

The Principle of Voluntary Participation of Prisoners in Scientific Research*

Sladana Đurić¹  and Aleksandra Ilić² 

Introduction/Research Problem: The responsibility of researchers is not only to discover new scientific truths, but also to do so in a manner that respects human rights and the integrity of research participants, with particular attention to vulnerable groups, where the possibility of abuse is greater. Research in a prison environment poses specific ethical and legal challenges due to the unique living conditions of prisoners and the distinct social dynamics within prisons, particularly concerning the principle of voluntary participation in scientific research. *Objectives:* The paper discusses voluntary participation as the most significant principle in scientific research involving people. It provides a concise overview of the decades-long debate on this significant issue, reflected in the continuous process of reform and enhancement of the ethical and legal regulation of this field. *Methods:* The investigation of problems in the application of the principle of voluntary participation of prisoners in scientific research was conducted through an analysis of the most significant universal, regional, and national ethical and normative documents. *Results:* Based on the analysis of relevant ethical and legal documents, the current framework for ensuring voluntary participation of prisoners in scientific research has been established. The genesis of the establishment of this framework was presented, along with possible directions for improving research standards, both ethical and normative, as well as adapting research practices to the conditions of the prison environment. *Conclusion:* Improving the ethical and normative framework for research in prisons is a continuous and dynamic process. Due to the ongoing need to analyse the living conditions and other circumstances in prisons, it is essential to improve research standards at various levels to ensure the validity of the resulting findings.

KEYWORDS: voluntariness / research / ethical standards / legal norms / prisons

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¹ Faculty of Security Studies, University of Belgrade, Serbia <https://orcid.org/0000-0002-4186-2999>

² Faculty of Security Studies, University of Belgrade, Serbia; <https://orcid.org/0000-0001-7298-2347>

Correspondence: Aleksandra Ilić. Email: aleksandra.ilic@fb.bg.ac.rs

Introduction

Modern research standards dictate that special attention must be paid to preventing violations of the rights of research subjects, assessing potential harm that may be inflicted upon them, as well as the measures that must be taken to prevent such harm (Đurić, 2013). This includes risk-benefit assessments, establishing clear rules to ensure voluntary and informed consent, as well as implementing measures that reduce potential harm. These ethical issues become even more complex when research is conducted on vulnerable groups, such as prisoners, children, and individuals with health impairments, where it is necessary to provide additional protection of human rights and dignity of participants.

Many studies conducted in prisons in the previous century were problematic due to insufficient respect for prisoners' rights and their vulnerability (Obasogie & Reiter, 2010). Numerous instances of exploitation and abuse of prisoners in scientific research triggered global ethical debates, which led to the introduction of stricter legal regulations and ethical standards.

Sources of Ethical Guidelines for Research on Prison Populations

Sources for learning about ethical guidelines, apart from globally recognised codes of ethical practice, such as the Nuremberg Code (U.S. Government, 1949), the Declaration of Helsinki (World Medical Association, 2013), the Belmont Report (National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research, 1979), and the APA Ethical Code (American Psychological Association, APA, 2017), include numerous regional or national documents.

The regulation of research conducted in the United States of America have continuously undergone reform to address the ethical challenges of modern research procedures. The guidelines in early documents were quite restrictive, which is understandable considering that the adoption of the codes was preceded by the exposure of numerous cases of abuses and harassment of prisoners involved in research projects up until the early 1970s. After two decades of work on improving ethical guidelines, the *Common Rule* (HHS, 1991) was adopted in 1991 and has been revised several times, with the most recent revision in 2018 (HHS, 2018). Although these rules formally apply only to research in the U.S., many countries and organisations worldwide implement ethical guidelines that are largely aligned with or based on similar principles to this code to ensure the protection of human rights for research participants.

Basic Legal Sources Relevant to Research on Prison Population

The most important standards for the execution of prison sentences, adopted at the United Nations level and incorporated into the Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules), emphasise the comprehensive protection of prisoners' rights (both convicted persons and other persons deprived of their liberty), among which the right to respect for the dignity and personality of prisoners is highlighted. This right is concretised in Rule 32, Article 2, which states that prisoners may be allowed, upon their free and informed consent and in accordance with applicable law, to participate in clinical trials and other health research accessible in the community (United Nations, 2015).

At the regional level, mention should be made of the European Prison Rules, which address this issue in a similar manner, though far more modestly, through just two rules, 48.1 and 48.2, which only generally prohibit participation in experiments without the prisoner's consent (Council of Europe, 2006). An important regional document for the member states of the Council of Europe is the European Convention for the Protection of Human Rights and Fundamental Freedoms, which has also been ratified in Serbia (Law on the Ratification of the European Convention for the Protection of Human Rights and Fundamental Freedoms, 2003/2005/2010).

In addition to the aforementioned general international documents, several conventions should be mentioned, specifically aiming to protect the rights of particular categories of prisoners: minors and women. The most significant document related to the position of minors is the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, known as the Beijing Rules (United Nations, 1985). Regarding women, the most important document is the United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders, known as the Bangkok Rules (United Nations, 2010).

The legal framework for the protection of prisoners in the context of their participation in research in Serbia is primarily based on the basic law in the area of the execution of criminal sanctions, the Law on the Execution of Criminal Sanctions (Law on the Execution of Criminal Sanctions, 2014/2019). This legal act mentions visits that involve direct contact with prisoners only in one provision (Article 32, paragraph 5), where it states that such visits can take place if they are important for achieving the purpose of the visit, for example, as part of conducting scientific research, in two variants: with or without the presence of a facility staff member, which usually depends on the assessment of the risk to which the person who is granted the visit may be exposed (Ilić, 2022).

Voluntary Participation of the Prison Population in Research Projects

In addition to the obligation to guarantee privacy, anonymity, and confidentiality, respect for the principle of not causing harm or suffering to respondents, and the use of obtained data only for scientific purposes, certainly the most important ethical issue in research projects involving humans is the voluntary nature of participation. The scope of this contribution allows us to only briefly address some of the relevant issues related to the principle of voluntariness: the problem of recognising the autonomy of prisoners to make decisions about their participation in research, the rules for obtaining informed consent, as well as privacy, anonymity, and confidentiality.

The Issue of Non/Autonomy

The debate about whether prisoners are autonomous enough to make voluntary and free decisions about their participation in research has been ongoing for decades. In earlier periods, particularly at the end of the 19th and the beginning of the 20th century, research in prisons was relatively common, and prisoners were often used for clinical trials and medical experiments without adequate safeguards, leading to serious ethical and legal consequences (Dalen & Jones, 2010; Hofman, 2000; Neuman, 2007). Informed consent was not a clearly defined concept at that time, and research was often conducted without clear ethical regulation, with little or no oversight. The Nuremberg Code laid the foundation for the conceptualisation of informed consent for participation in research. The first item of the Code (U.S. Government, 1949, p. 181) specifically relates to voluntary consent, stating that consent must be voluntary and informed.

A highly restrictive stance on the participation of prisoners in research is also expressed in the *Research Involving Prisoners* report (National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research, 1976). The Commission recognised prisoners as an at-risk and vulnerable group and recommended that only research directly in the interests of prisoners as a group should be permitted.

New ethical guidelines are moving towards the recognition of the autonomy of prisoners in making decisions about participating in research. This position is expressed in the *Report of the National Bioethics Advisory Commission* (NBAC, 2001), as well as in the *International Ethical Guidelines for Health-Related Research Involving Humans* (CIOMS, 2016), with recommendations that safeguards must be ensured, and the specific conditions that exist in prison environments must be taken into account.

Informed Consent

The principle of voluntariness is most fully and clearly expressed through the so-called informed consent. Ethical research standards prescribe a rigorous procedure for obtaining informed consent for participation in scientific research. Informed consent emphasises the following principles: participation is voluntary, the participant will not suffer any harm, and if there are any risks, they will be clearly described, with the participant's privacy being protected (Đurić, 2012).

According to the *American Psychological Association* (APA) Code of Ethics, informed consent is crucial for protecting the rights and integrity of participants in the research process. For informed consent to be considered valid, researchers are obligated to inform participants of all relevant aspects of the research (APA, 2017, Standard 8.02).

Although informed consent is foundational for participation in ethically responsible scientific research, obtaining it in research involving the prison population is often accompanied by numerous challenges. Prisoners are considered a vulnerable group, as they exist in a highly controlled environment where their freedom of movement, choices, and access to information are limited. These restrictions can undermine their ability to make free decisions without pressure, as highlighted in the report from the American Institute of Medicine *Research Involving Prisoners* (Institute of Medicine, 2007).

Prisoners often belong to marginalised groups, facing social, economic, and psychological problems, and frequently experience multiple vulnerabilities (Moore & Miller, 1999), with female prisoners being identified as the most vulnerable population of women in the literature (Maeve, 1999).

The vulnerability of prisoners can be further exacerbated by cognitive or psychiatric dysfunctions resulting from confinement (Moser et al., 2004). Researchers must also be aware of the power they hold over participants and carefully balance this dynamics to empower participants throughout the research process (Ward & Bailey, 2012).

Privacy, Anonymity, and Confidentiality

Respecting the privacy of research participants helps build trust between researchers and participants, ensuring ethically sound data collection and usage in accordance with human rights protection principles. This is particularly important in the prison context, due to the distrust among prisoners when it comes to research involving their population and the frequent suspicion that their responses will be misused (Kron et al., 1993). Researchers are obligated to respect and protect the confidentiality of information about research participants and to safeguard collected data stored in any medium (APA, 2017, Standard 4.01).

Good research practice dictates that, whenever possible, researchers should ensure the anonymity of participants, particularly in cases where revealing their identity might cause potential harm to the participants. Here we mean the protection of research participants by preventing both direct (linking comments or notes to the participant's name) and indirect identification (listing a set of characteristics that can be used to identify individuals or groups). One of the recommended strategies to mitigate identification issues is creating a list of participants and assigning labels to each, making their identification more difficult, while still allowing the researcher to present the participants in a sufficiently transparent manner in relation to the academic community (Đurić, 2012).

Conclusion

Modern research practice is characterised by increasingly strict adherence to ethical and legal standards, evidenced by the ongoing process of refining the normative regulation in this field and enhanced oversight by various bodies. Therefore, research involving prisoners requires careful assessment of potential risks to ensure the welfare of participants, minimise the possibility of abuse, and maintain fairness and transparency throughout the research process.

Due to the nature of the prison environment and the dependence of convicted persons on prison staff, there is a real risk of coercion, whether overt or implicit. Prisoners often face pressures to participate in research due to potential benefits (such as privileges within the prison), raising questions about how free and autonomous their consent truly is. Today, such research is strictly regulated to avoid abuses and to protect the dignity of participants. In many countries, research involving the prison population must undergo additional scrutiny and approval by ethics committees.

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