



THE APPLICATION OF DIETARY GUIDELINES IN PRISON UNITS FROM THE PERSPECTIVE OF HUMAN DIGNITY¹



<https://doi.org/10.56238/levv16n47-091>

Submitted on: 03/23/2025

Publication date: 04/23/2025

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ABSTRACT

Food in Brazilian prisons is marked by recurrent violations of fundamental rights, with food precariousness being one of the most critical problems. This work aims to analyze how dietary guidelines are applied in prison units in Maranhão and Brazil, seeking to understand how they contribute — or not — to the effectiveness of the principle of human dignity. The problem that guides the research consists of investigating how the inadequacy in the food supply in prison units affects the dignity of the human person of the inmates and what are the challenges and obstacles for the effective implementation of these guidelines, in order to guarantee access to adequate and nutritious food during the period of incarceration. The methodology adopted is qualitative, based on bibliographic and documentary research, with analysis of legislation, institutional reports and academic studies. The results indicate that, despite normative advances — such as Resolution No. 3/2017 of the CNPCP and Normative Instruction No. 64/2021 in Maranhão —, the reality is still marked by widespread non-compliance with dietary guidelines, with insufficient meals, absence of inspection, overcrowding, and structural precariousness. It is concluded that adequate food is still not fully ensured, compromising the dignity and human rights of the incarcerated population.

Keywords: Prison food. Dignity of the human person. Human rights. Penitentiary system. Public policies.

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INTRODUCTION

The reality of Brazilian prison units is marked by successive violations of fundamental rights, with food being one of the most critical. Throughout the national territory, particularly in the state of Maranhão, there are recurrent reports about the food precariousness faced by inmates.

Food, as it is a basic human right, has legal support expressed in the Federal Constitution of 1988, especially in article 6. In this sense, its non-observance represents a direct affront to the principle of the dignity of the human person, enshrined in article 1, item III. Thus, the analysis of the application of dietary guidelines in Brazilian prison units is essential to understand the extent of the State's compliance with its obligations in dealing with the prison population.

The choice of this theme is justified by the need to broaden the debate on living conditions in Brazilian prisons, with a focus on food as an essential element for the health and dignity of individuals deprived of liberty. The persistence of a deficient dietary framework compromises not only the physical integrity of the inmates, but also the resocializing purpose of the sentence, contributing to the perpetuation of social vulnerabilities.

The general objective of this work is to analyze the application of dietary guidelines in prison units in Maranhão and Brazil, seeking to understand to what extent they contribute — or fail to contribute — to the effectiveness of the principle of human dignity. Specifically, it is intended to: investigate the adherence and compliance with dietary guidelines by the prison administration; to evaluate the impact of public policies and government programs aimed at promoting healthy eating; and to analyze the current national legislation regarding the right to adequate food, investigating the degree of effectiveness of these instruments in the prison context.

The problem of the present study is formulated in the following terms: how does the inadequacy of the food supply in prison units affect the dignity of the human person of the inmates and what are the challenges and obstacles for the effective implementation of the dietary guidelines, aiming to ensure access to adequate and nutritious food during the period of incarceration?

The methodology adopted to conduct this work consists of a qualitative approach, with bibliographic and documentary research, analyzing legal norms, institutional reports, academic studies and empirical data related to food in the Brazilian prison system.

The analysis was guided by the critical perspective of human rights, considering the national legal frameworks, such as the Constitution of the Federative Republic of Brazil of

1988, Law No. 7,210/1984 (Penal Execution Law), Law No. 11,346/2006 (Organic Law of Food and Nutrition Security), Resolution No. 3/2017 of the National Council for Criminal and Penitentiary Policy, Normative Instruction No. 64/2021 and Ordinance No. 982/2016 of the State Secretariat of Penitentiary Administration of Maranhão, as well as the United Nations Standard Minimum Rules for the Treatment of Prisoners (Mandela Rules).

The development of this work will be structured in three main chapters. The first will address the theoretical framework of the dignity of the human person and its application in the prison system. The second chapter will deal with the right to food as a fundamental right, addressing the nutritional guidelines provided for in Brazilian and international legislation. The third and last chapter will be dedicated to the critical analysis of the food reality in Brazilian prison units, with emphasis on the state of Maranhão, in order to evaluate the conformity (or not) of institutional practices with the required legal and ethical precepts.

OVERVIEW OF THE NATIONAL LEGISLATION ON FOOD IN PRISON UNITS

Before any analysis of the right to food in prisons, it is necessary to reflect on the starting point of our legal order: the Federal Constitution of 1988. It not only inaugurates a new era of rights in Brazil, but also reaffirms the dignity of the human person as a central value of life in society.

This principle, provided for in article 1, item III, of the Magna Carta, radiates effects on the entire legal system, including the prison population, which, although deprived of liberty, does not lose its condition as subjects of rights. Human dignity, therefore, imposes on the State the duty to ensure minimum conditions of existence also in prison, among which the right to adequate food stands out.

It is from this lens that we must look at people deprived of liberty — not as subjects excluded from rights, but as vulnerable citizens under the custody of the State. Freedom can be restricted, but dignity can never be restricted.

Then, when descending from the level of constitutional principles to that of infra-constitutional legislation, we find in the Penal Execution Law (LEP) a structure that seeks to give concreteness to this dignity. The LEP, since its origin in 1984, brings a vision that is still quite advanced for the time: that the execution of the sentence must take place with respect for the basic rights of the prisoner. Article 12 is emblematic in establishing that "material assistance to prisoners and internees shall consist of the provision of food, clothing and hygienic facilities", making it clear that food is not a favor, but an inalienable duty of the State. It is not a concession, but a legal obligation with moral roots.

In addition, when we observe the most recent normative developments, such as Resolution No. 4/2017 of the National Council for Penitentiary and Criminal Policy, we perceive an attempt to give materiality to these rights. The standard specifies minimum items to be provided to prisoners, such as bedding, hygiene products, and, of course, regular food.

That said, this chapter proceeds to bring some considerations about how national legislation has materialized the right to food in prison units, starting with the analysis of Law 11.346/2006, which provides for the establishment of the National Food and Nutrition Security System.

NATIONAL FOOD SAFETY SYSTEM

To understand the role of food in Brazilian prison units, it is essential to start from Law No. 11,346, of September 15, 2006, which establishes the National Food and Nutrition Security System (SISAN). This norm defines adequate food as a fundamental human right, inherent to the dignity of the human person, an indispensable condition for the full exercise of other fundamental rights, such as health, education and social assistance (BRASIL, 2006).

Article 2 of the aforementioned law establishes that "the realization of the human right to adequate food includes respect for the sovereignty and dignity of people, the guarantee of regular and permanent access to quality food, in sufficient quantity, without compromising access to other essential needs". In addition, it attributes to the public power the obligation to respect, protect, promote and provide this right, creating institutional mechanisms that ensure its enforceability.

In article 3 of Law No. 11,346/2006, food and nutritional security is defined as the realization of everyone's right to regular and permanent access to quality food, in sufficient quantity, without compromising access to other essential needs.

Such food must be health-promoting, culturally appropriate and guided by the principles of economic, environmental and social sustainability. It is, therefore, a conception that breaks with the merely welfare logic, requiring structuring and intersectoral actions from the State to ensure integrated public policies for food and nutrition security (SOARES, 2020).

In the prison context, this state obligation acquires greater relevance. This is because, under the terms of article 5, item XLIX, of the Federal Constitution of 1988, "prisoners are guaranteed respect for physical and moral integrity", which unequivocally includes the provision of adequate food.

This constitutional guarantee is reinforced by the Penal Execution Law (Law No. 7,210/1984), which, in its article 41, item I, expressly provides that the prisoner has the right to "sufficient food and clothing". Jurisprudence and doctrine reiterate that the restriction of freedom does not imply, under any circumstances, the suppression of other fundamental rights, such as the right to decent food (PICORETTO; SANTOS, 2023).

It is important to highlight that Constitutional Amendment No. 64, of 2010, included food in the list of social rights provided for in Article 6 of the Federal Constitution, reinforcing the State's duty to ensure this right also to people deprived of liberty. The precariousness of food conditions in prisons is thus not only an affront to the social right to food, but also a violation of human dignity, and can even be interpreted as a form of torture and inhumane treatment, as recommended by Law No. 9,455/1997, which deals with crimes of torture (KIRSTEN et al., 2021).

The doctrine has warned about the social invisibility of prisoners and the stigmatization that falls on this population. According to Francischetto and Santos (2023), "the naturalization of inhumane conditions in the prison system legitimizes state neglect", making it imperative to be transparent and supervise the food process inside prisons, as a way to confront institutional negligence. Food, in this context, assumes not only the role of subsistence, but also of reintegration and respect for the citizenship of the convict.

In addition, the legislation recognizes that access to quality food cannot be analyzed in isolation. The realization of the right to adequate food depends on the articulation between different public policies. This means that the health, education, justice, agriculture, and social assistance sectors must act in an integrated manner to fully guarantee this right, including in spaces of deprivation of liberty. Intersectoral action is an express guideline of Law No. 11,346/2006, which reinforces the requirement of transversality in state actions aimed at the incarcerated population (VILLAS BÔAS; SOARES, 2021).

Consequently, the concept of food security adopted by this law must be observed even within the prison system. According to Francischetto and Santos (2023), the condition of deprivation of liberty does not remove the entitlement to rights, so the prison population should be included as beneficiaries of food security policies. The supply of food in prison, therefore, must go beyond the simple caloric supply and include qualitative, sanitary and cultural aspects. It is the duty of the State to guarantee safe, varied, nutritious food that is appropriate to the specific conditions of the population deprived of liberty, including respecting food restrictions and individual needs.

Furthermore, the incorporation of food into the core of fundamental rights implies that its violation may constitute a direct offense to the dignity of the human person. Law No.

11,346/2006 expands the scope of state protection and inserts the right to food in a public governance structure that requires planning, control, evaluation, and social participation. The legislation thus serves as a high-density normative framework to guide public policies within the prison system, binding the State to strict liability for any omission in this field.

SPECIFIC GUIDELINES FOR MEALS OF PERSONS DEPRIVED OF LIBERTY

Resolution No. 3, of October 5, 2017, of the National Council for Criminal and Penitentiary Policy (CNPCP), came as a concrete attempt to guarantee a basic right that, unfortunately, is still neglected in the Brazilian prison system: the right to adequate food. By establishing specific guidelines for the provision of meals to people deprived of liberty, the text reinforces that the dignity of the human person must be respected, even within the walls of the prison.

This resolution is based, among other legal bases, on article 38 of the Penal Code, which states that the prisoner maintains all the rights that are not affected by the loss of freedom. In addition, it is in accordance with Article 6 of the Federal Constitution, which, since Constitutional Amendment No. 64/2010, has included food as a social right. In other words, the supply of quality food is not a favor from the State, but a constitutional duty.

In its article 1, the objective of the Resolution is highlighted:

Art. 1 - The Food and Nutrition of people deprived of liberty are governed by the guidelines of the National Food and Nutrition Policy (PNAN) and the National Food and Nutrition Security Policy (PNSAN) and must ensure: I - the promotion of adequate and healthy food, including the use of varied, safe foods that respect the culture, traditions and healthy eating habits, contributing to the maintenance of health, in accordance with the age group, including those who need specific nutritional attention.
II - the creation of conditions and environments that allow exclusive breastfeeding until the sixth month and continued breastfeeding until the child is two years old or older, who is in the company of the mother serving a custodial sentence, on a transitory basis.
III - the provision of adequate and healthy food for the breastfeeding mother, so that her nutritional needs are met for the production of breast milk.
IV - the provision of adequate and healthy food for children who are in the company of their mothers serving a prison sentence, respecting the quantities, quality and consistency according to the guidelines and principles established in the Food Guide for children under 2 years of age (BRASIL, 2017).

This concern with food is also related to the notion that the State, when arresting someone, assumes full responsibility for their physical and mental integrity. As Barroso (2022) points out, social rights require concrete actions from the government, and not just abstract promises. Thus, the resolution meets a trend of contemporary constitutionalism: to make fundamental rights effective and not just declaratory.

In addition, Resolution No. 3/2017 adopts a very broad and intersectoral approach. She does not only talk about calories and nutrients, but also considers cultural and religious aspects and even the issue of breastfeeding in women's prison units. It is a perspective that is close to the idea of "integral guaranteeism", proposed by Ferrajoli (2022), according to which the State must ensure fundamental rights even to those who have committed crimes, as this is what legitimizes the penal system itself.

Another important point is the determination that all meals must be planned by nutritionists, respecting nutritional values defined by the WHO. It is also required to provide at least five meals a day (art. 3, §1), which helps to combat abusive practices that are still common in many prisons, where food is scarce and of poor quality. In this sense, food often becomes a tool of indirect punishment, which is totally incompatible with the rule of law (SILVA; ANDRADE, 2024).

In addition, the Resolution expressly prohibits the use of food as an instrument of punishment or control, so it must be granted using the appropriate and necessary nutritional criteria. This is essential to break with the punitive logic that still dominates the prison system, as Lima (2023) warns, when he points out how prison precariousness is often naturalized and made invisible.

However, despite the normative text being quite complete, its application in practice encounters several challenges. In many prisons, there is a lack of physical structure, effective supervision and political will. As Zaffaroni (2023) reminds us, modern Criminal Law is only legitimate if it respects the rights of those in its custody – and this requires more than paper: it requires concrete action.

A positive point of the resolution is the suggestion to create gardens within the units (art. 5), involving the prisoners themselves in the cultivation and preparation of food. This measure has a double impact: it improves the quality of food and also contributes to rehabilitation, giving the prisoner a sense of responsibility and belonging. For Pinto (2025), prison work must go beyond punishment: it needs to be a tool for emancipation and reintegration.

In summary, Resolution No. 3/2017 is an important advance in the field of human rights in the prison system. It brings technical, social and legal guidelines that, if implemented correctly, can transform the food reality of people deprived of liberty. However, it is necessary to remember that a good norm, by itself, does not change realities. It is its implementation – with inspection, investment and social sensitivity – that will determine whether the dignity of these people will, in fact, be respected.

ADHERENCE TO AND COMPLIANCE WITH DIETARY GUIDELINES

According to the Penal Execution Law (BRASIL, 1984), adequate food must be guaranteed to prisoners, respecting human dignity. However, the effective implementation of dietary guidelines in Brazilian prisons faces significant challenges, evidenced by data and statistics that point to the precariousness in the supply of adequate food to incarcerated people.

According to the "First National Overview of Access to Food and Water in the Brazilian Prison System", published by the National Secretariat of Penal Policies (SENAPPEN), only 10.15% of prison units offer the recommended five meals a day. Most units (54.09%) provide four meals, while 33.42% serve only three meals a day. This insufficiency results in long intervals between meals, with reports of fasts exceeding 15 hours in some units (SECRETARIA NACIONAL DE POLÍTICAS PENALES [SENAPPEN], 2023).

In addition to quantity, the nutritional quality of meals is a constant concern. Studies show that, in many units, the food provided is monotonous and lacks essential nutrients. For example, a study carried out in a prison unit in Paraná revealed that the composition of the meals had low levels of protein and fiber, in addition to a high concentration of fats. This nutritional inadequacy can contribute to the development of diseases among inmates (UNIVERSIDADE ESTADUAL DE LONDRINA, 2015).

The overcrowding of prison units aggravates the problems related to food. Reports from the National Council of Justice (CNJ) indicate that, in some prisons, the occupancy rate is more than double the expected capacity, as observed in the Regional Prison Unit of São Luís de Montes Belos and in the Provisional Prison House of Aparecida de Goiânia. This overcrowding makes it difficult to provide adequate and sufficient meals for all inmates (AGÊNCIA BRASIL, 2024).

According to the Report on the National Overview of Access to Water in the Prison System, prepared by the Ministry of Justice and Public Security, in the year 2024, the adequate feeding of prisoners is the responsibility of the State and cannot be limited due to lack of resources, overcrowding or as a form of punishment, as such conduct can constitute torture and violence (BRASIL, 2024).

There are also frequent complaints about the state of the food provided in prisons. Reports indicate the distribution of raw, spoiled or expired food, further compromising the health of the inmates. These conditions show negligence in food management within the prison system (INSTITUTO TERRA, TRABALHO E CIDADANIA, 2022).

The challenges in implementing dietary guidelines in Brazilian prisons are multifaceted, ranging from insufficient quantity and quality of meals to structural problems such as overcrowding. It is imperative that measures be adopted to ensure the human right to adequate food for people deprived of liberty, as recommended by national and international policies.

This right is supported by instruments such as the Pact of San José, Costa Rica, which establishes, in its article 5, that every person deprived of liberty must be treated with the respect due to the inherent dignity of the human being, which includes minimum conditions of subsistence, such as adequate food. Furthermore, this understanding is reinforced by the United Nations Human Rights Committee, which considers sufficient and balanced food an essential component of dignity and health, including in the prison context (ORGANIZATION OF AMERICAN STATES, 1969).

In addition, the application of the guidelines in Brazilian prison units is directly impacted by the insufficiency of financial resources allocated to the penitentiary system. The scarcity of funds compromises not only the quality and quantity of the meals offered, but also the infrastructure necessary for the proper storage and preparation of food. This reality is evidenced in several reports and studies that point to the precariousness of food conditions in the country's prisons.

A clear example of this situation is presented in the report "Food and prisons: the hunger penalty in the Brazilian prison system", prepared by several entities that support people deprived of liberty, which highlights the negligence of the public authorities in fulfilling the rights to adequate food and nutrition, resulting in systematic violations of the human rights of incarcerated people (INSTITUTO TERRA, WORK AND CITIZENSHIP, 2022).

The document highlights the lack of transparency and accurate data on food in prison units, which makes it difficult to monitor and implement effective public policies. The entities responsible for the document emphasize the need for greater attention on the part of the competent bodies to ensure that the right to adequate food is effectively guaranteed to people deprived of liberty.

In addition, the document prepared by the Land Labor and Citizenship Institute emphasizes that the scarcity of reliable information prevents an accurate assessment of food conditions in prisons, making it difficult to identify specific problems and develop effective solutions. The signatory organizations of the report call on the Brazilian State to adopt concrete measures aimed at transparency and accountability with regard to the food of inmates.

The report also points out that the absence of detailed data on the quality and quantity of food provided in prison units reflects institutional negligence that perpetuates the violation of the human rights of inmates. The entities urge the authorities to implement monitoring and evaluation systems that ensure compliance with established nutritional standards, thus ensuring the well-being and dignity of people deprived of liberty.

Furthermore, the final report of the Parliamentary Commission of Inquiry (CPI) on the Prison System, published in 2009, already pointed out the need for greater budgetary support to the penitentiary system of the states, emphasizing that the lack of effective investments compromises the consistent improvement of prison conditions. This lack of financial resources is directly reflected in the quality of the services provided, including the food provided to the inmates (BRASIL, 2009).

The overcrowding of prison units is another factor that aggravates the food situation. According to data from the National Council of Justice (CNJ), in 2021, Brazilian penitentiaries were about 54.9% above their capacity, which further burdens the limited resources available for food and other basic needs of inmates. This overload hinders the logistics of providing adequate and sufficient meals for all inmates, exacerbating malnutrition and health problems within the units (CENTRO DE LIDERANÇA PÚBLICA, 2021).

Given this scenario, it is evident that the scarcity of subsidies and the insufficiency of funds allocated to Brazilian prison units compromise not only the implementation of dietary guidelines, but also the observance of the fundamental human rights of people deprived of liberty. The precariousness in the allocation of resources makes it impossible to improve the food, sanitation and structural conditions of the prison system, perpetuating an environment marked by systematic violations of rights and degrading conditions that affront human dignity.

FOOD IN THE MARANHÃO PRISON SYSTEM

Food in prison units represents an essential component of penitentiary policy and directly reflects the State's commitment to guaranteeing the fundamental rights of people deprived of liberty. The Federal Constitution, by enshrining the dignity of the human person as the foundation of the Republic (art. 1, III), imposes on the Public Administration the duty to ensure minimum conditions of existence in prisons, including the provision of adequate, regular food compatible with the nutritional needs of the prison population.

Within the scope of the State of Maranhão, the *Routine Manual of Prison Units*, through Ordinance No. 982/2016 and Normative Instruction No. 64/2021, specifically regulates the operational and normative parameters that govern the food for prisoners.

Normative Instruction No. 64/2021 establishes the Penitentiary Food System (ALIPEN), designed as a digital tool for logistical and administrative control, which allows real-time monitoring of the delivery and quality of meals. It is an instrument that aims to ensure greater efficiency, traceability and transparency in the fulfillment of contracts for the supply of foodstuffs, in line with the principles of public administration enshrined in article 37 of the Federal Constitution.

With the use of ALIPEN, the administrative directors of prison units must record, on a daily basis, the number of meals served, ensuring the correspondence between demand and effective supply, as well as pointing out any non-conformities (MARANHÃO, 2021).

With regard to the nutritional composition of meals, the regulation establishes standardized criteria. Breakfast must contain sweetened milk coffee and two 50g loaves of bread with margarine, while lunch and dinner must add up to at least 600g of food, with 120g of protein. Other items include rice, beans, assorted garnishes (such as pasta, puree or farofa) and salad.

Although these guidelines indicate concern with caloric value and nutrient diversity, there is no explicit mention of systematic nutritional monitoring or the presence of nutrition professionals in charge of preparing and evaluating menus, which limits dietary adequacy to specific cases, such as prisoners with medical conditions that require restrictive diets.

In addition, the provision of meals follows a strict routine, with fixed times: breakfast is distributed between 6 am and 7 am, lunch between 11 am and 12 pm, snack at 3 pm and dinner between 5:30 pm and 6 pm. The express prohibition on the advance supply of meals aims to curb the improper storage of food in cells, a practice that can generate outbreaks of unhealthiness or facilitate illicit trafficking in the prison environment (MARANHÃO, 2021).

However, this rule can be excessively rigid in certain situations, such as in the cases of sick prisoners, those undergoing health treatment, with specific religious practices, or those subjected to work routines that prevent them from eating during standard hours. The rule, therefore, lacks flexibility devices to meet these realities, which may compromise the effectiveness of the right to adequate food.

Furthermore, although the standardization of eating times can contribute to the organization of the internal routine and to the security of the prison environment, it is necessary to note that excessive rigidity can collide with international principles of dignified treatment of prisoners. The United Nations Standard Minimum Rules for the Treatment of

Prisoners, known as the Mandela Rules, establish, in its item 22.1, that food must be "provided at appropriate intervals" and in a manner that respects, whenever possible, "the religious and cultural precepts" of the population in custody (UNITED NATIONS, 2015).

Another relevant dimension regulated by Ordinance No. 982/2016 concerns the possibility of food entering during visits. Registered family members can provide ready meals to prisoners, as long as strict rules regarding packaging, quantity and type of food allowed are respected. Items must be in transparent containers, free of labels and already sliced, to allow visual inspection (SECRETARY OF PENITENTIARY ADMINISTRATION, 2016).

Also according to Ordinance No. 982/2016, in social visits, the entry of up to three kilos of food and two liters of non-alcoholic beverages (light soda or industrialized juice) is authorized. In the intimate visit, the limits are 500g of snack and one liter of drink. Such rules aim to ensure institutional security, but also reduce the space for cultural and affective manifestations through food, which, in these contexts, represents an important link between the prisoner and his family (SECRETARY OF PENITENTIARY ADMINISTRATION, 2016).

The responsibility for managing food within prison units falls directly to the Administrative Deputy Director or equivalent, who must register in ALIPEN the amount of meals requested, monitor compliance with the contract and report irregularities to the Food Inspection and Control Service (FCA).

The regulation prohibits any change in the menu by local initiative, and these decisions are centralized in SEAP. Such a measure aims to standardize the standard of care and avoid arbitrariness, but, on the other hand, it can compromise the adaptability of the service to the specificities of each unit.

Ordinance No. 982/2016 also establishes restrictive criteria regarding the types of food that can be introduced into the units. Items such as homemade juices, dark soft drinks, foods with bones, rigid peels, strong condiments and products that are difficult to inspect are prohibited, under the justification of avoiding the introduction of prohibited substances or objects (MARANHÃO, 2016).

Although such restrictions have a legitimate basis in the maintenance of order and security, they also negatively affect the symbolic dimension of food, which often represents one of the only ways to maintain affective and social bonds within prison.

As demonstrated in the study by Duarte et al. (2023), food transcends nutritional function, and is also a vehicle for affection, identity, and memory. The impossibility of access to food prepared by family members, such as typical sweets or culturally significant meals, weakens the emotional and social bonds that survive even in confinement,

aggravating psychological suffering and negatively affecting the relationship of inmates with their life history and belonging.

The effectiveness of this set of regulations, however, depends not only on the organizational and technological structure of the system, but also on continuous inspection, the training of management teams, and the diligent performance of the contracted companies. The absence of effective supervision can make ALIPEN a mere bureaucratic formality, with no correspondence in the material reality faced by prisoners.

It should be noted that the Brazilian criminal legislation, especially the Penal Execution Law (Law No. 7,210/1984), in its article 12, imposes on the State the duty to provide material assistance to the prisoner, which includes food. The systematic interpretation of this provision with the fundamental constitutional rights and with the international human rights treaties to which Brazil is a signatory – such as the United Nations Standard Minimum Rules for the Treatment of Prisoners (Mandela Rules) – reinforces the unavailable and inalienable nature of the right to adequate food, which must be guaranteed on an ongoing basis. safe, nutritious and culturally appropriate.

With this, it is observed that the Prison Units of Maranhão, by regulating prison food through the aforementioned norms, advances towards the standardization and transparency of services, but still lacks more robust mechanisms to adapt to dietary diversity, individualized nutritional monitoring and flexibility in the face of special cases.

IMPACT OF PUBLIC POLICIES ON THE FOOD OF PRISON UNITS

Food in the prison system represents more than a policy of material assistance: it is an essential condition for the preservation of the dignity of the human person, a structuring principle of the Federal Constitution of 1988 (art. 1, III). When the State fails to ensure sufficient, safe and healthy food for people deprived of liberty, it compromises not only the physical integrity of these individuals, but also the very foundations of the Democratic Rule of Law. As Gilmar Mendes points out, human dignity represents a minimum content of fundamental rights that the State cannot disregard (MENDES, 2021).

In this context, public policies and government programs aimed at prison food gain practical and symbolic relevance. Normative instructions such as No. 64/2021⁴ of Maranhão, for example, detail requirements on the quality and quantity of meals, which must contain, for example, 600g per unit at lunch and dinner, with 120g of protein, in addition to rice, beans, garnishes and salad. The rule also provides for the control of

⁴ Normative Instruction No. 64/2021, prepared by the Secretary of Penitentiary Administration of Maranhão provides for the procedures for inspection and control of the food provided to the State Secretariat of Penitentiary Administration.

temperature, hygienic transport conditions and the integrity of food packaging, but, despite this, its practical execution still lacks effective inspection and due accountability in cases of non-compliance.

From this normative analysis, it is observed that the mere provision of balanced menus or minimum weights is not enough to make the right to healthy food effective. For Alexandre de Moraes, fundamental rights impose both negative and positive obligations on the State, requiring concrete benefits (MORAES, 2021). This means that the supply of food must also meet the quality, diversity and adequacy to the specific needs of the prison population, such as cases of dietary restrictions, medical conditions and religious orientations.

In addition to state regulation, the National Council of Justice (CNJ) and the National Food Council (CNA) launched, in 2023, a national project aimed at food security in the prison system. The proposal sought to consolidate regional diagnoses and build intersectoral policies, which involve the joint action of prison managers, nutritionists and public defenders. According to the CNJ, the objective is to "strengthen the mechanisms of social and institutional control over the food supplied, preventing violations and promoting rights" (CNJ, 2023).

This institutional articulation demonstrates the understanding that food in prison should be treated as a public policy of health, education and justice. As Michel Temer points out, the essential core of fundamental rights, especially social rights, cannot be reduced by budgetary limitations. Thus, even if there are restrictions on public funds, the existential minimum – in this case, the right to decent food – must be guaranteed at all costs, including through judicialization (TEMER, 2017).

The Supreme Court has also reinforced this perspective. In a recent decision handed down in the context of the Allegation of Non-Compliance with a Fundamental Precept (ADPF) No. 347, the Court recognized adequate food as a fundamental right of immediate effectiveness, reaffirming that persons deprived of liberty maintain their status as subjects of law, and the State is prohibited from imposing any cruel, inhuman, or degrading treatment (STF, 2023).

The analysis of ADPF 347, carried out by the STF, which deals with the unconstitutional state of affairs in the Brazilian prison system, reinforces that incarceration does not suspend the State's obligation to guarantee minimum rights, such as food, health, and physical integrity. The decision reflects the consolidated view that the deprivation of liberty cannot justify the state's omission in the face of the fundamental rights guaranteed

by the constitution. The decision reflects the view that the State cannot use incarceration as a justification for neglecting basic obligations.

From a local point of view, Maranhão is moving forward with initiatives such as the "Redemption through Reading" Project, instituted through State Law No. 10,606, of June 30, 2017, which, although it does not directly deal with food, shows how integrated policies can promote prison dignity. The project guarantees four days of sentence remission for each book read, combined with the production of reviews and reports, promoting critical training and the convict's sense of belonging to society (SECRETARY OF PENITENTIARY ADMINISTRATION OF MARANHÃO, 2021).

However, the same zeal is not yet perceived in food policies. The daily reality, as pointed out by reports from the Public Defender's Office and judicial inspections, is marked by failures in the delivery of meals, poor quality of inputs and the absence of adapted menus. For Gilmar Mendes, "the protection of fundamental rights must be interpreted in the light of the principle of maximum effectiveness" (MENDES, 2021, p. 274), which means that public management needs to act actively to prevent setbacks.

The critical analysis of this scenario requires, therefore, a reflection on the management model adopted. Alexandre de Moraes points out that state omission, when it prevents the exercise of a fundamental right, is unconstitutional and must be fought by all legitimate legal means (MORAES, 2021). Thus, it is essential that the Public Prosecutor's Office, the Public Defender's Office, and the Judiciary act proactively in the supervision of prison food, including through public hearings and regular inspections.

The symbolic dimension of food, especially in family visits, should also be considered. The prohibition of certain foods, even for security reasons, affects the cultural and emotional identity of prisoners. As recommended by the CNJ, food is also a space for memory, affection, and identity (CNJ, 2023). Thus, public policies must balance security and humanity, ensuring that prison does not eliminate affective bonds essential to rehabilitation.

Finally, it is necessary to understand that public food policies in prison are not merely logistical. They translate, in concrete terms, the degree of respect that the State has for the human person. Michel Temer is emphatic in stating that the Brazilian constitutional system requires that all social rights be fully respected, including in contexts of deprivation of liberty (TEMER, 2017).

Therefore, strengthening food policies in prison units is an indispensable condition for the construction of a fairer, more effective and constitutionally committed penal system. The challenge that is imposed is political, legal and ethical: to ensure that human dignity, even under bars, continues to be the center of the State's actions.

CONCLUSION

In view of all that has been analyzed, it is evident that food in Brazilian prisons, especially in Maranhão, is one of the biggest challenges when it comes to guaranteeing human rights in the penitentiary system. Food cannot be seen only as a basic need, but as part of the State's commitment to the dignity of the human person — a value that the Constitution places as central to any public policy, including for those who are imprisoned.

Brazilian legislation already offers a solid basis: the Constitution, the Penal Execution Law, the Food Security Law (No. 11,346/2006) and several resolutions define that every prisoner has the right to a healthy, balanced and culturally appropriate diet. This includes not only quantity and calories, but also quality, hygiene, and respect for the specific needs of each person. In other words, feeding someone in deprivation of liberty well is not a favor: it is a legal obligation based on principles of justice and humanity.

Even with all this normative structure, the reality of prisons is still far from ideal. In many units, the food is insufficient, poorly prepared and repetitive. In addition, problems such as overcrowding, lack of money, management failures and absence of nutrition professionals make it difficult to apply these standards in practice. The data show that there are prisons serving only three meals a day, with long periods of fasting, and even reports of spoiled or expired food. All of this directly compromises the health and dignity of prisoners.

In Maranhão, there are some attempts to improve this scenario, such as the use of the ALIPEN system to control the delivery of meals and ensure more transparency. There are also rules about what should make up each meal. However, important points are still missing, such as individualized nutritional monitoring and adaptations for specific cases, such as prisoners with diseases, dietary restrictions or religious practices that require different schedules. In addition, the system depends a lot on the inspection and performance of local administrations — which does not always happen effectively.

Public policies aimed at prison food need to be treated more seriously. This includes not only planning, but also financial investment, constant inspection, and the performance of control bodies, such as the Public Prosecutor's Office, the Public Defender's Office, and the Judiciary. As the Federal Supreme Court decided in ADPF No. 347, it is the duty of the State to ensure that basic rights, such as food, health, and physical integrity, are respected even in prison. When this does not happen, the State is, in fact, violating the Constitution.

In view of this, it is a fact that feeding those who are imprisoned well is more than following a rule: it is a sign that the State recognizes that every person, even deprived of liberty, continues to be a subject of rights. It is necessary to break with the logic of punishment for hunger and invest in more humane policies, which treat food as part of the



rehabilitation process. Respecting the dignity of those in custody is the least that is expected of a country that claims to be democratic and committed to fundamental rights.

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