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SUMMARY

This article is a study on the Brazilian Prison System and Human Rights. Through a literature review with bibliographical research in which information is sought in books, magazines, publications and other materials on the subject. Among the objectives is the search for more information on the topic. The Federal Constitution expressly provides for the State's responsibility towards all citizens, guaranteeing them fundamental rights and duties, also covering those who are deprived of their freedom in prison units, although the Criminal Execution Law is considered one of the most advanced in the world There are many contraventions between the Law and its real applicability. **Key words:**Prison System. Human rights. State. Responsibility.

ABSTRACT

This article is a study on the Brazilian Prison System and Human Rights. Through a literature review with bibliographic research in which information is sought in books, magazines, publications and other materials on the subject. Among the objectives is the search for more information on the subject. The Federal Constitution expressly provides for the responsibility of the State towards all citizens, guaranteeing them fundamental rights and duties, also covering those who are deprived of their liberty in prison units, although the Penal Execution Law is considered one of the most advanced in the world . there are many contraventions between the Law and its real applicability.

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1. INTRODUCTION

Currently, the prison system does not allow detainee resocialize, Given that their most remote rights are not respected, prison units cannot accommodate the total number of inmates, prison officers often do not have adequate training.

Overcrowding in prison units ends up leading to sexual violence among inmates, the presence of toxic substances and lack of hygiene end up causing epidemics, among others.

The violation of human rights in the prison system is an issue that society cannot remain silent and pretend not to see, remaining inert in the face of the unnecessary and unacceptable suffering that is part of the daily lives of those in State custody.

Contrary to the terms established by law, prison units provide a degrading and inhumane environment for inmates, as overcrowding, lack of medical assistance and precarious food supply trigger various diseases.

It is worth noting that this decline in the Brazilian prison system does not only affect inmates, but also those people who are in contact with this reality directly or indirectly.

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2 DEVELOPMENT

The Brazilian prison system has been showing all its fragility and inefficiency, as prison units, theoretically should to be a place where inmates paid for their mistakes, in order to reflect and not return to crime. At the however, the reality shows that prison units have become more dangerous places than outside them.

The state's neglect is total, also playing a fundamental role in the decline of the prison system, the Power

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The judiciary, often aware even from the press that prison units are overcrowded, continues to send not only convicted people there, but also those who are waiting for a process to unfold, provisional prisoners.

Brazilian inmates are, for the most part, men aged between 20 and 49 years old, with little education and from groups of low socioeconomic status. Most prisons are overcrowded, poorly ventilated and have low hygiene and cleaning standards. Nutrition is inadequate and illegal behaviors, such as alcohol and drug use or sexual activities (with or without consent), are not repressed. These conditions place this population at a high risk of illness and death from tuberculosis and AIDS. HIV infection is the greatest known risk factor for the development of tuberculosis, a disease among adults infected with *Mycobacterium tuberculosis*. (NOGUEIRA; ABRAHÃO, 2009, p.32).

The prison system is called the set of prisons, jails and prisons in a given national territory. They are mostly financed by state governments with funds transferred by the federal government. The systems are driven by internal rules and the same would serve those who committed a crime and are serving their sentence to receive re-education, so that when they return to society have a new chance to build something and be a right person before the law, but this is not what normally happens, at least not in Brazil.

The failure of our prison system has been pointed out, rightly, as one of the biggest problems of the Brazilian repressive model, which, hypocritically, sends convicts to penitentiaries, with the proclaimed purpose of rehabilitating them to social life, but already knowing that, upon returning to society, this individual will be more unprepared, out of touch, insensitive and, probably, more willing to commit other crimes, even more violent in relation to the one that led him to prison. (MIRABETE, p. 89, 2008).

Prison units have a totally inhumane system where inmates are treated with as little dignity as possible, due to overcrowding, where they are crammed into little space, without hygiene, lack of medical care, education, work so that their mind reformulate and achieve re-education, and most of them do not even have adequate nutrition.

In contrast to the law, a huge disparity can be seen, this is due to omission and non-compliance with the laws by the State and other bodies responsible for the system, being these the causes of the main problems currently existing in these places, whether in precarious structure, overcrowding or administrative problems, which end up causing prison units to not fulfill their role of recovering convicts for social life.

Human rights are based on two primary factors for the protection of man, which are freedom and equality, this statement is contained in the first article of the Universal Declaration of Human Rights, which also states that every person is already free and equal to anyone else. Another, with regard to their rights and dignity, since birth, which is then a basic precept for human dignity to be respected.

Human rights are born as universal natural rights, develop as particular positive rights, to finally find their full realization as universal positive rights. The Universal Declaration of Human Rights of 1948 contains in essence the synthesis of a dialectical movement, which begins with the abstract universality of natural rights, is transfigured into the concrete particularity of positive rights, and ends in universality that is no longer abstract, but also concrete. , universal positive rights. (BOBBIO, 1992, p. 30).

According to the United Nations (UN), human rights are universal legal guarantees that aim to protect individuals and groups against actions or omissions by governments that violate human dignity.

Therefore, if human rights protect human beings from the actions or omissions of the state, it is often seen that such rights are violated for those people who are free, who are capable of at least being heard, let us imagine those who are if in state custody, detained in the most distant units

Brazilian prisons.

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Human dignity constitutes an intrinsic and distinctive quality of each human being that makes him or her deserving of the same respect and consideration from the State and the community, implying in this sense, a complex of fundamental rights and duties that ensure the person both against any and all acts of a degrading and inhuman nature, as they guarantee the minimum existential conditions for a healthy life, in addition to enabling and promoting their active and co-responsible participation in the destinies of their own existence and life in communion with others human beings. (VERÍSSIMO, 2019).

Countless times, human rights in prison units, in the medieval Brazilian prison system, go unnoticed or even ignored due to hatred, the feeling of revenge that ravages a large part of society, which often forgets that the people who are detained today are the same people who will be free tomorrow by society.

In addition to the Laws already mentioned, the Penal Code states in its article 38, that under no circumstances can penitentiary regulations allow measures that put the prisoner's health at risk or that "offend their human dignity". Therefore, it is clear that in practically all legal provisions the integrity of the prisoner must be respected, as well as his guarantees. (BRAZIL, 2016).

Society watches everything with its arms crossed and naturalizes the events, the lack of human empathy causes all these situations to continue, that for society, those who are suffering their punishment is nothing more than a punishment for not having behaved properly in the face of the laws.

It is extremely important that the Brazilian prison system complies with its legality, as the precariousness and inhumane conditions in which inmates currently live are extremely delicate matters, given that prison units are today large clusters of people, where the strongest will subordinate the weaker.

The State has the power to arrest someone, based on the protection of legal assets protected by itself, with the aim of maintaining a harmonious, peaceful and fair society. Based on this, criminal law is established to regulate human conduct, instituting penalties for those who violate the rules of what not to do contained in the Penal Code and in scattered Penal Laws. Furthermore, the criminal law also regulates fundamental guarantees, as they are part of the structure of the State's constitution,

The legal guarantees provided during the execution of the sentence, as well as the human rights of the prisoner are provided for in various legal statutes. At a global level, there are several conventions such as the Universal Declaration of Human Rights, the American Declaration of the Rights and Duties of Man and the UN Resolution that provides for the Minimum Rules for the Treatment of Prisoners. At the national level, our Magna Carta reserved 32 sections of article 5, which deals with the fundamental guarantees of citizens, aimed at protecting the guarantees of imprisoned men. There is also specific legislation - Penal Execution Law - in sections I to XV of article 41, which provides for the infra-constitutional rights guaranteed to the sentenced person during criminal execution. (ASSIS, 2007, p. 4).

The offenses to dignity of the human person need to be treated as offenses against the foundations of the Rule of Law, this type of behavior can no longer be tolerated, of human beings against human beings, having in mind that one is equal to the other.

It is the duty of the prison system to guarantee the offender conditions that ensure the dignity of the human person, this being a constitutional principle that presides over other fundamental rights and guarantees, aiming for the prison system to offer all the necessary conditions to insert them back into society.

Currently, it is more than evident that the prison system ends up accentuating the marginality of the individuals who enter there, thus increasing what should be combated, thus an inverse effectiveness of such a system can be seen, this situation ends up contributing to an alarming factor: the inmate is being shaped and creates his own assessments of the system, which confines him in a cell, several times, without infrastructural conditions worthy of humanity, allowing, in addition to idleness, to create a mind capable of devising evil plans outside or inside of that enclosure.

Inside prison, among many other guarantees that are disrespected, the prisoner suffers mainly from torture and physical aggression. These attacks generally come from both other prisoners and prison administration officers themselves. The lack of preparation and disqualification of these agents means that they are able to contain prison riots and rebellions only through violence, committing various abuses and imposing on prisoners a type of prison discipline that is not provided for by law, and most of the time these agents end up not being held accountable for their actions and remain unpunished. (ASSIS, 2007).

Due to so many violations and disrespect for the dignity of the human person and to human rights, Brazil has already been denounced several times in international organizations.

Although the statutes demonstrate attention to the human rights of inmates, the reality in Brazilian prisons is very different, the media constantly reports on the barbarities that occur inside the prisons. Penitentiaries, such as murders, in addition to publicizing the real situation of inmates and pre-trial detainees, which is far from ideal.

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As a consequence of the authorities' negligence, Brazil has been the scene of several episodes in which civilians take justice into their own hands, in order to respond to society itself, which is witnessing an increase in crime. It has been heard a lot, a good criminal is a dead criminal, violations of the human rights of inmates have been a consequence of the neglect of government officials, legitimized by society, which sees the suffering of the prisoner as a kind of parallel sentence.

The reason why highly developed political communities, such as ancient city-states or modern nation-states, so often insist on ethnic homogeneity is that they hope to eliminate, as far as possible, those natural and omnipresent distinctions and differentiations which, by themselves, , arouse silent hatred, distrust and discrimination, because they show with impertinent clarity those spheres where man cannot act and change at will, that is, the limits of human artifice. The “strange” is a frightening symbol due to the act of difference in itself, of individuality in itself, and evokes that sphere in which man cannot act or change and in which he therefore has a definite tendency to destroy. (ARENDR, 1989, p. 335).

In Brazilian prison units, cruelty is a hallmark, where inmates live in conditions far below their needs, suffering violence from the State, which should guarantee their living conditions in prison, and in most cases, ends up transferring this violence to the other inmates, that is, it can be said that they commit the most diverse acts against each other, as a way of demonstrating that they are stronger and, thus, being respected and feared.

Therefore, it is clear that the prisoner continues to have his rights, since he is still a person, even if these rights have to be adapted for care in prison.

Ensuring the detainee's rights is not about offering him benefits in the face of his crimes, but rather understanding that he is still a human person, even if his conduct is blameless, Your characteristic of humanity cannot be lost under any circumstances.

Art. 41 - The prisoner's rights are: I - sufficient food and clothing; II - work assignment and remuneration; III - Social Security; IV - constitution of a nest egg; V - proportionality in the distribution of time for work, rest and recreation; VI - exercise of previous professional, intellectual, artistic and sporting activities, as long as they are compatible with the execution of the sentence; VII - material, health, legal, educational, social and religious assistance; VIII - protection against any form of sensationalism; IX - personal and private interview with the lawyer; X - visits from spouse, partner, relatives and friends on specific days; XI - nominal call; XII - equal treatment except with regard to the requirements of individualization of the sentence; XIII - special hearing with the director of the establishment; XIV - representation and petition to any authority, in defense of rights; XV - contact with the outside world through written correspondence, reading and other means of information that do not compromise morals and good customs. XVI - certificate of sentence to be served, issued annually, under penalty of responsibility of the competent judicial authority. Single paragraph. The rights provided for in items V, X and XV may be suspended or restricted through a motivated act by the director of the establishment. (BRAZIL, 2019).

Within the prison system, there is a widespread violation of the fundamental rights of inmates, with regard to dignity by the State, of the corresponding legal order, resulting in degrading, outrageous and unworthy treatment of the person in custody. The sentences applied in Brazilian prison units end up becoming cruel and inhumane sentences, where any and all rights to a minimally human existence are denied.

Furthermore, there is a kind of code of honor among prisoners and, thus, those convicted of certain types of crimes are considered deserving of punishments applied by the prisoners themselves. Instead of prisons removing these individuals from social life so that they understand the seriousness of their actions, they are placed in an environment in which they tend to become even more angry and dangerous. (NOVO, 2017, p.1).

The prison system has not been fulfilling its true objectives, which are to sanction criminal conduct and re-educate inmates in order to reinsert them into society. A clear demonstration of this is the high rates of criminal recidivism in Brazil, as well as the challenge for those leaving prison to reintegrate into the job market and social environment, becomes a difficulty, since there is still a lot of prejudice on the part of society towards former detainees.

Resocialization is perhaps the “weak point” of the prison system. The high rates of recidivism prove that the prison system is not achieving its main objective. Society also has its share of the blame, not providing graduates with opportunities in the job market. The lack of access to education and, consequently, the lack of professional training, contribute to these people not being able to get a job, and feeling socially excluded, due to the great prejudice faced, created by the stigma of being an ex-convict, with a presumption within the collective that this is a violent person who does not deserve trust.

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Disciplining inmates has not been observed in prisons. On the contrary, what is happening is an increase in crime that is supposed to be reduced by the penitentiary. In this sense, what is widely proven is that prison increases crimes in society, instead of reducing them. It is more than evident that the prison system accentuates the marginality of the individuals who enter it, increasing what it should combat. In this sense, what is observed is an “inverse effectiveness” of such a system. Therefore, in fact, we can infer that the supposed state scope of regeneration of the marginalized is hypocritical. Keeping in mind that this will never happen with the penitentiary system that exists today in Brazil, and in most Western countries. This situation contributes to an alarming fact: the detainee is being shaped and creating his own assessments about the system, which confines him in a cell, often without infrastructural conditions worthy of humanity, allowing him, in addition to

idleness, a mind capable of devising evil plans outside that space or even inside it is created. (CYPRIANO; LEMOS, 2015).

Resocialization aims to prioritize the prevention of return to the prison and to reduce idleness in prisons and establish human freedom. A rehabilitated prisoner is not someone who has learned to survive well in prison, but a person who succeeds in the world outside prison after his release. For prison authorities to give priority in their program of activities to what the International Covenant on Civil and Political Rights describes as the “social regeneration and rehabilitation” of prisoners, they will need to base the activities carried out within prison on the principle of offering people prisoners the resources and skills they need to live well outside of prison. This means, for example, linking the work that prisoners perform in the penitentiary with the possibilities of work in the outside world. Incarcerated people need to be helped to acquire skills and develop the ability to earn a living and support a family, given the discrimination that ex-prisoners are likely to face when seeking to find employment.

CONCLUSION

It can be observed that the rights provided for in both the Constitution and the Criminal Execution Law must be maintained, even though the prison system finds itself in a regrettable situation the public authorities have the financial resources to rebuild the Brazilian prison system, providing inmates with resocialization, however the only thing missing is the State's initiative.

For there to be changes in the prison system, society needs to evolve beyond legal positivism, evolving in fraternity, solidarity, in the understanding of what human rights are, in the recognition of a society effectively of equal rights and dignity, to this end public policies aimed at education and the improvement of social culture in this area and effective involvement are required of society in this difficult task of building a free, fair and supportive society.

The crisis in the prison system is reflected in crime rates, given the high level of recidivism in the country, as the resocialization objective has not been achieved, and discussions have been growing to seek alternatives to the problem.

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