

ELDER PRISONERS – A SIGNIFICANT GROUP, A MARGINALIZED MINORITY OR A CHALLENGE FOR THE PRISON SYSTEM

Vladimir V. Veković, PhD¹

Faculty of Law, University of Priština, Kosovska Mitrovica, Serbia

Violeta Ćulafić, MSc

Ministry of Environmental Protection of the Republic of Serbia

Mihailo V. Veković

Abstract: Execution of a prison sentence is a complex process burdened with a series of problems, which are multiplied when it comes to the elderly, whose share in the prison population around the world is growing rapidly. Prisons and treatment programs are designed for younger people, as the dominant part of the prison population. Elderly people face numerous problems during penal treatment, such as: outdated architectural solutions, overcrowding, victimization, inappropriate accommodation, severance of family ties, difficult access to justice, inadequate health care and lack of individualized programs to prepare for release. There are also difficulties that are a consequence of earlier risky lifestyles and the aging process: impaired health, alcoholism, addiction to psychotropic substances, poverty of social interactions, impaired mobility, helplessness, depression, fear of death, especially death in prison, etc. The unfavorable position in prison calls into question the respect for the human rights of elderly convicts, but also the possibility of quality corrective engagement and successful social reintegration. It therefore insists of the development of strategies to reduce the imprisonment of the elderly, as well as to adapt prison treatment to their specific needs. Adequate response to the special needs of older prisoners and overcoming the existing marginal status is a major challenge that requires training prison staff to work with them and special attention in classifying, accommodating, creating and implementing treatment programs, solving security problems, improving health care, maintaining family ties and realization of the program of preparation for dismissal.

Keywords: Elderly prisoners; Treatment; Prison; Challenge

¹ vladimir.vekovic@pr.ac.rs



INTRODUCTION

Elderly prisoners are the fastest growing age group in many prison systems, including EU member states, the United Kingdom, the United States (USA), Canada, Australia, New Zealand and Japan. Prison populations around the world are aging rapidly. In Australia, the participation rate of prisoners over the age of 50 was 8.3% in 2000 and 12.9% in 2017 (Australian Bureau of Statistics, 2000; 2017). Similarly, in the USA, the representation of people over the age of 55 in the prison population increased from 3% to 10% between 1993 and 2013 (Carson & Sabol, 2016), while in England and Wales prisoners over the age of 50 make up 17% of the prison population (Her Majesty's Inspectorate of Prisons and Quality Care Commission, 2018). Also, in Japan, between 2000 and 2006, the number of prisoners aged 65 and over increased by 160% (Porporino, 2014). That Serbia is no exception in this respect is confirmed by official statistics that in 2012, convicts aged 50 and over accounted for 12% of the total number of convicts admitted to serve their sentences (2012 Annual Report on Prison Administration Operations, March 2013: 94). Demographic research indicates that this global trend will continue in the coming decades. The rapid change in the age structure of the prison population poses numerous challenges to the criminal justice system, the neglect of which can result in a number of harmful consequences for prisoners, but also for society as a whole.

In order to eliminate possible doubts and set a framework for further exposure, it is necessary to point out that aging is an inevitable biological process, the essence of which is the progressive disruption of the physiological functions of the organism. It is primarily determined by genetic and environmental factors, it is irreversible and results in age, as the final period of life, and human death. Although accompanied by increased mortality, it is not a disease. Age (biological, psychological and social) degrades the functional ability of the organism, i.e. its physiological competence and the ability to adapt to changes in the environment, which negatively affects the quality of life. The difficulties faced by the elderly in society are further exacerbated in prisons. Accordingly, the paper focuses on the conceptualization and types of elderly prisoners, the causes of their increase in representation, the current situation and problems they face, human rights violations due to systematic neglect and inadequate satisfaction of their specific needs, challenges and policy formulation. and strategies that should enable meaningful action in order to successfully resocialize and reintegrate this vulnerable group. In parallel with adapting prison treatment to the needs of older prisoners, it is necessary to consistently implement a strategy to reduce their imprisonment.

The Concept and Types of Elderly Prisoners

Although the level of participation of older people in the prison population, expressed in both absolute and relative terms, is growing steadily, there is still a consensus among researchers, policy makers and penitentiary staff on who is considered an "older prisoner". Starting from national, historical, cultural and demographic specifics, the authors, when defining older prisoners, opt for the age of 45, 50, 55, 60, 62, and even more years. The lack of a generally accepted definition makes it difficult to compare and draw scientifically based conclusions, to form a reliable database on elderly prisoners, to determine the rate of recidivism, to properly consider and respond to health problems, and to manage prisons. Despite the existence of different understandings, the prevailing functional definition is that a person aged 50 and over is considered an older prisoner. Such a low starting age is based on research findings that have identified an obvious ten-year difference between the overall health of prisoners and the health of members of the general population. The difference between chronological age and physiological health specifically means that a 50-year-old prisoner corresponds to a 60-year-old from



the general population in terms of health status. The accelerated aging process of prisoners is generally attributed to a combination of risky pre-prison lifestyles (including inadequate nutrition, alcohol and psychotropic substance abuse, lack of medical care, etc.) and the fact that the prison environment can lead to an expansion of aging-related diseases and conditions. As a result, older prisoners are significantly more likely to have physical and mental health problems that require appropriate medical and psychological treatment.

Elderly prisoners are not a homogeneous, but highly heterogeneous population, which requires prison staff to take an individualized approach in evaluating, planning, implementing, and evaluating treatment programs. Based on the criminal history, they can be divided into three groups: a) persons entering prison for the first time at the age of 50 and over (most often perpetrators of serious crimes – e.g. murders and sexual offenses, with serious difficulties in institutional adjustment); b) elderly recidivist offenders who have been in prison several times and return to it in old age (as a rule, they suffer from chronic health problems, are well accustomed to prison life, have limited contact with the outside world) and c) persons who grow old in prison while serving a long sentence (they form the largest group, they successfully adapt to prison conditions, institutionalization and severance of ties with the community make it difficult for them to successfully reintegrate socially) (Handbook on Prisoners with Special Needs, 2009: 126).

Causes of Aging of the Prison Population

The aging trend of the prison population should be viewed in the context of the accelerated aging of the world population, whether it is an increase in the number of people over the age of 65 or their share in the total population. From 1950 to 2000, the number of elderly people more than tripled and increased from 131 million to 417 million, i.e. from 5% to 7% (Kinsella & Wan, 2009). In the middle of the 21st century, which is also called the age of population aging, the share of people older than 65 should be 16.2%, and in developed countries 26.2%. Population aging is a global phenomenon and is not unique to the developed world, although it is most intense in it. Europe, which has completed its demographic transition and is going through a post-transition period, is inhabited by the oldest population. All demographically oldest countries in the world, except Japan, are European, i.e. from the Old Continent. Among them is Serbia, where people over the age of 65 make up 17.4% of the total population (Devedžić & Stojilković Gnjatović, 2015: 6-7).

In addition to the global aging of the general population, changes in the legislative field, as well as in the area of criminal prosecution and sentencing, have significantly contributed to the increase in the number of elderly prisoners. Namely, in order to more successfully control crime, in the eighties and nineties of the last century in the USA (later in other parts of the world) an approach was promoted which includes the adoption of stricter laws, prescribing high special minimum prison sentences for numerous crimes, long sentences and restrictive application, premature release, introduction of the practice of sentencing multiple offenders convicted of a third felony (murder, rape, robbery, drug trafficking) to life imprisonment without the possibility of parole (three-strikes and you're out), etc. It should not be emphasized that imprisonment as a means of thwarting criminals, especially if it is imposed en masse and lasts for an unjustifiably long time, leads to the aging of the prison population - the so-called silver tsunami. This causes a number of economic, social, ethical and health consequences, so there is a serious risk that the criminal justice system, if decisive action is lacked, will collapse under its own weight (The High Costs of Low Risk: The Crisis of America's Aging Prison Population, July 2014: 3).



Problems of Elderly Prisoners

The difficulties that the elderly face in society on a daily basis are, as we have pointed out, further increasing in prisons. Older prisoners are a heterogeneous group, so significant differences in terms of their age, origin, criminal history, needs and adjustment to life in prison, necessitate additional engagement and individualized approach of penitentiary staff, and any generalizations and stereotypes counterproductive (Handbook on Prisoners with Special Needs, 2009: 126). Starting from these findings, in the following text we analyze the problems that have the strongest destructive impact on quality of life, successful resocialization and social reintegration of elderly prisoners:

1. Health problems – impaired health is a problem faced by the largest number of elderly prisoners, mainly due to advanced age, risky lifestyles established before entering prison, as well as the accelerated process of biological aging (a prisoner who is chronologically 50 years old in terms of health corresponds to a person aged 60 from the general population). In addition to cardiovascular diseases (hypertension, angina pectoris, cardiomyopathies, insufficiency, etc.), chronic obstructive pulmonary disease, tuberculosis, hepatitis, diabetes, ulcers, cancer, osteoporosis and Parkinson's disease, members of this vulnerable group often face mental and mental health problems – disorder of cognitive processes (perception, attention, memory, thoughts, language, learning), anxiety, agitation, depression, fear of dying, especially dying in prison, etc. Despite the fact that the health of elderly prisoners is deteriorating at an accelerated pace and may result in terminal illness, many of their health needs will not be recognized and adequately met. For example, in the USA, approximately 40-60% of prisoners aged 50 and over report mental health problems, but only one in three has access to treatment (James & Glaze, 2006).
2. Increase in costs – an increase in the number of elderly people in the prison population causes high costs. The USA spends over \$ 16 billion a year on the closure of individuals over the age of 50, well over the overall budget of the Department of Energy (Chettiar, Bunting, & Schotter, 2012). On average, imprisoning a person aged 50 and over costs twice as much (\$ 68,270) as imprisoning a younger, more capable individual (\$ 34,135), and in some cases it can cost up to five times more (Chettiar et al. 2012). In order to optimally respond to the specific health needs of the elderly, many prisons hire staff specializing in palliative care or gerontology and/or form special units for their care (Grant 1999, Caldwell, Jarvis & Rosefield, 2001). More complex medical procedures that cannot be performed in prison require the safe transfer of prisoners to a medical facility and constant supervision of correctional officers, which due to the high cost (\$ 2,000 per 24 hours) further increases the already enormous costs (Schaenman et al. 2013).
3. Inadequate prison environment and regime – prisons are primarily designed according to the requirements and needs of young and healthy people who make up the largest part of the prison population, so that the elderly, especially prisoners with physical disabilities (impaired mobility, complete or partial loss of sight and/or hearing, geriatric incontinence, etc.) face numerous problems on a daily basis that make it difficult or impossible to meet the most basic needs. Inaccessibility of wheelchairs, walkers, electric ramps to overcome stairs and slopes, inappropriate layout of rooms, difficulties in accessing toilets, overcrowding, use of bunk beds, excessive heat or cold, as well as other architectural and construction restrictions, are the characteristics of many prisons of the third decade of the 21st century. Some authors have described this situation as “double punishment”, emphasizing that the elderly, through no fault of their own, serve their prison sentences in much more difficult conditions than younger prisoners (Stojkovic, 2007).

Just like the prison environment, the regimes are aligned with the needs of younger people as the dominant part of the prison population. Treatment programs should contribute to reducing the rate of



recidivism through vocational training, education (improving literacy and numeracy) and recreation. In general, social, educational and recreational programs for younger prisoners are not available and suitable for older prisoners – e.g. many are not interested in acquiring work skills, because due to their advanced age they will not be employed after their release from prison, or due to their impaired health they cannot engage in physical activities. All this indicates that individual treatment programs must be adapted to the personality of older prisoners, age, health and other needs, as well as the length of the sentence.

4. Vulnerability to victimization – prison circumstances, especially marginalized status, lack of power and influence in the informal prison hierarchy, make the elderly more predisposed to become victims of intimidation, harassment, sexual abuse, bodily harm, etc. Such victimization limits the social engagement of older prisoners, creating a sense of isolation (Dawes, 2009). This is confirmed by the fact that older prisoners, especially those with physical disabilities, perceive themselves as more vulnerable to victimization than younger, more vital colleagues (Dawes, 2009). Part of prison staff tend to neglect the health needs and well-being of older prisoners, especially in overcrowded facilities, also contributes to the increased risk of victimization. In England and Wales, staff reluctance to provide assistance to wheelchair-bound prisoners has led to seek for help, in some cases even by paying for it (Her Majesty's Inspectorate of Prisons, 2004). The high degree of victimization and the feeling of insecurity present in a significant number of elderly prisoners, requires a detailed consideration of situations and circumstances that contribute to the risk of victimization, risk factors and defining strategies to avoid victimization. Undoubtedly, preventing and combating victimization will contribute to the prevention of crime in prisons.

5. Termination of family ties and problems with release – maintaining family ties has a positive effect on the mental well-being, resocialization and social reintegration of all prisoners, especially the elderly. However, older people who have spent many years in prison lose contact with their families and the outside world over time, so that they develop prism (institutionalization). Maintaining family contacts also depends on the type of crime. If the offense was committed against a family member(s), family visits are likely to be absent. The intensity of these relationships also atrophies when the prisoner is far from the place of residence, or the spouse is too old to travel. A significant stimulus for maintaining stable family ties is the accumulation of time provided for visits – e.g. if visitors have travelled a long way or rarely visit a prisoner due to limited material resources.

Significant differences between older prisoners in terms of age, origin, criminal history, personality characteristics, health, social, economic and other needs, existence/non-existence of family ties, as well as length of sentence (due to possible prism), require an individualized approach to design and implementation programs to prepare for their release and post-release support. Prisons should work in close coordination with health and social services, civil society agencies and the non-profit sector in this area to develop strategies to address the specific needs of older people, especially those left without the support of family, relatives and friends, and so on facilitated an extremely complex process of social reintegration.

Although elderly prisoners have a lower risk of re-offending, restrictive criteria are often used for their conditional release or compassionate release (early medical release of terminally or chronically ill prisoners). Decisions on parole also take into account the prospects for accommodation and employment upon release from prison, which puts elderly prisoners at a disadvantage. Consideration of options for early release or parole is also opposed by victim advocacy groups, the victims themselves, their families, and public opinion. All this, and especially the loss of hope for release, has a detrimental effect on the mental health of prisoners.



Challenges, Strategies and Solutions

Recognizing that mass imprisonment as a means of controlling crime and violence results in accelerated aging of the prison population and other unintended consequences (human rights violations, inhumane overcrowding conditions, inefficiency, high prison costs, etc.), academics, penitentiary staff, and civic activists around the world at the beginning of this century on the necessity of developing qualitatively different policies and strategies for combating crime. The new approach includes more frequent application of alternative sanctions, reduction of imprisonment, revision of strict practice of long sentences, as well as reform of release mechanisms, which will enable easier approval of parole and compassionate release of older prisoners who do not pose a high security risk. The challenges of an aging prison population require numerous, well-designed and coordinated responses. According to their importance, the following stands out:

1. Staff training – staff involved in the supervision and care of elderly prisoners should be provided with continuous training, professional development, improvement of knowledge, qualifications and motivation for competent and successful work with this vulnerable group, understanding of the aging process and health problems related to it, as well as development communication skills.
2. Accommodation – in some prison systems, older prisoners are housed in separate, special units. The advantages of this solution are multiple: protection from victimization, easier access to professional staff, resources, specialist care and treatment programs tailored to their specific needs, a positive impact on mental health, identification with peers and social interaction. Due to limited financial resources, most elderly prisoners are still housed in the general population. This approach allows for a stay close to the place of residence and facilitates the maintenance of family ties, life in the general prison population is reminiscent of life outside prison and provides a more normal environment for older prisoners. No matter which solution is adopted, prisons must be designed according to the needs of older prisoners and contribute to maintaining health and improving their quality of life.
3. Health care – due to impaired health and present comorbidities, elderly prisoners will most often need various health services (medical, nutrition, psychological, etc.), which implies a multidisciplinary approach, i.e. hiring experts of different specialties. Prison authorities must establish close cooperation with community health facilities to provide specialist care as well as accommodation in civilian hospitals for prisoners whose health problems cannot be adequately treated in prison (e.g. if they suffer from a terminal illness and have a life expectancy of 6 months, or less). In that case, it is expedient to consider the possibility of compassionate release as soon as possible.
4. Treatment programs – the introduction of special programs adapted to the needs of elderly prisoners is a *conditio sine qua non* of their successful re-socialization and leading a socially harmonious life in freedom. These prisoners, in accordance with the programs of professional training and education (but also their wishes and abilities), can engage in the creation of art objects, other forms of creative expression, reading, improving the skills they already master, etc. Adequately designed, filled with quality and diverse content programs alleviate tension, stress, deprivation and monotony of prison life, while encouraging the development of positive habits and attitudes. Penological theory and practice also emphasize the importance of advice and support for terminally and chronically ill prisoners, as well as those sentenced to life imprisonment without the possibility of parole (Handbook on Prisoners with special needs, 2009: 136).
5. Contacts with the outside world – elderly prisoners should be placed in the prison as close to home as possible so that they can maintain contact with family members. Regular absences from prison, as an integral part of the prison regime, and family stays also improve family ties and contribute to reducing feelings of isolation. The interests expressed by civil society organizations during their visits to the prison also have a positive effect on elderly prisoners.



6. Preparation for release – in the development and implementation of programs for preparation of release and support after release from prison, an individualized approach is necessary that will take into account the special needs of elderly prisoners and the absence of family, kinship and friendship ties, in order to facilitate social reintegration. In order to provide maximum support to these persons, it is necessary to achieve productive cooperation of the prison authorities with community health institutions, social protection services, civil and non-profit sector. In many societies, the problem is further complicated by the lack or insufficient capacity of homes to accommodate and care for the elderly (Handbook on Prisoners with Special Needs, 2009: 138).

CONCLUSION

The elderly is the fastest growing, but also vulnerable, marginalized and systematically neglected segment of the prison population. Their long prison experience, which has profound and comprehensive psychological consequences, is generally unfavorable. Given that mass imprisonment as a means of crime control results in an accelerated growth in the number of elderly prisoners and a series of adverse economic, social, ethical and health consequences, the idea of the need to articulate a new paradigm of combating crime has gradually matured. This qualitatively different approach implies more frequent application of alternative sanctions, reduction of imprisonment, revision of the strict practice of imposing long sentences and easier approval of parole and compassionate release of elderly prisoners who do not pose a high security risk. In parallel with the development of policies and strategies to reduce the imprisonment of the elderly, it is necessary to design and implement programs of treatment tailored to their specific needs, as well as the highest international standards in this area. This will make the prospects for resocialization and social reintegration of members of this vulnerable group much more certain. At the same time, it will relieve the prison systems, which, due to the numerous problems they face, are facing collapse. Undoubtedly, this is an extremely complex process full of challenges, but the longest way, to paraphrase an old Chinese proverb, begins with the first step.

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