

## Punishment, Control and Prisons: A Short Overview of Incarceration in Brazil

Alexandre João Cachoeira<sup>[a]</sup>; Matheus Bisso Sampaio<sup>[a]</sup>; Marcelo Marques<sup>[a]</sup>; Joel Cezar Bonin<sup>[a],\*</sup>

<sup>[a]</sup> Postgraduate Program Development and Society (master's degree), UNIARP, Caçador, SC, Brazil.

\*Corresponding author.

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### Abstract

This text aims to discuss how the prison in the West started, as well as how this new form of curtailment of freedom has become the most chosen when it comes to defining means of punishment and control over human life. Since its institution in the eighteenth century, surveillance over human delinquency has become a practice that has permeated not only penitentiary institutions, but fundamentally our daily life. Therefore, it is necessary to understand how social life is permeated by the criterion of “seeing without being seen” and “monitoring without being monitored”. If on the one hand we have a constant control over human behavior in public spaces, penitentiaries have then become a space of total segregation, in the sense that they separate the normal from the abnormal, the “good citizen” from the delinquent. In this way, this text also addresses the situation of Brazilian penitentiaries, first in general and then, more emphatically, the reality of women’s prisons in our country. In addition, it should be noted that the text produced here adopted the scientific methodology of a bibliographic order, of a qualitative nature, judiciously based on a theoretical foundation based on scientific articles and books by authors who have studied and investigated the theme since the mid-1970s.

**Key words:** Punishment; Prison; Penitentiaries; Control; Women’s penitentiaries

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### INTRODUCTION

This text is the result of our interest in understanding how the prisons in the West started and how effectively this institution personified the punishment of the most varied crimes. To understand its current role, it is necessary to realize how it has historically been transformed into this stage of control over life, in a more restricted sense, and how it has become the only possible form of monitoring and surveillance, not only for those who are entangled with it, but for all the social environment.

Michel Foucault (2013) as one of the pioneers of debates regarding the beginning of the prison, tells us how the prison system created by the panopticon established a new criterion of control over life. In the panopticon, there is no longer an idea of the annihilation of life, common before prisons, but a productive prolixity that causes the body to no longer be quartered, but instead to be expansively put into production.

Using this fundamental idea as the start, the first part of this text aims to demonstrate the role of the prison as a space of vigilance and constant attention on human action. The prison thus becomes, at the same time, a space of recollection, monitoring, predictability, and productivity. Controlling human behavior this way, many other institutions, such as schools and factories, become experts in watching, scrutinizing, and predicting the behavior of human beings in the collective environments of human coexistence.

Then, the text will present two more important topics on the impact of this mode of surveillance, namely, a) how Brazilian prisons still have a great relationship with the idea that punishment for crimes should occur with the overcrowding of these spaces and how much this implies in practices that increase the number of incarcerated people and b) how the increase in incarcerated women is the result of a very evident public disinterest in the lives of these people.

Therefore, the text is connected to the central idea of this investigation, that is, the text proposes to demonstrate that the world of the panopticon, thought by Foucault, is in the face of all of us and echoes everywhere. However, the sense of reification and indifference remains stronger in those who are reduced to statistical data of criminality and have lost their rights as citizens because, in the common view of Society, these people no longer “have the right to have rights” and, therefore, are not human beings “worthy of dignity”.

Furthermore, this article was prepared according to the following criteria: collection of public data on incarceration, bibliographical survey and discussion developed by crossing theoretical data and statistical data found. The central idea of the article was linked to the essayistic debate on the recent history of prisons and the Brazilian problems of incarceration.

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## FROM TORTURE TO CONTROL OVER LIFE: THE EVOLUTION OF PUNISHMENT, THE DOCILIZATION OF BODIES AND VIGILANCE

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Certainly, the work that best describes the evolution of punishment and incarceration is *Discipline and Punish: Birth of Prison*, published by Michel Foucault in the 1970s. Since then, it has been translated, cited, and intensively referenced in scientific works, articles, theses, and treatises from the most diverse areas of knowledge year after year since its publication, thus becoming the greatest reference when it comes to the study of the origins of the punishment systems and their complex peculiarities. *Discipline and Punish* offers a thorough analysis of the historical transformation of the methods of punishment and incarceration, presenting a critical appreciation of the changes in punitive systems over time, revealing the gradual transition from more brutal and spectacular forms of punishment to a more disciplinary model of control in the West from the eighteenth to the twentieth century.

Foucault begins his analysis by exploring the pre-modern era of punishments, marked by public and spectacular forms of execution, such as torture. Methods such as torture, hanging and quartering were intended to inflict extreme pain on the criminal’s body, which was characterized as ‘exemplary punishment’ for the society of the time. These practices were aimed not only at punishing the individual, but also at demonstrating the power and authority of the state.

A penalty, to be a torture, must obey three main criteria: first, to produce a certain amount of suffering that can, if not measure exactly, at least appreciate, compare and hierarchize; death is an ordeal as it is not simply deprivation of the right to live, but the occasion and the final term of a calculated graduation of sufferings: from the beheading — which reduces all suffering

to a single gesture and in a single instant: the zero degree of the ordeal — to the quartering that leads to greatest one, through hanging, the stake and the wheel, on which they agonize for a long time; death-torture is the art of retaining life in suffering, subdividing it into “a thousand deaths” and obtaining, before it ceases existence, *The Most Exquisite Agonies*. The ordeal rests on the quantitative art of suffering (Foucault, 2013, pp. 36-37).

However, according to Foucault, with the passage of time, new punitive practices emerge, going beyond this dismembering violence to a thorough and scrutinized control of human life through discipline. It explores the transformation of punitive institutions, focusing on the emergence of prisons, which replaced spectacular physical punishments. The prisons allowed a more constant surveillance of the inmates and the imposition of strict routines, aiming at the regeneration of the criminal through work, reflection, and isolation.

Foucault transcribes a complete example of a regulation drafted for the House of Young Detainees of Paris, whose content has twenty-eight articles describing a clear routine of activities and schedules to be fulfilled by the incarcerated throughout the day. Explicit body violence is replaced, while it is produced in the dull and timed routine, a mechanism of punishment and the beginning of what the author will define as docilization of bodies (Foucault, 2013).

Concomitantly, Foucault also describes disciplinary society as a structure of control characterized by constant monitoring, rigid hierarchy, and normalization of individuals. Institutions such as prisons, schools, and hospitals share disciplinary techniques such as meticulous observation, detailed recording, and regular training. These techniques aim to shape the behavior of individuals according to social norms, establishing an internalized discipline:

The historical moment of the disciplines is the moment when an art of the human body is born, which aims not only at increasing its abilities, nor at deepening its subjection, but at the formation of a relationship that in the same mechanism makes it the more obedient and the more useful, and conversely. A politics of coercions is then formed, which is a work on the body, a calculated manipulation of its elements, of its gestures, of its behaviors. The human body enters a machinery of power that scans it, disarticulates it, and recomposes it. A “political anatomy,” which is also a “mechanics of power,” is being born; It defines how one can have dominion over the body of others, not only to do what one wants, but also for them to operate as one wants, with the techniques, according to the speed and effectiveness that one determines. The discipline thus manufactures submissive and exercised bodies, “docile” bodies (Foucault, 2013, p. 133).

According to what was pointed out by the author himself, the marks of this surveillance model for the guarantee of discipline and, consequently of the docilization of individuals, are also evident today, not only in the prison model, but in the school and corporate environment. In this regard, it is pertinent to highlight that the surveillance and control models continue to be

updated, serving increasingly varied objectives. The most important thing is the maintenance of a system focused on “seeing without seeing, noticing without being noticed”, because true docilization cannot take place in the same molds as a lacerating violence, but in a regime of imperceptible, constant and manipulative control, so that the subject who suffers the discipline accepts it inertly, with no caveats or reactions of disgust.

Currently, in 2023, we can see that vigilance is constant. Many homes have closed TV systems, with indoor and outdoor cameras to increase security. On public roads, this reality is repeated, with surveillance cameras and traffic control covering an ever-increasing area of the map of cities and highways. Police officers carry cameras on their uniforms to record the occurrences. However, it is in the personal realm that the reality of surveillance has gained an almost ubiquitous proportion. With a population increasingly connected through the internet and *smartphones*, the concept of surveillance has become like a fabric, a mesh that permeates the entire social organization. Regarding this, Byung-Chul Han has something truly relevant to tell us:

The domination of the information regime is concealed, to the extent that it merges completely with everyday life. It is cloaked behind the complacency of social media, the convenience of search engines, the cradling voices of voice assistants, or the helpful officiousness of smart apps. The smartphone reveals itself as an efficient informant, which subjects us to a lasting surveillance. The Smart Home transfigures the entire home into a digital prison that meticulously protocols our everyday life. The smart robot-vacuum cleaner, which saves us from tiring cleaning, maps the whole house. The Smart Bed, with its connected sensors, makes the vigilance also last during sleep. Surveillance infiltrates everyday life in the form of convenience. In the digital prison as a smart welfare zone, no opposition is raised against the dominant regime. The “like button” excludes all revolution (Han, 2022, pp. 16-17).

As we have seen, the control of surveillance is no longer conducted through a violent and blatant control, but through the subtlety and “invisibility” of information technologies. The theme is very instigating and engenders great discussions about the contemporaneization of the new modes of control and surveillance, but beforehand, we inform you that this will not be the focus of the discussion in this text.

Moreover, surveillance over schools nowadays has taken the form of laws and decrees in our country. Bill 867/2015 (Brazil, 2015) illustrates this very well, because its purpose was to implement the “School Without Party Program”. Among its assumptions, the project required supervision on teachers’ actions in the classroom, under the justification of fighting ideological indoctrination in schools. In a recently published text, Cachoeira, Grobe and Bonin (2023), discuss the parallels between the Foucauldian theory of punishment and surveillance with the modern reality of a new panopticon, served by the entire current technological apparatus:

Formerly, a central tower from which one could see multiple well-arranged and organized cells; now, multiple small, interconnected cameras, globally available and ready to capture every word, position, statement, or idea that can later be used for the most diverse purposes. The power was diluted with the passage of time (Cachoeira; Grobe; Bonin, 2023, pp. 426-427).

Thus, as we can notice, Michel Foucault’s “Discipline and Punish” offers an in-depth analysis of the evolution of the methods of punishment and incarceration, emphasizing the shift from spectacular punishments to discipline and social control. The impact of this work on the world of prisons and social life is so strong that its echoes can still be felt today, as Foucault’s ideas about power, surveillance, and normalization continue to influence the understanding of punitive and social systems to this day.

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## FROM THE PUNISHMENT OF THE PHYSICAL BODY TO THE PUNISHMENT OF THE SOUL

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“The certainty of being punished is that it must divert man from crime and no longer the abominable theater” (Foucault, 2013, p. 14) of the torture, for example. As already mentioned, the act of punishing has gained notorious complexity over time. It left the exclusivity of the judge’s hands - once the arbitrary executor of the sentence as judge, jury, and executioner - to be distributed among other agents. The penalty, once a summary act, has come to be subdivided, where each actor is responsible for applying a specific part, a dose of punishment, to the individual. “Punishment is shared by the functional apparatus: experts, educators and prison administration officials participate at different times, but all of them are participants in the process of sentencing the inmate” (Nunes, 2019, p. 5). Despite this new reality of punishing, the prison system becomes not only a “warehouse” of delinquent or useless people because

More than analyzing the prison only as a resource of segregation, of kidnapping of individuals, Foucault showed the productive side of prison, both by delimiting delinquency and collaborating in the differential management of illegalisms, as well as by revealing the profusion of examinations, information, knowledge that were produced there around the imprisoned individuals and that are strongly associated with the human sciences.” (Smith; Correia Junior, 2014, p. 2).

Thus, before the birth of the prison, the body was the “end” to which punishment was applied. In the ordeal, pain was the penalty, the unbearable, the punishment was the “art of unbearable sensations.” Later, the body became an intermediary, because the focus of the application of the penalty ceased to be physical, because it became metaphysical, ceased to reach the flesh to achieve freedom, considered at the same time as a right and as a good (Foucault, 2013). The restriction of freedom, then, becomes more painful than the pain of bodily violence. The focus is on the behavior and the psyche and no longer

on the body. The actor is the same, but the stage has changed.

This change indicated by Foucault was seen as a slight humanization in the system of penal application, however, as the author proposes, what began to be punished was the soul of the individual, through the application of a penalty that acts on “the heart, the intellect, the wills and the dispositions” (Foucault, 2013, p. 21) The soul to which Foucault refers is not a mystical element, transcendental or religious, but the component permanently produced by the power that is exercised in those who are punished.

It should not be said that the soul is an illusion, or an ideological effect, but to affirm that it exists, that it has a reality, that it is produced permanently, in toto, on the surface, within the body by the functioning of a power that is exercised over those who are punished — more generally over those who are watched, trained and corrected, on the mad, the children, the schoolchildren, the colonized, on those who are fixed to an apparatus of production and controlled throughout their existence [...] This real, incorporeal soul is absolutely not substance; it is the element where the effects of a certain type of power and the reference of a knowledge are articulated, the gear by which the relations of power give way to a possible knowledge, and the knowledge redirects and reinforces the effects of power (Foucault, 2013, pp. 31-32).

The soul, then, can be understood as an amalgam of all the determining conditions of the constitution of the individual, be they cultural, social, psychological, moral, or ethical. It is as if the sum of all these factors composes a new element - the soul - which becomes the target of punishment. In other words, it can be said that the soul is directly intricate with the idea of behavior, because sociology, philosophy, anthropology, and psychology constantly study the parameters and patterns of what makes the human being, *homo sapiens-sapiens* become, in fact, an individual. Having mastery of these parameters, it is possible to punish much more effectively than just punishing a physical body. This characterization, for didactic purposes, can receive the label of behavior, because this is precisely what these sciences listed above do: they try to give a reasonable explanation for the way of being and living of individuals so that this can be measured and analyzed by means of scientific methods.

After this analysis, the change in the applicability of the penalty to the body loses some of the “humanization” of which it was superficially credited. What is observed is the objectification of the individual, very pertinent and very entangled to the political and economic system to which he is subjected. What was supposed to have a garment of salvation, becomes an even more reifying form of apprehension and control over the lives of the subjects; for now, it is no longer the body that is the center of vigilance, but the most trivial attitudes, gestures and practices that may imply some form of punishment, whether mild or severe.

This new system, more subtle and sophisticated to punish, goes beyond prison and finds parallels in all social

organization, from schools to companies, understanding that it is possible to exercise power over individuals not only for the purpose of punishing them, but also of making them more useful. Foucault thus proposes the concept of docilization of bodies, with discipline as the main factor. For him, discipline manufactures submissive bodies - the “docile” bodies, increasing the strength of bodies, in economic terms, of production, and reducing these forces in political terms of obedience (Foucault, 2013). In addition to the control exercised by the discipline in a specific way, Foucault proposes a more anatomical and mechanical character for the exercise of power.

In other words, the docilization of bodies refers to the process by which institutions such as prisons, schools, hospitals, and factories use power through disciplinary techniques to shape and regulate human behavior more efficiently. Instead of relying solely on visible and violent forms of repression, modern institutions have come to employ a series of devices that aim to influence people’s behavior, attitudes, and habits. Foucault describes several disciplinary techniques that are part of this process of docilization of bodies, such as constant observation, the hierarchy of supervision, the control of time and space, the normalization of behavior patterns, among others. These techniques aim not only to punish unwanted behavior, but also to shape individuals according to the standards desired by society or the institutions of power.

In this context, as Foucault presented us, the prison becomes the place “consecrated” exclusively to the total curtailment of human life, because the prison is a total institution, capable of restricting, controlling, manipulating, and constantly watching, at all times of the day, the bodily and behavioral life of its inmates. So, it is important to present some elements that demarcate the issue of prisons in our country and how their role has been increasingly weakened in a resocializing sense. In fact, currently, it is believed that the only role of Brazilian penitentiaries is to restrict freedom and criminalize behavior, which ends up resulting only in more criminality and criminal recidivism.

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## CRIMINAL RECIDIVISM IN BRAZIL

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In recent decades, issues related to prison policy have occupied a leading role in the public security debate in our country. It is no longer possible to ignore the ills of Brazilian prisons because the problems that occur inside the prison have overflowed its walls.

It is possible to affirm that the culture of indiscriminate incarceration to satisfy the “cries for justice” has been shown to be contrary to the real objectives of the Criminal Law, since Brazil currently has more than seven hundred thousand prisoners, according to data from the National Council of Justice - NCJ (2023). Thus, it is verified that social segregation through incarceration has proved to be a great mistake, because the idea that the prisoner will



return to social life rehabilitated to be a “good citizen” is entirely utopic. In fact, Brazilian penitentiaries end up reduced to “human deposit” of unwanted and inadequate people. The problem of Brazilian prisons rests on indifference and reification, because the human beings who are there have lost the right to human dignity; they are seen as things or “objects that belong to the state.”

Thus, one of the worst problems arising from this social and state indifference lies in the grooming and co-optation of many prisoners who are imputed to the closed regime on account of small or derisory crimes, who become “human resources” for organized crime. Penalties imposed on juveniles who commit minor offenses not involving violence and/or serious threat to the person result in incarceration and, even if such punishment is applied in a reduced time of deprivation of liberty, this is enough to put these young people in contact with criminal factions present in almost all prisons in Brazil.

According to data from the NCJ (2023), Brazil occupies the third position worldwide in numbers of incarcerated, totaling 711,463 prisoners in 2022. Forty percent of these are pretrial detainees awaiting sentencing. If we consider that there are 373,991 open arrest warrants, the prison population would jump to more than a million inmates. In addition, data from the NCJ (2023) also reveal that about 60% of prisoners are 18 to 29 years old; therefore, young people of highly productive age and with full intellectual capacity for the performance of any labor or professional activity.

However, the State, by adopting incarceration as the main rule and not as the exception, ends up taking many young people out of the labor market and giving them free of charge to criminal gangs. We can conclude that once inside the system, even for a brief time, newcomers are highly likely to be enticed by organized crime to make part of the group activities, be they internal or external to the prison, because, with this gesture, the “newbie” remains protected against violence.

From that, we can infer that the Brazilian penal system has long been intertwined with a complex web of historical, social, and political factors that have given rise to a deep crisis in its prisons. At the core of this crisis is a punitive culture perpetuated by the state and fueled by a sensationalist media that sells news as spectacle.

When a criminal case, whether investigation, preliminary investigation, or even already in the judicial phase, gains the attention of the sensationalist media, there is a real debauchery of the lives of the defendants, accused or investigated. The violence and moral coercion, however, does not stop at the person of the accused, often reflecting on family members who have nothing to do with the ongoing investigation. There is a real violation of the rights of intimacy and privacy, which is not taken into account when what matters is only having a fact to speculate and judge. This is another deleterious effect of media persecution in the context of criminal sensationalism. [Moreover,] what is observed is that the sensationalist process on the part of the media violates any and all constitutionally

guaranteed individual guarantees. The sensation, for those who are aware of the democratic principles of law and the importance of due process, individual rights and the historical value of the struggles to conquer them, is of serious threat to civilizing values (Bandeira, 2022, n.p.)

In addition to this highly negative factor, the Brazilian prison situation is aggravated by the structural inadequacies of its constructions and by obsolete laws, which contribute to the alarmingly high rates of recidivism in the country; because it is understood that today about 60% of prisoners in Brazil are repeat offenders, according to the NCJ (2023). The duty to punish exercised by the State today is only to remove from social life that citizen who broke the law. As already mentioned, incarceration is interpreted only as the most correct way to “make justice” to a crime because the removal of the offender from social life is often seen as the only solution to all the structural problems that involve crime and its consequences.

Unfortunately, the punitive culture of the Brazilian state has its roots in a history of authoritarian governance and social inequality. The belief in punitive measures as the primary solution to crime has persisted over generations, driven by the notion that harsh penalties and incarceration are the most effective means of deterrence. This culture has also been perpetuated by political agendas that prioritize the “toughness on crime” rhetoric, which often neglects underlying socioeconomic factors that contribute to criminal behavior. According to Monteiro and Fernandes,

Violence and criminality are expressions of one of the main problems in Brazil, social inequality and mass incarceration have been the answer given by the State about that. We share a daily life permeated by violence, insecurity, and fear in our society, whether as author, victim, or spectator. Young adults, especially the black and the poor, are killed and imprisoned. Society in general responds to the feeling of insecurity and fear, stamped on the pages of newspapers, television screens and social networks, with the adherence to discourses related to a greater imprisonment and separation of these bodies considered as placeless, undesirable (Monteiro; Fernandes, 2020, pp. 4-5).

Within this whole context, the serious precariousness of inmate care should also be pointed out: overcrowding, unsanitary conditions and lack of resources have become trademarks of many Brazilian prisons. These deplorable conditions not only violate the basic human rights of prisoners, but also promote an environment conducive to violence, recruitment into criminal gangs, and deepening criminal behavior. Thus, the dehumanizing nature of mass incarceration corroborates the ideas previously pointed out in our text, that is, to the extent that inmates become “docile things”, not only is the right to the body taken away, but also their soul and their way of being are taken away, which ends up generating a new form of identification of the subject with the place in which he is, so that the state of imprisonment becomes the rule of his life and he can no longer imagine himself separated from this “new place”.

Added to this precarious structural complexity are the antiquated laws that continue to shape the criminal landscape. Many of these laws were established during different eras and no longer reflect the evolving understanding of criminal justice, rehabilitation, and recidivism prevention. Focusing on punitive measures rather than restorative justice or rehabilitation initiatives undermines the potential for successful reintegration of individuals into the social environment. The result is a cycle of incarceration and release that fails to address the true causes of criminal behavior, leading to high rates of recidivism.

This cycle of incarceration and recidivism highlights the urgent need for comprehensive reform of the Brazilian penal system. Investing in alternatives to incarceration, such as community programs and restorative justice practices could favor a more comprehensive approach to the problem of crime. In addition, improving conditions in prisons, giving priority to education, vocational training and mental health support can contribute to reducing recidivism.

Reforming the penal system also requires a shift in the cultural and political discourse around crime and punishment. Rather than relying solely on punitive measures, there must be a view that considers the social determinants of criminal behavior. This requires political will and public awareness to challenge the prevailing narrative that “a good thief is a dead thief.” Therefore, it is necessary to invest in a fairer and more effective criminal justice system, without ideological interference boosted by prejudice and lack of technical knowledge on the subject.

According to the Institute of Applied Economic Research (IAER, 2015), Brazil’s prison population has grown eighty-three times in seventy years. This is demonstrated by a mapping conducted by the Brazilian Forum on Public Security with the support of IAER. The total number of convicted inmates in the prison system went from 3,866 people in 1938 to 321,014 in 2009, and as we already commented here more than once, this number only increases and is always in misalignment between prisoners and prison vacancies.

Given this, it is urgent to reform the Penal Code (Brazil, 1940) that considers the current situation of prisons dominated by organized crime that, due to the conditions exposed here, recruit “skilled labor”: young people who enter the prison system for petty crimes against property. The absurdity of the state’s incoherence is clear. On the one hand, it spends millions to fight organized crime and, on the other, it provides young and intelligent labor for crime inside prisons by the ineptitude of the laws, the positivism of judges and the sensationalist media that manipulates common sense.

Thus, the State and legislators should review the form of penalization currently applied to crimes against

property. We are applying the penalties of the 1940s to twenty-first century society; however, more than 80 years have gone and the way to punish and understand criminality needs to be reviewed. It is necessary to understand that social life was drastically modified during this time, and that the Universal Declaration of Human Rights that was born historically at this same moment (late 1940s), needs to be revisited by our jurists and legislators so that true injustices are no longer committed because, paradoxically, the two documents, even being born at the same historical moment, have very different “ages” and meanings.

Moreover, addressing Brazil’s prison crisis requires a multifaceted approach capable of including comprehensive reforms and effective alternatives to incarceration. Given this, we can infer that only through coordinated and concerted efforts can Brazil free itself from the cycle of its troubled criminal history and prepare the way for a more just and equitable future.

However, despite the reflective development made so far on the prison problem, we must pay attention to another very crucial element of the prison reality of our country, namely, female incarceration. Therefore, at this moment, the next item of our text will deal with the hardships and adversities of the female prison system of our country that, in general, is even more cruel than the male in many aspects.

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## FEMALE INCARCERATION IN BRAZIL

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Nowadays much is said about the terrible conditions of the prison system in Brazil, the drama experienced by the inmates and the lack of recognition by the public power in relation to this portion of the Brazilian population. According to Guimarães and Machado (2014), unlike what is established by the law, today prison houses end up providing an environment without the minimum conditions of habitability, through overcrowding, lack of medical care, poor food, poor hygiene conditions.

In this scenario, there is an even worse situation, which are the conditions faced and suffered by women incarcerated in the Brazilian penitentiary system because, in addition to the problems already mentioned, there is the fact that women are treated in a penitentiary system made and designed for men where, in most cases, the needs and peculiarities of the female gender are completely forgotten (Kallas, 2019), ranging from the use of toilet paper in larger quantities and the need for the use of sanitary pads to even more complicated situations such as the lack of women’s health care (consultations with gynecologists, prenatal examinations) and the lack of adequate nurseries for newborns.

In this regard of pregnant women, the situation is very worrying, because according to Kallas (2019, p. 83): “Pregnant women who are incarcerated need special

medical care, especially for the protection of the child growing in their womb”; however, they do not receive specialized medical care, much less do they have adequate places to breastfeed their children. The breastfeeding of their babies occurs, commonly, in unhealthy environments, without the minimum of hygiene, which favors the spread of the most diverse diseases, both for the mother and for her newborn child (Kallas, 2019).

The book *Prisoners who Menstruate* by the author Nana Queiroz presents numerous accounts of the degrading situation suffered by women prisoners, such as: “[...] one of the exclusive maternal wings was crowded to the point that mothers and babies had to settle on the floor (Queiroz, 2015, p. 42). Another report expresses that “the nursery had 110 women in a space of forty-something” (Queiroz, 2015, p. 42). In addition, the author cites that “Eight slept on a mattress and a half. We had cramps all over the body. We could not move anywhere” (Queiroz, 2015, p. 57).

According to data from InfoPen Women (Ministry of Justice, 2018), 74% of prisons are intended for men, 7% for females and another 16% are mixed, housing men and women. Through these data, we can understand that the prison structure is aimed at the male population. There are prison centers that have maternity hospitals, day care centers and other adaptations compatible with women’s needs, but these centers are few and do not fulfill the demand of the female prison population.

In addition, according to Krohling and Miyamoto (2012) even in prison houses aimed exclusively at incarcerated women, the facilities are precarious, as they are structures adapted from other properties, which were not designed to house incarcerated women.

According to data obtained by the SISDEPEN system (2022), between July and December 2022, Brazil had more than 45,000 inmates, and in this population, it is estimated that only 68.64% reported their race, being 14.15% black, 32.16% white and 52.67% brown. This information can be considered important because brown women represent the largest number of inmates, what demonstrates the level of social inequality increased by the exclusion that this group of people suffer, since they are not considered white or black<sup>1</sup>.

Since the year 2000, the number of women in prison worldwide has increased exponentially. But, according to Helen Fair and Roy Walmsley (2022) of the ICPR<sup>2</sup>, the female prison population of our country jumped from 10,112 in the year 2000 to 42,694 inmates in 2022. This increase in the female prison population is due,

among several reasons, to their involvement with drug trafficking. In addition, according to data from InfoPen Women (Ministry of Justice, 2018) this is the type of crime most committed by the female prison population, which corresponds to 62% of the total. This is due to several factors, such as the relationship with criminals, linked to drug trafficking, commonly called “bandit love”, in which these women end up entering the world of crime committing crimes together with their partners, as reported by Kallas (2019).

Also according to the author, in many of these cases, this association is due to the relationship of submission and vulnerability suffered by women in relation to their male partners who, often, due to this situation, manipulate women through the force and power they exercise over them, since “[...] women do not attract as much attention and society tends not to distrust them, making trafficking easier [...]” (Kallas, 2019, p. 80).

Thus, for many women who live within a social context without many prospects of improvement, drug trafficking appears on the horizon to get some income to ensure the sustenance of their families (Rabelo; Ramos, 2021).

According to the authors, this increase in women arrested for drug trafficking is also related to changes in legislation and the way in women are “seen” by the trafficking system, which results in several types of prejudice:

The increase in arrests for trafficking is related to changes in legislation in recent years related to strengthening the war on drugs. In 2006, for example, Law No. 11,343, known as the Drug Law, was enacted. The lack of objective criteria to distinguish users and traffickers in this law leaves the discretion in the hands of the police officer who does the flagrant, making traditional profiles of suspicion and prejudice the references to the arrest (Rabelo; Ramos, 2021, n.p.).

In addition to the terrible conditions found inside Brazilian prisons, incarcerated women also face abandonment and prejudice because they are imprisoned. This prejudice comes not only from society in general, but from their own families or partners. As Vingert (2015) reports, in many cases, only a few family members end up visiting them; these visits are usually made by their mothers accompanied by their children. Moreover, it is quite common for their companions not to visit them. Abandonment is very frequent on their part, precisely those who have enticed them with promises of love, which implies, once again, in the above representation of “bandit love”.

Another aggravating factor is linked to the problem of the children of the inmates. According to Vingert (2015), a substantial portion of the women arrested are mothers, heads of families and single. Many of them cannot care for their children while incarcerated, which triggers a serious social problem, because there is no one who can take care of them. Rare are the cases in which the child or

<sup>1</sup> Check out BBC NEWS BRASIL’s report. Neither black nor white: the dilemmas of browns living in ‘racial limbo’. Available on <https://www.bbc.com/portuguese/brasil-62812987> Published on 21 Sep. 2022.

<sup>2</sup> The ICPR (*Institute for Crime + Justice Policy Research*) in the United Kingdom, has been conducting the *World Female Imprisonment List*, which is a global survey of incarcerated women, since 2000.



adolescent is under the guardianship of grandparents or uncles. Therefore, many of them end up having to leave these children with strangers or for adoption. For Vingert,

When the woman is arrested, her family falls apart, unlike the man who has a family to return to after serving his sentence. In the case of the woman, no one expects her return, needing her to remake her home, getting custody of the children again and rebuilding her world (Vingert, 2015, p. 23).

According to Santos and Silva (2019), another factor to be considered for the abandonment of inmates is the issue of socioeconomic difficulty experienced by most families. As there are few prisons able to receive women, many end up being imprisoned in places far from their homes, so visits occur sparsely during the period of incarceration.

In this way, without the contact and more continuous family support, many inmates feel unprotected and unwelcome. Thus, with the absence of any kind of foundation, the inmates are at the mercy of an inhuman, degrading, and unhealthy environment, which generates worse people, indignant and dissatisfied with their lives, so that complete immersion in the world of crime becomes inevitable. Thus, if the government and the people continue to ignore this public and do not recognize the rights that it also holds, there will be no prospect of a better life.

In fact, the improvement of these people's lives also depends on the change of understanding about the social role that penitentiaries should really play in the contemporary world. Pure incarceration as a restriction of the right to come and go no longer responds to the problems of criminality outside prisons. It is necessary to rethink the way people are treated within these environments of restraint and reorganize the forms of punishment that are practiced in Brazil.

## CONCLUSION

The ideas presented here were intended to address, in a systematic and procedural way, discussions about three fundamental aspects about the idea of punishment in our country and in the world, namely, the birth of prison and the various practices that are affiliated with this way of punishing; the way prisons have become places of exclusion and separation of criminals and how women have become central victims of the incarceration process in recent times.

In the case of women, many of them are not only victims of a system that puts them in a position of harsher control and surveillance, but that they enter this "underworld" because of a "bandit love" that often transfigures into "abandoned, forgotten and obliterated." From the incarcerated women, what can be expected is hopelessness, the result of the forgetfulness received by the companions, the family, the penitentiary system, and the whole society.

At the same time, what we can state more clearly is the fact that men's prisons are not better or more suitable spaces for their conditions. However, men's prisons have a very peculiar criterion: every new inmate is a new recruit for the criminal factions, which creates, even if deceptively, a space of protection, because grooming and co-optation end up configuring an atmosphere of belonging and integration that persuades all new inmates, so that those who do not join these groups can suffer terrible consequences.

In turn, the idea of prisons, since its genesis, has been shown to be remarkably effective in the sense of separating what can be accepted as licit or illicit in the social world. The comforting idea that in prisons are those who cannot or do not know how to live with freedom and the right to possession gives most people the joy of a "just and restorative sleep", a corollary of hard and honest work. However, between the restriction of the freedom of those who are "interned" in prisons and the pseudo-freedom of those who have their lives constantly monitored by regimes of work and production, it is increasingly difficult to say who is autonomous, self-determined or independent. From the cold cell of a prison to the artificially lit rooms of large offices, the feeling of imprisonment does not differ much. The real difference is that in public spaces, surveillance cameras protect us from the virtuality of our own criminality while the closed space of prisons watches over those who have not been able to escape this great *Truman Show* (MASKELL, 2023)

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