



THE BRAZILIAN PRISON SYSTEM AND THE RESOCIALIZATION OF PRISONERS

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Milena Marques Elias dos SANTOS²

Ademir Gasques SANCHES³

SUMMARY

This article will discuss the reality of the Brazilian prison system and whether effective resocialization actually occurs. Brazil currently faces several significant challenges in prison management and, more importantly, in effectively reintegrating individuals. The precarious environment in which inmates live hinders resocialization. Through explanatory and exploratory research methods, it was possible to conclude that the law characterizes resocialization projects as a way for inmates who return to society to prevent reoffending. Prison is a form of restructuring and punishment, and the reality is the ineffectiveness of public policies. Therefore, the prison system fails to offer convicts full dignity and humane conditions. The legal and social aspects of temporary release in light of current legislation, especially after recent regulatory changes, were also addressed. Another extremely important aspect addressed is how the prison system becomes vulnerable and ineffective.

towards prisoners, this reality within prisons being at odds with what is established by law.

Keywords: Prison system. Resocialization. Prisoner. Prisons.

ABSTRACT

This article will discuss the reality of the Brazilian prison system and whether effective reintegration actually occurs. Brazil currently faces several relevant challenges in relation to managing prisons and, above all, in effectively reintegrating individuals. The precarious environment in which prisoners live makes reintegration difficult. Through explanatory and exploratory research methods, it was possible to conclude that the Law characterizes resocialization projects as a way for prisoners who return to society to prevent them from committing crimes again. Prison as a form of restructuring and punishment, with the reality being the ineffectiveness of public policies, therefore, the prison system does not offer full dignity to the convicted person and humane conditions. And the legal and social aspects of temporary release in light of current legislation, especially after recent regulatory changes. Another extremely important aspect that was addressed is that the prison system becomes vulnerable and ineffective in relation to prisoners, with this reality within prisons being at odds with what is established by law.

Key words: Prison system. Resocialization. Convicts. Prisons.

¹ Final course work, presented to the Law course at the Santa Fé do Sul University Center - SP, to obtain the degree of Bachelor of Law.

² Student of the Law course at the Santa Fé do Sul University Center, UNIFUNEC.

³ Professor of Law, UNIFUNEC.



1. INTRODUCTION

This work aims to discuss the Brazilian prison system and consequence of the resocialization of prisoners. In this sense, that individual who had an illicit conduct, that is, which was not in accordance with the rules dictated by the State, since the offender must be punished in a fair and effective manner with a penalty proportional to the severity of the damage caused, so that when he leaves prison must be ready to live in society without committing crimes again, for this, one has the resocialization projects.

The State has the duty to punish anyone who acts in violation of the rules, in this sense, it is worth saying that the prison population grows significantly and its respective administration has been a challenge and especially to reintegrate in a manner effective the individual.

The Brazilian prison system and the respective resocialization of prisoners is something of extreme importance because it is entirely related to and encompasses human rights, justice and public safety. Rehabilitation goes far beyond the rights of prisoners, as it also reduces criminal recidivism, prevents potential crimes in the future, reintegrates the individual into social life, so that he does not engage in criminal practices such as before. In this context, temporary release, provided for in the Penal Enforcement Law, is as a measure that aims to humanize the sentence and promote contact between the prisoner and the social and family environment, and the aforementioned Law underwent normative changes.

Several factors make prisons a precarious place, such as, inmates being subjected to an unhealthy place, with overcrowding, few resources, violence, as well as abuse and aggression, both among inmates and even by administrative sector of the prison, also highlighting the poor food, therefore, the medical care, hygiene, among many other essential requirements for living, are insufficient and compromises the right to moral and physical integrity, that is, it undermines the rights fundamental rights of prisoners.

Previously, it is worth highlighting the Penal Execution Law No. 7,210/1984, which guarantees to the prisoner the respective assistance and legal guarantees, specifically in article 10, sets out that it is the State's duty to ensure and prepare the prisoner to be integrated into society and thus avoiding the criminal practices of the convict. Another rule of utmost importance is the CF/88, in its respective article 5, XLIX, establishes that "it is assured to prisoners respect for their physical and moral integrity". Thus, the prisoners,



has its rights assured and guaranteed by law, and it is the State's responsibility to promote this fundamental guarantee.

2. THE PRISON SYSTEM

Regarding the prison system, it is worth mentioning the considerable number of prison population, thus creating a weakness in the system. The prison system aims, in addition to punishment, to resocialize prisoners, therefore, it is designated to State, the function of fighting crime, which is done through the respective prisons, in which the prisoner is removed from the social environment, thus having his freedom restricted.

According to Henrique Kloch and Ivan Dias da Motta, they explain:

Because of its higher-than-world prison population, Brazil's current penitentiary system is criticized, particularly regarding its effectiveness, and society is pushing for change to eradicate crime and reduce recidivism. Brazil has faced bitter experiences with its prison system. It still faces a lack of budget and management, inadequate investment in infrastructure and food, poor technical staff, inmate idleness, and prison overcrowding. The combination of these factors leads to riots in detention centers and hinders inmate reintegration.

Through the above, it can be seen that prisons have the objective of re-education and reinsertion of prisoners, however, the administration and operation are in disagreement with what is established by law, not actually fulfilling its function. Prisons are a unhealthy place, providing the convicts with terrible living conditions with the overcrowding, poor nutrition, lack of medical, social, educational and among other factors.

Therefore, the environment in which the convicts live influences their respective resocialization, as well as social reintegration programs, so that it does not occur to leave prison more criminal than when he entered.

According to research carried out by the National Council of Justice (CNJ), establishes "that the Brazilian prison system, as a rule, has more prisoners than it is capable of to encompass." Overcrowding became evident, therefore, according to the STF ruling on 04 October 2023, the Action for Non-Compliance with Fundamental Precept 347, already



recognized that the Brazilian prison system violates the rights to a certain extent fundamental.

3. PENAL EXECUTION LAW AIMED AT THE RE-SOCIALIZATION OF CONVICTED

The Penal Execution Law guarantees several rights through assistance established, aiming at the resocialization of prisoners. Such assistance that is worth being mentioned is material assistance, which includes food, clothing, products hygiene, legal assistance, medical care, professional assistance, educational, religious, all assistance guaranteed by law. Therefore, they are means of resocialize to prevent reoffending and provide minimum conditions of dignity to convicts.

As mentioned, the Penal Execution Law in its articles 10 and 11 establishes:

Art. 10. Assistance to prisoners and internees is the duty of the State, aiming to prevent crime and guide their return to society.

Art. 11. Assistance will be:

- I - material;
- II - health;
- III - legal;
- IV - educational;
- V - social;
- VI - religious.

The State's material assistance to the prisoner is intended to guarantee hygienic facilities, provide adequate food, that is, quality and sufficient to prisoners, ensuring that their nutritional needs are met, is essential for the physical and mental health of inmates. The provision of adequate clothing is guarantees of daily needs. Material assistance is extremely important, because, goes beyond a legal obligation, and reflects the State's commitment to dignity humane and with respect for fundamental rights. Ensuring this assistance does not means privileges, but rather ensuring that the sentence is served under conditions humanized, preventing the degradation of the prisoner and promoting the resocialization objective of the sentence. In addition, inadequate material conditions and the lack of basic items can create an environment conducive to violence, unhealthiness and increased suffering



psychological, hindering the social reintegration of prisoners and facilitating the increase in recidivism rates.

Health care, which includes the provision of medical care, medicines, is a basic element for maintaining life and physical and mental well-being to prisoners. This assistance establishes that the State has the duty to provide care health care for inmates, which includes access to medical, dental, and psychological and psychiatric, with the aim of preserving the physical and mental health of prisoners, as well as promoting decent conditions for serving their sentences and contribute to social reintegration. Health being a right guaranteed by the State, in accordance with the Federal Constitution of 1988 in its respective article 196.

When it comes to legal assistance, this service is provided to the prisoner in a free of charge, for those who prove they do not have the financial resources to set up lawyer, being a form of support for the exercise of their rights and defense.

Education as a school instruction and professional training of the prisoner is of utmost importance, as it will prepare you to return to society and your family environment. Therefore, through quality education, one has a profession, with courses made available within the prisons themselves, which will result in a professional qualification that can be exercised, being a means of resocialization and re-educate.

Social assistance is a way of preparing prisoners to return to freedom in society, with the purpose of providing support so that it can adapt the reality outside the prison.

Religious assistance ensures the prisoner freedom of worship, possession of books of religious instruction, however, it is up to the inmate to choose whether or not to participate in assistance religious, a right also provided for in the Federal Constitution in its article 5, paragraph VII.

4. PRISON POPULATION

One of the main objectives of prisons is related to protecting society of crime and ensure that when the prisoner leaves this system, he becomes useful for coexistence in society. However, it is necessary to guarantee fundamental civil rights of the convicts, so that they are entitled to these rights. It is worth noting that this

prison population is deprived of its freedom and not of its respective rights human, and that such rights must be recognized and valued.

When the individual is taken to prison establishments, then everyone addictions, disorders, problems related to physical and mental health, tend to worsen due to the precarious conditions and unhealthy environment in which they live in the units prisons.

As far as the Brazilian prison population is concerned, in a broad sense, it is composed of mostly by young people between 18 and 29 years old (43.1% of the prison population) in their mostly black. Few are literate and have a profession before committing crime, according to data from the 2023 Public Security Yearbook.

According to the 2023 Public Security Yearbook, 69.1% of the prison population is black, the prison population is mostly men, totaling 805,291, in compared to the rate of women, which is 46,719. Data also shows that the prison population is evolving, since in 2002 it totaled 832,295, whereas in 2023 there will be 852,010 people imprisoned in Brazil. Only a small part of the problem our country is currently facing, which is much bigger and complex, which tends to worsen and increase the prison population every year.

5. THE PRISON SYSTEM IN THE FACE OF CHARACTER RE-SOCIALIZING PENALTY

Regarding the prison system, there has been a lot of talk recently about the crisis which it is found, and which in turn requires measures to address this need, to that we can have a system that respects the fundamental rights of individuals.

The prison system plays an extremely important role in society, especially with regard to the resocialization of prisoners. Ideally, it should not only punish, but also provide opportunities for inmates to effectively reintegrate into society after serving their sentences and being in freedom.

In view of this, the sentence has a resocializing character, preparing and rehabilitating the individual to live in society again, through effective programs of rehabilitation.



However, the current scenario in Brazil is one of high rates of criminal recidivism. according to the high and worrying number of prisoners.

Therefore, there are no exact numbers of ex-prisoners who return to the prison system, but, according to studies, they establish that about 1/3 end up being arrested again, or that is, the practice of new crimes after being released, individuals end up returning to crime. Convicts return to crime, because the fact of being arrested again does not scares them, and not even the existence of the penalty, needing to readjust to the society, and will only be possible with measures stipulated by the State.

The Brazilian prison system needs to be transformed, seek measures valuable so that the individual does not commit crimes again, to improve his character resocializing the sentence, some important measures can be considered, such as resocialization in general, social reintegration, the prisoner being seen as a member of society, education and professional training within prisons, access to services mental and physical health, establish post-release follow-up programs, reducing overcrowding and improving environmental conditions, and respecting standards cool.

Furthermore, it is essential that society in general contributes and recognizes the importance of reintegrating individuals in a constructive manner, this includes creating fair opportunities, social support decreases the likelihood of individuals returning to criminal practices. An ex-offender with opportunities and support is more likely to rebuild your life in a productive, dignified and independent way, when there is support and support reduces stigma and encourages a culture of inclusion and respect.

Society can contribute through reintegration programs offered by NGOs, government and companies. Employ and offer training opportunities for ex-inmates, contributing to their inclusion in the job market. Participate in activities to raise awareness about the importance of resocialization and combat prejudice. Create community support networks that welcome and encourage individuals to adopt new paths and lifestyles away from crime.

Prisoners, like every individual, have rights and duties guaranteed by law. Therefore, in addition to the criminal sanction, it is extremely important that they be subjected to projects of social reintegration and believe that the prisoner will change and not return to the practices criminals.

Projects aimed at social reintegration, according to the Secretary of Penitentiary Administration of the respective State of São Paulo, which aims to in addition to maintaining order and discipline in the state's prisons, as well as promoting various social reintegration projects aimed at helping inmates to reintegrate into society after serving their sentences, thus, promote the resocialization of prisoners and ex-prisoners through actions so that it can be recover the prisoner.

Thus, SAP-SP aims to reduce the rate of criminal recidivism, exclusion and social segregation and attribute ethical principles of respect and tolerance and social inclusion, improve the state's prison system with a focus on public safety and in the rehabilitation potential of prisoners, aiming to reduce criminal recidivism and contribute to a more protected society.

Some of the major projects worth mentioning include the work prison, in which the Secretary of Penitentiary Administration of the State of São Paulo (SAP-SP) promotes work programs within prison establishments for prisoners, to acquire professional skills and receive remuneration, an alternative that makes it easier to enter the job market after release.

SAP-SP also promotes formal education programs which include teaching elementary, secondary and vocational courses. Education being a fundamental factor for social reintegration.

Social assistance encompasses various programs such as legal assistance, psychological guidance, family support, religious assistance, all that social support. These services provided aim to stimulate the social ties of inmates and prepare them for life outside the prison environment.

SAP-SP provides medical and psychological care to inmates, to ensure that they are physically and mentally well for social reintegration.



Citizenship projects are initiatives aimed at the development of citizenship, as well as participation in cultural, social and sporting events, which aims to promote the social inclusion of prisoners and minimize stigma associated with their status as former inmates.

Another extremely important project is post-release monitoring, in which After release, SAP-SP continues to monitor former inmates through programs monitoring and support, supporting them and preventing criminal reoffending and reintegration. fully to society.

These projects mentioned tend not only to fulfill the function of punishing the sentence, but also to prepare inmates for effective social reintegration, minimizing criminal recidivism and thus bringing public safety and well-being to be socially said.

7. HIGHLIGHTED PROBLEMS OF THE BRAZILIAN PRISON SYSTEM

The Brazilian prison system is flawed, as it presents precarious conditions and non-compliance with the rules, which negatively affects not only the inmates, but also the effectiveness of the system itself.

Therefore, a position taken by Luiz Flávio Gomes regarding the system prison is relevant:

"Public security policy must be based on crime prevention, with investments in social, educational and cultural policies, and the prison system must be reformed to focus on the rehabilitation and social reintegration of prisoners."

The reality of the Brazilian prison system does not match what is expressed in the Law, in As a result, the fundamental and human rights of prisoners are violated in nature of the problems in the prison environment, requiring such a system to be reorganized, so that the rights of these individuals can be preserved.

It is worth mentioning and highlighting the respective problems, such as overcrowding in the cells, with many prisons operating at capacity far beyond their limits, resulting in unsanitary conditions, lack of adequate space.



Overcrowding and the lack of effective control within prisons contribute for high rates of violence. Confrontations, aggressions, fights and even deaths among inmates.

Many prisons in Brazil suffer from a lack of adequate infrastructure, which includes poor hygiene conditions, lack of access to medical services and educational facilities, and facilities unsuitable for carrying out recreational activities and occupational.

Human rights violations and there are also frequent reports of corruption among prison administration staff, in addition to reports of abuse against human rights of detainees, such as undignified treatment, medical negligence and torture.

Organized crime within prisons, some of which are called by criminal factions. And it is also worth mentioning the lack of effective programs resocialization and reintegration of prisoners into society, which contributes to high criminal recidivism rates.

Given the above, the main problems of the Brazilian prison system, being they combined make the prison system one of the most challenging and criticized, requiring structural reforms and significant investments in public policies, and greater observance of the Laws, in order to have positive solutions and results.

8. BRAZILIAN PRISON SYSTEM: ANALYSIS ACCORDING TO DOCTRINE

The Brazilian prison system faces complex challenges that have been very discussed by legal and sociological doctrine. The doctrinal analysis of this system usually addresses aspects such as overcrowding, degrading living conditions incarceration, the lack of effective resocialization policies and the violation of human rights.

In view of this, it is relevant to explore some of the central points raised by theorists and scholars of the subject in question.

According to Fernando Capez:



"It is public knowledge that several prisons have filthy, overcrowded cells, lacking any sanitation. In these facilities, in complete violation of the law, countless convicts contract serious illnesses and suffer all kinds of violence." (CAPEZ)

Therefore, it is important to emphasize that the prison environment has a time lag of such proportion, these problems end up creating an environment conducive to diseases, violence and relapses, making it difficult to achieve resocialization and meet the basic human rights of prisoners.

It is worth emphasizing the need to improve prison infrastructure and increase internal security to combat the influence of criminal factions operating within of prison establishments, it is essential that the Brazilian prison system be capable of dismantling these organizations.

It is also worth mentioning the jurist Maria Lucia Karam, who herself questions incarceration as a solution to crime, argues that prison should be used as an extreme resource and that the priority should be rehabilitation and education, not punishment. The jurist advocates a structural reform of Brazilian prison system, focusing on public policies for prevention and resocialization and that the current prison system is inhumane and ineffective, contributing more for social exclusion and the perpetuation of crime than for the resocialization of prisoners. Karam believes it is necessary to rethink incarceration as a response standard to crimes, seeking alternatives that promote justice and security without resorting to mass imprisonment.

Therefore, there are degrading conditions in the prison system and it should prioritize resocialization and human dignity, with the application of alternative penalties and the strengthening of rehabilitation policies, is of utmost importance. It is a fact that, failures and reforms are necessary to adapt the system to constitutional principles and to human rights. Change requires a serious commitment from the State and society in building a justice system that is fair, effective and humanitarian.

The doctrine sets out measures to improve the prison system, that is, solutions that go beyond punishment and aim to reintegrate the individual into society, in addition to avoiding overcrowding. These proposals aim not only to improve internal conditions, but also also reduce crime and recidivism by offering an approach that

considers the human dignity and fundamental rights of prisoners, something constantly neglected in the system today.

9. TEMPORARY RELEASE OF PRISONERS IN THE BRAZILIAN PRISON SYSTEM: LEGAL AND SOCIAL ANALYSIS IN THE FACE OF CURRENT LEGISLATION

Among the instruments available to achieve the resocialization of the prisoner, temporary release stands out, a benefit provided for prisoners in semi-open regimes who meet certain legal requirements. This measure has always been considered of utmost importance between the deprivation of liberty and the gradual return to society.

Therefore, temporary release allowed prisoners with good behavior and with a certain amount of time served, they could leave the establishment prison for a short period, without direct supervision, to visit family, attend courses or even participate in activities that would favor their social reintegration. According to article 122 of the Penal Execution Law, temporary release was authorized by the execution judge, after hearing the Public Prosecutor's Office and based on the recommendation of the prison administration.

Article 123 of the Penal Enforcement Law established the criteria for obtaining the temporary release, which was that at least 1/6 of the sentence had been served, if the prisoner was a first-time offender, or 1/4, if a repeat offender; good behavior in the establishment prison; and compatibility with the objectives of the sentence. Temporary release could be granted up to five times a year, for periods of up to seven days each, extendable for equal time, depending on each case.

However, in April 2024, Law No. 14,843/2024 was enacted, which changed significantly the context of the temporary exit. The main modification that is worth being mentioned was the prohibition of temporary departure to visit family, maintaining the benefit only for education-related purposes, such as attending courses vocational, secondary or higher education. The new text revoked the possibility of going out to visit family during holidays and special dates, which previously was one of the most common purposes that the benefit provided.

The justification presented by the authors and the federal government to modify the law in question was to combat abuses committed by prisoners who did not return after the exit, in addition to reducing risks to public safety. Therefore, this change generated great discussions in society, in the legal community and among experts on the subject. One of the main arguments against it is that the measure represents a setback in



resocialization process, by making it difficult to maintain family ties, a factor of extreme importance for the reintegration of the prisoner and to have the reduction of criminal recidivism.

In this sense, many jurists point out that the new Law may be subject to questions regarding its constitutionality, as it interferes with guarantees fundamental aspects of the convicted person, especially with regard to the social function of the sentence and the progression of regime. The modern penal system must be oriented not only to punishment, but also to the re-education and reinsertion of the individual into the social sphere.

It is important to emphasize that the temporary exit, before the legislative change, was carefully analyzed by the Judiciary, through the opinion of the Ministry Public and prison management, and the prisoner who fails to comply with the imposed conditions he was returned to the most severe regime, with a negative record in his criminal execution.

The temporary release of prisoners has always been important within the system Brazilian prison, contributing to the humanization of the sentence and to the social reintegration of prisoners. The change promoted by Law No. 14,843/2024, although motivated by concerns about public safety, it ends up compromising the balance between punishment and resocialization, suppressing a right of the inmates. The State's challenge is to guarantee public safety without giving up principles constitutional, the transformative function of punishment, and established rights. In this sense, it is essential that Brazilian criminal policy be guided primarily by respect for fundamental rights.

9.1 CRITICAL ASPECTS AND SOCIAL ANALYSIS OF TEMPORARY RELEASE OF PRISONERS

The temporary release of prisoners, provided for in articles 122 to 125 of the Law of Criminal Enforcement (Law No. 7,210/1984), has been the subject of extensive debate in the field legal and social. Its main objective is to promote the resocialization of those convicted of through the maintenance of affective and social bonds during the serving of the sentence in semi-open regime. However, the change promoted by Law No. 14,843/2024, which restricts this right only to participation in educational courses, brought new discussions.

One of the main critical aspects is related to the effectiveness of the function resocializing penalty. The Federal Constitution, in its article 1, paragraph III, enshrines the dignity of the human person as the foundation of the Republic, and criminal execution, by



in turn, must ensure the means for the convicted person to return to society dignified manner. In this sense, temporary leave is not a privilege, but an instrument of criminal public policy that aims to prevent recurrence criminal.

Therefore, according to the CNJ (National Council of Justice), which shows that more than 95% of prisoners who benefited from temporary release returned to prison units within the stipulated timeframe, which exposes the low dropout and practices of new crimes during the benefit. Therefore, the argument that the measure put public safety at risk lacks a consistent statistical basis. The criminalization of an entire prison population by isolated actions of a few individuals exposes a policy of harsher penalties without an effective way proven.

From a social point of view, the prohibition of going out to visit families disregards the importance of emotional bonds as support for the reintegration of individual. Prolonged separation from children, partners and parents compromises the rebuilding essential bonds for returning to coexistence in freedom in society. For many inmates, family visits represent the only form of contact meaningful with the external world and a concrete motivation for good prison behavior. By eliminating this possibility, the new law may contribute to the increase in frustration, indiscipline and demotivation within prison establishments.

According to several jurists and entities, such as the Portuguese Bar Association, Brazil (OAB), explains that such a rule violates the principles of individualization of punishment, humanity and the prohibition of social regression. The Brazilian Bar Association filed Direct Action of Unconstitutionality No. 7665 before the Supreme Court Federal (STF), arguing that the revocation of temporary release for family visits violates the dignity of the prisoner and compromises the social function of criminal execution.

The political discourse that supported the legislative change is strongly based on the fact that there is more punishment combats impunity. However, penal policies based exclusively in punitivism, without technical evaluation, only tends to worsen the problems in the prison system, such as overcrowding, lack of structure for progression of the regime and recidivism. Temporary release, far from being a benefit automatic, depended on careful judicial analysis and presented positive results for the prison system.



10. CONCLUSION

Therefore, we come to the conclusion that the Brazilian prison system aims to in addition to punishing, resocialize the prisoner, therefore, according to the data presented, it is found that, prison population rate is constantly increasing. This is because the rules and programs to reintegrate the individual into society are not applied effectively.

The State has a prison system in precarious conditions, which makes it difficult resocialization occurs, the Penal Execution Law establishes means of resocializing the punished so that he does not commit another crime, however, this is not what actually happens, therefore, it requires greater observance and applicability of existing standards.

The fact that the individual is outside of society with his freedom restricted does not means that it has to be treated as an object, because, like every human being, incarcerated people have rights, which must be respected and treated with dignity.

The restriction imposed by Law No. 14,843/2024, which is the temporary departure of prisoners, should be treated with caution. The measure may cause more harm than benefits, weakening social reintegration strategies and increasing exclusion and stigma of the ex-convict. Analysis of the Brazilian prison system requires a balance between public safety and respect for fundamental rights, recognizing that the success of criminal execution is not measured only by punishment, but mainly by the capacity to transform the life of those who serve their sentence.

Therefore, resocialization programs to prevent prisoners from reoffending are of utmost importance. Resocialization, as already mentioned, aims to prepare them to live again in the social environment, considering that, offering the prisoner a dignified treatment so that basic rights are exercised, prioritizing the individual and not however, do not return to crime.

The Brazilian prison system faces a series of challenges and problems complex, to better deal with these challenges, structural reforms are needed that aim not only to improve conditions inside prisons, but also to rethink and effectively applying the rules, seeking alternatives to incarceration and investing in prevention and rehabilitation programs.

Finally, for the prison system to fulfill its role of enforcing the resocialization and at the same time guarantee public safety, it is necessary to have a balance between these approaches. Reforms that contemplate better conditions of infrastructure, effective rehabilitation programs and effective crime fighting



organized are essential. Only through policies that address the causes and consequences of crime, it will be possible to transform the prison system into a tool for justice, rehabilitation, reintegration into society and humanizing the system prison.

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