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THE IMPORTANCE OF WORK IN RESCUING DIGNITY: A right guaranteed in the Constitution[1]

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SUMMARY

Globalization caused distances to be shortened and, at all times, technology connected people all over the world and, thus, the work relationship changed due to this technology, gaining new concepts and new opportunities, such as the growth of*home office* in times of pandemic. The Federal Constitution, in its preamble, ensures the exercise of social and individual rights, which include human dignity as one of the principles. Human rights pre-exist the law and only exist as a function of man, as it is on this that any and all rights that are established in order to ensure the organization of society and restore the dignity of the citizen that was once lost due to crimes committed. each country is responsible for guaranteeing human rights within its own territory. Each and every citizen has the right to life; right to health; right to education; right to work; right to housing; freedom of movement (right to come and go); freedom of expression; freedom of opinion; religious freedom.

Key words: Work. Human dignity. Federal Constitution. Human rights.

ABSTRACT

Globalization meant that distances were shortened and, at all times, technology connected people around the world and, thus, the work relationship changed due to this technology, it gained new concepts and new opportunities, such as the growth of the home office in times of pandemic. The Federal Constitution, in its preamble, ensures the exercise of social and individual rights, which include human dignity as one of its principles. Human rights are pre-existing rights and only exist in function of man, since it is on him that any and all rights established in order to ensure the organization of society and restore the dignity of the citizen that were once lost due to offenses committed. each country is responsible for guaranteeing human rights within its own territory. Each and every citizen has the right to life; right to health; right to education; right to work; right to housing; freedom of movement (right to come and go); freedom of expression; freedom of opinion; religious freedom.
Keywords: Work. Human dignity. Federal Constitution. Human rights.

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1. INTRODUCTION

Work ennobles the human being because it is through work that man survives. Also, it is through dignified work that the ex-prisoner recovers his dignity as a human being. It seems like an easy task to describe in this way, but the situations experienced and shown in the news are very different where we constantly see the former prisoner returning to prison where he has food, clothes and a bed to sleep. This situation occurs due to the lack of opportunities that are not made available when the individual gains their freedom, making the process of restoring human dignity a failure.

In the case of ex-prisoners, used as an example in this article, the recovery of dignity occurs through paid and dignified work so that they can survive outside of prison, but in reality it is very difficult. To do this, it is necessary to raise awareness in society, which will and must welcome this human being, providing opportunities and conditions for them to restore their social life to the good, completely leaving the life of crime in the past. And, speaking of dignity and human rights, it is possible to see that these two issues are strongly linked, as they are essential for the human being: dignity as a constitutional guarantee and the human rights that require these guarantees to be fulfilled.

In short, it is possible to say that human rights are a tool to protect human beings, that is, any citizen in the world. However, these rights are not always respected. And, when these rights are established in the Constitution, they are called fundamental rights.

Finally, out of curiosity, the first form of declaration of human rights in history is attributed to the Cyrus Cylinder, a piece of clay containing the principles of Cyrus, who was king of ancient Persia. Upon conquering the city of Babylon in 539 BC, Cyrus freed all the city's slaves, declared that people would have religious freedom and established racial equality. Then, the idea quickly spread to other places and, over time, other important documents affirming individual rights emerged, such as the Petition of Right, a document drawn up by the English Parliament in 1628 and later sent to Charles I as a declaration of civil liberties. The Petition was based on previous charters and statutes and its main objective was to limit decisions by the monarch without authorization from Parliament. In 1776, the independence process of the United States began,

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context in which a declaration was published that emphasized individual rights (right to life, liberty and the pursuit of happiness) and the right to revolution. These ideas were not only widely supported by American citizens, but also influenced other similar phenomena in the world, in particular the French Revolution in 1789.

Also, the remarkable events of the French Revolution resulted in the drafting of a historic document called the Declaration of the Rights of Man and the Citizen. In it, it was guaranteed above all that all French citizens should have the right to freedom, property, security and resistance to oppression. These documents are considered important written precursors to many of today's human rights documents, including the 1948 Universal Declaration that is still in force today.

The objective of this work is to work on the issue of the importance of restoring human dignity, showing concepts and foundations. Also, analyze the relationship between the subject discussed and human rights, since both subjects are based on the Constitution. For this, a bibliographical research was carried out, as shown in the following work.

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2 THE WORK

At the beginning of the 18th century, there was the first Industrial Revolution. Before that, work relationships were established within the family, basically in the agrarian sector and the parents' professional legacy was left to their children and, thus, it was possible to build empires that passed from generation to generation, that is, from parents to children within the same family.

With this, Rodrigues (2021, p1) says that the working bond created with a lot of effort and dedication was strong. At that time, the economy was based on the exchange of services or concrete products, and not on the fictitious value added to a currency. Also, work was associated with the direct acquisition of goods for consumption.

At that time, the social structure of the population was very rigid where, according to Rodrigues (2021, p1), "a peasant was born and died a peasant in the same way that a noble was born and died a noble". Since then, work has gone through several phases and changes that are not the focus of this work, but it is important to highlight how much this phase influenced the history of the relationship between work and worker.

Today, in the age of technology, of computerization, that is, in the age of globalization, where the world is connected in real time, becoming a very significant phenomenon that changes stories every moment, it is clear that relationships and work situations are also evolving. Globalization caused distances to be shortened and, at all times, technology connected people all over the world and, thus, the working relationship changed as a result of this technology.

With all this evolution, opportunities, competitiveness, *home office* (paid work carried out remotely, in one's own home), among countless others. Rodrigues (2021, p.1) highlights that: "Formal paid work, which was previously confined within the walls of factories and offices, today follows us even at home and demands part of our free time, given the growing inherent competitiveness to the job market."

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2.1 Working concept

Rodrigues says that work (2021, p.1), "is the activity through which human beings produce their own existence". Therefore, when there are changes in the employment relationship, this is reflected in the citizen's social life and vice versa, as one situation is part of the other. So, it is possible to say that the social structure of human beings is easily shaken. For this not to happen, it is necessary to have more opportunities and these are equal for all citizens.

Luckács (1981 p. 12) adds that: for Marx, work is an ineliminable dimension of human life, that is, a fundamental ontological dimension, since, through it, man freely and consciously creates reality, as well as allows you to take a leap from mere organic existence to sociability because it is through work that subjectivity is constantly constituted and develops, in a process of self-creation.

2.2 Work and the rescue of human dignity

Sarlet (2001, p.60) defines the dignity of the human person (2001, p.60):

> We consider the dignity of the human person to be the intrinsic and distinctive quality of each human being that makes him or her worthy of the same respect and consideration on the part of the State and the community, implying, in this sense, a complex of fundamental rights and duties that guarantee the person both against any and all acts of a degrading and inhuman nature, as they guarantee the minimum existential conditions for a healthy life, in addition to enabling and promoting their co-responsible active participation in the destinies of their own existence and the life in communion of other human beings.

The dignity of the human being is provided for in the Federal Constitution of 1988 in article 1, section III as one of the foundations of the Democratic State of Law and, its purpose, as a fundamental principle, is to guarantee to man a minimum of rights that must be respected by society and public authorities, in order to preserve the appreciation of the human being himself, as shown below:

> Art. 1 The Federative Republic of Brazil, formed by the indissoluble union of States and Municipalities and the Federal District, constitutes a Democratic State of Law and has as its foundations:
> I - sovereignty;
> II - citizenship;
> III - the dignity of the human person;

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> IV - the social values of work and free enterprise; V
> - political pluralism.
> Single paragraph. All power emanates from the people, who exercise it through elected representatives or directly, under the terms of this Constitution.

The Federal Constitution in its preamble ensures the exercise of social and individual rights, freedom, security, well-being, development, equality and justice as supreme values of a fraternal, pluralistic and prejudice-free society, founded on harmony social and committed, in the internal and international order, to the peaceful resolution of disputes.

Flávia Piovesan says that the dignity of the human being: "(...) is established as the main principle of the Constitution, giving it unity of meaning, conditioning the interpretation of its norms and revealing itself, alongside Fundamental Rights and Guarantees, as a constitutional canon that incorporates the demands of justice and ethical values, providing axiological support to the entire Brazilian legal system" (PIOVESAN 2000, P.54).

Piovesan (2004, p. 92) also adds that:

> It is in the value of the dignity of the human person that the legal order finds its own meaning, being its starting point and its ending point, in the task of normative interpretation. Thus, the dignity of the human person is consecrated as a true super principle guiding International and Domestic Law.

Harberle (2009, p. 90) states that "human dignity is realized, both legally materially and procedurally, in multiple ways, through laws. Procedurally, the right to adversarial proceedings and the guarantee of effective legal protection characterize the protection of human dignity through the process".

The author Harberle highlights about human dignity that:

> "[...] it is a subjective public right, a fundamental right of the individual against the State (and against society) and it is, at the same time, a constitutional responsibility addressed to the State, in the sense of a duty to protect the individual in their human dignity in the face of society (or its groups). The State must create the conditions to carry out this, in such a way that human dignity is not violated by third parties (members of society). This constitutional duty can be fulfilled classically, therefore legally-defensively, but it can also be performed legally-prestably; it can be realized by legal-material paths and by procedural paths (in the sense of a status activus proceduralis), as well as by ideal and material means". (HARBERLE, 2009, p. 89)

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The authorHarberle (2009, p. 90), adds that: "[...] human dignity is implemented, both legally-materially and procedurally, in multiple ways, through laws. Procedurally, the right to adversarial proceedings and the guarantee of effective legal protection characterize the protection of human dignity through the process".

Sarlet (2005, p. 33-34), on human dignity states that:

> [...] the dignity of the person could be considered achieved whenever the concrete person (the individual) was demoted to an object, to a mere instrument, treated as a thing, in other words, whenever the person comes to be mischaracterized and disregarded as a subject of rights.

Thus, it is also possible to say that ex-detainees, after serving their sentence, deserve special attention, as they seek and hope to be inserted back into society and social life. Also, this individual will leave with great expectations of this reintegration. And, it is through decent work that he will provide his survival because every human being necessarily needs work because it is through this that decent money comes. Through this, this citizen will leave crimes and mistakes while committing illegal acts in the past. Rodrigues (2021, p. 1) says that "The idea is not that human beings exist as a function of work, but that it is through work that they produce the means to stay alive".

Kant (2002, p. 58-59) teaches us that: "the human being is an end in himself and not a means to the achievement of any arbitrary ends, as follows below: [...] I affirm man – and, in general, every rational being – exists as an end in himself, and not just as a means for the arbitrary use of this or that will. In all his actions, on the contrary, both those directed towards himself and those directed towards other rational beings, he must always be considered simultaneously as an end".

The State, together with society, will be returning this individual to the social environment. Therefore, it is essential that the population welcomes them, that is, there are projects and actions so that they truly feel integrated and have new opportunities to restart their lives, now healthy and restored. To this end, Tavares (2011, p. 207) says that "[...] in fact, it is a broader obligation for the State - which is to organize the economy, reduce the effects of a selfish policy, and create a climate favorable to everyone who wants to work."

However, the act of working is a condition of fundamental social value for rescuing the dignity of the ex-convict, as the working environment made available and offered contributes

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for this rescue. Since the environment inside the prison is very hostile, even considered inhumane.

And, as there is a lot of resocialization work within the prison, on the part of the State, the The prisoner starts to have the desire for a healthy life when released and he himself will contribute as he will be guided by this instinct. For this to become a reality, work is needed with the participation of the State together with Society and, free from prejudice and yes, opportunities for people to start their lives over again.

Larenz, recognizes in personal dignity "the prerogative of every human being to be respected as a person, not to be harmed in their existence (life, body and health) and to enjoy their own existential scope". (Karl Larenz 1978. p. 46).

Valdés (1990. p. 149), highlights four important consequences regarding the dignity of the human being:

> a) equal rights for all men, once they join society as people and not as citizens;
> b) guarantee of the independence and autonomy of human beings, in order to prevent any external coercion to the development of their personality, as well as any action that implies their degradation;
> c) observance and protection of inalienable human rights;
> d) non-admissibility of denying fundamental means for someone's development as a person or imposing subhuman living conditions. He warns, with a lot of accuracy, that constitutional protection is to the detriment of violations not only carried out by the State, but also by individuals.

For Luño (1995, p. 318): "the dignity of the human person constitutes not only the negative guarantee that the person will not be the object of offenses or humiliations, but it also implies, in a positive sense, the full development of the personality of each individual ".

2.3 Human Rights

According to Souza (2018, p.01), the Second World War resulted in the loss of a large number of people, especially with the many violations of individual rights committed by fascist governments during the war period. Shortly after the end of the conflict, the United Nations (UN) was formed, whose stated objective was and continues to be to bring peace to all the nations of the world. To this end, a commission was created, led by *Eleanor Roosevelt*, with the purpose of creating a document where the rights that every

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person in the world should have. This document is the Universal Declaration, made up of 30 articles that deal with inalienable rights that must guarantee freedom, justice and world peace. Among the various rights guaranteed by the Universal Declaration are the right not to be enslaved, to be treated equally before the law, the right to free political and religious expression, freedom of thought and political participation. Leisure, education, culture and free and paid work are also guaranteed as fundamental rights. And, today, the Universal Declaration is signed by the 192 countries that make up the United Nations and, although it does not have the force of law, the document serves as the basis for constitutions and international treaties.

Regarding human rights, the United Nations Children's Fund, known simply as UNICEF, says that "they are standards that recognize and protect the dignity of all human beings. Human rights govern the way in which individual human beings live in society and among themselves, as well as their relationship with the State and the obligations that the State has towards them".

UNICEF adds that: "Human rights law forces governments to do some things and prevents them from doing others. Individuals also have responsibilities: while enjoying their human rights, they must respect the rights of others. No government, group or individual has the right to do anything that violates another person's rights."

Oliveira (2011, p. 15), defines human rights as follows:

> "Human rights correspond to the sum of values, acts and norms that enable everyone to lead a dignified life (...).
> (...) In a comprehensive way, it can be understood that human rights correspond to all external and internal legal norms that aim to protect the human person, such as treaties, conventions, agreements or international pacts, as well as the Constitutions of States and their infraconstitutional norms".

Human rights pre-exist law and only exist in function of man, as it is on man that any and all rights are based. Clearly, human rights is an abbreviated way of mentioning all the fundamental rights of the human person that are contained in the constitution.

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Sampaio (2013, p.1), points out the following characteristics for fundamental human rights, which are related to state non-interference in the sphere of individuality, respecting the ethical value of human dignity:

> I) Historicity - fundamental rights are historical in nature, arising from Christianity, overcoming several revolutions until reaching the present day;
> II) Universality – reach all human beings without distinction,in this sense, we speak of the "Global System for the Protection of Human Rights";
> III) Inexhaustibility – they are inexhaustible in the sense that they can be expanded, expanded and new rights may emerge at any time;
> IV) Essentiality – human rights are inherent to the human being, based on the supreme values of man and his dignity (material aspect), assuming a prominent normative position (formal aspect).
> V) Imprescriptibility – such rights are not lost over time;
> VI) Inalienability – there is no possibility of transferring, under any circumstances, these rights;
> VII) Irrenounceability – there can be no renunciation of them, as no one can give up their own nature;
> VIII) Inviolability – they cannot be violated by infra-constitutional laws, nor by administrative acts carried out by agents of the Public Power, under penalty of civil, criminal and administrative liability;
> IX) Effectiveness – The Public Administration must create coercive mechanisms capable of enforcing fundamental rights;
> X) Limitability - Rights are not absolute, suffering restrictions on constitutional times of crisis (state of siege) and also in the face of interests or rights that, with confronting, are more important (principle of weighting);
> XI) Complementarity – fundamental rights must be observed not in isolation, but jointly and interactively with other norms, principles and objectives established by the constituent;
> XII) Competition – fundamental rights can be exercised cumulatively, when, for example, a journalist broadcasts news and expresses his opinion (freedom of information, communication and opinion).
> XIII) Prohibition of regression – human rights can never be diminished or reduced in their protection aspect (The State cannot protect less than it is already protecting).

In general, Human Rights present the characteristics described above by Sampaio, which aims to establish parameters for the organization of society. According to Souza (2018, p 01), human rights "consist of natural rights guaranteed to each and every individual, and which must be universal, that is, extend to people of all peoples and nations, regardless of their class social status, ethnicity, gender, nationality or political positioning".

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Author Souza adds that: "According to the United Nations (UN), human rights are universal legal guarantees that protect individuals and groups against actions or omissions by governments that violate human dignity. Examples of human rights include the right to life, the right to physical integrity, the right to dignity, among others.

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When human rights are established in a certain legal system, such as in the Constitutions, they are called fundamental rights". (SOUZA 2018, p. 01).

At a national level, each country is responsible for guaranteeing human rights within its own territory. But human rights institutions, professional organizations, academic institutions, religious groups, non-governmental organizations, among others, also act in monitoring these rights.

Lenzi (2021, p.01), highlights that human rights refer to all rights considered fundamental to basic dignity, which must be guaranteed to all citizens, from any part of the world and without any type of discrimination, such as color , religion, nationality, gender, sexual and political orientation, as human rights are the set of guarantees and universal values that guarantee dignity, defined with a minimum set of conditions for a dignified life. The author cites some examples of human rights, they are: right to life; right to health; right to education; right to work; right to housing; freedom of movement (right to come and go); freedom of expression; freedom of opinion; religious freedom. And, these rights aim to protect people against government actions that put human dignity at risk.

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3 FINAL CONSIDERATIONS

Given the subject covered in this article, it was possible to observe and deeply analyze the importance of job opportunities for people and how much this gesture brings benefits. We know that the current situation in Brazil is not favorable and that opportunities for new jobs are becoming scarcer every day, but when it comes to ex-prisoners, there should be greater participation between the state and society and, even, concern, so that this citizen who made a mistake for several reasons not addressed here, but who is now free, wants and needs to resume his life with the minimum conditions guaranteed by the Constitution and guaranteed by Human Rights.

Still in this article, it was possible to reflect on the importance of work as a builder in man's life and, in a way, how much work changes people's lives, as it is through it, often step by step, as they say in the popular when professional growth occurs gradually, or, better said, it is the most dignified way for the professional fulfillment of each human being to occur.

Also, the clear relationship between human dignity and human rights, where the two are based and aims to protect human beings, ensuring that they have the minimum conditions for survival and self-support. To obtain a satisfactory result, even in the long term, a lot of awareness and mutual collaboration is necessary.

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