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Faculty for Social Wellbeing

# Solitary Confinement in Malta: A Call for Reform

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# Solitary Confinement in Malta: A Call for Reform

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# This is torture, no two ways about it

This has been an issue that has been disturbing me for quite some time now. Solitary Confinement is a breach of human rights, the way I see it, and as we will be illustrating in this document. There is nothing which is beneficial in this oppressive practice. The Faculty for Social Wellbeing, through this document is seeking to create awareness and open a debate, and at the same time push for legislative changes, to preclude the State from using this mechanism as a tool for heightened oppression. Our criminal justice system needs to invest in rehabilitative structures and social care services to ensure that we have inmates who go through the system and are better positioned to behave as active and responsible citizens instead of the other way around. Methods based on fear and distress do nothing to contribute to that.

We hope you find this document useful for discussion.

**Prof. Andrew Azzopardi**  
Dean  
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# 1. Introduction



## Solitary Confinement in Malta

The issue of *Solitary Confinement* has long been one of contention within the area of prison management, due to concerns regarding human rights surrounding its implementation and practice. The practice of *Solitary Confinement* has been shown, through multiple empirical research publications, to be detrimental to prisoners' wellbeing, resulting in negative effects on their physical, psychological and social health (Shalev, 2008; Brunner et al., 2017), as well as worsening rates of recidivism (Gordon, 2014). Research has shown *Solitary Confinement* to be ineffective in reducing violent behaviour or rehabilitating the prisoner, in many cases increasing the chances of re-offending, in particular increasing the risk of a prisoner committing violent crimes (Zgoba et al., 2020), thus revealing that its use is by nature an admission of failure. The use of *Solitary Confinement* as a 'last resort' indicates that all other methods of resolving a situation have failed. It is therefore pertinent that alternative courses of action are re-evaluated with a view towards the abolishment of *Solitary Confinement*.

This document will present a number of research findings, in order to highlight **the urgent need for legislative reform** with regard to the use of *Solitary Confinement* practices in the Maltese context, where this punishment still resides as part of the Criminal Code (Article 9(1), Laws of Malta).



## 2. Methodology

## Solitary Confinement in Malta

This document is based on an in-depth literature review on the practice of *Solitary Confinement*, including its history, uses, as well as physiological and psychological effects locally and internationally. In addition to this review of the literature, the *Faculty for Social Wellbeing* also engaged in a conversation with Master of Advocacy students from the Faculty of Laws at the University of Malta. These students, Maria Mizzi and Martina Micallef, conducted a study to investigate the European and International standards with regard to *Solitary Confinement*. This document is also informed by the interviews we carried out with relevant professionals in the fields of psychology, mental health, rehabilitation services, and law. The main findings and recommendations from this collaborative effort have served as a basis for the present paper.



### 3. Literature Review

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### 3.1 DEFINING SOLITARY CONFINEMENT

*Solitary Confinement* is generally associated with conditions of extreme, although not total, isolation from others (Haney, 2018) which should include one hour of exercise in a sufficiently large area, although it has been noted that “exercise areas used by the prisoners [in *Solitary Confinement*] are also frequently inadequate” (Council of Europe, 2011, p. 6). This has been the experience narrated by a number of prisoners to the authors of this report. *Solitary Confinement* has also been referred to in the literature as segregation, the hole, isolation, supermax, amongst others. Although there is no single definition that has been widely accepted, the term ‘*Solitary Confinement*’ has been habitually defined as:

*“the physical isolation of individuals who are confined to their cells for 22 to 24 hours a day. In many jurisdictions, prisoners are allowed out of their cells for one hour of solitary exercise. Meaningful contact with others is typically reduced to a minimum. The reduction in stimuli is not only quantitative but also qualitative. Available stimuli and the occasional social contacts are seldom freely chosen, are generally monotonous, and are often not empathetic.” (Ayan et al., 2007, p. 1)*

Within the local context, the Maltese Criminal Code defines *Solitary Confinement* as:

*“Keeping the person sentenced to imprisonment, during one or more terms in the course of any such punishment, continuously shut up in the appointed place within the prison, without permitting any other person, not employed on duty nor specially authorised by the Minister responsible for the prisons, to have access to him.” (Article 9(1), Laws of Malta)*

Within the prison setting, *Solitary Confinement* is typically used as a sanction in response to some form of disciplinary infraction (Rothman, 1981). The practice is also resorted to when it is deemed that *Solitary Confinement* is necessary for the safety of the prisoner themselves, or that of the other staff or prisoners within the same setting (Ahalt & Williams, 2016) - a situation that evidence shows results in collateral damage.

### 3.2 EFFECTS OF SOLITARY CONFINEMENT

The practice of *Solitary Confinement* continues to be a **contentious issue in prison management**, in particular due to **concerns relating to human rights**. *Solitary Confinement* involves being locked up in an isolated setting with limited external stimulation, in physical conditions which are often severely lacking due to issues such as inadequate ventilation with limited flow of fresh air and/or insufficient heating/cooling systems (Arrigo et al., 2011). A substantial body of empirical evidence has demonstrated that **individuals subjected to *Solitary Confinement* experience significant detrimental effects on their physiological and psychological wellbeing, which can occur after only a few days** (Shalev, 2008). Such effects include the obvious **severe damage to the individual's emotional state** which occur due to being locked up in a sub-standard setting, as well as **significant physical changes in the brain**; The hippocampus, which is the part of the brain responsible for memory and regulating bodily responses to stress, becomes reduced in size, and the amygdala, responsible for the body's stress response and emotional state, demonstrates an increased productivity (Lobel & Akil, 2018). These changes in the brain subsequently lead to an **increased frequency of emotional outbursts**, with the prisoner being rendered into a **state of anxiety and depression**.





The physical effects of *Solitary Confinement* also cause the prisoner to become **hyper-sensitive to stimuli** such as light and sound, as well as experiencing **muscle atrophy and lethargy** due to their lack of physical activity (Azyvoloski, 2018). There has also been evidence of **long-term physical effects** of *Solitary Confinement*, such as complications with prisoners' eyesight occurring as a result of being confined in a small space devoid of natural light (Shalev, 2008).

*Solitary Confinement* can also cause **long-term social effects**, which some experts have referred to as '**social death**' (Haney, 2019) or '**isolation syndrome**' (Haney, 2003). This occurs when detainees who have previously been placed in *Solitary Confinement* and subsequently suffer from '**sociophobia**', **losing the ability to interact with other human beings**. As described by one report,

*"This is **the opposite of what prison systems have to achieve**, which is the inclusion of detainees in the society, and their resocialization." (Haney, 2003, cited in Brioschi & Paterniti Martello, 2021, p. 23)*

The **psychological effects** of *Solitary Confinement* are numerous. A 2006 study examined several inmates in United States prisons who underwent *Solitary Confinement* and demonstrated a wide range of symptoms resulting from the practice. Such symptoms included: **hyper-responsivity; hallucinations, illusions and distortion of time; panic attacks; memory loss and concentration problems; intrusive thoughts; paranoia; and violent episodes** (Grassian, 2006).

Furthermore, when *Solitary Confinement* is used as a form of punishment in prisons, it renders prisoners to become entirely at the mercy of prison officials in order to meet their basic needs, thereby **creating a sense of inadequacy and humiliation**. This type of behavioural conditioning may therefore be **counterproductive** in terms of **preparing the prisoner to reintegrate back into society** once their sentence is served, since their sense of autonomy may be reduced, and may thus **increase the chances of recidivism** (Gordon, 2014).

**Reintegration into society is also hindered by the use of *Solitary Confinement***, as evidenced by a recent report on the related long-term effects on prisoners (Brunner et al., 2017). The findings reveal that many prisoners, who have been placed in *Solitary Confinement* and eventually complete their prison sentence, experience a **greater likelihood of drug or alcohol abuse, including relapsing, in order to cope with the trauma**. Several prisoners have also reported **sustained frequency and severity of psychiatric symptoms due to being held in *Solitary Confinement***, which lasted for more than two years following their release from prison (Brunner et al., 2017). Taken together, the multitude of detrimental and lasting effects from *Solitary Confinement* would likely impede their successful reintegration into functioning members of society.

*"Solitary confinement does not improve public safety and may even increase reoffending. Studies indicate that the use of solitary confinement does not decrease rates of recidivism, which refers to the percentage of people who are rearrested and/or reincarcerated after being released from prison or jail. In fact, research suggests that time spent in solitary may actually increase people's likelihood of post-release offending, especially violent re-offending." (Zgoba et al., 2020)*

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The harmful practice of *Solitary Confinement* is so severe in its consequences that **international human rights bodies consider it to constitute a form of torture**, even in the short term. In the *Report of the UN Special Rapporteur on Torture*, it was stated that:

*“It is clear that short-term solitary confinement can amount to torture or cruel, inhuman or degrading treatment or punishment” (Council of Europe, 2011, A/66/268, Para. 88).*

One international human rights body, the *European Commission for the Prevention of Torture (CPT)*, **places the use of Solitary Confinement at the top of their agenda** for a multitude of reasons: The **detrimental effects on detainees’ physical and mental health**; the increased risk of inmates becoming **victims of violence and torture** due to being separated from the rest of the institution; **less frequent visits** from prison staff and directors; **“the inhuman or degrading treatment or even the torture that prolonged isolation may constitute in itself”**; material conditions which are often **“severely degraded”**; “the risk of a de-facto, **non-formalised isolation**”, and concerns regarding **procedural safeguards** (Brioschi & Paterniti Martello, 2021, p. 21).

Based on the detrimental effects of *Solitary Confinement* as outlined above, the authors of the present document propose that **it is high time for legislative reform with regard to the use of Solitary Confinement**. An extensive corpus of literature shows that punishment involving *Solitary Confinement* leads to a worsening of the individual's outlook, whilst having no significant positive impact. The practice is therefore counterproductive to several of the Principal Goals of the local Correctional Services Agency (CSA), since *Solitary Confinement* has been shown to have a negative effect on prisoners' offending behaviour and does not “Help prisoners prepare for their return to the community as responsible citizens” (Correctional Services Agency, n.d.). On the contrary, research has shown that ***Solitary Confinement* may increase the likelihood of a prisoner re-offending once they leave prison, with an even greater likelihood of committing violent crimes** (Zgoba et al., 2020).

The devastating effects that *Solitary Confinement* can have on an individual were exemplified in the well-known case of Admiral Richard Byrd, who was isolated as part of a work assignment conducting research in Antarctica; Admiral Byrd reported suffering hallucinations and described his experience as “the brain-cracking loneliness of solitary confinement” (National Geographic, 2020). In addition to the harmful effects of *Solitary Confinement* on the individual directly subjected to it, literature has demonstrated that the practice has wide-reaching effects. **Prison staff have frequently reported a reluctance to work in Solitary Confinement, due to experiencing higher levels of stress and a reduced feeling of safety** when compared to working in less restrictive units (James & Vanko, 2021).

**The practice is thus counterproductive to its aims**, given the potential to induce further negative sentiments on the part of the prisoner towards the very system which is responsible for promoting a more positive outlook in order to rehabilitate them. The use of further punishment, over and above the deprivation of one's liberty, could instead instil a deeper sense of distrust towards the justice system and society at large. In addition, studies from the United States have shown that the **financial costs of using Solitary Confinement are much higher than the cost of incarceration** - one analysis revealed that holding a prisoner in *Solitary Confinement* incurs more than double the cost, of \$216 per person, per day, in comparison to \$86 per person, per day (U.S. Government Accountability Office, 2013).



### 3.3 SOLITARY CONFINEMENT AS PART OF A PRISON SENTENCE

Another concerning issue is the use, by **judges, of including *Solitary Confinement* as part of a court sentence**, which differs from cases where prisoners are placed in *Solitary Confinement* after they have already been incarcerated. This practice, of courts including *Solitary Confinement* as part of a prison sentence, occurs “in a few countries” (Council of Europe, 2011, p. 3), and is also prevalent in the Maltese context.

For example, in the case of *Ir-Repubblika ta' Malta v. Nizar I. Mustafa Al Gadi, Criminal Court, 6 November 2015*, the accused was found guilty of voluntary homicide and sentenced to life imprisonment. Moreover, due to the fact that the accused had an existing criminal record and had committed an offence whilst undergoing a suspended sentence, the Court added a sentence of five terms of *Solitary Confinement* to his sentence.

A report presented to the Government of Malta by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) also mentioned the use of *Solitary Confinement* within the Maltese system, stating:

*“From 1 January to 20 May 2008, four such cases were identified (involving a 12 - year - old male, a 13 - year - old and two 15 - year - old female minors). They were firstly accommodated at the [Corradino Correctional Facility] CCF, and subsequently at the Mount Carmel Hospital (Forensic Ward or Female Ward No.1), in **solitary confinement** and full segregation. The CPT was informed that such cases were not exceptional.” (2008, para. 118)*

In a 2011 Council of Europe report on the ‘*solitary confinement of prisoners*’, the **European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) decried the use of such practices** whereby *Solitary Confinement* is included as part of a prison sentence:

*“The CPT considers that solitary confinement should never be imposed – or be impossible at the discretion of the court concerned – as part of a sentence. The generally accepted principle that offenders are sent to prison as a punishment, not to receive punishment, should be recalled in this context. Imprisonment is a punishment in its own right and potentially dangerous aggravations of a prison sentence as part of the punishment are not acceptable.” (2011, p. 3)*

The above quote clearly highlights the notion that **sentencing a person to a prison sentence is sufficient punishment in itself**, and that the additional punitive measure of including *Solitary Confinement* as part of a prison sentence is deemed **unnecessarily excessive**. In response to the findings by the CPT, the United Nations Special Rapporteur urged Member States “to **prohibit the imposition of solitary confinement as punishment – either as a part of a judicially imposed sentence or a disciplinary measure**” (Council of Europe, 2011, para. 84). The Special Rapporteur further recommended that Member States should “develop and **implement alternative disciplinary sanctions to avoid the use of solitary confinement.**” (para. 84).

Another publication on ***Monitoring Solitary Confinement in Prison*** from March 2021 also referred to the use of *Solitary Confinement* as part of a prison sentence,



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*“The isolation of prisoners as part of a sentence is also an issue of concern, because **it is now accepted that prison detention is the punishment**. Isolation constitutes a further punishment that violates the principle that states that detainees are sent to prison as a punishment, and not to receive a punishment. Furthermore, **the isolation of detainees should never be decided on the basis of the crime they committed**.” (Brioschi & Paterniti Martello, 2021, p. 19)*

The **European Court of Human Rights** published a report in December 2020 which outlines prisoners' rights, in particular **highlighting the principle of rehabilitative justice, as opposed to punishment of prisoners**. This report outlines that persons convicted of a crime should, first and foremost, be afforded all possible avenues for successful reintegration into society (Council of Europe, 2020). Furthermore, Article 10 of the **International Covenant on Civil and Political Rights**, which was ratified by Malta in 1990, establishes that:

*“The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation.”*

Hence, it is clear that the **aim of the justice system should not be based on punitive principles**, but rather, on **principles of reforming and rehabilitating prisoners** so that they may become law-abiding citizens upon their re-entry into society (United Nations, 2005).

### 3.3.1 Cellular Confinement

Another issue of concern, apart from the use of *Solitary Confinement* as a form of punishment, is the use of 'cellular confinement' as a disciplinary sanction in the Maltese prison system. As noted by the CPT, cellular confinement involves keeping an inmate in his or her cell for up to a period of 30 days. Given the fact that most inmates at CCF reside in single-cell accommodation, this means that cellular confinement is effectively the same as *Solitary Confinement*. The CPT considered that this is of particular concern since cellular confinement as a sanction can be ordered for up to 30 days, whereas *Solitary Confinement* regulations state that it should not last for more than 14 consecutive days.

### 3.4 LEGAL PROCEEDINGS

**Peñeranda Soto v Malta** (*Application 16680/14*) is the most recent case against Malta, brought before the European Court of Human Rights, with reference to *Solitary Confinement* and prison conditions. In this case, the Government submitted that the applicant was placed in Division 6 for security purposes, which led the Court to note that the situation did not technically constitute one of *Solitary Confinement* used as a disciplinary sanction. Nonetheless, the Court took issue with the way in which the relevant authorities made the decision to place the inmate in *Solitary Confinement*; The inmate was not given any details regarding the decision nor the details pertaining to it, thus rendering him unable to take any actions such as appealing the decision through the appropriate channels. Three of the judges (Pinto De Albuquerque, Ranzoni and Bošnjak) also brought attention to **the use of Solitary Confinement as an informal punishment** within Malta's prison, which they noted as **an unacceptable practice** in a European Member State governed by the rule of law:

*“The applicant's situation was compounded by the fact that **he had to endure solitary***



**confinement, without even being acquainted with the decision and the details pertaining to it** (see paragraph 76 of the judgment), let alone having an opportunity to impugn it. **This practice of informal punishment in this particular Maltese prison, which has also been criticised by the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), is not acceptable in States governed by the rule of law.**" (Para. 5)

*"The cumulative effect of the **deplorable conditions of detention** in the Corradino Correctional Facility in Malta as described above and in our opinion in *Yanez Pinon and Others v. Malta*, combined with the long period during which the applicant had to endure these conditions, caused him distress or hardship of an intensity exceeding the unavoidable level of suffering inherent in detention. **This suffering was aggravated by the manner in which he was subjected to solitary confinement and by the Government's failure to protect his health adequately.** To our mind, **the applicant's situation reached the threshold of degrading treatment** for the purposes of Article 3 of the Convention. In consequence, we have voted for finding a violation of this provision."* (Para. 9)

In the same case, the Court noted that the CPT had also raised concerns regarding such procedures whereby **detainees are involuntarily separated from other inmates for security or disciplinary reasons** (alongside the formal disciplinary procedures) and called for effective safeguards. Similar concerns were raised by the CPT concerning "removal from association" and placement in Division 5 which were part of the formal discipline and good order procedure of the facility. Furthermore, in their previous report of 2011, also referred to in 2016, they had raised **"concerns about the existence of an informal punishment system in the so-called 'highsecurity unit' of Division 6.**

### 3.5 EXPERT OPINIONS

As previously mentioned, Mizzi and Micallef (2020) conducted a number of interviews with experts in relevant professional fields in order to gather their views on the use of *Solitary Confinement* in the Maltese prison context. The respective identities of these interview participants will remain confidential, suffice to state that each individual possessed extensive experience working with the prison population in their professional capacity, as well as professionals working in the fields of mental health, human rights and legal services.

The **prevailing opinions** expressed by all interviewees was that ***Solitary Confinement* is an inherently negative practice which does not result in any beneficial outcome** for the individual involved, claiming that the sole exception should be in cases where it is utilised as a safeguard for the prisoner's own mental health - a position we, as authors of this document are not convinced about. The majority of participants also maintained that ***Solitary Confinement* should not be awarded as part of a prison sentence by the Court.**

Several of the participants believed that prisoners who were subjected to *Solitary Confinement* were worse off upon completion of their sentence, owing to the harmful effects of being placed in Solitary Confinement. However, some participants expressed that the practice could be of benefit only when used as a last resort, in which case it should only be considered for purposes where the prisoner poses a threat to their own safety

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or that of others, due to the presence of mental health issues. Therefore, participants recommended that *Solitary Confinement* should not be used as a form of punishment, citing a number of more appropriate alternatives such as a system of remission, the prohibition of personal leave, and limitations on visitation rights (in cases where such limitations would not be to the detriment of any children relative of the prisoner). We are convinced that dealing with behaviour positively has a more lasting impact. One participant commented that *Solitary Confinement* amounts not only to a violation of the individual's human rights, but also to a form of torture, as noted by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (Council of Europe, 2011). This view stems from the fact that humans are, by nature, social creatures, with an innate need for human connection of which they are effectively deprived when placed in *Solitary Confinement*.



## 4. Proposals

## Solitary Confinement in Malta

This document seeks to revisit and further support those proposals outlined in a Press Release, published by the Office of the Dean for the Faculty for Social Wellbeing on the 15/08/2019. It appeals to the President of the Republic, the Prime Minister, the Leader of the Opposition, the Minister of Justice, the Chief Justice, the Speaker of the House, the Members of Parliament and the general public to consider the proposals hereunder. Such consideration would entail that Parliament advocates for immediate action in the form of debating alternatives to the use of *Solitary Confinement* and, ultimately, to eliminating the practice altogether.

It is important to note that the authors of this document are in full support of respecting victims of crime, and that the data and proposals being put forth are not seeking to detract from such individuals' right to justice. Notwithstanding this right, it should be considered that the State has a duty to reflect on the progress of its criminal justice practices, and to deliver a punishment that is just and proportionate.

In view of the data presented in this report, which has provided evidence on the detrimental effects of *Solitary Confinement*, a proposition for legislative reform is hereby put forward. **Such reform would involve the amendment of legal provisions that are currently stipulated in Chapter 9 ('Criminal Code') of the Laws of Malta.** It is proposed that an overhaul of Chapter 9 of the Laws of Malta, as well as the Subsidiary Legislation 260.03 – Prisons Regulations, is undertaken by the relevant authorities. This would include the revision of legal clauses, including, but not limited to:

*“9. (1) The punishment of solitary confinement is carried into effect by keeping the person sentenced to imprisonment, during one or more terms in the course of any such punishment, continuously shut up in the appointed place within the prison, without permitting any other person, not employed on duty nor specially authorized by the Minister responsible for the prisons, to have access to him. (2) No term of solitary confinement shall exceed ten continuous days.”*

*(Laws of Malta, Chapter 9)*

*“78. (1) If the Director finds a prisoner guilty of an offence against discipline he may impose one or more of the following punishments: [...] (f) cellular confinement not exceeding thirty days”*

*(Prisons Regulations – Subsidiary Legislation 260.03)*

Accordingly, it is suggested that the primary aim of such overhaul would be **to remove clauses<sup>1</sup> which allow for Solitary Confinement** to be used as a punishment as part of court sentences at their discretion, for example by removing the reference to *Solitary Confinement* in the following:

*“7. (1) Saving the exceptions laid down in the law, the punishments that may be awarded for crimes are - (a) imprisonment; (b) solitary confinement; (c) interdiction; (d) fine (multa).”*

*(Laws of Malta, Chapter 9)*

In cases where a prisoner suffers from **mental health issues** and is deemed to require *Solitary Confinement*, due to posing a threat to their own safety or that of others around

<sup>1</sup> See Appendix for a complete list of relevant legal articles requiring amendment.





them, it is recommended that provisions within the **Mental Health Act** are used. This would consist of using restrictive care, with all the relevant safeguards and procedures strictly enforced and duly documented. Assigning priority to the Mental Health Act, instead of the Prison Regulations, would effectively necessitate that the decision to place a prisoner under restrictive care ceases to be enforced under the discretion of the Prison Director. Rather, by consulting with the Mental Health Act in relevant cases, this would require that **the necessary monitoring and guidance is carried out by psychology professionals**, in order to ensure the safety of the individual concerned.

It is also essential that staff working at the CSA should receive **sufficient and adequate training** to ensure that they are well-equipped in methods for dealing with prisoners in a manner that is both humane and adequate, thereby eliminating the need for *Solitary Confinement* being a coercive method of keeping order. In addition, staff working at the CSA should be provided with the necessary training and resources to be able to effectively deal with cases of post-traumatic stress arising from the use of *Solitary Confinement*.

The recommended re-evaluation of current practices relating to *Solitary Confinement* would also entail a thorough review of all associated guidelines, including but not limited to the Criminal Code, the Prison Regulations, and the CCF Inmates Handbook.

With regard to the use of *Solitary Confinement* in the context of the Mental Health Act, it is recommended that this similar practice is dealt with through a separate discussion. Such a discussion would necessitate further research on the use of *Solitary Confinement* with a specific focus on mental health settings.

Moreover, the present document also makes a claim for the Faculty for Social Wellbeing to be engaged directly with other relevant entities, in order to propose appropriate alternatives to *Solitary Confinement* through a collaborative approach which is embedded in empirical and evidence-based research.

## 4. Appendix



## 5.1 CRIMINAL CODE CHAPTER 9

Article 9 - repeal and replace with:

**Solitary or cellular confinement as a punishment is hereby repealed and may only be resorted to as restrictive care in terms of the Mental Health Act Chapter 525.**

**Ir-rekluzjoni bħala piena qed tigi mħassra u tista' tintuża biss bħala kura restrittiva skont l-Att dwar is-Saħħa Mentali Kapitolu 525.**

## 5.2 MENTAL HEALTH ACT

In those instances where the individual requires restriction from others, the provisions of the Mental Health Act Chapter 525 should apply:

Article 34 (1) Restrictive care shall only be permissible if it is:

- (a) the only means that will prevent imminent harm and danger to self and others; and
  - (b) prescribed by a medical practitioner duly authorised by the clinical director of the licensed facility to order such interventions.
- (2) The reasons and duration of restrictive care and the treatment given shall be entered in the patient's clinical records by the medical practitioner authorising such procedures who shall also enter all the details required in a register made available to the Commissioner.
  - (3) Restrictive care shall only be provided under the care and close and regular supervision of trained members of staff.
  - (4) Whenever restrictive care is ordered, the responsible carer shall be informed within twenty-four hours of such intervention.
  - (5) Restrictive care shall not be:
    - (a) prolonged beyond the period necessary for the purpose for which it was prescribed and administered;
    - (b) used as a means of punishment or for the convenience of staff



### 5.3 OTHER AMENDMENTS

Other articles that require amendment by removing reference to Solitary Confinement as punishment:

#### 5.3.1 Criminal Code

Article 7 (1) (b)  
Article 7 (4)  
Article 17  
Article 31 (1) (e)  
Article 32 (2)  
Article 51  
Article 166  
Article 167  
Article 170 (1)  
Article 171  
Article 172 (1)  
Articles 179-183  
Article 187  
Article 204A (2)  
Article 208A (1A)  
Article 208AB (2)  
Article 289 (2)

#### 5.3.2 Prison Regulations SL260.03

Article 2 “cellular confinement includes Solitary Confinement as provided in Article 9(4) of the Criminal Code” Chapter 9  
Article 78 (1) (f)  
Article 80 (1) (a)  
Article 82  
Article 85: Include a reference to Solitary Confinement as one of the forms of prohibited punishments.



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