



Work in prisons: Considerations on racial inequalities and labor activities in Brazilian prisons

Trabajo en las prisiones: Consideraciones sobre las desigualdades raciales y las actividades laborales en las prisiones brasileñas

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Abstract: The problem of violence has been studied by several researchers who analyze contemporary society. In these debates, reflections on the involvement of young people in crime, the increase in incarceration of the black population and the importance of public policies for the prevention of this phenomenon are common. The Federal Constitution of Brazil - CRFB of 1988 and Law 7.210/84 of Penal Execution (LEP) show that educational and work activities must be carried out by the prison population, mainly because they represent efficient mechanisms in the rehabilitation of inmates. This research aims to analyze the criteria used by the penitentiaries to select the convicts considered apt to develop productive activities, verifying, above all, if the convicts' race, color, or ethnicity interfere in their possibilities of access to work activities. The methodology used consisted of the literature review produced on this topic specifically in Brazil in the last five years. The data obtained revealed aspects that allow the permanence of an unequal society, which violates rights guaranteed in the Magna Carta and in the Criminal Executions Law. Among them, the persistence of racial inequalities in prisons, the overcrowding and precariousness in prisons and, above all, the neglect of the public power in not expanding policies aimed at resocialization, stand out. In view of this, the need for the State to intervene in this reality is identified by implementing public policies capable of collaborating with the effectiveness of basic guarantees guaranteed to all citizens, including those who are under deprivation of liberty.

Key-words: *Prisons; Rights; Social Reintegration.*

Resumen: El problema de la violencia ha sido estudiado por varios investigadores que analizan la sociedad contemporánea. En estos debates es común oír hablar de la participación de los jóvenes en la delincuencia, del aumento del encarcelamiento de la población negra y de la importancia de las políticas públicas para la prevención de este fenómeno. La Constitución Federal de Brasil - CRFB de 1988 y la Ley 7. 210/ 84 de Ejecución Penal (LEP) muestran que las actividades educativas y laborales deben ser ejercidas por la población carcelaria principalmente porque representan mecanismos eficientes en la resocialización de los presos. Esta investigación tiene como objetivo analizar los criterios utilizados por los centros penitenciarios para seleccionar a los internos considerados aptos para desarrollar actividades productivas, comprobando especialmente si la raza, el color o la etnia de los internos interfieren en sus posibilidades de acceso a las actividades laborales. La metodología utilizada consistió en la revisión bibliográfica producida sobre este tema específicamente en Brasil en los últimos cinco años. Los datos obtenidos revelaron aspectos que permiten la permanencia de una sociedad desigual, que viola derechos garantizados en la Constitución y en la Ley de Ejecuciones Penales. Entre ellos destacamos la permanencia de las desigualdades raciales en las prisiones, el hacinamiento y la precariedad en las cárceles y sobre todo la negligencia del poder público en no ampliar las políticas destinadas a la rehabilitación. Ante esto, se identifica la necesidad de que el Estado intervenga sobre esta realidad

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Received on 2022/11/25; approved on 2023/05/30

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implementando políticas públicas capaces de colaborar con la efectividad de las garantías básicas aseguradas a todos los ciudadanos, incluyendo a aquellos que se encuentran bajo privación de libertad.

Palabras clave: *Prisiones; Derecho; Resocialización.*

1 INTRODUCTION

In contemporary times, it is possible to observe several complex social problems, such as: the increase in the varied modalities of violence, the permanence of racial inequalities and the increase in the degradation of the various forms of work, including those carried out in the Brazilian prison system. The persistence of these social impasses prevents the construction of an egalitarian society, with the effectiveness of social rights, as stated in the Magna Carta of the country.

Among these social rights, it is possible to highlight the right to work, which is guaranteed to all regardless of race, social class, and gender categories, as well as to those who are deprived of their freedom, especially because labor activities play an important role in the process of re-socialization of the convict.

In view of this, labor activity is a right guaranteed and established in Federal Law No. 7,210 of July 11, 1984, which established the Law of Criminal Enforcement - LEP. In its article 28, it is evident that the convict's work should be understood as a social duty and a condition of human dignity, with educational and productive purposes (BRASIL, 1984).

However, there is a consensus among researchers who analyze this reality. It is the persistence of racial inequalities and the precariousness of Brazilian prisons. The problem of unhealthy environments and the inefficiency of work activities, caused mainly by the lack of attention and financial investments necessary for these sectors, stand out. Thus, this research aims to conduct a diagnosis considering the categories race, color, and/or ethnicity of the prisoners, about the interference in the possibilities of access to labor activities during the period of incarceration.

Therefore, this research sought to answer the following questions: Does the black population present more difficulties in accessing productive activities while incarcerated? What are the criteria used to select the prisoners who develop productive activities? What types and conditions of work are offered by prison units to the black population incarcerated today in Brazil? What are the difficulties faced by black prisoners to access a job during and after their sentences?

2 METHODOLOGY

This research was carried out based on the bibliographic review used so that the researcher could deepen on the theme and understand concepts and carry out summaries. In relation to the method, the deductive method was used, which consists of the process of analyzing information that leads to a

conclusion. It should be noted that both are considered by methodologists as a process of searching, analyzing and describing the knowledge produced on a given subject. This procedure is seen for scholars such as VOSGERAU and ROMANOWSKI (2014) as follows:

Review studies consist of organizing, clarifying, and summarizing the main existing works, as well as providing complete citations covering the spectrum of relevant literature in a field. Literature reviews can present a review to provide a historical overview on a topic or subject considering the publications in a field. VOSGERAU AND ROMANOWKI (2014, p. 167).

The choice of this method is due to several factors. Among them we highlight the following: Through it was possible to affect an analysis of this phenomenon, comparing the different experiences and results of research on this theme. Furthermore, through this method we identified the Brazilian criteria for selecting the prison population that is able to develop productive activities during their period of incarceration, diagnosing whether the color of the inmates has any influence. Thus, we identified possible paths to be followed for the improvement of labor practices capable of promoting the re-socialization of the prison population.

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Regarding the type of literature review, we chose the narrative review, which is based on the following procedures:

The "narrative review" does not use explicit and systematic criteria for the search and critical analysis of the literature. The search for studies does not need to exhaust sources of information. It does not apply sophisticated and exhaustive search strategies. The selection of studies and interpretation of information may be subject to the subjectivity of the authors. It is appropriate for the theoretical foundation of articles, dissertations, theses, and course completion papers (Biblioteca Dante Moreira Leite, n.d).

This perspective is also highlighted by Flick (2013), where he points out that a narrative review presents an account of the literature in the sense of an overview, including different types of literature.

Regarding data collection, the following procedures and delimitations were used:

- The literature search occurred from electronic databases, in this case, Scielo and Google Academic. For this procedure, the following descriptors were used: Work in prisons, violence, black population, and racial inequality.
- The inclusion criteria were articles published in Portuguese language, in the last five years, dealing with the aforementioned theme;
- Articles that were not published in the years 2016 to 2020 were excluded, as well as studies that do not portray the reality of Brazilian prisons.
- For the examination of the current data on the prison population in Brazil, an analysis of the data brought by the National Survey on Penitentiary Information - INFOPEN was performed.

3 RESULTS AND DISCUSSIONS

In the initial phase referring to the search for bibliographic material, the articles published between the years 2016 and 2020, in Portuguese language, were selected. These articles were grouped and organized in a table that shows the number of articles published per year, as shown below:

TABLE 01: Quantity of analyzed articles.

Year of publication	Articles analyzed
2016	6
2017	2
2018	3
2019	2
2020	3
TOTAL	16

SOURCE: Research data (2022).

Based on Table 01, it can be seen that a total of 16 articles were analyzed. In this sense, it is important to emphasize that only those articles that addressed at least one of the questions proposed in the present investigation and enrichment of the research were used.

In addition, another table was prepared to show the list of authors who address the aspects analyzed in this research, such as:

- Racial Inequality in contemporary society;
- The importance of work for the prison population;
- Considerations about the criteria used in the selection of inmates able to develop labor activities;
- Reflection about the types and conditions of work offered by prison units in Brazilian society.

TABLE 02: Relationship between the investigated questions and the researchers who addressed the subject.

N.º	Questioning	Researchers
1	How is Racial Inequality portrayed in contemporary society?	Madeira e Gomes (2018); Moreira e Silva (2020); Rodrigues (2020).
2	What is the importance of work for the prison population?	Oliveira (2016); Pinto e Lemos (2016).
3	What are the criteria used in the selection of inmates capable of developing labor activities?	Rudinick e Gonçalves (2016); Oliveira (2019).
4	What types and conditions of work are offered by prison units in Brazilian society?	Ireland e Lucena (2016); Rudinick e Gonçalves (2016); Oliveira (2017); Pinto e Lemos (2016); Moraes; Carvalho; Cunha e et al (2019).

SOURCE: Research data (2022).

As we can see in Table 02, it is possible to identify the approach taken by the researchers about the issues highlighted and investigated. It is important to point out that the researchers examined did not address all the aspects investigated simultaneously.

Racial inequality in contemporary society

Historically, Brazil was the last country in the world to abolish the slave labor of black people. Based on this fact, the notion that Brazil can be considered the country of racial democracy is criticized, since its social reality demonstrates an adverse conception.

In this way, race, as a social determinant, is still present in the production and reproduction of inequalities and especially in the processes of social exclusion of the black population in Brazil. It is notorious how much the country's black population suffers from violence, prejudice, and criminalization, perpetuating oppression and distancing itself from what is considered to be a racial democracy.

About this, the authors reflect that:

The idea of racial democracy, propagated as a powerful myth, worked as an ideological instrument of social control, ending up legitimizing the structure that is in force until today, of inequality, discrimination and racial oppressions that tend to be explained within the personal sphere. MADEIRA AND GOMES (2018, p.464).

Racial inequality is a social and structural problem of the relations properly established, a fact that hinders the insertion of blacks in public, political, economic and social environments. Therefore, we understand that the vulnerabilities experienced by the black population are products of the criminal history of slavery. And, therefore, we live today paying the bill of our ancestors who did not choose this path of perversity, atrocities, and accumulation of disadvantages."

At present, racial inequality has been revealed, in general, through the indicators that affect black men and women, in which the illiteracy rate, high numbers of homicides, wage disparity, and terrible working conditions stand out.

Regarding the wage disparity Madeira and Gomes (2018, p.471) evidence that "it is visible when we have the average income of women, especially black women, which remains much lower not only in relation to men, but also in relation to white women."

Moreira and Silva (2020, p. 757) brings the concept of race related to the political factor and on this they argue that: "It increasingly fosters inequality among human beings, arduous will be the task to denaturalize the said term, in order to end the disadvantages and privileges that individuals suffer based

on their race, according to the interests of those who hold power. Thus, this factor contributes to the naturalization of inequalities and segregation of the black population.

As far as Brazilian law is concerned, it is considered that the judiciary has incorporated racist theories, among them the Eugenics theory, which adopted the black as inferior to the white and as a delinquent. Besides, it is notorious that brown and black people are the majority among prisoners in Brazil, as presented by the National Survey on Penitentiary Information - Infopen.

About blacks being the majority in prisons, Rodrigues (2020, p. 191) understands that: "the phenomenon of prison racism carried out through control of black bodies, supported by the criminal justice system operates under the selective, segregationist, exploitative functional structures, and that acts as a reaffirmation of white racial supremacy."

Moreira and Silva (2020, 759) bring a complex and pertinent positioning in relation to the judiciary, since it has been the least guarantor of rights to black people. About this they state: "deprives them of their freedom unjustly, even though they have favorable evidence in the records and laws in their favor; they resist recognizing crimes of racism; they are highly selective; they are resistant to arrest white people and convict them, always finding ways to favor them, such as answering processes in freedom, which does not happen with the black, among others." The struggle still persists, because it is a constant to resist in a country of very negative impressions regarding the racial issue.

In face of the premises presented, it is clear how much we need to advance so that we can really achieve racial democracy. From a minimum of awareness to a greater investment in affirmative action and educational projects are urgently needed for the realization of basic and essential rights for those who feel and are effectively excluded from society.

3.1 The importance of work for the prison population

The prisoner's work is considered essential. The author Oliveira (2016, p.168) points out the numerous advantages in relation to work for the prison population and they are: Avoiding idleness within the establishment, benefit of remuneration, resocialization and remission of the sentence.

About this last benefit Oliveira (2016, p.169) portrays that the remission "besides serving for social reinsertion and learning, helps in the remission of your sentence, that is, for every three days worked, will be reduced one day of your sentence, according to Article 126, § 1, II of LEP".

The author also highlights that the labor activity has a re-socializing character in which: "It would be a form and end of the sentence. It would be a way of executing it, as well as, after its accomplishment, the end would be contemplated with the relocation of the person to life in society. And, fatally, one of the ways to achieve resocialization would be through work." (OLIVEIRA,2016, p.169). In this way, the

resocializing character provided by work positively rehabilitates the incarcerated individual, so that he or she accepts the rules established and followed in society.

However, it is possible to observe the difficulties of the resocialization process, given that prison reinforces the unequal system in which it marginalizes poor and black people, as stated by Oliveira (2018, p.92).

Studies conducted analyze about the process of professionalization of the convict, on this aspect we have:

[...]it is by preparing the prisoner by professionalization, by the full occupation of his time in something useful and productive and, consequently, by the opportunity to live free again, by the recognition of rights and duties, responsibilities and human dignity that the desired adjustment or resocialization will be obtained. Oliveira (2016, p.45).

In this sense, the activities developed by the convict besides providing him the remission of his sentence, characterized by the shortening of the time required for his reintegration into society, allows the individual, in theory, when he escapes from prison, to find himself as a person of good character, holder of a trade/profession, no longer needing the "ways of crime" to ensure their livelihood.

A very important aspect addressed by Laura Oliveira (2016, p.178) is the need for a new regulation for prison labor. Therefore, inmates should be guaranteed labor rights in order to instigate and demonstrate how it is regulated and the possible advantages of being a regularized worker in reality.

In this perspective it is relevant that the perception highlights the importance of work for the prison population. In this way:

For prisoners to have opportunities upon release, it is essential that, while in prison, they have the chance to specialize in trades that can provide them with jobs, which will ensure their livelihood and that of their family." (PINTO; LEMOS,2016).

Therefore, by understanding the importance of work in the process of resocialization of the prison population, the need for greater investments in public policies already legally provided, but that need a financial budget to implement them is highlighted. Thus, paying attention to these sectors will contribute positively to demands coming from prison in general.

Considerations about the criteria used in the selection of inmates able to develop labor activities

Based on the data obtained, it was found that there is no legal definition of the criteria adopted in the process of selecting the inmates who wish to work while serving their sentences. This process involves relevant and complex aspects, as will be revealed throughout this topic.

According to the Lei de Execução Penal - LEP (Criminal Enforcement Law), in its Art. 37, which deals with the inmate's work in external sectors, the provision of work should "be authorized by the prison administration and will depend on aptitude, discipline and responsibility, in addition to the minimum completion of 1/6 (one sixth) of the sentence".

In the analyzed text of Rudnick and Gonçalves (2016), they observed that prison work in the central prison of Porto Alegre/RS, that in practice, there is no equality regarding the right to dispose of work, because there are sectors that exclude candidates by the type of crime committed. They point out that the main requirement is not having committed crimes against the police in general, but each sector has its own particularities for selection. As an example, they point out that in the outpatient clinic and in the education center (NEEJA), convicts who have committed sexual crimes and Maria da Penha Law are not selected. In this case, it is observed that the system chooses which inmate will benefit from the job vacancy and the selection disfavors the candidates who have committed certain specific crimes.

Also in the same article, the authors reveal that a person who has a relationship, direct or indirect, with a prison servant or someone who knows a servant will have easier access to a job opening.

The researcher Joelma Oliveira (2018, p.83), from a scientific work, using individual interviews with inmates, identified in some of the reports that having good behavior and knowledge with third parties (internal employees) enables inmates opportunities to develop labor activities. In this way, it is identified how work in these spaces is considered a "privilege", because not everyone has good behavior, nor friendship and knowledge with others. In these cases, the difficulty of access to work activities may prevent many from enjoying this type of right.

Still on this aspect, Oliveira (2018, p.84) points out that "The knowledge with third parties involves a web of power relations, in which it ends up benefiting some who are under a greater influence to the detriment of others, the right to work set forth in the law does not materialize.

This aspect reveals how the prison strategy is, considering that the well-behaved convict, while having access to work, is watched and regulated, perhaps disciplined, but coerced and far from the positive purposes proposed by the penalty.

Based on these data, we highlight the need for expansion, in the scientific field of research, that addresses this issue in more detail. This way, prison guards and other professionals who work in prisons will be able to provide more accurate information about the mechanisms used in the selection process of the inmates who seek to develop labor functions during their sentence.

3.2 Reflections about the types and conditions of work offered by prison units in Brazilian society

From the texts analyzed, one can see that there are simple jobs such as handicrafts (sewing balls, assembling fasteners, enveloping figurines and spices), plastic arts (painting and sculptures), carpentry, toolmaking, cleaning, and cooking.

Ireland and Lucena (2016) when dealing with education and work in a female re-education center, point out that the occupations exercised by inmates are mostly those of support to the penal establishment (general services, cook, caller, fairground porter, carrier of objects for the kitchen) and sewing in an existing factory inside the prison, in a partnership with the private initiative, as well as in a dolls workshop.

Furthermore, from the case study, the authors reveal that:

[...]work, when offered in prison, either bears no relation to professional experiences and skills prior to incarceration, or does not conform to the demands and needs of the labor market beyond bars. IRELAND AND LUCENA (2016).

Authors Rudnick and Gonçalves (2016) portray that these types of work have only occupational function. It is to pass the time and reduce the sentence (main objective on the part of the inmate) not to learn a trade or profession that allows obtaining a formal job after serving time. The authors note that the activities are not attractive and, therefore, do not provide re-socialization and re-education as benefits of work.

The United Nations Standard Minimum Rules for the Treatment of Prisoners, in item 72.1, determines that prison work should be as close as possible to that governing similar work outside prison, in order to prepare prisoners for normal working conditions at liberty.

However, when it comes to the types and conditions of work offered to prisoners in Brazil's penitentiaries, it was found that prisons face difficulties in generating and expanding access to productive activities. In this scenario, prison overcrowding, lack of financial investments, and non-application of public policies are common.

Gláucio Oliveira (2017) highlights the absence of job offers for inmates. In his perspective the lack of physical structure of the penitentiary establishments. In this scenario is that prison work devoid of qualification, without educational and productive purpose, that does not respect the aptitude and capacity of each inmate.

In this sense, we question: How to talk about work generation to inmates if even the basic and essential conditions are not being met? In the current Brazilian context, most prisons are exposed to terrible conditions, unhealthy places, structural failures, serial diseases, lack of basic sanitation and violence.

Moraes (2019), Carvalho (2019), Cunha et al (2019, p. 198) portray that the reality of the prison system in Brazil is extremely serious and "the government system and responsible for this management remains inert and insensitive to this chaotic reality and, most of the time, a selectivity and discriminatory occurs in the judicial, legislative and social control."

In this sense, (PINTO; LEMOS,2016, n.p) when referring to the precarious conditions of prisons provides that "some establishments operate in precarious conditions, far from the normative ideal, failing to contribute, as they could, with the guidelines indicated in Article 1 of the Law of Criminal Enforcement: humanize and punish.

In relation to work, the authors contribute by stating that:

[...] the lack of work opportunities in closed regime also evidences a non-compliance with the law of penal execution, since its art.126 says that the convict serving time in the closed and semi-open regimes can discount, for every three days of work, one day in the rest of the sentence (PINTO; LEMOS,2016, n.p).

Therefore, it is evident that the state that promotes social welfare, basic and essential rights should foster public policies aimed at prisons that enable the promotion and expansion of labor activities in workplaces. In this way, the situation could be mitigated with the adoption of measures led by private initiative, adapting the physical spaces of the prison for an adequate performance of labor activities. Moreover, it is noteworthy how greater investments in education, work, leisure and quality of life for the population in general, are fundamental measures to provide the reduction of the prison population.

Racial inequality in relation to the possibilities of access to labor activities in the Brazilian prison system

First of all, before we begin to analyze racial inequality in relation to the possibilities of access to labor activities in the Brazilian prison system, it is necessary to reflect on this social category in the labor market itself.

Researchers who analyze this phenomenon emphasize that throughout the history of our country, there have been several cases in which the administrators of power, through the State, sought, based on Eugenics policies, to "whiten" the Brazilian population.

In this way, the absence of public welfare policies after the abolition of slavery that aimed at the integration of blacks in society, especially in the labor field, coupled with the national memory of the slave as an object/thing, resulted in a structural racism in the foundations of our nation, reflecting in negative discrimination in all areas of Brazilian society.

Perhaps this explains the statistical discrepancies in the surveys carried out to quantify the occupation of jobs, the characterization of the prison population, and illiteracy, for example, when the racial indicator is applied. In this vein, we can consider that in relation to access to labor activities within prisons, the same scenario found in the labor market follows, or even more accentuated, given the higher concentration of black people in prison, as provided by the National Survey of Penitentiary Information - INFOPEN (2019).

However, this finding could not be substantiated through scientific research previously conducted, demonstrating the deficit of studies with greater specificity and notoriety in relation to the theme, especially when we consider an alarming ethnic-racial problem. It also highlights the inefficient structure of penal institutions for the promotion of work in their facilities.

According to Heleno Cláudio Fragoso (1993) "unfortunately, we must say that the provisions of the law on prison labor constitute a beautiful and generous letter of intent that is not, and will hardly ever be, in accordance with reality. Idleness is common and widespread in our prisons."

The structural problems together with institutional racism result in a highly selective environment, in which, as Gláucio Oliveira (2017) rightly points out, the inmate's acquaintance with employees and internal servers of the prison unit prevails, demonstrating the non-observance of the requirements provided by law, namely: Fitness, discipline, responsibility, minimum compliance of 1/6 (one sixth) of the sentence.

In light of this, the National Council of Justice (CNJ), aware of the non-compliance with the requirements set forth in LEP, regarding the granting of work to the convict in prison, should notify, or even create resolutions establishing guidelines and procedures to be observed by the Judiciary, in the criminal sphere, with respect to the treatment of the black population seeking to be granted the benefits of work.

In view of the above, it is understood that racial inequality is not considered a selection criterion for access to labor activities in the Brazilian prison system. But the findings evidenced in this research cannot be seen as definitive or absolute, especially since it is an eminently theoretical research. Possibly a

field research with the application of interviews or questionnaires in prisons would provide the construction of a more assertive position on this issue.

4 CONCLUSION

Through the data obtained in this research it was found that in order to truly achieve racial democracy, it is necessary to expand the creation of affirmative action, with educational projects for the realization of basic and essential rights for the black population. In addition, we emphasize the need for greater investments in public policies, legally provided, which enable the promotion and expansion of labor activities in jobs for the prison population. In relation to the criteria used in the selection process of the prison population's labor force, we highlight the need for the expansion of field research that addresses this aspect of reality. This way, through systematized scientific information, it will be possible to verify if the color of the skin represents an aspect considered in prisons during the selection process for work posts destined to the prison population in the current Brazilian prison system.

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