

HUMAN RIGHTS: LIFE IMPRISONED

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Summary

This article is about Human Rights and life in prison. It aims to understand that even when incarcerated, inmates have rights, no matter how cruel their crime may be. They have rights in prison, as well as duties to serve their sentence. Law 7,210 of July 11, 1984, provides inmates with rights such as medical, legal, educational, social and religious assistance. In this context, the growth of prison populations has increased over time, even though human rights that take into account the dignity of the human person must be guaranteed to these inmates who are in closed regimes in several prisons in our country.

Keywords: human rights; human dignity and incarceration.

Introduction

No crime can be justified and the law must be enforced. No matter how cruel this crime may be, the incarcerated person has rights, which should not be disrespected. Even if they have torn apart a family, they still have rights, which are human rights so that their dignity is not violated. Human rights are the ethical-political principles or values that allow every person to affirm their condition and dignity as a human being. In Brazil, the Federal Constitution of 1988 was responsible for ensuring these rights.

In this context, the State has always been responsible for enforcing the law, which is sovereign and can interfere in all its stages. The importance of this topic is due to the lack of reflection on the way in which prisoners are crowded into prisons, with respect for human dignity being a utopia. This lack of reflection reflects the repetition of old formulas and practices that have been occurring in prisons that were somehow born obsolete. In other words, how will these prisoners return to society in this way? Their prison sentence is a punishment so that they can be rehabilitated to live in society.

As the media reports, Brazilian prisons are overcrowded, and inmates live in subhuman conditions, even though there is no justification for committing a crime. However, prisons should have better conditions so that these inmates can serve their sentences and, during this time, have the ability to reform themselves. No matter how bad their situation, their rights should be respected so that they can reintegrate and not commit new crimes. In the meantime, it is essential to improve the conditions in which these inmates find themselves, so that they can at least return to some place of living in society with dignity.

2. Development

2.1 Human Rights

1 Since human beings began to live in society, the need arose of creating rules so that there would be good social coexistence. Thus, the disturbance of another person's rights began to be punished with penalties. Punishment, as a legal consequence of committing a crime, is one of the most relevant issues in criminal law. As Nucci (2021) states, since the beginning of time, human beings have violated the rules of coexistence, harming their fellow human beings and the community in which they lived, making the application of punishment inexorable. At that time, the various forms of punishment were not understood as if they were penalties, in the technical-legal sense that they have today, although they were nothing more than embryos of the current system. Initially, the sanction was applied as a result of the liberation of the clan from the wrath of the gods,

in view of the infraction committed, when the reprimand consisted, as a rule, in the expulsion of the agent from the community, exposing him to his own fate.

In this context and over the years, private prisons have emerged to punish who commits crimes. Bitencourt (2015) states that prison is a bitter but essential requirement. The history of prison is not one of its progressive abolition, but of its reform. Prison is conceived in modern times as a necessary evil, without forgetting that it holds in its essence insoluble contradictions. The origin of punishment is very remote, lost in the mists of time, being as old as the History of Humanity.

Firstly, human rights are an expression that originally appears in the title of the "French Declaration of the Rights of Man and of the Citizen", from 1789. It must be understood that this designation is the result of the liberal revolutions of the 18th century, inspired by natural law, given the rights that were not protected (or established) at that historical moment. They are pre-state rights with ethical and social validity. (OLIVEIRA, 2016).

According to Arakaki and Viero (2018, p. 13), Article 5 of the Federal Constitution states:

That all are equal before the law, without distinction of any nature. However, to achieve this positivization of fundamental human rights in the legal sphere, several struggles were necessary. At many times, man was seen as an object, with inherent exchange value. But, little by little, his fundamental rights were being positivized, guaranteeing them - if the legal security of the individual and establishing the preservation of human dignity as a basic principle of Law.

Even though prisoners have human rights guaranteed by national and international laws, it is known that the reality of Brazilian prisons is quite different. Inmates fill up Brazilian prisons, without even the slightest conditions for rehabilitation due to the situation in which they find themselves. The entire system is broken, which influences the overcrowding and subhuman conditions in which they live. There is no way to separate highly dangerous prisoners from those who have committed minor crimes.

2.2 Prison system and human rights violations

The current prison system has overcrowded prisons where inmates are held in precarious, unsanitary conditions, without the resocialization process that is provided for only in the legislation, but which does not occur in reality. Given this fact, instead of providing rehabilitation for the convicted, the system ends up creating new offenders, who are more violent and rebellious towards society. The overcrowding of prisons, the precariousness and inhumane conditions in prisons, make prison an environment that violates human rights.

As Greco (2011, p. 501) teaches,

Laws come and go with the same ease. Rights are granted, but they are not enforced. The State pretends to enforce the law, but the prisoner, who suffers the consequences of mismanagement, corruption by public authorities, and society's ignorance, feels increasingly revolted, and the only thing he can think of in that filthy, fetid, promiscuous, and ultimately inhumane environment is to escape and commit crimes again, since society will never welcome him back with the intention of helping him.

Given this context, with overcrowded physical spaces and no structure for adequate resocialization, any resocialization policy for the entire prison population becomes impractical.

In addition, each establishment does not respect the right of this prisoner to show that he can change and return to social life in a recovered manner, which in most cases, when leaving prison, continues to commit his crimes and in a more aggressive manner.

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3. Conclusion

Given this context, it is understood that Brazilian society is already tired of hearing about corruption inside prisons in the news, as well as the promiscuity of prisoners, with cells inhabited by



people, well above their structural capacity. It is also observed that human rights, even of prisoners, have not been respected during the execution of the sentence by the State.

Ways to improve the prison system need to be found so that these inmates can truly reintegrate into society during the years they must serve their sentences, and prepare them so that when they return to their families they will be able to enter the job market, performing a lawful activity from which they can earn a living for their families in a dignified and honest manner. However, prisoners cannot be rehabilitated by increasing violence, because this will only cause them to revolt even more and they will return to society in a more violent manner. Punishment, as a punishment for their actions, should show prisoners a different reality, but not make them more violent.

References

ARAKAKI, Fernanda Franklin; VIERO, Guérula Mello. **Human rights**. Available at: My Library, Group A, 2018.

BITENCOURT, Cesar Roberto. **Criminal law treatise**: general part.

GRECO, Rogerio. **Criminal Law Course**. 13th Ed.

NUCCI, William of S. **Criminal Law Course**-General Part - Vol. 1. Available at: Minha Biblioteca, (5th edition). GEN Group, 2021.

OLIVEIRA, Fabiano Melo Goncalves D. **Human Rights**. Available at: My Library, GEN Group, 2016.