



# SOCIAL REINSERTION: THE DIFFICULTIES OF EX-PRISONERS IN REINTEGRATING TO

## SOCIETY<sup>1</sup>

## *SOCIAL REINSERTION: THE DIFFICULTIES OF EX-DETAINED IN REINTEGRATION TO SOCIETY*

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### SUMMARY

This article aims to present a brief analysis regarding the effective application of the LEP - Penal Execution Law in the lives of inmates for subsequent social reintegration. The study of this article was carried out based on bibliographic material and theoretical-legal basis regarding the execution of the Brazilian Penal Execution Law. The overcrowding of cells and violence within the prison system are factors that hinder the correct execution of the Law and devalue the real intention of the LEP, which is the due fulfillment of the sentence for the subsequent social reintegration of the prisoner. The resocialization of inmates is still not well regarded socially, however, the State has been creating educational assistance programs that help ex-convicts return to society. **Key words:**Social reinsertion. Resocialization. Education in the Prison System.

### ABSTRACT

This article aims to present a brief analysis of the effective application of the LEP - Penal Execution Law in the lives of inmates for subsequent social reintegration. The study of this article was carried out based on bibliographic material and theoretical-legal basis regarding the execution of the Brazilian Penal Execution Law. The overcrowding of the cells and the violence within the prison system are factors that hinder the correct execution of the Law and devalue the real intention of the LEP, which is the due fulfillment of the sentence for the subsequent social reintegration of the convict. The resocialization of the detainee is still not well seen socially, however, the State has been creating educational assistance programs that help the ex-convict in his return to society. **Keywords:**Social Reinsertion. Resocialization. Education in the Prison System.

### 1. INTRODUCTION

With the aim of creating a space responsible for re-educating an individual who committed a crime, the Brazilian prison system emerged with the State's duty to provide an adequate place with resocialization mechanisms in order to carry out the appropriate punishment for the inmate. However, what is observed is an overloaded prison system reflected in the overcrowding of cells and prisoners in poor health conditions.

Brazil faces several structural problems, especially when it comes to politics, health, education and socialization, or rather, reintegration into society. In the Brazilian prison system there is the LEP - Penal Execution Law, Law nº 7,210, of July 11, 1984, which is responsible for carrying out criminal decisions, as well as preparing the inmate for future reintegration into society.

Although article 10 of the aforementioned law establishes that the detainee/inmate will be guaranteed the right to material, health, educational, religious, social and legal assistance, and this assistance is the duty of the State, because people, after serving their sentence, imposed in relation to a committed crime continue to face difficulties in returning to social life?

The purpose of this work is to analyze the situation of ex-prisoners, as prejudice and exclusion of ex-convicts can still be seen when they try to reintegrate into social activities. Theoretically, the legislation on the subject presents mechanisms to protect the rights of the prisoner/inmate, however, in practice, it is still necessary to analyze more carefully whether the applications of these guaranteed rights are being implemented.

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Thus, the objective of this research is to investigate whether the Criminal Execution Law is being correctly applied during the inmates' sentence so that their reintegration into society is as harmonious as possible. To this end, it will be necessary to verify whether the application of the rights listed in the Criminal Execution Law is being inserted into the inmates' routine and whether the real objective of the sentence is being achieved, that is, to educate the prisoner so that he does not commit new crimes, as well as demonstrate the difficulties that ex-prisoners suffer when trying to be reintegrated into society and that a good work project can be very important for social reintegration.

The Criminal Execution Law presents the list of conditions for the prisoner to serve his sentence, as well as the State's duties towards the person who committed a crime. During this period of imprisonment, basic rights such as food, education and medical and legal assistance must be guaranteed.

Therefore, based on the information presented above, the following hypotheses arise: if there is relevant legislation on the subject and there is the correct application of what is determined by law to ex-detainees, the return to social life should be carried out in a more peaceful and less prejudiced; If the former detainee/inmate receives the necessary assistance for his social reintegration, this must occur in a harmonious manner with the aim of not causing any emotional distress or difficulty in reintegration into society, in the sense that the individual should not be discriminated against for having passed through the prison establishment.

Therefore, the environment in which the prisoner is inserted says a lot about what his return to social life will be like. Overcrowding of cells, lack of adequate food, poor hygiene and unsanitary conditions. All of these are unfavorable factors that influence the behavior and health of prisoners within the prison system. Apparently, the worse the conditions in which you are placed, the greater the chance of criminal recidivism.

Thus, when the convicted person is presented with a scenario that is more coherent with what is established in the Criminal Execution Law, that is, space that accommodates the appropriate number of inmates, health care (physical and mental), education, legal assistance and some learning program that can prepare you for social reintegration, it is possible that your return to society will occur in a calmer, less discriminatory and more receptive way.

## 2. MATERIALS AND METHODS

The methodology of this article deals with bibliographic studies with a deductive method and analysis of the Criminal Execution Law and other content that discusses the subject.

The technique used is based on bibliographical review through books and databases and scientific article indexers such as Scielo, Google Scholar, University Repositories and Scientific Journals, using the descriptors: Social Reinsertion, The former prisoner's struggle for social reintegration. Brazilian legislation was also used, in particular the LEP – Penal Execution Law, which deals with the content covered.

## 3. RESULTS AND DISCUSSIONS

From Latin *punitio.onis*, punishment has a feminine noun, synonymous with penalty, it means sentence imposed by a judge on the person who committed a crime; it can also be defined as punishment, recrimination made against someone (DICIO, 2022). Law No. 7,210, of July 11, 1984, which established the Criminal Execution Law, brings the rights and duties of the State and the prisoner to comply with the criminal sentence or decision imposed on someone who committed a crime (BRASIL, 1980).

According to the aforementioned law, in its articles 5, 6 and 7, convicts must be classified according to their personality and criminal history so that the individualization of the sentence can occur more assertively. For this classification to be made, the Law determines that each establishment must be composed of a director, at least two heads of service, a psychiatrist, a psychologist and a social worker when there is a custodial sentence (BRASIL, 1980).

two The State has the duty to provide the prisoner with material assistance (including clothing, food and hygiene facilities), health (medical, pharmaceutical and dental care), legal (when the prisoner does not have the resources to hire a lawyer), educational (school and professional training) and social assistance (to prepare the prisoner to return to society) (BRASIL, 1980).

For NUCCI (2018), material assistance that includes clothing, food and installation hygiene could also serve as a way to initiate resocialization and benefits for the prisoner, where for every three days worked, one day of the sentence would be deducted. Thus, the State would save on expenses for the maintenance of inmates at the same time as it would provide the right guaranteed by law, that is, while the detainee receives assistance, the benefit of having a reduction in the days in which he was sentenced would be guaranteed. .

From this perspective, punishment does not mean that the prisoner will be transformed into an object, because upon serving the sentence, the

convicted person continues to enjoy fundamental human rights (NUCCI, p.28, 2018). And as BITENCOURT (2001, p. 139) adds, *apud* CHAVES et al “the objective of resocialization is to expect the offender to respect and accept such norms in order to avoid committing new crimes”. In this way, Human Rights and the Criminal Execution Law go hand in hand in applying the penalty with the aim of achieving the resocialization and reintegration of the individual into society.

In theory, the Criminal Execution Law brings within it all the concepts, means and methods so that the correct application of the sentence and subsequent resocialization of the ex-convict is carried out. The correct classification of prisoners, the appropriate structure for the allocation of prisoners, the assistance that must be provided and all care and respect for the dignity of the human person.

However, divergent from criminal theory, in practice the execution of Brazilian criminal law is slightly different. Although the LEP – Penal Execution Law, guarantees that inmates are allocated according to the crimes committed and in an adequate number of people in each cell, what actually occurs is the overcrowding of cells in the Brazilian prison system, namely: “The prisons are overcrowded, not providing prisoners with their due dignity. Due to overcrowding, many sleep on the floor of their cells, sometimes in the bathroom, close to a sewage hole.” (MACHADO AND MAGALHÃES *apud* CAMARGO, 2014, p.09).

For SENNA (2008) what causes the lack of individualization of prisoners and consequent overcrowding of cells is the lack of physical space granted to administrators and because of this limitation they are unable to properly apply the Penal Execution Law.

By law, the State is responsible for the space and material conditions for maintaining the prisoner, that is, the lack of adequate physical space generates this overcrowding and consequently unhealthy conditions. According to the National Council of Justice, in 2018 there were 602,217 people registered in the system as deprived of liberty and of this number 40.03% are imprisoned without conviction (CNJ, 2019).

According to Mirabete “A balanced environment can generate greater trust between administrators and inmates, making work more productive” (MACHADO E MAGALHÃES *apud* MIRABETE, p. 569, 2014), therefore, if the state provided adequate conditions as stated in the Enforcement Law Penalty, it would be possible to create a more suitable place capable of providing more efficiency in the re-education of the prisoner, so that he or she can be reinserted into society.

Living in an inadequate space and subject to unhealthy conditions and violence causes people to cultivate within themselves the desire for revolt and/or revenge. The various cases of disrespect for the dignity of the human person within the prison system contribute to the inmate's inability to be resocialized, since the reality he experiences only feeds negative desires for revolt, revenge, dissatisfaction and reinsertion into a criminal life.

When committing a crime, the subject will be judged, convicted and placed in the prison system to serve the established sentence, but this does not mean that when responding for the illicit and reprehensible act that he committed that men and women should receive treatment indifferent to acts of violence. , torture, discrimination and repulsion.

In 2021, the Inter-American Commission on Human Rights – IACHR, released a report regarding the situation of Human Rights applied in Brazil and according to the report presented, Brazil became the country with the third largest prison population in the world, having registered a total of 755,274 of people deprived of their liberty in 2019 with the overcrowding rate at 170.74% (IACHR, p.64, 2021).

Still in the report, the Special Rapporteur of the UN Human Rights Council established that the high degree of institutional racism may be responsible for the increase in torture and other cruel, inhuman and degrading treatments or punishments in Brazil, given that the prison population is characterized by people of African descent, and they suffer from police abuse, torture, mistreatment, racism and discrimination in prisons (IACHR, p. 65, 2021).

Still according to the report of the IACHR – Inter-American Commission on Human Rights, the State is still not able to guarantee the necessary protection to people who are deprived of their liberty. Cases and records of torture and ill-treatment, which violate inter-American and international human rights standards still persist.

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Therefore, the correct execution of the Criminal Execution Law continues to not be correctly carried out, detainees still suffer from overcrowding, ill-treatment, torture, discrimination, prejudice, that is, unsanitary conditions and lack of adequacy to what is established by the LEP so that the subject can be reinserted into society and chart a new path in their journey.

The aim of keeping human beings who have committed an illegal act out of social life is to re-educate them, resocializes it by providing means and mechanisms within the prison system that can enable the individual to perceive other forms of subsistence without it being within the criminal sphere.

Therefore, after the intervention of the United Nations and the frequent reports of

Inter-American Commission on Human Rights, the State has sought programs to remedy the difficulties it faces due to the high rate of prison population.

### 3.1 THE STATE'S EFFORTS IN APPLYING SOCIAL REINSERTION POLICIES

The Constitution of the Federative Republic of Brazil establishes education as a social right and duty of the State. The State must provide citizens with the means to access education; the objective is to achieve the full development of the person where they will be prepared to exercise citizenship, qualification and preparation for the job market (BRASIL, 1988).

When analyzing the concept of education and training of the human being said by Saviani in 1997, this concept is taken from the work of OLIVEIRA (2018) which deals with Considerations on the concept of education and the formation of the critical subject in contemporary times, which says:

[...] man does not become man naturally; He is not born knowing how to be a man, that is, he is not born knowing how to feel, think, evaluate, act. To know how to think and feel; To know how to want, act or evaluate you need to learn, which implies educational work. Thus, the knowledge that is directly relevant to education is that which emerges as a result of the learning process, as a result of educational work. However, to achieve this result, education has to start, it has to take as a reference, as the raw material of its activity, the objective knowledge produced historically (SAVIANI, p.11-12, 1997 *apud* OLIVEIRA, p.2, 2018).

Human beings learn how to live and coexist in society. However, with the great social and economic diversity in our country and despite the State, parents and society being responsible for the application of educational work, it is still possible to glimpse the discrepancy in the application and access to education in Brazil.

Access to basic education is for everyone, but not all individuals are able to attend education units, either because they are unable to get to school or because they face a social reality that makes it difficult for them to access basic education units.

Recognizing the importance of education in a citizen's life, the State tries to effectively implement educational assistance during the prisoner's sentence, so that, after completing his detention, the ex-convict can be able to be reinserted into society.

It is known that the Brazilian prison population is mostly made up of black men and young people, however, the period from 2006 to 2019 brought an increase in the female prison population, and as reported to the IACHR by the Brazilian State, the rate of this increase grew to 116.27% (IACHR, p. 65, 2021).

Thinking about this increase in the prison population, the State took some decisions to try to reduce the high number of preventive prisons, as it still does not have the physical structure to contain the high number of inmates.

In 2018, the Second Panel of the Federal Supreme Court judged Habeas Corpus 143,641, with Minister Ricardo Lewandowski as Rapporteur, opting for alternative measures such as house arrest for women and adolescents who were in a gestational condition, who have minor children up to twelve years old of age or even if they are responsible for people with disabilities (STF, 2018).

In addition to the aforementioned measure of trying to reduce the high rate of prison population, the State has been introducing some social reintegration measures to help former inmates return to social life.

In Bahia, in cities such as Juazeiro, Vitória da Conquista and Salvador, SEAP - Secretariat of Penitentiary Administration and Resocialization presents Certification programs with PRONATEC - National Program for Access to Technical Education and Employment; with the National Examination for Certification of Youth and Adult Skills for Persons Deprived of Liberty - ENCCEJA-PPL (SEAP, 2019)

With PRONATEC, courses are implemented (with specific technical and scientific foundations) that present theoretical and practical classes aimed at the development and qualification of inmates to facilitate employability and promote the resocialization of ex-detainees) and with ENCCEJA-PPL the objective is to complete studies for those who have not completed primary or secondary education (SEAP, 2019).

In 2019, a special disciplinary unit called Colégio Estadual was opened in Salvador Prof. George Frago Modesto in the Special Disciplinary Unit - UED. The UED is located in the Mata Escura Penitentiary Complex, Salvador/BA and is intended for the completion of Youth and Adult Education (EJA) studies so that they can continue or have access to an appropriate study in age-appropriate education (SEAP, 2019).

One of the Brazilian penitentiary systems that showed the most improvement was the Espirito system

Holy. According to the article written by FERNANDES, ANDRADE E ABREU in 2010, the State was denounced to the United Nations – UN and the complaint exposed the entire situation experienced by the capixaba detainees, namely:

[...]The report highlighted cases of deaths, dismemberment, torture, ill-treatment and overcrowding. In addition, prisoners are kept in containers at temperatures above 50 degrees. The prisons in Espírito Santo were called Dungeons, a way found to define the subhuman conditions in which the prison population in the State lives (FERNANDES, ANDRADE E ABREU, p.92, 2017).

After the complaint, the State worked to correct the acts of abuse, violence and neglect towards the prisoner and initiated a reform of the prison system that today serves as an example for other States in the country.

As presented on the website of SEJUS – Secretariat of Justice Government of the State of Espírito Santo, which currently presents a criminal treatment program that includes Prison Health, Humanization Program, Religious Assistance, Legal Assistance, Education, Work, among others (SEJUS, 2023).

With this, it is possible to see that the State has begun to understand the importance of the real realization of human and social rights of individuals by initiating programs responsible for presenting education and work as basic sources of social reintegration for the lives of those who are deprived of freedom. and has the feeling of having lost all his rights.

However, despite the creation of programs that help in the resocialization of the person, this human being considered as a former prisoner who served his sentence respecting the rules and norms established by the Criminal Execution Law, upon being reinserted into social life, will go through several difficulties and prejudices caused by his time in the prison system.

As well highlighted by Fiorelli and Magini, in the text by ARNDT and LANGE JUNIOR (2020), which deals with the social inclusion of ex-offenders in the job market, where it is said:

Behavioral changes are one of the consequences perceived later, when the prisoner returns to contact with civil society. The subject tends to isolate himself, stops attending parties, rejects invitations to go out and prefers less busy environments. The individual regains his “freedom”, but begins to live with the label of “delinquent”, “offender”, “criminal”, coming not only from society, but also from his family. The persistence of physical signs, left by the mistreatment suffered within the penitentiary, can also have major consequences on the recovery of the former prisoner, in many cases these signs are so large that the individual's rehabilitation becomes arduous, and constant memories increase even more the suffering. (FIORELLI AND MAGINI, p.210, 2015 *apud* ARNDT AND LANGE JUNIOR, p.106, 2020).

As seen in the words of Fiorelli and Magini, being inserted in a penitentiary system leaves the subject with physical and psychological trauma caused by mistreatment, torture, fights and any other types of violence that may occur within the prison, as well as the social stereotype of being a person lacking confidence, causing opportunities in the job market to be reduced.

Receiving a second chance is a difficult task in the post-prison journey. The social prejudice that the former prisoner suffers is noticeable, as in an article written by Luiza de Carvalho, through the CNJ Notícias Agency, taken from the website of the Regional Labor Court of the 5th Region (2023), one of the most heard responses by a former prisoner of the prison system, was: “We cannot accept people at this level” (TRT, 2023)

The image that still permeates the community is one in which the ex-convict no longer belongs to social life and there is discrimination and rejection when he tries to participate in the vacancies offered in the job market. The repressive, judgmental, sometimes malicious look, rejection, criticism and lack of opportunities are factors that hinder the individual's possibilities when applying for a job.

The social body does not think about the feelings and sensations that the ex-convict may feel, such as: feeling or fear of failure, low self-esteem, anguish, bitterness, not feeling enough, and sometimes, reliving mentally degrading situations that you have experienced inside prison. Thus, the search for a chance in the job market becomes more difficult for the formerly imprisoned person who wants a second opportunity in the social and family world.

From the point of view of Brazilian history, we see a country marked by prejudice, discrimination and social inequality, and just as Nelson Joaquim lectures cited in the work of ARNDT and LANGE JUNIOR (2020), who says:



The Federal Constitution declares that “all are equal before the law, without distinction of any kind [...] (art. 5th caput)”. So why talk about discrimination? - Unfortunately, discrimination is historical and has always existed, being practiced by individuals, governments and society itself. However, today, we observe that nations, including Brazil, have a duty to reduce inequalities and contribute to social inclusion. (JOAQUIM, Nelson, 2010 *apud* ARNDT AND LANGE JUNIOR, p.108, 2020).

In this way, there are many obstacles and adversities that lead the ex-convict to view freedom in a slightly negative way, since in the fight for acceptance in the reintegration phase, he/she will face indifference, anger, hatred, revolt, neglect, judgment, criticism, distinction and exclusion, all of these factors are responsible for the embarrassment experienced by those who seek acceptance after correctly serving their sentence.

## FINAL CONSIDERATIONS

The present work aimed to demonstrate, based on the reference raised, that, despite the State seeking means and programs that help ex-prisoners in their journey of social reintegration, there is still an arduous path to be followed.

A prison system surrounded by discrimination, prejudice, mistreatment, torture and neglect is still common. As explained above, the State does not have a program, means, formula or situation that is extremely effective in carrying out the correct allocation of inmates, which leads to the unhealthiness rate that still exists in some penitentiaries in the country.

The rate of offenders remains high and, although programs implemented in the Brazilian penitentiary system have made a significant improvement in the situation of those serving sentences, it is still not enough to contain overcrowding.

The programs that prepare ex-convicts for social life have been important not only for the correct fulfillment of what is listed in the Penal Execution Law – LEP, but also for preparing and giving new meaning to the human being who is serving a sentence for the illicit act committed.

The application of educational assistance and preparation for the job market, in addition to being listed in the LEP and being rights guaranteed by the Federal Constitution of Brazil, are essential forms for the correct and due resocialization of the individual. However, providing resocialization programs to inmates is not enough, it seems that a social approach is also necessary so that the population receives the subject who has served his sentence and taken advantage of the opportunities offered within the prison system in a more accessible way. When the former prisoner tries to reinsert himself into the social environment and return to the job market, even if he is qualified for the position offered, he is still received negatively by society.

Thus, it is inferred that even if there is an adequate prison system as indicated by the Criminal Execution Law for serving the sentence upon leaving the penitentiary system, the former prisoner may suffer from acts of prejudice and feelings of devaluation of the human person, being his return to prison is possible, as this can cultivate feelings of revolt, repulsion and revenge within him.

Although this human being has served his sentence when he tries to reintegrate himself into society, it is still common to observe society's judgmental, critical and repulsive gaze towards the former prisoner. Therefore, preparing society to receive those egressed from the penal system, as well as providing the essential psychological support so that the subject knows how to deal with the stereotype that still persists in the social mass is fundamental to the difficult task of resocialization.

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