

# TEMIDA

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Temide (*Themis*), Marble statue from Ramnusa, 300 A.D., Athens, National museum

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## From the Editor

After the first pilot issue, published in 1997, *Temida* became a journal of the Victimology Society of Serbia and the Group for Women's rights of the European Movement in Serbia.

The Victimology Society of Serbia was established on 12 November 1997 with the chief aim to support the development of victimology and improve the rights of victims of criminal offenses, human rights violations and other forms of suffering in the society. The Group for Women's Rights was founded in 1994 with the main objective to affirm and improve the human rights of women. Main activities of the Group are related to rights of women—victims of domestic violence and human rights violations in prisons for women.

*Temida* is a journal dealing with various issues of victimization and human rights from a gender perspective. It will publish both academic and professional articles, as well as other contributions, which address victimization issues from a gender perspective. Professional and academic articles should be understandable to a wider public as well, bearing in mind that one of the main objectives of this journal is the education of both experts and the wider public. Each issue will focus on a certain theme, but other themes will be addressed as well. Reviews of new books, seminars and case studies are also welcome.

*Temida* is a journal intended for all those interested in human suffering, its prevention or at least its alleviation. All comments and suggestions that could improve the quality of our journal are also welcome.

This issue's central theme is *Imprisonment and Human Rights*. We have chosen it for several reasons. First of all, we bear in mind the new Serbian Law on the Implementation of Criminal Penalties, which went into effect on 1 January 1998, offering new possibilities for more humane conditions of imprisonment. We believe that this is the right moment to indicate the possible directions of changes which would bring us closer to more advanced penal systems in the world. We also think that the effectiveness of punishment in terms of the prevention of crime and victimization depends on the manner in which it is executed. We hope that articles published here will be inspiring for those who are responsible to implement the new Law as well as informative to those who are interested in living conditions and human rights in prisons in Serbia.

Vesna Nikolić-Ristanović



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# Imprisonment and Human Rights

Vesna Nikolić-Ristanović<sup>1</sup>

## WHERE ARE THE LIMITS OF PUNISHMENT?

### Introduction

At the time of its implementation, at the end of the 18<sup>th</sup> and the beginning of the 19<sup>th</sup> century, imprisonment was seen as a step forward towards humane punishment and considered punishment appropriate to civilized society.<sup>2</sup> Cruel bodily punishments and public, spectacular executions, were replaced by punishment consisted of deprivation of one of the fundamental human rights, the right to liberty. In such a way the state took the right to exercise its power in a new way against those who had abused its interests by committing a crime. However, from the very beginning, as Foucault points out,<sup>3</sup> imprisonment has not been limited to the deprivation of liberty, but had a certain reformatory function with regard to perpetrators as well. Also, from its very beginning until nowadays, the manner in which the imprisonment penalty has been executed clearly shows that it is not limited to the deprivation of liberty (which is significant limitation of human rights *per se*) but it also limits or completely deprives inmates of various other human rights. Human rights violations in prison that are usually related to its punitive aspect are closely linked with its major functions – control of prisoners and their lives, while they are to a lesser extent and, mainly indirectly, a consequence of prisoners' isolation from the outside world. The emergence of prisoners' rights groups during 1970's,<sup>4</sup> had a significant impact on the final change of attitudes towards the reformatory function of prison. Consequently, some aspects of coercion within prison (e.g. forced labor) were transformed into rights (e.g. right to work). In such a way, human rights violations in prisons, particularly in times of economic crisis in society, have become related

to the prison's inability to adequately perform its function.

The problem of respect for human rights in prison is actually another side of a crucial question, as old as prisons themselves: is the deprivation of liberty sufficient or prisoners should be exposed to additional sufferings? From a historical point of view, the answer to this question has been modified during the last 200 years, depending on the economic and political situation in certain countries. Campaigning for cruel treatment in prisons, which marked the beginning of its implementation, i.e. 19<sup>th</sup> century, was later replaced with a more humane approach, but it revived again with the onset economic recession and political crisis in contemporary states.<sup>5</sup>

The aim of this paper is to address the problem of imprisonment in relation to prisoners' human rights, on the one hand, and to stress the connection between violation of prisoners' human rights as additional punishment, and the ineffectiveness of imprisonment in terms of crime prevention, on the other hand.

### Why do people go to prison: as punishment or for punishment?

Pat Carlen, the well-known English author, while criticizing contemporary prison studies, stressed out one important fact: studies on prisons still fail to theorize the prison as being the state mechanism for legitimated pain delivery and to question the modes whereby prisons systematically impose an excess of punishment which they do.<sup>6</sup> As Carlen says, there are several questions to be asked by researchers:

- "How successful are prisons in returning prisoners to society in worse state of physical health than they were in prior to their imprisonment? How are these degrees of success achieved?
- How successful are prisons in returning prisoners to society in a worse state of mental health than they were in prior to their imprisonment? How are these degrees of success achieved?
- How successful are prisons in returning prisoners to society with a variety of emotionally disabling symptoms, which they did not have before they went to prison? How are these degrees of success achieved?

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<sup>2</sup> Rossi, quoted according to Foucault, M. (1977) *Discipline and Punish: the Birth of the Prison*, London: Penguin Books, p. 233

<sup>3</sup> Foucault, M. (1977), p. 233

<sup>4</sup> Carlen, P. (1994) "Why Study Women's Imprisonment? Or Anyone Else's" *British Journal of Criminology*, vol.34, Special Issue, p. 134

<sup>5</sup> Sparks, R. (1996) "Penal 'Austerity': the Doctrine of Less Eligibility Reborn?" in R. Matthews and P. Francis (ed.) *Prisons 2000*, London: Macmillan Press LTD, p. 74

<sup>6</sup> Carlen, P. (1994), p. 137

- How successful are prisons in engendering extremes of tension, fear and mental anguish in prisoners? How are these degrees of success achieved?

- How successful are prisons in making the most of any pains already suffered by prisoners prior to their sentence? How are these degrees of success achieved?

- If people go to prison as punishment and not for punishment, as official ideology would have it, why are prisons not more like three-star hotels?"

The questions asked by Carlen open room for a new approach in discussing the issue of imprisonment, as they draw attention to that aspect of its punitiveness which is most disputable, among other reasons, because it usually hide violation of prisoners' human rights. Besides, this aspect of imprisonment is, especially in modern penitentiary systems, more or less covered by the official acceptance of the idea of rehabilitation as the main purpose of punishment. Modern penitentiary systems also insists on such conditions of implementation of imprisonment which enable life in prison to be as close to the life in open society as possible, i.e. that prison offers adequate preparation for a conformist behavior of prisoners once they are released. Closely related to the idea of rehabilitation are also legal guarantees of prisoners rights, particularly the right to work, right to education, right to living standard that does not jeopardize their health and the right to communicate with family.<sup>7</sup> However, contrary to official proclamations, the reality of living conditions in prisons, more or less, and with the exception of the Scandinavian countries, continues to be the source of deep degradation of personality and deterioration of the health of prisoners. The idea that life in prison must have a terrifying effect, i.e. that prison conditions should always compare unfavorably to material living standards of the laboring poor, was very popular in the 19th century and re-emerged at the end of the 20th century (the doctrine of less eligibility).<sup>8</sup> The revival of this idea by certain politicians in Great Britain has been very popular in the media, which is understandable if one bear in mind the economic recession and inability of the state to adequately address increased crime. However, if we take into consideration the real conditions in prisons and, especially, public opinion, we might conclude that no one has ever seriously thought prisons could be anything other than a source of suffering. Meanwhile, prisons turned

to be a total failure in the aspect of not only general, but special prevention of crime as well. Prisons not only do not reduce the crime rate but they are unable to prevent further criminalisation of prisoners as well.<sup>9</sup>

However, production of delinquents in prison is not only the result of the failure of rehabilitation or of inadequate classification of prisoners within the prison. It is more a consequence of the very conditions in prisons. Meaningless work that prisoners are forced to do, lack of education and training, loss of family contacts because of the lack of objective possibilities for adequate communication, together with the fear and injustice they experience inside the prison walls – these are just some examples showing that prison is more the way to final societal rejection and, in this way, to the loss of socially acceptable alternatives, than the system in which the »normalization« of prisoner's life is realized. As a rule, prisoners have very low self-esteem which is reduced further by the attitudes toward them in a whole and living conditions in which they are put (e.g. monotonous uniforms and rooms, the music they are forced to listen through public address system and constant emphasizing by prison stuff that they are in prison). It is, however, known that only people treated with respect can build a suitable level of both self-respect and respect for others.<sup>10</sup>

How senseless is imposing of such additional sufferings in terms of their effect to crime rate and rehabilitation of prisoners, is best seen if we compare, for example, the American and Scandinavian prisons, "In the United States", as Selke points out,<sup>11</sup> "harsh conditions of imprisonment are purposeful, and it is claimed that prison must be unpleasant in order to deter". In recent time, there is a trend in the USA toward further increase of the severity, i.e. deterioration of prison conditions, which is actually the result of overcrowded prisons as a consequence of an increase of prison sentences in general. This trend is mostly regarded positively in the USA. The US Supreme Court has turned away from penal reform, stating that perpetrators of crime simply deserve to be punished. The greatest aggravation of conditions has occurred in new prisons with maximum-security measures. One of the direct consequences of such change is the increased aggression of prisoners. Yet the crime rate has not dropped, but still grows rapidly.

<sup>9</sup> Foucault, M. (1977), p. 266

<sup>10</sup> Shaw, M. (1996) "Is There a Feminist Future for Women's Prison?" in R. Matthews and P. Francis (ed.) *Prison 2000*, London: Macmillan Press LTD, p. 184

<sup>11</sup> Selke, W. (1993) *Prison in Crisis*, Boomingtnog and Indianapolis: Indiana University Press, p. 59

<sup>7</sup> Milutinović, M. (1977) *Penologija*, Beograd: Savremena administracija, p. 56

<sup>8</sup> Sparks, R. (1996), p. 74

In comparison with the USA where there are 400 prisoners for every 100.000 people, in Norway, prison sentence is imposed rather seldom with 40 prisoners for every 100.000 people. As Platek notes<sup>12</sup> "this gives the Norwegians space and time to think about the problems of imprisonment - space and time which Americans no longer seem to be able to afford". In the Norwegian prison, an inmate can get a separate room, a chance to study, work and receive visits from a partner. Being an inmate does not prevent him/her from being a human being. The atmosphere is more relaxed and there is an understanding that deprivation of liberty is in itself a harsh punishment, which does not require additional sanctions. Norwegian prisoners see the imprisonment as punishment enough, although they are accommodated in clean and well-equipped units. Certain negative elements are obviously unavoidable when this penalty is in question. Even in the Norwegian prisons, prisoners complain about monotony, helplessness and hopelessness and about feeling restricted and repressed.<sup>13</sup> What is important to stress is that such good conditions in Norwegian prisons have nothing to do with the concept of rehabilitation, which has for a long time been abandoned there, but are an expression of skepticism about the use of prison as a criminal sanction at all, and result from acceptance of the view about importance of treating convicted persons with humanity.

Norway, together with other Scandinavian countries, invests in prevention instead of in building new prisons - contrary to the USA, which prefers quick solutions (regardless of their effectiveness). Despite an increase of crime, Norway has decided not to impose more prison sentences, not to build new prisons and not to implement more rigorous conditions in them. The fact is that the crime rate and fear of crime are incomparably less in Norway than in the USA, which undoubtedly speaks in favor of the thesis that harsher prison conditions lead to unnecessary additional sufferings of prisoners since they do not have any visible contribution to reducing the crime rate in a society.

To what extent a convicted person faces additional punishment and human rights violations in prison depend not only on general attitudes on the punitive character of prison. However, sometimes it also does not depend very much on the wishes and attitudes of the prison staff. It is not so rare that staff

wants to provide better conditions and higher quality of treatment in the prison but does not succeed in that since it has a minor influence on policy-making.<sup>14</sup> Also, as we will show later in this paper, the suffering of prisoners and disrespect for their rights are sometimes related to objective, at first place economic conditions in a society and/or the fact that certain groups of prisoners have a minority position within the prison system. Or, as Rusch and Kirchheimer noticed, "punishment may respond to other conditions and pursue other purposes than simply tracking the crime rate".<sup>15</sup>

### Basic functions of imprisonment and human rights of prisoners

The level of respect for human rights in prison as measure of punishment depends to a significant extent on the way how basic functions of the imprisonment are realized, as well as on relations and mutual influence of these functions. As Faugeron stresses, the following functions of the imprisonment should be taken into account: deprivation of liberty (custodial function), restorative function, controlling and maintenance function.<sup>16</sup>

The prime function of prison is certainly the deprivation of liberty and as such it should define the border between restriction and liberty, i.e. the autonomy each individual can claim in one society. That border bears an important social message as it presumes the attitude of a state power toward an individual. The state is responsible for imprisoning those individuals who have broken its laws and that is why failure to prevent an escape from prison is considered the most severe professional mistake the prison staff can make. Basically, this function has not changed very much since the establishment of imprisonment as penalty, with the exception of introducing more sophisticated security measures for escape prevention.

In most modern states the purpose of imprisonment is considered to be the rehabilitation of convicted person and his/her preparation to become fully included into normal life after release. This restorative function proceeds directly from the custodial function. Justification for a prison sentence largely depends on the success of this function. However, from the 19th century onwards, just this function has provoked endless debates on the possibility of rehabilitation of a convicted per-

<sup>12</sup> Platek, M. (1996) "We Never Promised Them a Rose Garden" in R. Matthews and P. Francis (ed.) *Prison 2000*, London: Macmillan Press LTD, p. 63

<sup>13</sup> Falk and Mathiesen, quoted according to Platek, M. (1996), p. 64

<sup>14</sup> Platek, M. (1996), p. 59

<sup>15</sup> Sparks, R. (1996), p. 80

<sup>16</sup> Faugeron, C. (1996) "The Changing Functions of Imprisonment" in R. Matthews and P. Francis (ed.) *Prison 2000*, London: Macmillan Press LTD, p. 28

son in conditions of coercion. Lately, when it became obvious that the prison population consists mostly of uneducated people, who have a whole spectrum of social, economic and personal problems, it also became clear that treatments must be in accordance with their needs. There are also opinions that treatment should not be the reason for pronouncing a sentence, nor should participation in treatment be the condition for release. As Show says, speaking on women's prisons, treatment programs are more effective when accepted voluntarily.<sup>17</sup>

The very fact that number of people are gathered in the same place and locked up, raises disciplinary issues, i.e. requires regulation of both their behavior and the relations between them and prison staff. Basically, this function has a coercive character, but it is, more or less, alleviated through certain forms of treatment. But respect for human rights in prison mostly depends just on the coercive nature of this function and the manner of its realization, i.e. combination with treatment. The problem of maintaining discipline in prison is particularly visible in overcrowded prisons and in those prisons which are unable to provide jobs for prisoners. Consequently, the danger of unjustified punishment is more likely in such prisons.

Although very important from the point of respect for human rights in prison, the maintenance function is often forgotten. Keeping a large number of people in prison requires many services aimed at satisfying elementary needs, like proper accommodation, food, hygiene, health care, providing conditions for work and leisure time activities, etc. To realize this function of prison, it is necessary to provide significant financial resources, which is hard to achieve in states faced with economic hardship. Either because the state does not really have funds to support the maintenance of life in prisons in appropriate way, or it does not want to spend limited funds on prisons (on all or on some of them), prisoners face additional sufferings which usually leave them with damaged mental or physical health. These additional sufferings are particularly linked with inadequate food, hygiene supply and health services, resulting in severe violations of social and economic rights. Consequently, other functions of prison, such as controlling and restorative function, cannot be properly realized either. For example, lack of material resources hinders the maintenance function of prison and is reflected in a reduction or absence of possibilities for realization of the rights to education and work, thus creating disciplinary problems and raising

possibilities of inadequate punishment of prisoners. Research on the living conditions in the Pozarevac prison (the only prison for women in Serbia), as well as in institutions where convicted persons are detained in remand, points out many problems related to maintenance function in Serbian prisons as well as numerous human rights violations as a consequence of these problems.<sup>18</sup>

Inability to adequately realize the maintenance function in prison, regardless of whether it is a consequence of official, explicit or implicit, policy or objective economic situation, places not only prisoners but the staff too in a very difficult situation. It does not come as a surprise that in many countries experiencing economic crisis, including the FRY, violation of economic and social rights in prison seems to be equal or even bigger problem than the violation of prisoners human rights resulted from inappropriate attitudes of the prison staff.

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<sup>17</sup> Shaw, M. (1996), p. 192

<sup>18</sup> Nikolić-Ristanović, V. (1997) "Women's Rights and Prison" in: *Women's Rights and Social Transition in the FRY*, Belgrade: Center for Women's Studies, Research and Communication, pp. 96-97.

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Branislava Knežić<sup>1</sup>

## PRISONERS' RIGHT TO EDUCATION AND POSSIBILITIES OF ITS REALIZATION

### Introduction

The process of upbringing and education is an inevitable component of a society and human personality development. It is directed towards gaining knowledge, skills, habits, abilities and creation of attitudes toward the world. Entanglement and simultaneousness of processes of upbringing and education is obvious and it is often defined as one of the most powerful forms on which socialization is based. An individual cannot be submitted to upbringing today, education tomorrow and socialization some other time. No matter how many theories on society and personality exist, there are as many different ideas on the success of these processes. What is a positive and expected effect of social influence on development for some, it is a failure for others. Does successful socialization occur where an individual satisfies himself and, at the same time, does not "disturb" the environment? Or is it the beginning of conformism? Is socialization a process, which presumes successful existence in a society? Having in mind the radical changes occurring around us, we could ask - those who were socialized before are they still socialized now? Is it necessary to de-socialize individuals before the process of resocialization? The questions never end... Is an educated individual also socialized? What is the relation between socialization and achievement of social status?

It is understandable that the relation between education and socialization is neither simple nor one-way. Contradictions in given processes are a reflection of contradictions existing in a given society.

If socialization means the integration of an individual into society, then education is a mediator in this process. Education could also be determined as the mean of provocation and change in development of human being. At the same time, education is the mean and form through which upbringing and socialization are accomplished. But how much

education influences someone's behavior remains open question. Namely, inner changes of a person are not easily accessible to examination and the question is whether the behavioral changes are always "the reflection of a real change". The basis of every education is the process of internal change of an individual, which is then reflected, in external and internal behavior. The position of an adult, particularly in prison, is vastly different from the position of children and youth during the educational process. Although in "the case of prison" everything in common with education of free adults is valid as well, there is certain specificity not present outside prisons. A convicted person is brought into prison by coercion, with an "externally" imposed purpose to undergo correctional process, to be re-educated, resocialized and isolated from society for a longer or shorter period of time. Everything conducted in penal institutions, beginning with their basic organization, categorization and classification of prisoners, treatment and organization of leisure time, is aimed at stimulating rehabilitation and the process of resocialization is expected to occur, although one cannot ever be sure whether it really does. If the purpose is to achieve only contemporary conformity of prisoners with existing social norms, then it probably occurs to a large extent. But if the social aim is to create a person who will be easily incorporated into social life on the basis of knowledge and not fear of new punishment, then it is about a complex problem of changing one's behavior, which some modern authors identify with personality.

Bearing in mind the role and importance of education (for creation of the personality and preparation for life and entering into community) in the everyday life of an individual, even when he is deprived of liberty, I am of the opinion that education should be given more time and attention in penal institutions. It appears that the problem is not in rights but in possibilities for their accomplishment, because the new Serbian Law on the Implementation of Criminal Penalties in its article 97 proposes: "A convicted person has the right to primary and secondary education, which is organized in the Detention Center in accordance with general regulations. Detention Centers also organize other forms of education for convicted persons."<sup>2</sup> As a result, prisoners have the right not only to formal, institutional (general and professional) education, but to informal education as well. However, penal institutions still do not pay enough attention to informal education (courses, debates, semi-

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<sup>2</sup> Law on the Implementation of Criminal Penalties, Official Gazette of Serbia, Belgrade, 1997, no. 16, p. 303

nars, lectures, discussions....). It appears that the social aim of education comprises the formal education only with the consequence that almost 2/3 of prisoners are deprived of the right to education. The list of participants is made upon reception in prison, taking into account the education that began before coming to prison, the age, interests and motivation of prisoners for further education (but their interests and motivation are insufficient for directly entering into the educational process). Prisoners are enrolled in education process in prison according to three criteria: education – suggested treatment; education suggested by the prison counselor and upon individual request, if agreed by an expert team. These criteria speak enough about rights and prospects of prisoners to education.

Prisoners are consisted of individuals of different levels of education and knowledge, intelligence, motives and interests, different views on life, society and positions of prisoners. There are many things happening and much learning within prisons, which might be invisible, or hardly visible from the outside and which indicates a collective of prisoners as an important source of informal education (either through reading the press and literature, allowed or smuggled, or through transferring knowledge and various skills and "crafts" verbally or in a practical way).

We could ask a question – what stimulates a prisoner to learn, what does he want to achieve by education? Andragogy accepts the attitude that the education of adults is based upon educational needs, which cannot be properly understood outside a certain social surrounding. Many authors from different scientific disciplines (sociology, pedagogy, and andragogy) have researched and classified human needs in general and educational needs in particular. The intention of this paper is not to widely discuss human needs, but I shall mention some basic characteristics of the theory of needs, formulated by New Zealander andragogue Boshier, as well as the reasons due to which adults get involved in educational activity, stated by Croatian author Zvonarevic. It appears that their classifications are very useful for finding out what the educational needs of prisoners are.

Boshier points out those adults participate in education for the following reasons:

- The need for social contact;
- The need for social stimulation;
- The need for professional promotion;
- The need to be useful for community;
- Because of external expectations;
- Because of cognitive interest.

Boshier concludes that people get involved in educational process because of many personal reasons.<sup>3</sup>

Zvonarevic points out the following motives for education of adults:

- The wish to obtain professional promotion;
- The wish to advance professional knowledge, regardless of any other benefits;
- The wish to obtain socio-economic and political education;
- The wish to obtain general cultural knowledge;
- To satisfy an amateur interest in a certain area;
- Coercion and order;
- To emulate friends and acquaintances;
- By chance (incidentally) – e.g. when not having a cinema ticket, an adult drops by a lecture to "kill time".
- Irrelevant motives (e.g. a man gets involved in education so he can meet a girl he likes).<sup>4</sup>

It can be concluded that an adult decides to enter the process of education for 3 reasons: to "satisfy" social expectations, to satisfy himself and to "earn" respect from others. If we forget for a moment the specific conditions in prison as the educational environment, it can be said that prisoners share the same desires and needs.

However, the specificity of prison conditions may act as an obstacle for satisfying already existing educational needs of prisoners, that is "denying them opportunity" to express and fulfill educational needs. The question is whether prison is suitable for education. Can it create satisfactory conditions inside its bars and walls and prepare an adult for life outside? Can the organization of general and professional education in penal institutions, the way it is, contribute to rehabilitation? Are the workers employed in education able to successfully perform as teachers, counselors and "correctionists". Are the means, forms and methods used in education sufficient to stimulate prisoners to get actively and willingly engaged in education? Does compulsory labor leave enough time for prisoners to study? Is the prisoner given an opportunity to change jobs, once he completes training? It could serve as double stimulating measure – for the prisoner himself and for others.

<sup>3</sup> Boshier, R. (1996) *Adult Education: Motivation of Participants*, Oxford: L.E.E. Pergamon Press, p. 150

<sup>4</sup> Group of authors (1996), *Osnovi andragogije*, Sarajevo: Zavod za izdavanje udžbenika, p. 303

Rehabilitation presumes that convicted persons accept it and cooperate in appropriate way during the process of their "correction". However, it is hard to expect that those brought in by force and housed within the cold walls of the Detention Center can voluntarily cooperate in the measures applied to them, for "their own benefit", even if their education is in question. The participation of prisoners in the process of education could be voluntary or imposed by force, organized on a collective or individual basis, with active or passive participation. The prison as a classroom can hardly be accepted unless a man possesses a strong motivation to gain knowledge and promotion, which might be useful to find a job or for bare existence once he is released. An adult, even when deprived of liberty, can undergo education and training, which, as Andrilovic<sup>5</sup> says:

- Ends with documents on successful accomplishment (diplomas, certificates) – it is an educational action with a formal purpose, where acquired formal qualification plays the role of external (social) acknowledgment;
- Does not end with any documents – it is an educational action with an informal purpose, where an adult gains inner (subjective) satisfaction.

Not so rarely, a sense of humiliation, uselessness, doubts in their own abilities, lack of interest, the feeling of self-fulfillment with already accomplished, lack of time, fatigue, lethargy and the unwillingness to do anything which is not obligatory, contribute to prisoners' non-participation in education. However, there are also positive motives which, apart from all negative aspects of the life in prison, "push" prisoners forward to learn with the aim to make up the time lost in their education and to take at least some benefit from lack of liberty. These motives include desires to become literate, to advance in profession or career, to get "diplomas", etc.

## Results of the Research

Data that follow<sup>6</sup> were obtained during the research conducted in the male prison in Pozarevac in 1989. The sample included 243 male inmates who entered the prison in 1986/87 and who were literate. Since age was one of conditions for education in the prison, it is worth mentioning that 88% of them were 24-49 years old, which could be regarded as a mature age concerning work and life. It has been known that age is an important factor, which determines readiness to learn and ac-

complish certain results. The age structure of respondents reveals that these are middle-aged individuals, who, according to researches in psychology and andragogy, possess subjective capabilities to learn. About 70% of them were sentenced to fewer than 5 years of imprisonment. Bearing in mind education as a form of treatment of prisoners, and providing that all other conditions have been fulfilled, such length of time spent in prison is suitable to start and complete primary school or professional training. The next factor, which is taken into consideration in the prison, is educational level of prisoners. The data collected for the research show that they have a relatively high educational level, as 54% of them finished secondary school or some crafts, and 13.2% of them had higher education or university degrees. However, we have to stress the main shortcoming of our sample which is related to the fact that it neglected illiterate prisoners (because the data were collected through written questionnaire prisoners were to fulfill).

The results of our research show that only 20.1% of prisoners were included in general and professional education which is the way of participation in formal education, i.e. in education which ends with a document (diploma, certificate, etc.). However, theory and practice of adult education, including education of inmates, recognizes many forms of informal education which do not end with diplomas, but result in inner (subjective) satisfaction. Lectures, discussions, courses, etc. are suitable forms of informal education for the prison population as well. Our research shows that 33.5% of inmates were willing to attend such activities. Satisfying the educational needs of inmates could contribute to sense and fullness of life in prison. Education, which is realized only through general and professional training, which includes less than a third of inmates, can hardly achieve successful results as a factor of resocialization. Data on general and professional education in male prison in Požarevac are far from satisfying, but still there is the institutional, formal education. Namely, although the above mentioned data refer to the situation 10 years ago, information we obtained through talks with prison personnel in 1997 indicate that, regardless of the difficult economic situation in society, there is still an opportunity for general and professional education of male inmates.

What is the situation in the female prison in Požarevac, the only women's prison in Serbia, is best seen in our research conducted in 1996, with the sample of 60

<sup>5</sup> Andrilović, V. (1976) *Kako odrastao čovjek uči*, Zagreb: Školska knjiga, p. 69

<sup>6</sup> Knežić, B. and others: *Uticaj socio-psiholoških činilaca na delinkventno ponašanje* (Unpublished)

women.<sup>7</sup> As the prison is surrounded by high walls it is impossible to conduct a true classification and to define the different treatment of inmates according to their characteristics and security measures they deserve. Making difference between pavilions with maximum, medium and minimal security, which is possible in the male prison, is rather artificial in the female prison. How else to explain the fact that inmates who deserve both medium and minimal security spend their time surrounded by high gray walls. But not only physical conditions and accommodation are worse than in the male prison. Problems just follow one another. Owing to the economic crisis which also affects penal institutions, financial means have been reduced, and as a result the possibility for work and education of inmates, particularly women, were reduced as well. Women are a minority in prisons and this makes their position even more difficult, as they get the chance to work only occasionally (there are no basic raw-materials and tools, the sewing workshop is out of order, etc.). Almost 40% of women are illiterate or with only a few grades of elementary school. Yet there is neither a formal nor informal education available to them. The explanation and justification for such a condition, given by prison staff, is that a small number of women makes organization of the educational process difficult. But there is not even the simplest training for traditional women's profession – hairdresser, for example. The majority of inmates (56,6%) are 25-45 years old, i.e. in the age suitable for work and education. Inmates are interested in both general and professional training; 18,2% of them said that they wanted to attend primary school and 41,6% of them wanted to learn some craft and become able to work. Apart from that, they would have also liked to attend various courses and lectures on health, cooking, childcare, women's rights and inmates' rights. What's happened with their right to education and who has the right to deny it to them? Various forms of education would give them useful contents and draw their attention from dark thoughts. In fact, life would have another meaning while the long, idle and monotonous days would become shorter, fuller and closer to life outside the prison.

### Conclusion

It is necessary to focus on changing the current practice in all of its manifestations, taking into account both causes and conse-

quences. The importance of education during the process of resocialization is two-sided and it should be viewed as a factor of preparing inmates to be included in the community outside the prison walls (by giving them knowledge and a vocation) and as an unavoidable component of resocialization itself. Only such an approach can bear fruit and change the attitude towards education in prison (primarily the attitude of society, the prison staff and inmates themselves).

Undoubtedly, the well-thought education would enable inmates to view themselves in a new way and try to change their system of values. Professional contents in education are necessary but cannot be strictly utilitarian (to gain material benefits) but they must have valuable components as well. Education should be the basis for developing new views of life, rejecting prejudices, gaining economic independence and creating a socially desirable system of values.

Lack of material assets does not make the state less responsible, particularly not those institutions, such as prison, which are directly involved in deprivation of people of their basic human rights. In order to solve the problem, it is necessary at first place that its existence is admitted and the educational problem in penal institutions, particularly in prisons for women, ought to be resolved. Meanwhile, the assistance offered by certain social organizations, such as the Group for Women's Rights and Counseling Service for Victims of Family Violence, should be accepted, especially concerning the implementation of various informal ways of education such as lectures, courses, discussions, debates, etc.

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<sup>7</sup> Nikolić-Ristanović, V. (1997) "Female Ward of the Požarevac Detention Center", Temida, Bulletin of the Group for Women's Rights, Belgrade, no. 1, pp. 3-5.

## LAW ON THE IMPLEMENTATION OF CRIMINAL PENALTIES AND POSSIBLE SOLUTIONS TO WOMEN'S PRISONS IN SERBIA

### Introduction

As part of the research "Monitoring the state of women's human rights during criminal procedure and in prison", members of the Group for Women's Rights and associates of the Institute for Criminological and Sociological Research in Belgrade visited the District Prison Priština – Department in Lipljan (Kosovo) on 25 June, 1997. That visit followed the investigation of living conditions<sup>1</sup> in the Požarevac female prison and effectuation of the new Law on the Implementation of Criminal Penalties. The visit was a part of our search for possibilities to provide a more adequate place to locate the female prison.

We went to the Lipljan prison for two reasons. First, because all inmates we talked to in the Požarevac prison who had been remanded in Lipljan said that the living conditions there were good and they regretted for not staying longer. Second, Lipljan prison used to be a prison for women until 1992. We spoke to 4 women inmates, the director and the manager of the female prison. We were also allowed to observe the whole prison complex.

The purpose of this paper is to review the living conditions in the Lipljan prison and to discuss the possibilities for long-term solutions for female prisons in Serbia through effectuation of the new Law on the Implementation of Criminal Penalties. (The Law went into force on January 1, 1998).

### District Prison in Priština – the Department in Lipljan

In the period 1991-92, the Lipljan prison was one of three (then existing) female prisons in Serbia. There were only five women-inmates in 1992 and many employees, so it was soon closed. In 1994, the District Prison in Priština took over the buildings of the former Juvenile House of Correction and, after that the female prison, in a completely useless condition. The same year the female ward of the District Prison in Kosovska Mi-

trovića was abolished and transferred to the District Prison in Priština.

In 1994, the prison was completely renovated to accommodate the Prison Hospital for Kosovo, persons convicted and sentenced for misdemeanors and persons sentenced for up to 3 months in criminal proceedings, persons sentenced to death (from Kosovo) and the Training Center for the Implementation of Penalties.

It is now a new and modern complex corresponding to modern facilities for the implementation of penalties. It is surrounded by walls, fenced by low barbed wire and full of greenery and flowers. It has its own water supply, electricity and aggregates, as well as a sport building (basketball and football terrains, a gym). It also has a chicken farm, cattle farm and pig farm. There is a modern kitchen, a restaurant built outside which should be opened soon, where prisoners will be employed.

There were 12 women at the time of our visit: 3 in remand, 5 sentenced for misdemeanors (usually for illegal border-crossing and failure to register a residence) and 4 women sentenced to long-term imprisonment for murder, but who remained there according to Ministry of Justice decision, as there were not enough women to work in the kitchen and to maintain hygiene. It is an exception to the rule that all women sentenced in criminal proceedings are sent to the only women's prison in Požarevac. This possibility exists when the prison makes a proposal, taking into account a woman's good behavior in custody.

Men in remand and men sentenced to imprisonment are accommodated in separate pavilions, while all women remanded and sentenced are placed in the same pavilion. There is also a nicely furnished room for mothers with small children.<sup>2</sup> However, housing capacities of the female pavilion are much greater and there's enough room for another 50 women, according to the management.

All rooms are large, well furnished, with lots of daylight and carpets on the floor. Windows can be open and airing is obvious, as there's no bad odor. Inmates think that the heating is good during the winter.

In pavilions where men in remand are accommodated each room has a toilet and bathroom. In the ward with convicted men and in the female pavilion, a toilet and bathroom are common; there is one toilet and one bath-

<sup>1</sup> Nikolić-Ristanović, V. (1997) "Female Ward of the Požarevac Detention Center", *Temida*, no.1, p. 3.

<sup>2</sup> As we were asking whether the room had been used lately, we found out from the management that the woman who had killed her husband after his constant abuse had been in there. A few days prior to the final trial she became so depressed that she had to be transferred to the Belgrade Detention Centre Hospital.

room on every floor. Bathrooms and toilets are in decent condition.

Persons in remand and convicted persons can keep TV in their rooms, although every pavilion has a living room with TV. Since the convicted women are housed in one room and use their bedroom as a living room, in a way getting the opportunity to have TV, which in fact belongs to the prison, privileges them. However, there is a public-address system in the prison which could be heard in every room and inmates cannot influence its contents.

The laundry room has three washing machines and one ironing machine, which are maintained by men! There are enough sanitary supplies, inmates say.

There is no canteen but inmates can order everything they need without problems. The salary they earn for a month's work is around 40 dinars (around \$4).

They grow only vegetables there. The prison meals lack fruit, inmates and the management told us. There are insufficient dairy products as well, including milk. Inmates are allowed to celebrate religious holidays and to fast.

The prison has a well-equipped mechanical and sewing workshop, but the latter has been out of order since the Women's prison no longer exists there.

One of this prison's positive aspects is that inmates have the right to use the phone every day between 3 and 7 P.M. It is even more significant when compared with the Požarevac prison where inmates are not allowed to use the phone and where 78,7% of inmates stated that it would have been good to make phone calls to their children.

The prison does not engage a psychologist. There is one permanently employed general practitioner while 4 specialists come when necessary.

A significant novelty is that rearrangement of the existing visiting rooms under way so that it could serve as a room for married couples during visits. We were pleasantly surprised that women were allowed to wear make-up. The inmates we spoke to also had their nails colored and wore their own clothes. Such a possibility, which is very important to inmates' self-respect, is denied to inmates in the Požarevac prison, although the same Law is supposed to be implemented throughout Serbia. All four women we interviewed were Albanians and had no objections to staff behavior.

The Lipljan prison is an institution, which allows inmates to live their lives close to "normal". These are also requests of the modern penitentiary system. Conditions in Lipljan offer more guarantees for the respect of

economic and social rights of inmates than in the Požarevac prison. Although the overall bad economic situation effects this prison (inappropriate food, lack of medications, low wages, etc.), conditions to preserve a normal level of hygiene are fulfilled without a negative impact on women's health. The very architecture of the prison allows a clear differentiation of security levels (maximum, medium and minimum), i.e. classification of inmates according to the treatment they deserve and gradual accustoming to re-enter life outside. Opportunities for work and education are more favorable than in Požarevac: the prison in Lipljan has a well-equipped sewing workshop, while the female prison in Požarevac has no sewing machine that works. However, paradoxically, it has not occurred to anyone to move the sewing workshop, out of use since 1994, to Požarevac and to provide better working conditions and minimal professional training of women-inmates.

### **Possibilities for a permanent solution to the problem of women's prisons in Serbia and the new Law on the Implementation of Criminal Penalties**

It is evident from the above discussion that the Lipljan prison would be, according to its architecture and conditions, a more appropriate place to accommodate detained women than the Požarevac prison. The Law on the Implementation of Criminal Penalties, which went into effect on January 1, 1998, proposes that the prison for women be a separate institution with medium security. The first condition to put this regulation into effect is to transfer the inmates from Požarevac to the institution, which satisfies the criteria of a medium security prison. At the same time, it is an opportunity to provide appropriate accommodation, which corresponds to modern standards of hygiene. The only real solution would be to build a new, modern prison for women. The acceptable temporary solution would be to transfer the inmates into prisons in Lipljan (the inmates from southern Serbia) and Sremska Mitrovica (the inmates from central and northern Serbia). It is worth considering the existence of two prisons for women, even if a new prison is to be built. The results of our research show that inmates are unable to regularly contact their families, as they cannot afford travel costs to visit them. Because of that, and in accordance with modern requirements of imprisonment, solutions which allow inmates to serve their sentences close to residential areas, should be found. Removal of the Požarevac prison into a new or more adequate location is a necessary precondition

for providing better living standards and respect for the human rights of inmates. However, this will not resolve all problems. Educational, work and training problems, as well as health care and food concerns ought to be resolved immediately after removal.

Ivana Stevanović<sup>1</sup>

## PRISONS FOR WOMEN IN FINLAND

### Introduction

In Finland, as in most other countries, imprisonment is considered to be the harshest penalty. In its most severe form it appears as a life sentence, in case of premeditated murder, or as a determinant length of time depending on the kind, degree and circumstances under which the crime was committed.<sup>2</sup> A prison sentence is prescribed for male and female criminals under certain conditions. According to the Finnish Ministry of Justice data, in 1996, the total number of prisoners was 3248, where 145 of them were women.

Imprisonment is served in minimum and maximum-security institutions. Maximum-security institutions include seven central prisons, one juvenile prison, ten district prisons and a hospital for mentally disturbed prisoners. Minimum security institutions are: six prisons with minimum security, open wards in prisons with maximum security (this type of open ward is found in three central prisons, three district prisons and the juvenile prison), and seven open colonies.<sup>3</sup> It is worth mentioning the Vanaja open unit, 10 km away from the Hameenlinna central prison, where, apart from other open colonies, prisoners are required to undergo some form of rehabilitation, as well as being required to work.

### Imprisonment in a maximum security institution

The same regime of imprisonment is applied to women-inmates as to men. They serve sentences in minimum-security institutions or in the only women's prison with

maximum security. It is called "Hameenlinna Central Prison".

I visited that institution on 4 September 1997 as a HEUNI<sup>4</sup> fellow. Its history is related to the Hame castle which already in the 14<sup>th</sup> century had a part used as a prison. In 1836 the whole castle was turned into the County Prison, and since 1881 it has been used as the central prison, mostly for women, but a part of it still serves as the County Prison. The new Hameenlinna Central Prison was built in 1972, yet the last prisoner was transferred from the old prison on March 15, 1993. Today it is the Museum, a witness to the past of imprisonment in Finland.

Today the Hameenlinna central prison is a modern institution comprising the central prison, where both men and women serve their sentences, the prison hospital, the open colony for men and the special prison unit Vanaja, where male and female prisoners are part of a special rehabilitation program. This institution has existed for three years only. It is very popular as it represents an institution of the new Finnish penitentiary system, which tries to equalize life in prison with that outside.

The central prison itself is a closed institution with maximum security and it is the only institution of that kind to accommodate women. There are separate wards for men and women. Maximum capacity is 112 beds for women and 76 for men. They are situated in separate pavilions, but since this institution, as well as others in Finland, tries to equalize life in prison with that of outside, inmates' working groups are often mixed (the prison staff is of the opinion that the optimal number for work in one group is 6-8 women and 2 men); courses are attended by both male and female inmates, sermons are given to and attended by all at the same time. The security staff in the female ward is also mixed. This caused some problems in the beginning, but now everyone is used to it, according to the manager.

In every respect this prison is a modern institution. It is located in an area surrounded by woods. There are no walls around it, just a wired fence. It has a modern gym, sauna, sport terrain, well-equipped workshops and classrooms. The building and the staff are there to help the inmates to start a new life once they get out. The basic idea is that life should be organized with as little repression as possible, but with respect for certain rules. There is a particular system of privileges and penalties, with which the inmates become familiar immediately upon arrival, as everybody

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<sup>2</sup> Joutsen, M., Lahti, R., (1997), "Sentencing and the system of sanctions", *Criminal Justice Systems in Europe and North America – Finland*, HEUNI, Helsinki, p. 25

<sup>3</sup> Joutsen, M., Lahti, R., p. 27

<sup>4</sup> HEUNI – European Institute for Crime Prevention and Control, affiliated with the United Nations.

receives the manual – information for prisoners.

The head of the prison is the manager, a man who has been holding the same position for the last 21 years.<sup>5</sup> There are another 6 employees who manage the prison. Office duties engage 15 people, education and rehabilitation – 9, health care – 31. There are 36 employees to organize production in the workshops. Supervisory staff takes care of security and there are 120 of them, including 14 women. Other work is performed by 8 persons, which makes a total of 220 employees.

### **Who are the women in this prison?**

At the time of my visit there were 81 women-inmates, including 18 in the open unit, Vanaja. More than 2/3 of the women were sentenced to imprisonment or remanded. The total number of women in prison was 134 at the time of writing this paper. More than half of the inmates were there for the first time and they were between 30 and 39 years old. The average time spent in Vanaja is 2-4 years, while 5 of them were sentenced to life imprisonment. One of them comes from Estonia and she is to stay in the Finish prison since Estonia does not recognize such penalty. Apart from her, there are another 4 foreign women. One of them is also Estonian, the other comes from the USA, third is German and the fourth Vietnamese. Apart from the Estonian, who lives in Vanaja, other foreigners are in the Central Prison, serving the sentences related to drug trafficking.

However, the most frequent form of crime is violence (the criminal offence of causing light and heavy bodily injuries, privileged forms of murder and premeditated murder make up 51% of crimes committed by women). If we add the criminal offense of robbery, these comprise 61% of the total female crimes sanctioned by imprisonment. Apart from these crimes, the Finnish women most often commit the crime of theft (16%), other property crimes (7%), drug-related crimes (10%), traffic misdemeanors (5%), and other crimes (1%).

### **Prison architecture and the regime for the implementation of penalties**

Part of the prison for women is divided into 7 different blocs. In two blocs located on the fourth and fifth floor the majority of women are housed (20-22 on each floor). In addition to bedrooms there is a living room

with a TV set and a small library. Next to the library is a small kitchen, where the food is brought from the central kitchen and served. Men, as in our country prepare the food, but it is very tasty. Also, the same food is served to the prison staff and I was offered a meal during my visit. There were two kinds of salads, Russian salad and vegetable salad, boiled potatoes with dressing and a dessert. Prisoners have a canteen, which is well supplied and offers anything they might need.

Prisoners do not carry cash but a deposit, which can be used in such situations. In the canteen they buy newspapers, envelopes, coffee, sweets, sanitary items, cigarettes, as well as phone cards, as the use of the phone is always allowed in free time, with some exceptions, and phones are placed in every bloc. Bedrooms are on the left and right side of the corridor. On the left side there are single bedrooms, and on the right are rooms for two and three persons. The prison staff tries to respect the wishes of inmates if they want to be alone or to share a bedroom with another inmate. The staff makes room assignments only in exceptional cases. Rooms are furnished with one bed, a small dresser for personal items and a sink. Rooms are light, full of posters, pictures and other personal articles and flowers. Inmates themselves maintain hygiene and, although everything is spotlessly clean, there is a kind of disorder to prove that somebody actually lives there. There is no sterile atmosphere to constantly put pressure on their lives. Use of rooms is unrestricted and inmates themselves choose whether to spend leisure time in their room or in the living room. Rooms are closed during the night and, if an inmate has to use the bathroom, she presses a button, which activates a signal in the control room. One block is always reserved for inmates with small children. Both men and women in Finland have the right to be with their children, but women more often use it. During my visit, there were two mothers with two children. There is a nurse in every block to take care of mothers and children. In the center of the block there is a large living room full of toys, with a garden in front with swings and a slide. Every woman in this block has a separate room with a baby cot. All rooms are nicely furnished, with a TV set and radio, as all inmates have the right to bring their own radio and/or TV. Women are not obliged to work or to attend any of the classes. They only take care of their children since this requires their full attention. It has been the rule that children stay with their mothers until they are 3 years old, as, according to psychologists, at that age they start to comprehend where they are, which is inappropriate for their further devel-

<sup>5</sup> It is worth mentioning that 3 prisons in Finland are managed by women.

opment. In that case the prison staff do their best to transfer an inmate with a child to the Vanaja colony or to return the child to the family. Whenever possible, according to the manager, a woman with a child is accommodated in the Vanaja institution.

The next block is rather small and there are only four inmates in it. It is intended for inmates who wish to be separated from others. All rooms are completely isolated and each has its own bathroom. The fifth and the sixth blocks are for women-inmates who attend programs for drug rehabilitation. Such programs require their full cooperation and they attend voluntarily. At the moment of my visit only one of these blocks was used, and the other was expected to be open in the near future.

The seventh block is reserved for solitary cells. There are four of them and it is the only place that reminded me of our prisons. Solitary confinement in the Finnish system, as well as in ours, is the harshest disciplinary punishment, prescribed for the worst violations of prison regulations. The manager or the prison board orders it. In the former it can last a maximum 7 days, and in the latter it can last 20 days.<sup>6</sup> I was told that such punishment had seldom been applied against women. During my visit there was only one woman in the solitary cell and she was there at her own wishes. A solitary cell has a bed, table, chair and toilet. There is also a camera to enable the guard on duty to watch what goes on inside the cell. It is there for the purpose of prevention, as some inmates try to harm themselves and even to start a fire. In case of such disciplinary punishment, the prison staff always opts for the largest cell to reduce possible claustrophobic attacks.

The aforementioned arrangement is valid for the male ward as well, but what is distinctive is the appearance of rooms. Women's rooms are full of personal items, as women bring in a part of themselves and their families. In men's prisons, apart from beds, chairs, tables, sinks and a few books, the most frequent item is a TV set.

### Work and education

Men and women in this prison, as well as in other prisons in Finland, are required to work or to attend some of the classes.<sup>7</sup> Such requirement is not applied to women with small children. Work is carried out in modern workshops. All wear prison clothes,

but are free to change after work. This practice differs from open prisons in Finland where prisoners exclusively wear their own clothes and only exceptionally wear prison clothes.

The majority of women work in a modern sewing workshop or make Christmas/New Year's decorations. They also take care of cleaning. Men work in the mechanic workshop or kitchen. Many of them work in the fully mechanized laundry where bed linen and laundry from all Finnish prisons are washed. Everything is computerized; the laundry differs by color, as every prison has its own color. In addition to 11 men, there is one woman employed in the laundry. They are paid 2-3 Finnish marks per hour. It is ten times less than in the minimum-security institutions. However, they are not obliged to pay for their food and lodging, as it is covered by the state, so their wages are lower than usual.

Those who do not work are obligated to attend some of the classes or to continue with their education. Every year the prison management develops a new program of classes. There is an English class and Finnish for foreigners. In addition, there are computer and dancing classes. The purpose of the classes is to train prisoners and to improve their chances for employment once they complete their sentences. Men and women together attend the classes. In addition to classes women are given the chance to learn to read and write, which is very popular among Roma people. Teachers are not employed in the prison as they come from regular schools outside, but diplomas awarded in the prison are identical to that outside.

Men and women usually work separately, but there are also mixed working groups. Mixed groups are not accepted by everyone, particularly the heads of departments who think it creates additional problems regarding inter-gender relations. However, the management insists upon it and thinks that everybody will get used to it, as they have gotten used to mixed prison security units.

### Leisure time activities

After they complete their work, inmates have the right to leisure activities.<sup>8</sup> A working week comprises 38 hours and 15 minutes. To be precise – inmates work 8 hours daily four days a week, while on Fridays they finish earlier. They have an hour lunch break, so they finish at 5 P.M. After that, they are free to do other things. They can read books (there are books in every block and once a week the city librarian visits

<sup>6</sup> "Disciplinary Punishments", *Information for Prisoners*, The Department of Prison Administration in the Ministry of Justice, Finland, 1997, p. 15.

<sup>7</sup> Ibid, p. 4

<sup>8</sup> Ibid, p. 8.

them so they can order books), watch the TV, work-out in the gym, go for a walk or stay in their rooms if they prefer. Once a week they are allowed to use the sauna. These leisure activities are possible from 5-7 P.M., after which dinner is served and they all go to their rooms to remain locked up during the night.

### **Health care**

Health workers are engaged to take care of inmates.<sup>9</sup> Each inmate who suffers a health problem can visit the health worker in charge and will be sent to see the prison doctor. In more severe cases she can be hospitalized in the prison hospital, situated in the center of the prison.

The hospital was opened in 1986 and it is fully equipped to perform all medical diagnoses and treatments immediately upon admission. Prisoners from all over Finland come to this hospital because other medical institutions are unwilling to accommodate prisoners. For that reason the hospital was built. It performs everything, from diagnosis to treatment, except operations, which still must be performed though prisoners return to the prison hospital for care. It has 80 beds for men and 3 beds for women. In addition to physiological illness and rehabilitation, the hospital treats drug users and alcoholics as well. A special program has been designed for them, which lasts 6 weeks and can be renewed if necessary. Each prisoner has duties during the program, which are set daily. There is also a program for long-term prisoners who need a rest from others. They are subjected to a special rehabilitation program.

Inmates also have the right to use dental and ophthalmological services. Dental services are free of charge in acute cases only, while in others they pay full or half price. Glasses are also free, as well as all contacts with a social worker or psychologist.

### **Contacts with children, husbands and family**

Contacts with families and the outside world in general are maximally liberalized to equalize prison conditions with those outside.<sup>10</sup> Inmates have the right to write and receive letters, but under the supervision of a prison officer. They also have the right to make phone calls to their family and friends, which are prohibited only in extreme cases (when someone plans to escape or to commit another crime). They can buy envelopes and phone cards and have the right to receive

visits every week, on Saturdays and Sundays. For that purpose tables and chairs are placed in the gym. Visits last 45 minutes and there is no direct contact between inmates and visitors. The security staff is present during visits. Visits are allowed on holidays, with the exception of Christmas. In case an inmate's husband is in another prison, he can be transferred to the central prison Hameenlinna to see his wife. For those who are not allowed to leave the prison, once a month a family gathering can be organized in specially furnished rooms that resemble nicely furnished flats. This gathering lasts four hours with no supervision. Inmates also have the right to visit their families or to do errands outside. They are entitled to 6 days off every 4 months, which must be used at one time, as decided by the prison manager. Inmates can receive parcels (with no food or cigarettes), as well as a sanitary package once a year, which is given by the prison management. All other necessary articles can be bought in the canteen.

In a word, everything is done to make life in prison easier. Good behavior and respect for the rules can earn privileges and opportunities to move into the open ward of the prison and/or the open colony. Violation of prison rules results in loss of privileges or some disciplinary punishment. But what is important and, in my opinion obvious, is the relation between inmates and staff, free of fear and submission. A good illustration is that during my visit to one of the blocks, accompanied by the manager, inmates who were having their lunch break, continued to eat, to lay in their rooms, not paying attention to the manager. He even knocked on the door before entering.

There are of course problems, since it is not easy to gather in one place different personalities with various habits and life styles, but they are openly discussed. As the manager says, the problem is that it is the only maximum-security prison for women and they miss the contacts with their families. The Finnish Ministry of Justice is considering the possibility of building a new central prison for women or a new prison system in general, where the Vanaja department could serve as an excellent example.

### **Women in minimum security prisons**

The Vanaja department began operating in 1994. It is the only minimum-security institution in Finland where men and women serve their sentences together. It is also a very popular institution (if any prison could be popular). It is necessary to apply for admission. At the moment of my visit there were 18 women and 11 men. Also there were 3 chil-

<sup>9</sup> Ibid, pp. 6-7.

<sup>10</sup> Ibid, pp. 9-14.

dren who were taken care of by their mother-inmates.

The whole institution is designed as an open colony where the process of rehabilitation takes place and the only institution where a husband and wife can serve their sentences together and with children, if they have any. They are not housed in the same room but have the right to spend one week per month together. The same right is available to all convicts in the Vanaja colony. In addition, inmates have all other rights as those in other open prisons, including the right to do their shopping twice a week, accompanied by prison officials, as well as to go out twice a month and spend 6 hours outside without escort.

To present life in such an institution, since it is something new in the penitentiary system, I shall describe one day in the life of those sentenced to imprisonment here. Waking-up is not strictly regulated, but everybody is obliged to come to the central building at 7.30 A.M. for breakfast. Work and rehabilitation start at 8 A.M., as these inmates are obliged to work or attend educational classes. Mothers with small children are excused from this, though two out of three do not exercise this right. They have found jobs in town, while their children are placed in the day care center. Those who do not work in town, i.e. who attend some of available classes are engaged in various activities related to the institution. Some of them work at the ship farm; some are employed in the wood-processing workshop, while others are engaged in the garden. They receive wages that are ten times higher than those in closed-type institutions do. Wages are paid in cash, but they must pay for their food and lodging. They are entitled to a one-hour lunch break and two coffee breaks. They finish at 4 P.M. Dinner is served half an hour later. The rest is leisure time. There is a gym, music room, lovely lake to enjoy; they can read, watch TV or do other things.

Many people brought in are submitted to a specific rehabilitation program. For example, aside from the kitchen in the central building where they prepare the food, there is also a very modern kitchen where inmates learn to cook, since for many of them hamburgers were their only food before detention. There is also a social worker, psychologist, pedagogue and special programs of rehabilitation. Special attention is paid to drugs as this is an open institution and the possibilities for bringing drugs inside are higher than in other prisons. In the central building there are separate control rooms for that purpose, but to date no drugs have been discovered.

There are three residential buildings. One is for women-inmates, the other for men-inmates and the third for mothers with children. Each of these buildings has a modern kitchen, living room, 2-3 bathrooms and bedrooms. They are all well equipped, so it is hard to imagine that you are actually in a prison. Women-inmates with children can prepare their own meals, while other inmates can enjoy that right on weekends. They can have visits in the separate room of the central building if they prefer.

Besides Vanaja there is the Jarvenpaa open colony. Its capacity is 30 beds for women, but at the moment of my visit there were only 19 women there.

Unlike the Vanaja colony in the Jarvenpaa colony there is no special rehabilitation program for women, but they are obliged to work or to attend classes.<sup>11</sup> They work in sewing or weaving workshops, whose products are distributed to buyers or sold in the shop together with products from other prisons. Inmates can enroll in any of the classes available or continue with their education. For example, two of them attend cooking lessons in the nearby prison for juveniles, while another travels every day to Helsinki to attend lectures.

The whole complex is divided into two parts. One consists of two buildings with inmates' bedrooms and an area where they spend their leisure time. One building has rooms with four beds (there are 6 of those), and the other has single bedrooms. Doors are never locked, only if inmates wish to do that. These rooms are on the ground floor, while leisure activities happen upstairs. There is also a TV room, a small library, a gym and a small working area where inmates are trained to operate the machines during the first days of their arrival. Apart from this building there are also buildings comprising a kitchen, dining room and visiting rooms, with no supervision or control. Behind them is a laundry where inmates wash their personal clothes, and a building with workshops.

The other part of the complex is the residential area for the staff. It is separated from the others by only a low fence. The Jarvenpaa and Vanaja colonies make you feel as if you are visiting a park.

<sup>11</sup> There's another distinction between these two institutions, and that is the fence (wooden and wired).

The prison management explains its existence by the need to partially isolate this place from the town and to protect women from the local population.

## Some of prisons where women are remanded

Nevertheless, there are some prisons in Finland below the European Union standards. These are very old buildings with bad conditions owing primarily to their age. One of them is the District Prison in Helsinki, where both men and women are in remand, together with convicts serving short imprisonment terms.

The first floor was built more than 200 years ago, while the rest was built 110 years ago. The building is surrounded by a high wall and situated in the very center of Helsinki. During my visit, there were 91 men and 6 women remanded.<sup>12</sup> The prison was built according to the "Philadelphia prison system", i.e. it consists of cells which are small, with a bed, table, chair, small dresser and a shelf where inmates keep their personnel items. We could see a few pictures, some books and a TV in every room. However, there is no toilet or sink, daylight is scarce as it comes from very high windows.

There are three floors, each painted a different color. Recidivists are on the third, green floor. One room usually accommodates two inmates, as there are seldom those who wish to be alone. Each floor has 3 rooms with 6 beds each.

Inmates wake up at 6 A.M. The cells are closed at 9 p.m. Doors are open during the day so they can walk and communicate with each other. The majority of inmates voluntarily accept any job, but unfortunately there are not enough jobs for all of them.

During the day they have contacts with the psychologist, social worker and priest. They are entitled to spend one hour daily outside. They also have the right to receive visits from a lawyer, family members and relatives every Saturday, Sunday and during holidays, but in the presence of a supervisor. They can spend time with children and spouses once every one or two months, without supervision. They have the right to write and to receive letters, to use the phone, to receive parcels (no food allowed) and their family can deposit funds into an account, which they use for buying food. They can also attend any of the classes organized in the prison. There is a doctor, three medical nurses and a dentist, who come twice a week from the Helsinki Central Prison (on Tuesday and Thursday).

Women are also entitled to the aforementioned. They are accommodated in a separate block, under the supervision of women-wardens (there are 14 of them in the male department as well). The women's block is in far better condition than other blocks and it seems to be the rule in Finland that women, both in prison or in remand, are accommodated in the best possible conditions. In the block itself, there is room for 7 women, but often there are more, as they move out from one prison to another and have to spend a night or two in this one. However, the biggest problem, as women say, is that the toilet is accessible without special permission only during the day.

There are no toilets in their rooms and they are locked in the cells during the night. As far as use of the bathroom is concerned, none of the women had any objection. They can have baths every day, while they receive a package with sanitary supplies immediately upon arrival. They can also buy necessary items in the canteen. No one who was there was any objection regarding the food. It is the rule here and elsewhere in Finland, that the same food is served both to prisoners and staff.

The District Prison in Helsinki remains a relic of the past, as there are more and more modern institutions, which meet all international standards. Frequently, old prisons undergo full modernization or become museums.

## Conclusion

It can be concluded that no matter what conditions in Finnish prisons, women are not seen as numbers, but as individuals who ought to be helped to start a new life once they are released. This is not a simple fact but a part of the Finnish reality. In our legal system, by the new Law on the Implementation of Criminal Penalties, which went into effect on 1 January 1998, for the first time the legislature offered the possibility of more humane treatment to women-inmates.

It is up to the people from our Ministry to decide whether to build a new prison for women or to transfer women-inmates into the other, already existing prison building. No matter what they decide, it might be a step towards establishing institutions like the Vanaja colony.

<sup>12</sup> Women in remand are accommodated in the only prison for women as well. They stay together with other inmates, but are not obligated to work or attend any of the courses.

## Other features

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### WOMEN AND AIDS

Ever since the onset of the HIV epidemic in the world, the number of women affected by this virus, which causes general immune deficiency, has been high. Nowadays, it is an established fact that in some highly industrialized countries in Western Europe, as well as in the USA, the rate of women affected by AIDS rises much more sharply than is the case with men. Also, in many countries, women contract AIDS primarily through heterosexual relations. According to the latest WHO survey for the European region (30. 06.1997.), women account for 17.3% of the total number of registered AIDS patients, whereas children account for 3.7%. It is also known that in some underdeveloped countries and also in some developing countries (for example, in the sub - Saharan region in Africa), women account for more than a half of the total number of people affected by AIDS. Besides, it has been confirmed through massive medical research that the HIV can be transmitted much more quickly and with a greater degree of probability from men to women than vice versa; that the side effects of certain contraceptive devices which are used by women can provoke a higher degree of receptiveness to HIV; that certain sexual techniques women in some cultures have practiced for centuries can lead to infections which can encourage the development of HIV; that younger, sexually more active women in their reproductive period are biologically less resistant to HIV infection than is the case with older women.

Women are susceptible to the AIDS virus not only in a direct way, but also in many indirect, often less obvious, circumvented and indirect ways. In spite of this, only a small portion of the massive research on AIDS worldwide is devoted to the specific problem of women and AIDS. Also, social programs and preventive actions intended for women and deriving from knowledge and facts about their real life situations are scarce. It could even be said that the spread of HIV infection and AIDS within the female population has so far attracted the attention of experts and the public mainly when and if

women were identified as sources and transmitters of the infection to their children or sexual partners of the opposite sex. Everything beyond these boundaries was, practically, overlooked and neglected, either purposefully, or due to a lack of interest and sensitivity for the gender-specific aspects of this issue. Why is this so? The answers to this question rest with the fact that the influence of women on the medical and research establishment in the world is negligible, which is, in turn, primarily due to their social and economic position and uneven distribution of wealth. Therefore, they receive unequal treatment compared to men. The majority of women are in virtually no position to make decisions on crucial issues concerning their physical and mental health and safety, which determines both their lives and those of their children. The low social status of many women in the world is yet another factor, which prevents them from having say in relations where they should be equal sexual partners. These are some of the reasons why it is justified to wonder: whom are the programs, the main purpose of which is to bring about changes in sexual behavior among heterosexuals, intended for? The four messages emerging from them are:

- Refrain from sexual relations;
- If you are having sexual relations, you and your partner should be mutually monogamous;
- Even then, you should regularly use a quality condom and make sure you use it properly;
- Subject yourself to treatment against other sexually transmitted diseases

How many women are in a position to follow such advice, or to discuss these issues with their partners? How many of them can make real decisions about their sexual relations (whether to have them, in what way, when and how frequently), about their partners and about using a condom, in view of the fact that 75% of the female population in the world have very restricted opportunities for education, employment, inheriting or acquiring material possessions or obtaining financial assistance from official institutions.<sup>2</sup>

In addition to everything mentioned above, various cultures uphold diverse expectations regarding women and female sexuality. Therefore, women are bound not only by social and economic factors, but also by culture and their immediate surroundings, which de-

<sup>1</sup> Ksenija Savin and Vesna Korac are researchers in Institute for Criminological Research in Belgrade.

<sup>2</sup> Quoted after: Rao-Gupta, G. Weiss, E. Whelan, D. (1966) "Women and AIDS: Building a New HIV Prevention Strategy ", in: AIDS IN THE WORLD II, pp. 217-218.

termine their lives and which they depend on. It is precisely for this reason that the World Health Organization (WHO) has focused its global action concerning women and AIDS on the social vulnerability of women and their susceptibility to HIV, which cannot be diminished unless their general health, level of education, legal position and economic situation are improved. In other words, efforts to prevent the spread of AIDS must be coupled with those aiming at the general emancipation of women.<sup>3</sup> This attitude reflects both the importance and the growing need for sociological and anthropological research regarding women's position and way of life in various cultures and societies, as well as the need for a deeper insight into the existing links between the results of such research and research conducted on AIDS.

As for the situation in FR Yugoslavia, according to the existing data, the male population is still dominant among AIDS patients. In the first half of 1997,<sup>4</sup> the male population accounted for 75.3% of AIDS patients and the female population accounted for 26.4% respectively. The majority of patients – 49.9 were intravenous drug addicts, followed by heterosexuals – 16.7% and homosexuals / bisexuals – 13.6%. As to their age, the majority of AIDS patients were between 30 and 34 years of age – 26.5% and between 35 and 39 years of age – 22.9%. The largest segment of female patients was recorded in the population between 25 and 49 years of age.

In 1991, the number of male AIDS patients was 8.5 times higher than the number of female patients, whereas in 1997 that ratio dropped to 4; in 1997, the figures showed further disadvantage at the expense of women, the number of male patients being only three times higher than the number of female patients. This tendency is still present.

Such developments clearly indicate that the spread of AIDS among the female population in FRY is on the rise.<sup>5</sup> Besides, we are slowly drifting away from the European region we belong to, in spite of many specific differences. For example, the percentage of women among AIDS patients in Europe is

17.3%, whereas in FRY this figure is much higher and amounts to 24.7%.

These differences arise from specific social, economic, political and historical circumstances, coupled with a strong and persistent cultural matrix, which has been particularly emphasized in the past few years, according to which the woman has a traditional place and role in society. This period coincides with the disintegration of the country, of political manipulation with nationalism, when hatred and xenophobia were encouraged, the war, tearing moral dilemmas, temptations and tragedy, forced migration, endless lines of refugees... For many, this entailed the loss of their nearest family members, of their possessions, status and identity, broken ties with their families, relatives and friends. This is also a time of international isolation, abrupt pauperization and deterioration of society, losing professional environment and perspective, acute social differentiation, anomie, new massive forms of social deviation, general escalation of social violence and crime. In such circumstances, the steadily rising figures indicating the spread of the HIV epidemic, are mainly being ignored. The AIDS risk is overshadowed by other major threats and pushed aside by numerous existential problems. In a poor and disorganized society, health care is also bound to be such, as well as research centers, which stems our chances for a systematic prevention and containment of this disease.

By far the most frequent transmission channel for this disease is sexual relations. The analysis of medical statistics has shown that women are primarily infected by means of heterosexual contact. For example, women account for 56% of the total number of persons who have been infected through a heterosexual contact. The prevailing attitude in our culture is that only heterosexual relations are regarded as normal.

This attitude, like many other ones about sex and "gender roles" are essentially culture-defined. The cultural seal, which standardizes, directs and underpins our attitudes and behavior, regardless of the extent to which we might be aware of it, which is not restricted to the sexual sphere, is referred to as "cultural pattern" by anthropologists. It is relatively stable, although there are varieties; it is not uniform and there are exceptions. Nevertheless, it represents a very important behavior catalyst and consequently, it is projected upon AIDS risk.

Our culture is still largely traditional and patriarchal. In such a culture a great number of women are dependent on men regarding their status, existence and emotional life. The most appreciated attributes of

<sup>3</sup> A Framework for Global Action on Women and AIDS, p. 1.

<sup>4</sup> According to The Federal Bureau for the Protection and Promotion of Health, Belgrade.

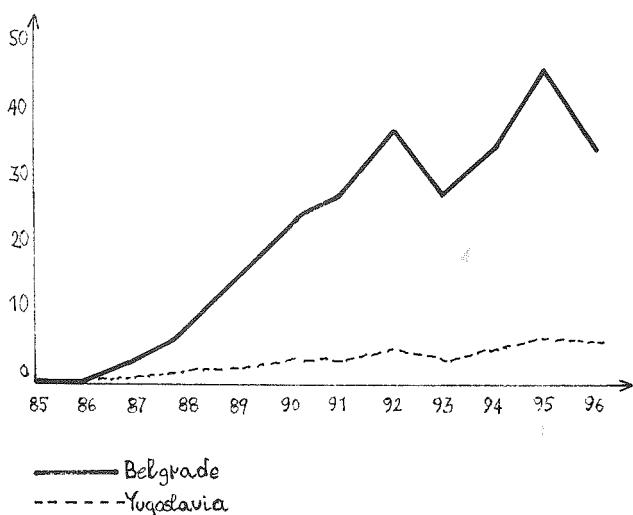
<sup>5</sup> The health-monitoring methodology by HIV tests in our country is faulty and data concerning the spread of the disease in the female population is not presented in a systematic way. Tests are compulsory only for the women who are subject to institutional treatment for drug addiction and pregnant women who belong to high risk groups. There is no data about the percentage of tested women whose partners are HIV+, rape victims and those who are forced to sell their sexual services.

"femininity" are ignorance, innocence, monogamy and motherhood. Within such a framework, the woman has limited access to information concerning her own sexuality (her anatomy, protection from sexually transmitted diseases, contraception, possible consequences of abortion); nor is she expected to initiate and have a lead in sexual relations (this would mean threatening male domination and one of the basic male sexual roles). Ignorance is seen as chastity: therefore, insisting on "safe" sex means failing to live up to expectations, which are attributed to the female sexual role. It is unacceptable for a woman to issue instructions about sex, be it even about "safe" sex.

The man is the one who decides whether to use a condom, and practice has shown that men widely resist its use. Statements received from HIV+ women who have had only one sexual partner in their entire lives are supportive evidence in this matter. What is more, the pressure on women to bear children, especially a male heir, is very much present in patriarchal cultures. By adopting the reproductive role, under certain circumstances, the woman risks not only contracting the AIDS virus, but also transmitting it to her children (because male promiscuity is allowed, and even desirable according to the given cultural pattern). In this way, women are, actually, accepting a situation where they risk endangering their lives in the process of preserving their status, their relationship or their marriage.

Over the period 1995 – 1996, the authors of this text conducted empirical research entitled "Cultural patterns in sexual behavior and AIDS risks". Their aim was to find out how vital such a cultural pattern is in our society nowadays and to what extent its influence is reflected upon the articulation of sexual identity, the perception of sexual partners and roles and the choice of style and the freedom of sexual behavior, which directly determine the risk of contracting AIDS. The research was conducted on a representative sample of young people in Belgrade, which also represents the most risky group in our country, with 71.1% of the total number of AIDS patients, 965 registered HIV+ persons and approximately 4.390 infected persons. The majority of the young people who were subjected to our research have spent at least half of their lifetime in the period marked by AIDS, in highly risky surroundings (although only a small portion of them is aware of that fact – 15%).

AIDS in Yugoslavia and in Belgrade (incidence per one million inhabitants).  
(GRAPH)



The sample consisted of 2.151 respondents, 46% of whom were women and 54% men; 62% were secondary school pupils and 38% were students; 68% were between 14 and 19 years old, 26% were between 20 and 24, whereas 6% were above that age.<sup>6</sup>

The research was divided into several topics, some of which are the following: the perception of AIDS risk, knowledge about AIDS, sexual behavior and traditionalism as a pattern of sexual behavior particularly seen from a female perspective.

The results were interpreted according to the method of factual analysis.

### Basic findings of the research

*Risk perception* – The research revealed that there are no considerable (statistically important) differences between men and women in this respect. Compared to the results obtained in 1988, regarding social reactions to AIDS, the general risk assessment concerning this disease has been completely altered. Namely, 90% of the respondents saw AIDS as the gravest universal epidemic of our age, and 68% thought that this disease was not only a global and comprehensive social problem, but also a matter of their personal concern, i.e. that they might themselves be affected. The young also expressed confidence in medically based prevention programs; 76% believed that they

<sup>6</sup> In developing countries, (where more than 80% of the total number of young people live) the incidence of HIV+ persons within the age groups which were represented in our sample is 50%. – AIDS INFO SIDA, JAZAS, Belgrade, iss. 1, Dec. 1997.

were able to considerably decrease the risk of contracting AIDS if they complied with the suggested preventive measures. But still, although 76% of them claimed that they observed the preventive measures, this fact must be taken cautiously for several reasons. First, 2/3 thought that they could assess by themselves the persons and situations from their surroundings that could be risky. Second, this fact was not supported by further data concerning the sexual behavior of the young. Third, their age must also be taken into consideration, namely, various factors, which might jeopardize their declarative acceptance of protective measures and have an impact on risk. These are, primarily, their strong libido, their curiosity and inclination to discover the new and unknown, their tendency to be easily and indiscriminately influenced by their pals, their craving for self-assertiveness, and discovering new aspects of their personality; also, their desire to fulfill their sexual partner's expectations, coupled with insecurity, prejudices, immaturity and lack of experience in situations fraught with risk, cultural influences, etc.

The very fact that a small number of people are familiar with the fact that Belgrade, along with a few other European cities, is in the lead regarding the number of HIV+ persons, indicates that risk perception is not always conditioned by the existing circumstances and objective risk. Neither is it widely known that, according to the official data, 17% of the young in the age group between 14 and 24 have contracted AIDS. Our respondents' risk perception was by all means also influenced by the fact that none of them had had any direct experience with AIDS patients, which does not mean that it will not happen in the foreseeable future. According to them, only 4% had undergone a test to check whether they had contracted this virus or not.

*Knowledge about AIDS* – One of the important results of this research is that it revealed that, contrary to widespread belief and ungrounded arguments, the young are very well informed about various aspects of this disease. Thus, the average number of correct answers in the female sample amounted to 80 % and in the male sample 77.8% respectively. Within the sphere of knowledge, which is interconnected with some opinions and attitudes, the so-called critical knowledge can be set apart: the knowledge based on updated medical findings, which, when strictly applied in practice, reduces the risk of HIV infection to the minimum. Again, quite a high percentage of correct answers were obtained: 69 %. This confirms the assumption that risky behavior is not always a consequence of ignorance, i.e. that "knowledge" alone, as a stored "stock" of

frequently repeated information, cannot eliminate risky behavior by itself. Another fact, which is supportive of this claim, is that there is no important correlation between the majority of indicators of risky behavior with the total score of the so-called indispensable (critical knowledge). In this matter, the differences between men and women, however small they might be, are statistically very important when it comes to some issues. Among those, some were of the type which, in the traditionally patriarchal code would be labeled as "women's talk" – for example, whether the AIDS virus can be transmitted by breastfeeding or not, whether an HIV+ pregnant woman endangers her fetus, etc.

In spite of the differences, however, both the men and the women who were involved in our research, expressed awareness that drug-addicts, homosexuals and prostitutes were victims of this disease, thus indirectly rejecting the framework of "high risk groups". It is also important that members of both groups labeled as extremely high risk intercourse without the use of condoms (96.3%) and that they are familiar with the fact that a singular "unprotected" sexual contact is sufficient for a healthy person to contract this virus (93.6 %).

In order to make this and other findings about AIDS become part of our behavior, preventive programs of the so-called second generation are being developed in the world. The aim of these programs is not to increase the volume of information on AIDS, but to empower each person individually to recognize risk and to learn to face it in their own way.

*Sexual behavior* – The research involved only the characteristics and forms of sexual behavior, which have been medically proven as hazardous regarding, AIDS.

Judging by the answers to the question about *the beginning of sexual relations*, 1/3 of the girls (and 2/3 of the young men) start their sexual lives very early, by the time they are sixteen. On the other hand, 51% of the women do not have a full sexual life until the age of 24. There are considerable statistical differences regarding this issue, which are mainly due to traditional influences and gender-discriminative upbringing.

As to the *type of sexual relations*, women have vaginal intercourse much less frequently than is statistically expected, and also less frequently than men, although more women than men (62 %: 50%) thought this was the only "normal" form of intercourse. If condoms are not used in the course of this type of relations, 77% of women will label it high risk. The women also share a similar opinion about oral and anal relations, although

they have such experiences less frequently than the former (12 % and 3% respectively). Moreover, women are more apt than men to have other kinds of sexual contact are, which do not necessarily lead to complete intercourse.

Furthermore, differences between women and men are reflected in *the number of sexual partners*. As was expected, many more women said they did not have sexual partners. However, when they do have them, women are much less inclined than men to choose them from people they have just met, or to assess their health status *ad hoc* and they change them less frequently. This could lead to the conclusion that their behavior is less risky than men's are. However, the women (72%), in far larger numbers than men (44%), make brief "excursions" into parallel relationships, although it is not clear whether those are always sexual relations. It is only certain that these relations are almost always with the other sex (96%). According to statements obtained from both male and female respondents, no one has ever renounced sex for fear of AIDS, and few are those who have opted for a single partner for the same reason.

Regarding *the duration of sexual relations*, women tend to have longer relationships (over six months), whereas men engage in relationships, which last between three and six months.

The sharpest differences between men and women arise when it comes to assessing the need for HIV testing, in cases when a person has frequently changed sexual partners without using a condom. Women are more resolute and more sensible in such situations, and consider that testing is indispensable here; again, this reflects the traditional patriarchal image of the woman as a passive partner, a "shadow" who "suffers" the consequences and can, therefore, be endangered by a sexual relation.

A very important part of the research referred to verbal communication between sexual partners, i.e. *the culture of speech about sex*, namely, "the negotiating skills" regarding the use of condoms. The results showed that sex is much spoken about here, but in the wrong way: There is no free, emancipated and open talk about sex, including verbal exchanges between sexual partners. According to their image of "the ideal female role", the "macho" men do not like it when women talk about sex (67 %). A number of women (35 %), are also reluctant to talk about sex, probably because they wish to make a good impression on their partners, out of shame, which is a product of their upbringing, or else, out of fear of social stigma. In addi-

tion to this, the women (45 %) take it much harder when their sexual partner inquires about their previous sexual experiences, because the predominant cultural pattern has established the belief that "a decent woman" ought to have one partner, or as few as possible. Generally, sexual relationships where partners make all the decisions together are very rare among the young; only 1/4 of sexually active people arrive at a mutual decision about the use of condoms. Coupled with the fact that less than 1/3 of women talk to their partners about AIDS, it can be concluded that the women here have very little influence on the control of risk of contracting this disease.

The proportion of men and women who were of the opinion that only a small number of men use condoms regularly is the same (13 %). In spite of all warnings, coitus interruptus is still considered to be a better and more natural protection (25 %), although it does not protect the woman against AIDS, or against other sexually transmitted diseases, or against pregnancy. Even when a condom is used, many errors occur: its quality is not checked, it is used only in the beginning of a relationship and is soon abandoned (32%), it is used only with persons who are not steady partners (38%), or only with a prostitute (17%). This situation is accepted by 30% of the women, with the explanation that they believe their partners are faithful to them, which makes the use of the condom redundant.

Everything that was mentioned so far clearly indicates that the condom, as an important preventive factor, does not have a place in this culture, although it is ostensibly widely accepted. Consequently, AIDS could soon fill its place.

*The cultural pattern* – The cultural pattern was made operative in over 132 items for women and 134 items for men according to Likert's scale. The factual analysis of the scale has resulted in 5 equal factors, which comply with the theoretical assumptions of the researchers. Their empirical structure in the second degree of analysis formed two factual clusters.

The first, dominant cluster consists of the factor of traditionalism in the general sense (I) and it covers all the significant theoretical dimensions of the ideal, typical, traditional patriarchal pattern of sexual behavior. This entity also involves its "natural" part – a stereotype of the male sexual role, i. e. "macho behavior" (V).

The second factual cluster consists of factors II, III and IV, which have a significant bearing upon risk because they involve: sexual

partners (their number, the type and duration of the relationship), sexual freedoms ("conventional" and "unconventional" sexual practices) and dilemmas over the use of condoms. These issues were probably grouped together because of their importance for the young, particularly because decisions concerning partners, the type of sexual relations and

the use of condom is closely related to the risk of HIV infection. Other results, which were obtained during this research, support this conclusion. (see table 1).

The main findings which result from the analysis of the position and distribution of the scores achieved in the sub-scales are given on table 2 (see table 2).

Table 1. Empirical factors of sexual behavior  
- The female sub-sample -

Factors	Title of factor	Number of items	% of the variant
I	General factor of traditionalism	26	39
II	Poligamy - the number of sexual partners	22	26
III	"Free sex"	18	14,3
IV	Condom (contraception)	12	12
V	The female image of "machoism"	23	12,1

Table 2. Depiction of the samples

Females

Sub-scale/Factor	Average	Symmetry	Grouping
- Traditionalism	low	high extremes*	fewer extremes
- Polygamy	low	high extremes*	fewer extremes
- Free Sex	high		more extremes*
- Use of condoms	high	low extremes	more extremes
- Stereotype about men	high		

Legend:

- The Average column has data whether the arithmetical mean of the sample is below (low) or above (high) the theoretical mean of the range of the scores.
- The Symmetry column describes the skewness of the distribution above the relative number of the low or high values (the extremes).
- The Grouping column describes the kurtosis of the distribution and again via the total presence of the extreme values in the sample.
- The empty boxes indicate that in that place there are no statistically significant deviations
- The small asterisks indicate the highest deviations

## Conclusion

The AIDS epidemic in the female population, even in its advanced stage, has not been acknowledged as a very specific problem, although cultural factors were occasionally emphasized as extremely important for understanding the specific risk for women. Part of the research has been devoted to this problem, especially research concerning the position of women in the so-called Third World. Preventive programs launched by WHO (such as Global Strategy, which was mentioned above), take into account the sociological and cultural dimension of risk. However, it can hardly be said that there exists a systematic approach to this problem, deriving from ample research experience, which would take into consideration all the important social and cultural aspects of the position of women, and, at the same time, the degree of relativity in this area.

Opting for cultural patterns of sexual behavior as a theoretical and methodological framework of our research, we wanted to attribute complete legitimacy to the approach to AIDS contagion risks from the aspect of this basic, clearly defined cultural factor. At the same time, we attempted to arrive at the missing explanations concerning the spread of this epidemic among women, particularly in our environment. The broadest hypothesis was that sexual behavior is conditioned by cultural pattern and that it must also be respected, when it comes to the risks that it carries along.

Owing to a long-standing historical tradition and to certain retrograde social trends, it was justified to suspect the presence of traditionally defined social roles in a patriarchal environment, especially sexual ones. As to the prevalence of this cultural pattern, it was to be expected that the dominant experience of older, less educated women from the rural area and specific regions, who had been subject to quite rigid upbringing, would be condensed in the cultural pattern based on traditionalism and patriarchy. Therefore, research conducted on such a sample would have been justified. However, our goal was to find out to what degree and extent this pattern has been preserved nowadays, in the population of educated, young women between 14 and 24 years of age, who live in the largest urban area and in a liberal environment. This is where it could be the least expected. In addition to this, the aim of the research was to establish to what degree such a pattern can be the moderator of risk within this very vulnerable category of women, in an AIDS-affected environment. And all the more so,

due to the fact that processes which lead to reverting to tradition have been identified in various age and social groups.

Our research has shown that the majority of young, educated women do not verbally uphold the traditional, patriarchal cultural pattern. In other words, this pattern is not entirely acceptable for the majority of young women. Nevertheless, the obtained results indicated that women in our environment are generally monogamous, although they are ready for sexual experiments. They are also very much aware of male dominance, which they do not challenge. Regarding AIDS, women are better informed about this disease than men are, but they are also more exposed to it. This is because they engage in sexual relations with men, who start their sexual lives early, have short sexual relationships, change their partners more frequently and in most cases do not use condoms. In this process, the women endanger themselves even more by rarely, or even never inquiring about their partners' previous sexual lives and by avoiding discussion on topics related to sex and sexually transmitted diseases with their partners. In short, in their sexual relationships, women do not act as subjects who are capable of controlling the risk, and so they prove that they have not quite overcome the traditional patriarchal upbringing model. The risks the women are practically exposed to due to the behavior of their male sexual partners, coupled with the risks they incur themselves by accepting the sexual role they are expected to adopt, potentially endanger their future offspring. The latest evidence issued by the World Health Organization, indicates that the majority of AIDS-affected children are victims of the so-called vertical transmission – from their mothers: 39.3% (the so-called pediatric AIDS). This is one of the main reasons why the WHO is promoting programs and activities, which are directed at AIDS prevention. There is only one way to make this possible: it requires altering the circumstances governing the lives of the majority of women in the world today. At the same time, this organization calls for the respect of women's reproductive rights, including those women who have contracted the AIDS virus. It has issued explicit recommendations regarding the HIV+ women: they should not be forced to be sterilized, the pregnant women should not be encouraged to have an abortion, and HIV+ women with children in need of help should be provided with assistance.

As to our medical practices, the HIV+ pregnant women are given the possibility to decide for themselves whether they want to have the child or not, i.e. they are allowed to control their own reproductive lives. Neverthe-

less, in particularly risky cases, abortion is advised.

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Judith Armatta<sup>1</sup>

## REFLECTIONS ON A LEGAL STRATEGY FOR ADDRESSING DOMESTIC VIOLENCE

### Origins of U.S. Legal Strategy on Domestic Violence

Feminists in the United States first became aware that women were experiencing violence in intimate relationships in 1970's consciousness raising groups. It was only after rape crisis telephone hotlines were established, however, that the extent of the problem began to surface. While the hotlines were set up to help women who had been raped, they were soon overwhelmed with calls from women who were being beaten by their husbands and partners. In the United States, a woman is beaten every 9 seconds and it is estimated that 15 million women experience violence in an intimate relationship at some time in their lives.

To address the incredible level of domestic violence, feminists established support groups, shelters and other services. They also undertook to educate professionals and the general public through publicity campaigns, speeches, articles and targeted curricula and training. Early on, feminists recognized that a legal strategy was also necessary, because the legal system was perpetuating the violence rather than providing protection for women victims.

All sectors of the legal system - judges, prosecutors, police, criminal and civil attorneys - acted as major impediments to battered women since they reflected general societal attitudes about domestic violence: i.e., "women provoke men to violence and deserve to be hit," "domestic violence isn't serious" and isn't a matter for the criminal justice system; "women enjoy or accept the violence, they don't want anyone to interfere and they won't follow through with prosecution;" "both parties are at fault in a domestic dispute and both should be arrested." Battered women found these attitudes by legal authorities helped perpetuate the violence. When a police officer lectured the victim as well as the abuser, the abuser felt justified in his position

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that she had caused him to hit her (because she burned the dinner, nagged him, was a bad housekeeper, etc.). Her already damaged self esteem was further undermined. Worse, she continued to believe that if she only changed her behaviour, he wouldn't hit her. Abusers, of course, don't need a reason to hit. They do it to establish and maintain control of their partners.

### **Local Strategy: Law Reform, Education & Litigation**

To address these problems in the legal system, feminists designed a three-part strategy.

1. They lobbied the state legislatures for new legal protections.
2. Once new laws were passed, they undertook to educate police about their responsibilities for implementing them.
3. Because police were reluctant to implement the new laws, battered women's advocates sued police and the local governments that employed them for failure to perform their legal duty.

Oregon, the state with which the author is most familiar, was one of the first states to pass new laws addressing domestic violence. In 1977, battered women's advocates joined with feminist attorneys and legislators to secure passage of The Family Abuse Prevention Act (FAPA). FAPA declares that physical abuse within a family is no less criminal than abuse directed at a stranger. It provides civil and criminal remedies. The civil remedy consists of an emergency, ex parte order of the court prohibiting the abuser from further harassment and intimidation. A battered woman can request the court to prohibit him from coming to specific places such as her place of employment, school or home. In fact, if she has equal legal rights to a shared home or apartment, the court is required to order him to move out at her request, once abuse and fear of further abuse is established. Of greatest importance to many women, a FAPA restraining order can grant them temporary custody of children they have in common with their abuser.

The civil restraining order was designed as an emergency procedure necessary to provide protection in an emergency situation. As such, a battered woman can apply directly to the court for the order and need not hire an attorney. Filing fees are also waived and the court must hear and render a decision on her application within 24 hours. Once the order is granted, police serve it on the abuser who is informed of his right to request a hearing with the court to contest any of its provisions. In Oregon, unless dismissed

at the hearing, the order is effective for one year and can be renewed for good cause. While all 50 U.S. states have passed some form of restraining order law, they are typically of much shorter duration (e.g. 2 weeks).

If an abuser violates a restraining order, he is subject to arrest. He need not have committed a crime. It is sufficient if he violated one of the order's prohibitions, such as staying away from her residence or place of employment. In Oregon, police must arrest a person who they have probable cause to believe has violated a restraining order. They have no discretion to decide to warn him and let him go.

This mirrors the criminal provisions of FAPA. In addition to the civil restraining order remedy, Oregon law provides for mandatory arrest in cases of domestic violence. As with a restraining order violation, once police establish that an act of domestic violence has occurred and who has perpetrated it, they must arrest the perpetrator and take him into custody. The majority of U.S. states do not have mandatory arrest laws, though many establish a preference for arrest. It should be mentioned that FAPA's mandatory arrest provision is the only law in Oregon that denies police discretion to decide whether or not to arrest in misdemeanor cases. As such, it was not happily received by all law enforcement personnel. The reason arrest was mandated was that police rarely arrested for an assault in the home, though it often caused more harm than assaults outside of intimate relationships.

Removal of police discretion provided the legal basis for suing police when they failed to arrest. In the U.S. legal system, courts will not review acts where public officials are given discretion by the legislature, except in limited circumstances. However, where a statute provides a clear duty to act, the official refuses to do so and harm results, courts will hear lawsuits and, if warranted, award damages. That is precisely what happened in Oregon under FAPA. A woman who had been battered repeatedly by her boyfriend obtained a restraining order against him. He violated the order numerous times by coming to her residence, threatening and abusing her. Each time she called the police, they failed to respond. With assistance from feminist attorneys, she filed suit against the police agency and the local government that employed them. The police argued that their traditional discretion had not been abrogated by FAPA, and, therefore, they could not be sued. However, Oregon's highest court ruled otherwise and firmly established the duty of mandatory arrest and a citizen's right to sue when police fail in that duty.

The third part of Oregon's legal strategy to address domestic violence was education of police, prosecutors, judges and court personnel. While the above-described court decision should have provided impetus for police to attend trainings, in fact, they were little more eager and open to doing so. It took another 10 to 15 years of effort by battered women's advocates for police education about domestic violence and their duties under FAPA to become generally accepted and included in course work at the Police Academy (though battered women's advocates believe it is not sufficient).

Several factors contributed to eventual police acceptance of their duty with regard to domestic violence. Battered women's advocates contacted police in their local communities. Where possible, they made alliances with supportive officers. Often, their role was to challenge and confront. On the state level, attorneys and advocates addressed policy makers, professional associations, and the legislature. They designed training programs for police, prosecutors and judges, advocated for their adoption, and participated in panels, roundtables and conferences. Much was accomplished through persistence and networking.

A few highly publicized cases also increased awareness of domestic violence in the population generally, and among legal professionals in particular. The most well-known, of course, was the prosecution of O.J. Simpson for the murder of his ex-wife Nicole and her friend, Ronald Goldman. While media sensationalism eventually caused professionals to avoid news accounts, the case generated new interest in domestic violence and an openness to discussion. Police agencies and prosecutors from around the country couldn't help but wonder whether Nicole might still be alive had law enforcement intervened appropriately (by arresting, prosecuting and holding Mr. Simpson accountable) on the numerous occasions when she had called for police assistance.

All of this contributed to an atmosphere where police agencies were more open to training. It was assisted further when the Violence Against Women Act was passed by the U.S. Congress, which included funding for police training, improved law enforcement practices and data gathering equipment (see discussion below).

### **A National Strategy: Civil Rights Protections**

Advocates also worked on the national level. Building on the network of state coalitions representing grassroots domestic violence

programs, an ad hoc legislative group was formed which drafted and proposed major new federal legislation called The Violence Against Women Act (VAWA). In addition to providing substantial federal funding for grassroots programs, VAWA declared that violence motivated by animosity toward one's gender was a violation of civil rights for which an individual could sue in federal court. While federal statutes have recognized the special nature of violence motivated by racial, ethnic and religious animosity, there was no similar recognition of the overwhelming amount of violence directed at women, its genesis in sexism and a patriarchal system, and the restrictions it imposes on women's lives. VAWA also made certain criminal acts federal crimes (e.g. crossing state lines to commit domestic violence) and included provisions for restricting access to firearms by individuals subject to restraining orders.

After 5 years of intense lobbying by a network of local and national advocates, VAWA was passed and became law in August 1995. Because the law was essentially written by battered women's advocates, it reflected, to a large extent, their analysis of how violence against women should be addressed. For example, federal funds were offered to prosecutors and police agencies for domestic violence work on the condition that they collaborate with local battered women's programs. The downside of this requirement is that some battered women's programs have been faulted for appearing too hostile or confrontational to police. This is only one illustration of how efforts to influence police behavior have been turned against battered women's advocates. Indeed, the ability of the patriarchal system to use legal reforms against battered women was an initial reason that battered women's advocates were reluctant to pursue a legal reform strategy at all.

### **Motivating and Educating Professionals for Local Action**

In addition to the passage of major federal legislation, national leaders of the battered women's movement designed a strategy to catalyze action at the state level. For 20 years, battered women's advocates had attempted to educate state and local authorities and professionals, with minimal success. For the most part, advocates were marginalized. Domestic violence was considered a "women's issue" and, therefore, not worthy of the time and attention of professionals, such as judges, prosecutors, civil and criminal attorneys, physicians and politicians.

National advocates established contacts with influential national legal groups, in-

cluding a judicial training center and an agency that funds projects to improve the judiciary. With their cosponsorship, an invitational national training was organized. The chief justice of every state supreme court was asked to appoint a 5-person team to attend the national training. The team was to include 3 judges, a battered women's advocate and either a prosecutor or legislator. In fact, all 50 states and U.S. territories were represented at the training conference held in San Francisco in 1993.

The week-long training was designed to educate judges, legislators and prosecutors (each workshop was co-chaired by a judge and a battered women's advocate) and to have each state begin to develop a plan for addressing domestic violence. The judiciary was selected to lead this effort, rather than politicians or other professionals, because of their prestige and the key role they play in the U.S. legal system.

As a result of the conference, a number of states formed state-level multi-disciplinary coordinating councils to address domestic violence. In Oregon, the state council consisted of 33 members representing professions with some responsibility for addressing domestic violence, including judges, prosecutors, defense attorneys, educators, physicians, psychologists and social workers, and law enforcement. The Oregon council drafted and adopted protocols for police, educators, mediators, mental health workers, judges and batterer intervention programs. The protocols established the standard for what was expected of every professional with respect to domestic violence.

### **Coordinated Multi-disciplinary Responses**

At the same time, local communities were forming local multi-disciplinary coordinating councils. In most jurisdictions, the councils were concerned with policy, not with coordination of action on individual cases. However, regular meetings on policy issues provided the opportunity for different groups (e.g. prosecutors and battered women's advocates) to work together on domestic violence. When individual case problems arose, it was much easier for battered women's advocates to get the system to correct them.

### **Battered Women Who Kill in Self-Defense**

Those ignorant of the dynamics of domestic violence often wonder why a battered woman does not simply leave her

abuser. In addition to economic deprivation, battered women risk loss of their children and their very lives if they leave the abuser. Studies in the United States reveal that the risk of being killed by an abusive partner increases by 50% and when a woman attempts to leave. Seventy-five percent of the most serious injuries also occur after a woman leaves. Realizing this, a minority of battered women find themselves facing the dilemma of killing their abuser or losing their own lives. In the vast majority of cases where battered women have killed in self-defense, the legal system has prosecuted and imprisoned them - despite the fact that it was the legal system's failure to intervene and provide protection that forced the women to defend themselves to stay alive.

Attorneys and battered women's advocates organized defense teams and offered expert testimony on the dynamics of domestic violence to explain why a woman sometimes has no option but to kill her abuser. Initially, courts were reluctant to accept such expert testimony, especially from battered women's advocates whose expertise was not recognized by courts which are biased towards academic training. As a result, juries were not allowed to hear evidence of the years of abuse which supported a woman's conclusion that she had to kill to stay alive. Many women were convicted and given lengthy prison sentences (in Missouri, for example, a 50-year sentence was common).

In response, a national nonprofit NGO was started by battered women's advocates. The Clearinghouse for the Defense of Battered Women began collecting data, case histories and appellate court decisions. They provided expert assistance to defense attorneys representing battered women accused of killing their abusers, assisted women in prison to get new trials and to have their cases publicized, and helped organize clemency projects in a number of states.

In the U.S., when no more appeals are possible, a convicted person may apply to the governor (elected head of state) for clemency usually on the basis that justice was not done in the case. Governor Celeste of Ohio was the first governor to grant clemency to a group of battered women incarcerated for killing their abusers. His action was a national sensation because of the number of women granted clemency at one time. The Governor based his decision on the fact that the women had been tried when the law did not allow the introduction of expert testimony on battering. Subsequently, the legislature passed a law requiring courts to consider such testimony. These women had not had the benefit of trial under the new law and, as a result, had not received justice.

A few other states followed Ohio's lead before the backlash stopped group releases, in reaction to the fear that the end result would give women a license to kill. Today, clemency is generally sought on an individual, case by case basis, depending on the political situation in each state. Moreover, because evidence of domestic violence and expert testimony about it is more frequently allowed in court today, clemency is harder to justify.

Battered women's advocates also directed their efforts at educating prosecutors, defense attorneys and judges. While prosecutors have been supportive of battered women when they are clearly the victim of domestic violence, they have been less than sympathetic when women kill abusers in self-defense. Only recently has this begun to change. In Oregon within the last two years, several prosecutors have refused, for the first time, to indict battered women who killed in self-defense.

### Conclusion

It is apparent that U.S. battered women's advocates put a significant effort into developing and carrying out a legal reform strategy. Indeed, because of the law's dominant social role, battered women's advocates were forced to address it to at least lessen its negative impact on victims. (E.g., where police arrested battered women as well as abusers, protection of battered women made it necessary to educate police and pass laws that clarified domestic violence is not a mutual combat situation.) It was not long, however, before advocates also saw legal reform as a way to create societal change. How effective law reform is in creating social change remains to be seen. Certainly, it has a role, since law both reflects and helps form social norms.

However, because law is part of an encompassing patriarchal system, all parts of that system and the system as a whole must be addressed - woman's economic position, her political participation and leadership, her autonomy in all areas of her life, etc.

The danger of any law reform strategy is that the extraordinary and sustained effort required to effect change will lead to myopia, focusing solely on law reform without seeing the broader context. The same can be said for focusing only on violence against women by intimate partners, rather than the range of violence, discrimination and violation women experience throughout the life cycle and in all areas of their lives (sexual harassment at school and work, employment and wage dis-

crimination, prostitution, rape and child sexual abuse, loss of custody of children, etc.).

In the end, from a U.S. perspective, a legal strategy is necessary but not sufficient. And it must be continually re-evaluated in light of identifiable accomplishments and social responses.

*Branislava Knežić*

## THE WOMEN OF KRAJINA - TWO YEARS AFTER THE EXODUS

The following account is a continuation of the interview with one of the 54 refugee women we spoke to after the exodus from Krajina in August 1995.<sup>1</sup>

*What shall I write about these two years fraught with sorrow, change and effort to adjust? I am not sure that these feelings can be put on paper, or whether they can move someone and make them ponder over such fates. How can one overcome everything, forget and go on into the uncertain future, heart-broken and shattered? Over the past two years, no one came to visit us, to gather us together and tell us what is being planned and what they are going to do with us next. We have been abandoned and forced to do as we can in this puzzling and unintelligible life.*

*As for the housing problem, I had a very bad experience with our relatives, who rejected us. According to them, we did not contribute enough to the household. However much we gave them seemed to be too little for them. We moved into a laundry room, where everything was wrong from the very beginning. After some repairs and alterations, the ceiling leaked and we could not stay there any longer. We started looking for a new abode. This is where real problems began, because people are reluctant to rent their flats to refugees out of fear that they might not be able to pay the rent, or damage and tear the furniture etc. I could write a novel about all those events, not to mention agencies, which take your money and do nothing for you. A sensible person would hardly believe it. Eventually, we found a small flat, with old furniture; for us, it was like paradise, after that laundry room where our children's health was deteriorating. And how much do I pay? That is*

<sup>1</sup> Nikolić-Ristanović, V., Konstantinović-Vilić, S., Mrvić-Petrović, N., Stevanović, I. and Knežić, B. (1996): *Women of Krajina: war, exodus and exile*, Belgrade: IKSI.

another story, but we are not the only ones who live this way. And how are we to pay for it all? State-owned companies refuse to employ us because we are not Yugoslav citizens. They take us on for three months, and they prolong it for three more months, so every day I might be told not to come to work any longer. At present, I work in a school as a cleaner (after 20 years of clerkship in a municipal court). My husband works for a private upholsterer and our earnings barely meet our basic needs. After our arrival, we gave up so many things (normal nutrition, clothing, let alone everything else). Our elder son, who completed a secondary technical school in the meantime, works in "Politika" through a youth employment service; he washes cars and receives his wages once in three months. With the money he makes, he can occasionally buy some clothes for himself. Our youngest son is still at school.

My husband's parents stayed behind in Krajina. They are 80 years old and unable to work. They cannot obtain social assistance either, because this requires going around and knocking on many doors and they cannot do that. There is also my mother, who has been bereaved of her son (we do not know anything about him, whether he is dead or alive), with no hope or support, with no pension, oppressed by her age, her grief and her pain. The Red Cross has also forsaken us because all the relief has practically stopped. In the meantime, in spite of all these problems, I went to Vukovar to get Croatian papers. What I saw there is real, dramatic human suffering. Those are mostly elderly people who wish to return to their homeland and die in peace, if peace is at all possible, by their own hearths. Some of them, who qualify for a pension, are trying to obtain it. Those who do not want to queue, because it means spending the night waiting in the street, have to pay 40 DM in order to be attended immediately. After that, they have to wait for a month or two for an approval or reply from Croatia. It all requires several trips to Vukovar. My mother also went to submit her request, because she wants to go back to her home, where she might decide to stay, fed up with wandering from one place to another. Perhaps she will find out what happened to her son in Krajina, and appease her soul a little; anyhow, uncertainty is the worst of all. She says she can bear to be sent from one place to another as a parcel, knowing that we are all hard up and unable to support her. I fear the idea of her going to Krajina alone, in wintertime and into an empty and pillaged house. There is no stove or wood, no one to fix things for her and give her a hand. She has been forced to go there and she alone can tell how.

I also despair over my brother and I have lost hope that I will hear any good news about him. All this pretence of concern coming from the government hurts, because we see that they only worry who will come to power, and our future and our lives do not count there. Many refugees have died, their hearths could not bear the indifference and sorrow. But who cares? At least, there will be fewer of us in the total number if any solutions are to be sought eventually. In addition, the people protest all the more and refugees are still being scorned in public transport and in verbal exchanges, which is humiliating and painful. Why are we to blame except for having saved our own lives and for doing humiliating jobs in order to survive? We are not politicians, but ordinary, insignificant people who long for a little understanding, love, friendship and acceptance from the local people, so that the future could seem a bit brighter for us. But we are still knocking against a Chinese wall of silence and mistrust which is hard to break through. If it were not for some good people, it would be unbearable indeed. It is only human to hope that the help and assistance we crave will arrive one day, and we still maintain a bit of hope, strength and belief that better times are ahead of us.

The life and testimony of forty-year-old Sonja resembles many other stories and destinies of people who fled from Krajina. Although this story depicts, from a subjective angle, the personal experience of a woman, it reflects the real position and problems the majority of refugees are facing.

As we read Sonja's narration, a question recurs: what has changed over the two years since the exodus from Krajina? One thing is sure – the problems have only increased and become all the more difficult and overt. A reality fraught with poverty and despair forces them to be sober and be more realistic about the situation and the problems they are confronting after two years of "wandering from one place to another", as Sonja's mother puts it. This narration clearly points to the unresolved problems of the refugees: employment, housing, citizenship, which are, in turn, perpetuated within the sphere of health care and children's education. The women are still being employed in the private sector, as Mrvic – Petrovic and Stevanovic described: they work illegally, without being declared and without social insurance; or, if they work in socially owned companies, through the youth employment agency, they are not given steady jobs. This is because they have the status of refugees and cannot

obtain Yugoslav citizenship.<sup>2</sup> The insufficient material support of society in the broader sense and the impossibility to be employed full time, put refugees into an ever more difficult situation today. When they fled, they were hoping that better days were ahead of them. They expected to receive help and support from the country to which they had been banished and assistance from the international community for a safe return to their countries of origin. There is little reason for optimism today where the problems of refugees are concerned. The existing circumstances and the lack of speed at which the problems of employment, citizenship, or repatriation are being solved do not promise a better future for the exiled people from Krajina.

A real possibility for returning to Krajina has not been created because, as Stevanović clearly explains, "... If the men cannot be guaranteed a safe return, than any kind of going back is senseless, especially if there is nothing to expect there, if their houses are destroyed and pillaged and if there is no hope that they will be able to live there peacefully. On the other hand, Croatia is making only symbolic "efforts" to secure a safe return of those people and their presence is by no means welcomed in an almost ethnically clean Croatia."<sup>3</sup>

However, the new social environment has not created favorable circumstances for their adaptation. Among other things, integration into a new environment requires something that is often difficult to achieve: coming to terms with both one's past and one's present life. As our story shows, the refugees are torn between their present circumstances and the wish to go back to the places they abandoned. Also, those people often regard their refugee status as "stigma", which labels them

as "other", whereas the local population often feel threatened by or deplore them. It is not easy to "break" with one's past, because the refugees used to have friends, neighbors and colleagues at work in their old country, as well as social status, financial and housing security, which they, in the majority of cases do not have here. Let me at this point paraphrase David Albahari (*The Bait*): "One cannot be happy when all he has is his past and when he does not give up his memories".

A specific problem is the adaptation of elderly people, who used to live in their own homes, to live in detention centers or in a laundry room, where they feel a burden to their children and families. They wish to return to their ravaged homes, and are trying to do so. Sonja's mother is not afraid of living in a pillaged, destroyed house, either. On the contrary, for her being able to return would bring relief from the way of life she has been forced to have in the past two years. She, like the majority of elderly people, wants to return and die where she was born.

What is there to say in the end? It is my opinion that solving the problem of return for those who wish to go back to their homes must no longer be the refugees' individual and personal problem. The refugees no more have time to lose. Unless the issue of their safe repatriation and protection is addressed immediately, on a broader social base and with an economic plan, I fear it will be too late.

Also, the implementation of regulations must be faster, as well as the introduction of dual citizenship for the refugees. That would be a first step toward resolving their housing, financial, health and other problems. By merely adopting a law on citizenship, with no accompanying social and housing schemes, no solution can be achieved.

<sup>2</sup> Mrvić-Petrović, N. and Stevanović, I. (1995): "Life in exile - changes in the social and economic status" in: Nikolić-Ristanović, V. et al. *Women, Violence and War*, Belgrade: IKS, p. 160.

<sup>3</sup> Stevanović, I. "Women's Rights and Exile" in Nikolić-Ristanović, V. (ed.) (1997), *Women's Rights and Social Transition in FRY*, Belgrade: Center for Women's Studies, Research and Communication, p. 70.

Vesna Nikolić-Ristanović (editor)

### WOMEN'S RIGHTS AND SOCIAL TRANSITION IN THE FRY

Center for Women's Studies, Research and Communication, Belgrade, 1997, p. 138

In September 1997, the book *Women's Rights and Social Transition in the FR Yugoslavia* came out both in English and in Serbian, as a publication of the Center for Women's Studies. The book represents a compilation of papers from the conference, which was held in Belgrade, under the same title, from June 13 to June 15, 1997. It is divided into four topical areas, which deal with various problems pertaining to women's human rights in the context of social transition and war in the former Yugoslavia: *Women's Rights and Civil Rights* ("Women's Rights and Civil Rights" – Andelka Milić, pp. 7-16; "The Right to Abortion – Legislation and Practice" – Slobodanka Konstantinović-Vilić and Nevena Petrušić, pp. 17-35; "The Rights of Disabled Women within the Framework of Human Rights" – Lepoja Carević-Mitanovski, pp. 36-42; "Lesbian Human Rights" – Lepa Mladenović, pp. 43-47), *Women's Rights and War* ("Law, War and the Female Body" – Natassja Smiljanic, pp. 49-61; "The International Tribunal in the Hague and Rapes of Serbian Women" – Branka Jovanović, pp. 62-65; "Women's Rights and Exile" – Ivana Stevanović, pp. 66-76), *Women's Rights and Institutions* ("Discrimination: Unpaid, Underpaid and Underestimated" – Marina Blagojević, pp. 77-87; "Women's Rights and Prison" – Vesna Nikolić-Ristanović, pp. 88-96) and *Violence against Women and Women's Rights* ("Dark Numbers: A Research on Domestic Violence in Central and Eastern Europe" – Isabel Marcus, pp. 97-109; "Domestic Violence – Legal Solutions and Institutional Treatment" – Marija Lukić, pp. 110-119; »Sexual Abuse as Violation of Girls' Human Rights« – Zorica Mršević, pp. 120-133). It is very important to note that at the end of this compilation, there is a proposal for strategies to promote the state of women's rights in Yugoslavia (pp. 135-136), which the participants of the Conference suggested during the workshop.

In this review, I turn my attention to three papers, which are by no means the only important ones in this publication: on the contrary – they all are; but, in my opinion, they are good examples of the essential message of the Conference where they were presented,

and that is "the aspiration toward promoting women's rights in various spheres of social life".

The first of these papers is *The Rights of Disabled Women within the Framework of Human Rights*, Lepoja Carević-Mitanovski. As can be seen from the title, it deals with the rights of disabled women who are being pushed to the margins for two reasons, both as women and as invalids. Two topical areas can be discerned in the paper. The first is devoted to the analysis of UN documents, adopted in 1993 and implemented since January 1995. This document is entitled: "Standard Rules for Equal Participation and Equality of Disabled Persons." Although the Rules are not mandatory, they are of great importance as a first step toward ensuring equal opportunities for disabled persons. The Standard Rules consist of four parts: Preconditions for Equal Participation, Target Areas for Equal Participation, Measures for Implementation and The Monitoring Mechanism. In spite of the fact that our country is one of the signatories of The Standard Rules, the implementation of rights of disabled persons has not been substantially effected, particularly where disabled women are concerned. In that respect, she emphasizes the existing unequal treatment of disabled women. Although the law does not state that disabled persons cannot marry, have children or adopt them, a certificate about the psychosomatic condition of the disabled person, issued by a psychiatrist, is requested prior to the marriage. She points out that in cases of divorce between a healthy man and a disabled woman, she will never be granted custody of their children, regardless of her financial situation. As to child adoption, the situation is even worse. Disabled persons who decide marry cannot adopt children because they are presumed unable to take care of them, regardless of their possibilities to provide normal living conditions for them. The second part of this paper is devoted to violence against disabled women, supported by data obtained by Aja Cemp, a therapist from Zurich, which reflects the degree of sexual violence and sexual harassment disabled women are exposed to.

The second paper is an article by Ivana Stevanović about another category of women who are also subject to double marginalisation, like disabled women. The paper is entitled *Women's Rights and Exile*. It deals with women refugees, a marginal category for two reasons: because they are refugees and, at the same time, women. In addition to the introduction and the conclusion, this paper consists of two major topical areas. The first one deals with the position of refugees in FRY, and the second, with state of their rights

in Serbia. Following a survey in both areas, the author concludes that such a situation calls for a swift and effective response by the community, i. e. systematic solutions, which would address their position and legal standing. This primarily means creating solid grounds for the repatriation of the refugees and also facilitating the process of integration in the recipient country. In view of those facts, the recommendations of the Round table Conference, held in Belgrade in February 1997, were brought forth,<sup>1</sup> whereby the establishment of a tripartite commission between FRY, Croatia and Bosnia and Herzegovina was proposed. Their aim would be to ensure the following: a safe return of the refugees who freely opted for return to their country of origin, the protection of their rights and property, and the exchange of information about their country of origin. Where the refugees decide to stay in the recipient country, the international organizations are urged to give their support to this process and to give the refugees priority in resolving their property and legal position. In the end, the author concludes that it is necessary to establish a comprehensive program for refugees in this country, which will take into account both the interests of refugees and the general situation in FRY. This would mean taking into consideration and caring about the special needs of women refugees, and undertaking measures that would eradicate various types of discrimination against them.

The third paper, which ought to be considered with utmost attention, is Vesna Nikolić-Ristanović *Women's Rights and Prison*. The great importance of this paper lies in the analysis of issues, which are seldom discussed, and which, as the author points out, feminists began addressing much later than other problems women encounter. The aim of this paper is to point out the serious consequences of infringement of women's rights in prison, and the link between the current state of these rights and the economic situation brought about by the war and the process of transition in Serbia. The analysis of the state of women's rights in prison is based on the results of research conducted by the Group for Women's Rights of the European Movement in Serbia, during 1996 and 1997, in prison for women in Požarevac and in district prisons where women are detained in remand. This introduction precedes the following sec-

tions: who are the women in prison, an analysis of the position of women as a minority group within the prison system, the link between the economic crisis and the deterioration of women's rights in prison and a section calling for the respect of women's human rights in prison, with respect for their ethnic and sexual differences. The paper ends with the conclusion which, among other things, emphasizes that the poor living conditions in prisons are to a great degree a consequence of an adverse economic situation in our society, but also that the position of women as a minority group in general, and particularly in prison, has a negative impact on their status in the prison system. The new Law on Execution of Penal sanctions, which was adopted last year and which went into effect in January 1998, provides for the first time that women are to serve their sentences in separate institutions for women, which implies administrative separation from men's prisons. Also, an important innovation in this law is that penal institutions for women must be medium security, which means the absence of walls and similar obstacles, i. e., reducing barriers against possible escape to surveillance by the security service. These innovations, according to Vesna Nikolić-Ristanović, are a sound basis for the improvement of women's rights in prison. However, a more comprehensive and more effective solution can only be expected in the long run and in altered social conditions.

Ivana Stevanović

Draško Aćimović

## PROSTITUTKE RATA (The Prostitutes of War - Part III of the testimonies of our "ladies of the night")

Donald, Jagodina, 1997, p. 248

Wars are, certainly, senseless products of man's emotional and intellectual atavism. However incredible it might seem, their by-products are even more primitive and painful. The crisis of the system of values in all spheres of social life creates a receptive environment for numerous phenomena, abhorrent for the civilized man: drug – related crime, white-slave trafficking, networks of pedophiles, arms trafficking, usury, the black market... But, let us wonder, what else is there left, when one has lost everything? For many, this can be only one thing: selling their own body. Indeed, how does prostitution rank

<sup>1</sup> "Regulisanje pravnog položaja izbeglica u procesu integracije i repatrijacije" Final document from the Round table discussion *Legal Status of Refugees and the Process of Integration*, Belgrade, Feb.19<sup>th</sup> and 20<sup>th</sup> 1997, which was organized by the Democratic Center Fund and the Humanitarian – Informative Center "ODGOVOR"

on this long list of phenomena we are, unfortunately, already getting used to? This is one of the numerous issues, totally ignored by the authorities that the journalist Draško Aćimović is trying to address in his book "The Prostitutes of War". Mr. Aćimović has been preoccupied with related issues for over a decade of his journalistic activities.

The book I am about to present is a compilation of true life stories, taken from the media and developed in the course of interviews with the "ladies of the night". They can be divided into five closely knit topical areas: Prostitution during the war and for the war; the influx of prostitutes from the countries of the former Eastern block; adolescents and prostitution; the links between prostitution and white-slave trafficking and prostitution in parts of the former Yugoslavia which were not affected by war, within the framework of current events in close proximity. Throughout his book, the author argues for the legalization of prostitution, which would bring about improved living conditions of prostitutes in this part of the world.

### **Prostitution in the war and for the war**

As author points out, the belligerent sides, confronted one another from their trenches, had something in common: in those very trenches and in the surrounding areas, just behind the front lines, prostitution flourished. The prostitutes engaged their bodies for the sake of current political events and political strongmen; girls and women from all parts of the former Yugoslavia, put their bodies in use "for their Fatherland's welfare." It is with particular interest that the author observes the so-called "zenga-girls," Croatian prostitutes who, from author's point of view, might have done more for "the Croatian cause" than their so-called "warriors" did. They stashed away hard currency throughout Croatia, and also in Austria, Germany and Switzerland, waiting for their inevitable destiny – the moment when they are completely drained and relinquished, with no right to a pension or due awards. In the meantime, according to the prostitutes themselves, their best clients were "the blue helmets". Those "whores of war", as Wilfred and Burchet called them, "welcome the 'blue helmets' with due respect in our cities, and in the province as well, hoping that, once the war is over, they will be able to work abroad" (quotation, Emily, a 39-year-old prostitute). As in the good, old days, "ladies of the night" from Ljubljana, Zagreb, Belgrade, Sarajevo work together – which is yet another in a chain of paradoxical events. According to them, they get along well and assert that their

activities are the way they struggle for peace. Anyhow, "it is better to have our politicians sleeping with us, than with a "kalashnikov" (Jadranka, a prostitute from Split). As for male prostitutes, they are in a much better situation – the simple rule of offer and demand is at work there. And, according to them, the demand is high, especially from the guys wearing UN uniforms. That is the reason why these young men earn far more than their female colleagues; one of the most popular among them, Miško, (34) reveals that their number amounts to about 900 in the area of the former Yugoslavia.

The testimonies of those women are moving – a routine of marathon sex, alcohol, disease and orgies turns those patriots into drained and desperate women, who, not so seldom, end up in "enemy countries" and continue their work, but for their own profit. One of the top pre-war prostitutes of Zagreb, Ines (31), reveals the channels, names and places the "zenga-girls" are recruited from, having been one of them in the combined action of war prostitution and top state officials. As is always the case, the easiest way is to take advantage of those who are defenseless. The testimonies of those abused women are fraught with despair and sorrow for being unable to change anything. But still, at least in the beginning, all those women engaged in such activities of their own free will.

The testimonies of the others are horrendous – women who were taken prisoners and forced to become prostitutes and objects of sexual abuse. Those unfortunate girls and women are real, genuine war victims – unpaid prostitutes, objects for sexual exploitation and abuse, who not so rarely resorted to suicide or murder of their torturers. The unlucky ones, who got pregnant, sought abortions in advanced stages of their pregnancies or even committed infanticide. It is so hard for a normal person to believe such stories that the first reaction is: these must be constructs of the press, warmongers' propaganda. How could a human being do such things to another human being? The sheer atrocity of those testimonies forces you to stop reading them, but even when you do the pictures remain in your mind. The real truth rests with the proponents of those insane games and with their victims.

### **Prostitutes as white slaves**

Those abused women prisoners often ended their ordeal in the Middle East, which is the world's most attractive white slave market. In this book, the author reveals numerous facts, names and scandalous cases, which confirm the rumors that "the dogs of war,"

having taken advantage of their victims, sell them to rich customers. He also brings to our attention the fact that the international community turned a blind eye to such developments (a poignant instance of such behavior was when the Italian authorities discovered a "shipment in the hull of a ship and remained silent"). This phenomenon of a connection between prostitution and trafficking in women is not peculiar to the situation here – it accompanies all wars. Author points out that, while the experts on International law agree that white slave trafficking is a crime against pillars of International law, civilization, humanism and mankind, in reality, this practice is being tolerated and those who ought to be concerned about this problem fail to react.

### **Eastern – European prostitutes in the former Yugoslavia**

In these troubled times, the opportunity to earn a lot of money has attracted numerous women from Rumania, Moldavia, Russia... to our area. Their testimonies, quoted in this book, could be condensed into three key words: misery, a torn primal family and a pimp-boyfriend. They come from poor backgrounds, generally uneducated and from problematic families; it is their boyfriends who usually initiate them into the world of prostitution. The sequence of stages in the life of prostitutes (strippers, girls working for escort agencies, call-girls) is seldom varied, although occasionally there are different examples, such as educated girls seeking adventure and prostitutes who became that for some other reasons. According to what we learn from the stories of these girls published in this book, they are generally satisfied with their work and the way they are treated by the customers but it is obviously something which should be better explored.

### **Belgrade scene and prostitution in the parts of the former Yugoslavia which were not affected by the war**

The author retells many stories and gives a lot of facts concerning the area of the FRY. The arrival of refugee-prostitutes, as well as their colleagues from the former republics and Easter Europe, has had a negative impact on the market of lower and middle class prostitutes in Belgrade, bringing the prices of their services down sharply. Among the so-called "high class" prostitutes, there is no reason for panic – they say there is an ample market for all of them. As you read about the lives of "the best," for a moment you might think that it is not such a bad life – good

cars, perfumes, hotels... until you realize how much loneliness is hidden behind that screen. The prostitutes who were recruited from an army of refugees usually belong to the middle or lower level. But the ones whose struggle for survival is by far the most difficult are the prostitutes who work in the zone of the railway station and bus terminal. They have even resorted to petitions to the city authorities and also to their bare fists. One of them told the author that they would chase away unfair competition – willy-nilly, and the clients ought to be grateful to them because "the Russian women" are a source of all sorts of diseases.

### **Prostitution of minors**

Another taboo and undiscovered area is the prostitution of minors. Professional people, from the police, judiciary and health care system have been warning about this problem. Child abuse, the meanest and dirtiest form of prostitution, is a consequence of poverty, war, negligence and lack of care for the youngest. These boys' and girls' testimonies represent a real shock for the puritan public. Seeing those abused children in our daily surroundings, passed over to the "gods" – their pimps, one cannot help wondering whether they are real, and, when the answer is affirmative, wishing to be able to do something. Bearing in mind the fact that, according to psychologists, no one is born a prostitute, this ought to be a reason for serious concern. We should also ponder over the fact that rich clients are ready to pay for a virgin girl, which the author also discloses. How should the problem of prostitution be tackled? Some people, including the author himself, consider that the best way is legalization and a large-scale action against the so-called agencies, which seduce minors. The Law on public peace and order provides for a 30-day prison penalty for prostitution and renting out room for this purpose, and a 60-day prison term for the pimps. This is obviously an unsatisfactory solution, which is not exercised in practice. On the other hand, the 4000 registered prostitutes request equal rights as other workers. That is also the existing trend in the West – and, as author points out, we wish to become part of it.

Anyhow, prostitution must be one of our priorities, due to the intricacies and controversies it implies. Books like this one are a good beginning – they are thought provoking and they attract public attention. The broadness of the author's approach, the authentic stories, facts that cannot practically be obtained in a different way, are only some of the reasons I warmly recommend it.

*Sanja Milivojević*

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