

The Position and Rights of Homosexually Oriented Sentenced Prisoners in Serving Prison Sentences

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Abstract

The position and rights of homosexually oriented sentenced prisoners in serving prison sentences are an important topic both in the penological framework and in the general context of respect for human rights. Not just psychic, physical and sexual violence within the convicts collective, but also the inadequate attitude of professionals in prisons, are often highlighted as problems when we are talking about the people oriented to the same sex. It is precisely in this respect that this paper is going to present the results of attitudes of the persons serving the sentence, and in relation to the phenomenology and the etiology of the victimization of the gay population in penal institutions. A sample of 78 respondents from the District Prison in Novi Sad is included and the obtained data testify about the disadvantaged position of the mentioned subgroup, but also about the generally discriminatory and violent culture that is not determined primarily by sexual preferences.

Keywords: Prison, homosexuality, violence, human rights

I. Introduction

The rights, the position and the problems of homosexually oriented sentenced prisoners in serving the prison sentence are a penological topic that has been devoted attention to since the first half of the previous century (Karpman, 1947; Haines & McLaughlin, 1952; Ward & Kassebaum, 1964; Saum et al., 1995; Knowles, 1999). The mentioned phenomenon is thus presented in accordance with the social context and prevailing attitudes about the persons oriented to the same sex as a whole. The viewing of homosexuality (in prisons) as a disease (Dhikav, 2004; Green, 1972), or as a form of prostitution (Boyer, 1989; Caukins & Coombs, 1976) or a security problem (Lockwood, 1980; Nacci & Kane, 1983; Hensley, 2000) followed the evolution of penological thinking as well as the achievement of a global standard of human rights protection.

In the last decades, this topic, within the penal framework, has also become interesting from the health epidemiological position. Many researchers has been motivated to conduct a number of different studies in context of emphasizing that the population of people serving sentences is at an increased risk of transmission of Hepatitis and HIV (Harding, 1987; Thomas & Moering, 1994; Naeem et al., 2014).

Following the contributions of domestic authors, the subject matter is only paid a tangential attention to. Thus, the rights of homosexuals are most often considered

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within the broader framework of respect for human rights (Račić and assoc., 1998; Jerosimić & Dimitrijević, 2007; Isaković & Lazar), rights of prisoners (Soković, 2004; Igracki and assoc., 2016), or the general problem of sexual violence in penal institutions (Pavlović and Radojković, 2016). Mršević (2016) is slightly closer to focusing on the complexity of transgender women's problems in domestic prisons.

Respecting the above, the author is going to present a brief overview of theoretical and empirical observations in the context of the position of homosexually oriented sentenced prisoners. Also, the results of the research on the attitudes concerning the rights of this population and the forms of violence that are committed against them in the penal context will be presented. As the final part, integrating theoretical settings and research indicators, proposals for the improvement of the national practice of executing the prison sentence will be formulated.

II. Legal framework of protection and phenomenology of homosexuality in prisons

The analysis of the topic of homosexuality in the criminological, penological and wider social context carries quite heterogeneous perspectives, both in Serbia and in other countries of Europe and the world. Thus, in the first place, it should be noted that the given form of sexual orientation has been criminalized for a long time, while in some countries the same sex sexual intercourse is still punishable (death) (Crompton, 1976; Agoramoorthy & Minna, 2007).

The punish-ability of homosexuality of course, lasted for a long time in domestic legislative frameworks. Only after the Criminal Code amendments (1994), the decriminalization of these behaviors came, with the restriction that same-sex sexual relations would be punished in case one partner was underage (minor).

The equalization of the rights of homosexuals with heterosexual populations only came into being in 2006, when the same law stipulated the gender neutral limit for entering into sexual relations. And although this may be seen as a significant step forward, it must be borne in mind that in Germany, Magnus Hirschfeld, in 1898, had launched a petition for the abolition of the incriminating paragraph 175 by which homosexual relations were defined as punishable (Mancini, 2010; Steakley, 1993).

Following other legal changes in Serbia, other positive developments have been noticed. This applies primarily to the Law on the Prohibition of Discrimination¹ and the Law on Gender Equality², but also to the number of other laws, such as the Labour Law³, the Law on Higher Education⁴, the Law on broadcasting⁵ and others. The above acts thus clearly respect the principle that sexual orientation is a private matter, and that no one can be invited to publicly declare it, or to be discriminated against on the basis of that choice.

¹ ("Official Gazette of the Republic of Serbia", No. 22/2009)

² ("Official Gazette of the Republic of Serbia", No. 104/2009)

³ ("Official Gazette of the Republic of Serbia", No. 24/2005, 61/2005, 54/2009, 32/2013, 75/2014, 13/2017 - decision US and 113/2017)

⁴ ("Official Gazette of the Republic of Serbia", No. 88/2017 and 27/2018 - other law)

⁵ ("Official Gazette of the Republic of Serbia" Nos. 42/2002, 97/2004, 76/2005, 79/2005 - other law, 62/2006, 85/2006, 86/2006 - correction and 41/2009)

When it comes to the penological context, the topic of homosexuality is not been touched directly at the legal level. Thus, for example, the Law on the Execution of Criminal Sanctions⁶ in Article 7 states that a person under whom a criminal sanction is enforced may not be placed in an unequal position. In this context, the discriminatory impediments of the prohibition include race, color, sex, language, religion, political and other beliefs, national or social origin, property, education, social status and other personal characteristics, without explicating the criteria of sexual orientation.

The framework of attitudes towards (homosexual) persons serving prison sentences was determined, of course, by other acts, and above all by an international character. This refers to a number of sources that prohibit torture and define the general minimum conditions for serving the sentence, with the emphasis on the prohibition of discrimination (Janković, 2010).

The legal framework and phenomenological picture of the position and rights of homosexually oriented sentenced prisoners can often be in conflict or in collision. For example, while homosexuality is decriminalized, in some US states, homosexual relations in prisons represent the basis for disciplinary punishment, regardless to the nature of consensus (Eigenberg, 2000).

Namely, numerous observations have led to the conclusion that some (physically weaker ones) convicts agree to sexual act, in order to avoid serious forms of violent victimization. In fact, a coherent relationship between the relationship and the security challenges posed by the joint accommodation in prison lead to the fact that no threat with violence is required at all, but the same is implied in a given situational framework (Eigenberg, 2000; Weiss & Frair, 1974).

Defining a clear and uniform response to the homosexual relationships in prison is also compounded by other aspects. Namely, although a rape has been regularly observed in a penal context, there is also a noticeable resistance in reporting this type of victimization. Thus, authors such as Garland and Wilson (2013) point out that any reporting to the security services is actually seen as "snitching," and in that sense, the victim is degraded even more in an informal hierarchy.

In addition, following the findings of the Eigenberg study (1994; 2000) that included the sample of 166 working professionals in prisons, it is observed that security service members in 46% of cases consider that some prisoners deserve to be raped. Also, the same author suggests that convicts are deliberately punished in prisons, either in the sense of being accommodated with sexually aggressive convicts in order to "encourage" their cooperation with security services, or to reward individuals who may be "the influencing ones" in the convicts' collective.

Viewed from somewhat different perspective, while Pinkerton and associates (2007) pointing out to the risk of HIV transmission in unprotected homosexual intercourses and rapes in prison, the idea of giving condoms to convicts is often seen as the promotion of same-sex relationships. In that sense, supporting safe sex would again lead to the security challenges of distinguishing between coherent and consecutive relationships. However, on the other hand, authors such as Garland and associates (2013) do not find confirmation for the given hypothesis by suggesting that condoms lead to a reduction in health challenges, but do not actually affect the frequency of homosexual orientation.

⁶ ("Official Gazette of the Republic of Serbia", No. 55/2014)

III. The methodology of the research

The subject of this research is the attitude of the persons serving the sentence of imprisonment in respect of the rights and the position of homosexually oriented sentenced prisoners. The sample covered 78 respondents serving a prison sentence in the District Prison of Novi Sad. Inclusive criteria included penal returnees, that is, those who had experience of serving their sentences already and at the Penitentiary Institute in Sremska Mitrovica or another institution where they were serving a sentence of more than a year. Data collection was carried out in the period from April, 2015 to May, 2017.

The entire sample was made up of male persons, with all respondents declaring themselves as heterosexually oriented. The average age of the surveyed respondents, observed at the level of the entire sample, is 36 years. Given that these are persons who previously served the sentence of imprisonment, the average length of the total of served sentences exceeds 3 years and 6 months.

The research itself was carried out using the survey technique, and the questionnaire was specially designed for research purposes as a research instrument. Validation of the questionnaire was accomplished through a focus group made of the Law Faculty for Economy and Justice Professors, and professionals working in the Treatment service in the District Prison in Novi Sad.

The collected data were subject to quantitative and qualitative analysis. Determined statistical indicators (frequencies and percentages) were calculated within the quantitative analysis. Statistical analysis of collected data was carried out /processed in the SPSS 19 statistical program. Having in mind a more complete understanding of the obtained results, semi structured interview was conducted regarding the subject matter. The interview was conducted with convicted persons, as well as with employed professionals ($n = 12$) in the mentioned institution.

IV. The results of the research

The conducted research was divided into several segments, with the aim to cover the phenomenological and etiological aspects of the problem. In addition to assessing the attitudes of the respondents regarding positions and rights within the convicts' collective, the (discriminatory / violent) forms of behavior among professionals both, inside and outside the concrete institution were also analyzed.

The results obtained on the first item are statements by the respondents in relation to the following claim *"While I was serving a prison sentence in a joint accommodation (department, room), homosexuals were also placed/accommodated there."* Thus, 76.9% ($n = 60$) persons reported affirmatively in relation to the given claim, 12.8% ($n = 10$) were unaware or were not interested in knowing the sexual orientation of other convicts, while 10.3% ($n = 8$) stated that homosexuals did not serve the prison sentence in a joint accommodation with them.

By expanding the framework of the analysis to the presence of the persons at the institution in which they were serving the sentence, virtually all respondents ($n = 78$)

stated affirmatively, that they knew that at least one person of homosexual orientation was in a given correctional facility during the duration of their sentence.

The second item that was put before the respondents was of the requirement to estimate the frequency of homosexuality in the convicts' collective. So the respondents were offered a scale on which they were supposed to mark their observations. The obtained results indicate that the estimation of the convicts in terms of the frequency of the mentioned orientation was at the level of 6.4%, with 82.1% (n = 64) persons estimating at the level of approximately 5%, further 9% (n = 7) persons estimated that approximately 10% of the prisoners were homosexually oriented, 7.7% (n = 6) found this level to be 15%, while 1.3% (n = 1) also estimated at 20%.

In the same context, the respondents were asked to assess the percentage of persons in a passive-receptive position. That is how many persons in a homosexual relationship (according to the informal system terminology) play the role of a "woman", and how many the role of an active or dominant sexual partner.

The results obtained thus testify that, according to the prisoners' assessment, the number of active partners or those who "*play the role of a man*" is almost twice as big as those who are passive or "*women / dragons*", according to the before mentioned informal terminology. In terms of percentages, the proportion of passive convicts was estimated at 36%, compared to 64% of persons in active positions.

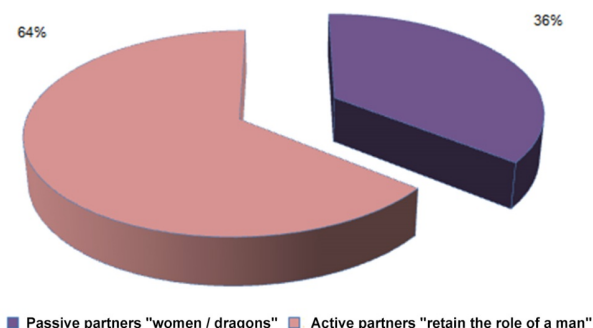


Figure 1. The ratio of passive / active homosexuals in the convicts' collective⁷

Analyzing, further on the phenomenological context, the question was placed: "*In your opinion, how many percent of prisoners who are in the position of a passive partner and who have a manifestation of transgender behavior, in terms of wearing women's clothes, and of feminine physical appearance, make-up, hair length, feminine pronunciation and similarly*".

The obtained data suggest that within those who are recognized as homosexuals, the proportion of transgender is negligible, is at the individual case level, or below 3%. So practically, all respondents reported that homosexual relationships are, as a rule, realized among convicts who have apparently retained the attributes of masculinity.

⁷ The presentation of the jargon language, found within the institute, aims to illuminate the actual position of homosexually oriented persons in serving sentences rather than accepting it as scientifically adequate.

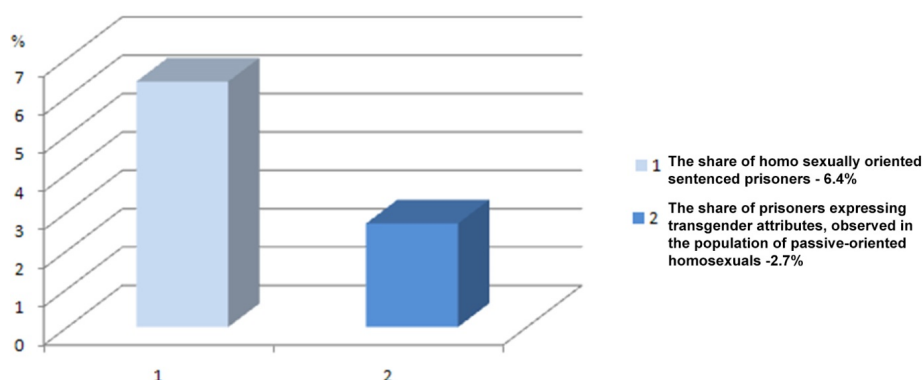


Figure 2. The proportion of homosexual and transgender people in the convicts' population

In the next item respondents were offered several protective factors in relation to which they were supposed to declare, on a three-level Likert scale, which they considered most important in maintaining the position and protecting the rights of homosexuals in prison. The value of 1 signified the position of the agreement, and the value of the 3 position of disagreement.

Thus, among the different, three factors are distinguished. Namely, the most dominant factor that provides a position to a given group of convicts was identified by members of the Security Service, where 96% (n = 75) of the respondents considered that the "guard" is the one who protected mostly the rights of the prisoners of the mentioned sexual orientation.

In the same context, 94.8% (n = 74) of respondents recognized the law as a framework that protects the rights of homosexuals. Most respondents, during the interview, reported that they were referring to the Criminal Code and the Execution of Criminal Sanctions law, and according to which the every (deserved) mistreatment of homosexuals would be punishable.

Relatively high level of protection was also observed in the context of NGO sector surveillance/monitoring, where 89.7% (n = 70) of respondents considered this a strong framework of protection. However, when it comes to the role of the Ombudsman/The Protector of the citizens and the Enforcement Judge, only 38.5% (n = 30), i.e. 37.1% (n = 29) of the respondents recognized it in the protective context.

Factor	Agree ⁸	Undefined	They disagree	Average value
The Law	74 (94.9%)	2 (2.6%)	2 (2.6%)	1.07
Director of the Management Board	41(52.6%)	22 (28.2%)	15 (19.2%)	1.66
The Enforcement Judge	30 (38.5%)	41 (52.6%)	7 (9%)	1.70
Security Service	75 (96.2%)	2 (2.6%)	1 (1.3%)	1.05
Treatment Service	67 (85.9%)	6 (7.7%)	5 (6.4%)	1.20
Protector of Citizens	29 (37.2%)	29(37.2%)	20(25.6%)	1.88
NGO monitoring/control	70(89.7%)	3(3.8%)	5(6.4%)	1.16

Table 1. Protective factors of the rights of homosexually oriented convicted persons

⁸ The value of the questions 1- I agree, 2- I'm not sure, 3-I do not agree.

Respecting the rights of homosexually oriented sentenced prisoners was also analyzed regarding the possibility of consuming the rights guaranteed by law and by by-laws, and from the position of the respondents. Thus, within the next item, several statements were offered, where on the Likert scale the convicted persons expressed their views (agreement/disagreement) on the position of the group in question, in the context of expert services of the institute, the Directorate for Enforcement of Criminal Sanctions, courts and the Ministry.

The results obtained suggest that there is practically no difference between the prisoners of homosexual and heterosexual orientation regarding the right to written correspondence within the institution, as well as with the other instances mentioned above. Also, no differences have been identified regarding the consumption of intra-institutional (inside the institution) rights to receive packages / visits or extra-institutional (outside the institution) rights.

The respondents also did not consider that the courts acted discriminatory on any basis (regular criminal proceedings, unreasonable/unreal repetition, conditional release), and in cases where the sexual orientation of the convict is known. Finally, equality of rights is also observed in the context of health care, where according to the attitudes of the respondents in the penal context, no difference is made between the convicts.

Nevertheless, the degree of discrimination was observed in the context of cooperation with the Treatment Service and the disciplinary committee. Namely, according to the stated attitudes, the teachers/educators in the institution reluctantly talk with convicts of homosexual orientation, except when it comes to those situations when they need "snitches". Also, when it comes to filing disciplinary charges and pronouncing disciplinary measures, homosexual convicts are perceived as protected, that is, they rarely got sanctioned disciplinary offenses.

Disrespect of law / discrimination	Agree	Undefined	They disagree	Average value
They are denied their visits/packages	/	1 (1.3%)	77 (98.7%)	2.98
They were deprived of their extra-institutional rights	/	/	78 (100%)	3
They are deprived of their right to health care	/	/	78 (100%)	3
Courts are not up to date / disrespectful of the law	/	/	78 (100%)	3
The educators are reluctant to talk to them	34 (43.5%)	6 (7.7%)	38 (48.8%)	2.05
They are disciplined less often	52 (66.6%)	4(5.1%)	22(28.2%)	1.61

Table 2. Forms of discrimination against homosexual convicted prisoners

The position of homosexuals in serving prison sentences has also been analyzed in the context of explaining the causality of the mentioned sexual orientation. In doing so, respondents were allowed to freely enter the answers, limiting them to a maximum of three answers, and then the answers were grouped into unique factors.

Thus, by analyzing the obtained results, three dominant views of the nature of homosexuality in prison were highlighted. Namely, out of the total number of respondents, practically all respondents described homosexuality as a disease (97.4%, $n = 76$). Furthermore, 74.3% ($n = 58$) of the respondents considered that homosexuality was the result of sexual deprivation, or lack of contact with people of the opposite sex. Finally, 69.2% ($n = 54$) of the person considered that homosexuality was an expression of a renting relationship and the way in which individuals met their material needs.

Analyzing the framework of the position of homosexually oriented persons in serving sentences in the convicts' collective within the next item, a ten-step or ten-level scale was set up. In relation to the scale respondents should have marked the hierarchical position of certain categories of prisoners in the informal prison system. In doing so, the categories of convicts were defined through a previously realized clinical interview, and where the different marginalized or stigmatized groups were identified.

Guided by the obtained data, the position of homosexually oriented persons is noted or placed, in the informal hierarchies, in the lower partitions. According to the perception of the convicted, the lower level is only occupied by "snitches", "pedophiles" and "rapists". Thus, in the range of 1 to 10 homosexually oriented sentenced prisoners were noticed at the level of 1.92, which was even lower to the level of hierarchy occupied by members of the Roma minority (2.91). Only when it comes to persons convicted for sexual violence against children, we can notice that they are marked as persons of the lowest status (0.4), while at the level of 1.64 we can find prisoners who serve the sentence for the committed criminal offense of rape.

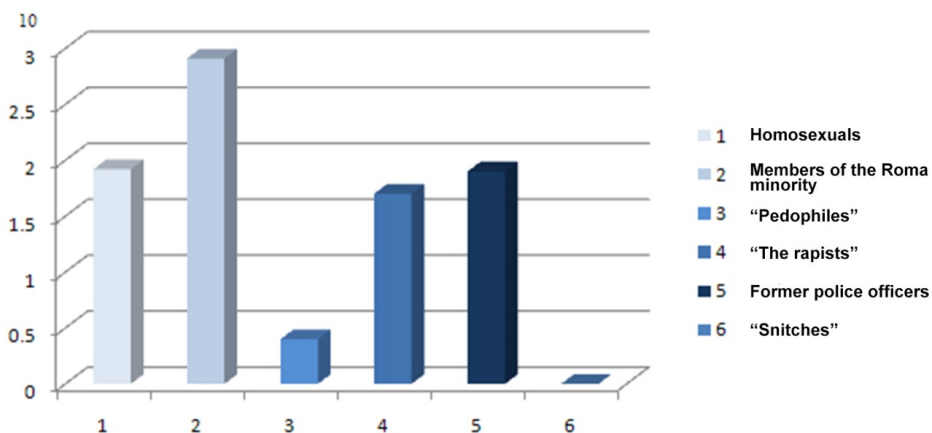


Figure 3. Position of individual groups in the informal structure – Scale range 1-10

The next item asked the respondents to determine in terms of identifying the existence and frequency of certain behaviors towards homosexually oriented sentenced prisoners. Thus, with concrete/particular behavior, which can be classified as violence, the scale was offered with the range from "never happens" to "it happens on a daily basis". The specified items are quantified on the scale from 0 to 5.

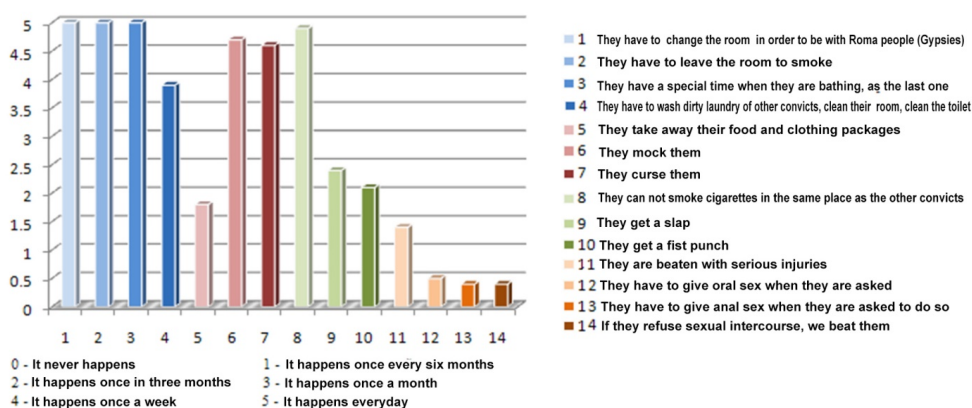


Figure 4. Frequency of certain forms of violence against homosexually oriented convicts by other convicted persons

The obtained results indicate that homosexually oriented sentenced prisoners are very often exposed to various forms of psychological violence, mostly or practically every day. This primarily refers to the pressure of segregation and isolation from a common accommodation, either in terms of staying in a specific room (5) or common spaces for other purposes (5). The particular consensus of the respondents was reached with regard to imposing an obligation that the mentioned group (homosexually oriented persons) cannot use showers and bath or shower together with other convicts (5).

When it comes to physical forms of violence, and in the sense of slapping, fists punching or punching with serious injuries, they are estimated to be relatively rare. So, slapping (2.4) and fist punching (2) are assessed with a frequency of once every three months, while punching with serious injuries is assessed with a frequency slightly higher than once in six months (1.3).

Finally, in terms of sexual violence, it was also assessed with a frequency less than once in six months (0.5). The results stated, are both in terms of coercion to sexual intercourse, and in the context of punishment for rejecting sexual contact (0.4).

Regarding the assessment of the incidence of sexual violence in the next item, the statement was given: *"While serving the sentence in prison, there have been cases of sexual violence (coercion to oral or anal sex) towards persons who are not homosexually oriented."* In relation to the above, the respondents answered within the three-step or three-level Likert scale, while subsequently in the segment of the respondents who were in agreement asked to assess the frequency of such events.

The obtained results testify that 76.9% (n = 60) of the subjects were in accordance with the assertion, 5.15% (n = 4) was not defined, while 17.9% (n = 14) denied that the cases of sexual violence against persons of heterosexual orientation ever occurred during the serving of their sentence of imprisonment. Observed at the level of an average value, the same is set at a level of 1.4, which shows a clear valence of the agreeing position. However, when it comes to the frequency of this type of violation, it is assessed as a sporadic one, and at a level lower than once in six months (1.8).

The next item analyzed contained a request: *"If there are any reasons why you do not want homosexuals to serve the sentence together with you in the same*

accommodation, please state the reasons for that." Again, respondents were allowed free/open responses, which were subsequently categorized into appropriate common denominators.

By analyzing the responses, the danger of infection and infectious diseases is the dominant reason, in 96.1% ($n = 75$) cases. Another reason regarding the frequency is the feeling of psychological discomfort in perceiving the situation of physical or sexual contact (kissing, hugging, and sleeping in the same bed, "sounds that are heard at night"). In doing so, 83.3% ($n = 65$) of the respondents report the above. Only as third reason, the psychological feeling of discomfort in situations where homosexuals can look at others without clothes (bathing, changing clothes) or perceive them as a sexual object appeared. 82% ($n = 64$) of respondents reported this reason as common one.

Respecting the rights of homosexually oriented sentenced prisoners has also been analyzed in the context of the behavior of security service members towards the same. Thus, respondents made statements in relation to certain forms of psychological, physical and sexual violence, and labelled them in terms of frequency on the scale shown, ranging from 0 to 5 (*never happens / happens on a daily basis*)

The obtained results suggest that the members of the said service (security service) most frequently, and practically every day, mock (5,8) and curse (5,4) convicted persons from the given context. However, when it comes to physical violence, the same is significantly less notified, and according to the assessments of the respondents, slapping occurs about once in three months (2,9). When it comes to fists hitting or punching it is also very low in terms of frequency (1.1), which brings out the conclusion that it does not happen almost at all. Finally, when it comes to sexual violence, all respondents agreed upon the view that members of the Treatment Service do not abuse persons of homosexual orientation (1).

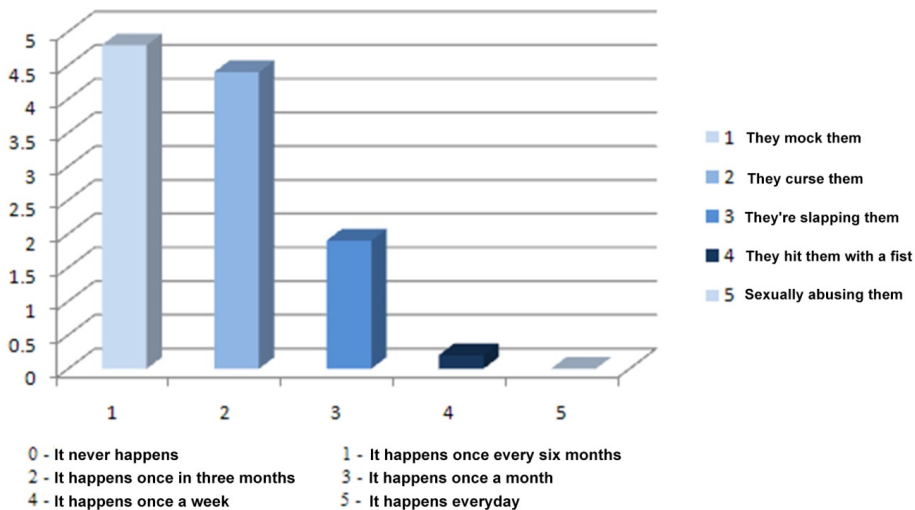


Figure 5. Frequency of individual forms of violence against homosexual sentenced prisoners by officials

The last item asked the respondents to determine on a three-step scale with regard to the agreement with the statement "Members of the Security Service" turn

their heads to the other side "when violence against homosexually oriented sentenced convicts occurs".

The results obtained indicate a high level of concurrence of the respondents (1.05). Thus, 89.7% (n = 70) persons confirmed that violence against the subject population was sometimes tolerated. Furthermore, 5.1% (n = 4) was undefined in this context, while the same proportion of respondents denied the practice of tolerating.

V. The interpretation of results

An analysis of the data collected in this study suggests that homosexuality is a phenomenon that is clearly noticed in a penal context. Nevertheless, estimates of the frequency of this phenomenon are really low and at the level of approximately 6%. Only, a comparison of the results obtained in this context can be considered as quite problematic. Thus, for the example, Harry (Harry, 1990), in a telephone-based study, suggests that the proportion of homosexual or bisexual people in the general population is at a level of 3.7%. Therefore, it can be concluded that the established frequency in penal conditions is almost twice as high, which could have the implications of the situation context.

However, when the mentioned estimates are concerned, one should be pretty cautious. Namely, authors such as Gagnon & Simon (1968), and Pillard and Weinrich (1986) point out that in the general population, the share of persons with at least one homosexual experience goes up to 30%, while in penal conditions this share ends up at 45%.

Respecting previously mentioned, the obtained data, as well as the results of the presented studies, require interpretation in the context of the methodology itself. It is therefore not impossible that different criteria of homosexuality actually point to such significant deviations. In addition, when conducting the research itself, one should bear in mind the sensitivity of the subject in a specific context, and the burden of the sincerity of the respondents. Finally, given the knowledge about the poor position of homosexuals in prisons, it is not excluded that a significant proportion of those who are homosexually orientated does not actually express or declare their sexual orientation. Clearly, this is especially likely in serving short sentences, where it is easier to tolerate sexual abstinence or deprivation.

Problems in this level of assessment also relate to the fact that it is not unusual that in the penal context certain prisoners were "stuck" the label of a homosexual, although they were not. This is primarily related to those who, by their physical or behavioral characteristics, deviate from the aggressively masculine culture of imprisonment.

Analyzing data obtained in more details, regarding the characteristics of this subgroup within the penal environment, it is interesting that the number of passive partners is estimated practically twice lower than the active ones. Namely, such a situation is not really unusual, and given the observations of various authors that indicate that in prisons often only a receptive position is recognized as female attributes. Hence, those who hold an active role, along with a coercive or manifestly aggressive pattern of relationships, despite homosexual orientation, retain an informal hierarchical position in the collective. If we accept that the prison culture is a

priori aggressive, the deprivation of sexuality can be conditioned by a greater number of those who take an active role (Krikham, 2000; Nacci & Kane, 1983; Knowles, 1999).

Precisely in this regard, all the previously presented results must be interpreted with a certain limitation. Namely, the data collected during the interviews with convicted persons testify that the perception of the position of homosexuals is precisely of the passive subjects, that is, those that are recognized in the "role of the woman". Thus, respondents testify about the various cases in which the "leaders of the bloc" were sexually violent towards other convicts, but these behaviors did not degrade them in a hierarchical sense, nor were they marked as "fagots".

When it comes to persons with transgender manifestations, the estimated share is very low. Most respondents talk about them anecdotally, with a ridicule. Nevertheless, in connection to this, it is interesting that their position or the vulnerability of their security has not been linked to their sexual orientation, as much as to their willingness to confront the pressures made by the Security Service. In this sense, it can be understood that "snitches" have the lowest position on the informal scale, even under/lower than the sexual offenders (child molesters).

In terms of the rights of the convicted persons of homosexual orientation, it seems that the same can be viewed in two directions. When it comes to rights that are exercised through written correspondence or which have a clearly written clue or trace, in the sense of verdicts, decisions or similar, there is no discriminatory behavior to be observed. This practically means that convicted persons, regardless of their sexual orientation, have the possibility of legal aid, legal remedies or court procedures. The same applies to the right to health care, which is not questionable at all regarding the criterion in question.

Certainly, different results can be noticed in terms of the observed protective function of various inside and outside instances of the institution. Namely, the obtained data indicate that the security service and the Criminal Code actually represent the most powerful means of deterring violence against the homosexual population. In doing so, these are generally interpreted in a pejorative context, in a way that the same (negative) attributes of homosexuality are added to the members of that particular service.

Guided by the fact that a prison represents a place of "clashes" between convicts and the Security Service, it is difficult to state the protective role mentioned as objectively perceived one. This is firstly noted in light of other results, which suggest that members of the same service practically regularly carry out some form of psychological violence against homosexually oriented convicted prisoners, as well as that members of the security service also often are "turning their heads to the other side" from cases of victimization.

Important remarks are made in the context of the function of the Ombudsman or the Enforcement Officer/Judge. Namely, the role of the mentioned instances was observed as very low in the protective sense. However, during the interview with the respondents, the dominant attitude was that the mentioned ones generally do not respond positively to the complaints of convicts, and that they are not aware at all of the rights of all persons in prison, and not just of the same-sex oriented.

Finally, the position of the subject subgroup is evidence of the etiology of the mentioned form of sexual orientation, as well as the reasons why heterosexual prisoners do not want to be in the same accommodation with same-sex oriented

persons. First of all, this refers to a strong belief that homosexuality is a disease, and that the joint presence carries an increased risk of transmission of infectious diseases.

In the context of the previously stated, the selectivity of such observations is interesting. Namely, since a significant share of the respondents testifies about cases of sexual violence against heterosexual convicts, and especially during the insurrection at the Penitentiary Institute in Sremska Mitrovica, the perpetrators of this violence are not perceived through the prism of same-sex sexuality. The argument "*deserved to be raped*" hence actually invalidates the fact that rapists had some form of sexual excitement of the same-sex nature.

Finally, while there is an explanation regarding the fear of "*contagion*" (*infection*), it is interesting that during the interview, convicts give rather uneven statements about HCV positive persons, and in the context of tattooing practice, shared cutlery or use of recreational devices. Thus, while there is no particular anxiety, on the one side, in relation to those who have been proven to be a potential source of the disease, homosexuals are, on the other side, in particular, the provoking ones within the given framework.

In addition to the fact that respondents report about the daily practice of (psychological) violence against homosexuals, the impression is that this form of behavior is not exclusively motivated by sexual inclination. This can be supported by the observation that violence in prison does not apply to all persons of homosexual orientation, and that the violence is also done as well as to other marginalized groups. Finally, it can be noted that prison violence, in particular, has an opportunistic character, and above all, it is mainly oriented towards physically weaker persons, members of the Roma minority or persons of extremely unfavorable economic status.

The fact that the previous allegations finally have some corroboration can also be concluded from the statements of the professionals engaged in the Security Service in the District Prison in Novi Sad. Thus, according to the given source, even persons convicted of sexual offenses (over children) do not have to be exposed to violence *a priori*. This refers to persons who, through their criminal career, social skills or violent potential, secure themselves a higher position in the informal hierarchy.

VI. Conclusion

The position of homosexually oriented persons in serving prison sentences can certainly not be characterized as favorable in the national context. Although there is no discrimination based on sexual orientation in a formal sense, it is clear that the execution of criminal sanctions is burdened with this problem to a considerable extent.

However, it must be noted that the position of this subgroup is not particularly specific. In fact, the negative position within the convicts' collective is determined by a series of mediating criminological, penological and personal variables. In this sense, discrimination, stigmatization and victimization are representing, in fact, a constant that is being expressed towards different marginalized or groups burdened by some stereotypes.

Bearing in mind that previously noted incidents of various forms of violence still occur in Serbian prisons, and that professionals from the Security Service sometimes overlook them or tolerate them, it seems that there is an unequivocal need for more active approach to the given topic. This primarily concerns the education of the

employees, and the formation of binding protocols in cases of susceptible homosexuality or violence related to sexual orientation.

In support of the need to expand the secondary legislation, the attitudes of the convicted persons are also reflected by the professionals in the Treatment Service reluctant to communicate with homosexuals. In this sense, the equal need for continuous education is imposed, as well as the formulation of recommendations in professional work. So, for example, some observations from practice suggest that prisoners are not aware of security risks as well as the possibilities of confidential communication in cases of victimization upon their arrival in prison.

Additionally, if accepted, Knezic (2016) suggests that, there, in the Serbian prison, in the Treatment Service, as a rule, are employed persons who do not have any contact with penology and penological challenges in academic education, there is a question regarding the training of professionals to recognize signs of exposure to violence. In that sense, it is quite reasonable to expect that the professional services will not respond within a timely and adequate manner to cases of victimization of persons of the same-sex sexual orientation. Only the existence of specialized education programs, both for practitioners, as well as for members of the security service, can have some potential in this regard.

To sum up, the position and rights of homosexuals in the Republic of Serbia clearly bear the negative attributes. However, this does not only apply to the prison but also to the wider social context. In this sense, without the development of effective mechanisms for the protection of human rights, as well as the attenuation of prejudices regarding a given population on the level of the entire Serbian society, it is difficult to expect more complete correction of the situation.

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