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A DISPUTE ABOUT GENDER-SENSITIVE LANGUAGE IN SERBIAN LAW*

Abstract: *gender-sensitive language is considered as one of products of the heroic struggle of women to be recognized and respected in modern world, for all what they are and for all what they could be and could achieve. This means that women are not escaping from their natural, biological roles -especially mother's role and other cherishing, nurturing and gentle emotions they have and use in raising the children and keeping the family on the same spot. This means that it should make men to find them, on linguistical and more over on other levels, equally capable of doing all sorts of jobs they are doing themselves.*

The newly changed national legal framework makes use of gender sensitive language as obligation since May 2024. All governmental bodies, on any territorial level, journalists, children and teachers at schools etc. will be obligated to use those gender sensitive terms , especially when they are used to mark woman in special profession(for example, in judiciary, in area of national security and defense, etc.) or else will be fined.

In this paper the author will deal shortly with both argumentations-pro and contra of using gender sensitive language, and also to present own opinion- which is in the middle. Also, it will be presented one of the disputes in area of protection of human rights. The dispute is about whether all protectors of citizens' rights should be called-ombudsman, as the original name of this institution is, or ombudswoman, when marking the woman who serves on this position, or ombudsperson-as gender neutral, or else.

Keywords: *gender, sex, gender-sensitive language, disputes.*

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INTRODUCTORY REMARKS

Language is more than the way of communicating desires, ideas and intentions on daily basis. It is often a way of communicating cultural, political and other social patterns, habits and ideologies¹. Also, communication is a two-way street. Once something is said, it can have a different meaning than intended, because each interlocutor gives meaning to what is said (or written)² according to his/her map/understanding of the world. Because of this, language has become an important tool in the struggle to achieve equality between men and women.

If language can be used to communicate beautiful things (such as best wishes, declarations of love, etc.), language can also be the way of expressing sad things, describing unpleasant events, and also can injure someone, his/her whole being in such a way that the injury done by some mechanical means would look kinda silly. Psychological damage caused by harsh, inadequate words is sometimes more difficult to bear. This damage affects the very essence of a being and the time to heal this injury is often longer, and the recovery itself is more complex. Carefulness in the choice of words and the way of communicating one's thoughts is not always present, due to various reasons, which in no way frees a person from responsibility for what has been said. That is why it is important not only to know your language well, in terms of knowing grammatical and stylistic rules, as well as having the appropriate vocabulary for decent and meaningful communication. Also, a different intonation or metaphorical use of some words can easily change the basic meaning of spoken or written words, to the extent that they are unrecognizable³.

But what all this have to do with differences between men and women?

Some authors say that men were generally the dominant in most societies, and because of that, they were often in positions of power, i.e. holders of the highest state and social functions and roles. They have historically confirmed their power in relation to women, for example, by canceling the possibility of women's education and advancement in various professions, by determining a narrow circle of social roles that women can perform⁴. Gender roles, as socially and culturally inspired expectations that ones have toward others regarding their biological sex⁵, became a motive for women's struggle for their abolition and the creation of a different, more equal society for themselves and their female descendants⁶. This

¹ Ранко Бугарски, *Језик и култура*, Београд, 2005, 10, 18, 72.

² Ранко Бугарски, *Увод у општу лингвистику*, Београд-Нови Сад, 1991, 43.

³ Ранко Бугарски, *Лингвистика у примени*, Београд, 2007, 98.

⁴ Svenka Savić, *Žena sakrivena jezikom medija, kodeks neseksističke upotrebe jezika*, Petrovaradin, 2005, 11.

⁵ Some subjects are given certain roles, which determine their lives in totality. Новак Малешевић, „Језик i ideologija“, *Kultura*, 138/ 2013, 144-162.

⁶ “Gender roles are behaviors, attitudes and actions that society feels are appropriate or inappropriate for a man or woman, boy or girl, according to cultural norms and traditions”. If the

is how women's movements emerged and dealt with different topics: from the struggle for the recognition of equal political rights and the right to vote for women to the more recent ones activities, that advocate for the use of a gender-sensitive language as the last instrument of equality between men and women.

But what is gender sensitive language and why is that important?

At first, we must clarify the concept of gender.

Gender (*rod*) in the Serbian language is used for the grammatical gender of nouns, adjectives and pronouns (masculine, feminine and neuter) as well as kinship – closeness between members of the community based on blood (blood kinship)⁷, on milk (if the child was breastfed by another woman because the mother couldn't do that) or due to the holy sacrament of baptism⁸.

Gender began to be used as a social construct, especially in the English language, denoting the terminological difference between biological sex and gender as a role in 1972. This distinction was introduced by John Money⁹ as a new terminology in sex research, coining the terms gender role and sexual orientation. Also Money tried to differ sex as biological distinction between male and female and gender to differ behavior by sex¹⁰. Some authors notice that “between 1900 and 1964 in a comprehensive comparative literature the term gender didn't appear not once, but then, John Money came and his research”¹¹. Now, everyone is using this term *gender*, but not in original meaning that was constructed- to depict behavior based on usual biological characteristics.

On the other hand, in Serbian language, the term *pol* is often translated as gender, but as it depicts biological characteristics- it must be interpreted as sex.¹² This so called similarity, and presumed identity of those two terms is one of main

circle of those expectations isn't broken, it will become neverending source of inequality and discrimination, “Gender Roles Can Create Lifelong Cycle of Inequality”, available on: <https://www.savethechildren.org/us/charity-stories/how-gender-norms-impact-boys-and-girls>, 10.12. 2023.

⁷ Речник српског језика, израдили Милица Вујанић и др, редиговао и уредио Мирослав Николић, Нови Сад, 2007, 896. In this glossary under the term *gender* are recognized at first the closest relatives (blood kinship), but also the total yield of some grain, and the species of plants and animals classified into families. At the third place of meaning of gender is differentiation of masculine and feminine sex as biological, and as grammatical category.

⁸ Spiritual kinship is very important in Serbian culture and tradition, and is often mentioned in Serbian folk songs as an important motif. Марија Д.Миљковић, „Духовнио сродство у народним песмама Срба са Косова и Метохије”, докторска дисертација, Београд, 2022.

⁹ John Money, Anke A. Ehrhardt “Man & woman, boy & girl : the differentiation and dimorphism of gender identity from conception to maturity”, Johns Hopkins University Press, 1972.

¹⁰ So, gender was interpreted as a consequence of usual differences between women and men, only based on their biological specifics.

¹¹ J. Richard Udry, “The Nature of Gender”, *Demography* Vol. 31, No. 4, 561-573.

¹² Nevena Petrušić, Slobodanka Konstantinović Vilić, „Modeli rodne senzitivizacije obrazovanja pravnika I pravnica na univerzitetu”, *Zbornik radova „Prava djeteta i ravnopravnost polova – između normativnog i stvarnog“*, 2012, 519–542.

reasons for dispute about gender sensitive language in Serbian society, but we will be back on this later.

It is possible to discriminate someone just by using a term that is not adequate and hurt someone's dignity or any other feeling as a human being only by words. This phenomena is called *verbal sexism*, when it is done regarding to the fact that someone is male or usually- female¹³. And it is possible to do it, as some authors say, by not using gender sensitive language¹⁴. The oppression of men is real, especially in linguistics, where men were also dominant and created all sorts of levers to keep power in their hands (for example, by making standardized expressions that are prestigious and used by the educated elite which is dominantly – male). So, using gender sensitive language in the world full of men makes women more visible¹⁵ and gives them place and respect they deserve. On the other side, some authors say that using feminine titles especially in professions could be usefull when it is important to know the sex of the named professional. But, when it comes to what any professional can do, the sex is irrelevant, so new words may not be invented and forcibly created where there is no need for them¹⁶.

The truth is, obviously, somewhere in the middle¹⁷.

SHORT NOMOTECHNICAL ANALYSIS OF LAW ON GENDER EQUALITY(2021)¹⁸

The first legal act on gender equality in the Republic of Serbia was adopted in 2009. It was named as *Law on equality of sexes*¹⁹. For the first time in the legal system of Serbia, gender equality was regulated by a special law as one of the basic human rights and basic values of a democratic society, and an explicit prohibition of discrimination based on gender and gender were prescribed²⁰. The law

¹³ Sexism is prejudice or discrimination based on sex or gender, especially against women and girls. It imposes limits on what men and boys can and should do and what women and girls can and should do. <https://www.britannica.com/topic/sexism>

¹⁴ Menegatti, Michela, and Monica Rubini, "Gender Bias and Sexism in Language", *Oxford Research Encyclopedia of Communication*. <https://oxfordre.com/communication/view/10.1093/acrefore/9780190228613.001.0001/acrefore-9780190228613-e-470>, 10.12.2023.

¹⁵ S. Savić, 18.

¹⁶ Vesna Đorđević, et alia, „New words and gender equality in Serbian – does discrimination exist?“ *Jazykovedný časopis (Journal of Linguistics)*, 2022, Vol. 73, No. 3, 421–450.

¹⁷ Actual minister for human and minority rights and social dialogue of Republic of Serbia Tomislav Žigmanov attends gatherings organized by both supporters of the use of gender-sensitive language and opponents of it. <https://www.dnevnik.rs/drustvo/zigmanov-pazljivo-slusamo-argumente-oko-upotrebe-rodno-senzitivnog-jezika-24-05-2023>, 15.12.2023.

¹⁸ Закон о родној равноправности, „Службени гласник РС“, 52/2021. IN further text: LGE.

¹⁹ Закон о равноправности полова „Службени гласник РС“, 104 /2009.

²⁰ The prohibition of discrimination on basis of sex is also noted in the Constitution of Republic of Serbia („Службени гласник РС» бр. 98/2006, 16/2022) – Одлука о проглашењу

regulated some areas that are particularly important for achieving equality of sexes and established special measures for achieving equality of sexes and preventing and eliminating discrimination based on sex. Numerous subsidiary laws regulate certain areas of social life (family relations, health, education, labor relations and employment, etc.)²¹, but this law became so called *umbrella law*.

The same law was replaced in 2021. by the currently valid Law on Gender Equality. The main difference can be noted in the titles of the laws, because there has been a turning point – biological sexes aren't more in the focus, but gender as a social construct. Between two laws there were some initiatives that came from offices of independent bodies, such as the Protector of the Citizens, who issued Instructions for standardized non-discriminatory speech and behavior²², and Commissioner for the Protection of Equality²³. Both initiatives were in the form of recommendations, issued at the same year, in 2011 and were aimed at the use of gender-differentiated language, the first in the field of public life in general, and the second was aimed exclusively at the Serbian Armed Forces. Also, in both texts was noted that the consistent application of gender-sensitive language is a must, and that the generic use of the masculine grammatical gender could be interpreted as a violation of equality of sexes and state policy of equal opportunities for all.

At first, Art 3 LGE defines *gender equality*, before the term gender is properly defined.²⁴ It can be viewed as a methodological error, because gender should first be defined as a more general and higher concept, and only then gender equality. The Art. 3 states that:

Gender equality means equal rights, responsibilities and opportunities, equal participation and balanced representation of women and men in all areas of social life, equal opportunities to exercise rights and freedoms, use of personal knowledge and abilities for personal and social development, equal opportunities and rights in access goods and services, as well as achieving equal benefits from the results of work, while respecting the biological, social and culturally formed differences between men and women and the different interests, needs and priorities of women

Уставног закона за спровођење Акта о промени Устава Републике Србије – Амандмани I – XXIX – „Сл. гласник РС“, бр. 115/2021) in Art. 21.

²¹ Marijana Pajvančić, Nevena Petrušić, Senad Jašarević, “Komentar Zakona o ravnopravnosti polova“, Beograd, 2010.

²² Канцеларија Заштитника грађана Републике Србије, 2011.

²³ „Препорука Генералштабу Војске Србије и Министарству одбране Републике Србије за увођење родно диференцираних назива чинова Војске Србије и стварања услова за употребу родно диференцираног језика у службеној комуникацији“, дел. бр. 1279/2011, Повереник за заштиту равноправности Републике Србије.

²⁴ There are such cases in our legislation, for example, the Criminal Code only in Article 112 defines a number of terms that are constantly used in the law.

*and men when adopting public and other policies and deciding on rights, obligations and provisions based on law, as well as constitutional provisions*²⁵.

Art. 6 of the same law defines use of certain terms in this law, so we can find that

*“gender means socially determined roles, opportunities, behaviors, activities and attributes, which a certain society considers appropriate for women and men, including the mutual relations between men and women and the roles in those relations that are socially determined depending on sex”(Art 6, paragraph 1, item 1)*²⁶

“sex is a biological characteristic on the basis of which people are determined as women or men” (Art 6, para 1 item 3).

So it is obvious that gender is still in the role of social construct, which includes more social constructs, differentiated by – sex.

Also in Art. 6 para 1 item 17 it is defined what gender sensitive language is:

gender-sensitive language is a language that promotes the equality of women and men and a means of influencing the awareness of those who use that language in the direction of achieving equality, including changes in opinions, attitudes and behavior within the language they use in their personal and professional lives.

By using exclusively the masculine gender for certain occupations, it is presumed that the presence of women remains linguistically invisible in highly qualified and prestigious positions for which masculine nouns are used, even when women work in those positions. Art 10 para 2 LGE says also that the use of gender-sensitive language in order to influence the removal of *gender stereotypes*²⁷ when exercising the rights and obligations of women and men.

²⁵ In Plan of the Republic Secretariat for Public Policies for the Realization and Promotion of Gender Equality from 21.11. in 2021, gender is defined as “socially determined roles, possibilities, behaviors, activities and attributes that a certain society considers appropriate for women and men, including the mutual relations between men and women and roles that are socially determined depending on sex”. <https://rsjp.gov.rs/wp-content/uploads/Plan-rodne-ravnopravnosti.pdf>, 15.11.2023.

²⁶ Gender and gender identity are mentioned in Law on prohibition of discrimination (Закон о забрани дискриминације: Sl. glasnik RS, 22/2009-3, 52/2021-4) as possible basis of discrimination, as well as sex and sexual characteristics (Art.2 para 1 item 1), or sexual and gender harassment (Art 5 of the same law), but there is no clarification of sex , gender , or any other phrase that contains the word „gender“.

²⁷ Gender stereotypes are traditionally formed and rooted ideas according to which women and men are arbitrarily assigned characteristics and roles that determine and limit their opportunities and position in society;

Art 6 paral item 24 LGE.

But most of all, the very unusual thing about this law can be noted in Art 6 para 2 LGE, contradictory to all the previous statements:

The terms used in this law and the regulations adopted based on it, which have a gender meaning, expressed in grammatically masculine, imply the natural feminine and masculine gender of the person they refer to.

In the entire law, extreme care was taken not to use words that should be mentioned twice, in their masculine and feminine grammatical gender, but this sentence remained. In the context of the content and goal of the law on gender equality, the mentioning of the use of the masculine grammatical gender and definition of its use as neutral seems- contradictory. The main rule of use of gender sensitive language is that use of masculine grammatical gender violates the rights of women, especially those who are in positions/working at places that were usually men's, and makes them invisible. So, this can implicate that using of masculine grammatical gender indicates that its use does not violate anyone's rights.

Another thing is also interesting. In Art. 2 it is said that

“the provisions of this law cannot be interpreted or applied in a way that abolishes or limits the rights established by other regulations or limits or diminishes the achieved level of human rights in the field of gender equality arising from the Constitution, confirmed international treaties, and generally accepted rules of international law, laws, as well as European Union legislation on gender equality”.

If we know that the law establishes obligation to use gender sensitive language in all situations, even if the female person doesn't want that and said that explicitly, and knowing that all persons in Republic of Serbia have a constitutional right to express freely their opinion, it might implicate that this law breaches the constitutional guarantee for those women who doesn't want to be named by gender sensitive language. Their capacity to think and freely express their opinion is totally abolished with this law, which could be the main reason for this law to be declared unconstitutional.

Obligation of public authorities to continuously monitor the realization of gender equality in the area of social life for which they are responsible, as well as the application of international standards and constitutionally guaranteed rights in that area, the use of gender-sensitive language in the names of workplaces, positions, titles and occupations, as well as yes, within the framework of their competences, they lead a policy of equal opportunities for women and men and plan, enact, implement and publicly announce the results of special measures is established in Art .25 of this law. The additional obligation of public authorities established by this law is the supervision of the implementation of the gender-sensitive language, which will become a reality in May 2024. They are obliged to control all other state bodies in the hierar-

chical ladder below them, but also themselves in the use of one of the declared mechanisms for reducing gender inequality/ use of gender sensitive language.

Dispute in public began “louder” and more present with the modification of articles 37 and 44 of the LGE. In Art. 37, gender sensitive language is constituted as obligated in use in study programs, when determining textbook standards (para 2 item 1), in certificates, diplomas, classifications, titles, occupations and licenses, as well as in other forms of educational work(para 1 item 2). At the same time, all textbooks and other teaching materials must be analyzed from the point of view of gender equality. Art. 44 determines the obligation of public information media to use gender-sensitive language when reporting, in order to contribute to the suppression of gender stereotypes, social and cultural patterns, customs and practices based on gender stereotypes, discrimination based on sex, gender-based violence, domestic violence and violence against women. This obligation enters into force in May 2024, three years after the LGE was enacted.

According to article 68 para 1 item 9, a fine of 5,000 to 150,000 dinars will be imposed on a responsible person in a body of the Republic of Serbia, a body of territorial autonomy and a body of a local self-government unit if does not comply with the obligations prescribed in Art. 37, 38,

39, 40, 41, 42, 43, 45, 46 and 49²⁸ of this law. It is interesting to note that only Art. 37 and 44 explicitly mentioned the obligation to use gender-sensitive language in the field of education and public information, and this law prescribes punishment only for not using gender-sensitive language. The punishment for the media that does not use gender-sensitive language is not noted in this law, but there is only the obligation of the competent Ministry of Culture and Information to supervise its area. If only this law is followed, it is unclear what to do in cases when media aren't using gender-sensitive language and if so, in what way and with what amount of fines would be punished.

DISPUTE ABOUT THE GENDER SENSITIVE LANGUAGE IN SERBIA

“Language defines a person on a sociological, psychological and individual level”²⁹. It determines us as the only living individuals capable of articulated speech. This ability places us in a group of the same individuals, with the intention of exchanging certain messages with each other within the group, in standardized way, using the same sign system and same standardized rules of communication.

²⁸ Articles 38-49 deal with gaining gender equality in special areas of life: defense and security, transport, energy, environmental protection, culture, sports, sexual and reproductive health and rights.

²⁹ Р.Бугарски, *Увод у општију лингвистику*, 43.

Use of language is sort of two way street: it shapes the world around us, and the thinking and changes that go from the world can reshape and change the language and also the way of thinking. Also, in the context of our work, choice of words and the tone of their expressing, as well as the context in which they are spoken, can contribute to the creation of their unconscious assumptions about gender roles. The gender legal theory observes that the patriarchal world is not good for women, and laws and the way they are implemented are important pillars of that world. So, gender theory is a critical analysis of rights, laws and their application as patriarchal institutions³⁰, and the gender sensitive language is its important product.

The use of terms only referring to males, even if that is in masculine grammatical gender, which is mostly declared as gender neutral, seems to be not that acceptable anymore. Some think that avoiding discrimination between men and women starts with language³¹, as the systematic use of gender-biased terminology influences attitudes and expectations and could, in the mind of the reader, relegate women to the background or extend stereotyped view of masculine and feminine roles. "If you are visible in the language, you are also visible in the consciousness of the interlocutor"³². The United Nations directives in that regard invited United Nations staff to avoid the use of language which refers explicitly or implicitly to only one sex, and to ensure (according to each language's characteristics) the use of non-sexist/gender-sensitive/neutral language.³³ So, United Nations decided to use gender-neutral language, despite numerous requests to use gender-sensitive language.

The use of gender-sensitive terms (which usually refer to professions, titles and occupations, where by using feminine instead of masculine, women become more visible) is more noticeable in the media discourse- media didn't hesitate much to use it³⁴. Gender perspective (which inspired gender sensitive language) has also entered university education³⁵, at first with *women's/gender studies*³⁶, which were

³⁰ Лилијана Чичкарић, "Родна равноправност као неопходан услов представничке демократије", Теме, 1/2012, 67-83.

³¹ Here we can ask kind of rhetoric question, wheter language is mechanism for communicating beliefs, or the beliefs are influences by language, ie, i.e. to what extent language influences the creation of beliefs and vice versa.

³² Свенка Савић, "Упутства за стандардизацију родно осетљивог језика", у: *Род и језик*, Нови Сад, 2009, 301-320.

³³ Gender –sensitive language Guidelines , developed by Nouhad Hayek, Reviser at the Conference Services Section of ESCWA, on the basis of the following references: United Nations Educational, Scientific and Cultural Organization (UNESCO), https://www.unescwa.org/sites/default/files/services/doc/guidelines_gender-sensitive_language_e-a.pdf, 12.11.2023.

³⁴ We find also some other examples: Nađa Bobičić, Marijana Stojčić, „Antirodni diskurs u medijima u Srbiji „, CM: Communication and Media 2023, vol. 18, br. 53,3-.

³⁵ More on this : N. Petrušić, S. Konstantinović Vilić, 520-522; „Novi društveni ugovor između žena i muškaraca: uloga obrazovanja”, Savet Evrope, Strazbur, 2002.

³⁶ Gender studies on the University in Novi Sad has a long tradition, since 2002. More about it : <https://www.uns.ac.rs/index.php/clanice/centri/ucimsi>, 10.01.2024.

*“ready to deconstruct the culture of patriarchy and encourage the development of a critical and gender-sensitized awareness of social relations, processes and policies, thus preparing young people for effective and active democratic citizenship and new gender partnership in private and public life”*³⁷. Another way of influence at the universities is thru legal clinics for women’s rights, which gives an opportunity to future lawyers, for gaining new insight into these rights and all consequences that can occur when those aren’t respected, such as “oppression, marginalization and discrimination of women”.

So, gender perspective has been present in Serbian society for some time. It sort of helped to recognize the gender³⁸ as a determinant that causes inequality³⁹. That inspired some governmental independent bodies to start dealing with the topic of gender-sensitive language, which seemed to be the first and simpler way to abolish inequality and discrimination between men and women⁴⁰. The dispute regarding use of gender sensitive language started earlier than 2021, yet it wasn’t that unyielding.

The Committee for Standardization of the Serbian language sent in 2021 a public letter in which it expressed opposition to the changes introduced by the LGE in connection with the use of gender sensitive language, that is, as they state, “opposition changes in the standardization of the Serbian language: and called it “law against the Serbian language” and “violence over language”⁴¹. But earlier, in 2007, this Committee stated that *“the position that only gender-differentiated language is the language of gender equality implies that languages that do not know the grammatical category of gender are not or cannot be languages of gender equality. This implicitly discriminates against speakers of languages that do not have appropriate grammatical categories, such as English”*⁴². The Committee firmly stood on the position that the grammatical and natural gender of nouns in the Serbian language are not identical and resolutely rejected the claim that the use of the generic masculine gender threatens women’s rights⁴³, and violates the equality. The trivialization of linguistic theory⁴⁴ in such manner isn’t good tool for sending a desirable political message, the Committee said, especially when it conflicts with the insights reached by the official science of language, or when it would mean disrupting the structure of the given language⁴⁵.

³⁷ N. Petrušić, S. Konstantinović Vilić, 12.

³⁸ As gender social roles, mentioned earlier.

³⁹ Kosana Beker, Biljana Janjić, “Izveštaj o pravima žena i rodnoj ravnopravnosti u Srbiji za 2021. i 2022. godinu” Pančevo, 2023, 24.

⁴⁰ It was mentioned earlier in this article, so we will not repeat it.

⁴¹ Ibid, 35.

⁴² „Како именовати занимања и титуле женских особа“, Списи Одбора за стандардизацију, X, 2008, 98–104. German and Italian languages have specified suffixes for feminine gender of nouns, -in in German, and -essa in Italian.

⁴³ Ibid.

⁴⁴ Ibid.

⁴⁵ Ibid.

Law office Radić has submitted on 1st June 2021.⁴⁶an initiative to the Constitutional Court of Serbia (in further text : CC) for an assessment of the constitutionality of the LGE as it is contrary to the Constitution of Serbia and to almost all existing laws , who does not recognize the category of gender. Also, according to this law office ,LGE introduces legal uncertainty, because it suspends the application of several thousand regulations that use expressions that are now not aligned with the articles of the LGE(meaning, those laws use grammatical masculine gender, so are sort of unadequate and contradictory to the LGE.

The same opinion had S.Tanasić, president of the Committee for the Standardization of the Serbian Language SANU⁴⁷, which is the only institution in Republic of Serbia that is entitled to deals with the standardization of the language, alphabet and grammar of the Serbian language. He pointed out that more initiatives are expected before the CC for the assessment of the Law on Gender Equality, since it violates the basic norms of not only the language, but also the state, the church and society as a whole⁴⁸.On this matter, the Committee was stating three times in 2011, 2018 and 2021, before the LGE was submitted to the parliamentary procedure, but its opinions were not taken into consideration.

It is also stated that On May 31, 2021, by the Committee for Public Relations and Solving Urgent Issues of the Serbian Language Standardization Committee that⁴⁹:

“Those newly created words are not an active part of the lexicon. In order to become an active, commonly used lexicon, neologisms must fulfill three conditions:

⁴⁶ The author of the paper had a direct insight into the text of this initiative. Unfortunately, we do not know the business number under which this initiative is run, so we do not list it.

⁴⁷ SANU-Serbian Academ Sciences and Arts,on Serbian: Srpska akademija nauka I umetnosti .One of the basic tasks of the Committee for the Standardization of the Serbian Language, an all-academic and all-university scientific body, founded on December 12, 1997, by agreement of fourteen founders (Serbian Academy of Sciences and Arts, Montenegrin Academy of Sciences and Arts, Academy of Sciences and Arts of the Republic of Srpska, Matica srpska, The Institute for the Serbian Language SANU, the Serbian Literary Cooperative and eight philological and philosophical faculties where the Serbian language is taught, in Belgrade, Novi Sad, Nikšić, Priština, Niš, Srpski Sarajevo, Banja Luka and Kragujevac) is to preserve and improve the norms of the Serbian language, whose three basic characteristics are systemicity, polyfunctionality and elastic stability.

⁴⁸ As far as we know, before the Constitutional Court there are officially two initiatives: the initiative of the law firm Radić and the initiative of serbists- professors of Serbian language. Also, we had we had an insight into the initiative prepared by the members of the political groups Dveri and Zavetnici, but we have no information whether they actually submitted it. The common ground in all initiatives is the opposition to the concept of gender, which, according to the submitters, is not a constitutional category and is not adequately explained even where it is mentioned. The initiative of linguists is more based on the rules of linguistics and how this law violates them,, Radić's initiative is more based on legal issues, and the last initiative, for which we do not know whether it is submitted, is based more on political and ideological grounds.

⁴⁹ „Закон о родној равноправности је закон против српског језика”, announcement available on: <https://www.ossj.rs/odluke-i-saopstenja/zakon-o-rodnoj-ravnopravnosti-je-zakon-protiv-srpskog-jezika/>,10.12.2023.

a) they must be in accordance with the formation system of the Serbian language, i.e. created by usual ways of creation, b) must be needed by the lexicon of the literary language, i.e. their use must be purposeful, and c) they must be accepted by the majority of speakers of the given language. The largest number of “gender-sensitive lexemes” proposed by the supporters of the given law do not meet at least two of the three conditions: they are not expedient, and they are not in general use. In addition, many women⁵⁰ do not want the name of their profession, title, function, etc. conform to the wishes of “gender ideologues”, who forcefully, ignoring the grammatical rules of the Serbian language, identify grammatical gender with gender. Masculine grammatical gender is a neutral category, which means that, according to linguistic law, it semantically includes the category of male and female gender”⁵¹.

On June 28, 2023 His Holiness the Patriarch of Serbia Mr. Porfirije spokewith a group of eminent Serbian linguists regarding the issue of gender sensitive language. Patriarch Mr. Porfirje pointed out that the issue of language defines the identity of a nation, and that thoughtless change can have great consequences for the self-awareness of a nation such as the Serbians, to which the Church constantly draws attention⁵².

In November 2023, in the absence of an answer from the CC, the Radić Law office filled in Request for access to information of public importance to the Ministry for human and minority rights and social dialogue, asking: has the Ministry also adopted the mentioned plans and programs – related to the achievement and improvement of gender equality; are the terms man and woman, in the LGE, biological term, as it was in the previous law, or are they now social constructs – which can be declared by gender or how they feel; are the National Library of Serbia, the main Library of the City of Belgrade and other main, public and school libraries, institutes, etc. in Serbia obliged to write off books which are not written in gender-sensitive language, etc? Few months earlier, the same law office appealed

⁵⁰ It is often mentioned that “many women” do not approve the use of gender sensitive language, but there are, we must say, not reliable statistics about it. We quote this here, with scientific restraint regarding the actual claim.

⁵¹ „Насиље над српским језиком“, Одлука поводом усвајања Закона о родној равноправности, Одбор за стандардизацију српског језика, 2. јуна 2021. године:

<https://www.ossj.rs/odluke-i-saopstenja/odluke-povodom-usvajanja-zakona-o-rodnoj-ravnopravnosti/>, 10.12.2023.

⁵² „Саветовање о штетности Закона о родној равноправности“, саопштење са скупа, Одбор за стандардизацију српског језика, 28. јуна 2023. године:

<https://www.ossj.rs/aktuelnosti/savetovanje-o-stetnosti-zakona-o-rodnoj-ravnopravnosti/>, 10.12.2023. At the same time, The Commissioner for the Protection of the Equality stated that the issue of gender sensitive language is not the issue for the church to deal with it. <https://www.021.rs/story/Info/Srbija/338141/Poverenica-Rodno-senzitivni-jezik-nije-pitanje-za-crkvu.html>, 10.12.2023. But, the Church has every right to intervene when such changes affect its internal organization and application of internal church rules, as it has its own autonomy within the state.

to the CC with a request to temporarily prevent the implementation of the LGE until the meaning of the word gender is clarified⁵³. Until the day of delivery of this article, we have no information whether and what kind of response this office received from the competent ministry, or that there was any answer from the CC⁵⁴.

The Institute for the Improvement of Education and Training (ZUOV, in serbian) turned to the Committee for the Standardization of the Serbian Language and the Commissioner for the Protection of Equality for an opinion on the use of gender-sensitive language in textbooks in Serbia⁵⁵. The answers of these two bodies were opposed – the Committee believes that gender-sensitive language has no place in educational books, while the The Commissioner for the Protection of Equality draws attention to the obligation to comply with the LGE, which requires use of gender-sensitive language.⁵⁶

On the other hand, some authors say that it is necessary for the law to stop treating women as “masculine” and to start treating them as “feminine”⁵⁷, which means that the law must recognize women as such, and all their specificities. As it is difficult to achieve the equality of women with men and their recognition in reality, from below, it must be done repressively, with the help of laws and with the supervision of the state from above, and with the help of the threats of penalties for disrespecting the law. That is why, on their opinion, the gender sensitive language is needed.

Sensitization of employees⁵⁸ in institutions is a must; if they are used to use of gender sensitive language, it will be easier for them to control others and spread gender perspective further. On the contrary, the enacted laws cannot have any

⁵³ „Суд да заштити језик и уџбенике: Адвокатска канцеларија Радић упутила предлог највишој судској инстанци да стопира употребу речи „род” <https://www.novosti.rs/drustvo/vesti/1239919/sud-zastiti-jezik-udzbenike-advokatska-kancelarija-radic-uputila-predlog-najvisoj-sudskoj-instanci-stopira-upotrebu-reci-rod>, 10.12.2023.

⁵⁴ There were some rumors that CC will decide upon all those appeals, but till the end of 2023., there were no public informations about that.

⁵⁵ The same opinion had the President of the National Education Council, R. Stojković, who stated that gender sensitive language is not in standards of serbian language. <https://www.euronews.rs/srbija/drustvo/64388/hoce-li-biti-vojnikinja-u-udzbenicima-zakon-kaze-da-rodno-senzitivni-jezik-ulazi-u-udzbenike-ali-ne-i-nps-i-lingvisti/vest>, 10.12.2023.

⁵⁶ The Commissioner B. Janković also stated “it takes time during which some phenomenon is established in official and public use, but in a certain context, political support in the speaking community is much more needed in order to speed up and end that process”. <https://www.danas.rs/vesti/drustvo/upotreba-rodno-osetljivog-jezika-u-udzbenicima-obavezna-od-2024-zasto-su-izdavaci-vec-poceli-da-brisu-zenski-rod/>, 10.12.2023.

⁵⁷ Zorica Mršević, “Ka demokratskom društvu – rodna ravnopravnost”, Beograd, 2011.

⁵⁸ On the website of Republic Coordination body for gender equalitz can be found manual for use of gender sensitive language :Hristina Cvetinčanin Knežević, Jelena Ilatović, *Priručnik za upotrebu rodno senzitivnog jezika*, Beograd, 2019, and also is valuable :Svenka Savić, Marijana Stevanović, *Vodič za rodno osetljiv jezik u javnoj upravi u Srbiji*, Beograd, 2018 .

meaning and are useless⁵⁹ Feminists say that supposed naturalness of male privileges makes the struggle for women's right more complicated, because it changes the established division of social power and roles⁶⁰. Some authors say that gender equality should be further strengthened by linguistic solutions. Naming women's roles and working places in a grammatically feminine gender and form is making them more visible and selfaware, which leads them to confirmation of their abilities and evaluation of their work and effort that led them to those positions. It is very important, especially in political institutions, governmental bodies institutions where women are at high positions, as well as in business area, to increase their political power, and gender sensitive language might be the right tool for that.⁶¹

CASE OF PROTECTORS OF CITIZENS' RIGHTS-WHY IS THERE NO COMPLIANCE REGARDING THE TITLE OF OMBUDSMANS?

One of the discussions regarding the use of gender-sensitive language is related to the use of the original title for the position of protector of citizens' rights-*ombudsman*. Ombudsman is a word that comes from the old Swedish language and is gender neutral⁶². It means a person who was previously appointed by the king, and now it is appointed by the parliament, at a certain territorial level, with the aim of controlling the effectiveness and correctness of the work of other state bodies. The ending "man" in ombudsman is not related to the English word "man" and is thus gender- neutral⁶³. But is it true?

In 2015 the Northern Ireland Assembly, and specifically the Office for the First Minister and Deputy First Minister Committee, decided to reform the public sector in area of protection of human rights and call ombudsmans now as Ombudsperson as the latter is unambiguously gender neutral⁶⁴. It is suggested that Ombudsperson (or Ombud or Ombuds) would be a gender neutral term consistent with the general commitment that legislation should be gender neutral. For

⁵⁹ <https://www.021.rs/story/Info/Srbija/320002/Stojkovic-Uvodjenje-rodno-senzitivnog-jezika-znacice-da-srpski-nece-biti-jezik-na-kom-se-misli.html>, 10.12.2023.

⁶⁰ Z. Mršević, 32.

⁶¹ Л.Чичкарић, 83.

⁶² Tim Moore, "Ombudsman Gender Neutral?", *Research and Information Service Briefing Paper*, Paper 81/15, 2015 NIAR (<http://www.niassembly.gov.uk/globalassets/documents/raise/publications/2015/ofmdfm/8115.pdf>), 10.12.2023.

⁶³ Istvan Posta, "Review of the organizational Ombudsman services across the United Nations system", Joint Inspection Unit, Geneva 2015, https://www.unjiu.org/sites/www.unjiu.org/files/jiu_document_files/products/en/reports-notes/JIU%20Products/JIU_REP_2015_6_English.pdf, 10.12.2023.

⁶⁴ <http://www.niassembly.gov.uk/globalassets/documents/legislation/bills/non-executive-bills/session-2015-2016/public-services-ombudsperson-bill/efm---as-introduced.pdf>, 10.12.2023.

some, „man“ in „ombudsman“ isn't equal with „person“, so „ombudsman cannot be taken for gender neutral. Cultural changes, who make people more recognize practices that are discriminative, although they were fully accepted and preferred practices before, must be expressed in law, economics, even on such a micro level as the names of certain professions⁶⁵.

So, we find term “Ombudsperson” on the website of European Institute for Gender Equality, who presented themselves as “independent centre and the primary source for information on gender equality in the European Union”⁶⁶. But at the same time, there is still office of the Ombudsman for the UN Funds and Programmes⁶⁷.

A lots of ombudsman's office around the world changed their title. Some of them are on the regional, or country level, or even on the university level, where can be found protectors of students' or employees at the university rights. For example, The UC Berkeley Staff Ombuds Office has used gender inclusive language since its creation in 1984⁶⁸, but International Ombuds Association adopted title Ombuds in 2022⁶⁹. In Australia, debate about the title of ombudsman at first was stated even at 80s in XX century. When marking 40 years of the Office of the Commonwealth Ombudsman in 2017, it was noted that several Australian women have served as the federal leader of this office. Despite of that fact, the title for protectors of citizens' rights in Australia is still Ombudsman, and the plural is Ombudsmen, since this word was taken as usual english word⁷⁰.

Although this word was not gendered in Swedish, it is in English, so when using word “ombudsman” it seems to put the person before the role. Even when

⁶⁵ Varda Bondy and Margaret Doyle, „How an attempt to introduce a gender-neutral title was rejected by the legislature“, *Ombuds Research Studying the work of ombuds men and women and complaint handlers*, <https://ombudsresearch.org.uk/2017/04/25/how-an-attempt-to-introduce-a-gender-neutral-title-was-rejected-by-the-legislature/>, 10.12.2023.

⁶⁶ Definition of Ombudsperson, https://eige.europa.eu/publications-resources/thesaurus/terms/1254?language_content_entity=en, 10.12.2023.

⁶⁷ https://jobs.undp.org/cj_view_job.cfm?cur_lang=en&cur_job_id=53705, 10.12.2023.

⁶⁸ <https://staffombuds.berkeley.edu/>, 10.12.2023.

⁶⁹ “As Ombuds, we deeply understand the power of words. Words inform our perceptions, influence our behavior, and shape our worlds. Recognizing that words communicate our values, we are changing the way we communicate and describe our profession, thereby creating a more inclusive platform for diverse interests and opportunities in the Ombuds arena. Having a gender specific title not only dissuades diverse interest and application into our field, but it also fails to accurately reflect the population we serve. More so, research has showed that gendered language narrows professional opportunities for women and more broadly it widens the gap of social inequity”, *International Ombuds Association Adopts Gender Inclusive Language*, <https://staffombuds.berkeley.edu/news/international-ombuds-association-adopts-gender-inclusive-language>, 10.12.2023.

⁷⁰ Melissa Coade, Language lessons revive question about the term ‘ombudsman’, <https://www.themandarin.com.au/156372-language-lessons-revive-question-about-the-term-ombudsman/>, 10.12.2023.

using “ombudsman” or “ombudswoman” seems to put the sex of the person before the role, instead of their capability to work on that position⁷¹. On the other side, Ombudsman isn’t easy word for pronouncing, as well as the Ombuds, which is usually offered as a neutral alternative. As the part of protection of rights and working as representative of parliament and being mediator between citizens and other governmental bodies is very important, some say that “it is possible to honor the roots of profession and also honor the emerging realities of our present moment in history”.⁷² So the change of the title to gender neutral, or gender sensitive version seems to be inevitable. Or, in words of David G. Schwartz, “if dropping the “man” from “ombudsman” makes even one person feel better about reaching out to the office, it is well worth it”⁷³.

After this short overview of the dispute about title of ombudsman, and having in mind all argument of both sides- those who want to stay the original title and those who wants to use gender sensitive or gender neutral titles, the best solution might be to those significant independent officers call Ombuds or Protectors of citizens rights, because both titles are gender neutral.

CONCLUDING REMARKS

The majority of linguists agree that the feminization of language is on the rise and that the phenomenon needs to be addressed with great care⁷⁴. It seems that in the case of enacting LGE and making gender sensitive language wasn’t fully respected old maxim; *audiat et altera pars* -listening to the other side and its argumentation regarding this issue. We agree that gender sensitive language and its using is important tool for abolishing discrimination and other negative linguistic and social phenomena. But one can use gender sensitive terms and again, hurt other’s feelings when using it in a disparaging tone, or in another context for which the term was originally intended. Making it mandatory under the threat of high fines does not help to spread the use of gender-sensitive language, nor does it increase its legitimacy, and even less can influence the common man to understand the essence of this linguistic reversal.

⁷¹ We truly support women on this high legal position and also think that putting their sex before the position can, in a way abolish all their efforts and struggle to reach those positions and to keep them there. Gender sensitive title is there to promote the possibility for women, to hold that position, that this is not something that is reserved only for men.

⁷² David Rasch, “A meatball by any other name”, *Journal of International Ombudsman Association*, https://www.ombudsassociation.org/assets/docs/JIOA-2018-6_PDF_A-Meatball-by-Any-Other-Name.pdf, 10.12.2023.

⁷³ David G. Schwartz, “Why I’m Not the Ombudsman”, 4.novembar 2023, <https://www.unlv.edu/announcement/ombuds-office/why-im-not-ombudsman>, 10.12.2023.

⁷⁴ V.Đorđević, et alia, 421–450.

If this intensified situation remains, we will reach the situation of “private language” that Wittgenstein wrote about⁷⁵. It is possible for one person to have his/her own language, but what is purpose of that language, if he/she cannot communicate with others? It is the same if there is a group of people, smaller or larger, that establishes rules of communication, that the rest of the society they live in do not know or do not want to learn (which is again their choice, to which they are entitled). This means that the group separates, or stratifies, from the rest of society as a whole, although it confirmed its specificity in this way. A bridge of understanding and respect can be established between these groups, but the violent imposition of something is still considered a threat to democratic principles, even when it comes to the mechanism for abolishing discrimination against women.

The position of the author of this paper is that the gender-sensitive strengthening of title professions could be set as a possibility, not an obligation, because it will simultaneously give everyone the opportunity to think about whether or not they want to be addressed differently than before, and whether this simple linguistic change corresponds to their internal feelings about oneself and one's own identity⁷⁶.

At the same time one should respect other's will not to be called in other way than he/she wants, whether in gender sensitive, gender neutral or other terms. Otherwise, it can be said that this violates the constitutional principles of freedom of thought and expression (Arti.46 of the Constitution)⁷⁷, in connection with the freedom of expression of thought, conscience and religion (Art.43 of the Constitution) and can implicate the further violation of Art. 21 of the Constitution, which “prohibits discrimination on any basis, especially on the basis of race, gender, national affiliation, social origin, birth, religion, political or other belief, property status, culture, language, age and mental or physical disability”. The will of a female person to be addressed by other persons and competent authorities with a noun in the masculine grammatical gender, without a gender-sensitive form, could be classified as a belief, which is protected by Article 21 of the Constitution. That opinion might have nothing to do with woman's actual or perceived submission to a patriarchal, dominant pattern of behavior, but with her deep-seated belief that her gender has nothing to do with her success or failure in any sphere of life, and every woman should be granted exercise of that constitutional right. So, we think it must be set as a possibility and not as an obligation, and that thus it has more chances to be widely accepted than with the threat of penalties.

⁷⁵ Candlish Stewart and George Wrisley, “Private Language”, *The Stanford Encyclopedia of Philosophy* <<https://plato.stanford.edu/archives/fall2019/entries/private-language/>>.10.12.2023.

⁷⁶ We strongly support this change and have been using this kind of communication even before it was constituted as obligatory, but always with caution, only if our interlocutor wants us to address her with gender-sensitive terms, especially when referring to the titles of professions.

⁷⁷ Ustav Republike Srbije, (“Sl. glasnik RS”, br. 98/2006 i 115/2021).

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Расправа о родно осетљивом језику у српском праву

Сажетак: родно осетљив језик се смањра једним од производа херојске борбе жена да буду признате и поштоване у савременом свету, за све оно што јесу и за све оно што би могле бити и могле да постигну. То значи да жене не беже од својих природних, биолошких улога – посебно улоге мајке и других неовања, неовања и нежних емоција које имају и користе у одгајању деце и одржавању породице на истом месту. Женама мора бити признато, на језичком и другим нивоима, да су једнако способне као и мушкарци да се баве свим врстама послова као и мушкарци. Промена у националном правном систему пројисује обавезну примену родно осетљивог језика од маја 2024 године. Сви државни органи, на било ком територијалном нивоу власни, новинари, деца и наставници у школама итд. биће у обавези да користе име родно осетљиве термине, посебно када се користе за жену у посебној професији (нпр. у правосудју, у области националне безбедности и одбране, итд.) или ће у суштинском бити кажњени. У овом раду ауторка се крајко бави разлозима за и пројив уштребе родно осетљивог језика, ие износи и сојствено мишљење – које је у средини. Такође, биће представљена и украјко расправа из области заштитне људских права. Наиме, постоје различита мишљења да ли сви заштитници права грађана треба да се зову – омбудсман, како је изворни назив ове институције, или да се уштреби термин „омбудсманка“, када жена обавља ову функцију, или другачије родно неутрално.

Кључне речи: род, пол, родно осетљив језик, расправа.

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