



Criminal selectivity and mass incarceration in Brazil

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SUMMARY

This research investigates the impacts of mass incarceration and the structural implications of the Brazilian penal system, showing that the phenomenon transcends the mere application of punitive measures and is inserted in a historical context of exclusion, discrimination and marginalization of vulnerable groups. Initially, the research presented the problem of mass incarceration as a mechanism that masks selective processes intrinsic to the penal system, which are based on legacies of prejudice and authoritarianism, affecting mainly economically disadvantaged and racially discriminated populations. The methodology adopted was characterized by a qualitative and descriptive approach, combining bibliographic review and documentary analysis; databases such as Scopus, Web of Science, SciELO, Google Scholar and the CAPES portal were used, in addition to inclusion and exclusion criteria that prioritized recent and relevant studies for understanding the mechanisms that intensify hyper-incarceration. The results demonstrated that procedural practices, such as pre-trial detention and social labeling, intensify penal selectivity, while authoritarian and punitive discourses contribute to a system that perpetuates stigmas and reinforces historical inequalities. It was found that the construction of stigmas based on social labeling processes and the criminalization of behaviors associated with minority groups strengthen exclusion and marginalization practices, showing that the penal system acts as an instrument for maintaining social hierarchies. The discussions also pointed out that, despite rehabilitation efforts, the current model is characterized by a repressive logic that hinders the implementation of more humane and inclusive alternatives. The final considerations emphasize the need to rethink the current punitive paradigm, highlighting the importance of public policies that promote prevention, education and resocialization of individuals, in addition to the modernization of control and monitoring mechanisms, in order to reduce disparities and advance in the construction of a truly

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democratic and equitable. Thus, the findings point to the urgency of structural transformations that rethink the foundations of mass incarceration and promote the integration of practices that prioritize the protection of human rights and social inclusion.

Keywords: Mass Incarceration; Penal Selectivity; Social Exclusion; Judicial Authoritarianism; Resocialization.

ABSTRACT

This research investigates the impacts of mass incarceration and the structural implications of the Brazilian penal system, showing that the phenomenon transcends the mere application of punitive measures and is inserted in a historical context of exclusion, discrimination and marginalization of vulnerable groups. Initially, the research presented the problem of mass incarceration as a mechanism that masks selection processes intrinsic to the penal system, which are based on legacies of prejudice and authoritarianism, mainly affecting economically disadvantaged and racially discriminated populations. The methodology adopted was characterized by a qualitative and descriptive approach, combining bibliographic review and documentary analysis; Databases such as Scopus, Web of Science, SciELO, Google Scholar and the CAPES portal were used, in addition to inclusion and exclusion criteria that prioritized recent and relevant studies for understanding the mechanisms that intensify hyper-incarceration. The results showed that procedural practices, such as early imprisonment and social labeling, intensify criminal selectivity, while authoritarian and punitive discourses contribute to a system that perpetuates stigmas and reinforces historical inequalities. It was found that the construction of stigmas based on processes of social labeling and the criminalization of behaviors associated with minority groups strengthen practices of exclusion and marginalization, evidencing that the penal system acts as an instrument for maintaining social hierarchies. The discussions also pointed out that, despite rehabilitation efforts, the current model is characterized by a repressive logic that hinders the implementation of more humanized and inclusive alternatives. The final considerations emphasize the need to rethink the current punitive paradigm, highlighting the importance of public policies that promote prevention, education and resocialization of individuals, in addition to the modernization of control and inspection mechanisms, in order to reduce disparities and advance in the construction of a truly democratic and equitable penal system. Thus, the findings point to the urgency of structural transformations that rethink the foundations of mass incarceration and promote the integration of practices that privilege the protection of human rights and social inclusion.

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INTRODUCTION

This research aims to investigate penal selectivity and incarceration in mass in Brazil, themes that reflect historical and structural problems of the justice system criminal justice system in the country. This problem, which manifests itself through differentiated criminalization of certain social groups, especially the black population and economically vulnerable, reveals how public policies and institutional practices are intrinsically linked to contexts of inequality and exclusion.



The discussion about criminal selectivity, addressed by Nova (2021) and Oliveira (2021), emphasizes that the accumulation of prisons and the disproportionate treatment of minorities constitute the continuity of discriminatory processes that have been consolidated throughout Brazilian history, reverberating in the marginalization of historically subordinate groups.

When analyzing the economic and social impacts of the penal system, Sobrinho and Carlos (2014) highlights that mass incarceration not only imposes high costs on society, but also worsens the conditions of exclusion and isolation of affected individuals. This reality is deepened by Aguiar (2022), who highlights the economic selectivity of Criminal Law as an instrument of control and social segregation, by criminalizing behaviors related to contexts of socioeconomic vulnerability. Thus, the penal system assumes a dual function: on the one hand, it seeks to establish mechanisms of repression; on the other hand, it reinforces the marginalization of those who are already in a situation of fragility.

The research is also dedicated to examining the impact of extension practices and the relationship between structural racism, the State and incarceration, as exposed by Alcântara et al. (2022) and Dos Santos and Gomes (2022). These analyses point to the existence of an apparatus judicial system that, instead of promoting the effective rehabilitation and social inclusion of individuals, perpetuates a cycle of punishment and exclusion. Thus, the study seeks to understand how penal selectivity is linked to public security and anti-drug policies, setting up a system that contributes to mass incarceration.

Furthermore, recent research, such as that of Júnior (2025), highlights the impact of imprisonment anticipated as an aggravating element of the phenomenon of incarceration, highlighting the urgency in the review of procedural measures and in the establishment of penal alternatives that guarantee the individual rights without compromising collective security. Through the systematization of data and critical analysis of current practices, this study aims to provide support theoretical and practical for the formulation of public policies that guide criminal justice more equitable and efficient.

In this way, the research justifies its relevance by addressing a topic that transcends the legal field, reaching social, economic and cultural dimensions, and proposes a reflection in-depth analysis of the mechanisms that legitimize criminal selectivity in Brazil.

1 THEORETICAL FRAMEWORK

1.1 Criminal Selectivity and Historical and Social Dimensions

This theoretical framework addresses criminal selectivity from a historical perspective. and social, highlighting how the penal system reproduces and reinforces structural inequalities.



Studies by Nova (2021) and Oliveira (2021) highlight the evolution of mechanisms that result in the differentiated criminalization of specific social groups, highlighting the continuity of discriminatory processes that mainly affect the black population and the classes vulnerable. The approach of these authors allows us to understand that criminal selectivity is not an isolated phenomenon, but part of a broader context, in which historical prejudice and social marginalization is reflected in the practice of mass incarceration. Furthermore, Sobrinho and Carlos (2014) highlight, in their analyses, the socioeconomic impacts resulting from this selectivity, which deepen social isolation and increase disparities existing in Brazilian society. Aguiar (2022) complements this discussion by address the economic selectivity of Criminal Law, establishing a correlation between the socioeconomic vulnerability and a greater propensity for incarceration, suggesting that the penal system acts as a tool for segregating less favored groups.

Understanding criminal selectivity demands an analysis that transcends the aspects merely legal, delving into the historical and social dimensions that support practices discriminatory practices rooted in the Brazilian penal system. The study by Martins (2017) presents a historical approach that highlights how the process of criminal selectivity is the result of a trajectory marked by inequalities and exclusions, where criminalization, unlike applied to certain groups, reflects legacies of prejudice and marginalization. This perspective is crucial to understanding that punitive practices did not emerge in isolation, but were consolidated based on socioeconomic and cultural conditions that privilege certain behaviors to the detriment of others.

From the perspective of critical criminology, Silva (2019) proposes a case analysis that highlights the selectivity present in the school environment, demonstrating how the penal system is intertwined from basic education with speeches and practices that signal certain young people as potential offenders. This investigation reveals that, since childhood, individuals belonging to vulnerable groups are subjected to a stigma that later materializes in the form of incarceration. Ricardo, in turn, discusses the nomenclature of the so-called "criminal law of enemy", highlighting that this terminology contributes to the legitimization of practices exclusionary, which reinforce the state's punitive power in an exacerbated manner.

Rodrigues (2023) uses the *labelling approach* theory to analyze the prison system from Minas Gerais, demonstrating how the social labeling of individuals directly influences judicial decisions and the conduct of criminal proceedings, perpetuating cycles of exclusion and hyperincarceration. This dynamic is particularly striking in contexts where discourse official not only legitimizes punishment, but intensifies it through judicial authoritarianism which inhibits the application of alternative measures to imprisonment.

In contrast to the observed exclusionary logic, Fernandes, Pellenz and Bastiani (2017) propose fraternity as an alternative to the selectivity of criminal law, suggesting that promoting supportive and inclusive practices can contribute to the deconstruction of punitive paradigms. This perspective brings a relevant contribution when thinking about public policies that aim not only to punish, but to socially integrate those historically marginalized.

The critical analysis of penal discourses, as exposed by Silva et al., indicates that the judicial authoritarianism associated with hyper-incarceration is intrinsically linked to practices that reinforce the criminalization of drugs and, consequently, criminal selectivity. Oliveira (2019) expands this discussion by addressing state punitivism, emphasizing the criminalization of poverty and institutional racism, elements that are clearly manifested in specific contexts, such as Rio de Janeiro.

The problem also unfolds in the field of gender, as demonstrated by Picolli and Tumelero (2019), who identify the intersection of "race" and class as factors determinants of female incarceration, revealing the complex web of exclusions that affects women. Dos Santos (2022) expands the debate by incorporating the environmental dimension, exposing how illegal mining is used as an instrument of criminal selectivity and racism environmental, highlighting the multiple faces of exclusion.

1.2 Impacts of Mass Incarceration and Structural Implications

The second point of the theoretical framework focuses on the effects of large-scale imprisonment scale and its consequences on the organization of the penal system and society. Based on recent studies, such as those by Júnior (2025), it is observed that procedural actions, such as detention in advance, intensify the issue, intensifying violations of fundamental rights and contributing to criminal selectivity.

Research carried out by Alcântara and collaborators (2022) and Dos Santos and Gomes (2022) indicate the presence of a state system that, instead of promoting rehabilitation, intensifies a cycle of penalties and exclusion. These theoretical studies show that the Large-scale imprisonment not only overburdens the justice system, but also intensifies the marginalization of people, perpetuating a scenario of social marginalization and devaluation of human dignity.

This assessment is enriched by discussions on the economic and social effects presented by Sobrinhos and Carlos (2014). They show how the continuity of practices punitive measures foster an environment of isolation and stigmatization, emphasizing the urgency of

reevaluate public safety policies and implement alternatives that encourage inclusion and the realization of basic rights.

Prison overcrowding in Brazil is a complex phenomenon that goes beyond merely punitive issues, reaching the structural and social dimensions of the system of criminal justice. This dynamic, characterized by a selectivity that affects in a way distinct from certain groups, presents challenges for understanding the retributive and preventive function of Criminal Law. The current discussion highlights that the crowding of inmates in establishments prisons feed cycles of exclusion and marginalization, demonstrating the vulnerability of public policies for security and social reintegration. The evaluation of the effects of this practice requires extensive reflection on the punitive model in force, which, instead of encouraging social reintegration, intensifies historical stigmas and vulnerabilities.

Within the penal system, the labelling approach theory is particularly enlightening to understand the selectivity process, as highlighted by Rodrigues (2023). The social categorization of people, based on stigmas linked to behaviors and socioeconomic contexts, legitimizes practices that shape the criminal future of many individuals. This mechanism, closely linked to the propagation of prejudices, favors the implementation of more severe measures and the imposition of more severe penalties, thus intensifying the phenomenon of large-scale imprisonment. Understanding this dynamics is crucial to identify alternatives that break the present discriminatory logic in the system.

In the context of punitivism, Fernandes, Pellenz and Bastiani (2017) suggest the fraternity as an option to the selectivity of Criminal Law, emphasizing the importance of supportive and inclusive practices. This perspective encourages reflection on the creation of a penal system that values prevention and social reintegration, rather than just punishment. The implementation of models that take into account human dignity and promote equality is essential to mitigate the devastating effects of over-incarceration. Therefore, the alternative redirecting the punitive system presents itself as a viable route to changing current criminal practices .

As highlighted by Silva et al. (sd), the evaluation of institutional discourses highlights the intense presence of judicial authoritarianism as a driving factor of over-incarceration. The rhetoric employed by legal professionals, when validating a zero tolerance policy for certain actions, contributes to the increase in the number of arrests in large scale. This authoritarian inclination not only weakens the procedural guarantees of individuals, but also consolidates a culture of exception that complicates the application of



alternative measures. Therefore, it is essential to reevaluate the discourses and practices that guide the penal system, with the aim of promoting a fairer and more balanced justice system.

As discussed by Aguiar (2022), the economic selectivity of Criminal Law demonstrates that the economically disadvantaged classes are recurrently impacted by the repression system. This selective bias is not limited to the application of penalties, but encompasses the entire system of social control that uses criminalization as a means of exclusion. The result is a destructive cycle where the less privileged are marginalized, worsening the already present social inequalities. This dynamic highlights the urgent need for implement policies that take into account socioeconomic inequalities in the creation and implementation of criminal legislation.

In the context of extension practices, the research of Roberto de Jesus, Ratton and Campos (2023) show that large-scale incarceration is also expressed through of actions that intensify the intervention of the punitive state. Often justified as social control actions, these practices end up perpetuating a model of repression that based on the marginalization of individuals. By privileging the punitive response, the State weakens the mechanisms for defending fundamental rights and intensifies the crisis in the system prison. From this perspective, the analysis of the effectiveness of extension practices becomes crucial to the discussion about changing the penal system.

The connection between racism, the state and prison overcrowding, as demonstrated by Alcântara et al. (2022), reinforces the perception that the penal system functions as a mechanism for preserving social hierarchies. The information indicates that the representation of the black population and historically marginalized groups in the system prison is disproportionate. This reality is the result of a series of practices that, over the years, years, have established themselves as tools of exclusion, perpetuating prejudices and disparities. The debate about the connection between race and criminal justice policies is crucial to building a justice that actually promotes equality.

As examined by Júnior (2025), the effect of early detention is presented as an aggravating factor in the phenomenon of large-scale imprisonment. The implementation of procedural actions to avoid alleged risks, often without due proof, contributes to the growth in the number of prisoners. This action, by bringing forward the execution of the penalty, weakens the principle of the presumption of innocence and intensifies the punitive consequences of the system. The difficulties arising from this situation indicate the need to reconsider procedural practices that excessively penalize people preventively, harming the creation of a fairer justice system.



The assessment of the particularities of female imprisonment, addressed by Picolli and Tumelero (2019) demonstrates how disparities of "race" and class manifest themselves in a distinct within the prison system. Women, particularly those from marginalized groups, deal with even more challenging circumstances, where the stigma attached to delinquency intensifies social vulnerability. This circumstance requires a distinct strategy that takes into account gender particularities and encourage options that are not limited to simple penalty. The analysis of female incarceration helps to expand the debate about penal selectivity and the structural consequences of the system.

According to Dos Santos (2022), the environmental dimension appears as yet another element that influences criminal selectivity. The use of illegal mining as a means of perpetuating practices discriminatory evidence shows that exclusion is not limited to traditionally studied fields, but also extends to situations of environmental racism. This phenomenon highlights the intricate social control network, which interconnects various forms of exclusion and marginalization. Therefore, assessing environmental and social effects is crucial to understanding the extent of practices punitive and structural consequences of large-scale imprisonment.

The combination of the various facets of mass imprisonment indicates the presence of a penal system that perpetuates, in an interconnected way, historical and current inequalities. The combination of elements such as economic selectivity, judicial authoritarianism and social classification techniques generate a context where the penalty becomes a automatic reaction to the exclusion of certain groups. Understanding this confluence is crucial to develop strategies aimed at breaking this cycle and implementing actions that guarantee the basic rights of citizens, helping to create a more equitable society.

Ultimately, expanding studies on the effects of incarceration on large scale and its structural consequences highlights the urgent need for changes significant changes in the Brazilian penal system. Based on a critical evaluation of the discourses, practices of extension and exclusion mechanisms, it is observed that the current punitive model presents severe restrictions on the implementation of inclusive justice. Overcoming the challenges identified requires the implementation of strategies that prioritize prevention, rehabilitation and the promotion of decent living conditions for all, regardless of social class, race or gender. This reflection highlights the importance of collective engagement in changing the system, with the aim of establishing a new logic of public security.

2 METHODOLOGY



The methodology adopted for this research is characterized by an approach qualitative and descriptive, combining bibliographic review procedures and analysis documentary, with the central objective of examining, in depth, the impacts of mass incarceration and its structural implications in the Brazilian penal system. Initially, the literature review was prioritized to identify the main concepts, theoretical models and observed practices that permeate the phenomenon of incarceration in mass. To this end, a systematic search strategy was used, defining keywords such as "mass incarceration", "criminal selectivity", "hyper-incarceration", "judicial authoritarianism" and "social exclusion", among others, which ensured the scope of the theme.

Searches were conducted in recognized academic databases, ensuring the relevance and credibility of the selected materials. Among the sources consulted, the following stand out: if Scopus and Web of Science, which enabled the identification of international studies with comparative perspectives, and SciELO (*Scientific Electronic Library Online*), essential to aggregate indexed articles and journals that address the Brazilian context. Google Academic was used as a complementary tool to broaden the spectrum of material available and identify publications that are not included in other restricted databases.

The CAPES (Coordination for the Improvement of Higher Education Personnel) portal was also used to access periodicals, dissertations and theses that deal with the mass incarceration and the structural implications of the penal system. This strategy allowed us to obtain a broad and interdisciplinary view on the topic, integrating legal analyses, sociological and political.

Inclusion and exclusion criteria were established to ensure quality and relevance of studies, prioritizing recent publications, preferably from the last ten years, and those that directly address the practical and theoretical challenges related to hyper-incarceration and penal selectivity. Materials from related areas that offered robust theoretical basis were also included in the theoretical framework .

Among the journals that formed the theoretical basis of this research, the following stand out:

ESMESC Magazine;

Fundamental Rights & Democracy Journal;

Argumentum Magazine - Argumentum Journal of Law;

Public Management and Citizenship Notebooks;

Temporalis.



With the selected set of articles, periodicals and legislative documents, we proceeded to the qualitative analysis of the contents through content analysis and study techniques comparative, allowing to extract the convergent and divergent points regarding the impacts of mass incarceration and the structural implications of the penal system. The data collected were organized and categorized by themes and subthemes, enabling an integrated view on the different aspects analyzed, such as the influence of judicial authoritarianism, the economic selectivity and extension practices.

During the analysis, we sought not only to describe the theoretical aspects, but also understand how the phenomena studied translate into concrete practices in penal system and society. This understanding was consolidated through the triangulation of data from periodicals, databases and official documents, highlighting the gaps and points of attention for future research.

3 RESULTS AND DISCUSSION

The evaluation of the results obtained from this research clearly reveals that the penal system in Brazil exercises its functions in a way that hides, through the phenomenon of large-scale incarceration, a series of criminal selectivity processes. These processes are deeply rooted in a logic that is both historical and structural, marked by social exclusion.

Therefore, it is clear that the way the penal system operates is closely related to a broader context of social inequalities, which are perpetuated throughout the time. It was found that this dynamic is intrinsically linked to both punitive practices regarding the authoritarianism that permeates the judicial system. These practices, while reiterate social stigmas, play a significant role in perpetuating cycles of marginalization that affects, more intensely, groups that historically have find themselves in vulnerable situations.

This interrelation between the observed dynamics and the mentioned practices highlights how justice can inadvertently contribute to social exclusion, exacerbating the difficulties faced by these communities. The combination and analysis of data collected from the studies that were reviewed made it possible to outline a comprehensive panorama that portrays the intrinsic complexity of this phenomenon. This analysis accesses the intersection of several factors, including economic, racial and institutional elements, which becomes evident in presentation of results.

According to the analysis carried out by Júnior (2025), it was possible to note that the practice of early imprisonment plays a fundamental role in accentuating punitive selectivity, acting as an aggravating factor that favors the increase in the phenomenon of incarceration in large scale. This dynamic reveals the complexity and implications of criminal law enforcement in the current context. This procedural system, by giving preference to precautionary measures, often without the necessary justification to support its adoption based on evidence concrete, ends up reinforcing a logic of preventive punishment. This logic affects disproportionately certain groups of the population, resulting in the reproduction and maintenance of structural inequalities that are already part of our society. This situation is worrying because evidence as procedural rules can be used in a way that accentuates the existing disparities, rather than promoting fair and equitable treatment for all citizens.

In the context of culture related to the prison system, Oliveira (2021) emphasizes that the phenomenon of mass incarceration goes beyond being merely a matter of execution criminal. In fact, it is configured as a true cultural phenomenon that not only justifies, but also perpetuates practices that promote social exclusion. Furthermore, this phenomenon works as an automatic response to behaviors that are associated with minority groups in society.

This interpretation makes it possible to deduce that the standardization of the punishment system, even if disguised under the justification of promoting security, it ends up accentuating a model of care that dehumanizes human beings and solidifies social stigmas that already exist. This question suggests that behind the appearances of protection and order there is a reality that perpetuates a negative view of certain groups, making it difficult for them to be included and respected. Therefore, it is crucial to analyze how such practices impact people's lives and contribute to the maintenance of inequalities and prejudices present in society (Oliveira, 2021).

The analysis carried out by Dos Santos and Gomes (2022) on the historical construction of black population as one of the main targets of the incarceration system reveals that the penal selectivity, in turn, has deep-rooted roots in the Brazilian social structure. This penal selectivity behaves as a true instrument that contributes to the perpetuation of racial inequalities already existing in society. The information available point out that the differentiated criminalization that affects black-skinned individuals is, in fact, the result of an ongoing process of discrimination, which is clearly manifested in tactics and practices adopted by police authorities, in addition to the imposition of penalties that are more severe and rigorous. This phenomenon corroborates a historical trajectory of social exclusion and marginalization of these individuals in our society.



In the work of Martins (2017), an in-depth historical analysis is presented that clearly and in detail demonstrates how the mechanisms of criminal selectivity were developed configuring since the first moments of the penal system in Brazil. This construction historical evidence reveals the perpetuation of a logic of repression that, in a systematic and intentional, favors the maintenance of the existing social order. It is therefore observed that this logic has not only consolidated itself over time, but has also become a central element in the functioning of the Brazilian penal system, reflecting the inequalities and dynamics of power present in society. This historical view is of utmost importance to understand that the contemporary effects of mass incarceration result from an extensive process of social exclusion. Furthermore, it is crucial to recognize that for structural changes to occur significant it is necessary not only to recognize, but also to overcome these historical legacies that still influence society.

In the educational environment, Silva (2019) emphasizes that, since childhood, there is a tendency to label certain young people, which creates a direct connection between the selection that is made in educational sector and the marginalization that these individuals subsequently face within the penal system. This premature labeling can profoundly influence the future of students, because the way they are perceived and treated at school can lead to consequences serious and lasting impacts on their lives. This case study clearly demonstrates that the school context functions as the first space where stigmas are formed, which tend to spread and intensify throughout people's life trajectory. This dynamics reinforces the perception that criminal selectivity has origins that are complex and diverse in nature.

The analysis involving the concept of enemy criminal law, as presented by Ricardo, suggests that the use of specific terminology and the classification of certain individuals as "enemies" ends up justifying the adoption of severe actions and punitive. This understanding reveals how this approach can lead to the normalization of measures that would otherwise be considered excessive or disproportionate within the scope of legal. Thus, labeling these individuals allows for flexibility in the rules that govern the penal system, making viable practices that aim at security, but which can disrespect fundamental guarantees. This view favors the elaboration of speeches that legitimize the application of repressive methods at disproportionate levels, which, in turn, contributes to the preservation of a penal system that is, at the same time, exclusionary and characterized by its authoritarian nature. This phenomenon reflects the tendency to normalize



practices that may be considered unfair and harmful to certain groups of society.

In the work carried out by Rodrigues in 2023, the author makes use of the theory known as *labelling approach*, which, in turn, serves to exemplify how the social labeling of individuals, which originates from stigmas that have been historically constructed over time, exerts a significant and decisive influence on the decisions that are taken within the scope judicial system, as well as on the way in which criminal proceedings are conducted. This relationship between social labeling and the judicial system is a central issue discussed in the research. The research carried out clearly demonstrates that this labeling practice has a significant strengthening of social exclusion, in addition to bringing to light the legitimization of actions that promote hyperincarceration. This phenomenon, in turn, is established in a way recurring and becomes an integral part of everyday life within the penal system, affecting the the way society deals with issues related to crime and punishment.

On the other hand, the authors Fernandes, Pellenz and Bastiani, in their study carried out in 2017, discuss the idea of fraternity as a viable possibility to counterbalance selectivity that characterizes criminal law. They suggest that the implementation of practices that promote solidarity can open significant paths for the resocialization of individuals as well as for social inclusion. This proposal suggests the development of a system penal system that is more focused on humanity, in which the emphasis is no longer on punishment severe, but rather about adopting actions that promote and respect the dignity of the person human, in addition to encouraging the reintegration of individuals into society. The objective is to transform the way we view justice, prioritizing recovery over mere punishment.

Critical analysis aimed at the authoritarianism that permeates the judicial system, as well as to the intensification of criminalization in relation to drugs, as argued by Silva and collaborators (undated), supports the notion that the discourse emanating from the State, by prioritizing a rhetoric that emphasizes punishment ends up reinforcing selectivity in the criminal field, in addition to contribute to the growth of large-scale incarceration. This situation demonstrates how public policies can influence social reality, promoting inequalities and injustices that affect a significant portion of the population. This critical analysis that is proposed here clearly states that when judicial practices choose to adopt a stance characterized by intolerance, they end up contributing significantly to the marginalization of individuals. This marginalization, in turn, strengthens a culture of exception, which manifests itself in inequities and disparities in the way the law is applied. It is important to understand that this dynamic can further aggravate the situation social vulnerability of certain groups, perpetuating inequalities that already exist in society.



Oliveira, in his work published in 2019, expands the analysis by discussing in depth the issues related to the punitivism promoted by the State, the problems the criminalization of poverty and the presence of institutional racism, factors that, in a blunt, contribute to the intensification of criminal selectivity specifically in the city of Rio de Janeiro. This perspective allows a better understanding that the intervention of The State, when it responds in an exaggerated manner to certain actions, ends up intensifying the marginalization of groups that are in vulnerable situations. This results in the perpetuation of a cycle of social exclusion that directly and significantly affects population that is economically disadvantaged and already faces several difficulties.

Research on criminal selectivity from a gender perspective, carried out by Picolli and Tumelero in 2019, points out that the confluence between the factors of "race" and class in context of women's incarceration exposes diverse and complex facets of exclusion that directly impact the lives of these women. This analysis reveals how different aspects social interact and contribute to a framework of marginalization that deserves to be understood in its multiple nuances. The data obtained reveal that the penal system performs a dual function of social repression: it is not only responsible for applying punishments to individuals, but also reproduces stigmas that are closely linked to both socioeconomic conditions of people regarding their gender identity. This dynamic ends up intensifying a context of hyperincarceration, which in turn mirrors and accentuates the social inequalities that exist in our society.

Dos Santos (2022) enriches the discussion by addressing the interconnection between illegal mining, selectivity in the penal system and the racism that permeates environmental issues, emphasizing that the discriminatory practices that occur in our society also manifest themselves within contexts related to the environment. This analysis reveals how different forms of injustice intertwine, highlighting that marginalization of certain groups can be seen not only in the social and economic spheres, but also in the unequal treatment of ecosystems and the exploitation of natural resources. This approach, which can be considered integrative, enables the understanding of that the mechanisms responsible for criminal exclusion are not limited to the spheres traditional ones that we usually identify, but they also establish an interaction with different other dimensions involving inequality. This, in turn, reveals the complexity and wide range of implications that are generated by the structures of mass incarceration, making it clear how these issues are interconnected and encompass different facets of society.



FINAL CONSIDERATIONS

It was noticed that the practice of large-scale incarceration, as opposed to acting as an efficient means for the resocialization of individuals, ends up reinforcing a punitive approach that not only deepens existing inequalities but also weakens social connections between people. This situation highlights the ineffectiveness of the system prison in promoting true reintegration into the social context.

It is quite clear that the current configuration of the penal system presents a significant lack of options that are alternatives to traditional approaches, which should, for in turn, value the dignity of the human person and, at the same time, facilitate social inclusion of individuals. This indicates an urgent need for reformulation and improvement of existing practices in order to ensure that the rights and humanity of citizens are respected and promoted effectively.

The lack of public policies that are specifically aimed at prevention and the creation of opportunities for individuals who find themselves in a situation of collective vulnerability ends up strengthening a cycle of social exclusion that becomes extremely difficult to break through actions that are merely of a character punitive. This situation highlights the need for more comprehensive and effective approaches that go beyond repression, truly seeking to promote inclusion and equal opportunities for everyone.

The obstacles identified point to the urgency of establishing a dialogue continuous and effective between the spheres of public power, the judicial system and the organizations of civil society. This communication should be aimed at building a collaborative network, whose main focus is the resocialization of individuals and the safeguarding of personal rights, thus ensuring a comprehensive and joint approach to facing such challenges.

In conclusion, the critical analysis regarding the structural consequences of the penal system that exists in Brazil clearly demonstrates the urgency of rethinking the logic that underpins incarceration. This reflection incites the need to redirect efforts in such a way that seek to create a model that prioritizes both prevention and rehabilitation of individuals.

In this way, this approach would not only help in social transformation but also contributes significantly to the construction of a society that is more just and inclusive, where all citizens can have the opportunity to reintegrate fully and with dignity.

REFERENCES





AGUIAR, Pedro Paulo Pereira. Economic selectivity of Criminal Law: The strategy of mass incarceration of economically vulnerable classes in Brazil. 2022.

ALCÂNTARA, Vanessa de Sousa et al. The relationship between racism, the State and mass incarceration in Brazil. 2022.

DOS SANTOS, Pedro Stadtler Rocha. Illegal mining, criminal selectivity and environmental racism: analysis based on "Operation Midas Dilemma". Avant Magazine, v. 6, n. 2, p. 285-304, 2022.

DOS SANTOS, Renan Daniel Trindade; GOMES, Marcus Alan Melo. The historical construction of black people as targets of mass incarceration in Brazil. Quaestio Iuris, v. 15, n. 3, p. 1225-1255, 2022.

FERNANDES, Sérgio Ricardo Aquino; PELLEZ, Mayara; BASTIANI, Ana Cristina Bacega de. Fraternity as an alternative to the selectivity of criminal law. Sequence (Florianópolis), p. 155-182, 2017.

JUNIOR, Sérgio Alves Teixeira. THE IMPACT OF EARLY ARREST ON PENAL SELECTIVENESS AND MASS INCARCERATION IN BRAZIL: Toe Impact of Pretrial Detention on Penal Selectivity and Mass Incarceration in Brazil. RCMOS-Multidisciplinary Scientific Journal O Saber, v. 1, no. 1, 2025.

MARTINS, Carla Benitez. Simple contributions to a historical and consubstantial reading of criminal selectivity in Brazil. InSURgência: journal of rights and social movements, v. 3, n. 2, p. 68-93, 2017.

NOVA, Adeildo Vila. Anti-drug law and penal selectivity: criminalization and mass incarceration of the black population. Notebooks of the Public Defender's Office of the State of São Paulo, p. 39, 2021.

OLIVEIRA, Bruna Lane Carneiro de. State punitivism, criminalization of poverty and institutional racism: the consequences of criminal selectivity in Rio de Janeiro. 2019.

OLIVEIRA, Lais de Souza. The culture of mass incarceration: a portrait of penal selectivity in Brazil. 2021.

PICOLLI, Ana Clara Gomes; TUMELERO, Silvana Marta. WOMEN AND PENAL SELECTIVITY: "RACE" AND CLASS IN FEMALE INCARCERATION. Temporalis, v. 19, n. 38, p. 196-211, 2019.

RICARDO, Felipe Aires Leal. Criminal law of the enemy: A question of nomenclature for the historical penal selectivity. sd

ROBERTO DE JESUS, Claudio; RATTON, Jose Luiz; CAMPOS, Thayane Silva. Mass incarceration and extension practices in Rio Grande do Norte. Public Management and Citizenship Notebooks, v. 28, p. e87987, 2023.



RODRIGUES, Vítor Oliveira Rubio. THE SELECTIVE PROCESS OF THE PENAL SYSTEM SUPPORTED BY THE LABELLING APPROACH THEORY: AN ANALYSIS OF PRISON SYSTEM OF MINAS GERAIS. Repository of Course Completion Works, 2023.

SILVA, Lucio Henrique Valentim Borba et al. FUNDICIAL AUTHORITARIANISM AND HYPER- INCARCERATION: A CRITICAL ANALYSIS OF PENAL DISCOURSES ON THE CRIMINALIZATION OF DRUGS. sd

SILVA, Plínio Vinícius Silva da. Criminal selectivity in schools: a case study from the perspective of critical criminology. 2019.

SOBRINHO, Graziano; CARLOS, Sergio Francisco. The economic impacts of the penal system: virtual life, isolation and mass incarceration. Sequência (Florianópolis), p. 133-158, 2014.