

**“Institutional Segregation in Correctional Facilities: Network Formation, Governance Failures, and the Limits of Rehabilitative Reform”**

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**Abstract**

This research investigates the process of inmate segregation in India's prison establishment and assesses how those practices create and reproduce criminal networks and inhibit inmate rehabilitation. Through doctrinal legal analysis, the study concludes that segregation is established as a conscious choice. While this decision is framed as a security measure, it is often arbitrary and wilfully discriminatory based on caste, religion, gang associations, and perceived risks; it lacks governmental oversight, is amorphous and opaque, and does not evince legal or constitutional calculations of limitation. Segregation practices try to benignly identify authors of criminal behaviour while not addressing the welfare of first-time or minor offenders, exposing them to dangerous convicts. Segregation a breeding spaces for criminality that transfer criminal ideologies, criminal financing, skills, and fulfils social networks to not dip back into previous criminal habits, leading to greater recidivism and to perpetuate cycles of recidivism. Marginalised identities endure further spatial and systemic exclusions of segregation that amplify psychological harms and perpetuate social disparities embedded in existing prison cultures. The study challenges the continuity of the colonial time-temporal peculiarities of prison governance that fail to comply with Article 21 of the Indian Constitution and the internationally sanctioned obligations embodied in the Mandela and Bangkok Rules. It proposes three significant reforms: (1) that international human rights law be first integrated into India's domestic prison law and then open to review of transparency; (2) that an independent custodial oversight mechanism be adopted; and (3) that custody does not define access to education, healthcare, and legal aid.

**Keywords:** Prison segregation, criminal networks, rehabilitation, constitutional rights, prison gangs, inmate reformation.

**Background**

The use of segregated treatment has existed in Western prisons since the 1700s. San Michele, a juvenile correctional facility, was among the first penal institutions to employ methods such as work, silence, prayer, and isolation (Jackson, 1983, p. 10). These principles were then introduced to England through a model of isolation outlined by the Penitentiary Act of 1779. The Act required that solitary confinement be combined with labour and religious instruction (London Metropolitan Archives, 2018). Although the plans outlined in the Penitentiary Act 1779 were delayed and softened due to the inability to secure land for a prison, the core ideas of isolation ultimately influenced the construction of Gloucester Prison, which opened in 1785 (Parliament, 2018).

The regime at Gloucester prison did not last long due to the pushback they received; prisoners quickly crowded into cells. Prisoners also refused to accept the solitary confinement and rioted and causing disturbance and repeatedly refusing to work (Jackson, 1983, p. 17). In the 1820s, a parallel movement also emerged in the USA. Prisoners at the Eastern State Penitentiary model spent their entire days isolated in their cells, starting the Pennsylvania prison system as a whole. Part of the goals of the "modern penitentiary" movement were that there was "rehabilitation through isolation" (Smith, 2006, p. 456), as well as time for "contemplation of their behaviour, which in turn could create a sense of contrition and redemption" in the prisoners (Polizzi, 2017, p. 13). Similar developments occurred in the Swiss prison system, where they mimicked the solitary isolation seen in the Pennsylvania model<sup>1</sup>, in Geneva and Lausanne in the 1830s, and in Germany in Halle (Jackson, 1983, p. 20; Grassian, 2006, p. 342). In India, the prison system is thought to legally serve dual purposes of punishment and ideally reformation. However, in practice, segregation exists through any (or combinations) of caste, religion, gang affiliation, socio-political status, undermining the reformatory aims of the prisons and more often acts as a system for enforcing how pre-established inequalities manifest (Baxi, 1982; NHRC, 2022; Chandra, 2020). While the reason for management safety and control of violence is justified, within the framework of Indian prisons, segregation makes no sense and only serves to make arbitrary and reinforce gang structure, gang hierarchy and is largely responsible for maintaining crime (Raghavan & Nair, 2021).

Segregation is understood and operated in many ways. segregation generally serves as an individual separated from the general prison population, with limited education and work, restricted out-of-cell association and essentially limited any 'meaningful human contact' (United Nations Standard Minimum Rules for the Treatment of Prisoners, 2015) as meaning segregation as 'solitary confinement', 'isolation' or 'seclusion', while accepting there might be differences "in the finer points" of application there is an understanding that the practice operates for the majority of the day (22+ h) in a single-occupancy cell (Shalev, 2011, p. 151). Recent data highlights structural problems with the overarching nature of this dilemma. Hindustan Times reported that 77.1% of India's prison population were undertrials, of which 21.4% were Scheduled Castes, 10.8% were Scheduled Tribes, and 17.4% were Muslims (well above their national population ratios).<sup>2</sup> All of these vulnerable populations were lumpy and relegated to cramped and precarious cells and easily exposed to coercion, violence and gang recruitment and use (Mukherjee, 2023). Segregation also tends to be random and arbitrary, imposed by age, past affiliations, or actual or perceived deviance. However, it is rarely based on safety, rehabilitation, or trauma-informed care. While the United States has systems that document and challenge racial or gang-based segregation in courts, India lacks formal legal standards to oversee prison segregation in line with international norms (Das, 2022). Consequently, prisons in India often grant prison officials unlimited discretion to segregate inmates in ways that reinforce informal hierarchies. In states such as Uttar Pradesh, Maharashtra, and Bihar, gang leaders who influence certain groups of inmates continue to control and isolate others through segregation, even while incarcerated (Sharma, 2021).

Over the last three decades, international standards have outlined non-discriminatory, need-based segregation, necessary punishment for intelligent reasons and purposeful views. Non-discriminatory, needs-based segregation must not be punitive, have strict oversight, and collect regular data for review. India has signed many of these international human rights provisions, but has not ratified them as binding domestic law governing prisons.<sup>3</sup> This paper aims to analyse how segregation policies, seldom stated in Indian prison law and practice, facilitate the emergence of criminal networks in prisons and reinforce criminal networks in prisons. In the absence of any formal standards and oversight, segregation as a formal policy becomes a mechanism of control rather than protection. As a solution, this paper encourages India to leverage internationally accepted models of segregation and domestic law, specifically the Mandela and Bangkok Rules, to develop a transparent, legally required segregation policy that ensures safety, equity and reform for both male and female prisoners.

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<sup>1</sup> The Pennsylvania model also known as the Separate System was a pioneering early 19th-century method of prison discipline developed in Pennsylvania, USA, particularly at Eastern State Penitentiary in Philadelphia (opened in 1829)

<sup>2</sup> National Crime Records Bureau. (2023). Prison Statistics India 2022. Ministry of Home Affairs

<sup>3</sup> United Nations. (2015). The United Nations Standard Minimum Rules for the Treatment of Prisoners (Mandela Rules); and The United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (Bangkok Rules)

The Legal and Administrative Framework of Inmate Segregation in India:

### **Statutory and Regulatory Provisions**

The Prisons Act of 1894<sup>4</sup>, India's oldest penal statute still in force, permits the classification and separation of inmates based on their legal status and custodial needs. Section 27 of the Act authorises the segregation of male and female prisoners, civil and criminal detainees, and convicts from undertrials. However, this Act was enacted during the colonial era and is not designed to address modern challenges like gang influence, caste-based segregation, or communal tensions inside prisons.

To update this outdated framework, the Model Prison Manual (2016)<sup>5</sup> was introduced by the Ministry of Home Affairs. While not binding, it has become the de facto reform tool for prison administration. It details segregation practices based on:

- Gender
- Age group (juveniles, young adults, elderly)
- Nature of crime (violent, non-violent, sexual offences)
- Mental and physical health conditions
- Security risk or repeat offence history

Rule 27 of the Manual (Model Prison Manual 2016) mandates that:

“Prisoners shall be classified and confined in such manner as to prevent their contamination while ensuring discipline and institutional safety.”

Despite this seemingly progressive framework, implementation remains inconsistent and opaque, with segregation often functioning on administrative discretion rather than formalised rules. Most states have not fully adopted or integrated the Model Manual into their prison codes. A 2021 RTI-based report by the Commonwealth Human Rights Initiative (CHRI) revealed that only 8 of 28 states had fully aligned their prison rules with the 2016 Manual.<sup>6</sup>

The lack of accountability leads to informal, and at times abusive, practices (Shantha, 2018):

- Dalit and Muslim inmates are being housed separately without written orders
- Political prisoners or ideological detainees are being held in “security” cells for prolonged periods
- High-profile or gang-affiliated inmates using influence to control entire barracks

In many prisons, segregation is used as a tool for punishment, not protection, especially in the absence of clear rights to appeal such administrative decisions.

Segregation Categories under Indian Prison Law, Table 1.

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<sup>4</sup> The Prisons Act, No. 9 of 1894, India Code (1894)

<sup>5</sup> Ministry of Home Affairs, Model Prison Manual 2016

<sup>6</sup> Commonwealth Human Rights Initiative (CHRI). (2021).

Segregation Criteria	Basis for Segregation
Legal Status	Undertrial vs. Convict (Prisons Act, 1894)
Gender	Male vs. Female (Model Prison Manual, 2016)
Age	Juvenile/Adolescent vs. Adult vs. Elderly (Model Prison Manual)
Nature of Offence	Violent vs. Non-violent crimes (Prison Manual, 2016)
Security Risk	High-risk offenders (discretionary orders)
Behavioral History	Repeat offenders or those with disciplinary issues
Caste/Religion (Unofficial)	Practiced informally in some states, not legally sanctioned

### **Judicial Interpretation**

Indian courts have recognised the constitutional limits of segregation, especially when it results in cruel, arbitrary, or excessive isolation. In *Sunil Batra v. Delhi Administration*<sup>7</sup>, the Supreme Court was confronted with the issue of solitary confinement without trial or review. The Court declared that classification or isolation of inmates must not be disproportionate or degrading, especially when Articles 14 (equality), 19 (freedom), and 21 (right to life and dignity) of the Indian Constitution are at stake.

The Court famously observed:

“Prison walls do not form a barrier to the reach of the Constitution.”

The Court further stressed the need for:

- Periodic review of confinement status
- Right to representation and appeal against segregation orders
- Proportionality of confinement measures

Similarly, in *Charles Sobhraj v. Superintendent, Central Jail*, the Supreme Court reiterated that solitary confinement must be an exception, not a rule, and cannot be imposed administratively for indefinite periods. Despite these progressive judgments, lower-level prison authorities often circumvent constitutional safeguards through the broad use of discretionary segregation, rarely documented or reviewed.

### **State-wise Discrepancies and the Need for Harmonisation**

Because “prisons” is a State subject under Entry 4 of the State List (Schedule VII of the Indian Constitution), implementation varies widely across jurisdictions. For example:

- Delhi and Kerala have more structured segregation protocols based on risk assessment (Model Prison Manual, 2016).
- Bihar and Uttar Pradesh, where gang activity is rampant, often rely on informal methods of isolating powerful inmates or suspected affiliates (Mukherjee, 2023; Sharma, 2021).

This fragmented approach leads to:

- Legal uncertainty for inmates
- Divergent protection standards across states
- Arbitrary decision-making, especially affecting women, minorities, and political detainees

<sup>7</sup> *Sunil Batra v. Delhi Administration*, (1978) 4 SCC 494.

<sup>8</sup> *Charles Sobhraj v. Superintendent, Central Jail*, (1978) 4 SCC 104.

- Learning from International Norms

India is a signatory member to several international conventions that advocate clear, humane, and rights-based segregation practices. Two critical instruments are:

1. The UN Standard Minimum Rules for the Treatment of Prisoners (Mandela Rules)<sup>9</sup>
2. The UN Rules for the Treatment of Women Prisoners (Bangkok Rules)<sup>10</sup>

Both these frameworks stress that:

- Segregation should be temporary, proportionate, and justified
- All prisoners must have the right to be informed, appeal, and have segregation reviewed periodically
- No segregation should be based on race, religion, caste, gender, or political beliefs

### Criminal Networking in Segregated Spaces

#### Formation of ‘Prison Gangs’

Segregation is commonly used as a form of security protocol for at-risk prisoners and to help maintain order in a prison; however, while this may be true in theory, segregation has also proven to be a mechanism for promoting the growth of gang organisations and facilitating criminal networking. Segregated high-security units in Indian prisons that are designated for isolating dangerous offenders have often become hubs of organised crime. These units protect from physical harm, while also affording gang leaders the ability to plan and organise for their operations outside of prison (Sharma, 2021; NHRC, 2022; Das, 2022).

An example of this would be Lawrence Bishnoi gang leaders, Kala Jathedi syndicate leaders and Nashik-based smuggling network leaders, who are routinely housed in special security cells, from which they maintain communication with criminal associates outside of prison through corrupt means and/or mobile devices (Sharma, 2023). The prisoners housed in special security cells are not involved in traditional rehabilitation programs; rather, they reside in environments that facilitate and promote criminal activity. As such, segregated confinement, when there is no accountability for the criminal acts committed by these offenders or any rehabilitative efforts, becomes a method of retaining criminal ideologies while creating the environment for these ideologies to continue to grow and change. This is not an instance unique to a single prison. The Centre for Criminology and Public Policy (CCPP) released a report in 2023 detailing that inmates in Punjab and Haryana central jails act as de facto wardens by using their segregated power to recruit or intimidate other prisoners. These prisons also serve as places of criminal education under the guise of discipline and containment.

#### Transfer of Skills and Criminal Capital

Another unintended consequence of indiscriminate segregation is the exposure of petty offenders to hardened criminals. When undertrials and first-time offenders are placed in high-security or gang-segregated units based on broad classifications like “violent offender” or “repeat suspect,” the result is cross-pollination of criminal techniques, ideologies, and contacts (Griffin & Hepburn, 2006). As highlighted in the Prison Statistics India 2022, over 71% of convicted prisoners<sup>11</sup> had no prior criminal record at the time of first arrest. However, prison records show a significant proportion of these individuals return to prison within five years, often with upgraded

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<sup>9</sup> G.A. Res. 70/175, United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), U.N. Doc. A/RES/70/175 (Jan. 8, 2016), [https://www.unodc.org/documents/justice-and-prison-reform/Nelson\\_Mandela\\_Rules-E-book.pdf](https://www.unodc.org/documents/justice-and-prison-reform/Nelson_Mandela_Rules-E-book.pdf).

<sup>10</sup> G.A. Res. 65/229, United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (Bangkok Rules), U.N. Doc. A/C.3/65/L.5 (Dec. 21, 2010), <https://www.refworld.org/docid/4d7880962.html>.

<sup>11</sup> National Crime Records Bureau (NCRB). (2023). Prison Statistics India 2022. Ministry of Home Affairs, Government of India. <https://ncrb.gov.in>

affiliations.<sup>12</sup> This process of ‘criminal hardening’ wherein a petty thief becomes part of a syndicate upon release, is reinforced by exposure to veteran inmates during long periods of segregation without legal or psychological support. This pattern directly undermines the reformatory objective of incarceration as envisioned under Article 39A of the Indian Constitution, which ensures equal justice and free legal aid.<sup>13</sup> Furthermore, India’s support for the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) binds it to the principle that prison shall not merely be a site of punishment, but also a space of reformation and reintegration.<sup>14</sup> These norms call for individualised rehabilitation plans, regular classification reviews, and prohibition of prolonged or punitive segregation. Yet, the absence of legally mandated classification reviews or psychological profiling in Indian prisons means that institutional labelling remains crude; a dangerous offender today could be a misguided youth tomorrow, but under the same roof, both are given the same label and space.

### **Reformation vs. Control: The Policy Dilemma**

Imprisonment is a form of punishment that is used in every country across the globe (for global data on prison populations of 223 independent states and dependent territories, see the World Prison Brief). In the vast majority of the world, imprisonment is the most severe punishment courts can impose. Since World War II, imprisonment has risen dramatically around the globe, but it has increased at different rates in different parts of the world (Coyle et al., 2016). While on a global scale, supporters of imprisonment will generally justify the imposition of imprisonment using many of the different objects of punishment as noted above, namely incapacitation, deterrence, rehabilitation, and justice in the sense that imprisonment was deserved and proportional (Scott, 2007). Even if there is disagreement around the configuration of the hierarchy of these different objects of punishment and how they work together, international law endorses rehabilitation and reintegration, but always with the aim of imprisonment foremost.

Article 10.3 of the International Covenant on Civil and Political Rights (ICCPR)<sup>15</sup> General Assembly Resolution 2200A (XXI) states, "The penitentiary system shall comprise treatment of prisoners, the essential aim of which is their reformation and social rehabilitation". More significantly, the ICCPR is a legally binding multilateral treaty which indicates that the international community, at least in principle, that prisoners should be treated humanely and respectfully for their inherent dignity, and prisons are focused on rehabilitation and reform, not punishment and punishment. As well, Rule 4 of the Nelson Mandela Rules (2015) emphasises the offender's social reintegration as a justification for imprisonment.

1. The purposes of a sentence of imprisonment or other similar measures of deprivation of liberty are primarily the protection of society from crime and a reduction of the levels of recidivism. These aims can only be achieved if the period of imprisonment is utilised to ensure, within reason, the reintegration of these persons into society after their release so that they can lead a law-abiding and self-supporting life (United Nations General Assembly, 2016, preamble).

2. With this aim in mind, prison administrations and all other relevant authorities should provide education, vocational training and work opportunities, and assistance, where available and where appropriate, domestically and culturally. This would include support not only in a remedial, moral and spiritual sense, but also as needed in a social sense; health and also sports-based assistance. All of these provided programmes, activities and services should be provided in line with the individual treatment needs of prisoners. However, little evidence exists to indicate that the use of imprisonment as punishment globally has achieved this goal (Coyle et al., 2016). On the contrary, the excessive and disproportionate use of imprisonment globally has led to a growing acknowledgement

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<sup>12</sup> Commonwealth Human Rights Initiative (CHRI). (2022). Prison Reoffending Rates and Systemic Failures in Rehabilitation. <https://humanrightsinitiative.org>

<sup>13</sup> Constitution of India, Article 39A.

<sup>14</sup> United Nations Office on Drugs and Crime (UNODC). (2015). The United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules). <https://www.unodc.org>

<sup>15</sup> International Covenant on Civil and Political Rights art. 10, Dec. 16, 1966, 999 U.N.T.S. 171, <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>.

that overcrowding and poor regimes at prisons globally has led to serious human rights violations with prisoners in inhumane and degrading prison conditions without any, or at least barely adequate needs based access to even basic services or rehabilitation activities (UNODC, 2013a). Many prisoners, for example, will experience such terrible treatment and consequential conditions that it will eliminate their essence of humanity, and fundamentally devalue them as human beings (Coyle et al, 2016; Penal Reform International, 2018; see also Module 1 of this University Module Series).

### **Consequences of Segregation: Barriers to Reformation and Rights**

#### **Impact on Rehabilitation**

The principal purpose of the Indian penal system – which has its origins in the reformatory theory of punishment – is to convert offenders into law-abiding citizens, rather than merely separate them from good citizens. Unfortunately, segregating inmates from the general prison population creates significant barriers to successful rehabilitation. As a result of this segregation, these inmates are routinely ineligible for the limited educational, vocational, and psychological support programmes typically available in prison, especially given that many states have inadequate funding for such programmes (Bhatia, 2021).

The Model Prison Manual (2016) recommends access to skill-building and literacy programs as essential components of correctional services.<sup>16</sup> Yet, inmates classified as “high-risk” or gang-affiliated are often housed separately, limiting their participation in these initiatives. A 2022 audit by the National Institute of Criminology and Forensic Science revealed that over 64% of high-security inmates had not accessed any educational or vocational training during their confinement.<sup>17</sup>

In addition, prolonged isolation makes mental health problems worse, such as depression, paranoia, aggressiveness, and suicidal thoughts. Research conducted at Tihar Jail and Yerwada Central Prison shows that inmates held in solitary confinement or in segregated blocks have significantly worsened emotional regulation compared to those who are in general populations, and they are also nearly twice as likely to reconvict within 3 years after being released.<sup>18</sup> This contradicts the State’s constitutional obligation to reform rather than merely punish. Worse still, segregation tends to institutionalise social labelling, creating categories of “incorrigibles” who are seen as beyond redemption.<sup>19</sup> These classifications, rarely subject to judicial review or oversight, create permanent barriers to rehabilitation, violating the reformatory aspirations under Article 39A (right to legal aid and equal access to justice).

### **Constitutional and Human Rights Implications**

Segregation also raises serious constitutional and human rights concerns, particularly under Articles 14 and 21 of the Indian Constitution.

- **Article 21 – Right to Life and Dignity**

The Supreme Court in *Sunil Batra v. Delhi Administration* held that the “right to life includes the right to live with human dignity”, and that treatment of prisoners must not violate basic human rights.<sup>20</sup> Prolonged, arbitrary segregation—especially in the absence of medical justification or judicial review—constitutes cruel, inhuman, and degrading treatment, contrary to the spirit of Article 21.

- **Article 14 – Right to Equality**

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<sup>16</sup> Ministry of Home Affairs. (2016). Model Prison Manual, Chapter 11: Education and Vocational Training. Government of India.

<sup>17</sup> National Institute of Criminology and Forensic Science (NICFS). (2022). Evaluation of Rehabilitation Programs in Indian Prisons. Ministry of Home Affairs.

<sup>18</sup> Verma, A. & Singh, R. (2022). Mental Health in Indian Prisons: A Study of Tihar and Yerwada. *Indian Journal of Psychiatry*, 64(1), 45–51.

<sup>19</sup> Commonwealth Human Rights Initiative (CHRI). (2021). Barred Behind Bars: Discrimination and Isolation in Indian Prisons. Retrieved from <https://humanrightsinitiative.org>

<sup>20</sup> *Sunil Batra v. Delhi Administration*, (1978) 4 SCC 494.

Selective or discretionary segregation, particularly when used disproportionately against Dalits, Muslims, political prisoners, or transgender detainees, violates the right to equal treatment under Article 14.<sup>21</sup> Unequal access to education, legal aid, parole, or visitation based on administrative classification constitutes discriminatory exclusion.

- International Standards – Mandela Rules

India is also bound by international norms such as the UN Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules), which state that: "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."<sup>22</sup> India's routine and undocumented use of segregation, without proportional safeguards, violates these international obligations, undermining the credibility of its human rights commitments.

Criminological Perspectives on Segregation<sup>23</sup>

### **Labelling Theory**

Labelling Theory, developed by Becker and Lerner, suggests that people take on labels given to them by society, making them part of their identity and future behaviour. The effect of the label 'high risk' is particularly strong on those in prison, who are labelled by their prison system as being dangerous, habitual offenders, or high risk. Typically, in Indian prisons, once someone enters the high-risk/high-security ward, they are viewed as being unreformable. This stigmatisation can:

- Reinforce a criminal self-concept, pushing inmates to embrace the identity imposed on them.
- Reduce the likelihood of parole, bail, or access to rehabilitation programs.
- Increase the risk of recidivism, as released prisoners return to society carrying the burden of a reinforced criminal label.

### **Social Learning Theory**

The Social Learning Theory, developed by Albert Bandura, posits that people learn how to act through observing others, imitating their behaviours and engaging in physical interaction with others. In segregated facilities, especially those with violent or gang-affiliated inmates, behaviour as a whole tends to converge on shared norms rather than to act independently of one another.

In practice, this means:

- Petty offenders or first-time convicts, when housed with seasoned criminals in "segregated high-security wings," are exposed to narratives that glorify crime, retaliation, and gang loyalty.
- Segregated environments become "incubators" for the transmission of criminal ideologies, methods, and affiliations.
- Group identity in such units becomes rooted in defiance, violence, and solidarity against the prison system, intensifying the risk of radicalisation and gang integration.

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<sup>21</sup> Ahmed, F. (2023). Segregation and Discrimination in Custody: A Legal Commentary on Indian Prisons. *Indian Constitutional Law Review*, 12(1), 61–73.

<sup>22</sup> United Nations Office on Drugs and Crime (UNODC). (2015). The United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules). Rule 43. <https://www.unodc.org>

<sup>23</sup> Katharina.kiener-Manu. (n.d.). Crime Prevention & Criminal Justice Module 6 Key Issues:1

### **Psychological Impact of Isolation**

Many psychological studies show how terrible long-term isolation/confinement can be on one's mental state. An especially bad situation is in India, where there are not adequate services available to help mentally ill inmates; this issue is particularly urgent (Brown, E., 2020). Consequences include:

- Depression, anxiety, and paranoia are often exacerbated by a lack of human contact.
- Increased aggression, impulsivity, and emotional dysregulation, particularly among younger inmates.
- Post-Traumatic Stress Disorder (PTSD) symptoms which undermine the inmate's ability to reintegrate into society after release.

The psychological toll of isolation contradicts the constitutional guarantee of human dignity under Article 21, and directly undermines the reformation, a core objective recognised by Indian courts and the Model Prison Manual.

### **Theoretical and Empirical Foundations: Segregation as an Enabler of Criminal Governance**

In environments of incarceration where formal governance by the state is weak or enforced inconsistently, prison gangs can fill the void left by state power, turning them into structures of governance. David Skarbek's seminal book, *The Social Order of the Underworld* (2014)<sup>24</sup>, presents an analytical framework for what it looks like when prison gangs become governance structures to regulate and manipulate behaviour, channel disputes, and control illicit economies in the prison's inmate population. Skarbek suggests that gang governance is not disorganised chaos, but rather an organised and prescribed formalised structure, which is given life when administrative policies for segregation situate inmates with one another by race, gang, or ideological identity. In this context, gangs can form coherent ideological territories, allowing them to organise their own "codes of conduct" and create collective strategies that resemble state-like behaviour. In the case of the California Prison system, the segregation of prison yards by racial lines allowed groups like the Aryan Brotherhood, the Mexican Mafia, and Nuestra Familia to control trade, settle disputes, and punish those who asserted against the rules that were based on structured systems of internal discipline (Skarbek, 2014).

The dangers of this carceral social order are that it can flourish because of structural neglect. The further that incarceration creates isolationism for inmates, either by race in the case of the United States or caste and religion in India, the more agency gangs had to create their systems of governance. Skarbek's empirical findings suggest that segregation causally creates organised, sophisticated networks of crime, while boasting the same efficiencies of bureaucracies. Gangs leverage control of access to contraband, organise a protection racket, and enforce leverage for parole, ultimately becoming de facto administrators for the daily lives of prisoners. In complicity with segregation instead of eradicating violence or disorder, segregation provides a more organised modality of control and governance in a criminal context that competes with or displaces state authority (Skarbek, 2014). These observations are especially important to consider in an Indian context, largely because the premise of prison segregation is more informal and does not always reflect security realities, but rather social realities relevant to caste, religion, or other forms of aberrant forms of identity. For example, in many Indian prisons, Dalits, Muslims, and political detainees receive informal segregation both for protection purposes and nonetheless create a practice within an unstructured administrative practice to offer space for the emergence of governance. In this way, India risks a situation which replicates the 'American plan', where prison gangs can consolidate within the walls, yet operate externally, while maintaining, for example, market economies of crime upon release. There could be significant implications for reintegration, of value to people and to public safety (Skarbek, 2014)..

Skarbek's theory thus challenges the prevailing assumption that prisons are intolerably chaotic environments that rightfully demand isolation and lockdowns to secure them. Rather, he suggests order does emerge - not the order sanctioned by the state, moral legitimacy, or rehabilitation, but order nonetheless. Rather, democratically segregated systemic enforcement could help produce a parallel 'shadow state' in prisons, based on fear and

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<sup>24</sup> David Skarbek, *The Social Order of the Underworld: How Prison Gangs Govern the American Penal System* (Oxford Univ. Press 2014).

coercion and criminal capital and not on rehabilitation and justice. Therefore, for Indian prison reformers, these findings convey a critical urgency to reimagine segregation and related processes not merely in terms of security, but also in terms of informal criminal governance as an architecture.

In formulating this perspective, Skarbek positions himself away from what he calls "deprivation theory" (prison order being a function of the "pains of imprisonment", a theory most notably represented by Gresham Sykes) and "importation theory" (which focuses upon the role of experiences and beliefs before imprisonment, and is associated in particular with criminologists, Irwin and Cressey). By traversing the terrain between these two perspectives, Skarbek genuinely enhances the debate. Nevertheless, it should be acknowledged that his governance perspective is entirely compatible with each of the existing approaches, noting that it enhances rather than replaces, should not detract from the significance of his work. Skarbek draws on a wide variety of source material - prison records, a small number of interviews, memoirs, biographies and legal documents centred mainly on California - to unfold a richly textured and detailed account of aspects of both the history and many elements of the current organisational strategies in US prison gangs. He accounts for the emergence of gangs and the degree to which they dominate parts of the US prison system, with, it must be stated, the collusion of authority in correctional facilities. Skarbek argues that the uncomfortable truth is that prison gangs have been able to enhance social order within penal institutions. The public policy implications of such a statement are anything but easy, although Skarbek does outline a number of scenarios in which penal administrators might acknowledge the governance role that gangs take and seek to change the situation.

Best Prison Segregation Policies Table 2.

1.	Dynamic Risk-based Segregation
2.	Time-Limited, Purposeful Segregation
3.	Voluntary Protective Custody (VPC)
4.	Mixed-Inmate Programming and Step-Down Units
5.	Architectural and Operational Desegregation
6.	Independent Oversight and Transparency
7.	Staff training about de-escalation, trauma, and bias
8.	Protected Custody Units for Vulnerable Populations
9.	Targeted Disruption of Gang Control
10.	•Rehabilitative Segregation in Spain and Germany
11.	•India's Supreme Court-Approved Prohibitions on Segregation

1. Dynamic Risk-based Segregation (Pratt, 2008)

Dynamic risk-based musical is an effective method of segregation, particularly in contexts where segregation policies are a function of completely fixed structures in the prison estate (e.g., crime type, gang affiliation, social class, religious status). The use of fixed categorical systems has resulted in a prison system that perpetuates arbitrary lifetime labels of either dangerous or not suitable for the general population. In contrast, a dynamic risk-based segregation model acknowledges that prisoners will continue to make mistakes and act dangerously, but that their risk status should be revised at intervals for behaviours, and real-time, situational, behaviour law (breach behaviours would not be included). Risk-based models in a practical sense are used in Norway, universally recognised as the gold standard - humane corrections, and in other USA jurisdictions like Colorado where the state department of corrections now utilises multidimensional risk assessments to assess housing options, security designation, security levels, and shipping programming; previously classifying according to gangs, cohorts or crime types (Coyle, 2009).

#### 2. Time-Limited, Purposeful Segregation: A Form of Segregation Situation with Divided Categorisation of Purpose and Limited Space and Time - Segregated Least Restrictive Eugenics Layered in Reality

The UN Mandela group recommends that no prisoner be subject to solitary confinement for more than 15 consecutive days, and that not to be in indefinite or solitary confinement imposed time and space situations. In ongoing action-oriented scenarios, prisoners who are placed in space for segregation will have a reintegration plan outlined, with periodic (time-limited) action steps, and experiences of regular visceral assessment, limitations and expectations related to enacted (behavioural, participatory, time-limited) element of expanding the assumption of structured social spaces - and risk other costs of limited social space and communities. For example, in Germany and the Netherlands, administrative segregation is a practice that is structured by time-limited and monitored exit plans and a clear schedule of therapeutic sessions (van Zyl Smit & Appleton, 2016). The absence of administrative orders for segregation cannot equate to time-limited (or indefinite) or unreasonable, - the idea of implementing a mental health assessment or even an in-bound judicial review process could identify reasonable standards for expectations of time in indefinite isolation (even within the high) in high-risk wings.

#### 3. Voluntary Protective Custody (VPC) with Rights Exist Value for Humans and Loyalty to Dignity of Social Value<sup>25</sup>

Voluntary Protective Custody (VPC) provides an avenue for prisoners or assisted prisoners who have given cause for concern regarding their potential for death or injury (particularly LGBTQI+, informants, prisoners with disabilities) to engage in request forms for better/preferred conditions without losing liberty and the human rights tied to social value attached to their status of prisoners. The place to present rights originates from the totality of the provided VPC does not have a punitive focus. Vulnerable prisoners who are housed apart due to vulnerability may not have regularly advocated for differentiated social or safety conditions; and enfolded prisoner rights to access visitation, education and associated prisoner social activity, physical activity, and exercise, as well as the breathable platform of accessing cleaner air value. VPC forms and systems of prison management (In California, corrections and New Events and certifications have ensured prisoners accept their vulnerable conditions, return to their state prison if conditions permit with regular, retrospective therapeutic, legal service and emotional support visitations, and also allowing for intra systemic details if threats remain) (Liman Centre, 2020). In India, protective custody is far more common, without rhetorical consideration of social dangerous place guilty of use of solitary confinement in the probability of heightened callous cruelty; which is a double punishment of damage due to "protective" measures. A rights-supported and time-limited or undifferentiated phrase (history since policy), when referencing the reinforced skills, behaviours, portion of risks and types of protection or mitigations for individual rights remains fortified and secure at all times of the lunar and human lifecycle and all conditions or social contexts (Dumond, 2000).

#### 4. Mixed-Inmate Programming and Step-Down Units: Gradual Reintegration

The step-down unit type of programming offers one of the best models for reducing both the psychological effects of segregation and the power and influence of prison gangs. Under the step-down approach, inmates in segregation can "earn" their way out and into more collegial and friendly environments based on positive behavioural changes. The units are constructed with collaborative rehabilitation in mind, and incentives such as pro-social programming, vocational training, and mentoring are offered to the inmates. The U.S. Bureau of Prisons operationalised its step-down units program following the decision in *Madrid v. Gomez* (889 F. Supp. 1146, 1995), which called into serious question the practice of extreme solitary confinement at Pelican Bay.

#### 5. Architectural and Operational Desegregation: Design Out Clustering

Contemporary prison design impacts the degree of segregation and the extent of gang networking patterns both positively and negatively. Architectural desegregation can be conceptually described as the process of creating small housing units with diverse cells, and common space to not cluster inmates together by either gang, caste or

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<sup>25</sup> Department of Corrections, M.01.05 Voluntary Protective Custody (Voluntary segregation) Prison Operations Manual (n.d.), <https://www.corrections.govt.nz/.../M.01.05-Voluntary-protective-custody-voluntary-segregation> .

religion. Prisons in Norway, Germany, and Sweden use a unit-based system, which involves inmates eating, studying, and working in communal settings, and in view of corrections staff who support their engagement in communal space (not housing pods that keep inmates isolated). Algorithms also inform group housing assignments to maximise chances for harmony based on psychological compatibility or potential for conflicts (van der Helm, 2013).

#### 6. Independent Oversight and Transparency: watching the Watchers

A key way to avoid misuse of segregation is having independent oversight bodies to monitor segregation decisions, to document conditions and to investigate complaints. This procedure is common in many democracies. For example, the HM Inspectorate of Prisons, in the UK, conducts unannounced inspections of segregation units, issues reports with detailed recommendations and allows prisoners to file complaints through Independent Monitoring Boards (UK Ministry of Justice, 2020).

#### 7. Staff training about de-escalation, trauma, and bias: human-centred security (Department of Corrections, n.d.; Scoop, 2016; Andersen, 2023; First Step Alliance, 2021)

The success of any segregation policy ultimately rests on the people who implement it. Staff training on trauma-informed care, implicit bias, de-escalation and conflict negotiation is essential in reducing over-reliance on isolation. For instance, in New Zealand, all correctional staff receive cultural competence and anti-discrimination training, designed specifically to address the needs of diverse Māori and Pasifika populations. Similarly, Norway and Germany train officers as rehabilitation guides rather than manual custodians and actively encourage them to build relationships with inmates to foster a safe environment instead of relying on isolation. It is fair to say that the training correctional officers receive in India is usually poorly resourced, poorly standardised, and poorly process-driven (often to simply ensure security). Finally, related to valuing the human being who acts out, developing an integration of international models of human-centered corrections with modules jointly developed with National Law Universities, criminology departments, and the UNODC, could allow for a huge cultural shift for those who engage in the segregation process and who come to regard their work as an alternative from punishment to reformation.

#### 8. Protected Custody Units for Vulnerable Populations (Ricciardelli, 2017)

What may be the most innovative options to solitary confinement can be found in Canada. Correctional systems there have established Protected Custody Units (PCUs) for vulnerable inmate populations (with LGBTQ+ persons, disabled inmates, informants and former police or military personnel) to circumvent placement in solitary confinement conditions, which increase an inmate's risk of depression, paranoia and suicide. Canadian correctional systems provide supervised communal living, access to human interactions, therapy, education, and work training, assuming safe alternatives would be within identified risk thresholds. The intentionality of PCUs, along with how they can contribute to offsetting the psychological damage that comes with custody, is part of why these facilities work to mitigate violence and risks of suicide in custody (Ricciardelli, 2017). The rationale is ultimately simple: when there is understanding of safety in custody, a vulnerable inmate needs protection, not punishment, and protecting persons means protecting their dignity and the rehabilitative process.

#### 9. Targeted Disruption of Gang Control — New York's Step-Down Programs (Labrecque, 2015)

Rather than segregate an inmate indefinitely simply for being part of a gang, New York State's Department of Corrections provided "Step-Down" programs which specifically allowed inmates to disengage from gang structures through clear pathways to re-entry. This model is similar to that of Behaviour Contracts, with the use of CBT [cognitive-behavioural therapy] as well as peer contact in a controlled housing arrangement, for example. If they maintained discipline and no behavioural problems arose, they could progress towards full integration. If the inmate had a sanction or took part in a breach of the peace, they were separated for a temporary period. This form of programming targets the cycle of continual isolation and uses a positive reinforcement model towards changing behaviour. As Labrecque (2015) illustrates, all three types of programs result in lowered institutional misconduct while maximising safety and accountability. Unlike protective or punitive measures used for

segregation, this type of model maintains the agency of incarcerated persons and responds to present behaviours and not previous affiliation to a gang.

10. India's Supreme Court-Approved Prohibitions on Segregation

India's highest court has taken a very firm stance against arbitrary and unnecessary solitary confinement. In *Sunil Batra v. Delhi Administration* (AIR 1675), the Supreme Court of India ruled that solitary confinement constituted a punishment destructive of dignity that violated Article 21 of the Constitution, which guarantees the right to life. The Court delineates that all segregated prisoners must receive access to books, outdoor exercise, social contact, and contact with family, thereby establishing constitutional safeguards against unnecessary psychological harm and administrative caprice. This case has been a cornerstone of Indian prison jurisprudence, and was reiterated by the Court the same year in the maximum-security judgement of *Krishna Mochi v. State of Bihar* (1988) AIR 1037<sup>26</sup>, reminding us that although prisoners may lose their liberty, they do not lose all of their human rights, nor should we be able reduce them to a position of social death, through indifference and neglect.

11. Rehabilitative Segregation in Spain and Germany (Coyle and Fair, 2018)

In Spain and Germany, prisons maintain therapeutic and action-oriented types of segregation, which do not occupy inmates with endless punishment, but prepare them for successful outcomes through reintegration (Coyle and Fair, 2018). Inmates who are dangerous to others are not arbitrarily placed in solitary confinement; instead, they are placed in either a defined separation or a specialised unit where the design is exclusively to provide daily counselling, regular meetings with a correctional psychologist, and the prospect of participating in programs. This kind of segregation provides inmates with continual contact with staff and peer mentors, which mitigates the isolation inherent in isolation designed to reinforce violent, aggressive, antisocial developments. According to Coyle and Fair (2018), these practices reflect a human rights orientation to prison management that emphasises that solitary confinement should not be the purpose of isolation, but rather be invoked as a temporary clinical action with some predetermined exit points. Furthermore, these systems are closely aligned to the European Prison Rules and the Mandela Rules and present a framework for a similar impact in India's high-security or psychiatric prison wings.

Core Principles of Effective Segregation Policy Table 3

Principle	Description
Proportionality	Use segregation only when absolutely necessary and for minimal duration.
Purposefulness	Each case must have a clear justification and reformation goal.
Transparency	Inmates should understand the reason, duration, and appeal process.
Non-Discrimination	Segregation should not be used for caste, race, religion, or ideology.
Accountability	Subject to judicial or independent administrative review.
Time-limited	Segregation should never be indefinite; must include periodic review.
Humane conditions	Adequate lighting, interaction, programs, and legal access must be ensured.
Rehabilitative focus	Must include mental health care, skill-building, and reintegration plans.
Judicial oversight	Especially important in India to prevent abuse and torture.
Individual assessment	Segregation decisions should be based on behaviour, not group identity.

**Limitation**

<sup>26</sup> *Krishna Mochi v. State of Bihar*, AIR 1988 SC 1037.

#### Oversight and Transparency

In the context of prison segregation, arbitrary and secretive implementation is enabled by the lack of oversight, transparency, and institutional controls not only against arbitrary use of isolation and segregation but also to reduce constitutional and human rights issues (Bhatia, 2021; Mukherjee, 2023). In prisons, segregation decisions made without any justification, review, or documented timeframe risk becoming an abuse of discretion. In India, due to inconsistent enforcement of prison manuals, mechanisms for reviewing and independently overseeing segregation are often missing or lack safeguards for independent scrutiny. Segregation rarely has legal or institutional accountability, as shown by numerous prison reviews and court observations where custodial authorities have increasing discretion over who is placed in segregation, the duration, and the grounds for it.

According to a 2023 report by the Centre for Legal Policy and Reform (CLPR), 60% of segregated inmates in Tihar Jail, Delhi<sup>27</sup>, were not adequately documented, and their justification, classification order, or behaviour assessment was often lacking or not properly recorded. There is a major discrepancy that directly contradicts both the Constitution and international obligations regarding Human Rights in India. In multiple instances, it was found that prisoners being segregated were not given notice of their foundation for segregation, were denied access to legal representation during the classification period, and they were not granted the opportunity to appeal or request a periodic review of their classification status.

In order to establish fair and legal segregation, an independent body must be established within the prison itself. In the Indian context, one can start with the appointment of audit teams that were approved through the National and State Human Rights Commissions who will conduct quarterly audits of the facility to assess the quality living conditions, the usage of segregation logs, the psychological records of each prisoner during the period of segregation and the overall grievance log that has been maintained by the prisoners. Another important approach is examining prisons through court inspections carried out by Sessions Judges and Magistrates under Section 35 of the Prisons Act, 1894, to identify any violations. However, this authority is often underused or rarely exercised, and similar to audits, it generally does not involve or engage with segregated prisoners or prison medical personnel during inspections (Commonwealth Human Rights Initiative, n.d.; Delhi Jail Manual, n.d.).

The third significant measure is social accountability through community monitoring. Best practices from around the world can inform this practice; the UK has Independent Monitoring Boards (IMBs), which serve as a working model. IMBs consist of lay volunteers appointed by the Ministry of Justice, with no restrictions on access to prisons and free to interact with both prisoners and staff to observe segregation practices, investigate complaints, and provide recommendations for change.<sup>28</sup> A disciplinary model can lay the foundation of voluntary district-level monitors and representatives from NGOs, prisoners, mental health treatment professionals, and legal education professionals to provide real-time feedback on timely accountability and procedural justice related to decisions of isolation and decisions of isolation.

These transformations also immediately make India's segregation regime integrate with the Nelson Mandela Rules (2015). Specifically, Rule 45 requires all solitary confinement to have "independent authorisation, review and oversight" respectively. It further advises that any prisoner held in sanctions of segregation must be informed in writing, must be offered legal counsel, and subsequently offered regular medical and psychological assessment.<sup>29</sup> By converting the organisation of the norms/codes into some of these systems as ascertain ability with oversight, India can reorient its correctional philosophy, from unbridled administrative authority to procedural justice and blame and shame.

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<sup>27</sup> Centre for Law and Policy Research. (2023). Annual Report 2022-2023

<https://clpr.org.in/wp-content/uploads/2024/06/CLPR-AnnualReport-2022-23.pdf>

<sup>28</sup> UK Ministry of Justice. (2020). Annual Report of the Independent Monitoring Boards. Retrieved from <https://www.imb.org.uk>

<sup>29</sup> United Nations Office on Drugs and Crime (UNODC). (2015). United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules), Rule 45.

**Conclusion**

In many cases, the way in which segregation is practised in prisons in India has changed from being a method for ensuring institutional security and protecting vulnerable inmates to becoming an instrument of administrative convenience, informal hierarchy and systemic exclusion. Segregation has now become a means of reinforcing the creation of new criminal alliances and gangs and the development of more hardened identities, especially in the absence of proper regulation and supervision, structured systems of classification, and rehabilitative programming. The result has been to create an environment in prisons that does not work to effect change in the individual but instead creates a higher risk for the creation of more sophisticated, socially isolated and institutionally abandoned offenders.

The current legal framework governing prisons in India - the Prisons Act of 1894 (Colonial Era Law) and various state prison manuals - have not kept pace with the complexity of incarceration in the modern age; the evolving nature of criminal psychology and the constitutional morality of our nation. The failure to separate between appropriate protective segregation and punitive or discriminatory isolation indicates a need for legislative reform and a re-evaluation of current policies. Segregating minor offenders with experienced criminals from an indefinite time frame and under vague terms, such as "dangerous" or "disciplinary risk," does not protect them; rather, it has become a conduit for them to participate in greater criminal enterprises. It is recommended that "rights-based segregation" or "rehabilitative spatial planning" be put into place as a means of differentiating it from the present utilitarian approach of touristic spatial planning, which will eliminate the need for any form of discretionary ad hoc administrative actions. It is also necessary to recommend implementing "environmental health and spatial equity evaluations" as a component of prison inspection protocols. The issue of prison segregation is not merely a question of security policy; it has important implications for environmental and legally based structures. A necessary recommendation will be to create legal recognition of segregation as a violation of human rights, reliant on the existence of environmental justice; this includes accountability, transparency, equity and access.

To align prison administration with the reformative mandate enshrined in Article 21 of the Constitution, India must make deliberate and evidence-based changes:

1. Re-evaluation of Legislation: In order to align the Prison Act of 1894 to modern-day values of dignity, rehabilitation and accountability the Government must repeal or greatly change the Prison Act of 1894, and create a Model National Prisons Act that meets all Constitutionally protected rights and internationally legal obligations.
2. Implementation of Dynamic Classification Systems: Have dynamic assessments of inmates, rather than static assessments based on what one is charged with, to be consistent with through continuous evaluation of an inmate based on behavioural history, mental health, likelihood of re-offending, and participation/receptivity to rehabilitation.
3. Equal Access to Rehabilitation Services: Segregation does not mean lack of access to all rehabilitation services, all inmates regardless of classification are entitled to education, legal aid, or mental health services; Nobody should be classed as "un-rehabilitatable" prior to any rehabilitation program.
4. Institutional Openness and Accountability: Have regular reviews of how inmates are classified, auditing of segregation and regular inspections of facilities by either a judicial or independent body (i.e. State Human Rights Commissions, civil society organisations and reformed or former prisoners).
5. Gender Sensitivity and Caste Awareness: The impacts of segregating female prisoners, Muslim prisoners, Dalits and transgender prisoners must be addressed together with existing laws and policies such as the Bangkok Rules and staff awareness and diversity training.
6. Signatory to International human Rights standards: Without exception, domestic legislation must include Nelson Mandela's Standard Minimum Rules for the Treatment of Prisoners and other obligations under the ICCPR to ensure that either discipline or segregation is legally justified in a timely manner, and the Health Condition of an inmate is monitored.

Ultimately, true order in prisons is not built through isolation but through the inclusion of opportunity, dignity, and accountability. To prevent correctional institutions from becoming sites of further criminalisation, the Indian state must reclaim the reformatory ideal that recognises every inmate not merely as a lawbreaker but as a citizen still entitled to rights. Investing in human dignity behind bars is not only a moral imperative; it is a constitutional necessity.

#### Annexures

Table 1.

Criteria and basis for prisoner segregation in Indian prisons.  
Source: Compiled by the author based on the Prisons Act, 1894, Model Prison Manual (2016), and state-level segregation practices.

Table 2.

The principle of independent oversight and transparency is a core prison reform theme.  
Source: Visual created by the author to emphasise key reform principles.

retrieved from <https://www.gov.uk/government/organisations/hm-prison-service>.

Table 3.

International Principles for the Ethical Use of Prison Segregation.  
Source: Compiled by the author based on international prison standards, including the Mandela Rules and the Model Prison Manual (2016).

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