

# **Detainees in Albania: their rights inside custody institutions**

Juliana Ajdini <sup>a\*</sup>, Erika Bejko <sup>b</sup>

<sup>a</sup> *University of Tirana, Tirana, Albania*

<sup>b</sup> *University of Tirana, Tirana, Albania*

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## **Abstract**

The purpose of this study is to evaluate the perception of detainees about the rights inside custody institution monitoring the conditions of some detention centers in Albania. In this qualitative research, the focus was on understanding the experiences, habits, expectations and perspectives of participants in the respect of their rights. The researcher has used semi-structured interviews with detainees to accomplish the aim of the study. The study has come up with some findings and conclusions. Thus, the study showed that in our detention institutions the rights of detainees are very often violated, defiled and neglected. Based on this assessment, the paper give some recommendations, strategies and policies to improve the level of implementation of these norms and respect for human rights no matter where a person is and the reason why he is there.

**Keywords:** *detained person; custody; presumption of innocence, penal responsibility, human rights.*

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## **1. Introduction**

In many countries of the world detainees, compose the majority of the population in prisons. In Albania, the number of detainees is relatively higher than that of the convicts (Ombudsman 2012). Many detainees stay in prisons for many years before the judge process. In many cases, they declared themselves as innocent for the crime only to take the shorter period judicial system. The conditions of the prisons are much better than in custody. In other cases, the detainees stay in custody for periods longer than the sentence, give on the end of the judge process (Sykes 1958: p. 35). These actions not only violate fundamental human rights, but also significantly contribute to prison overcrowding, a problem that in itself is the source of many abuses.

In accordance with the presumption of innocence, the detainees should normally guarantee you the freedom to complete their judgment. Article 9 (3) of the International Covenant on Civil and Political Rights (ICCPR) provides that: “It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgment”. In interpreting this provision, the Committee on Human Rights at the United Nations decided that the pre-trial detention should use only when it is lawful, reasonable and necessary. Necessity of this act defined as: “prevention of escape, followed by the actual data or repetition of

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\* Juliana Ajdini. *E-mail address: jajdini@gmail.com.*

the crime” or “the person associated with conditions constitutes a clear and serious threat to society which cannot prevent in any other way”.

The laws of many states, even if they are in written form, not always meet these criteria. Some states lack a mechanism that guarantees release before trial. In other countries, a large number of detainees - such as persons charged with drug crimes or other crimes of violence, or repeat - you deprived of the right to benefit from laws that provide for parole until the day of giving the decision by the panel. In some countries, even though this procedure recognized by the law given by the judge refused. Often this is due to a general fear that these defendants could perceive as criminals and can use this period of freedom to perform other dangerous crimes to society.

For our country, reforming penitentiary institutions has been and continues to be a very important aspect of democratization and civilization during the post-communist period. Until the 90s of XX century, Albania, as well as many countries in South – Eastern penitentiary system had an ideology based on prevailing conditions and self-treatment of detainees were almost inhuman (Sufaj 2000: p. 58). Detainees in this period suffered from scarcity of food, lack of medical supplies, forced labor and systematic violence.

Respect for the rights of detainees, their implementation and reform of laws and regulations governing the relations between inmates and staff members in prisons continues to be problematic. Therefore, reforming the justice system in general remains a challenge for our country in order to work its membership in the European Union (Ajdini 2011: p. 46).

## **1.2. Important definitions**

### **Detained**

In some countries, a large proportion of individuals arrested have not yet taken a final decision. Judicial process is often slow, even those found guilty, can perform a period longer than detention sentence they receive. This could mean that the complaint is legitimate and can affect the behavior of many detainees.

Different jurisdictions use different terms to describe these legal people. They may refer to people under investigation, under trial, awaiting trial or sitting in jail awaiting trial. For ease of reference, everybody is the study of these people are detained qualify.

### **Prisoners**

In some jurisdictions, such as the prisoners used only for people who have final decision. For ease of reference, this will be the definition of the prisoners in this study. Those who are in prison, but not with the final judge decision are considering as detainees.

### **Jail/prison**

The legislation of some countries used the word prison only to countries where an inmate with a final decision. Places where those persons who have not yet taken a decision referred to as places of detention. In this study, this will be the definition of the detention.

### **Presumption of innocence**

The most important principle in working with inmates is that they always should be presuming innocent. Unlike prisoners sentenced by final judgment, they are not in prison for punishment. This fact should be reflecting in their treatment. This is

important because while the detainees are awaiting trial, in many cases, they actually recognized as such by the court that hears.

### **1.3 The purpose of the study**

This study has used the stories of participants to explore the process of dealing with a new situation in their lives (Symon and Cassel 1998). A new situation was asking to evaluate based on rights that should be enjoying as human beings. It was used semi-structured interviews to explore this new experience for them. Interview questions were comprehensive (holistic). They related how the difference manifests itself in the process of thinking, to health, emotions, social life, relationships with others and themselves.

The purpose of this study is to evaluate the perception of detainees about the rights inside custody institution monitoring the conditions of some detention centers in Albania.

## **2. Methodology**

In this research are included interviews with ten detainees who have been in this status during the period June-August 2013. In this qualitative study, the instrument used to collect data was the semi-structured interview.

### **2.1 Sampling**

Grinell and Williams (1990) proposed sampling as a process of selection of individuals who will participate in the study. Sampling involves trying to understand the target population, rather than describing it in itself, but seen as a representation of the basic characteristics of the population (Strydom and Venter 2002: p. 75).

A study is not base on the study sample, the results cannot generalized to a wider population, but the aim of this study is to understand in detail the uniqueness of the phenomenon being studied for those who were part of this study.

The study participants were interviewing by these detentions:

1. Detention 302 "Mine Peza" street
2. Detention 313 "JordanMisja" street
3. Vlora detention
4. Durres detention
5. Rrogozhina detention

These are not the only institutions penitentiary to which the law "On the treatment of detainees" knows. However, it should be said that the Albanian reality, there are still detainees held in police commiserate.

The research involved 10 detainees. All participants in the study were male. This does not mean that we do not have female detainees. On the five detentions of the study, only "Jordan Misja" detention in Tirana has the sector detention for women. The researcher, in consultation with contemporary literature and available options had decided to participate in the study only male detainees and the fact that they are about 4 times more that the women in Albanian detainees.

Considering these factors as criteria for the selection of detainees was decide that subjects have at least 3 months in detention. Once the researcher showed this condition,

detention staff, they presented a list of detainees. In a random way was select in all detention the numbers 17 and 47.

## **2.2 Design and development of interview**

In this study, design of instruments is base on the work of Holstein and Gubrium (1997). "Semi- structured interviews" are techniques focus on active and not completely structured questions. During the interviews held a format of questions constructed by the applicant in accordance with the purpose and objectives of this research. During the presentation of the study, the researcher has made clear the purpose of the interview and confidentiality issues for each of selected subject. Questions are designee in accordance with the logical line that interviews take between interviewer and interviewee. The purpose of the interview was to allow the interviewee to present his story with minimal interference from the interviewer.

Participants were interviewed only once for almost 55 minutes. They were asking to tell their story based on the key issues of the interview. Due to time constraints, the participants did not provide any feedback after the initial interview. Interviews are record after getting the permission of the participants. Respondents assured that their data will be stored and used only for study purposes: privacy and that their private live will not be affected.

## **2.3 Analysis of data**

In the qualitative study, the instrument used is the depth interviews with respondents. As a form of analyze is used the narrative of each interviews. Riessman (1993) mention, "narrative analysis - and here there is only one method - has to do with how things are interpreted form the participants and we can do after interpreting their systematic interpretations".

Narratives help us in the process of coding. In this study was used open coding process. The concepts are select and describe based on the dimensions and characteristics. In this study, the narratives are coded using sentences and paragraphs.

Initial categories were developing in connection with the causal circumstances, consequences, context, action and interaction and intervening factor. Finally, selective encryption is use in order to consolidate and integrate the main sections of the study.

The aspects that study address are:

- Legal rights inside detainees;
- Relations with other inmates, family, civilian staff and police officers;
- Violence inside the prison

## **3. Results and discussion**

### **3.1 Legal rights inside custody**

The transfer of the detention system by the Ministry of Interior to the Ministry of Justice is considering positive achievements in the field of protection of the rights of detainees. Although this process began in 2003, it became possible to finish only in June 2007.

Nevertheless, this study found that this task is not implementing correctly, because the rooms providing police authorities still held detainees against whom certain security measures are in prison custody. Detainees interviewed indicated that they had stayed in policy rooms when from the court was take security measure in detention institute. The

average sizes of one of this security room are 1.3 x 2.2 m. The participants consider that holding detainees in such rooms providing from the state police bodies comes in contradiction with the prisoner rights documents. At the same time, conclude that this action constitutes a violation of the rights of detainees, to the fact that these facilities have not required standards, have small area and some of them are without ventilation. In these cases are violated the rights of ventilation, lack of hygiene and sanitation, and security personnel in most cases is untrained to consider the rights and needs of detainees.

According to the Albanian Constitution, in Article 31 (d), states that “during the criminal process everyone has the right to defend himself or with the help of a legal counsel of his choice, to communicate freely and privately with as well as to ensure the free defense when the person does not have the financial means enough”. In addition, the Code of Criminal Procedure, Article 6 and 463/2, provides that “the defendant / petitioner has the right to defend himself or with the assistance of legal counsel. When a person does not have sufficient funds, he/she provided free legal defense”.

From interviews with detainees was found that meetings with lawyers have been regular in Tirana detainees while in the others custody some detainees did not have a lawyer and many times this right is denied. In addition, respondents complained about the free legal service that leaves much to be desired quality.

Not in all cases of detainees arrested are known with their rights. They are usually familiar with their rights after the meeting with counsel defense.

### **3.2 Relations with other inmates, family, civilian staff and police officers**

#### **3.2.1 Relations with family**

Detainees have the right to meet four times per month with their families and relatives. In one such meeting allowed minor children and three adults. Their relatives or family members should identify with such a tool that can allow the meeting with the detained. Ahead of the meeting, in one special room, the detainees and the relatives are check for security reasons.

Detainees interviewed indicate that their family is the most important institution for them. The family – for them - has protected, secure, provided psycho - social support. According to the detainees, relationships with family members have not changed, at least not in worse way, after there have been arrest. The biggest concern for the detainees about their members of the families is their health.

“I am very sorry that I couldn’t see my two little girls to grow up. I know that they feel my absence too”.

#### **3.2.2 Relations between inmates**

Life of a detainee or a prisoner has always been part of the interest of many researchers. Lot of studies has shown the impact of the prison life on the incarcerated person. They show us that inside the prison is develop a new life; new rules and new values. These elements are toughing by interaction with other prisoners. In this study, the author saw as important the exploration of these relations between prisoners. Respondents answered that try to keep good relations with each – other. However, nut usually they are involved in different quarrel which could generate up to violence.

“I don’t understand this regulation. It let us with each other in ventilation zone, but not when we're inside the cell”.

“Here have happened lots of quarrels. More than once, I have intervened to reconcile the detainees to each other. We all have lot of troubles and have no reason to add more”.

### **3.2.2.1 Relations with the civilian staff**

In general, studies show that detainees maintain good relationships with employees and civilian staff working in the detention centers. This is supported and by this study. Participants show that in general they try to maintain good relations with social worker, lowers, psychologists and educators.

“All the employers have good behavior with us. I deal with them very well. I respect them and they respect me. The others, those with uniform are the problem”.

“Social workers try to help me. They talk to me; they address my needs to the director, and take care for my social needs”.

### **3.2.2.2 Relations with police staff**

The study showed that the relationship between inmates and police officers were filled with contradictions and conflicts that often generate violence in their midst. One of the participants mention:

“The guardians come very often in the cell. Sometimes they go through rooms, destroy everything, break down sheets where we sleep and often they beat us. We are constantly threatened by them”.

## **3.3 Violence inside the prison**

The violence inside detention institution is an undeniable problem. This was confirmed not only by this study, but and from other studies in this area carried out by the Albanian Helsinki Council or the Albanian Ombudsman. Thus, if we refer to the number of notifications to the institution of “Ombudsman” we can notice that the number has increased.

The most evident case that was emerged in this study comes from Vlora detention. One of the participants testified that he had been a witness of inhuman violence exercised against him by a guardian.

“I was massacred from the guards. They shot me firstly in the right eye. After that, they placed the handcuffs. They hit me in different parts of body. What was the reason? I want to make a call to my mother. She was sick and I wanted to know more about her health conditions. They are bastards”.

Detainees have often-criminal charges for some detention institute. Thus, when study’s participants asked about the forms of violence that notice at their detention institute, they expressed that sexual violence was present. In Rrogozhina and Vlora detention respondents stated that juveniles were resting easier to abuse.

## **4. Conclusions and recommendations**

The detention structures in Albania do not fit very well with the standards and criteria that our country has signed. Violence, not friendly environment and time of detainees are some of problems in our detention institution regarding the respect of detainee’s rights.

The research recommends continuation of further studies in this field. Also invites Ministry of Justice, Ombudsman, General Directorate of Prison to develop a more

comprehensive reform in detention, where are guaranteed the rights of the detainees. Presumption of innocence must be key postulate of working with this category of prison population than.

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