable into theories of solitary confinement. Solitary confinement goes even further

than general prison confinement in creating an ‘uninterrupted constant coercion’ of the prisoners’ bodies (Foucault, 1977: 137)

2.4.1 Goffman

Goffman (1961) describes an alternative approach to the sick-model of mental health offered by psychology and psychiatry. Instead of describing abnormal behavior in psychological terms, he talks of ‘primary and secondary adjustments’. If a person in a total institution cooperates with the staff of the institution and shows the behavior that is expected of him, this inmate shows ‘primary adjustment’.

For political prisoners we can imagine that they do not want to always want to comply with the prison rules, but remain resistant towards the government and the prison officials that work on behalf of the government. In this case we might speak of ‘secondary adjustments’ which Goffman defines as “any habitual arrangement by which a member of an organization employs unauthorized means, or obtains unauthorized ends, or both, thus getting around the organization’s assumptions as to what he should do and get and hence what he should be.” (1961: 172).

In the same book he also describes solitary confinement as a vicious circle. He relates this to freedom of expression and resistance. In solitary confinement normal means to express resistance are removed. All that is left might be extra heavy furniture, so that banging these loudly on the floor might be the only option to express discontent. Banging furniture however is quickly seen as abnormal or even psychotic behavior. The less conventional means available, the more an inmate is forced to use unconventional behavior to show his resistance. This unconventional behavior is a result of the solitary confinement, but seen as symptomatic for the prisoners. This is a very different approach than that of psychology described above.

2.5 Political Prisoners

Political prisoners often remain resistant to the regime in prison, if they fully refuse to cooperate that could be described of secondary adjustments. They are imprisoned for their acts against the regime, and often continue their resistance inside prisons.

In a recent article Munochiveyi (2015) describes the case of political prisoners in Rhodesia (now Zimbabwe) during the struggle for independence. In this case it becomes clear

that solitary confinement was used as a central part of prison, it was used on political prisoner as a punishment, or as a means to keep them from instigating other. However, from the political prisoners' description it became clear however that solitary confinement did not stop them from communicating through the walls, or personally challenging the prison authorities.

Alexander (2011) focused on one prison in Rhodesia with a relative freedom, so much that political prisoners almost created a self-rule. In this prison education was very important for the political prisoners. The elderly political prisoner counseled the younger political prisoner, and helped them deal with their fears. Coping techniques as these are made impossible in solitary confinement.

Basoglu et al. (1994) found in studies of Turkish political prisoners that those who had been tortured had a higher risk of PTSD, anxiety and depression than the political prisoners that had not been tortured. This is relevant considering the previous mental health literature that solitary confinement can exacerbate previously existing mental illness.

Don Foster (1989) found similar results among former political prisoners in South Africa. The political prisoners he interviewed had been in solitary confinement, and many had experience torture such as sleep deprivation, stress positions, beatings and 'cold water treatment'. He found indications of psychological difficulty, with a high average of symptoms of anxiety, depression and PTSD. These effects of solitary confinement were described by his interviewees as "there is no violence comparable to solitary confinement" (139) and "I think your whole personality is transformed." (140).

Foster stresses the importance of context regarding solitary confinement. This includes the torture that they had experienced, as well as the physical conditions of detention, which he stresses to 'form a central part of the debilitating process of detention'. He argues that 'Given the full context of dependency, helplessness and social isolation [...] there can be little doubt that solitary confinement under these circumstances should in itself be regarded as a form of torture (1989: 136)

3. Human Rights and Solitary Confinement

The literature has sparked a debate in the human rights field as to whether the suffering caused by solitary confinement is so severe that it can amount to torture or other forms of cruel, inhuman or degrading treatment or punishment. The following sections will go further into the legal definitions of torture, as well as human rights law and guidelines relating to solitary confinement. This will provide a further reflection of all relevant aspects of the debate on solitary confinement.

3.1 Legal Definitions of Torture

The right to be free from torture is well established by international law, including the International Covenant on Civil and Political Rights (ICCPR) (1966) and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) (1984) as well as under international customary law (Weissbrodt and Heilman, 2011).

In the CAT torture is defined as:

any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as to obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions. (Article 1)

Similarly the ICCPR prohibits the use of torture or cruel, inhuman or degrading treatment or punishment in article 7. In addition, the ICCPR contains articles regarding the treatment of prisoners:

10 (1) All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.

10 (3) The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation.

In general comment 20 on article 7 of the ICCPR (1994) it is further explained that the purpose of article 7 is “to protect the dignity and the physical as well as the mental integrity of

the individual”. It hence does not only refer to physical, but also to psychological treatment. The general comment also states that prolonged solitary confinement of a detainee can amount to torture or cruel, inhuman or degrading treatment or punishment. Furthermore, the comment as well as both of the above conventions state that there is no justification for torture and inhuman, cruel and degrading treatment, not even in cases of national security or when issued by a public official or authority (Art. 4, ICCPR, 1966); (Art. 2, CAT, 1984) (HRC, 1994: §6).

Unfortunately Burma has not ratified the ICCPR nor the CAT, so it is not legally bound to follow these human rights instruments. Notwithstanding, the prohibition of torture is part of the jus cogens doctrine or peremptory norms. These norms are non-derogatory, so as all states, Burma is bound by this prohibition of torture (Nieto-Navia; Weissbrodt and Heilman, 2011).

The focus of this thesis is not on the legal accountability however, but on the lived experience of solitary confinement. The human rights convention and documents are used to illustrate the point, rather than to create accountability. This thesis discusses of human rights concerns, rather than violations, since strictly speaking Burma cannot violate human rights law it has not ratified.

3.2 Special Rapporteur and committees

The UN Special Rapporteur on Torture, Juan Mendez, has voiced his concern for solitary confinement as a form of torture on several occasions. He speaks of prolonged solitary confinement after 15 days of solitary confinement, after which research indicates the harmful effects of solitary confinement on mental health can become irreversible. He believes that prolonged solitary confinement can amount to torture and hence has called upon the international community to install an absolute prohibition of prolonged solitary confinement (Mendez, 2011).

Although the special rapporteur notes that solitary confinement should be reviewed on a case by case basis, he does think that certain conditions in which solitary confinement can never be justified. These include solitary confinement as a punishment, during pre-trial detention or when it is used indefinitely, prolonged, on juveniles or on persons with mental disabilities. In these circumstances in particular he warns solitary confinement can amount to torture, or cruel, inhumane and degrading treatment or punishment. This could also be the case where solitary confinement takes place in degrading cell conditions or without the minimal safeguards to ensure solitary confinement is absolutely necessary and absolutely safe (Mendez, 2011).

Furthermore, the special rapporteur is wary that “the use of solitary confinement increases the risk that acts of torture and other cruel, inhuman or degrading treatment or punishment will go undetected and unchallenged.” (Mendez, 2011: p2).

The European Committee for the Prevention of Torture (CPT) seems to have followed the special rapporteur’s recommendations and stated that the maximum period of solitary confinement should be 14 days or less. Furthermore it should never be used as a punishment (CPT, 2011). Similarly the Subcommittee on the Prevention of Torture (SPT) recommended that solitary confinement should be abolished or at the least strictly regulated. It should only in exceptional circumstances and under judicial supervision. (Nowak, 2008: §80)

Clearly there are some contra indications and calls that solitary confinement should be abolished where possible. However, there is no absolute ban on solitary confinement or prolonged solitary confinement, which makes that it should be reviewed on a case by case basis.

3.3 Jurisprudence

In lack of a clear complete denunciation it has been up to the human courts to decide whether solitary confinement constitutes a form of torture, or cruel, inhuman or degrading treatment or punishment. These concepts it is understood as a scale of suffering, with inhuman treatment being the least and torture being the most severe (Başoğlu et al., 2007). In most cases regarding solitary confinement the central question is whether a ‘minimum standard of suffering’ has been reached for solitary confinement to qualify as form of torture, or cruel, inhuman or degrading treatment or punishment (eg. (*Messina v. Italy*, ECHR 1999 V); (*Velázquez-Rodríguez v. Honduras*, IACHR, 1988); (*Lorsé and Others v. the Netherlands*, § 62, ECHR, 2003).

So far the Inter-American Court of Human Rights (IACHR) is the only court that has explicitly stated that prolonged solitary confinement constitutes a form of cruel, inhumane and degrading treatment, which is prohibited under article 5 of the American Convention on Human Rights (*Castillo Petruzzi et al., v Peru*, IACHR, 1999, §194). In practice however, the solitary confinement cases that reached the Inter-American court contained aggravating circumstances,. Often solitary confinement was part of incommunicado detention which is a human rights violation on its own. These measures were often taken by several South American countries against political dissidents. E.g. (*Velázquez-Rodríguez v. Honduras*, IACHR, 1988, §156); (*Petruzzi et al. v. Peru*, IACHR, 1999); (*Casas v. Peru*, IACHR, 1998); (*Godínez Cruz v*

Honduras, IACHR, 1989)

The European Court of Human Rights (ECtHR) has recognized the potential impact of solitary confinement, stating that “Complete sensory isolation coupled with complete social isolation can no doubt ultimately destroy the personality; thus it constitutes a form of inhuman treatment” (*Ensslin, Baader and Raspe v. Germany*, ECtHR 1978). Solitary confinement does not create complete sensory and social isolation, but relative. The severity of the restrictions is one condition that needs to be taken into account, as well as other conditions as the duration, the objective pursued and the characteristics of the detainee. (*Ensslin, Baader and Raspe v. Germany*, ECtHR, 1978); (*Ireland v. the United Kingdom*, ECtHR, 1978, §162) (*Gómez-Paquiyaauri Brothers v. Peru*, IACHR supra note 252, § 113).

Furthermore the cell conditions are important. If solitary confinement takes places in a very small cell, lacking sunlight, while shackled or lacking basic hygiene or food these circumstances can increase the suffering in solitary confinement. (*Evans v. Trinidad and Tobago*, HRC, 2000); (*Polay Campos V Peru*, HRC, 1994); (*Gurmurkh Sobhraj v. Nepal*, HRC, 2009); (*Benhadj v. Algeria*, HRC, 2003); (*Geneapol v. Romania*, ECtHR, 2013); (*Romero v. Uruguay*, HRC, 1983); (*Ilaşcu and others v. Moldova and Russia*, ECtHR, 2004)

The importance of procedural safeguards has also been stressed. (*Rohde v. Denmark*, ECtHR, 2005) The justification for solitary confinement is particularly important (*Yong Joo-Kang v. Korea*, HRC 2003), as is the question whether less severe measures could have achieved these aims (*Ramirez Sanchez v. France*, ECtHR, 2005). Other procedural safeguards can include regular health checks and care, increasing the sensory and social stimulation, access to people from outside, regular reviews of the sentence, and access to independent appeal the decision to be placed in solitary confinement. (*Rohde v. Denmark*, ECtHR, 2005);(*Congo v. Ecuador*, IACHR, 1999);(*Gurmurkh Sobhraj v. Nepal*, HRC, 2009).

3.4 Nelson Mandela rules

The Human Rights Council (HRC) and other human rights courts often have made use of the UN Standard Minimum Rules for the Treatment of Prisoners (SMR) (1955) as a guide in their decisions. Recently a revised version of the UN Standard Minimum Rules for the Treatment of Prisoners (SMR) has been adopted by the UN Crime Commission. These have been named the

Nelson Mandela rules, in honor of Nelson Mandela who spent many years as a political prisoner in South Africa. The Mandela rules have been formally presented at the UN General Assembly on 7th October 2015.

The Mandela rules are an update of the now 60 year old SMR. The prison rules are intended as a universal guide for prisons to apply human rights standards. The Mandela rules revised a number of thematic areas, including health care, disciplinary measures, and investigation of death in custody. Furthermore, the new rules include definitions and guidelines for solitary confinement and prolonged solitary confinement. Like the special rapporteur, prolonged solitary confinement is defined as solitary confinement longer than 15 consecutive days (Rule 44, 2015). The rules involving solitary include:

Rule 45

1. Solitary confinement shall be used only in exceptional cases as a last resort, for as short a time as possible and subject to independent review, and only pursuant to the authorization by a competent authority. It shall not be imposed by virtue of a prisoner's sentence.
2. The imposition of solitary confinement should be prohibited in the case of prisoners with mental or physical disabilities when their conditions would be exacerbated by such measures. The prohibition of the use of solitary confinement and similar measures in cases involving women and children, as referred to in other United Nations standards and norms in crime prevention and criminal justice,⁴⁵ continues to apply.

It also specifies that solitary confinement should be 'subject to authorization by law or by the regulation of the competent administrative authority (Rule 37 (d)).

In addition the Mandela rules prohibits the following punishments, in order to prevent torture and other cruel, inhuman or degrading treatment or punishment:

- (a) Indefinite solitary confinement;
- (b) Prolonged solitary confinement;
- (c) Placement of a prisoner in a dark or constantly lit cell;
- (d) Corporal punishment or the reduction of a prisoner's diet or drinking water;
- (e) Collective punishment.

The Mandela rules provide a new guide for minimum standards in prison and are intended to be universal. Like, the previous SMR the revised prison rules are not legally binding however.

3.5 Burma domestic law

A large part of the Burmese legal system stems from the British colonial rule. The Burma jail manual for example is from 1937 and still makes use of parts of the Prisons Act from 1894. In many regards this jail manual does not comply with the Mandela rules nor the original SMR, and

hence do not sufficiently protect the human rights of prisoners.

The Jail manual allows for solitary confinement as a punishment, next to a formal warnings and penal diets. Offences that can be punished include ‘immoral or indecent or disorderly behavior’ (Art. 808.4), ‘showing disrespect to any jail officer or visitor’ (Art. 809.4), ‘making groundless complaints’ (Art. 809.5) and ‘committing a nuisance in any part of the prison’ (Art. 809.28). These acts are clearly written broadly, leaving a lot of room for interpretation in the hands of the prison officials.

According to the jail manual solitary confinement can be administered for a maximum of fourteen days at a time, after that the prisoner should spent at least the same amount of time in a normal cell before (s)he can be placed in solitary confinement again (Art. 474). The penal diet is allowed up to 96 hours and similarly requires an equal amount of time before a new penal diet is started (Art. 811.7).

Before the prisoner is placed in solitary confinement (s)he is supposed to receive a medical check (Art. 468, Jail Manual, 1937). When in solitary confinement a ‘medical officer’ is supposed to check every day (Art. 469). Only prisoners that are deemed healthy (prior and during solitary confinement) are allowed to be placed in solitary confinement (Art. 473), otherwise the prisoner should be removed and can only be placed in solitary confinement once (s)he is healthy.

According to the Jail Manual, each solitary confinement cell “shall have a yard attached to it, where the prisoner can have the benefit of fresh air without having the means of communication with any other prisoner” (Art. 860). Here “each prisoner can be bathed, fed, and exercised at regular hours”. Also the solitary confinement cell should have a minimum area of 75 square feet and have access to natural light (Art. 993).

3.6 Political Prisoners

Lastly detaining political prisoners is contrary to a range of civil and political human rights, such as the right to fair trial (ICCPR, 1968, Art. 14) and the right to be free from arbitrary detention (Art. 9) and the right to freedom of movement (Art. 12). Often they are punished for exercising their human rights, such as their right to freedom of assembly (Art 24.) or association (Art 25.) or freedom of speech (Art. 19.). Moreover they are discriminated for their political opinion or

affiliation. Rather than embracing diversity some non-democratic governments repress dissent.

The UN Special Rapporteur on Myanmar (Lee, 2014) and many human rights organizations (HRDF, 2015; FIDH, 2015; AAPP, 2014) have called for the unconditional release of all political prisoners in Burma. This is a basic requirement for a free and democratic society, where everyone can freely exercise their human rights and participate in the political processes without fear of repercussions.

The former UN special rapporteur on Burma, Tomás Ojea Quintana has expressed his concern for a number of Burmese laws which are not in accordance with international human rights standards. (in: FIDH, 2015: 7) These include the 1908 Unlawful Associations Act, the 1923 State Secrets act, the 1950 Emergency Provisions Act, the 2004 Electronic Transactions Law, the 2011 Peaceful Gathering and Demonstration Law and Articles 143, 145, 152, 295(a), 505 and 505 (b) as well as the entire criminal procedure code. Many of these laws have been identified by the AAPP as often used to sentence Burmese political prisoners (AAPP, 2014). Moreover, torture is not prohibited anywhere in the Burmese law, and the military abides by its own set of rules (Lee, 2014: §86).

4. Methodology

4.1 Data collection

For the collection of data I collaborated with the Assistance Association for Political Prisoners (Burma) (AAPP). This is a respected human rights organization and primary source for all information relating to political prisoners from Burma. I fully support the AAPP's goals to release of all remaining political prisoners in Burma and the improvement of their quality of life during and after incarceration. During the time of the research I also carried out an internship with the AAPP, in which I assisted the organization in its research and advocacy.

My stance as a researcher hence could be described as a light version of a critically engaged activist researcher (Speed, 2006). 'Light' as the idea of the thesis came from my end and was not influenced by my engagement with the AAPP. The collaboration with the AAPP lasted for three months. The AAPP assisted me in the acquisition of data, in particular by providing access to interviewees, data of the survey, interpreters and office space.

The head office of the AAPP is in Mae Sot, Thailand, where I carried out the research.

Unfortunately due to practical and security reasons it was not possible to do research inside Burma at this point. For obvious reasons, carrying out interviews with current political prisoners was not possible.

4.2 Interviews

Six semi-structured interviews with former political prisoners from Burma were carried out. Only former political prisoners who had experience with solitary confinement were selected. All together their experiences in prison covered the period from 1972 to 2009. They spent an average of 11 years in prison, in some cases spread over different sentences. Four interviewees were male, and two female. Four of the interviewees worked for the AAPP, while the other two interviewees were contacted through the AAPP. Snowball sampling was used, starting at the AAPP office in Mae Sot. In all except but one interview interpreters were used.

The interviews were semi-structured, in order to make sure to acquire the relevant information, as well as to leave space for a natural flow of conversation. The interviews discussed the full experience of being a political prisoner to provide context to the experience of solitary confinement. Interviews treated the factual conditions, as well as the subjective experience with solitary confinement.

All interviews were recorded and later transcribed. Analysis was based on the transcriptions, which were read several times. Key features recurring in the interviews were color coded and later grouped together, allowing comparison of interviewees' experiences within these key features.

4.3 Survey

As a secondary source data from a survey which was prepared and sent out by the AAPP was used. This survey covered a range of aspects of interrogation, prison and life after release. It was sent throughout the network of former political prisoners in Burma. The survey received 1621 responses. 162 of these were filled in by family members on behalf of former political prisoners that had deceased. The survey was originally in Burmese, and translated to English for the researchers.

Only questions relevant to this study were used. Questions that appeared to be unclear or ambiguous were not taken into analysis. Unfortunately this included questions about solitary

confinement, which had not been defined in the survey. This led to answers incompatible with the way solitary confinement is defined in this research, invalidating this section. Results were analyzed in percentages of the amount of respondents for that question, using excel. Non-responses were not taken into analysis.

4.4 Power relations and ethics

As a researcher I come from an affluent, western and democratic country, which is certainly very different from the background of those of the interviewees. I am young and I am female, both of which are less deserving of respect, but hopefully also less threatening because of this. All interviewees knew that I was interning at the AAPP and aligned with their goals.

Mae Sot is quite an international location with many human rights organizations and a high turnover of Western staff, interviewees were used to Westerners working for Burma or carrying out research. The interviewees all lived in Mae Sot for many years and were used to the presence of westerners and women. The interviewees had given interviews previously, which facilitated the process.

All interviews took place in the AAPP office. This was the best combination of a public space, while still preserving privacy. As all interviewees had been to the office many times, they felt safe and comfortable there. Moreover it was regularly used by both men and women, of Burmese and Western backgrounds, providing a relatively gender-neutral and culturally balanced atmosphere.

The interpreter was also a former political prisoner, who had been working for the AAPP for several years. This was decided to make the former political prisoners feel more comfortable with sharing their experience. She was a woman that was generally well known and trusted among the political prisoner community in Mae Sot. She had translated many times before and had participated in interviews herself. She also acted as a gatekeeper that selected and contacted the interviewees.

Interviews were on a voluntary basis, after oral and written consent were provided. All interviewees were guaranteed anonymity, even when they spontaneously indicated it did not matter to them. This was chosen as security can remain a concern for the former political prisoners, as well as to stimulate openness. In this thesis all names are replaced by randomly

chosen Burmese names. As is respectful in Burmese conventions these names will be preceded by honorific titles U (for men) and Daw (for women).

5. Findings

This research set out to find out how solitary confinement has been used among political prisoners in Burma, and which human rights concerns arise from this practice. The aim of this chapter is to answer these questions, by telling the stories of the interviewed former political prisoners through a human rights lens.

5.1 Solitary confinement

The interviewees had a variety of experiences with solitary confinement. Its use does depend on the circumstances, such as the specific case and the politics of the time. As interviewing government or prison officials on such a delicate topic was impossible in this case, we are left to guess for their specific reasons. From the interviews we can deduct some reasons behind it.

Overall there are three main circumstances in which political prisoner have experienced solitary confinement: a) during interrogation, b) upon arrival in prison and/or c) as a punishment while in prison. These circumstances can overlap however. For example, Daw Aye Thu⁵ was interrogated in what is referred to as the ‘annex prison’. This is a cellblock just outside of the walls of Insein prison, Burma’s largest prison.

5.1.1 Solitary Confinement During Interrogation

Solitary confinement during interrogation is very common; most of the Burmese political prisoners have experienced this. During interrogation torture is widely used, which will be discussed more in-depth later. Solitary confinement lasts as long as the interrogation, with in the amount of torture usually decreasing towards the end. Solitary confinement is used to aid the

⁵ For confidentiality, interviewees’ names have been replaced by randomly chosen names. Any potential resemblance is based on coincidence.

torture. It cuts off all communications with the outside world, increasing the secrecy and the impunity of the torture. It also prevents communications about the case, including sharing details of the specific case and those involved. In addition it is believed to be used to prevent the sharing of tactics to counter torture.

Moreover, solitary confinement can be “a coercive interrogation technique” by itself, (Mendez, 2011). The psychological literature showed that solitary confinement can create mental suffering, which in this case adds to the other suffering induced by torture. There is no distraction from the torture that was happening and might happen next, so that the extreme stress of torture remains high. The political prisoner remains helpless in the hands of their torturers.

5.1.2 Solitary Confinement Upon Arrival in Prison

When the interviewees that were placed in solitary confinement straight after arrival this often was related to their perceived danger as a dissident. Solitary confinement was used to punish them even harder for their committed acts. U Aung Aung for example was imprisoned for political acts three separate times. The second and third time in prison he was sent to solitary confinement straight away. U Ye Thet was placed also placed in solitary confinement upon his arrival in Insein. It was his first time in prison, but he came from a family of political prisoners. His codefendants however had also been placed in solitary confinement, for a shorter amount of time. In this case it hence also reflects a time of tougher sentencing.

In these cases it appears that solitary confinement upon arrival was part of the sentence, as an extra punishment for their ‘crimes’ outside of prison. This becomes particularly clear as both interviewees had been placed in a ‘dog cell’ (more on this later), which were used as a punishment for prisoners. According to the UN rapporteur on torture, “The imposition of solitary confinement as a part of an individual’s judicially imposed sentence often arises in circumstances of [...] crimes against the State. (Mendez, 2011: §41). He continued to denounce the use of solitary confinement as a punishment altogether as a human rights violation. This goes for punishment as part of the sentence as well as a disciplinary measure inside prison (Mendez, 2011, §72), as will be discussed next.

5.1.3 Solitary Confinement as Punishment

Some of the interviewees were placed in solitary confinement during their prison term. This was

usually after standing up for their rights to the prison authorities. For example, U Aung Aung was placed in solitary confinement after he participated in a strike. U Myo Ye was placed in solitary confinement after standing up for a fellow political prisoner, who he thought had been beaten. In both cases they stood up for their rights and were punished for this by solitary confinement.

The practice of solitary confinement as a punishment is established in the Jail Manual (1937). The problem is that the different acts that are worth punishing are described vaguely in this manual. In the interviews we can clearly see the result is arbitrary and political motivated punishment. Some political prisoners have spent years in solitary confinement, which is contrary to the Jail Manual's own regulations (Art. 474).

5.1.4 Cell Conditions Solitary Confinement

Solitary confinement cells were usually around 2,5 by 3 meter (8 by 10 feet). They have only a small window and one light bulb, which is constantly turned on. All Burmese cell doors consist of iron bars, but in solitary confinement this door is covered by a second heavy teakwood door or in some case a mat, blocking light and fresh air. In the cell is only a low bed or mat, often riddled with bed bugs.

Political prisoners received poor quality food twice a day. Also they had access to tap water, which is not potable. In their cells the political prisoners had an arden bowl to be used as a toilet, which was cleaned out daily. While in solitary confinement they are normally not allowed to receive family visits. They also are not allowed to receive any packages with extra food or medicine from their family.

Usually in solitary confinement the political prisoner are allowed to bath once a day, this usually means they spend 15 – 25 minutes a day outside their cells. When the political prisoner goes to bath (s)he is escorted by guards and the other cell doors are covered with mats, so that the political prisoner still does not know who are in those cells In solitary confinement political prisoners do not have any time outside for exercise or fresh air.

5.1.5 Punishment Cells

If a political prisoner were placed in solitary confinement as a punishment then the conditions

were even worse. This is also the case if they were punished as part of their judicial sentence. Some political prisoners even were placed in dog cells. U Aung Aung explains: *“In the past it was not solitary confinement or the punishment cell. They put the dogs, who were for security, they put these dog in that cell. But at the time, it was the first time, it become a punishment cell for us.”* After him these dog cells were regularly used to punish political prisoner, including other interviewees. These dog cells are only used in Insein prison. U Myo Ye described a similar model of cell in Moulemein, but this was a cell from death row. Clearly these cells do not meet humane standards. The name of the cell alone can bear already extra psychological stress, let alone the conditions inside them.

The conditions in these types of punishment cells were even worse. Political prisoners were not allowed to go out of their cells at all. They usually would not have a bed, only a thin blanket for which they had to choose whether they used it as a blanket or as a bed sheet on the cold ground. As extra punishment often food was replaced by ‘glue’ for up to a week. Often political prisoners were not allowed to bathe for weeks, and after that only irregularly.

The dog cells were also about 2,5 by 3 meter and only had a small window and similarly had a small light bulb that was constantly turned on. In front of the cell there was a small yard, of about half the cell size, still separated by walls. If the political prisoner were allowed to bath, they would bath in there. In some cases they were not provided with a toilet bowl, but were given solely a pile of sand. This would inevitably become wet and muddy. After three days the whole cell would become dirty and maggots would flood the cell.

In the punishment cells⁶ political prisoner are also placed in shackles, often several heavy iron ones. This leads to an almost complete restriction of freedom of movement. According to the UN Mandela rule 47(1) “The use of chains, irons or other instruments of restraint which are inherently degrading or painful shall be prohibited.” This rule counts in except for during a transfer or a high escape risk, which are not the case. Instead it is an unnecessary and degrading practice.

Furthermore, dog cells are usually on a distance from the main prison, placing the political prisoners even further out of sight of justice. According to U Aung Aung “this place is further from the main jail. So whatever they did on us, no one can hear, about what they are

⁶ These punishment cells are meant to be used for solitary confinement and in Burma sometimes referred to as solitary confinement cells. However, in cases where many prisoners are punished it is possible that multiple prisoners share a punishment cell, in which we do not speak of solitary confinement but of small group confinement.

doing”. Most of the interviewees were beaten severely before they were punished with solitary confinement.

5.2 Political trials

The interrogation process, the prisons and the judiciary that handle with political prisoners are all under the control of the military intelligence (MI). This leads to a clear lack of independence in the judiciary. The judge has no power in sentencing, but is handed an envelope with the sentence. U Zin Phyoo describes “So on the final day the judge receive a letter with an envelope. He just read the letter, [...] and all eleven are sentenced to 20 years in prison.”

All interviewees went to a military court inside prison. No visitors were allowed, not even family. Only one interviewee was allowed a defense lawyer, after he and his 11 codefendants had been complaining for two weeks of hearings. They were allowed only one defense lawyer for all 12 defendants.

5.2.1 Arbitrary Sentences

Five out of six interviewees were imprisoned for peaceful activities, mainly for spreading flyers, translating flyers and helping to organize a protest. Two of the interviewees had also been involved in the People’s Patriotic Party, an underground political party that was denounced as illegal by the government. Most of the interviewees were actively involved in the organization, which was considered worse than solely participation in protests.

The laws that the interviewees were sentenced under include the Unlawful Associations Act (1980), High Treason (Art. 122-124, Burma Penal Code, 1861) and the Emergency Provisions Act (1950), which punishes those who cause public alarm, spread false news or undermine the security of the state. Most interviewees received an additional sentence under the Printers & Publishers Act (1962) that effectively censored all media by stating that “All printed material must be submitted to the Press Scrutiny Board for vetting prior to publication.”. These and other laws seem directly contrary to human rights, limiting the right to freedom of speech and freedom of assembly and of association (Art. 19, 20, 21 ICCR, 1966).

Other laws used can be broadly worded, leaving room for political interpretation. An example of this is U Aung Aung, who was detained for three years under section 10E of the

Penal Code (1861). This ‘State Protection Law’, allows for up to three years of temporary detention without a trial. After these three years he was sentenced to four years imprisonment, of which the three years pretrial detention were not deducted.

Sentences of the interviewees ranged from 5 to 25 years, although most were released before the end of their sentence in amnesties. The length of the punishment often depends on the policies of the time, which often changed with the different heads of government. U Ye Thet explained that for the same ‘crime’ of protesting previously protesters received a sentence of 2 years imprisonment, while in his time it was between 10 and 30 years and in 2007 and 2008 it even went up to 60 years. Daw Aye Thu commented that quite often people with very long sentences such as 40 or 50 years were released a lot earlier with an amnesty, while people like her with a sentence of 10 years would not be released much sooner. She experienced that “some activists who were sentenced 24 or 28 were released earlier than me, even 42 year one released earlier than me”. The length of the sentence hence also seems arbitrary and again reflecting political reasons.

In summary, it became clear that the interviewees were imprisoned for political acts that included standing up for their basic human rights. These were repressed with arbitrary politicized laws that are designed to repress these types of dissent. The trial is unfair, unpredictable and secret. We see this replicated inside prison. If the political prisoner stands up for his prisoner’s rights for example with a strike, (s)he can get punished unfairly and arbitrarily. This can lead to beatings and solitary confinement, which is used indefinitely and can be of arbitrary length. In particular those who help organize are punished, just like outside the prison. Solitary confinement becomes a political punishment for the political prisoner, a political prison within a political prison. This relates to Foucault’s analysis of prison as a political institution, which could be extended onto solitary confinement.

5.3 Hygiene

Solitary confinement cells were very unhygienic. For example, several interviewees mentioned having bedbugs. Daw Su Myat described the dust falling from the ceiling and her window being permanently closed. U Ye Thet explained that as he did not have any material to clean, he had to

tear of parts of his longyi⁷ to clean himself. The maximum political prisoners were provided with was a soap of very poor quality and some salt used to brush their teeth.

If solitary confinement is used as a punishment however, hygiene was even worse. As part of punishment bathing was sometimes restricted for weeks. U Myo Ye describes an incident in which he and his cellmates were punished. They were heavily beaten, and then forced to crawl over the road to the solitary confinement cell. Once he was inside solitary confinement, he was not allowed to bath for another three months. So for all that time he, and his fellow political prisoners in the cells next to him, were covered in blood and dirt. Their hands were too dirty to touch the food “So they ate glue as an animal. They used their mouth and ate it.” After three months they were allowed to bath once in 3 days for another year, which is still little considering the tropical climate in Burma. It took a year and a half before they were allowed to bath every day.

Another common extra punishment in solitary confinement is that no toilet bowl is provided. Instead a pile of sand is placed in the cell. U Aung Aung describes: “I used this sand as a cat, we used to urine and stool and cover up by sand”. This pile would inevitably turn into a smelly mud after a few days, flooding most parts of the cell. After three days it would attract insects and maggots. Consequently he would spend day and night fighting off the maggots from his body. If he would fall asleep he would be woken up by the insect bites. This remained until the mud was replaced with new pile of sand after two weeks, when it started all over again.

The interviewees spontaneously referred to animals, indicating the inhumanity of these conditions. Being placed in a ‘dog cell’ further reinforces this. Moreover, in cases of solitary in similar unhygienic conditions, such as in *Romero v. Uruguay* (HRC, 1983), where Romero was in solitary confinement among human excrements, the HRC considered this a violation of their human dignity (Art. 10 ICCPR, 1966); (*Evans v. Trinidad and Tobago*, HRC, 2000); (*Benhadj v. Algeria*, HRC, 2003).

5.4 Sleep Deprivation

Moreover, the lack of hygiene also could cause sleep deprivation. This became clear in the above example of the maggots in the cell, which three interviews experienced. Similarly the bed bugs in cells that did have a bed also kept political prisoners awake at night. Sleep deprivation for

⁷ A type of Burmese skirt, worn by both men and women

varying reasons seemed was mentioned by all interviewees. Another example is U Myo Ye, who was in solitary confinement without shirt and blanket, which made him so cold that he could not sleep. At night he regularly had to get up to do exercise in order to create some warmth.

The most worrying cause of sleep deprivation is during interrogation, in which interviewees were actively kept awake in order to extract information from them. Interviewees described being kept awake for over 48 hours and watching the teams of torturers changing shifts. Regarding this Daw Aye Thu stated “I only wanted to sleep. Only one thing.”.

The UN Committee Against Torture has previously denounced sleep deprivation as a form of torture (1997, §257). According to Physicians for Human Rights: “Sleep deprivation is known to cause mental harm ... [and] also is calculated to disrupt the senses or personality” (2007:17). This description is very similar to the harmful effects of solitary confinement. The deprivation of sleep puts an extra mental pressure on the already high mental strain of solitary confinement.

5.5 Mental Health

From the previous literature particularly focused the effects of solitary confinement on mental health. Among the former political prisoners there seemed to be an understanding that prison and solitary confinement in particular can make people ‘crazy’. A stigma that complicated the gathering of data in this regard.

The upside of this mental health awareness is that some interviewees had active coping strategies to remain healthy. In the words of U Aung Aung: “*We took care of ourselves physically and mentally in the prison life*”. He and his political prisoner cellmate would encourage each other to exercise and they would talk about the books they had read to keep their mind active. Communal coping strategies like these are disrupted by placement in solitary confinement.

All interviewees expressed distress with solitary confinement to some extent, which does not need to indicate mental illness per se. Interviewees reported being scared and feeling depressed. Others reported anger and bitterness. Solitary confinement strengthened their commitment against the regime. One interviewee in particular showed worrying signs psychological difficulties. We will go deeper into his case next:

5.5.1 Case study: U Ye Thet

U Ye Thet was arrested for spreading flyers when he was only 14 years old. During interrogation he was so severely beaten that his ribs and teeth were broken. His injuries were so bad that neither court nor prison would accept him. Instead he was sent to a hospital for three months. After this, he was sent straight to a dog cell in Insein prison. He was never told why or for how long. He ended up staying there for two years.

When he talks about his time in solitary confinement he reports feeling numb and memory loss. The only happiness he found was in the insects and lizards in his cell: *“he said he was happy when he saw ants and geckos. So he also requested his mom to send him piece of cake so that he can feed them. He could feed the ants. He could talk with them.[...] He said they understood, and they also regularly come. When its eating time, they regularly came.”*

During his two years in solitary confinement, there was an incident that provoked great anger in him. The prison guard that came by his cell cursed at him, which in Burmese culture is very rude. The interviewee was so offended he set off in a rage, which could not be stopped, not even by bringing in higher rank prison officials. The officials threatened to come into his cell and beat him up, which perhaps unsurprisingly did not help to calm the interviewee down. U Ye Thet was so angry that he wanted to kill them.

On his last day of solitary confinement his mother came to visit him. She was allowed to visit more often. On a previous occasion she told him that his way of talking did not make sense, even though U Ye Thet thought it was normal. This family visit he went to see his mother without wearing a longyi, just a shirt. The guards took this as a sign of mental illness and he was sent back to the hospital, where he stayed for another three months. After this he was placed in a cell with cellmates.

5.5.1 Case study Analysis

As I am not a clinical psychologist I am not able to diagnose mental illness. I do want to note that symptoms he reports such as rage, memory loss, speech deficits, confused thought processes were commonly reported in solitary confinement and in the SHU syndrome. (Grassian,1986; 2006), (Haney, 2003) (Shalev, 2008; Scharff Smith, 2006)

Moreover, it these symptoms can also be described in Goffman’s terms of ‘secondary

adjustments' (1961). Considering that spending two years in solitary confinement as an extraordinary situation, we would expect extraordinary behavior, as a way for the person to adapt. In this case, if there is no human or social contact whatsoever, it would make sense to become friends with animals that are more available. Similarly, if there is no normal communication possible with guards, then shouting and violence might become a more sensible alternative to make yourself heard.

U Ye Thet was the most extreme case. His young age also made him extra vulnerable to the detrimental effects of solitary confinement. The Committee of the Rights of the Child has spoken out against the use of solitary confinement on juveniles as prohibited by the Convention on the Right of the Child (CRC, 2004, §36). The CRC is one of the few UN conventions that Burma actually has ratified and hence is legally obliged to follow.

U Ye Thet is not the only political prisoner with psychological symptoms however, other political prisoners did also report difficulty with solitary confinement. The concern for adverse mental health effects from solitary confinement, does also apply to political prisoners in Burma.

5.6 Torture

Torture is widespread in Burmese interrogation centers and prisons. Previously we already saw that all interviewees had been subjected to sleep deprivation. Next to sleep they were often deprived of food and sometimes water. Of the select group of interviewees the two female interviewees were both threatened with beatings, but were not actually beaten. All the male interviewees had endured beatings, which in some cases had led to lasting injuries. They showed me some of their scars, the broken teeth or the hearing impairments from the beatings and torture.

The AAPP survey offers a further insight in Burmese interrogations, which the interviewees understandably found difficult to discuss. Of all 1621 political prisoner respondents 75% indicated having been tortured mentally and 72% indicated having been tortured physically. A shocking 74% had been subjected to sleep deprivation. Other common practices were blindfolding or hooding (42 and 37% respectively), beatings 48% and stress positions 42%. But other tactics could be electric shocks (7%), being tied upside down from the ceiling (5%) or rolling an iron pipe down the shins (15%). 29% of the respondents was forced to listen to the voices of their family members in the adherent room.

These torturous techniques were used to put pressure on the political prisoners to confess

their ‘crimes’. Evidence from the interrogation would be used in court. Consequently, the torture would continue until the MI was satisfied with the ‘evidence’, which could take several weeks. The interviewees and interpreters would use the word interrogation intertwined with torture, they are seen as equal. This was even stated directly by U Zin Phyoo: “interrogation means he was tortured.”

However, interrogation is not the only time torture occurs. Several of the interviewees had been hooded and beaten severely while they were in prison. U Myo Ye described how he and five other political prisoner cellmates were beaten up by a group guards. He was beaten and kicked so severely he lost consciousness, but the guards would use water to wake him up and continue the beatings. The prison officer even told them the guards to “[..]beat them until dead, till be dead”. Even the head of the prison joined in the beating, showing how commonly accepted it is.

After the beating, the political prisoners were shackled with three iron shackles and an extra-large (± 75 cm) iron bar between their legs. With this they were forced to crawl over the long road towards the solitary confinement cells, a painful practice that in Burma is referred to as the ‘snakedance’. After this he and his cellmates were placed in different solitary confinement cells on a death row block, still wearing the shackles and not allowed to clean.

Other interviewees also experienced severe beatings. U Aung Aung even heard the skull of a fellow political prisoner crack. Daw Su Myat, a woman, was once threatened by 50 male guards surrounding her then open cell. They wore shields, batons and arms and were shouting ‘beat, beat’ for about 15 minutes, but then suddenly left again.

5.6.1 Solitary Confinement and Torture

Most interviewees were in solitary confinement during interrogation or straight after when they were placed in prison. When they were tortured in prison this was usually followed by a time in solitary confinement. Solitary confinement and torture are interlinked. They are used together as a punishment, to repress the political prisoners. Solitary confinement cells were usually in a different section of prison, away from the other prisoners. This so that what happened to them, like these beatings, would go less noticed because of the solitary confinement. Again solitary confinement is used to aid torture, increasing its effects, while hiding them at the same time.

This link is between solitary confinement and torture is even more worrying considering the previously had found that that solitary confinement can exacerbate previous existing mental illness or create new ones. From the stories and statistics above we can only begin to imagine the stress of these traumatizing practices. As a researcher I was astonished about the detailed memories of the interviewees. They could even remember exact dates of these events, most of which happened 10-20 years ago. This shows how deeply these events are ingrained in their memories.

According to Basoglu et al. (1994) who studied Turkish political prisoners, those who had been through torture suffered significantly more symptoms from PTSD, depression and anxiety. It is likely that these symptoms were found among the Burmese political prisoners who were tortured. In their case chances are that these symptoms of trauma were further exacerbated as a result of solitary confinement.

5.7 Health Care

5.7.1 Health Care After Torture

To make matters worse, after beatings and torture no or very minimal health care was provided. The MI and prison officials have a vested interest in not informing a doctor, who would see that torture had occurred. After torture or beatings (during prison or interrogation) doctors are not allowed. This means the political prisoners are left to suffer from the inflicted wounds, which often require immediate care. From the survey only 1% reported being treated efficiently for their injuries from torture. 80% reported no treatment at all. As a result, 77% of respondents still continue to suffer from injuries sustained in interrogation up till this date.

U Aung Aung told about his experience where he and another 31 political prisoners were beaten by about 200 guards after a strike. Many had wounds and broken legs, one political prisoner had lost several fingers and another had three broken bones. No doctors were called and no health care was provided throughout the night. The next day the prison officials themselves would provide stitches. In his words: *“They ignored for entire night by the injuries and by the bleedings. They didn’t take care of anything. At 9am in the morning the prison wardens and MI came together in the cell and they stitch, no any other things, just stitching.”*

There is one case that differs; we saw previously U Ye Thet was sent to a hospital after

enduring torture during the interrogation period. The main reason for this however was that neither the court nor the prison would admit the boy, not genuine health concerns. Even in the hospital he did not receive medical care, but was ignored. According to the interviewee, it was thanks to his mother that he survived this period. She was the one who gave him medication.

5.7.2 Prison Health Care

The general health care in prison is not much better. Only 10% of the former political prisoners found that they received adequate medical treatment while they were in prison. There are doctors in the prisons, but the political prisoners do not always get access to them. Prison guards might refuse to grant a political prisoners request to see a doctor. Even if a doctor is called he has to report to the military intelligence and hence cannot work independently. Moreover, the MI and/or prison guards can refuse to follow up the doctor's suggestion, such as providing slightly better hospital food instead of the lower quality prison food. None of the interviewees were provided with medicine when necessary. Instead the political prisoners' families need to buy the medicine and bring or send them to prison.

Daw Su Myat became sick from being in solitary confinement. In her cell the window had been sealed permanently and as the other solitary confinement cells there was not just an iron bar door, but a full wooden door. The lack of fresh air, sunlight and nutrients made the women ill after a few days. When a doctor came he sided with the MI and mocked her. Instead of helping her he sided against her and did not take her complaints seriously. After twenty days Daw Su Myat fell unconscious. Only then she received medical care. It took another fainting ten days later before the prison guards provided her with hospital food, which the doctor had already prescribed the previous time.

She still gets very sad thinking about this doctor. She was very vulnerable and the doctor, the only person who could help her, made fun of her. Throughout her prison time she was ill often. Her legs became partly paralyzed and her eyesight deteriorated, the only thing that would help was enough time outside her cell to walk around. Shortly before her release she was placed in solitary confinement again, and three days later she became sick again, due to the lack of fresh air and possibility to move around.

She was not the only one political prisoner who felt ill while in solitary confinement. According to the AAPP survey 83% of former political prisoner reported not being in good health in solitary confinement. This goes against Burma's own regulations such as the Myanmar

jail manual to place prisoners who are found unfit prior or during solitary confinement in solitary confinement (Art. 473, 1937).

This high number of political prisoners ill in solitary confinement will be partly due to the beatings that might have taken place before it. On the other hand, in solitary confinement all aspects of prison detrimental to health come together. The lack of fresh air, even lower quality food, lack of hygiene and less bedding in solitary confinement literally form sickening conditions. U Myo Ye was not even given clothing for a week. Clearly not only mental health, but also physical health is a serious concern for the political prisoners in solitary confinement.

5.8 Food and Water Deprivation

I'd like to say the health care system and the food providing system in the prison is so bad. So a lot of our colleagues died in prison because of this. Not having proper medical care, health care system and food, providing food system. The food are not standardized on the health system. [...] Water also not proper water for drinking. It's not helpful for the human nutritious system. Still Alive. That's all. (U Aung Aung)

The lack of nutritious food and lack of health care go hand in hand. Both form a serious threat to a political prisoner's health. Meals were provided twice per day, in the morning and evening. The food was not nutritious, not sufficient and not tasty. Generally the meals consisted of a plate of rice with a thin vegetable soup or curry. The interviewees described the food as “very bad”, “tasteless”, “smelly”, “horrible” and that “even the dogs did not eat”. Moreover, the food was not cleaned properly, as it was often contaminated with roots and sand. U Zin Phyoo even broke his tooth on a stone in the food. Only 5% of the former political prisoners that responded to the survey reported sufficient nutritious food while in prison.

In solitary confinement food would usually be even worse. Especially when solitary confinement is used as a punishment it often came with a punitive diet. The political prisoners would be provided ‘glue’ as a meal. According to U Ye Thet “the ingredients of glue is 8 ounces of rice and 4 ounces of salt.” This is almost inedible and often the political prisoners initially refused to eat this. Several interviewees experienced this he glue diet for up to seven days. Moreover, U Myo Ye described that for him and the other political prisoners in the neighboring solitary confinement cells, the water was also restricted to only one cup a day for an entire week.

The water in prison is of poor quality. 66% of the former political prisoner that responded did not have access to clean drinking water. Usually tap water is provided, which is not potable. This was provided in an arden bowl in front of the cell, where the political prisoner could scoop out water freely.

Sometimes the water was of an even lower quality. Daw Su Myat described how she received warm water one night. As it was dark in her cell she could not see well and drank it anyway. The next day she became very ill. When she was given the same water another night she checked the water with the white fabric of her shirt. The water she had been drinking left a black stain on her shirt. This clearly was very dangerous for her health, especially considering the frail health condition she was in already.

The Myanmar jail manual allows for a penal diet up to 96 hours, much less than in the above examples. It also goes against the Mandela rules, which prohibit reductions of a prisoner's diet and drinking water (Rule 43(d)). The inadequate food is can cause malnutrition, putting the prisoners at risk for illness.

In addition, the bland food also increases to the sensory deprivation. In the dark solitary confinement there is little stimulation of the senses, tasting is one of these rare occasions. Removing the pleasure of taste in already deprived conditions can add to the sensory deprivation, which we previously saw is one of the main risk factors for mental health.

5.9 Family

Family is very important in Burmese culture. It is even more important for Burmese political prisoners. Family forms the political prisoners only connection to the outside world. They bring news about friends, family and –if they know and dare- politics from the outside into prison. They can also spread information about prison from the political prisoner to the outside world, if they have the knowledge and courage to do so.

Moreover, the family brings packages with necessary goods, in particular dried food and medicine, but it could also include clothes, money and/or cigarettes. As we saw previously health care is very limited and doctors rarely provide medicine, even if they would recommend them. The political prisoners' family in most cases provides for these and other medicine. Similarly, they provide dried foods and spices to add to the meager prison diet. This family support can be lifesaving. “If we don't have any providing from our family, we could die” said U Aung Aung.

Usually family visits are allowed twice per months, in which they can also bring packages. If they are not able or allowed to come, they can send packages, again maximum twice per month. The visits are short and not completely free. Talking about politics is not allowed and gets recorded. From the AAPP survey, only 9% of the former political prisoners reported being allowed to communicate freely during visitation.

From the survey also a 36% was not allowed regular prison visits by family. Most of the interviewees were not allowed family visits in prison until after they were sentenced, which could take several months. Some of them did see the family outside of court, where they could treat them to food.

This was not the case with Daw Su Myat, as her family did not even know where she was kept. Officials would not tell them, even though they went to ask every day for 151 days. They only found out, when an acquainted political prisoner was released and told them. Her family did not think they would see her alive again. She was effectively held in incommunicado detention, which is prohibited under any circumstances international law, including the CAT as well as customary law, which is universally binding, even without Myanmar's ratification.

We saw previously that the most common uses for solitary confinement were during interrogation and in the beginning of the prison sentence. During those times family visits are not allowed. When solitary confinement is used as a punishment, family visits and packages are usually also restricted. For example U Myo Ye, after 6 months in solitary confinement he was allowed to receive family packages again. Another year later he was allowed family visits.

However, during solitary confinement the conditions are worse and the support of family even more important. If the former political prisoners are only given glue the food provided by family becomes even more crucial. Removing the family visits and packages hence increases the effects of solitary confinement. In addition, there is so little social contact that family contacts become vital to sustain mental health. Furthermore, family serves as a protective barrier to the lack of food and healthcare in prison. Removing the family visits and packages hence increases the effects of solitary confinement.

Family forms a protective barrier; we could call this an informal safeguard. By communication with family can spread information about the prison conditions and torture, counteracting the impunity. By providing food, medicine and clothes they form also an extra

barrier against the severe conditions in prisons.

5.10 Solidarity Among Political Prisoners

In some cases family is not able to visit. Then the solidarity among political prisoners becomes extra important. If the family is not able to provide the other prisoners help and share their food. There is a clear sense of solidarity among the political prisoners “*We helped each other, some people cannot cover... the family cannot provide food regularly. So we share our food and we try to take care of each other and encourage each other*” (U Aung Aung). Just like family fellow political prisoners can be seen as an informal safeguard.

The importance of the prisoner solidarity is clearly shown by the experiences of Daw Su Myat. She was sick several times and even though the doctor was called this did not help. One time she was very ill, a political prisoner in the neighboring cell traded her nice pair of clothes for milk powder and sugar with an ordinary prisoner. Then she would give the powder and sugar to Daw Su Myat through a hole in the wall. This helped her regain some of her strength. Once she could eat normal food again they would also share their prison meals through the hole.

In addition political prisoners stand by each other, for example communal strikes, boycotts and arguments with prison guards. If something unfair happens to another political prisoner they stand up for him/her, sometimes at their own cost.

This we already saw story of U Myo Ye. He was sent to solitary confinement negotiating with a prison authority about their other cellmate. After a discussion with an ordinary prisoner this political prisoner was sent to what is referred to as “the place to beat”. His cellmates, including U Myo Ye, stood up for him, but were beaten severely because of this. Then they were all sent to solitary confinement cells, where they stayed for three years. There was also the sixth cellmate, who turned out, had not been beaten.

Solitary confinement also seems to be used particularly to punish actions of solidarity, or when they suspect someone to be a leader. Interviewees told about several cases of striking and boycotts. U Aung Aung told about a large strike with over a 100 political prisoners participating. He and a few other political prisoners were singled out as the leaders and sent to the dog cells.

It hence seems that the regime understands the power of this political prisoner solidarity and tries to break it. Again there are parallels This is very similar to the treatment of political prisoner before they went to prison. They were punished for actions against the regime,

especially if they were perceived to be leading or organizing members. This was then punished with an arbitrary prison sentence and torture. Similarly, in prison those standing up against the prison authorities, notably with legal measures as strikes and protests, are punished with beatings, torture and solitary confinement. This was particularly if they were perceived to be leaders in the action by the prison authorities. Solitary confinement becomes a political prison within a political prison.

It hence seems that the regime understands the power of this political prisoner solidarity and tries to break it. This would leave the political prisoner more vulnerable in the hands of the MI, who want as much control as possible. This is in line with Foucault's vision of prison as controlling the body. Other influences are carefully cut away when they become too powerful.

Again there are parallels between sentencing to solitary confinement and sentencing to prison. Using legal measures such as strike and protests lead to heavy punishments. First the political prisoner is tortured and then (s)he is confined and stripped of his/her rights. Those who are suspected of being leaders or organizers are punished most severely.

5.11 Release and Harrassment

The politics and arbitrariness behind the political prisoners' sentences continues in their release. Interviewees were mostly released before the end of their sentence. Four of them were released under an amnesty. These releases come as a surprise to the political prisoners, who are not informed beforehand. U Zin Phyoo described that one morning suddenly some of cell doors were opened, and the political prisoners were told to pack their things. No explanation was given, so they feared they would be transferred. They spent two hours worrying in the 'special cell block'. After two hours the MI came in and the head of prison announced the release of him and about 30 other political prisoners. The other interviewees recalled similar experiences.

When political prisoners are released before the end of their sentence, they have to stay far away from all political activities. Under section 401 of the Myanmar Code of Criminal Procedures (1898) they will be returned to prison for the remainder of their sentence if caught doing anything 'illegal' according to the Burmese law. They can either be sent back to prison without trial, or the remainder of their old sentence will be added to the new sentence. Their release hence is conditional, even after prison they are not fully free.

This section is not always explained upon release, but MI actively makes sure to remind

them. All interviewees reported harassment by police and MI after their release. They spy on them, follow them on the streets but also come into their homes, with arms, to check on the former political prisoner. This is clearly restricting their freedom of movement as well as their right to privacy (Art 12 and 17 ICCPR, 1966).

The extent of this police harassment becomes clear in the story of Daw Su Myat. On her way home from prison she was already checked 10 times. Even when she was in prison, police visited her house three times. One time they even pointed a gun at an 80 year old family member. After that the family became too scared to let Daw Su Myat return to their home after her release from prison. This despite of the fact that she still could not walk well after the illnesses she suffered in prison.

Furthermore, when she went to a local pagoda to see her friends at night, she was watched by the MI. One time they even came to sit next to her. As some of her friends were public employees she decided not to go anymore, in order not to impose a risk for their careers. Instead, she went to a monastery for a while and later found refuge in Thailand.

From this story it becomes very clear that the harassment is more than a restriction of freedom: it leads to a continuation of isolation, long after prison and solitary confinement. The MI still have a great influence on the political prisoners: even after their release they are still not free to live the lives they want.

6. Conclusions

The aim of this study was to research the use of solitary confinement on political prisoners in Burma and the human rights concerns that arise from these practices. For this six former political prisoners from Burma were interviewed using qualitative semi-structured interviews. In addition, data from surveys created and spread among former political prisoners by the AAPP were used as a secondary source.

It should be noted that the selection of interviewees is both limited and biased due to their conditions of exile and is not per se representative for all Burmese former political prisoners. Nevertheless, the surveys do provide a broader insight into conditions in prison. Another limitation is that the interviews were with former political prisoners, and hence not automatically

reflective of current practices. The results from this study hence cannot be generalized. Rather it is meant to point out a different practice of solitary confinement, in a different context. It is a start to diversify the research into solitary confinement, but by no means an end.

6.1 Health and Human Rights Concerns

This thesis built on previous studies into solitary confinement, which have repeatedly shown that solitary confinement could lead to mental illness or exacerbate previously existing mental illness (eg (Haney, 2003); (Shalev, 2008); (Grassian, 2006); (Scharff Smith, 2006). Similarly, mental health also was a serious concern among the former political prisoners from Burma. Among the political prisoners there was some awareness the risks of prison and solitary confinement on mental health. This did pose limitations on the research, as some political prisoners might have refrained from explaining all psychological difficulties out of fear for being viewed as ‘crazy’.

In spite of this most interviewees did express some psychological difficulty with solitary confinement, expressing anxiety, depression and anger, which have been commonly found in the literature on solitary confinement. One interviewee in particular showed behavior that can be described as abnormal after being placed in solitary confinement on a young age. The symptoms he described strongly overlapped with the literature and Grassian’s SHU syndrome (Grassian, 2006; eg (Haney, 2003); (Shalev, 2008). Alternatively, his reactions can also be interpreted in Goffman’s terms of ‘secondary adjustment’ (1961). Considering that solitary confinement is an abnormal situation, some ‘abnormal’ reactions are to be expected.

The strain on mental health in solitary confinement in Burma becomes even higher as the interviewees had to deal with dehumanizing conditions of ‘dog cells’. Moreover they faced sleep deprivation. This was partly intentional during interrogation, but also arising from the sheer lack of hygiene. Sleep deprivation can put an extra strain on mental health, and for this on itself can be considered a form of mental torture (CAT, 1997). Moreover, the experiences of torture previous to solitary confinement are likely to have been traumatic to at least some extent. This is problematic considering that solitary confinement can increase previously existing mental health problems.

Mental health is not the only concern in of solitary confinement however. Physical health is at least as much of a concern for the former political prisoners. This goes far beyond the few somatic stress symptoms described in the solitary confinement literature (Shalev, 2008; Grassian,

2006; Haney, 2003).

The health care and food were insufficient. The food was of terrible quality and low quantity, leading to malnutrition. Water was also not potable. In solitary confinement the conditions were even healthier, with a diet of 'glue', lack of fresh air and movement, lack of warm clothes and sometimes even a lack of water.

Moreover, health care in prison was severely lacking in quality and independence. Especially after torture and beatings, when health care is most urgent, it was not allowed. All this combined can lead to severe illnesses, long lasting injuries and in the worst case: death. This death threat looms through all the political prisoners' experiences.

Family and fellow political prisoners do what they can to support each other, and provide vital food and medicine. This way they form a small protective barriers, or informal safeguards. Although in solitary confinement these informal safeguards are most needed they are blocked. This further increases the impact of solitary confinement. The political prisoners are made fully dependent on the prison officials, who work for the same people that tortured them. Foster (1989) also stressed this context of dependency, helplessness and isolation as crucial for understanding the experience of political prisoners. In Burma the palpable death threat could be added to this relevant context.

Clearly in the case of Burma's political prisoners a range of human rights concerns come together in solitary confinement. The general prison conditions in Burma, which are already of a very low standard, became even worse in solitary confinement. Not only was the food and health care insufficient, there was a severe lack of hygiene. Furthermore freedom of movement (Art. 12, ICCPR, 1966) was almost completely lacking, with hardly any time outside the cell and often multiple shackles. Moreover, the political prisoners were subjected to sleep deprivation, torture and violence. Solitary confinement becomes the core in which all human rights concerns come together, while the last safeguards are removed.

From the interviews it became clear that solitary confinement was mainly used during interrogation, upon arrival to prison and/or as a punishment. Each use comes with particular human rights concerns. If solitary confinement was used during interrogation it aided torture, by blocking communication as well as putting extra pressure on the political prisoner. When solitary confinement is used upon arrival in prison it seems that this is part of the judicially imposed sentence. A practice the UN special rapporteur strongly advocates against (Mendez, 2011: §84).

He also advocated against the use of a severe measure of isolation as a punishment (Mendez, 2011: §72). Moreover, if solitary confinement was used as a punishment, the conditions often were the worst. Political prisoners were even placed in dog cells. In cases of punishment, the political prisoners were placed in cells with shackles, and often were beaten severely beforehand.

In cases of solitary confinement in similar conditions have been found to violate the right to be free from torture, or cruel, inhuman or degrading treatment or punishment (Art. 7, ICCPR, 1966; Art 1, CAT, 1984.) and/or a violation of the inherent dignity of the person according article 10 of the CCPR showing the severity of the situation. This applied in cases where solitary confinement was combined with torture (*Velázquez-Rodríguez v. Honduras*, IACHR, 1988), with shackles (*Gurmurkh Sobhraj v. Nepal*, HRC, 2009), terrible hygiene such as living between human excrements (*Romero v. Uruguay*, HRC, 1983) and bed bugs (*Geneapol v. Romania*, ECtHR, 2013) or when healthcare was severely lacking (*Congo v. Ecuador*, IACHR, 1999).

In Burma all these human rights concerns come together in solitary confinement, creating an almost unbearable situation that probably could be classified as from torture, or cruel, inhuman or degrading treatment or punishment. Debating procedural safeguards seem out of place in this severe context, where torture and impunity are widespread.

The UN Special Rapporteur on Torture has stated that the use of solitary confinement “increases the risk that acts of torture and other cruel, inhuman or degrading treatment or punishment will go undetected and unchallenged.” (Mendez, 2011: p2). This seems to hit the core of solitary confinement in Burma. In this country torture occurs with full impunity. Solitary confinement is a crucial aspect of this impunity, by breaking connections to both the outside world and the other prisoners. The same goes for interrogation, where solitary confinement strengthens the continuous torturous practice. Hidden away in a prison within a prison, their treatment of prisoners will go unnoticed

6.2 Concluding remarks

On a final note, there are striking similarities between the practices of sending political prisoners to prison and to solitary confinement. Political prisoners are punished for standing up for their human rights with torture and prison. They receive arbitrary sentences and independent judicial oversight is lacking. In prison, if a political prisoner stands up for his rights against the authorities, he is punished with solitary confinement, entailing an even further restriction of their

rights. Again this is for an arbitrary and lengthy time. In both cases political prisoners are punished more severely if they are perceived to be actively involved in the organization. They are punished with torture first. Then the already limited food, health care, freedom of movement and human contact are further reduced to an absolute minimum, barely enough to survive.

Solitary confinement becomes a political prison within a political prison. It is used as an extension of the Burmese political regime, which tries to repress all resistance. Solitary confinement is part of a wider practice to isolate and repress all political dissent, to take control over the people.

7. Recommendations

7.1 Research

As this research shows, there are a wide range of concerns arising from the practice of solitary confinement that go beyond mental health. I fully encourage more research into these different concerns of solitary confinement. I also recommend using a human rights approach and/or interdisciplinary perspectives to capture the full breadth of the experience of solitary confinement. Most importantly, I recommend further research into solitary confinement in non-western countries on both criminal and political prisoners. As this study only contained a limited number of interviews and came up with so many issues with detention, I also recommend further research into detention and interrogation centers in Burma. Furthermore I strongly recommend academics as well as civil society to study ways to hold Burma accountable for its practices on political prisoners.

7.2 United Nations

This research showed concern for mental health was only one of the many human rights concerns. I encourage the UN and UN agencies to continue the debate about the use of solitary confinement and finding clear guidelines for its practice. I recommend moving beyond case by case analysis and discussions about procedural safeguards. Instead I recommend the creation of evidence-based, clear and legally binding guidelines for the practice of solitary confinement. If

these guidelines were to include safeguards, I recommend the acknowledgment of informal safeguards such as support of friends and family, which in this study proved to be lifesaving.

7.3 Government of Burma

To the new government of Burma I recommend first and foremost the unconditional release of all political prisoners. Further I recommend taking measures to ensure that there will be no new political prisoners. For this I recommend to change or removal of all laws that are contradictory to human rights. In addition the abolishment of solitary confinement in all circumstances is recommended. Further I recommend following the guidelines for the practice of prison set out by the Nelson Mandela rules to ensure prison conditions are respectful of human rights and dignity.

Moreover I recommend the immediate halt of all torture and violence by government authorities. I recommend new laws to make torture illegal and stop impunity of torturers. As existing laws were not adhered to, I recommend taking not just legal measures, but also practical approaches to stop impunity. As a first step I recommend that all persons receive a fair trial, by an independent judiciary. This would be a great improvement for political prisoners for who are trialed by the MI who also are in charge of the interrogation process.

Finally I recommend the ratification of the core human rights conventions, in particular the CCPR and the CAT. I also recommend incorporating these conventions into domestic law and practice.

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