

COLLEGE OF LAW AND MANGEMENT STUDIES

SCHOOL OF LAW

**Solitary Struggle: A critical qualitative evaluation of solitary
confinement as a management tool and the impact on inmates'
basic human rights at Ebongweni Correctional Centre in South
Africa**

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This mini-dissertation is submitted in partial fulfilment of the
requirements for the degree of Master of Laws in Advanced
Criminal Justice.

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Abstract

Solitary confinement, a deeply entrenched practice in South African prisons, has historical roots extending back to the apartheid era. Despite legislative efforts to restrict its use, the practice persists in facilities like Ebongweni Correctional Centre, a super-maximum-security prison, where concerns have been raised about its potential to violate inmates' constitutional rights and undermine their well-being and rehabilitation prospects. While legal and policy frameworks governing solitary confinement in South Africa have been subject to scholarly review, there is a notable gap in empirical research that examines the actual implementation of these policies and their impact on inmates. This study addresses this gap by critically evaluating the use of solitary confinement as a prison management tool at Ebongweni Correctional Centre. The purpose of the study is to examine its compliance with constitutional and international human rights standards, including the Nelson Mandela Rules, and to assess its effects on inmates' rights, well-being, and prospects for rehabilitation. The research problem stems from the apparent disconnect between policy intent and practice, where solitary confinement appears to function less as a rehabilitative tool and more as a punitive mechanism. Using a qualitative research design, this study employs in-depth, semi-structured interviews with a purposive sample of inmates and staff at Ebongweni. It also incorporates a comprehensive analysis of legal and policy documents, as well as researcher observations. The methodology ensures a multi-faceted understanding of how solitary confinement is implemented and experienced in this unique correctional setting. The findings reveal significant gaps between the legal and policy frameworks governing solitary confinement and their practical application. Solitary confinement practices at Ebongweni appear to fall short of constitutional provisions and international human rights standards. Prolonged isolation is shown to have severe detrimental effects on inmates' psychological well-being, social functioning, and rehabilitation prospects, raising serious questions about the alignment of these practices with South Africa's constitutional and rehabilitative mandate. These findings have important implications for correctional policy and practice. The study highlights the need for urgent reforms that include evidence-based policies prioritising inmates' human rights and well-being while maintaining institutional safety and security. Key recommendations include strengthening oversight mechanisms, investing in staff training on human rights and rehabilitative principles, and developing alternative management strategies that promote restorative justice and inmates' reintegration into society. This study contributes to the growing discourse on prison reform in South Africa by providing empirical evidence that underscores the necessity of a paradigm shift in correctional practices. It concludes by affirming that a humane and rights-based approach to incarceration is not only achievable but essential for fostering a just and equitable society.

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List of abbreviations

CIO	Correctional Intervention Officers
CSA	Correctional Services Act
DCS	Department of Correctional Services
JICS	Judicial Inspectorate for Correctional Services
PIC	Prison Industrial Complex
SAPS	South African Police Services
SIU	Special Investigating Unit

INTRODUCTION

1.1 Background and motivation for the research

Nelson Mandela's haunting description of the toll of solitary confinement as "the most forbidding aspect of prison life" with "no end and no beginning"¹ serves as a stark reminder of the practice's enduring impact on the human psyche. Mandela's experience during the apartheid years, is not an isolated case; rather, it reflects the reality faced by thousands of inmates in South African correctional facilities to this day. The ongoing use of solitary confinement in South African prisons is a matter of concern, as it suggests the potential to violate inmates' rights but also hinder their prospects for successful rehabilitation and reintegration into society.

During her tenure as an assistant manager at the Judicial Inspectorate for Correctional Services (JICS), the researcher had the opportunity to investigate cases involving human rights violations in prisons. This experience sparked an interest in the practice of solitary confinement as a prison management tool and its implications for the rights of inmates. In a country still grappling with the legacies of apartheid and striving to build a more just and equitable society, the way in which prisoners are treated is a reflection of the nation's commitment to human rights and the rule of law.

1.2 General overview of solitary confinement

In South Africa, the use of solitary confinement has a long and troubling history, rooted in the apartheid era. The South African government suppressed political opposition through various means, including the Suppression of Communism Act of 1950 and the Public Safety Act of 1953, which introduced detention without trial, solitary confinement and lacked safeguards

¹ N R Mandela *Long Walk to Freedom* 2 ed (1995) 494.

against psychological abuse and physical torture of detainees, resulting in the deaths of several individuals in custody in the 1960s.²

Following the transition to democracy, a human rights framework for inmates in South Africa was adopted based on the Constitution of the Republic of South Africa (1996 Constitution), the Correctional Services Act 111 of 1998 (CSA), and accompanying regulations. The government has a complete and unavoidable responsibility to ensure that prisoners are treated in a way that does not infringe upon or undermine the rights granted to them by the 1996 Constitution.³ The CSA sought to align prison practices with the new constitutional order.

However, the CSA still permitted the use of solitary confinement, in the form of administrative segregation, albeit with some limitations.⁴ The 2008 Correctional Services Amendment Act further restricted the use of solitary confinement, introducing the concept of "segregation" as a more regulated form of isolation.⁵ Despite these legislative changes, the practice of solitary confinement continues to be practiced at Ebongweni Correctional Centre and Kgosi Mampuru II C-Max in South Africa.⁶

The ongoing use of solitary confinement in South African prisons, particularly at Ebongweni Correctional Centre (Ebongweni), raises serious concerns about the potential violation of inmates' constitutional rights. Despite legislative efforts to restrict the practice, there remains a significant apparent gap between prisoners' rights on paper and their lived reality behind bars. This discrepancy, which the researcher has observed during her work at JICS, underscores the urgency of examining solitary confinement practices and their impact of these practices on inmates.

Addressing the negative effects of solitary confinement requires a multi-faceted approach. The Department of Correctional Services (DCS) should ensure that the practice is used only as a last resort and for the shortest possible time, in line with international standards such as the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela

² J Louw & C A O'Brien 'The Psychological Effects of Solitary Confinement: An Early Instance of Psychology in South African Courts' *South African Journal of Psychology* 37 (2007) 97.

³ L Muntingh 'A guide to the rights of inmates as described in the Correctional Services Act and Regulations' *Civil Society Prison Reform Initiative* (2006) 7.

⁴ Correctional Services Act 111 of 1998, s 30.

⁵ Correctional Services Amendment Act 25 of 2008, s 24.

⁶ South Africa Judicial Service for Correctional Services *Annual Report* (2023-2024) 9.

Rules).⁷ The DCS should also invest in staff training and the development of alternative management strategies that prioritise rehabilitation and conflict resolution.⁸

Civil society organisations have made significant contributions to prison reform and advocacy in South Africa. Such organisations include the Centre for the Study of Violence and Reconciliation, the Civil Society Prison Reform Initiative, and the Institute for Security Studies.⁹ Collaborating with these organisations and drawing upon their expertise can help to amplify the voices of inmates and promote evidence-based policies that prioritise human rights and rehabilitation.

This research examines solitary confinement as a pervasive practice in South African prisons, despite legislative efforts to restrict its use. Investigating this problem requires a concerted effort from policymakers, correctional officials, and civil society to prioritise rehabilitation, human rights, and the overall well-being of inmates. By critically evaluating the use of solitary confinement at Ebongweni and its impact on inmates' rights and their prospects for rehabilitation, this study aims to contribute to the ongoing efforts to reform the South African prison system and promote a more humane and rehabilitative approach to corrections.

1.3 The legal problem

Despite the growing body of literature on solitary confinement and its impact on inmates, there remains a significant gap in research examining the practices and experiences within African prisons. While some scholars have investigated the history of human rights in prisons, good prison governance, prison overcrowding, legal and policy frameworks governing prisons and rehabilitation in African countries,¹⁰ there is a notable lack of empirical studies on how these policies are implemented in practice and how they affect the lives of inmates, particularly in the context of super maximum-security facilities such as Ebongweni.

The use of solitary confinement in South African prisons raises constitutional concerns. The Correctional Services Act¹¹ as amended by the Correctional Services Amendment¹², permits

⁷ United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), UN-Doc A/Res/70/175 (2015).

⁸ J Sarkin 'Prisons in Africa: An evaluation from a human rights perspective' (2009) 9 *International Journal of Human Rights* 32-33.

⁹ A M Jefferson & T M Martin 'Prisons in Africa' in Y Jewkes & J Bennett (eds) *Handbook on Prisons* 18.

¹⁰ S Pete 'A brief history of human rights in the prisons of Africa'; C Tapscott 'Challenges to good prison governance in Africa'; V Dankwa 'Overcrowding in African prisons'; and A Dissel 'Rehabilitation and reintegration in African prisons' in J Sarkin (ed) *Human Rights in African prisons* (2008).

¹¹ Correctional Services Act 111 of 1998.

¹² Correctional Services Amendment Act 25 of 2008.

the use of segregation for various purposes, including maintaining order and security, protecting inmates from harm, and preventing escapes.¹³ However, de Vos suggests a gap between prisoners' constitutional rights and their actual lived reality in South African prisons.¹⁴

The nature of the problem lies not only in the potential violation of inmates' constitutional rights but also in the detrimental long-term effects of solitary confinement on their psychological and physiological well-being. Smith explains prisoners in solitary confinement face an extreme form of exclusion, spending approximately 23 hours a day in their cells, with only brief periods of isolated exercise. This "prison within a prison" experience is particularly severe when solitary confinement is prolonged. Due to their isolation, these prisoners can easily fall out of the public eye, making it difficult to safeguard their rights, even in societies that uphold the rule of law.¹⁵

Haney notes research has consistently shown that social exclusion and isolation lead to negative psychological effects in various contexts outside of prison. It is therefore theoretically sound to conclude that similar adverse outcomes would occur in correctional settings, where isolation is strictly enforced, and isolated prisoners face extreme condemnation, antagonism, and severe deprivations.¹⁶

Shalev explains solitary confinement not only deprives prisoners of human contact but subjects them to additional restrictions and controls that vary across jurisdictions. In most cases, isolated prisoners have limited or no access to educational, vocational, or recreational activities. Even in cases of limited access, such activities are conducted in isolation. Furthermore, the number and type of personal belongings allowed in their small, sometimes windowless cells are highly restricted and closely regulated, with cells and belongings being closely monitored and regularly searched.¹⁷

The literature suggests that the combination of these factors contributes to a system that not only fails to promote rehabilitation but actively violates various rights related to the health and well-being of those subjected to solitary confinement. This calls into question the compatibility

¹³ Correctional Services Act 111 of 1998, s 30; and Correctional Services Amendment Act 25 of 2008, s 24.

¹⁴ P de Vos 'Prisoners' rights litigation in South Africa since 1994: a critical evaluation' (2005) 9 *Law, Democracy and Development* 89.

¹⁵ P S Smith 'Solitary confinement. An introduction to the Istanbul Statement on the Use and Effects of Solitary Confinement' (2008) 18 (1) *Torture: quarterly journal on rehabilitation of torture victims and prevention of torture* 56.

¹⁶ C Haney 'Restricting the Use of Solitary Confinement' (2018) *Annual Review of Criminology* 286.

¹⁷ S Shalev 'Solitary Confinement as a Prison Health Issue' in S Enggist, L Moller, G Galea and C Udesen (eds) *WHO Guide to Prisons and Health* (2014) 27.

of this practice with principles of human rights and with the constitutional mandate of the South African correctional system.

Recent statistics indicate the scale of incarceration in South Africa. As at 31 March 2024, the country was incarcerating 156 600 male and female inmates in 243 operational prisons.¹⁸ These numbers meant that there was a staggering 48% overcrowding rate.¹⁹ In relation to the accommodation available for solitary confinement, Luyt et al found that the first maximum-security facility in South Africa, Pretoria C-Max, opened in September 1997 and was designed to incarcerate 281 inmates; and that the somewhat newer supermaximum prison in Kokstad (Ebongweni), was designed to incarcerate 1 440 inmates.²⁰

While some proponents of solitary confinement argue that this type of punishment is necessary to maintain order and security in prisons,²¹ this claim must be critically examined. There is limited evidence to suggest that the practice is effective in reducing violence or promoting rehabilitation.²² On the contrary, the use of solitary confinement may exacerbate behavioural problems and hinder inmates' ability to reintegrate into society upon release.²³

As Smith explains, the apartheid regime used solitary confinement as a tool of political repression, subjecting many activists and political prisoners to prolonged periods of isolation.²⁴ While the legal and political landscape has changed since the end of apartheid, the ongoing use of solitary confinement raises questions about the extent to which the country's correctional system has truly reformed and embraced the principles of human rights and dignity enshrined in its 1996 Constitution.

Failing to properly evaluate the use of solitary confinement in South African prisons at present, would be to invite negative consequences for both the individuals subjected to this practice and South African society as a whole. As the United Nations Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment has emphasised, solitary confinement may amount to torture or cruel, inhuman, or degrading treatment, particularly

¹⁸ South Africa Department of Correctional Services *Annual Report 2023/2024* (2024) 72.

¹⁹ Ibid 19.

²⁰ W Luyt 'Contemporary corrections in South Africa after more than a decade of transformation' (2008)

21(2) *Acta Criminologica: Southern African Journal of Criminology* 183-184.

²¹ C Haney 'A culture of harm: Taming the dynamics of cruelty in supermax prisons' (2008) 35 *Criminal Justice and Behavior* 966.

²² S Shalev 'A sourcebook on solitary confinement' (2008) 1.

²³ S Grassian 'Psychiatric effects of solitary confinement' (2006) 22 *Washington University Journal of Law & Policy* 354.

²⁴ PS Smith 'The Effects of Solitary Confinement on Prison Inmates: A Brief History and Review of the Literature' (2006) 34 *Crime and Justice* 501.

when used for prolonged periods or on vulnerable groups such as juveniles, people with disabilities, or pregnant women.²⁵ Moreover, the continued reliance on solitary confinement as a prison management tool undermines efforts to promote rehabilitation and reintegration of offenders, as it may exacerbate mental health issues and hinder the development of social skills necessary for successful re-entry into society.²⁶

Given the urgency and complexity of the problem, it is crucial to examine the use of solitary confinement in South African prisons and its impact on inmates' rights and their prospects of rehabilitation. This study aims to address the gap in research by providing qualitative evaluation of solitary confinement practices at Ebongweni Correctional Centre. By interpreting the subjective experiences of inmates and staff, analysing relevant legal and policy documents, and assessing the facility's compliance with constitutional and international human rights standards, this research seeks to shed light on the realities of solitary confinement at Ebongweni. In doing so, the study builds upon the work of scholars such as Muntingh²⁷ and Peté²⁸ who have highlighted the need for humane treatment of prisoners in South Africa. This study also contributes to the broader international discourse on solitary confinement, which has increasingly recognised the practice as a form of cruel, inhuman, or degrading treatment that should be prohibited or strictly regulated.²⁹

The development of super maximum-security prisons in South Africa has been influenced by various factors. After 1994, there was increasing public concern over the perceived rise in serious crime, prompting the criminal justice system to impose ever more severe sentences on dangerous offenders. In response, the DCS introduced super maximum-security prisons as a means to address the escalating concern over rampant crime.³⁰ The DCS attributed high levels of prison violence and escapes to a small group of disruptive inmates, prompting the creation of supermaximum prisons. While the focus on human rights principles in the immediate post-apartheid era allowed for the creation of supermaximum prisons, this focus on human rights principles aimed to prevent strict security measures from becoming retributive. The

²⁵ Interim Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment UN Doc A/66/268 (2011) para 79.

²⁶ C Haney 'Restricting the Use of Solitary Confinement' (2018) 1 *Annual Review of Criminology* 298.

²⁷ L Muntingh 'Ten years after the Jali Commission Assessing the state of South Africa's prisons' (2016) 58 *South African Crime Quarterly* 35-44.

²⁸ S Pete 'The Good, the Bad and the Warehoused: The Politics of Imprisonment during the Run-up to South Africa's Second Democratic Election' (2000) 13 *S. Afr. J. Crim. Just.* 1.

²⁹ UN General Assembly, United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), Resolution adopted by the General Assembly, 17 December 2015, A/RES/70/175.

³⁰ W Luyt & N Du Preez 'Secure prisons in South Africa: the super maximum concept' (2000) 13 (3) *Acta Criminologica: African Journal of Criminology & Victimology* 38.

government's periodic "tough-on-crime" messaging however, exemplified by the Pretoria C-Max and Ebongweni prisons, played a role in shaping the general acceptance of supermaximum prisons in South Africa.³¹ The complex interplay of these factors has resulted in a system that, while intended to address the challenges faced by the South African correctional system, has also raised concerns about the potential for human rights abuses and about the effectiveness of such measures in promoting rehabilitation and reintegration.

1.4 Research paradigm and theoretical frameworks

This study falls under the interpretive research paradigm which emphasise the understanding of human behaviour and social phenomena through the subjective experiences and perspectives of the individuals involved.³² This paradigm is particularly well-suited for this research, as it aligns with the goal of critically examining the use of solitary confinement at Ebongweni and its impact on inmates' rights and their prospects for rehabilitation. The interpretive paradigm allows the researcher to delve into these complexities by focusing on the lived experiences and perceptions of the inmates and staff at Ebongweni. Moreover, the interpretive paradigm is particularly suitable for investigating complex, subjective, and socio-cultural issues where qualitative data may be difficult to interpret accurately.³³ This is relevant to this study, as the use of solitary confinement is deeply intertwined with issues of power, control, and human rights.

This study draws upon the theoretical frameworks of sensory deprivation theory, social isolation theory, control theory, and a rights-based approach. These theoretical frameworks are used as lenses through which to interpret the data rather than as deterministic explanations for the phenomena under investigation. By integrating these theoretical frameworks with practical knowledge and experience, the research aims to provide a comprehensive analysis of the use of solitary confinement at Ebongweni and its implications for inmates' rights and their prospects for rehabilitation.

³¹ F Buntman & L Muntingh 'Supermax Prisons in South Africa' in L J Wacquant *The globalization of supermax prisons* J I Ross (ed) (2013) 80.

³² N Pervin & M Mokhtar 'The interpretivist research paradigm: A subjective notion of a social context' (2022) 11(2) *International Journal of Academic Research in Progressive Education and Development* 421.

³³ N Pervin & M Mokhtar 'The interpretivist research paradigm: A subjective notion of a social context' (2022) 11(2) *International Journal of Academic Research in Progressive Education and Development* 426.

1.4.1 Sensory deprivation theory

Sensory deprivation theory posits that the lack of sensory stimulation in solitary confinement can lead to perceptual distortions, hallucinations, and other psychological disturbances.³⁴ The absence of meaningful sensory input can cause the brain to generate its own sensory experiences, resulting in a range of perceptual abnormalities.³⁵ This theory is particularly relevant in the context of solitary confinement, where inmates are subjected to prolonged periods of sensory deprivation.

1.4.2 Social isolation theory

Social isolation theory emphasises the effects of social isolation on prisoners' mental health. In his extensive psychological study of prisoners in crisis in New York State correctional facilities, Toch³⁶ made significant observations about the effects of isolation. Through in-depth interviews with prisoners, Toch identified "isolation panic" as a serious issue in solitary confinement. This is characterised by symptoms such as rage, panic, loss of control, breakdowns, psychological regression, and a buildup of physiological and psychic tension, leading to self-harm incidents. Although isolation panic could occur under other conditions of confinement, Toch noted that it was most prevalent in segregation. Furthermore, he emphasised the critical distinction between imprisonment, which prisoners found tolerable, and isolation, which they did not.³⁷ Isolation panic highlights the unique and severe psychological impact of solitary confinement on inmates.

Grassian suggests that solitary confinement should not be considered a uniform experience, as the psychological impact on inmates varies significantly depending on the severity of the sensory and social deprivation imposed by the specific conditions of their confinement.³⁸ Prolonged social isolation can also result in an increase heart disease hypertension, stroke and early mortality.³⁹ These findings underscore the importance of considering the social

³⁴ S Grassian 'Psychiatric effects of solitary confinement' (2006) 22 (325) *Washington University Journal of Law & Policy* 332–333.

³⁵ Ibid 335–6

³⁶ H Toch *Men in Crisis: Human Breakdowns in Prisons* (1975).

³⁷ Ibid 132 - 143.

³⁸ S Grassian 'Psychopathological effects of solitary confinement' (1983) 140 (1450) *American Journal of Psychiatry* 1454.

³⁹ LC Hawkey 'Social Isolation, Loneliness, and Health' in Lobel, J & Smith, PS (eds) *Solitary confinement: effects, practices, and pathways towards reform* (2019) 196.

dimensions of solitary confinement and the need for correctional systems to address the detrimental effects of social isolation on inmates.

1.4.3 Control theory

Control theory focuses on the psychological impact of prisoners' loss of autonomy and control over their daily lives in solitary confinement. Craig explains that the effective functioning of prisons has been assessed based upon their ability to control inmates, leading to the assumption that the control model is the most effective organisational approach. This untested assumption has, however, negatively impacted the achievement of other organisational goals, particularly rehabilitation, which emphasises inmate responsibility and autonomy through social cohesion.⁴⁰

Craig's findings suggest that security and rehabilitation might be achievable if more permissive organisational models were to be implemented. This suggests, that if social cohesion, which control models actively seek to undermine, was to be regarded as a crucial prerequisite, not only for an orderly prison but also for one that successfully achieves its rehabilitative objectives.⁴¹

In a prison, the highly regimented environment severely restricts an individual's ability to make choices. Inmates have little control over the type of work, educational, or recreational activities they can participate in and the institution's schedules dictate the time and place for all activities, including when to wake up, eat, work, engage in leisure activities, sleep, and receive visitors. The institutional staff and prison administration determines what prisoners wear, what they eat, and what personal items they can keep. The architectural design together with overcrowding in many medium and maximum-security prisons make it challenging for inmates to find privacy when desired, further limiting their autonomy and personal choice.⁴²

Within the context of a prison, solitary confinement adds a further layer of regimentation, control and stress to prisoners lives. Solitary confinement involves three key elements that are always present: being isolated from others and lacking social interaction, having limited things

⁴⁰ SC Craig 'Rehabilitation versus Control: An Organizational Theory of Prison Management' (2004) 84(4_suppl) *The Prison Journal* 111S.

⁴¹ Ibid 111S-112S.

⁴² L Goodstein *et al* 'Personal Control and Inmate Adjustment to Prison' (1984) 22 (343) *CRIMINOLOGY* 349-350.

to do and very little exposure to different environments, and losing the ability to make choices and control most parts of one's everyday life.⁴³

By focusing on the interplay between individual experiences and the wider context, the above theories help to contextualise the research question and objectives within the broader discourse on prisoners' rights and solitary confinement reform. This theoretical framework takes into account the complex psychological, social, and legal dimensions of solitary confinement. By drawing upon these theories and integrating them with practical knowledge of the South African correctional system, the researcher has endeavoured to produce a nuanced analysis of the use of solitary confinement at Ebongweni and to analyse the implications for inmates rights and their prospects for rehabilitation.

1.5 Research methodology

The aim of this study is to critically examine the use of solitary confinement as a prison management tool at Ebongweni, focusing on its compliance with constitutional and international human rights standards, its impact on inmates' rights and their prospects for rehabilitation.

1.5.1 Research question

The main research question guiding this investigation is:

To what extent does the practice of solitary confinement at Ebongweni Correctional Centre comply with constitutional and international human rights standards, and what is its impact on inmates rights and prospects for their rehabilitation?

1.5.2 Key research objectives:

To address this question, the study pursues three key objectives:

1.5.2.1. To evaluate the legal and policy framework governing the use of solitary confinement at Ebongweni and assess its implementation in practice.

⁴³ S Shalev 'Solitary Confinement as a Prison Health Issue' in S Enggist, L Moller, G Galea and C Udesen (eds) *WHO Guide to Prisons and Health* (2014) 28.

1.5.2.2. To determine the extent to which solitary confinement practices at Ebongweni comply with constitutional provisions and international human rights standards, particularly the Nelson Mandela Rules.

1.5.2.3. To examine the impact of solitary confinement on inmates' basic human rights, their prospects for rehabilitation, and to identify potential strategies for mitigating the harmful effects of isolation.

1.5.3 Research design

This study employed a qualitative research design to investigate the use of solitary confinement at Ebongweni and its impact on inmates' rights and rehabilitation. Ebongweni was selected as the setting for this study due to its unique characteristics and the ongoing practice of solitary confinement within its walls. Ebongweni is a supermaximum security prison and accommodates the most dangerous inmates and subjects them to up to 23 hours of daily solitary confinement, severely restricting their movements and social interactions.⁴⁴ This setting provided a suitable research space for the researcher to investigate the effectiveness of solitary confinement as a prison management tool and its implications for prisoners basic human rights.

Purposive sampling was used to select inmates and officials who could provide rich information about their experiences and perspectives related to solitary confinement at Ebongweni.⁴⁵ This sampling strategy allowed for an in-depth exploration of individual experiences while capturing a range of perspectives.

Data was collected through semi-structured interviews with inmates and officials, document analysis, and direct observations during June 2023. The data analysis followed a thematic analysis approach to identify, analyse, and report patterns within the qualitative data.⁴⁶ Writing up the thematic analysis involved providing a concise, coherent, and logical account of the data while maintaining a reflexive stance.

One of the limitations of the study was the unequal sample size of inmates and officials. Another limitation is the limited generalisability of qualitative research, which typically focuses on a small, purposively selected sample.⁴⁷ However, as this research aims to provide

⁴⁴ Refer to footnote 7 above.

⁴⁵ JW Creswell 'Qualitative inquiry and research design: Choosing among five approaches' (2007) 57-58.

⁴⁶ V Braun & V Clarke 'Using thematic analysis in psychology' (2006) 3(2) *Qualitative Research in Psychology* 78.

⁴⁷ L Webley 'Qualitative approaches to empirical legal research' in P Cane & HM Kritzer (eds) *The Oxford Handbook of Empirical Legal Research* (2010) 13.

an examination of solitary confinement practices at Ebongweni, rather than to generalise to all South African prisons, this limitation is less concerning.

Conducting research within a correctional facility posed significant challenges. The limited time window available for interviews and the delays for security escorts, constrained the researcher's ability to engage with participants extensively. Despite these challenges, the researcher remained committed to conducting the research and to attempt to address the complex issue of solitary confinement in the South African context.

1.5.4 Research significance

The significance of this study lies in its potential to inform evidence-based policies and practices that prioritise the human rights and well-being of inmates while ensuring the safety and security of correctional facilities. By critically examining the use of solitary confinement at Ebongweni, this research seeks to contribute to the ongoing efforts to reform the South African prison system and promote a more humane and rehabilitative approach to corrections.

This research has the potential to make a significant contribution to the broader international discourse on solitary confinement and prison reform. By providing a detailed study of solitary confinement practices in a South African super maximum-security facility, this study can offer valuable insights and lessons for other countries grappling with similar challenges. Furthermore, by highlighting the discrepancy between the legal and policy framework and the actual implementation of solitary confinement practices, this research can serve as a call to action for all stakeholders to work together to bring about meaningful change in the treatment of inmates.

1.6 Chapter layout and conclusion

Having set out the research problem and the objectives, and the potential significance of this study in the context of human rights and prison reform, this introductory chapter concludes by providing a brief overview of the arguments set out in the chapters which follow:

Chapter two delves into the complex landscape of solitary confinement, tracing its historical origins and evolution both in South Africa and internationally. A comprehensive literature review touches upon certain of the early debates and critiques surrounding the practice, as well as contemporary perspectives on the legal, ethical, and psychological implications of continuing with this practice. By situating the study within the broader context of penology

and human rights, this chapter lays the groundwork for a nuanced understanding of solitary confinement's impact on prisoners' well-being and prospects for rehabilitation.

Chapter three provides a transparent and detailed account of the study's methodology. It explains the choice of a qualitative research design and the use of purposive sampling to select information-rich cases from Ebongweni. The chapter also describes the data collection methods employed, including semi-structured interviews, document analysis, and direct observations, highlighting the steps taken to ensure the trustworthiness and credibility of the findings. Ethical considerations, such as obtaining informed consent and protecting participants' confidentiality, are discussed in depth, demonstrating the researcher's commitment to conducting the study in a responsible and principled manner. The chapter also acknowledges the limitations and challenges encountered during the research process, such as unequal sample sizes and access constraints, providing a realistic portrayal of the complexities involved in prison research.

Chapter four presents the heart of the study - the insights and main findings that emerged from the thematic analysis of the collected data. The chapter is structured around key themes and illustrated with vivid examples and direct quotes from participants, bringing their experiences and perspectives to life. The findings shed light on the realities of solitary confinement at Ebongweni, including the daily routines, living conditions, and the psychological and emotional impact on inmates. The chapter also highlights the perspectives of correctional officials on the use of solitary confinement as a management tool and its perceived effectiveness in maintaining order and safety. Throughout the chapter, the researcher's observations and reflections are woven in, providing additional context and depth to the findings.

Chapter five offers a critical discussion of the study's findings, situating them within the broader legal and human rights framework. It examines the extent to which solitary confinement practices at Ebongweni comply with domestic provisions and international standards, such as the Nelson Mandela Rules. The chapter also explores the implications of the findings for prisoners' rights, rehabilitation, and mental health, drawing on relevant theories, literature and empirical evidence. By engaging with the tensions and contradictions that emerge from the data, this chapter aims to stimulate further debate and reflection on the use of solitary confinement in South African prisons.

Finally, chapter six concludes the dissertation by offering evidence-based recommendations for protecting prisoners' rights and reforming solitary confinement practices. These

recommendations are grounded in the study's findings and informed by best practices and international standards. The chapter also identifies areas for future research, acknowledging the need for ongoing investigation and dialogue to address the complex challenges posed by solitary confinement. This chapter aims to inspire further action and collaboration among researchers, policymakers, and practitioners to promote a more humane and rehabilitative approach to corrections in South Africa.

THE LANDSCAPE OF SOLITARY CONFINEMENT PRACTICES

2.1 Introduction

Solitary confinement has long been a contentious issue within the penal system, raising profound questions about the ethical boundaries of punishment and the human costs of incarceration. A practice that has been in use for decades, solitary confinement remains one of the most persistent and severe forms of punishment within the penal system; apart from capital punishment, it represents the harshest sanction that can be lawfully inflicted upon incarcerated individuals.⁴⁸

2.1.1 Definition of solitary confinement and its significance

While specific conditions of solitary confinement vary between jurisdictions, it typically involves confinement alone in a cell with severe restrictions on visitation, phone calls, access to programmes, and out-of-cell time.⁴⁹ Solitary confinement's persistence as a correctional practice, despite ongoing criticism, unresolved debates about its harmful effects on human well-being, and repeated instances of brutality, underscores the importance of examining both its historical origins and the contemporary context in which it is used.⁵⁰

The significance of studying solitary confinement lies in its profound consequences for those subjected to the practice, its questionable efficacy in achieving penological aims, and its broader implications for the ethical administration of justice.⁵¹ Moreover, there is limited empirical evidence that the practice reduces violence or improves prison safety in the long term.⁵² From a human rights perspective, the United Nations Special Rapporteur on Torture has condemned prolonged solitary confinement exceeding 15 days as cruel, inhuman, or degrading treatment that may amount to psychological torture.⁵³ This international

⁴⁸ S Shalev 'A sourcebook on solitary confinement' (2008) 2.

⁴⁹ C Haney 'Restricting the Use of Solitary Confinement' (2018) 1 *Annual Review of Criminology* 286.

⁵⁰ K Reiter 'The international persistence and resilience of solitary confinement' (2018) 8(2) *Oñati Socio-Legal Series* 257.

⁵¹ PS Smith 'The Effects of Solitary Confinement on Prison Inmates: A Brief History and Review of the Literature' (2006) 34 *Crime and Justice* 441-528.

⁵² D Lovell et al 'Recidivism of supermax prisoners in Washington State' (2007) 53(4) *Crime & delinquency* 653.

⁵³ United Nations Interim report of the Special Rapporteur of the Human Rights Council on torture and other cruel, inhuman or degrading treatment or punishment A66/628 (2011) page 2.

condemnation underscores the gravity of the issue and the importance of critically examining solitary confinement practices within the South African context.

The literature review which follows, aims to provide a comprehensive overview of the scholarly landscape concerning solitary confinement, tracing its historical origins and evolution, examining key early and contemporary debates and critiques. By identifying knowledge gaps and areas for further inquiry, particularly in the South African context, this review seeks to lay the foundation for the current study's qualitative investigation of inmates experiences and the human rights implications of solitary confinement at Ebongweni Correctional Centre.

2.2 Historical origins and evolution

The origins of modern solitary confinement can be traced back to 18th and 19th century penal reforms in Europe and America. Studies suggest that the development of solitary confinement was influenced by a combination of shifting penal philosophies, technological innovations, and changing social realities.⁵⁴ It has been suggested that solitary confinement originated in the Middle Ages⁵⁵ monastic practice of incarceration through the “*muris strictus*” or “close confinement” which seems to denote a form of captivity similar to solitary confinement.⁵⁶ However, the literature seems to insufficiently examine how these historical developments have shaped contemporary practices and debates surrounding solitary confinement.

Britain and the United States played substantial roles in shaping influential prison models focused on solitary confinement. Ignatieff argues that the Pentonville penitentiary in England, which opened in 1842, represented a pioneering model of prison architecture and management that emphasised a “new discipline of solitude and silence”.⁵⁷ In the United States, the Pennsylvania

⁵⁴ PS Smith 'The Effects of Solitary Confinement on Prison Inmates: A Brief History and Review of the Literature' (2006) 34 *Crime and Justice* 441-528; M Ignatieff *A just measure of pain: The penitentiary in the industrial revolution 1750-1850* (1978); and M Foucault *Discipline & Punish The Birth of the Prison* (1977).

⁵⁵ The modern prison system and use of imprisonment as the primary punishment developed in Europe in the late 18th and early 19th centuries, during the industrial revolution. Prior forms of incarceration, such as the Middle Ages practice of *muris strictus*, were different from modern imprisonment and solitary confinement. So, while *muris strictus* involved isolation and confinement, it was in a pre-modern monastic context rather than a precursor to the modern prison system. Solitary confinement as practiced today emerged from 18th century models of imposing imprisonment, not medieval religious punishments. However, critiques of the psychological impacts of isolation resonate across both historical practices.

⁵⁶ PS Smith 'The Effects of Solitary Confinement on Prison Inmates: A Brief History and Review of the Literature' (2006) 34 *Crime and Justice* 441.

⁵⁷ M Ignatieff *A just measure of pain: The penitentiary in the industrial revolution 1750-1850* (1978) 3.

and Auburn systems emerged as dominant models, with the former imposing 24-hour solitary confinement and the latter featuring factory-style labour and night-time isolation.⁵⁸

These systems included elements such as solitary confinement, the division of convicts into classes and the active participation of chaplains in correctional activities. The influence of these ideas can be seen in the development of the Western prison system, which aimed to control individuals' time and space.⁵⁹ These ideas influenced prison reform in the United States, particularly in Pennsylvania. The Philadelphia Society for Alleviating the Miseries of Public Prisons played a crucial role in implementing solitary confinement and hard labour in Pennsylvania's penal system. This culminated in the 1790 Act to reform penal laws, which established a separate building with single cells at Walnut Street Prison for dangerous criminals, emphasising correction through solitude and labour.⁶⁰ However, it seems the literature falls short to critically examine how these historical models have contributed to the normalisation of solitary confinement as a prison management tool.

The 1960s and 1970s saw federal prisoners' rights litigation in the United States of America directly influencing the design of supermax prisons built in subsequent decades.⁶¹ The 1983 Marion penitentiary lockdown was a pivotal event in the history of solitary confinement in the United States. Following the murder of two correctional officers by inmates at the Marion Federal Penitentiary in Illinois, the facility was placed on permanent lockdown, subjecting all prisoners to solitary confinement conditions.⁶² This event marked the birth of the modern supermax prison model, characterised by prolonged isolation, minimal human contact, and highly restrictive security measures.⁶³ The Marion lockdown set a precedent for the proliferation of supermax facilities across the United States in the following decades, with over 40 states operating such institutions by the late 1990s.⁶⁴

The ripple effect of this event extended beyond the United States, as other countries like New Zealand, South Africa, Australia, Brazil, and the United Kingdom, began adopting similar

⁵⁸ AT Rubin 'The Deviant Prison' (2021).

⁵⁹ M Foucault *Discipline & Punish The Birth of the Prison* pages 237-239.

⁶⁰ O Sokalska 'The transformation of carceral practices in Pennsylvania: from William Penn's Great Law to the Penitentiary House at Walnut Street Prison' (2023) *Uzhhorod National University Herald. Series: Law* 45-54.

⁶¹ KA Reiter 'The most restrictive alternative: A litigation history of solitary confinement in US prisons, 1960–2006' (2012) *Studies in law, politics, and society* 71-124.

⁶² PS Smith 'The Effects of Solitary Confinement on Prison Inmates: A Brief History and Review of the Literature' (2006) 34 *Crime and Justice* 442-443.

⁶³ S Shalev *Supermax: Controlling risk through solitary confinement* 1 ed (2013) 3.

⁶⁴ DP Mears 'Evaluating the effectiveness of supermax prisons' 2006 *Urban Institute Justice Policy Center* ii.

models of solitary confinement in their prison systems.⁶⁵ The popularity of super maximum facilities grew, including in South Africa, and without adequate consideration for the long-term consequences on inmates' mental health, rehabilitation, and human rights.

2.2.1 Early critiques

Solitary confinement models generated strong criticism regarding their psychological impacts and efficacy. Charles Dickens, after visiting Cherry Hill prison, condemned the "immense amount of torture and agony" inflicted by the prolonged isolation.⁶⁶ Dickens denounced solitary confinement as "a secret punishment which slumbering humanity is not roused up to stay".⁶⁷ These early critiques laid the foundation for ongoing debates questioning the ethics and effectiveness of solitary confinement.

Ignatieff points out that the reformers' goals for solitary confinement ultimately failed and resulted in a "paradox of success" which meant that the ideals which justified the implementation of solitary confinement - redemption, reflection, penitence - are precisely the outcomes which are made impossible by incarceration within the walls of a prison. It turned out to be impossible to induce reflection and repentance in men when they were confined alone in cells.⁶⁸ Ignatieff sees this as a paradox and failure at the heart of the early penitentiary system's use of solitary confinement. He argues that it was an inhumane practice that required reform from the start, as ascribes the suicide of prisoner Edward Andrews.⁶⁹

Andrews case is an example of human tragedy demonstrating the reality of solitary confinement, as well as the failure of Birmingham prison's rigid solitary system to rehabilitate prisoners.⁷⁰ It caused serious psychological and physical damage to Andrews that were neglected by officials and that violated Andrews basic rights and human dignity in the name of

⁶⁵ LJ Wacquant and JI Ross (eds) *The globalization of supermax prisons* (2013) 3.

⁶⁶ C Dickens 'Philadelphia, and Its Solitary Prison' (2004) 33(6) *The American Poetry Review* 15.

⁶⁷ Ibid 15.

⁶⁸ M Ignatieff *A just measure of pain: The penitentiary in the industrial revolution 1750-1850* (1978) 3.

⁶⁹ Edward Andrews was a fifteen-year-old inmate in Birmingham prison in 1854, incarcerated for a petty offence. His time at the prison was spent turning a hand crank weighing thirty thousand pounds pressure for ten thousand times every ten hours. After two months he refused to work and was incapacitated in a strait jacket, doused with buckets of water, kept in a dark cell and fed on bread and water. He committed suicide by hanging in his cell window.

⁷⁰ Ibid 207-209.

reform. This research will show that Ignatieff's historical examination remains highly relevant to current ongoing debates about solitary confinement.

Michel Foucault critiques that solitary confinement originated conceptually in the latter 18th century alongside emerging models of imprisonment with the “purpose of transforming the soul and conduct”.⁷¹ Foucault points to Walnut Street Prison in the United States, which was modelled on Quaker⁷² ideals of spiritual reflection, moral reform, repentance and silent contemplation, as an archetype of the new prison regime emerging at the time, consisting of compulsory work, imposed solitude and surveillance.⁷³ Foucault further describes the Auburn and Cherry Hill prison models of the United States and argues that despite aims of rehabilitation, solitary confinement instead produced adverse effects.⁷⁴ Further critiques of the practice emerged around this time, with Dickens condemning the “torture” of solitary confinement.⁷⁵

Unfortunately, it would seem that these early critiques have been largely ignored or dismissed, resulting in the continued use of solitary confinement. The persistence of the practice, despite many decades of criticism and evidence of its harmful effects, raises questions about the priorities and values of prison systems that continue to rely on solitary confinement as a management tool.

2.3 Early debates

2.3.1 Solitude and silence

The early debates surrounding solitary confinement focused on issues such as the role of silence and solitude in promoting inmate reformation, and the tension between punishment and rehabilitation. The Pennsylvania and Auburn penitentiary systems, while differing in their approaches, shared the common goal of using incarceration as a tool for reforming inmates. Central to both models was the role of silence during confinement, although implemented in distinct ways, the underlying belief was that silence would encourage introspection, and that adequate self-reflection would ultimately lead to the reformation and redemption of the

⁷¹ M Foucault *Discipline and Punish: The Birth of the Prison* (1977) 123.

⁷² The Quakers are a longstanding Christian denomination with a distinctive spiritual tradition and history of social activism. Their ideas strongly influenced prison and solitary confinement reform in the 18th-19th centuries in the United States.

⁷³ M Foucault *Discipline and Punish: The Birth of the Prison* (1977) 123-124.

⁷⁴ *Ibid* 236-240.

⁷⁵ C Dickens ‘Philadelphia, and Its Solitary Prison’ (2004) 33(6) *The American Poetry Review* 15.

individual. This transformative process was expected to manifest in improved behaviour, demonstrating the effectiveness of the penitentiary system in rehabilitating offenders.⁷⁶

During the period from 1830 to 1870, a number of prisons throughout Europe, underwent either new construction or extensive renovations; and these architectural changes were implemented with the goal of enforcing a regime of complete social isolation.⁷⁷ The idea of using solitude and silence to encourage prisoners to reflect on their actions was connected to the belief that prison punishments should be carried out privately, hidden from public view, which was very different from the old tradition of publicly displaying physical punishments. By keeping punishments within the prison, it was believed that the focus could be shifted to reforming the individual prisoner rather than simply focusing on retribution and deterrence by means of a public spectacle.⁷⁸

2.3.2 Punishment and reform

Another early debate was around punishment and reform in prisons. The term "penitentiary" itself implies that the prison was not merely a place to confine offenders or make them suffer the consequences of their actions, but rather a place where the experience of incarceration was intended to transform their very being and way of life. In the context of the United States of America, some view the American prison as a humane invention, a step forward in the progress of society, moving away from brutal punishments such as the gallows, pillory, and whipping post. Others see it as a response to changing social conditions that facilitated and encouraged the belief that crime could be solved by removing offenders from the prevailing criminal and disorderly environment and placing them in a morally pure and orderly environment within the walls of an institution. Yet other scholars view prisons as part of a conscious or unconscious desire by political and economic elites to create an institutional apparatus capable of disciplining the poor and turning them into productive workers.⁷⁹

By the 1820s, Americans had grown disillusioned with the deterrent approach to crime prevention, and factors of population growth, urbanisation, and industrialisation had created a

⁷⁶ JW Haslam 'Pits, Pendulums, and Penitentiaries: Reframing the Detained Subject' (2008) 50 *Texas Studies in Literature and Language* 268.

⁷⁷ PS Smith 'The Effects of Solitary Confinement on Prison Inmates: A Brief History and Review of the Literature' (2006) 34 *Crime and Justice* 457.

⁷⁸ J W Haslam 'Pits, Pendulums, and Penitentiaries: Reframing the Detained Subject' (2008) 50 *Texas Studies in Literature and Language* 268.

⁷⁹ FT Cullen & P Gendreau 'Assessing Correctional Rehabilitation: Policy, Practice, and Prospects' (2000) 3 *POLICIES, PROCESSES, AND DECISIONS OF THE CRIMINAL JUSTICE SYSTEM* 114.

general concern for the stability of American society. The Jacksonians,⁸⁰ motivated by both ambition and anxiety, had a fresh approach to rehabilitate criminals, which was to treat them and then reintegrate them into society as reformed individuals.⁸¹ Proponents of reform argued that the goal of imprisonment should be to transform criminals into law-abiding citizens through reform, education, and moral guidance.

The early debates and critiques surrounding “silent” versus “solitary” and “punishment” versus “reform” approaches to imprisonment have laid the groundwork for an ongoing discourse surrounding solitary confinement. The literature does not seem however, to critically examine how these early debates have shaped contemporary attitudes and policies regarding solitary confinement. The tension between punishment and rehabilitation remains unresolved and continues to influence discussions about the purpose and efficacy of solitary confinement, often overshadowing concerns about its impact on inmates' rights and well-being.

2.4 Contemporary debates

The contemporary debates and perspectives surrounding solitary confinement practices focus on the aspects of the legal elements of prisoners' human rights under solitary confinement, the lack of due process and the effectiveness of solitary confinement as a prison management tool.

2.4.1 Legal obligations and human rights under the United Nations Standard Minimum Rules for the Treatment of Prisoners

The United Nations Standard Minimum Rules for the Treatment of Prisoners, known as the "Nelson Mandela Rules," emphasise that respect for human dignity should be the guiding principle in all aspects of prison management and treatment of incarcerated individuals. This fundamental concept is interwoven throughout the rules, from the initial intake and search procedures, to the provision of health care and well-being programmes, to the transfer of

⁸⁰ The term "Jacksonians" refers to a group of reformers active in the United States during the 1820s and 1830s, a period that coincided with the presidency of Andrew Jackson (1829-1837). The Jacksonians were concerned with addressing the problem of crime in American society. They believed that the existing deterrent approach to crime prevention, which relied on harsh punishments to discourage criminal behaviour, had failed. Instead, the Jacksonians proposed a novel solution: rehabilitating criminals by removing them from the corrupting influences of their social environment and placing them in a controlled, morally upright setting - namely, the prison. This approach marked a significant shift in thinking about crime and punishment, as it focused on reforming the individual offender rather than simply punishing them. The Jacksonians' ideas about rehabilitation had a lasting impact on the American penal system and laid the groundwork for future debates about the role of prisons in society.

⁸¹ AJ Hirsch 'From pillory to penitentiary: The rise of criminal incarceration in early Massachusetts '(1982) 80(6) *Michigan Law Review* 1193-1194.

prisoners. The rules stress that the protection and preservation of human dignity must be the primary consideration in all decisions and actions related to the treatment of those incarcerated under domestic and international law.⁸² The Nelson Mandela Rules integrate various international laws which serve to safeguard the dignity of prisoners and reflect the incorporation of human rights and more humane criminal justice standards which has occurred since the adoption of the original minimum rules. These rules were influenced by human rights documents, including the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Elimination of all Forms of Discrimination against Women, the Convention on the Rights of the Child, the Convention against Torture and other Cruel, Inhuman or Degrading Treatment, as well as Common Article 3 of the Geneva Conventions.⁸³

The Nelson Mandela Rules stipulate that solitary confinement should only be used "in exceptional circumstances as a last resort for as short a time as possible" and that solitary confinement should be "subject to independent review and only pursuant to the authorisation by a competent authority".⁸⁴ The Nelson Mandela Rules make several important recommendations regarding the use of solitary confinement in prisons: they prohibit the use of prolonged and indefinite solitary confinement as a disciplinary punishment for offences committed by inmates; they recommend that juveniles, pregnant women, women with infants, breastfeeding mothers, prisoners with mental disabilities, those on death row, and those serving life sentences, should not be placed in solitary confinement; and they provide that solitary confinement should not be used as a means of extorting information or confessions from pre-trial detainees.⁸⁵ Courts in New Zealand, Canada, the UK and the European Court of Human Rights have ruled that solitary confinement may violate prisoners' human rights, including the rights to humane treatment, freedom from cruel and degrading treatment, life, liberty, security, and freedom from arbitrary interference with family.⁸⁶

The above court rulings demonstrate the growing recognition of the need to protect prisoners rights and the potential for legal action to drive meaningful reform in the use of solitary

⁸² K McCall-Smith 'United Nations standard minimum rules for the treatment of prisoners (Nelson Mandela Rules)' (2016) 55(6) *International Legal Materials* 1180.

⁸³ Ibid 1180.

⁸⁴ United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), UN Doc A/RES/70/175 (17 December 2015) rules 43 and 45.

⁸⁵ A Conley 'Torture in US Jails and Prisons: An Analysis of Solitary Confinement Under International Law' (2013) 7 *ICL Journal* 429.

⁸⁶ T Walsh et al 'Legal perspectives on solitary confinement in Queensland' (2020)

confinement. The literature does not seem however, to adequately address the discrepancy between the international standards discussed above and the actual practices within prison systems, particularly in South Africa. The apparent gap between international standards and the reality of solitary confinement practices underscores the need for empirical research and targeted interventions to ensure compliance with human rights norms.

2.4.2 Lack of due process

Scholars have argued that the growing trend of sentencing prisoners deemed extremely dangerous to prolonged, indefinite, or even permanent solitary confinement in supermax facilities is inhumane and breaches the due process requirement that prisoners be granted meaningful review of their solitary confinement.⁸⁷ Most lawsuits filed by inmates in the United States of America, contesting the constitutionality of solitary confinement have been unsuccessful, either because they failed to establish a valid constitutional claim or because they did not provide enough evidence to overcome the qualified immunity of the defendants.⁸⁸ The use of solitary confinement in prisons has been a topic of significant legal and ethical debate, especially regarding the lack of due process.

In the United States of America, Circuit Courts of Appeal have inconsistently interpreted the Supreme Court's "atypical and significant hardship" standard for determining when segregation violates an inmate's due process rights. This disagreement has led to divergent rulings on the constitutionality of segregation practices and the courts have often not sufficiently considered the substantial physical and psychological harms caused by segregation and solitary confinement when assessing the constitutionality of such practices.⁸⁹

2.4.3 Solitary confinement as a prison management tool

The debate surrounding the effectiveness of solitary confinement as a prison management tool reveals its complex nature. Some scholars argue that solitary confinement is an effective means of maintaining order and control within prisons and that the persistence of solitary confinement can be attributed to its effectiveness in meeting the internal objectives and control requirements

⁸⁷ J Lobel 'Prolonged Solitary Confinement and the Constitution' (2009) 11 *University of Pennsylvania Journal of Constitutional Law* 138.

⁸⁸ K Little et al 'A Review of Inmate Litigation Challenging the Constitutionality of Solitary Confinement' (2024) 9 *Corrections* 372.

⁸⁹ CA Nolasco & MS Vaughn 'Construing the legality of solitary confinement: analysis of United States Federal Court Jurisprudence' (2019) 44 *American Journal of Criminal Justice* 812-835.

of prison officials, even in the face of broader societal factors that would indicate the need for penal reform.⁹⁰

Mears et al present two competing perspectives on the use of extended solitary confinement in prisons: one view is that extended solitary confinement is an effective management tool, and another view is that extended solitary confinement is a symptom of broader failures in the prison system. The analysis of qualitative data gathered in the United States of America by Mears et al study suggests there is theoretical and empirical support for both of these perspectives on the role of extended solitary confinement in prisons.⁹¹

Ahalt et al maintain that the use of solitary confinement is excessive and should be restricted to only the most severe cases where safety cannot be ensured through other means.⁹² While the debate surrounding the effectiveness of solitary confinement as a management tool remains ongoing, the evidence suggests that a more nuanced approach to its use is necessary to balance the needs of prison management with the well-being of inmates.

Once again, however, it would seem that the literature falls short to adequately address the long-term consequences of relying on solitary confinement as a management tool, both for individual inmates and for the broader goals of rehabilitation and reintegration. This observation underscores the need for research that examines the long-term impacts of solitary confinement and the development of alternative management strategies that prioritise rehabilitation and social reintegration.

The use of solitary confinement in prisons has been a topic of significant contemporary legal and ethical debate, with the Nelson Mandela Rules emphasising the importance of respecting human dignity and limiting the use of solitary confinement. Prisoners' rights litigation has played a crucial role in shaping solitary confinement practices and policies, with courts in several countries ruling that the practice may violate prisoners' human rights. Scholars have argued that prolonged, indefinite, or permanent solitary confinement is inhumane and breaches due process requirements, while others debate its effectiveness as a prison management tool.

⁹⁰ AT Rubin and KA Reiter 'Continuity in the Face of Penal Innovation: Revisiting the History of American Solitary Confinement' (2018) 43(4) *Law & Social Inquiry*.

⁹¹ Mears *et al* 'Managing Prisons Through Extended Solitary Confinement: A Necessary Approach or a Signal of Prison System Failure?' (2024) 68(1) *International Journal of Offender Therapy and Comparative Criminology* 62-84.

⁹² Ahalt *et al* 'Reducing the use and impact of solitary confinement in corrections' (2017) 13(1) *International journal of prisoner health* 41-48.

Having explored the broader context of solitary confinement debates, the focus now narrows to examine solitary confinement within the South African prison system.

2.5 Solitary confinement in the South African context

The use of solitary confinement in South African prisons has its roots in the colonial and apartheid eras, where it was used as a tool of political repression and social control.⁹³ Despite the transition to democracy and the adoption of a progressive 1996 Constitution that enshrines the rights of all individuals, including prisoners, the practice of solitary confinement seems to persist in the post-apartheid era.

2.5.1 Solitary confinement during colonial and apartheid eras

The origins of solitary confinement combined with the restriction of meals in South African prisons can be traced back to the colonial and apartheid periods, where it was legally permissible until 1977.⁹⁴ The punishment of the “spare diet” was particularly harsh, including the use of rice water instead of food for prisoners in solitary confinement.⁹⁵ The practice of solitary confinement appears to have been part of the broader patterns of domination and subordination in the prison system at that time.

Peté suggests that overcrowding of prisons has played a prominent part of the South African correctional system of social control during the colonial, immediate post-colonial, apartheid, and post-apartheid periods.⁹⁶ Peté further discusses the fears expressed by the public on the use of solitary confinement in prisons as a tool for torture and the possibility of prisoners becoming mentally ill.⁹⁷

Louw and O’Brien discuss the role played by psychologists Ronald Albino⁹⁸ and Kurt

⁹³ SA Peté & AD Crocker ‘Apartheid in the food: An overview of the diverse social meanings attached to food and its consumption within South African prisons during the colonial and apartheid periods (Part One)’ (2010) 16(2) *Fundamina: A Journal of Legal History* 113.

⁹⁴ SA Peté & AD Crocker ‘Apartheid in the food: An overview of the diverse social meanings attached to food and its consumption within South African prisons during the colonial and apartheid periods (Part One)’ (2010) 16(2) *Fundamina: A Journal of Legal History* 113.

⁹⁵ Ibid 114.

⁹⁶ SA Peté ‘The end of the honeymoon: penal discourse and the Human Rights of prisoners in the aftermath of South Africa’s second democratic election–Part 1’ (2016) 37(3) *Obiter* 489.

⁹⁷ Ibid 504.

⁹⁸ Psychologists Ronald Albino and Danziger were also due to testify in the famous Rivonia trial about the damaging effects of solitary confinement, but the judge disallowed their testimony. The psychologists faced consequences for their activism - Danziger was denounced by the government and forced to leave South Africa permanently in 1965. Their involvement was part of the broader resistance to apartheid.

Danziger⁹⁹ as expert witnesses in political trials in South Africa in the 1960s, regarding the psychological effects of solitary confinement on detainees under security legislation like the 90-day Act.¹⁰⁰ Solitary confinement seemed to be used in South Africa in the 1950s as part of measures to repress political opposition to apartheid. The 90-day Act allowed detention without trial for up to 3 months in solitary confinement. Albino and Danzinger state that solitary confinement impairs reasoning, increases suggestibility, causes depression, anxiety and sleep disturbances. It seems, however, the psychological evidence had little impact on the courts and political context in South Africa at the time. Unfortunately, it would seem that some judges mostly ignored or overruled adverse claims of solitary confinement. However, the findings from Albino and Danzinger did help focus attention on the harmful effects of solitary confinement.¹⁰¹

Eventually, it seems progress was made, in the 1993 South African Supreme Court of Appeal case, *Minister of Justice v. Hofmeyr*,¹⁰² which significantly influenced prisoner rights and the conditions of supermax imprisonment in the country. William Hofmeyr, detained under apartheid-era state of emergency regulations, contested his solitary confinement and other restrictive conditions. The court ruled in Hofmeyr's favour, upholding his claims of unlawful treatment, including insufficient exercise, lack of access to reading materials, outside food, communication, and media. It seems this judgment set a precedent for prisoner rights in South Africa before the adoption of the new constitution and the 1994 democratic elections.¹⁰³

2.5.2 Solitary confinement during democratic era

Post 1994, the development of super maximum-security prisons in South Africa has been influenced by both domestic and international factors. Supermax prisons are a contemporary notion in the South African penal system. Such restrictive facilities were recommended for implementation in South Africa to separate disruptive inmates and to exercise control over

⁹⁹ In 1964, psychologist Kurt Danziger testified as an expert witness in the trial of lecturer Neville Alexander who was detained under the 90-day Act. Although the psychologists claimed their evidence was scientific and objective, the prosecutor challenged Danziger on sample sizes, consistency of experiments, his knowledge of actual detention conditions, and potential political bias.

¹⁰⁰ J Louw & CA O'Brien 'The Psychological Effects of Solitary Confinement: An Early Instance of Psychology in South African Courts (2007) 37 *South African Journal of Psychology* 96-106.

¹⁰¹ J Louw & C A O'Brien 'The Psychological Effects of Solitary Confinement: An Early Instance of Psychology in South African Courts (2007) 37 *South African Journal of Psychology* 96-106.

¹⁰² *Minister of Justice v Hofmeyr* 1993 (3) SA 131 (SCA).

¹⁰³ F Buntman & L Muntingh 'Supermax Prisons in South Africa' in L J Wacquant *The globalization of supermax prisons* J I Ross (ed) (2013) 88.

them.¹⁰⁴

Scholars suggest the goal of super maximum prisons is to segregate dangerous offenders. The way these prison units, or prisons in general, are run, suggests that contact with the inmate is kept to a minimum, and mechanical restraints prevent opportunities for inmates to instigate disruptions or interfere with prison operations.¹⁰⁵ Ebongweni, South Africa's largest super maximum-security facility, located in Kokstad, KwaZulu-Natal, accommodates high security risk inmates and operates on Unit Management Principles.¹⁰⁶

However, it seems the literature on solitary confinement in the South African context is limited, with few empirical studies examining the actual practices and experiences within correctional facilities. This apparent gap in the research underscores the need for qualitative studies that give voice to the lived experiences of inmates subjected to solitary confinement and that critically examine the compliance of solitary confinement practices with constitutional and international human rights standards.

2.5.3 Corruption and mismanagement in the Department of Correctional Services

Allegations of corruption and mismanagement within the DCS seem to have further complicated the landscape of solitary confinement practices in South Africa. Reports of procurement irregularities, improper conduct by officials, and the awarding of contracts to companies with ties to political leaders have raised concerns about the integrity and accountability of the DCS.¹⁰⁷ The Jali Commission's mandate to investigate procurement irregularities, improper staff conduct, non-adherence to policies, intimidation of employees, and failure to implement past recommendations; seem to indicate the scale of corruption and maladministration problems in DCS at the time.¹⁰⁸ In 2009, the Special Investigations Unit (SIU) reported to Parliament about irregularities in four major DCS contracts awarded to the Bosasa group of companies, implicating senior DCS officials. However, it seems no criminal

¹⁰⁴ W Luyt & N Du Preez 'Secure prisons in South Africa: the super maximum concept' (2000) 13 (3) *Acta Criminologica: African Journal of Criminology & Victimology* 40.

¹⁰⁵ Ibid 43.

¹⁰⁶ Standard Operating Procedures for Ebongweni and C-Max Correctional Facilities 2.

¹⁰⁷ L Muntingh 'Ten years after the Jali Commission Assessing the state of South Africa's prisons' (2016) 58 *SA Crime Quarterly* 35.

¹⁰⁸ Ibid 35-35.

prosecutions were initiated despite the SIU findings.¹⁰⁹

Lotter points out crucial information from Angelo Agrizzi's testimony before the Zondo Commission on evidence of the Prison Industrial Complex (PIC) at work in South Africa, where it seems Bosasa and DCS engaged in corruption to divert public funds to projects at inflated prices.¹¹⁰ In May 2002, Ebongweni super-maximum security prison opened in Kokstad at a cost of half a billion rand to taxpayers, which previous research highlighted as evidence of the PIC's presence in South Africa.¹¹¹ Further, the SIU's 2009 report to Parliament corroborated Agrizzi's testimony, finding that proper procurement processes were not followed by DCS in awarding tenders to Bosasa and its affiliates, seeming to undermine the process and prejudice the department.¹¹²

Further evidence seems to suggest DCS engaged in tender rigging, fraudulent advance tender specifications, and fiscal dumping in favour of Bosasa, and diverting money from intended rehabilitation programmes, as part of the PIC scheme.¹¹³ Despite DCS facing many challenges like gangsterism, overcrowding and understaffing, a large portion of their budget remains unspent, which the Lotter suggests is to justify "fiscal dumping" - splurging money on bogus projects to benefit Bosasa.¹¹⁴

2.6 History and overview of Ebongweni Correctional Centre

Since 1994, it seems South Africa has been grappling with an unprecedented surge in serious crime. Given the widespread public demands for a tougher stance on crime that emerged during the 1990s, it seems difficult to imagine that these sentiments did not influence the context in which C-Max, South Africa's inaugural supermaximum prison, was established, followed by the creation of Ebongweni as the country's second supermaximum facility.¹¹⁵

Interviews with key policy makers, on the implementation of super maximum-security prisons in South Africa was driven by three primary factors. First, there seems to have been a significant rise in the number of inmates serving extremely long sentences, including life

¹⁰⁹ Ibid 40.

¹¹⁰ C Lötter 'The Tenuous Link between Crime and Incarceration: Bosasa's Public-private Partnership' (2020) 21(1) *Phronimon* 2, 4-5.

¹¹¹ Ibid 3.

¹¹² Ibid 4.

¹¹³ Ibid 4-5.

¹¹⁴ Ibid 6.

¹¹⁵ F Buntman & L Muntingh 'Supermax Prisons in South Africa' in L J Wacquant *The globalization of supermax prisons* J I Ross (ed) (2013) 80.

imprisonment, partly attributed to the abolition of the death penalty in 1995. Secondly, the correctional system appeared to be grappling with widespread prison violence. Lastly, the high incidence of prison escapes seemed to be a major concern.¹¹⁶ These combined factors led to the decision to introduce super maximum-security facilities, seemingly as an innovative approach to address these challenges within the South African correctional system.

The cited justification for the existence of super maximum-security prisons is the need to completely isolate violent and disruptive inmates from the general prison population. This separation seems particularly crucial when these perceived problematic inmates actively contribute to the spread of violence within the correctional system, often through their involvement in gang activities. By segregating these individuals in high-security facilities, it seems prison authorities seek to mitigate the risk of violence and maintain order and stability for the majority of the inmate population.¹¹⁷

2.6.1 Establishment of Ebongweni

The establishment of Ebongweni Correctional Centre is reflected in the government gazette on 25 August 2000, with the site situated on Erf 1866, Kokstad, portion of Portion 1 Kokstad, KwaZulu-Natal measuring 11 970 000 square metres in extent.¹¹⁸ Ebongweni is seen as a state-of-the-art prison and uses key security features and technologies. The DCS Standard Operating Procedure (SOP) for Ebongweni C-Max Facilities document states:

‘It will accommodate high security risk offenders. An integrated security system with the emphasis on the safe custody of all offenders will be supported by the necessary infrastructure in order to execute the government’s responsibility towards the community.’¹¹⁹

2.6.2 Security features

During data collection and meetings with the centre management, the researcher was informed about and observed several security features used at Ebongweni to ensure the safety of staff and inmates, as well as to prevent escapes. The facility uses a range of advanced security technologies, including reinforced concrete walls, high-security pneumatic doors, and fortified perimeters equipped with electrified fencing and motion sensors. An extensive network of surveillance cameras is installed throughout the facility, enabling staff to continuously monitor

¹¹⁶ Ibid 84.

¹¹⁷ Ibid 85.

¹¹⁸ Government gazette no 21482 25 August 2000.

¹¹⁹ Standard Operating Procedures for Ebongweni and C-Max Correctional Facilities 2.

inmate activities from a central control room, which serves as the hub for managing all aspects of the facility's operations and inmate movement. Scanners and metal detectors are employed to prevent the smuggling of contraband items, while a biometric identification system controls access to various areas within the facility. Additionally, the security staff are equipped with tonfas, electric shields, and have access to an armoury with live ammunition, should the need arise. All inmates are shackled with leg irons and handcuffs during any movement in and out of the cells. A dog unit is also present on the premises. To further enhance security, the prison maintains a bagless and cashless policy, prohibiting staff and visitors from carrying bags and cash into the facility.

2.6.3 Admission criteria

The admission criteria at Ebongweni accommodates adult male inmates who are mostly sentenced offenders. The facility is designed for the detention of high security risk male offenders. Inmates are selected for transfer to Ebongweni if they pose a high risk and are sentenced for serious offences including murder with aggravating circumstances and other offences with multiple life sentences; offenders declared dangerous persons by the court; offenders charged with the management of gangs inside or outside correctional centres; inmates involved in repeated assaults or violence within correctional centres; inmates involved in hostage taking within correctional centres; inmates involved in the planning or execution of escapes or escape attempts; inmates trafficking large quantities of drugs into correctional centres; inmates smuggling or manufacturing of weapons and explosives in correctional centres; and inmates who are serious national or international security risks.¹²⁰

The SOP has strict exclusion criteria for admission. Female offenders and those under 18 years of age are not admitted. Only offenders classified as maximum-security B-group or C-group are eligible, with A-group offenders excluded. Offenders requiring ongoing psychiatric treatment or known surgical interventions are excluded. Offenders with further charges or Remand Detainees are only admitted in exceptional cases approved by the National

¹²⁰ Standard Operating Procedures for Ebongweni and C-Max Correctional Facilities 11-12.

Commissioner or delegate.¹²¹

2.6.4 Three phase programme

Ebongweni adheres to a Sentence Management System that integrates all decisions and processes affecting offenders from admission to reintegration. The facility implements a mandatory three-phase treatment programme lasting a minimum of 36 months. Phase one involves a comprehensive assessment and development of an intervention plan over six months. Phase two focuses on implementing and assessing the intervention plan for 24 months. Phase three is a six-month pre-transfer programme preparing offenders for reintegration into maximum correctional facilities. Offenders should not exceed the prescribed duration per phase without authorisation from the National Commissioner or delegate, and any overstay must be justified and reported to JICS. It seems, generally, offenders are not kept at Ebongweni for more than three years, unless risks dictate otherwise and pre-approval is granted. The prison of origin is responsible for collecting the offender within 14 days of completion of the three-phase programme at Ebongweni.¹²²

It appears Ebongweni was established to address the challenges of rising inmate populations serving long sentences, widespread prison violence, and high incidence of escapes. According to the policy document, the facility aims to isolate exceptionally violent and disruptive inmates from the general prison population to mitigate the risk of violence and maintain order, and administer a three-year Behaviour Modification Programme for inmates.

2.7 Conclusion

This literature review has provided an overview of the historical origins, early and contemporary debates on solitary confinement, to highlight the ongoing controversies and the need for further research, particularly in the South African context. The review identifies significant apparent gaps in the literature, including the lack of empirical studies on the actual practices and experiences of solitary confinement in South Africa.

¹²¹ Ibid 12.

¹²² Ibid 4-5.

RESEARCH METHODOLOGY

3.1 Introduction

This study employs a sound methodology to generate valid findings, show trustworthiness and meaningfully address the main research question guiding this study: To what extent does the practice of solitary confinement at Ebongweni Correctional Centre comply with constitutional and international human rights standards, and what is its impact on inmates rights and prospects for their rehabilitation?

3.2 Research approach and paradigm

This study employs a qualitative research approach and is grounded in the interpretive research paradigm. Interpretivism considers social reality as a construct shaped by human experiences and social contexts, making it an appropriate approach for studying human behaviours within their specific socio-cultural environments.¹²³

This paradigm aligns with the goal of critically examining the use of solitary confinement at Ebongweni and its impact on inmates' rights and rehabilitation. Key aspects of the study that align with the interpretive paradigm include the use of qualitative methodology, such as semi-structured interviews and observations, to gather rich, detailed data on the experiences and perspectives of inmates and officials.¹²⁴ The researcher focused on the subjective experiences and meanings attached to solitary confinement practices by the participants and placed emphasis on context-specific understanding, recognising that the findings may not be generalisable to other settings but can provide valuable insights into the specific realities of solitary confinement within Ebongweni was highlighted.¹²⁵ The researcher further acknowledged her role as an integral part of the research process, with personal experiences, values, and biases potentially shaping the interpretation of the data.¹²⁶

¹²³ N Pervin & M Mokhtar 'The interpretivist research paradigm: A subjective notion of a social context' (2022) 11(2) *International Journal of Academic Research in Progressive Education and Development* 421.

¹²⁴ JW Creswell, *Research Design: Qualitative, Quantitative, and Mixed Methods Approaches* (2003) 18

¹²⁵ N Pervin & M Mokhtar 'The interpretivist research paradigm: A subjective notion of a social context' (2022) 11(2) *International Journal of Academic Research in Progressive Education and Development* 421-22.

¹²⁶ SN Hesse-Biber and P Leavy *The practice of qualitative research* 2 ed (2011) 120.

3.3 Research design

3.3.1 Study setting

Ebongweni was selected as the setting for this study due to the unique characteristics and the ongoing practice of solitary confinement within its walls. As highlighted in subsection 2.6.3, Ebongweni accommodates the most dangerous inmates and subjects them to up to 23 hours of daily solitary confinement, severely restricting their movements and social interactions.¹²⁷ This setting provided a crucial opportunity to investigate the effectiveness of solitary confinement as a prison management tool as well as the implications of this form of punishment.

3.3.2 Sampling and participant selection

Purposive sampling was used to select participants who could provide detailed information about their experiences and perspectives related to solitary confinement. The criteria for participant selection included being housed at Ebongweni as inmates or employed at Ebongweni as prison officials, as well as a willingness to participate in the research and share personal experiences related to the practice of solitary confinement. The sampling strategy allowed for in-depth exploration of individual experiences while capturing a range of perspectives.¹²⁸

3.3.3 Inmate sampling

In consultation with the head of the centre and senior social worker, the researcher purposively selected three inmates from each of the four sections at Ebongweni, with a target of 12 inmates. Due to time constraints and the need to optimise the research process, the social worker's records were used to strategically identify and recruit inmates who were likely to provide rich information based on demographic factors and incarceration details. This sampling strategy enabled the researcher to interview a diverse range of participants representing various demographic groups as well as different experiences in relation to solitary confinement. By leveraging the social worker's institutional knowledge, the researcher eventually interviewed

¹²⁷ See section 2.6.3 Admission criteria.

¹²⁸ JW Creswell 'Qualitative inquiry and research design: Choosing among five approaches' (2007) 57-58.

15 inmates at Ebongweni.

3.3.4 DCS officials sampling

The researcher aimed to interview four frontline supervisors from each section, three medical personnel (one nurse, one doctor, and one psychologist), and one correctional manager at Ebongweni, for a total of eight officials. Despite assurances of anonymity, only four out of the eight targeted officials consented to participate. The researcher attended morning parades¹²⁹ to introduce herself and provide information about the study in an effort to increase participation. However, the reduced participation by officials highlighted complex power dynamics that precluded engagement with certain officials, despite informed consent protocols guaranteeing confidentiality.

3.4 Data collection

Data was collected through semi-structured interviews with inmates and officials, document analysis, and direct observations during June 2023. Considering the researcher's experience in prisons, she was aware of the importance of creating a safe and non-judgmental space for participants to share their experiences. Triangulating interview responses with policy documents and the researcher's observations enhanced the interpretive rigour of the findings.¹³⁰

3.4.1 Data collection methods

Various documents were perused to support the data collected from respondents. The researcher reviewed Ebongweni policy documents and registers, inmates' case files, internet sources, newspapers, and annual reports. This evidence included both primary and secondary sources.

Two separate semi-structured interview guides were developed for inmates and officials. These guides contained a predetermined set of open-ended questions, with the option to go deeper into specific themes or responses. The open-ended questions allowed for descriptive responses to explain the daily operations at Ebongweni and how the rehabilitation programmes work, as well as to identify potential areas for improvement. The semi-structured format also allowed

¹²⁹ The head of centre or manager in charge convenes a morning parade with DCS officials to convey instructions and information to staff before their shifts begin.

¹³⁰ JW Creswell & DL Miller 'Determining Validity in Qualitative Inquiry' (2000) 39(3) *Theory Into Practice* 124.

participants to discuss and raise issues that were not initially considered.

3.4.2 Inmate interview guide

The interview guide for inmates was divided into two sections. Section A: Demographic Details asked basic demographic questions to build rapport with the inmates. It included questions about age, English proficiency, nationality, education level, race, criminal offences, and length of sentence. Section B: Research Questions consisted of seven open-ended questions designed to gain insights into inmates' experiences of being incarcerated at Ebongweni. The questions covered topics such as the reasons for being sent to Ebongweni, daily routines, understanding of solitary confinement, treatment and living conditions, rehabilitation programmes, behaviour modification, and whether they would recommend Ebongweni to other inmates.

3.4.3 DCS official interview guide

The interview guide for DCS officials also had a demographic details sections as well as nine open-ended questions, covering topics such as inmate admission criteria, differences between Ebongweni and other prisons, the effectiveness of solitary confinement, the Behaviour Modification Programme, alternatives to solitary confinement, treatment and living conditions of inmates, rehabilitation programmes, tracking and monitoring of inmate behaviour and the benefits and costs of rehabilitation at Ebongweni.

3.5 Interview process

During data collection, the researcher first asked the respondents if they wished to participate. Upon receiving verbal consent, the researcher introduced herself as a Masters student and showed respect by shaking the respondent's hands. The researcher ensured the respondents were comfortable speaking and asked if they preferred to speak alone or had any objections to the presence of a security escort (a DCS official). All inmates preferred the DCS official to remain out of earshot. In adherence with security policies, the DCS officials left the room but remained within eyesight in adherence to the security protocol. To ensure the safety of the researcher and comfort of the inmates, the inmates were allowed to have their writing hand released, while the other hand remained cuffed behind their back and attached to a concrete stool, in line with Ebongweni security protocols.

Before beginning the interview, the researcher requested permission to voice record the session. Some respondents consented, while others declined. In cases where voice recording was not

permitted, the researcher relied on extensive note-taking. The informed consent forms were explained in detail, including confidentiality and its limits. All respondents verbally agreed and signed the consent form before proceeding with the interview.

During the interview, the researcher explained terms such as solitary confinement and behaviour modification in simple language, where required. The open-ended questions allowed respondents to volunteer as much information as they wished. The researcher remained patient and referred respondents to psychological counselling services when recounting their experiences appeared to be emotionally difficult.

Throughout the interview process, the researcher strived to maintain reflexivity and objectivity. At the end of each interview, the researcher thanked the respondents for their participation and shook their hand as a sign of gratitude.

3.6 Researcher observation

The researcher engaged in direct observation of Ebongweni operations during the data collection process. This allowed her to gain a firsthand understanding of the prison operations, inmate-official interactions, and the general atmosphere within the facility. The researcher maintained detailed field notes, documenting observations and insights. These observations served to contextualise the interview data and provide a comprehensive understanding of the lived experiences of the respondents.

3.7 Data analysis

The data analysis followed a thematic analysis approach to identify, analyse, and report patterns within the qualitative data.¹³¹ The researcher used various techniques, such as triangulation, member checking, thick description, and reflexivity, to ensure the credibility and validity of the findings.¹³² NVivo software was used to manage and analyse the data. The researcher engaged in an iterative process of coding, collating codes into potential themes, and refining the themes to ensure they accurately represented the data.

To enhance the trustworthiness and credibility of the study's findings, the researcher employed

¹³¹ V Braun & V Clarke 'Using thematic analysis in psychology' (2006) 3(2) *Qualitative Research in Psychology* 78.

¹³² JW Creswell & DL Miller 'Determining Validity in Qualitative Inquiry' (2000) 39(3) *Theory Into Practice* 124.

several techniques below:

3.7.1 Transcription

The audio recordings of the interviews were transcribed into Microsoft Word documents. The researcher carefully listened to each recording and typed out the content verbatim, whilst ensuring accuracy. Thereafter, the transcripts have been slightly modified to improve readability and grammatical accuracy while maintaining the original meaning and tone.

3.7.2 Document analysis

To corroborate and supplement the interview data, the researcher conducted a thorough analysis of relevant documents, including Ebongweni policy documents, inmates' case files, reports from oversight bodies, DCS annual reports and media articles. This document analysis provided valuable insights into the policies, procedures, and practices related to solitary confinement at Ebongweni. The researcher critically examined these documents, to identify patterns, discrepancies, or compliance between the lived experiences shared by the respondents. The document analysis also helped to triangulate and strengthen the credibility of the findings drawn from the study.

3.7.3 Triangulation

Triangulation aims to gain a comprehensive understanding of the studied phenomenon to enhance the validity and credibility of the findings.¹³³ The researcher employed data triangulation by collecting information from the respondents and collecting information from documents, allowing for a comprehensive understanding of solitary confinement practices at Ebongweni. The researcher also engaged in methodological triangulation by combining interview data, observations, and document analysis, providing a robust and multifaceted exploration of the research questions.

3.7.4 Member checking

Member checking involves sharing the researcher's interpretations and findings with participants to ensure accurate representation of their experiences and perspectives. The researcher provided participants with summaries of their interviews and sought feedback on the accuracy and completeness of the interpretations. This process allowed participants to

¹³³ NK Denzin 'Triangulation 2.0' (2012) 6(2) *Journal of mixed methods research* 82.

clarify, elaborate, or correct any misunderstandings, enhancing the trustworthiness of the findings.

3.7.5 Familiarisation and thick description

The researcher familiarised herself with the data and read through the transcripts multiple times to become immersed in the data and gain a thorough understanding of the content. The researcher made notes of initial concepts, observations, and potential patterns. The researcher used thick description to provide rich, detailed accounts of the research context, respondents experiences, and the observed dynamics within Ebongweni. By offering vivid descriptions, the researcher aimed to transport readers into the setting, allowing them to assess the transferability of the findings to other contexts.¹³⁴ Thick description also enhances the credibility of the study by demonstrating the researcher's deep engagement with the data and the research setting.

3.7.6 Data management and coding

For accurate data management, the transcripts were imported into NVivo, a qualitative data analysis software. NVivo was used to organise and analyse the data. The data was coded inductively, allowing the themes to emerge from the data itself rather than being driven by pre-existing theories or preconceptions.¹³⁵ The researcher carefully read each line of the transcripts and assigned codes to meaningful segments of text. Codes were created to capture the essence of the data and were labelled using the participants own words or interpretive phrases. After coding the entire dataset, the researcher collated all the codes and relevant data extracts into potential themes using NVivo. The codes were sorted and grouped based on their similarities and relationships, forming overarching themes and sub-themes. The researcher used visual representations, such as mind maps to help organise the codes and themes.

3.7.7 Review of themes

The researcher refined the themes by reviewing them at two levels. First, the coded data extracts within each theme were read to ensure they formed a coherent pattern. Second, the entire dataset was re-read to ascertain whether the themes accurately represented the data and to code any additional data that may have been missed in earlier stages. The researcher also looked for relationships and connections between themes. She further refined the themes by identifying the essence of each theme and determining what aspect of the data it captured. Clear

¹³⁴ YS Lincoln & EG Guba *Naturalistic inquiry* (1985) 316.

¹³⁵ A Bryman *Social Research Methods* 5 ed (2016) 10.

and concise labels were given to each theme, ensuring they were informative and engaging.

3.7.8 Reflexivity

Reflexivity involves the researcher's critical self-reflection on their own biases, assumptions, and experiences that may influence the research process and findings.¹³⁶ Throughout the study, the researcher maintained a reflexive journal, documenting personal thoughts, reactions, and potential biases. By engaging in ongoing reflexivity, the researcher sought to enhance the transparency and credibility of the findings, acknowledging the inherent subjectivity of qualitative research. The researcher actively examined how her prior experiences and knowledge might shape the interpretations and sought to maintain an open and unbiased stance during the research.

3.7.9 Thematic analysis and audit trail

The final step involved writing up the thematic analysis, providing a concise, coherent, logical, and interesting account of the data, whilst maintaining a reflexive stance. Compelling phrases from the data were selected to illustrate the themes and support the analysis. An audit trail was maintained to document the research process and to provide a clear record of the decisions made throughout the study. The audit trail included raw data, such as interview transcripts and field notes, as well as coded transcripts and visualisations. The researcher kept a detailed log of the research activities, including the dates and locations of data collection, the participants involved, and any challenges or reported incidents encountered along the way. This audit trail helped to enhance the dependability and credibility of the findings by providing a transparent and systematic record of the research process.¹³⁷

The data analysis sought to weave together the complex tapestry of information derived from the data, ensuring that the respondents voices were represented and that the findings and insights were supported by empirical evidence. Triangulation, thick description, member checking, reflexivity, and an audit trail are well-established techniques in qualitative research that have been shown to improve the quality and credibility of the findings.¹³⁸ The choice of these techniques was justified by their alignment with the qualitative research paradigm and

¹³⁶ L Findlay 'Negotiating the swamp: the opportunity and challenge of reflexivity in research practice' (2002) 2(2) *Qualitative Research* 209-210.

¹³⁷ MB Miles et al *Qualitative data analysis: a methods sourcebook* 3 ed (2014) 312-313.

¹³⁸ SJ Tracy 'Qualitative quality: Eight "big-tent" criteria for excellent qualitative research' (2010) 16(10) *Qualitative inquiry* 839-848.

their ability to enhance the trustworthiness and rigor of the findings.

3.8 Ethical considerations

This study prioritised the protection of participants rights, confidentiality, and well-being throughout the research process. Obtaining ethical approval was a lengthy and complex process, requiring extensive communication and coordination between the ethics committees and the researcher. To ensure participant confidentiality and protection of their rights, the researcher implemented several measures:

3.8.1 Informed consent

All participants were provided with an informed consent form prior to their participation. The form detailed the purpose, procedures, potential risks and benefits, and emphasised the voluntary nature of participation. Participants were assured that their decision to participate or withdraw from the research would not affect their incarceration status or employment within DCS. The researcher verbally explained the contents of the form and addressed any questions or concerns raised by the participants. Written consent was obtained from all participants before the interview commenced.

3.8.2 Confidentiality

The researcher took stringent measures to protect participants confidentiality. All personal identifying information was removed from the data, and participants were assigned unique codes to maintain anonymity. Audio recordings and transcripts were stored securely on password-protected devices accessible only to the researcher and the supervisor. Participants were informed that their responses would be used for research purposes only and would not be shared with DCS authorities or any third parties.

3.8.3 Minimising harm

The researcher was mindful of the potential psychological distress that discussing experiences of solitary confinement could cause for respondents. Efforts were made to create a safe and non-judgmental space for participants to share their experiences. The researcher emphasised that participants could take breaks or withdraw from the research at any point if they felt uncomfortable. Referral information for psychological support services was provided to all

participants.

3.8.4 Reporting obligations

While the researcher assured participants of confidentiality, she also clearly communicated the limits to confidentiality. Participants were informed that the researcher had a legal and ethical obligation to report any information that suggested a risk of harm to self or others, or any undisclosed criminal activities.

By adhering to these ethical principles, the researcher demonstrated a commitment to conducting the research in a responsible and ethical manner. The measures taken to protect participants' rights and confidentiality helped to build trust and rapport with the participants, enabling them to share their experiences openly and honestly.

3.9 Limitations

While this study employed a rigorous qualitative methodology to investigate the use of solitary confinement at Ebongweni, it is important to acknowledge and address the limitations.

3.9.1 Sample size and generalisability

One limitation of the study is the relatively small sample size of 15 inmates and four officials. Unlike quantitative research, which often aims to produce findings that can be generalised to a larger population, qualitative research focuses on a small, purposively selected sample.¹³⁹ While this sample size allows for in-depth exploration of individual experiences and perspectives, it may not be representative of the broader population. To mitigate this limitation, the researcher used purposive sampling to select participants who could provide detailed information relevant to the research questions. The study also acknowledges that the findings are specific to the context of Ebongweni and may not be directly applicable to prisons.

3.9.2 Potential bias and subjectivity

Qualitative research is inherently subjective, as the researcher is the primary instrument of data collection and analysis, their personal experiences, values, and assumptions may influence the

¹³⁹ L Webley 'Qualitative approaches to empirical legal research' in P Cane & HM Kritzer (eds) *The Oxford Handbook of Empirical Legal Research* (2010) 13.

interpretation of the findings.¹⁴⁰ To mitigate this limitation, the researcher engaged in reflexivity throughout the research process, acknowledging her positionality and its potential impact on the research process.¹⁴¹

3.9.3 Social desirability bias

Given the sensitive nature of solitary confinement, and the power dynamics between the respondents and the researcher, there is a risk of social desirability bias, where participants may provide responses that they believe are socially acceptable or expected. To mitigate this limitation, the researcher emphasised the confidentiality of the interviews and the importance of honest responses.

3.9.4 Limited access and time constraints

Conducting research in a prison presents unique challenges, such as limited access to participants and time constraints. The researcher had to navigate complex bureaucratic processes to obtain permissions and adhere to strict security protocols during data collection. The researcher encountered delays in obtaining the necessary approvals and permissions. Additionally, the limited time window available for interviews (between 08h00 and 14h00) and the delays for security escorts further constrained the ability to engage with participants extensively. To address these limitations, the researcher maintained open communication with the DCS and Ebongweni management, ensuring compliance with all necessary regulations. The researcher also used the limited time efficiently by having a well-structured interview guide and being flexible in accommodating participants schedules. She also arrived at Ebongweni by 6am in the mornings to attend the parades and begin the data collection.

3.9.5 Language and cultural barriers

Language and cultural differences between the researcher and participants may impact the understanding and interpretation of questions and responses. To address this limitation, the researcher ensured that all participants were proficient in English and clarified any terms or concepts that may have been unclear. The researcher also remained sensitive to cultural

¹⁴⁰ L Webley 'Qualitative approaches to empirical legal research' in P Cane & HM Kritzer (eds) *The Oxford Handbook of Empirical Legal Research* (2010) 8.

¹⁴¹ SN Hesse-Biber and P Leavy *The practice of qualitative research* 2 ed (2011) 120.

nuances and sought clarification when necessary to ensure accurate understanding of participants perspectives.

3.10 Conclusion

By employing a rigorous and qualitative methodology, grounded in the interpretive research paradigm, this study aims to bridge the gap between academic research and the practical realities of solitary confinement at Ebongweni.

FINDINGS AND INSIGHTS

4.1 Introduction

This chapter goes to the heart of the research and presents the analysis of the responses from inmates, the analysis of the officials responses, and the synthesis of the researcher's observations and insights.

4.2 Analysis of inmates responses

The interview schedule was divided into two main sections. Section A focused on gathering demographic information about the participants, serving as an introductory engagement to build rapport and create a comfortable atmosphere for the inmates.

4.2.1 Age

Inmates ages range from 29 to 57 years. 11 out of the 15 inmates are between 30-49 years (four in their 30s and five in their 40s). Two inmates are in their 50s, and one is under 30. This indicates that most of the inmates are in their middle adulthood years.

4.2.2 English speaking and South African

All inmates are English speakers and South African. The data is specific to the South African context and may not be representative of other countries or nationalities.

4.2.3 Education level

Education levels range from Grade 7 to Advanced Diploma. Two inmates have completed Grade 7 and Grade 8 respectively. Four inmates completed secondary education (one Grade 10, two Grade 12, one Level 3 and one Level 4). Three inmates completed matric. One holds an N6 Electrical Engineering qualification, another an Advanced Diploma in Communications. One inmate is currently completing matric.

4.2.4 Race

Of the 15 inmates, eight are African, four are Coloured, two are Indian, and one is White. These racial categories are specific to South Africa.

4.2.5 Criminal offence or conviction

Nine inmates are convicted of murder, three of robbery (two with aggravating circumstances), and two of attempted murder. Two inmates convicted of rape, and one of sexual grooming and child pornography. Other convictions include possession of a firearm, housebreaking, escape, parole break, defeating the ends of justice, and malicious damage to property. Three inmates are awaiting trial detainees, and are accused of murder and attempted murder.

4.2.6 Sentences

Sentences range from 10 years to multiple life sentences. Nine inmates serve life sentences, with four serving multiple life terms (two to nine sentences). These inmates have committed serious or multiple crimes that warrant the harshest punishment under South African law. Three inmates serve fixed-terms of 25-31 years and one serves 10 years. Three awaiting trial detainees are in custody pending the outcome of their trial.

In South Africa, a life sentence does not necessarily mean that the individual will spend the rest of their life in prison. According to Section 73(6)(b)(iv) of the Correctional Services Act, which came into effect in October 2004, life sentenced inmates must serve 25 years before parole eligibility, or 15 years if aged 65.¹⁴²

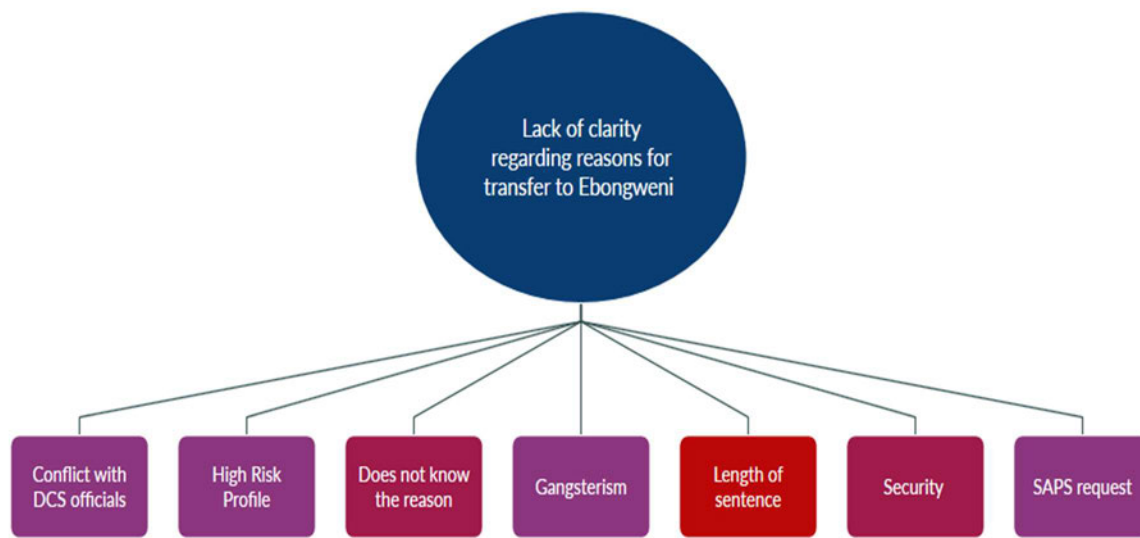
4.3 Analysis of responses from inmates open ended questions

Section B consisted of seven open-ended questions designed to elicit inmates' experiences and opinions regarding solitary confinement practices at Ebongweni. The analysis is presented in a question-by-question format, allowing for a systematic and in-depth examination of the themes that emerged from the data with the salient findings highlighted.

¹⁴² JD Mujuzi 'Life imprisonment in South Africa: yesterday, today, and tomorrow' (2009) 22(1) *South African Journal of Criminal Justice* 28-29.

4.3.1 Findings and insights from Question 1

The inmates' responses to Question 1 “Do you know the reason why you were sent to Ebongweni?” reveal a variety of reasons for their transfer to the facility. The reasons include conflicts with DCS officials, high-risk profiles, gangsterism, the length of sentences, security reasons, and special requests from SAPS regarding awaiting trial detainees under investigation.



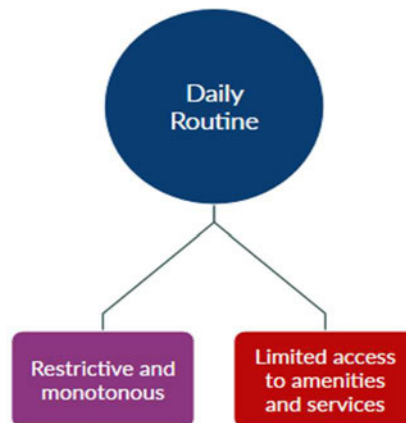
Most inmates state they do not know the specific reason for their transfer. Some inmates report being told that their transfer was due to “security reasons” without further details provided. Mr N mentions that his file indicated he was promoting gangsterism, but he denies involvement in an incident where officials were stabbed. In some cases, inmates claim that there were no findings against them or that their disciplinary records were clean, yet they were still transferred. Mr M states that he was transferred after criticising a unit manager at his previous facility for not properly addressing his medical issues.

A significant finding is the lack of clarity regarding the reasons for their placement in solitary confinement at Ebongweni. Many inmates reported being unaware of the specific reasons for their transfer, with some mentioning vague explanations such as security reasons or unsubstantiated allegations of promoting gangsterism. This apparent lack of transparency and communication about the grounds for placement in solitary confinement raises concerns about due process and lack of meaningful review of their solitary confinement.¹⁴³

¹⁴³ See footnotes 97 and 99

4.3.2 Findings and insights from Question 2

The inmates' responses to Question 2 “Describe your normal routine and day” reveal a consensus regarding the daily routine at Ebongweni. The themes of the restrictive and monotonous daily routine and the limited access to basic amenities and services emerges.



Majority of inmates describe a highly structured and repetitive daily routine with limited activities and interaction. Mr J states: “Basically every day is the same.” Mr A adds: “Nothing at all. Supposed to be a daily routine but members do not act on it. It is a smoke screen.” [Referred researcher to sheet¹⁴⁴ stuck on the wall]. Mr H explains: “Lights is going on at 4:30am or 5am, there is no exact time it is going on. You must wake up, clean your cell and wait for officials to open the hatch.” Inmates spend most of their time sitting or waiting next to the hatch, with limited opportunities for meaningful activities or engagement. Mr N states: “Wake up at 5am and bath and clean the cell.” [After that he sits next to the hatch the whole day. He reads a book while waiting for his lunch]. Reading or listening to the radio appears to be a common pastime for inmates to cope with the monotony of their daily routine. Mr H states: “I listen to radio, to news, keep updated. I think all of us here are the first ones to know things on the outside. Thabo Bester's case, we were the first ones to know, we do not miss one piece of news.”

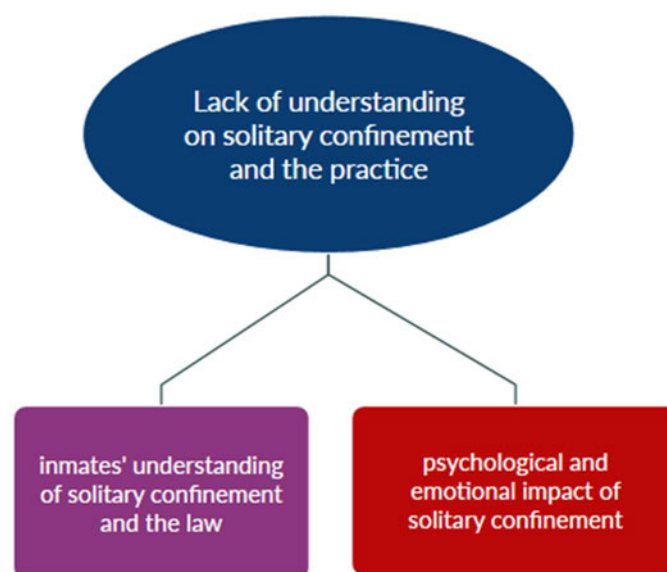
Majority of respondents report limited access to basic amenities and services. Inmates mention issues with access to hot water, proper sanitation, and hygiene facilities. Mr A states: “It is against one's basic Constitutional rights not to have hot water.” Mr H states: “After 7 days I shower because there are not enough officials. I can see there is enough but he says it is not enough.” Complaints about cold food, small portions, and the quality of meals are common. Mr F states:

¹⁴⁴ The sheet was a daily routine timetable.

“You only see traces of meat.” Access to services such as the library, tuck-shop, communication with family, and recreational activities appear to be limited or inconsistent. Mr N states: “The tuck-shop does not sell food and food is not enough especially for those who take medication.”

4.3.3 Findings and insights from Question 3

The responses to Question 3 “What is your understanding of solitary confinement?” reveal the themes of inmates' understanding of solitary confinement and the law, and the psychological and emotional impact of solitary confinement.



Many respondents did not fully understand the term solitary confinement and its legal implications. Some inmates view solitary confinement as a violation of their basic human and constitutional rights. Mr J states: “Solitary confinement for me is one of the worst things that can happen to anybody. I have experienced this thing first in apartheid years.” Some inmates express concerns about the lack of legal justification for their placement in solitary confinement. Mr A states: “It is more of an oppression camp than rehabilitation. I feel solitary confinement is oppression, spent 5 and half years in special care¹⁴⁵.” There appears to be a lack of clear communication and understanding regarding the legal basis for the use of solitary confinement at Ebongweni. Mr

¹⁴⁵ The special care unit is not mentioned in the SOP. From the site visit and interviews, the researcher learned the special care unit is for indefinite solitary confinement of inmates. Here, inmates are kept past the stated 3-year period at Ebongweni.

C states: “Solitary confinement does not rehabilitate a person. If you put an animal 2 or 3 years alone and you release it, it is going to run crazy and attack everyone.”

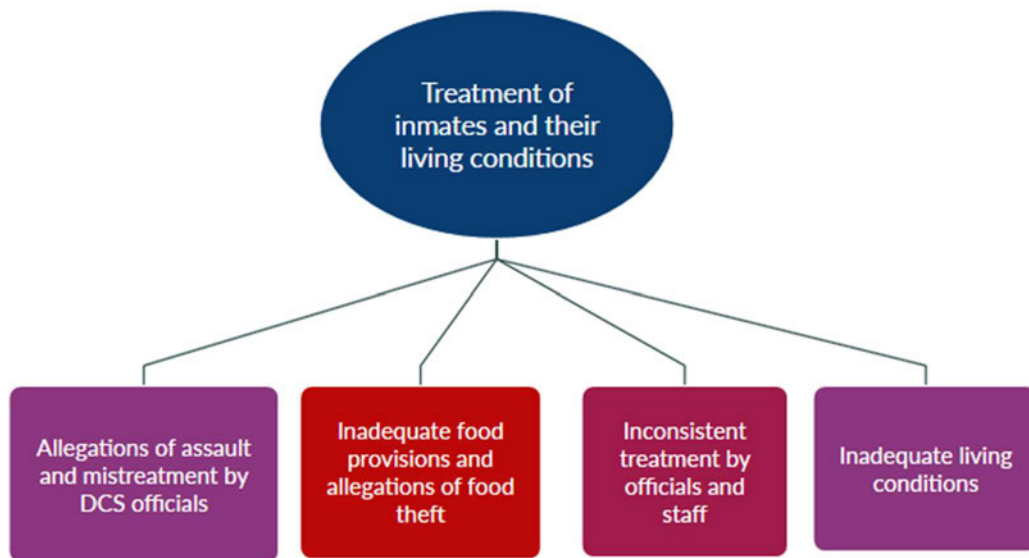
The inmates' understanding of solitary confinement and the legal implications varied. While some viewed it as a violation of their basic human and constitutional rights, others were uncertain about the legal basis for the practice. This finding highlights the need for better education and awareness among inmates about their rights and the legal framework governing the use of solitary confinement in South African prisons.

The next theme relates to the psychological and emotional impact of solitary confinement. Most inmates describe solitary confinement as painful and detrimental to their mental well-being. Mr B states: “Even animals do not like the life of Ebongweni. Staying alone, makes me angry, heart and brains not right.” The perceived lack of human interaction and prolonged isolation leads to feelings of frustration, anger, and a sense of being treated inhumanely. Mr K states: “Staying alone in a cell is not right because I am just stay doing nothing.” Inmates express concerns about the effects of solitary confinement on their cognitive functioning and mental health. Mr N states: “To stay alone is very painful and I am a human being, we are treated like animals locked up alone.” Some inmates view solitary confinement as a form of punishment rather than rehabilitation. Mr M offers a contrasting view stating: “At Qalakabusha¹⁴⁶ we were overcrowded, staying 4 or 5 in one cell and the cell is too small but here at Ebongweni, its better because there is enough space for 1 person and I can listen to radio and have no problems.”

4.3.4 Findings and insights from Question 4

The responses to Question 4 “Tell me about the treatment of inmates and the conditions under which you live here at Ebongweni” reveal themes of allegations of assault and mistreatment by DCS officials, inadequate food provisions and allegations of food theft, inconsistent treatment by officials and staff, and inadequate living conditions.

¹⁴⁶ Qalakabusha Correctional Centre is located in Empangeni, KwaZulu-Natal



Some inmates report incidents of assault and mistreatment by DCS officials at Ebongweni, including physical violence such as beatings and the use of shields to assault inmates. Mr C states: “From day one when you come to Ebongweni, you get assaulted while changing into uniform, by the members, for no reason.” Mr B describes a violent incident with officials involving swearing and hitting. Inmates express feelings of fear, vulnerability, and a lack of protection from abuse by officials.

Many inmates report issues concerning the inadequate provision of food and allege that there is theft by inmates tasked with cleaning duties¹⁴⁷ and by DCS officials. The quality, quantity, and temperature of food provided at Ebongweni is often described as unsatisfactory. Mr I states: “When I am going to court, they never used to give me food in the morning, wake up at 5am, no breakfast, even when I come back, they do not give me food, no lunch or supper.” Some inmates allege that inmates tasked with cleaning duties and DCS officials steal meat and other food items meant for the general inmate population. Few inmates mention that the food is adequate, with Mr D stating: “Food is ok, but small portions” and Mr E saying: “Food is fine.”

Inmates report varying experiences regarding the treatment by officials and staff at Ebongweni. Mr M states: "Officials are not the same, some they are friendly and others they are fighting the offenders." Some inmates describe positive interactions with officials who are helpful and supportive. Mr K states: “The officials at section R10 middle are very helpful towards our requests and complaints.” Others report negative experiences, including officials who are provocative,

¹⁴⁷ Some inmates are tasked with cleaning and food distribution duties.

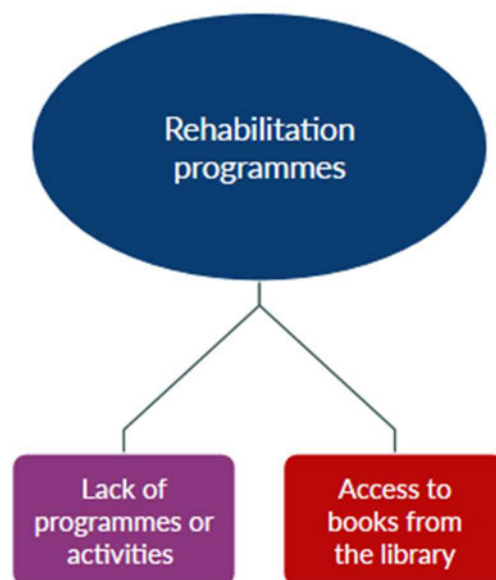
unhelpful, or inconsistent in their treatment of inmates. Mr N states: “Some officials are helping us to change our behaviour but some are not helping and they provoke us.”

Inmates also describe various issues with the living conditions at Ebongweni. Mr A states: “No hot water, sometimes only hot for 3 or 4 days. If they do not take us to shower, they give hot/lukewarm water in a small container to bath and sometimes also wash bedding in small container. Access to hot water right is been violated.” Many inmates report difficulties to communicate with the outside world. There appears to be limited time to make phone calls and difficulties in communicating with their families. Mr G states: “I cannot communicate well with my family and the time is very limited to make phone calls.”

Inmates repeatedly expressed feelings of frustration, anger, and a sense of being treated inhumanely. The lack of social interaction, combined with the poor living conditions and inadequate access to basic amenities, appeared to exacerbate the negative psychological impact of solitary confinement.

4.3.5 Findings and insights from Question 5

The responses to Question 5 “What rehabilitation programmes are you involved in?” reveal the themes of the apparent lack of rehabilitation programmes and limited access to books from the library.



The findings indicate that most inmates do not seem to be involved in activities or rehabilitation programmes, except when they move into Phase 3. Mr K states: “No programmes that I am involved in” while Mr B states: “I can do programmes at Phase 3 only.” The absence of

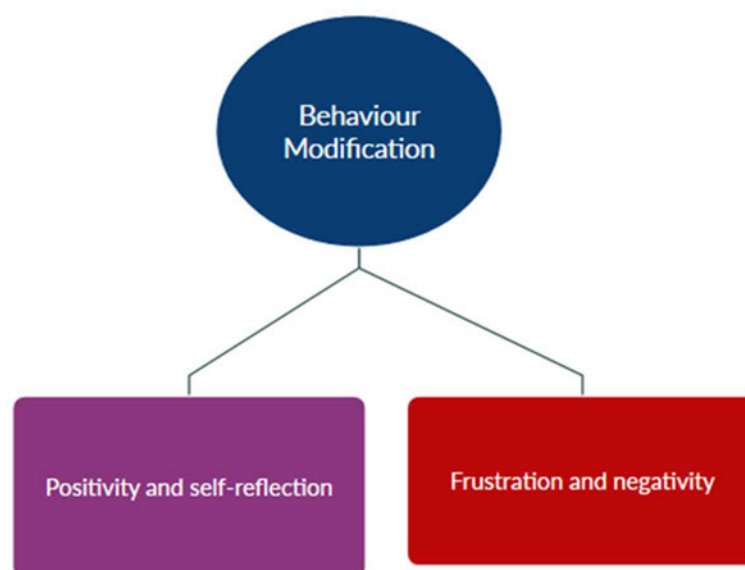
rehabilitation programmes and activities may hinder inmates personal growth, skills development, and preparation for reintegration into society.

Mr C expresses his concerns, stating: “How can this be a correctional facility when they do not offer rehabilitation programmes. When you are kept in solitary confinement and when you are released the only thing that is aging in you is anger, so this is not a correctional facility, it is a prison.” The lack of meaningful engagement and rehabilitation opportunities may exacerbate the negative psychological and emotional effects of solitary confinement. Mr F highlights the issue of access to education stating: “Again we going back to basic rights like education, I am registered with Oxbridge College and I cannot further my studies. They told me that I can put my studies on hold until am out of Ebongweni.”

The common activity mentioned by inmates is access to books from the library, which appears to be limited. Mr N states: “No, there is nothing and the only thing I do is to take books from the library.” Few inmates who are in Phase 3 report being involved in adult basic education, anger management, and restorative justice programmes. Mr O states: “I am doing restorative justice and also busy with gender base violence programmes.”

4.3.6 Findings and insights from Question 6

The responses to Question 6 “How have your behaviour been modified since you came to Ebongweni?” reveal the themes of positive behaviour change and self-reflection, as well as frustration and negative emotional responses.



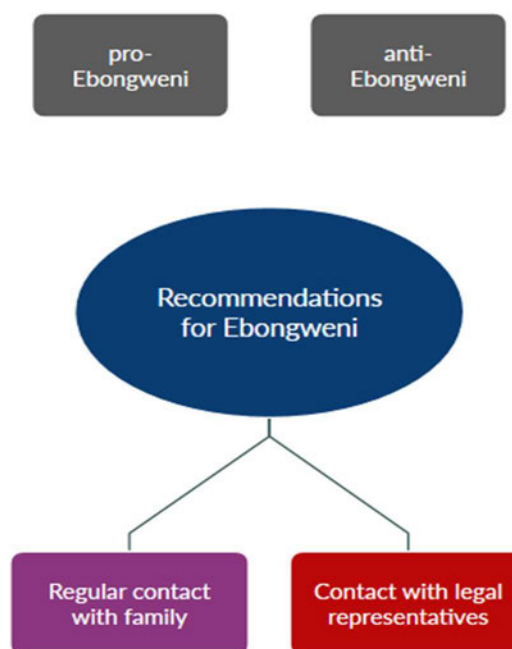
Certain inmates report positive changes in their behaviour and mindset since coming to Ebongweni. Mr H states: “You learn patience, this jail it changes you, even if you do not want to change, it forces you to change. For me it was positive because I am now a better person.” These inmates express a desire to improve themselves and avoid further trouble or conflict. Mr E states: “It is right. I understand the situation here, no problems with officials and offenders.” The experience of solitary confinement appears to have prompted some inmates to reflect on their actions and make positive changes. Mr O states: “As I look at myself now, I am changed and to be here has helped. I gave my life to God and I read the Bible.”

Certain inmates express frustration and seem to harbour negative emotional responses to their experiences at Ebongweni. Mr J states: “Behaviour Modification? I am here since 2015, I am not sure what this behaviour modification means, or where or how, I never experience this. The only behavioural change I see, they are making these offenders or even me too, mad!” These inmates report feeling provoked or angered by the actions of officials or the conditions of their confinement. Mr A states: “This place has made me hard. I just imagine a member in front of me without my handcuffs, I can explode. At the end, it is going to bring me, to hospital, they going to beat me up and I am going to sit with a further charge. I am hard, nothing can break me.” The experience of solitary confinement may exacerbate feelings of frustration and lead to negative emotional responses. Mr C states: “I am diagnosed with rage, before I came to prison. I take medication, here, even the medication does not help to contain my rage because at the rate I am being tormented, it is unbelievable.”

The divergent perceptions of behaviour modification among inmates raise questions about the consistency and effectiveness of the interventions employed at Ebongweni. The findings suggest that the psychological toll of prolonged isolation may, in some cases, exacerbate feelings of anger and resentment, potentially undermining the goal of promoting positive behavioural change.

4.3.7 Findings and insights from Question 7

In response to Question 7 “Would you recommend for other inmates to be incarcerated at Ebongweni?” the inmates' opinions are divided.



Proponents of the systems of punishment employed at Ebongweni highlight its potential for rehabilitating certain groups of offenders. Mr A states: “Ebongweni is right for high profile inmates.” Mr L suggests: “All the whoonga¹⁴⁸ inmates can be brought to Ebongweni so that they can stop taking whoonga.”

Critics of Ebongweni raise concerns about the conditions and treatment of inmates. Mr C strongly opposes the idea of recommending Ebongweni to others, stating: “Hell no!” Mr F states: “Totally no, I do not wish my worst enemy to be here.” Mr N compares the facility to a place unfit for human beings stating: “No, the centre is for animals, to keep them in the cages alone.”

Certain inmates reveal challenges in maintaining regular contact with their families and legal representatives. The issue is the limited access to phone calls. Mr N states: “The challenge is that the phones that are working, are not enough for all the inmates and calls are expensive.” Mr K states: “It is difficult, I wait for long time to speak to my family, the lines need to be booked and calls are expensive.” [The inmate last spoke to his family 2 months back].

Another challenge is the remote location of Ebongweni and the high cost of travelling for family members who wish to visit. Mr J states: “No contact with family. No visit from them. It is far and expensive for them to travel here.” The findings further suggests that the challenges in

¹⁴⁸ Whoonga is an illicit drug that is commonly smuggled into prisons and many prisoners have become whoonga addicts.

maintaining contact with legal representatives may hinder inmates access to justice. Mr M states: “It is difficult to contact lawyers and home because the phone is expensive.”

4.4 Analysis of DCS officials responses

Section A of the interview schedule for DCS officials focused on gathering general demographic information, which also served as an introductory engagement to build rapport and create a comfortable atmosphere for the officials.

4.4.1 Age

Ages range from 44 to 59 years old (44, 47, 55 and 59 years respectively). This implies the DCS officials are all in their mid-to-late career stages. This suggests that they have likely accumulated a significant amount of work experience and expertise in their field. The age range spans fifteen years, which indicates some diversity in terms of age and potential differences in perspectives and experiences among the officials.

4.4.2 Race, English speaking and South African, Education level

All DCS officials are African, English proficient, South African and have tertiary education.

4.4.3 Years of service with DCS and years working at Ebongweni

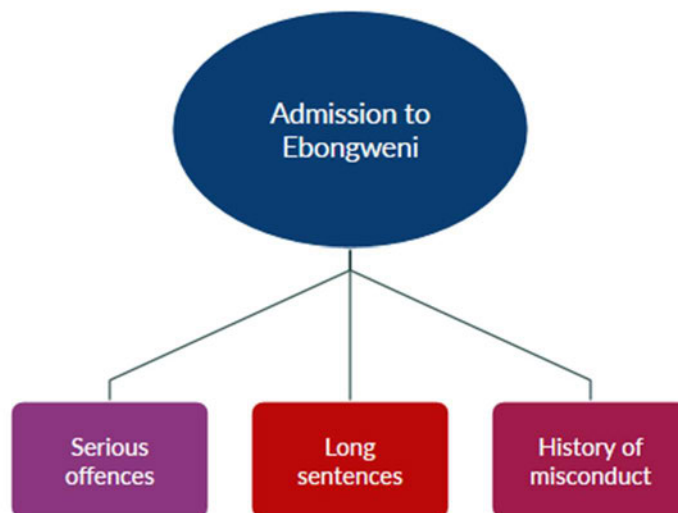
The years of service with DCS show that the officials have varying levels of experience working for the DCS, ranging from four to 33 years (four, 23, 24 and 33 years respectively). The number of years each official worked at Ebongweni varies from four, seven, twenty, twenty-two respectively. The combination of these two datasets highlights the depth and breadth of experience that these officials bring to their roles at Ebongweni. Their specific experience at Ebongweni suggests a familiarity with the unique challenges, culture, and operations of this facility.

4.5 Analysis of DCS officials responses

Section B consisted of nine open-ended questions designed to elicit the officials' experiences and opinions regarding solitary confinement practices at Ebongweni. The analysis of the officials responses below is presented question-by-question, allowing for a systematic and examination of the themes and highlighting salient findings.

4.5.1 Findings and insights from Question 1

Question 1 asks “Please tell me about the inmate admission criteria to Ebongweni.” The responses reveal a consensus that Ebongweni is intended for high-profile and dangerous inmates.



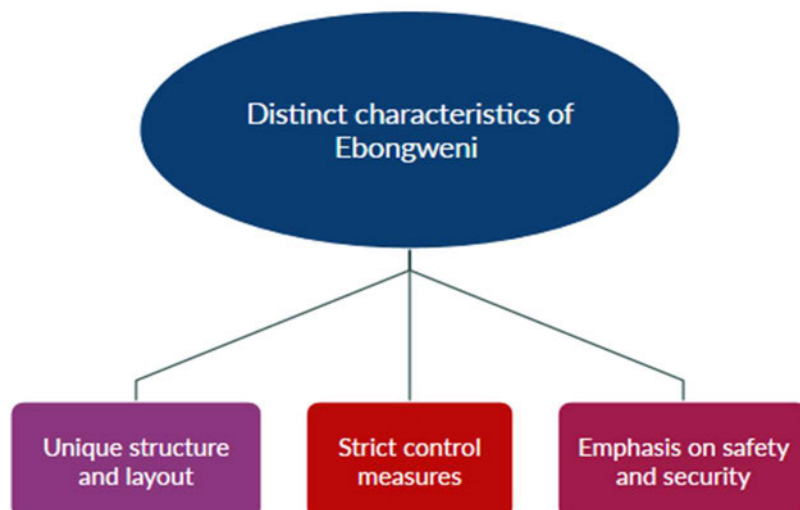
Findings indicate that inmates admitted to Ebongweni are those who have committed serious offences, have long sentences, or have a history of misconduct in other correctional facilities. Official DCS B states: “Long term sentences, dangerous offenders, and caters for all emergencies in the country.” Official DCS A states: “It is different criteria, some inmates did something wrong, escape, some say they are innocent.”

Officials shared that the admission process involves an assessment of the inmate, including medical checks, registration of belongings and a change of uniform. Official DCS C states: “On admission all security and relevant officials must be available.” [These include the head of centre, emergency security team, reception officials, nurses and case management team].

The officials explained that inmates with certain medical conditions, such as mental illness, epilepsy, and asthma, are not admitted to Ebongweni. Official DCS A states: “The Ebongweni in-house hospital does not admit inmates with mental illness, epilepsy or asthma. Those inmates are referred to the external public hospital for treatment, via DCS.”

4.5.2 Findings and insights from Question 2

Question 2 asks “How is Ebongweni different from other prisons?” The responses reveal distinct characteristics that set Ebongweni apart from prisons. The themes being the unique structure and layout of the centre, the strict control measures in place, and the emphasis on safety and security.



Official DCS C states: “Due to the structure, offenders at Ebongweni are staying in single cells.” This highlights that inmates are housed separately, which is a significant departure from the communal living arrangements found in other correctional facilities. Official DCS B states: “Offenders are housed separately from each other.”

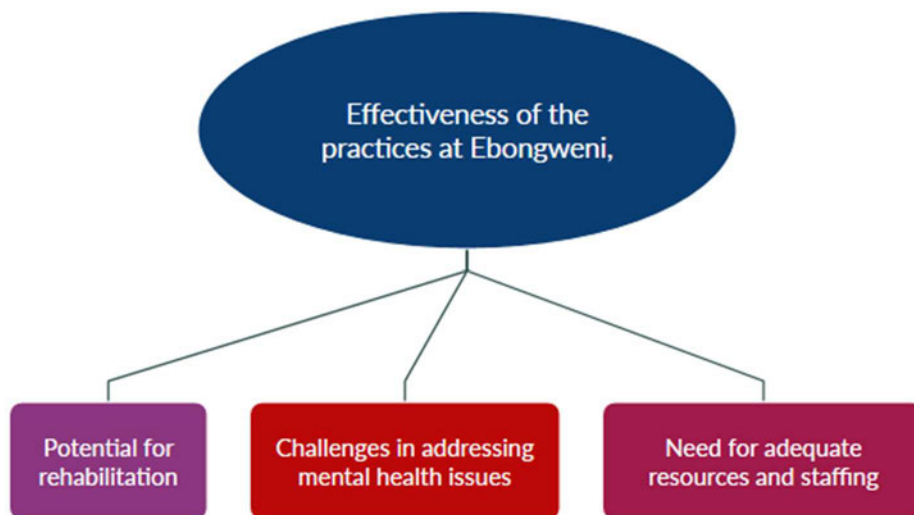
Another theme is the strict control measures in place at Ebongweni. Official DCS A states: “Ebongweni is safer, no risk of sexual assault, offenders are always supervised. There is no smuggling, items and movement is highly restricted.” This suggests that the facility employs stringent security protocols and close supervision to maintain order and prevent contraband from entering the facility.

The last theme emphasises the focus on safety and security at Ebongweni. Official DCS D states: “Ebongweni is a non-smoking prison.” This could imply a healthier environment but also eliminates the potential for conflicts or power dynamics associated with tobacco use in correctional settings. Official DCS A states: “The smoking ban offers protection to inmates health.”

It is crucial to point out that the DCS does not define Ebongweni as a supermax prison but rather a correctional centre. The classification of Ebongweni as a correctional centre warrants examination, given Ebongweni’s security features and highly restricted operational protocols, that align with the definition of a super maximum-security prison.

4.5.3 Findings and insights from Question 3

Question 3 asks “Does the practice of solitary confinement at Ebongweni centre achieve its purpose and goals? What have been the biggest successes and the biggest challenges respectively?” The responses reveal themes around the potential for rehabilitation, challenges in addressing mental health issues, and the need for adequate resources and staffing.



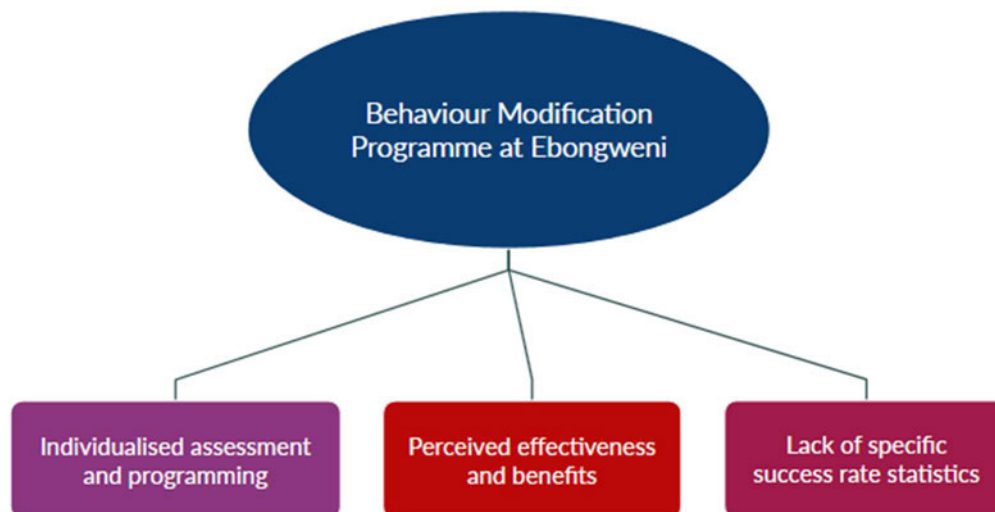
Some officials express optimism about the potential for rehabilitation at Ebongweni. DCS B states: “Chances of rehabilitation are very high.” DCS D states: “The success is to assist drug addicts to quit, if an inmate was willing but struggling.”

Certain officials highlight challenges in addressing mental health issues among inmates at Ebongweni. DCS A states: “I noticed inmates have underlying mental health disorders, probably some were delinquents from childhood. Some inmates have no remorse or empathy.” DCS A states: “I believe there is a need for staff with skills on behavioural change therapy.”

There seems to be a concern relating to the perceived lack of adequate resources and staffing at Ebongweni. DCS A states: “The challenges noticed at Ebongweni is the under staffing and rehabilitation programmes are not easily accommodated.” DCS C states: “Ebongweni is not solitary confinement but because of the structure, it is working for us. Regarding gangsterism and cell phones smuggling, it is not easy to get such at Ebongweni.”

4.5.4 Findings and insights from Question 4

Question 4 asks “Describe and explain the Behaviour Modification Programme. How effective is the behaviour modification programme that inmates are engaged in? What are the benefits to the offenders? Can you discuss the statistics of the success rate of the programme?”



The theme on the emphasis on individualised assessment and programming emerges. DCS B states: “Each offender is assessed by different stakeholders and programmes are dealt with in accordance to needs-based assessment.” This suggests that the programme tailors its interventions to the specific needs and risks of each inmate, rather than applying a one-size-fits-all approach. DCS C mentions the role of Case Intervention Officers (CIOs) and states: “These programmes are very effective because the Correctional Intervention Officer has groups for the offenders to attend, where they sit and discuss the programme together. They see their wrongdoings and talk of crimes they committed because of peer pressure.”

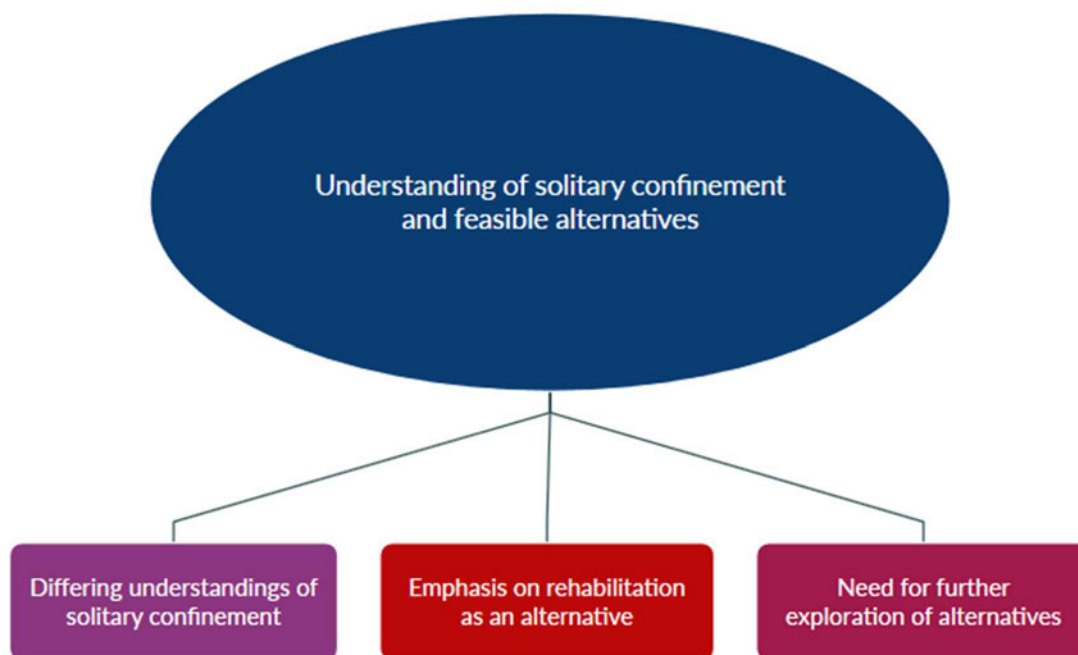
The responses indicate that the Behaviour Modification Programme is generally seen as effective in promoting positive change among inmates. DCS C states: “These programmes are helping them to open up and decide what they want in future. His incarceration gave him time to think and take responsibility for his actions.” DCS B states: “The rehabilitation programmes are effective and depends on the offender’s willingness to change.”

Despite the perceived effectiveness of the Behaviour Modification Programme, the responses do not provide specific statistics on its success rate. DCS A states: “For the Behaviour Modification Programme, I am not sure of any shared results.” The lack of specific statistics on the Behaviour Modification Programme's success rate may raise questions about whether or not it is really effective. While the officials perceive the Behaviour Modification Programme as effective in promoting positive change, the absence of concrete data or a training manual, to

support these claims, underscores the need for rigorous evaluation to determine the programme's actual impact on inmate behaviour and rehabilitation.

4.5.5 Findings and insights from Question 5

Question 5 asks “What is your understanding of solitary confinement? What are the feasible alternatives to solitary confinement?” The responses reveal varying perspectives on the nature of solitary confinement and its application at Ebongweni, as well as suggestions for alternative approaches.

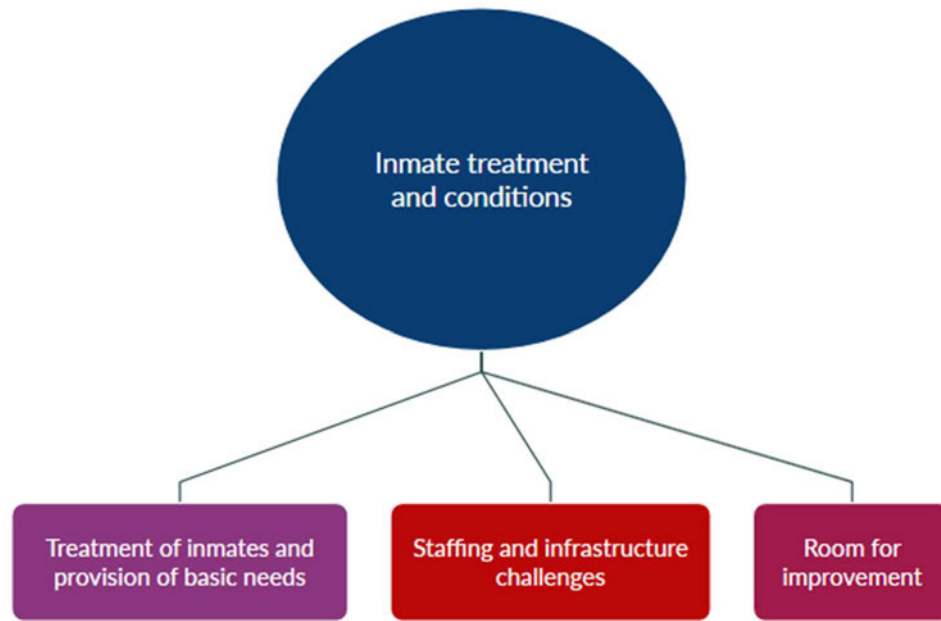


The officials express different understandings of what constitutes solitary confinement and whether it is practiced at Ebongweni. DCS C states: “Solitary confinement is the word that was used on the apartheid regime on the time of the late President Mandela and Ebongweni is not such.” In contrast, DCS B states: “The structure itself is of separation.”

Several officials emphasise the role of rehabilitation as an alternative or complement to the restrictive practices at Ebongweni. DCS C states: “The programmes that we are doing assists offenders and the psychologists and social workers are also assisting them.” DCS A states: “Solitary confinement is good but needs resources to make it effective.” This suggests that there may be room for improvement in the current practices. The officials offer various perspectives on alternatives to solitary confinement; however, the responses do not provide a clear consensus or exploration of specific alternative approaches.

4.5.6 Findings and insights from Question 6

Question 6 asks “Tell me about the treatment of inmates and the conditions under which they live here at Ebongweni?” The responses reveal themes relating to the provision of basic needs and the overall approach to inmate treatment; challenges related to staffing and infrastructure; and room for improvement.

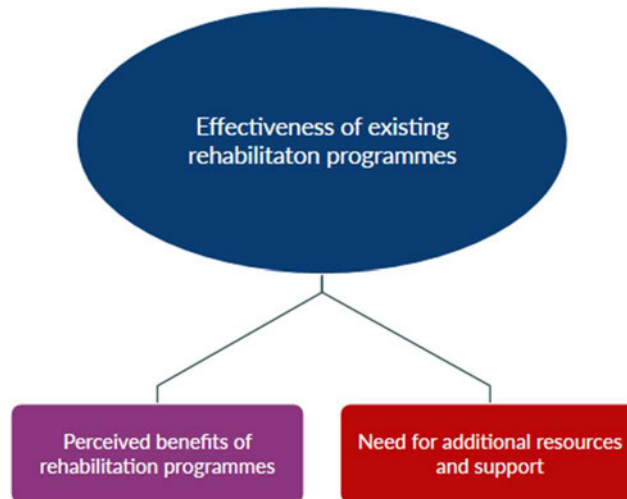


The officials indicate that Ebongweni generally meets the basic needs of inmates, such as food, shelter, and medical care. DCS A states: "The conditions are not ideal; treatment is not bad but the centre is short staffed. There are not many assaults in the injury register." The officials suggest that Ebongweni strives to maintain a humane and respectful approach to inmate treatment. DCS C states: "The treatment of inmates at Ebongweni is high, as the offenders have their rights to medical treatment, hygiene, food bedding and their complaints are attended to within seven days." Another view from DCS D states: "There is no TV, no newspaper."

One official highlights infrastructure challenge that impact the treatment and conditions at Ebongweni. DCS A states: "The structure of the centre is a challenge regarding the water supply and Department of Public Works needs to assist." The officials generally seem to portray the treatment and conditions at Ebongweni in a positive light, some responses suggest areas for improvement. DCS A states: "Maybe the food quality and quantity must be reviewed."

4.5.7 Findings and insights from Question 7

Question 7 asks “Tell me about the rehabilitation programmes provided and how effective are these programmes?” The responses highlight themes of the perceived benefits of these programmes and the need for additional resources and support.



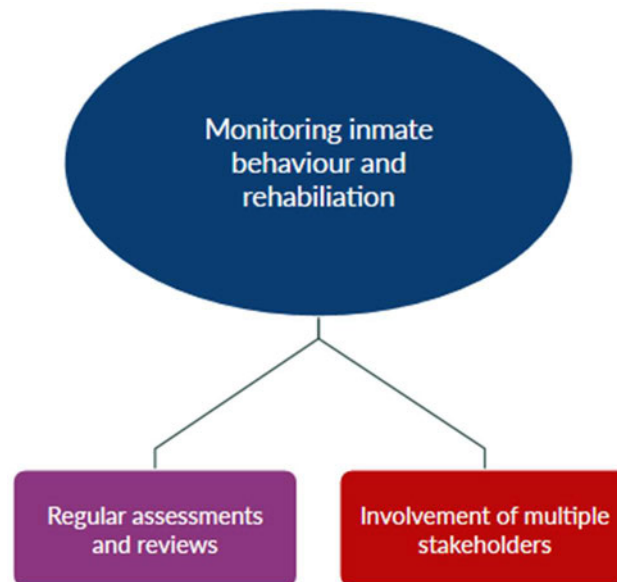
The officials generally express positive views about the effectiveness and benefits of the rehabilitation programmes offered at Ebongweni. DCS A states: "I noticed artwork is helping some offenders. I feel inmates have enough time to reflect and do introspection."

However, several officials again highlight the need for additional resources and support to enhance rehabilitation programme effectiveness. DCS A states: "There is a need for more psychologists and social workers, the centre needs to capitalise on resources."

The officials positive views on the effectiveness and benefits of the rehabilitation programmes at Ebongweni are encouraging, suggesting that these programmes may have the potential to promote positive change and reduce recidivism among inmates. However, there seems to be a recurring theme related to the need for additional resources and support, which may raise concerns about the adequacy of the current provision of rehabilitative services at Ebongweni.

4.5.8 Findings and insights from Question 8

Question 8 asks “How is the behaviour and rehabilitation of inmates tracked and monitored at Ebongweni?” The responses reveal the themes of the use of regular assessments and the involvement of multiple stakeholders.

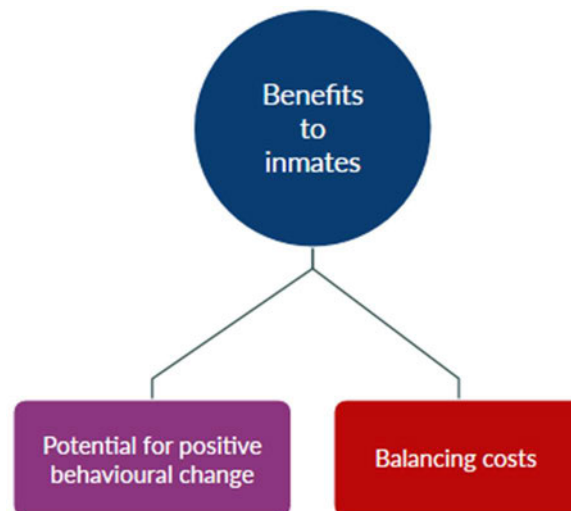


The officials indicate that inmates behaviour and progress are monitored through regular assessments and reviews conducted by various stakeholders. DCS B states: “Each offender is managed in accordance to unit management principles.” DCS C states: "The behaviour and rehabilitation of the offenders are monitored on monthly basis as the offender must have a case file which has all information of the offender.”

The monitoring process involves collaboration among correctional staff, social workers, and psychologists. DCS B states: "The case officer has to note the behaviour of the offender. When all the stakeholders come and see the offender, we can see his file. If there is a need to be referred to other relevant stakeholders for his behaviour, the Case Management Committee deals with the offender on a six-monthly basis. They can take a decision that the offender is not ready or not ready to move to another phase."

4.5.9 Findings and insights from Question 9

Question 9 asks “What are the benefits to inmates ’rehabilitation and the costs involved at Ebongweni?” The responses highlight themes of the potential for positive behavioural change as well as balancing the costs of the facility’s operations.



The officials emphasise the potential for inmates to undergo positive behavioural change through their participation in rehabilitation programmes at Ebongweni. DCS B states: “Those that are willing to change have a potential to be changed and subsequently end up as law abiding citizens.”

The responses indicate a recognition of the need to balance the costs of running Ebongweni with the potential benefits of rehabilitation for inmates. DCS A states: “The centre needs more funding to run programmes.” DCS C states: “It does not cost more time for the CIOs they are from DCS, not people from outside.” However, this statement is contradicted by the findings from the DCS Annual Report for the 2022/23 financial year. The report indicates that the achievement of 84,443 offenders successfully completing correctional programmes was primarily due to the temporary assignment of custodial officials to facilitate these programmes, as there is no dedicated structure for Correctional Intervention Officials (CIOs).¹⁴⁹ This suggests that the practice of correctional officers performing both security and educational duties at Ebongweni does, in fact, cost more time and may hinder the effective delivery of rehabilitation programmes to inmates.

4.6 Significant researcher observations

Several significant and interesting observations were made that provide additional context and validation for the findings and insights derived from the data.

¹⁴⁹ South Africa Department of Correctional Services 2022/2023 Annual Report 72.

4.6.1 Mental health concerns and alleged coercion of an awaiting trial detainee

During the interview with Mr I, an awaiting trial detainee, the researcher observed perceived signs of depression and suicidal ideation. He disclosed multiple attempts to harm himself, including consuming pills, breaking and ingesting a lightbulb, and going on prolonged hunger strikes. He expressed a sense of hopelessness, stating: "Most of the time I feel like at least let me die." Despite receiving medical attention and psychological help, Mr I reported that his last session with a psychologist was 6 months earlier, suggesting a lack of consistent mental health support.

Moreover, Mr I alleged that he was being pressured by the Investigating Officer at the South African Police Services (SAPS) to confess and implicate high-level politicians in his case. He claimed that officials from DCS were present when he was told, "If you can give us the statements, we will take you out of Ebongweni." Mr I maintained his innocence and lack of connection to the politicians in question.

Furthermore, Mr I reported that his family had been threatened, with messages stating: "Whatever you are doing inside the prison, just know that it will come back to us" and "If you do something stupid, we will come for your family." Upon advice from the DCS psychologist to make the right decision for himself and justice, Mr I felt compelled to withdraw his cooperation due to the threats against his family and the pressure to provide false statements.

This observation raises serious concerns about the mental well-being of awaiting trial detainees, the lack of consistent psychological support, and possible coercion by law enforcement and correctional officials to extract confessions. The limited access to legal representation and the possible threats against Mr I's family may imply potential violations of due process and the rights of awaiting trial detainees. In adherence to reporting obligations, the researcher dutifully reported Mr I's suicidal ideation to the head of centre and to JICS for further investigation and follow-up on him receiving proper medical treatment.

4.4.2 Injury due to excessive use of force and daytime sleeping restrictions

During the interview with inmate, Mr B, the researcher observed that he had a broken hand and leg, both in casts. Mr B reported that this injury occurred as a result of him sleeping in his cell around 3pm in the afternoon. A DCS official had informed him that he was breaking the rules by sleeping during the day, which led to a heated verbal altercation that eventually escalated into a physical confrontation. During the physical fight, Mr B got a hold of the

official's tonfa and alleges he used the tonfa to defend himself. Despite Mr B being disarmed of the tonfa, excessive force was allegedly used by around twenty officials, allegedly resulting in the inmate's broken arm and leg.

The researcher observed noticed inmates sitting in their cells and peering through the hatch in their cell door. The DCS officials escort confirmed to the researcher that inmates are required to sit on their haunches at the door during the day and are prohibited from sitting on their beds or sleeping during daytime hours. During the interview with Mr H, he corroborates “you must sit the whole day by the door. Me and the other officer was arguing about this. You cannot tell me I must sit whole day at the door and wait, for what? He does not want I must read a book or sit on my bed; he does not want that thing. He says he going to charge me, he makes the people scared. He wants to make his own rules, it is not a rule of this jail. And he wants to abuse us with his rules, it is not right. That thing you sit by the door, you wait for movements, wait when the Babas¹⁵⁰ is coming but sometimes the whole day, you not see the Babas.”

This observation raises concerns about a possible excessive use of force by DCS officials and about the possible strict enforcement of rules that may not make allowances for individual needs or circumstances. Upon analysing the SOP, it appears that Ebongweni operates under the Unit Management approach in order to ensure the maintenance of control. Authority is delegated to the officials to determine “house rules” and standards.¹⁵¹ However, there is no mention of specific rules for sleep times or for having to sit all day at the door of the cell.

4.6.3 Food distribution disparities

A significant observation was made relating to the issue of food distribution and the complaints raised by inmates about food being stolen from their lunchboxes. While in a specific section of the facility, inmates tasked with cleaning were seen exiting the kitchen area carrying a plate piled high with meat pieces and another plate stacked with numerous slices of bread. These inmates were observed taking this food to the DCS officials' office. This observation might serve to corroborate the inmates allegations of food being taken from their lunchboxes before distribution.

The aforesaid inmates tasked with cleaning as well as the aforementioned officials appeared visibly surprised and embarrassed upon noticing the researcher's presence. To avoid any immediate conflict, the researcher refrained from commenting on the food situation to them.

¹⁵⁰ ‘Babas’ are a colloquial yet respectful term referring to the DCS Officials

¹⁵¹ Ebongweni SOP 56.

At the end of that day, the researcher dutifully reported this observation to both the head of the centre and JICS for additional investigation and follow-up. This observation possibly lends credence to the concerns expressed by inmates regarding the fairness and integrity of the food distribution process, as discussed in section 4.3.2.

4.6.4 Tuckshop restrictions and inmate frustration

Several inmates expressed a common complaint regarding the tuck-shop's decision to close off the sale of food items. The researcher observed that the tuck-shop's sales were limited to items such as soap and writing materials, with no food items available for purchase. Discussions with DCS officials revealed that the tuck-shop, managed by Ebongweni Mess, previously sold food items and was a profitable venture. However, it was alleged that the DCS KwaZulu-Natal regional commissioner had put a stop to food sales, as it was not approved under the Ebongweni SOP. Certain DCS officials also cited the lack of a tax clearance for Ebongweni Mess and perceptions of mismanagement of the tuck-shop sales proceeds as additional reasons for the closure.

Furthermore, there were allegations that the cash bank accounts of inmates, where their personal funds are held, had been subject to mismanagement. It was alleged that the DCS National Commissioner had put a stop to this system. The alleged stopping of food sales and alleged closing of the cash bank accounts seemed to cause frustration among the inmates.

4.6.5 Inmate-staff interactions and communication challenges

The researcher observed several interactions between inmates and DCS officials, providing insight into the nature of their relationships and communication. Certain inmates were heard calling out requests and pleading with DCS officials to check and fetch their letters from the Post Office. The officials responses were often stern, instructing the inmates to stop talking and wait until they received their post. Certain officials expressed anger that the inmates were making these requests in the researcher's presence, since these requests seem to suggest that the officials might be neglecting their duties by allowing inmates' correspondence to accumulate at the Post Office. Several inmates complained about waiting for their letters and about their inability to purchase stamps due to the lack of access to their cash bank accounts, which in turn limited their contact with the outside world and caused them to experience frustration.

Additionally, certain inmates requested to be taken for exercise in the courtyard, to which the request was denied by DCS officials who cited insufficient staff to facilitate the activity. These observations highlight the potential challenges in ensuring effective communication as well as an imbalance in the power dynamics between inmates and DCS officials at Ebongweni.

4.6.6 Staff allocation and management concerns

In one specific section of Ebongweni, the researcher encountered what seemed to be an unusual situation of five or six DCS officials gathered around a bar heater in a single office. This stood out as being somewhat peculiar, since the other units the researcher visited appeared to be understaffed, with only one official on duty. The officials seemed to the researcher to be uncomfortable being caught in this situation and seemed to attempt to justify their actions by joking about the cold weather and their need to warm themselves. To avoid immediate conflict, the researcher refrained from raising any issues at that moment. The researcher pondered whether this incident might indicate a problem with staff management and allocation, since it was unclear to the researcher why some units seemed to have a surplus of officials on duty while others seemed to be under pressure and short-staffed.

This observation may, perhaps, serve to corroborate certain allegations made by certain inmates regarding the alleged laziness of certain officials. Mr J states: “Most of the officials are lazy and from my opinion, it looks like they only come here to sit and get their money.” At the end of that day, the researcher queried with the head of the centre about the unequal distribution of staff. The head of the centre indicated concern about the matter and stated that he would investigate the matter further. This observation highlights the importance of efficient staff allocation and management to ensure that all units are adequately staffed and that resources are distributed equitably to meet the needs of both inmates and staff.

4.6.7 Inmates eye health concerns and lack of access to optometry services

The researcher observed that many inmates frequently blinked or rubbed their eyes. Most of the inmates complained about issues with their eyesight, and the lack of natural sunlight in the facility, appeared to the researcher, to have negatively affected inmates' eyes. Mr F states: “I have a problem, I am shortsighted. I feel I am now losing sight because of the light and so on.”

Inmates who wore spectacles reported that they had not been to an optometrist for several years and were overdue for new prescription lenses. Some inmates indicated that the previous head of the centre had been arranging for those in need of new spectacles to go for renewals.

However, since that head of centre was transferred, no one appeared to have taken responsibility for assisting inmates with their eye care needs. Mr F states: "When Mr XXX was here, I complained that the hospital is saying they cannot help, they do not have an optometrist so Mr XXX obviously intervened and they took me to EG Usher Hospital. Mr XXX wrote for memorandum for offenders who need optometrists and to take them to Pietermaritzburg for their eye problems. They started compiling the list, arrangements were being made and the list was compiled by hospital section. Still nothing has been done after Mr XXX left." This observation highlights the importance of addressing inmates' health concerns, particularly those related to eye health and the need for regular access to optometry services.

4.6.8 "Water fights" among inmates

The researcher was informed about the occurrence of "water fights" among the inmates. Mr A states: "There was a fight at the section because of talking timeslots. The inmates throw water at each other through the hatch slots. Inmates have their own internal rules and make timeslots to talk among themselves. Sometimes some inmates do not obey the rules, then they verbally fight and throw water through the hatches. The fights happen due to frustration."

The researcher found it intriguing that fights could occur despite the inmates being in solitary confinement. While at specific section, the researcher noticed that the floor outside the cell doors was wet. The inmate tasked with cleaning was observed mopping up the water and grumbling with the inmates behind their cell doors. Upon inquiring about the incident, the inmate tasked with cleaning confirmed that the inmates had been arguing, which escalated into a water fight. The cleaner inmate expressed his displeasure at having to mop up the spilled water.

This observation provides evidence of the frustration experienced by inmates in solitary confinement, which manifests in a unique form of "violence" through water fights. Despite being isolated in their cells, the inmates have developed their own internal rules and communication systems, such as talking timeslots. When these rules are violated, it leads to verbal altercations and the throwing of water through the cell door hatch slots.

4.6.9 Anger, rage and frustration among inmates

All that above observations speak to a central theme involving anger, rage, and frustration. Many inmates express the feeling of being treated inhumanely, and they compare their living conditions to those of caged animals rather than human beings. Mr N states: "The centre is for animals, to keep them in the cages alone. As South African we coming from Apartheid oppression and

now the centre is oppressing inmates." Mr K states: "This is the place for animals, no human being can be recommended to come to this centre." The isolation, lack of meaningful human interaction and rehabilitation programmes, combined with poor living conditions, appear to breed immense frustration. As Mr A describes "This place has made me so hard over the years. I don't care, I take it as it comes. This place has made me hard... I'm hard, nothing can break me. They want to frustrate me so I can explode. You get me, that makes me a timebomb!"

The perceived provocations and mistreatment by officials further seem to fuel inmates' anger. Mr A feels officers "Frustrate inmates, they don't treat inmates well and provoke inmates." Tensions seem to run so high that minor disputes, like inmates not following agreed upon talking time slots, devolve into water fights, as explained above. Overall, it may be argued that the oppressive and restrictive environment of solitary confinement at Ebongweni may be engendering deep-seated rage and resentment among certain of the inmates confined there. Such inmates perceive they are being treated like animals and denied basic dignity, meaningful engagement, and paths for self-improvement. Their anger then festers, turning into hardness and volatility over time. In certain instances, the inmates' own words seem to paint a disturbing picture of the toll wrought by the isolation and deprivation they endure daily.

4.7 Conclusion

This chapter has presented the findings and insights gathered from the responses of both inmates and officials at Ebongweni. The themes and insights have highlighted the challenges, experiences, and perceptions of those directly impacted by the practice of solitary confinement. Various observations of the researcher have further complemented the interview data, providing a firsthand account of the conditions and interactions within the facility. In the following chapter, the implications of these findings will be discussed.

DISCUSSION AND IMPLICATIONS

5.1 Introduction

This study's findings shed light on the real-world implications of solitary confinement at Ebongweni Correctional centre, and serve as a reminder of the human costs of isolation. Chapter 5 delves into the key contributions and implications of the findings, situating them within the broader context of the legal framework, human rights standards and existing research.

5.2 Key contributions and implications

The insights of the study challenge existing practices and contribute to the criminal justice field. Below are the key takeaways:

5.2.1 Lack of transparency in solitary confinement placement

Various observations of the researcher highlight systemic issues of procedural fairness and due process. Many inmates at Ebongweni claim that they remain unaware of the specific reasons for their placement, raising concerns about arbitrary decision-making and inadequate communication. This underscores the need for policy reforms that prioritise clarity, transparency, and fairness in decision-making processes, ensuring that solitary confinement is used only as a last resort and in line with constitutional and international standards.

5.2.2 Psychological and emotional toll on inmates

The findings on the psychological and emotional toll of solitary confinement at Ebongweni reinforce and build upon existing theories regarding the detrimental effects of isolation on mental health. By providing specific evidence from a South African supermax prison, this study highlights how prolonged isolation may exacerbate feelings of anger, frustration, and hopelessness among inmates, which may lead to severe psychological distress. These findings underscore the need to address mental health as a critical component of correctional policy. The inclusion of robust and consistent mental health support systems within Ebongweni is essential to mitigate the potential long-term psychological harm which may be experienced by

inmates. These findings not only validate previous research but also provide local insights that can guide the development of humane correctional practices aligned with international standards and constitutional obligations.

5.2.3 Inadequate rehabilitation opportunities

The findings challenge the notion of solitary confinement as a rehabilitative tool by demonstrating the lack of meaningful programmes for personal growth and reintegration at Ebongweni. Certain inmates report the seemingly limited access to educational, vocational, or therapeutic activities, which may undermine the correctional system's rehabilitative goals. This highlights the potential need for targeted investments in comprehensive rehabilitation programmes that could be accessible to all inmates, regardless of their security classification, to support personal development and successful reintegration into society.

5.2.4 Excessive use of force and harsh living conditions

The findings uncover patterns of alleged mistreatment and dehumanising practices at Ebongweni, which certain inmates reported appear to contravene domestic and international human rights standards. The alleged reports of excessive use of force by officials, harsh living conditions, and the enforcement of arbitrary rules highlight significant concerns about the humane treatment of inmates. These findings may indicate the need for stricter oversight mechanisms and enhanced accountability measures to address these issues.

5.2.5 Novel observation of "water fights" among solitary inmates

The observation of "water fights" among solitary inmates reveals a unique form of conflict and what may amount to frustration, potentially illustrating the unintended behavioural consequences of prolonged isolation. This finding highlights the social and psychological pressures experienced by inmates in solitary confinement. This further emphasises the need for further research into the dynamics of such environments. Understanding these behaviours may help to inform the development of strategies to reduce inmate frustration and conflict, and foster a more humane and manageable correctional environment.

5.2.6 Potential policy contributions to prison reform

The findings provide empirical evidence that solitary confinement, as practiced at Ebongweni, may undermine the goals of rehabilitation and reintegration by isolating inmates without

offering meaningful opportunities for personal growth. This highlights the need for policies that restrict the use of solitary confinement to exceptional circumstances, ensuring such practices align with constitutional and international standards.

There is an assumption that harsh punitive measures like solitary confinement are effective for rehabilitation. However, the findings rather highlight the importance of humane treatment, procedural fairness, and access to rehabilitation programmes in fostering positive behavioural change. By addressing the systemic shortcomings identified in this study, policymakers may develop effective corrections strategies that balance security with the dignity and rights of inmates, contributing to a more just and equitable criminal justice system.

5.3 Interpretation of the findings

The findings reveal a complex interchange between institutional control, rehabilitation efforts, and the lived experiences of inmates and officials at Ebongweni. While solitary confinement is employed seemingly for security and behavioural management, its implementation raises concerns regarding transparency, due process, and adherence to inmates basic human rights.

While solitary confinement at Ebongweni is framed as a mechanism to manage high-risk inmates and prevent gang-related activities, the findings suggests that its overuse, combined with inadequate oversight and resources, may risk exacerbating inmates mental health issues and entrenching cycles of anger and resentment. This has broader implications for rehabilitation and reintegration, as the dehumanising conditions of solitary confinement may hinder inmates ability to reintegrate successfully into society.

The legal and policy framework governing solitary confinement at Ebongweni is rooted in South Africa's 1996 Constitution, the CSA, and the Nelson Mandela Rules. While these frameworks establish safeguards to ensure that solitary confinement is used in a limited, regulated, and rights-respecting manner, this study reveals a significant gap between the legislative intent and its practical implementation at Ebongweni.

5.3.1 Compliance with the 1996 Constitution and CSA

The 1996 Constitution guarantees the rights to human dignity¹⁵² and freedom from cruel, inhuman, or degrading treatment.¹⁵³ However, findings from this study suggests that

¹⁵² Section 10 of the 1996 Constitution.

¹⁵³ Section 12(1)(e) of the 1996 Constitution.

prolonged isolation and inadequate safeguards at Ebongweni may well undermine constitutional protections.

The Correctional Services Act 111 of 1998 requires that segregation be used only when necessary and subject to regular review.¹⁵⁴ However, findings reveal an apparent lack of procedural transparency, with inmates frequently claiming that they are unaware of the reasons for their placement in solitary confinement or of the criteria for their continued isolation, as discussed in subsection 4.3.1. This apparent lack of clarity and review seems to undermine compliance with the principles of fairness and due process enshrined in both the 1996 Constitution and the CSA.

The implementation of the legal framework is further potentially undermined by what seem to be systemic challenges within the DCS. Alleged reports of corruption, resource constraints, and staff shortages as discussed in subsection 4.6.6 seem to exacerbate the inconsistent application of policies, limiting the capacity to provide humane treatment and effective oversight. Additionally, the perceived limited rehabilitative programmes as discussed subsection 4.3.5 and the perceived restrictive daily routines as discussed in subsection 4.3.2, suggest a failure to align the practice of solitary confinement with the CSA's rehabilitative goals under section 2(b).

While the legal and policy framework governing solitary confinement at Ebongweni provides a strong basis for regulating its use, reports of its implementation in practice seem to reveal critical shortcomings. The apparent lack of procedural transparency, indefinite isolation, and insufficient oversight mechanisms seem to undermine compliance with domestic legal standards.

5.3.2 Compliance with to the Nelson Mandela Rules

The Nelson Mandela Rules prohibit prolonged or indefinite solitary confinement, defining prolonged solitary confinement as confinement for more than 15 consecutive days.¹⁵⁵ The Nelson Mandela Rules further emphasise that solitary confinement should be used only as a last resort, for the shortest time possible, and never indefinitely.¹⁵⁶ While Ebongweni's Standard Operating Procedures establish a three-phase programme intended to limit the duration of solitary confinement to three years as discussed in subsection 2.6.4, findings show

¹⁵⁴ Section 30 of the CSA.

¹⁵⁵ Rule 44 of the Nelson Mandela Rules.

¹⁵⁶ Rule 45 of the Nelson Mandela Rules.

certain inmates potentially being held for indefinite periods in the "special care unit" without clear justification or oversight as discussed in subsection 4.3.3. This practice, if accurate, would contravene both the SOP and the Nelson Mandela Rules, raising concerns about compliance with international human rights standards.

The Nelson Mandela Rules emphasise the need to ensure access to rehabilitative programmes, mental health support, and human interaction as part of humane treatment.¹⁵⁷ The limited rehabilitation opportunities as discussed in subsection 4.3.5 highlight potential non-compliance with these standards.

The Nelson Mandela Rules emphasise the need for mental health care and protection against prolonged isolation.¹⁵⁸ Certain inmates expressed feelings of anger, frustration, and emotional distress caused by prolonged isolation and dehumanising conditions as discussed in subsection 4.3.3. Findings of limited mental health support as discussed in subsection 4.6.1, seem to exacerbate the danger of suicidal ideation.

5.3.3 Impact of solitary confinement on inmates rights and prospects for rehabilitation

This study acknowledges the complexity of managing high-risk offenders and the challenges faced by the DCS. The strict security measures and emphasis on separating violent or disruptive inmates as discussed in subsection 2.6.3, reflect legitimate concerns about maintaining order and safety within the correctional system. However, an over-reliance on solitary confinement as a management tool, without adequate safeguards or alternatives, appears to exacerbate rather than mitigate behavioural issues, as in the emergence of unique conflicts such as "water fights" described in subsection 4.6.8.

This study highlights the detrimental impact of solitary confinement on inmates rights and their prospects for rehabilitation. The apparent lack of meaningful rehabilitative programmes and limited access to education, as reported by inmates in subsection 4.3.5, undermine the CSA's emphasis on rehabilitation and reintegration.¹⁵⁹ The psychological effects of isolation, including anger, frustration, and emotional distress reported by inmates as discussed in subsection 4.3.3, align with global research on the harmful consequences of sensory

¹⁵⁷ Rules 39 and 45 of the Nelson Mandela Rules.

¹⁵⁸ Rules 39 and 44 of the Nelson Mandela Rules.

¹⁵⁹ Section 2(b) of the CSA.

deprivation¹⁶⁰ and social isolation¹⁶¹. These effects may be compounded by systemic issues such as inadequate food provision¹⁶², inconsistent mental health support,¹⁶³ and allegations of potential mistreatment by correctional officials.¹⁶⁴ All the above issues, if accurate, contravene the principles of dignity and humane treatment enshrined in both domestic and international legal frameworks.

5.4 Comparative analysis in relation to the literature

This study's findings align with existing literature on the negative psychological and social effects of solitary confinement, while also diverging in certain respects, particularly when the South African context is taken into account. The reported detrimental impacts of solitary confinement on inmates' mental health, including anger, frustration, and cognitive decline, are consistent with international research. Haney¹⁶⁵ and Grassian¹⁶⁶ have highlighted the adverse psychological effects of prolonged isolation, such as rage, depression, and hallucinations, which were echoed by inmates' accounts as discussed in subsection 4.3.3. Similarly, the apparent lack of meaningful rehabilitation opportunities, as reported by inmates in subsection 4.3.5, aligns with Shalev's critique that solitary confinement often fails to meet its purported rehabilitative goals¹⁶⁷, instead fostering further social alienation.

However, this study diverges from global findings in its contextual observations of the apparent systemic challenges within South Africa. The apparent lack of transparency in placement decisions and allegations of food theft and mistreatment by officials highlight specific governance and institutional weaknesses that may exacerbate the challenges of solitary confinement. These findings expand on Lötter¹⁶⁸ and Muntingh¹⁶⁹ observations of corruption and mismanagement within the DCS, suggesting that systemic failures undermine compliance with human rights standards.

The study also adds to the global discourse by providing empirical evidence of unique behavioural dynamics among solitary inmates, such as "water fights" which seem to reflect the

¹⁶⁰ See subsection 1.4.1 above.

¹⁶¹ See subsection 1.4.2 above.

¹⁶² See subsection 4.6.3 above.

¹⁶³ See subsection 4.6.1 above.

¹⁶⁴ See subsection 4.3.4 above.

¹⁶⁵ See note 14 above.

¹⁶⁶ See note 36 above.

¹⁶⁷ See note 15 above.

¹⁶⁸ See note 107 above.

¹⁶⁹ See note 104 above.

unintended social consequences of extreme isolation. This highlights the need for further research into the micro-social dynamics of solitary confinement, an area less explored in the literature.

RECOMMENDATIONS AND CONCLUSION

6.1 Introduction

Solitary confinement, often regarded as the most extreme form of incarceration short of capital punishment, isolates individuals for 22 to 24 hours a day with minimal human interaction.¹⁷⁰ While it is intended as a tool for prison management, its potential consequences seem to reflect significant concerns. As this study suggests, rather than consistently fostering rehabilitation, solitary confinement might exacerbate the very issues it seeks to address, raising pressing questions about its alignment with constitutional and international human rights standards.

6.2 Research journey

This study aimed to critically evaluate the use of solitary confinement at Ebongweni Correctional Centre, evaluating its compliance with constitutional and international human rights standards, and its impact on inmates basic human rights and rehabilitation prospects.

The research adopted a qualitative approach, underpinned by sensory deprivation, social isolation and control theories, as well as a rights-based approach. By exploring the lived experiences of inmates and officials at Ebongweni, the study sought to uncover trends and patterns that could provide insights into the practice of solitary confinement. Semi-structured interviews, researcher observations, and document analysis were used, with data analysed thematically. It is acknowledged that the findings are specific to the context of Ebongweni and may not necessarily reflect practices in other correctional facilities.

6.3 Consolidated findings and implications

6.3.1 Legal and policy framework

The study suggests that there may be discrepancies between the legal and policy frameworks governing solitary confinement and their implementation at Ebongweni. While the CSA envisions solitary confinement as a last resort and subject to review, inmates reported what

¹⁷⁰ See note 46 above.

appeared to be a lack of transparency regarding their placement and continued isolation.¹⁷¹ This may indicate a lack of procedural fairness and could contravene constitutional guarantees of dignity and due process.

Similarly, the Nelson Mandela Rules prohibit prolonged or indefinite solitary confinement. However, the findings suggest that some inmates might be held in isolation for extended or indefinite periods, particularly in the "special care unit" as discussed in subsection 4.3.3. If accurate, this could contravene both international standards and Ebongweni's own Standard Operating Procedures.

6.3.2 Psychological and emotional impact of solitary confinement

Consistent with global literature, the study indicates that solitary confinement at Ebongweni may have severe psychological effects, including anger, frustration, and emotional distress.¹⁷² The apparent lack of meaningful human interaction, coupled with limited access to mental health support, might leave some inmates feeling dehumanised. One inmate described their experience as akin to being treated like "a caged animal" and subsection 4.6.9 refers.

While the findings align with sensory deprivation and social isolation theories, which emphasise the detrimental effects of isolation, it is important to note that the study's sample size was limited, and these findings might not represent the experiences of all inmates.

6.3.3 Limited rehabilitation opportunities

The study highlights an apparent gap in the availability of rehabilitation programmes at Ebongweni. Certain inmates reported little to no access to education, vocational training, or therapeutic activities, except during Phase 3 of the three-phase programme.¹⁷³ This lack of engagement could contradict the CSA's emphasis on rehabilitation as a core function of the correctional system.¹⁷⁴ It might also contribute to feelings of anger and resentment among inmates, which could hinder rehabilitation efforts.¹⁷⁵

¹⁷¹ See subsection 4.3.1.

¹⁷² See subsection 4.3.3.

¹⁷³ See subsection 4.3.5.

¹⁷⁴ See section 2(b) of the CSA.

¹⁷⁵ See subsection 4.3.6.

6.3.4 Systemic challenges and mistreatment

The findings suggest that systemic challenges, including allegations of mistreatment by officials, inadequate food provision, and the strict enforcement of rules, may contribute to an environment of frustration and tension.¹⁷⁶ Reports of excessive use of force, such as an incident involving a broken arm and leg of one inmate¹⁷⁷ raise potential concerns about the humane treatment of inmates.

It is important to emphasise that these accounts originate from the perspectives of participants and may not reflect the systemic practices of the DCS as a whole. Further investigation and oversight might be required to verify these claims and address any apparent shortcomings.

6.3.5 Unintended social dynamics

A novel observation was the occurrence of "water fights" among solitary inmates, which could indicate frustration and social pressures experienced in isolation.¹⁷⁸ While this behaviour appears to highlight the unintended consequences of prolonged isolation, further research is necessary to better understand its root causes and implications.

6.3.6 Key takeaways and themes

The findings suggest that solitary confinement at Ebongweni might fall short of meeting constitutional and international standards. Key themes that emerged include:

- **Transparency and Fairness:** A need for clear communication and regular reviews of solitary confinement decisions.
- **Mental Health Support:** Greater access to psychological care to mitigate the apparent long-term harm of isolation.
- **Rehabilitation:** Expanding access to education, vocational training, and therapeutic programmes.
- **Humane Treatment:** Addressing systemic issues such as mistreatment, poor living conditions, and resource constraints.

¹⁷⁶ See subsections 4.3.4 and 4.6.3.

¹⁷⁷ See subsection 4.6.2.

¹⁷⁸ See subsection 4.6.8.

- Alternative Approaches: Exploring evidence-based alternatives to solitary confinement, such as restorative justice programmes.

6.5 Limitations and their impact on findings

It is important to acknowledge the limitations of this study, including the small sample size and the reliance on self-reported data, which might be subject to bias. The study's focus on a single correctional facility also limits the generalisability of the findings to other South African prisons or international contexts. Despite these limitations, the consistency of themes across the data provides valuable insights into the challenges of solitary confinement at Ebongweni.

6.6 Significance of the study

This study makes a valuable contribution to the evolving discourse on solitary confinement, human rights, and prison reform, particularly within the South African context. By critically examining the practices of solitary confinement at Ebongweni, the research addresses a significant gap in the existing body of knowledge, where empirical studies on the implementation and lived experiences of solitary confinement in African prisons remain limited.

6.6.1 Contribution to the existing body of knowledge

A key contribution of this research is its integration of legal and human rights frameworks with qualitative insights into the lived experiences of both inmates and officials. While previous studies have predominantly focused on the theoretical or legal dimensions of solitary confinement,¹⁷⁹ this study provides a nuanced understanding by amplifying the voices of those directly impacted by the practice. It suggests that there may be a disconnect between the policy intent and the actual implementation of solitary confinement. This is apparent in the reported lack of procedural transparency in solitary confinement placements¹⁸⁰ and the apparent inadequacy of mental health support provided to inmates.¹⁸¹

The study extends the global literature on the psychological and social effects of solitary confinement by offering context-specific insights. For instance, the novel observation of "water

¹⁷⁹ See Chapter 2.

¹⁸⁰ See subsection 4.3.1.

¹⁸¹ See subsection 4.6.1.

fights" among solitary inmates,¹⁸² suggests the unintended behavioural consequences of prolonged isolation. Such findings draw attention to the micro-social dynamics that may emerge within the confines of solitary confinement. These insights contribute to a broader understanding of how isolation might shape inmate behaviour and interactions, an area that remains under explored in international research.

6.6.2 Policy implications

The findings of this study have potential implications for policy, practice, and advocacy in the correctional system. The research raises questions about the extent to which solitary confinement, as practiced at Ebongweni, aligns with the goals of rehabilitation and reintegration. Rather, it appears that prolonged isolation might have detrimental physical, psychological, and social effects, which could undermine these goals. These findings suggest that solitary confinement may not only be counterproductive but could also potentially conflict with constitutional rights and international human rights standards.¹⁸³

The broader implications of this research extend beyond Ebongweni and South Africa. The study could provide valuable lessons for other jurisdictions seeking to balance security concerns with the humane treatment of inmates. The findings underscore the importance of exploring evidence-based alternatives to solitary confinement that prioritise rehabilitation, such as restorative justice programmes and behavioural therapies.¹⁸⁴ These approaches could inform global discussions on reducing reliance on solitary confinement as a management tool, and aligning correctional practices with international standards such as the Nelson Mandela Rules.

6.6.3 Practical implications

This research has the potential to influence real-world practices by informing policymakers and correctional authorities about the apparent systemic shortcomings in the use of solitary confinement. By highlighting concerns such as the lack of procedural transparency and a limited focus on rehabilitation, the research advocates for regular, independent reviews of solitary confinement placements, as well as the integration of mental health support into correctional policies.

¹⁸² See subsection 4.6.8.

¹⁸³ See subsections 5.2.1 and 5.2.2.

¹⁸⁴ See subsection 5.3.

The findings suggest a need for improved training of correctional staff to address issues like mistreatment, excessive use of force, and inconsistent treatment of inmates.¹⁸⁵ Equipping officials with appropriate skills to manage high-risk inmates more humanely could reduce tensions and foster a more rehabilitative environment.

Civil society organisations and human rights advocates might use the findings to amplify the voices of inmates and advocate for reforms in solitary confinement practices. The study provides empirical evidence that highlights the potential harmful effects of prolonged isolation, which could strengthen advocacy efforts for the humane treatment of inmates in correctional facilities.

The research also highlights the urgency of exploring alternatives to solitary confinement, such as conflict resolution programmes, vocational training, and therapeutic interventions. These alternatives could address behavioural issues without resorting to isolation, potentially supporting inmates rehabilitation and reintegration into society.

6.7 Recommendations

The following recommendations are proposed to address the apparent systemic shortcomings identified in the use of solitary confinement at Ebongweni. These recommendations are intended to enhance alignment with constitutional and international human rights standards, mitigate the potential harms associated with solitary confinement, and promote rehabilitation and reintegration.

6.7.1 Restrict the use of solitary confinement

Solitary confinement should be used only as a last resort, under exceptional circumstances, and for the shortest possible duration, as emphasised by the Nelson Mandela Rules.¹⁸⁶ Prolonged or indefinite solitary confinement might lead to further psychological harm and should therefore be prohibited. Clear and transparent guidelines under define the criteria for placement, supported by regular, independent reviews of confinement status to ensure accountability and fairness.

Implementing this recommendation should enhance compliance with constitutional and international standards, reduce the psychological harm associated with prolonged isolation, and

¹⁸⁵ See subsections 4.3.4 and 4.6.6.

¹⁸⁶ See Rule 45 of the Nelson Mandela Rules.

foster fairness and transparency in the correctional system. It could also help build trust between inmates and correctional officials while safeguarding inmates from potential arbitrary or indefinite isolation.

6.7.2 Expand rehabilitation programmes

Rehabilitation programmes should form the foundation of correctional practices at Ebongweni. These could include access to education, vocational training, mental health therapy and restorative justice programmes. Such programmes should be tailored to the specific needs of individual inmates and made available throughout all phases of incarceration, rather than being limited to select stages.

Expanding access to rehabilitation programmes would shift the focus from punitive isolation to opportunities for growth and skill-building. This shift would align with the DCS rehabilitative mandate, potentially reducing recidivism and fostering positive behavioural change among inmates.

6.7.3 Strengthen mental health support

Consistent and accessible psychological support should be prioritised for inmates in solitary confinement. This could include regular mental health assessments, counselling sessions, and access to psychiatric care. Integrating mental health care into the broader correctional approach, supported by adequate resources to employ psychologists, criminologists, social workers, and counsellors, would help address inmates emotional and psychological needs.

Enhanced mental health support might mitigate the long-term psychological harm associated with sensory deprivation and social isolation. It could also help inmates develop coping mechanisms to manage stress, anger, and frustration, thereby reducing incidents of self-harm or suicidal ideation.

6.7.4 Enhance staff training and oversight

Correctional staff should receive comprehensive training on human rights, de-escalation techniques, and the principles of rehabilitation. This training could include strategies for managing high-risk inmates without resorting to excessive force or punitive isolation. Furthermore, oversight mechanisms such as the JICS could be strengthened to ensure greater accountability and to address allegations of mistreatment or abuse.

Improved staff training and oversight might contribute to a safer correctional environment, promote a culture of professionalism and respect, and reduce tensions between staff and inmates. These measures could foster more constructive interactions and support the rehabilitative objectives of the correctional system.

6.7.5 Address systemic challenges and resource allocation

To ensure the success of proposed reforms, systemic issues such as understaffing, resource constraints, and alleged mismanagement would need to be addressed. Investments in infrastructure, staff capacity, and the provision of basic amenities including food, hygiene facilities, and healthcare could enhance the overall functionality of the correctional system.

Addressing these systemic challenges will probably improve the living conditions of inmates, ensure their basic rights are respected, and enhance the operational efficiency of the facility. Additionally, tackling perceived corruption and resource mismanagement might help build public confidence in the correctional system.

6.7.6 Develop alternatives to solitary confinement

The DCS could explore evidence-based alternatives to solitary confinement, such as restorative justice programmes, conflict resolution mechanisms, and structured group activities. These alternatives might address behavioural issues without resorting to isolation, while maintaining safety and security within the correctional facility.

Adopting such alternatives could reduce reliance on solitary confinement as a default management tool and encourage positive behavioural change through social interaction and engagement. These approaches will promote rehabilitation by addressing underlying behavioural issues and fostering accountability among inmates.

The recommendations proposed above have the potential to transform Ebongweni into a facility that prioritises human dignity, safety, and rehabilitation. By adopting evidence-based approaches and promoting systemic accountability, the DCS could foster a more humane and rehabilitative correctional environment. These reforms could serve to contribute to a safer and more equitable society.

6.8 Future research

This study has drawn attention to significant issues surrounding the use of solitary confinement as a management tool at Ebongweni. However, the complexities of solitary confinement practices suggest that further investigation is necessary. Future research could build upon the findings of this study to deepen understanding and contribute meaningfully to prison reform efforts. The following avenues for future research are proposed:

6.8.1 Rehabilitation as a right for prisoners

Given the rehabilitative mandate outlined in the CSA and supported by international human rights principles, future research could explore the concept of rehabilitation as a fundamental right for prisoners, even within the restrictive conditions of solitary confinement. By framing rehabilitation as a right rather than a privilege, future research might contribute to a shift in correctional practices towards more humane and rights-based approaches.

6.8.2 Accountability and human rights compliance in solitary confinement

Future research could examine the mechanisms of legal accountability and compliance with human rights standards in the use of solitary confinement. While this study identified apparent gaps between policy intent and implementation, such as the reported lack of procedural transparency and potential non-compliance with constitutional protections,¹⁸⁷ a deeper investigation is required to assess how correctional facilities are held accountable for these discrepancies. This line of inquiry might focus on the legal frameworks governing solitary confinement to determine whether existing laws and policies provide sufficient safeguards for prisoners' rights.

6.9 Conclusion

Solitary confinement remains one of the most debated practices within the penal system, encapsulating the tension between the need for institutional control and the fundamental rights of incarcerated individuals. This study suggests that the practice of solitary confinement at Ebongweni Correctional Centre may not fully align with constitutional and international human rights standards. The findings indicate that prolonged isolation might exacerbate psychological harm, limit procedural fairness, and restrict meaningful opportunities for

¹⁸⁷ See subsection 4.3.1.

rehabilitation. At Ebongweni, solitary confinement appears to function more as a punitive measure than as a rehabilitative tool, falling short of the transformative potential often envisioned in correctional theories.

The recommendations outlined in this research propose a pathway to reform, grounded in evidence-based practices and a commitment to preserving human dignity. By restricting the use of solitary confinement, enhancing mental health support, expanding rehabilitation programmes, and exploring alternatives that prioritise restorative justice, policymakers could move closer to a correctional system that aligns with the constitutional mandate and international human rights obligations. However, the success of these reforms may well be dependent on robust oversight mechanisms, targeted infrastructural investments, and a cultural shift within the DCS to prioritise humane treatment and rehabilitation.

This study highlights the urgent need for a paradigm shift in South Africa's correctional system, one that moves away from punitive isolation and embraces a more humane, rights-based approach to incarceration. The treatment of inmates at Ebongweni reflects not only on the correctional system but also on the broader societal commitment to justice, equality, and human rights.

By addressing the systemic shortcomings identified in this study, South Africa has the opportunity to lead by example, demonstrating that a humane and rehabilitative approach to incarceration is not only possible but essential for building a just and equitable society. While challenges remain, the findings of this study suggest that meaningful reform is both necessary and achievable, offering hope for a correctional system that values dignity, fairness, and the potential for transformation.

As Fyodor Dostoevsky poignantly observed, 'The degree of civilisation in a society can be judged by entering its prisons.'¹⁸⁸

¹⁸⁸ FM Dostoevsky *The House of the Dead* xiv.

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07 December 2022

Samantha Naidoo (220068617)
School Of Law
Pietermaritzburg Campus

Dear S Naidoo,

Protocol reference number: HSSREC/00004955/2022

Project title: **Solitary Struggle**: A critical qualitative evaluation of solitary confinement as a prison management tool at Ebongweni Super-maximum correctional centre in South Africa

Degree : Masters

Provisional Approval – Full Committee Reviewed Protocol

This letter serves to notify you that your application received on 26 October 2022 in connection with the above, was reviewed by the Humanities and Social Sciences Research Ethics Committee (HSSREC) on 29 November 2022. The protocol has been provisionally approved, subject to the following conditions set out below being addressed:

1. Research questions, need to be framed as such, not as the data collection tool as is outlined here. PI to consult with supervisor to appropriately answer the section on Research Questions and Intended Workplan(TAB 2 Project Details)
2. List of aims seem extensive and most likely beyond the reach of this study. E.g.: to assess the behaviour modification of inmates at....This implies a particular type of measurement design and outcome assessment, more likely, this study will explore perceptions of....
3. Adjust and document time line and components of the study appropriately. Plan was to collect data in October and November. Has data been collected?
4. Sample: how exactly will random sampling be done, why random? How recruited, once identified, rationale for these numbers? What is the meaning of the phases? How do the phases relate to aims?
5. Is the PI's managerial position a variable that may influence participation and impact validity of data from staff and prisoners alike?
6. How will feedback be given to prisoners? Staff and managers?
7. Informed consent documents need to distinguish between different categories of participants, DCS staff, and prisoners. Purpose of the study and language use in info and consent needs to be understandable by all participants, information sheet and consent forms in other languages? Real bias in participation if only fluency in English emerges as a variable for inclusion. Please revisit. PI to clarify if all participants are competent speakers of English. If not, how will such participants be accommodated?
8. How will the supervisor have access to data?
9. PI to remove personal contact information from the documents
10. . PI to include a limits to confidentiality clause on the information sheet (for incarcerated participants)
11. There is the possibility that the responses of colleagues may be circumspect. How will the PI handle this?
12. Please note that provisional approval for gatekeeper permission will be granted when the other queries have been satisfactorily addressed.

Kindly upload your response on Tab 8 of the RIG online system as soon as possible. Please do not submit a new revised application.

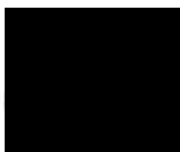
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This approval is granted provisionally and the final clearance for this project will be given once the above-mentioned condition(s) has been met. Note that data collection may not proceed until final ethics approval letter has been issued after the remaining conditions have been met and approved by the research ethics committee.

HSSREC is registered with the South African National Research Ethics Council (REC-040414-040).

Yours faithfully



.....
Professor Dipane Hlalele (Chair)

/dd