

## EDUCATION AS A SOCIAL RIGHT AND ITS RELATIONSHIP WITH REHABILITATION: ANALYSIS OF THE MATERIALIZATION OF THE RIGHT TO EDUCATION IN THE MONTES CLAROS II PRISON



<https://doi.org/10.56238/arev6n3-195>

Submitted on: 10/15/2024

Publication date: 11/15/2024

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### ABSTRACT

This essay aims to analyze the access to the right to education in the Montes Claros II Prison, as a means of ensuring rehabilitation and combating recidivism. In this way, the objective is to analyze whether education, factually, influences the remission, resocialization and reduction of recidivism of the convict within the scope of the Montes Claros II Prison. In this way, a quanti-qualitative approach is adopted, as it seeks, through the analysis of statistics and data from the perspective of bibliographic research, the understanding of the exposed theme, taking as a ballast the Criminal Information Report – 15th Cycle SISDEPEN – 2nd semester of 2023 – RELIPEN. Since prison, whatever its characteristic, does not take away the subject's right to education, therefore, the State takes upon itself the obligation to guarantee the enjoyment of this prerogative. In this line, it is perceived that the education of the inmate in the Montes Claros II Prison is guaranteed through a partnership signed between the State Department of Education of Minas Gerais (SEE/MG) and the State Secretariat of Justice and Public Security (SEJUSP) through a Technical Cooperation Agreement, thus, it is offered from elementary school I to the 1st year of high school, with a project to open classes every semester until completing the high school cycle, library, reading project in partnership with the State University of Montes Claros (Unimontes), National Exam for the Certification of Youth and Adult Skills (ENCCEJA), National High School Exam (ENEM) and Distance Education (EAD) for higher education inside the Prison. Likewise, access to higher education in person in educational establishments in the city of Montes Claros (MG) is guaranteed. However, the presence of schools and libraries in the prison environment addressed, by itself, does not guarantee the effectiveness of public policies, a factor that justifies the need for theoretical studies on the subject under analysis.

**Keywords:** Montes Claros. Education. Prison. Resocialization. Recidivism.

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## INTRODUCTION

This essay aims to contribute to the deepening of the discussions on education in the Montes Claros II Prison. In this way, it is understood, *a priori*, that education in the prison system is an essential component for the development of the inmates, so that it is shown as an instrument of rehabilitation and formation of skills, for an effective and promising reintegration after serving the sentence. In this regard, the right to education has a direct impact on the possibility of remission of sentence, according to the Penal Execution Law (Brasil, 1984, art. 126, §1, I).

It happens that, even with the deprivation of liberty, there is still the prerogative of guaranteeing the enjoyment of the rights of access to health, social assistance and education, since, taking these factors as dictates dear to the State. Thus, by perpetuating access to education in prison, in addition to fulfilling a legal prerogative, it aims to reduce recidivism rates by seeing that, systematically, the re-educating person enters the penitentiary system with low education.

In terms of educational structure, the country has 1,383 state and 5 federal penal establishments, offering a total of 3,701 classrooms, 388 computer labs, 444 meeting rooms, 1,082 libraries and 581 teachers' rooms. During the second half of 2023, more than 1.3 million educational activities were carried out in state prisons, with about 127 thousand inmates enrolled in literacy, elementary, secondary, higher, and technical education courses. In this line, according to Technical Note No. 14/2020 of the Ministry of Justice and Public Security, educational progress in Brazilian prisons is noted, which increased by 276% from 2012 to 2019. This is due to the implementation of state plans for education in prisons, facilitated by the partnership between the National Penitentiary Department (DEPEN) and the Ministry of Education.

In this research, the reality of the Montes Claros II Prison, which houses the Padre Henrique Munáiz Puig State School (EEPHMP), is taken as a cut. The study investigated the increase in vacancies and the quality of education offered as a public policy for rehabilitation, as well as the concept of education implemented.

Structure in evident expansion, and between the second semester of 2022 and the first semester of 2024, there was an increase in vacancies for inmate students from 90 to 105, with the number of enrolled students increasing from 37 to 52, reflecting a growth of approximately 16.7% in vacancies and 40.05% in frequent students. Advances resulting

from the efforts of the prison management, the faculty and the awareness of the inmates about the importance of education for a dignified life in the post-sentence.

In view of the above, it is noted that the objective of this research is to verify to what extent education is being implemented and made effective in the Montes Claros II Prison, aiming at the integral formation of the re-educating and the fight against criminal recidivism.

## **METHODOLOGY**

To meet the stated purpose, this work adopts a quantitative-qualitative approach, combining descriptive aspects with statistical and numerical data analysis. A method that enables a broad and detailed understanding of the subject, by combining empirical data and qualitative interpretations. As a methodology, bibliographic and documentary research was used, with special reference to the Criminal Information Report – 15th Cycle SISDEPEN – 2nd semester of 2023 – RELIPEN, which brought updated data on the prison population in Brazil.

In turn, the literature review is based on researchers on the subject, whose works support critical and in-depth discussions on the penal system, education and human rights, while the documentary research was conducted through the analysis of international and national norms and guidelines, including the documents of the United Nations (UN) and UNESCO, the Constitution of the Federative Republic of Brazil of 1988 (CRFB/1988), the Penal Code (CP), the Penal Execution Law (LEP), in addition to relevant judgments of the Federal Supreme Court (STF) and the Superior Court of Justice (STJ).

The Criminal Information Report (15th Cycle SISDEPEN/2nd Semester of 2023 - RELIPEN) and the Pedagogical Political Project of the Padre Henrique Munáiz Puig State School, an essential element for the educational analysis in the context of the Montes Claros II Prison, were also consulted.

## **RESULTS**

The incentive to education in prison is a factor that enables the resocialization of inmates and for the realization of the right to social reintegration. In this vein, the Penal Execution Law (LEP), in article 83, paragraph 4, establishes that classrooms must be installed for basic and vocational education courses, reinforcing the responsibility of the public power to promote access to education for convicts (Brasil, 1984). A right that faces barriers, such as budget limitations and the lack of interest of some inmates in studying, as

well as regulatory obstacles that interfere with enrollment and attendance. These activities, in addition to allowing the remission of sentence, play a central role in rehabilitation, helping the re-educating to develop skills and envision new possibilities for their life after serving their sentence.

In this focus, the Montes Claros II Prison provides formal education to inmates, ensuring access from Elementary School I to the first year of High School, this, in a gradual expansion project that aims to complete the high school cycle, opening new classes each semester. Thus, the prison offers a library, projects to encourage reading, the possibility of taking the National Exam for the Certification of Youth and Adult Skills (ENCCEJA) and the National High School Exam (ENEM), as well as Distance Education (EAD) courses for higher education within the prison itself. There is also the possibility of face-to-face higher education for some inmates, who obtain judicial authorization to attend classes outside the prison environment.

Despite the difficulties, the offer of vacancies for educational activities is higher than the number of enrollments made. In the context of rehabilitation, prison education presents itself as an instrument of personal and social transformation by preparing inmates for a life of work and awareness outside the penal system.

Therefore, the perspective is that they understand the importance of not relapsing into criminal activities, not for fear of judicial or police sanctions, but for the desire to seek a dignified and sustainable life. In this sense, rehabilitation goes beyond the application of the legal text; it requires the implementation of public policies that support the LEP guidelines and promote equity in access to education, aiming at a fairer and more inclusive system.

Thus, it is verified that education is carried out in the Montes Claros II Prison, covering from elementary to higher education, including vacancies. This study, by shedding light on the reality of prison education, seeks to contribute with answers to the questions about the effectiveness and challenges of teaching in prison, and also to provoke new reflections on the importance of valuing education as a means of rehabilitation.

## **DISCUSSION**

### **FROM THE RIGHT TO EDUCATION TO THE RE-EDUCATING**

According to Fernandes (2019), the right to education is an essential social right that seeks to reduce inequalities through positive actions by the State, so that it integrates the second dimension of fundamental rights, which require the State to take an active stance to

ensure the dignity and well-being of citizens. Unlike the merely formal equality, instituted by liberalism, social rights demand that the State act as a facilitating agent, providing material conditions for a dignified existence by imposing a positive benefit for the benefit of the population (Fernandes, 2019).

According to the constitutional paradigm in force on national soil, the right to education is provided for in article 6 of the CRFB/1988, being one of the pillars of social rights. Education, therefore, is not only an individual right, but a fundamental tool that enables the construction of a more just and equitable society.

Thus, the right to education, even in previous documents, was already recognized as fundamental, since the Imperial Charter, which provided for access to primary education for all. This principle was expanded by the current CRFB/1988, whose article 205 establishes that education is a right of all, and a duty of the State that extends to higher education, in addition to the basics (Fernandes, 2019).

In turn, the Portuguese jurist J.J. Gomes Canotilho (1993) adds an important perspective on the realization of social rights. According to Canotilho, the realization of social rights, such as education, depends on a gradual implementation, since it is conditioned to the public budget and the formulation of public policies that materialize these rights. Furthermore, Canotilho (1993) argues that, by their very nature, these rights are beyond the strict control of the judiciary and depend, to a large extent, on the decisions of the political organs of the State. Thus, the realization of social rights is a matter of commitment and political will, requiring a continuous interaction between the structure of the State and social demands.

In the same vein, Andréas Krell (2002) explains that social rights need to be understood within the political-administrative context of the State. Education, as a social right, requires more than legal recognition; It requires a commitment from the public authorities to the implementation of effective and sustainable policies to ensure universal and quality access to education. This commitment is fundamental for education to fulfill its transformative role and promote substantive equality, raising not only the level of education, but also the opportunities for personal and social development of each individual:

The programmatic norms on social rights that we find today in the vast majority of constitutional texts in European and Latin American countries define goals and purposes, which the ordinary legislator must raise to an appropriate level of concreteness. These "program-norms" prescribe the realization by the State of certain aims and tasks. They do not represent mere recommendations or moral

precepts with merely directive ethical-political efficacy, but constitute directly applicable law. (Krell, 2002, p. 20).

This context brings to light the thesis of social rights as *prima facie* subjective rights, which maintains that these rights should not be seen only as programmatic guidelines, but as full and self-sufficient rights, enforceable within a system of weighing with other rights, which can be supported by judicial control (Fernandes, 2019). That is, even in a situation of restriction of freedom, such as in the prison system, the right to education is perpetuated as a subjective right and can be claimed.

In this way, there is a need to carry out education even with the individual in prison, after all, even deprived of liberty, the re-educating maintain their fundamental rights, which include access to education, health and other basic needs that enable their social reintegration. Thus, by guaranteeing education to these people, the State fulfills an essential role of rehabilitation and meets the constitutional principle of human dignity.

In this context, education is assumed as a tool for transformation, dictated by Rosolen (2022), who highlights its relevance for the resocialization and psychopedagogical monitoring of the re-educated. This type of accompaniment aims to promote a new perspective on life, breaking the cycle of recidivism and favoring the development of skills that can be useful in life after prison. The community also benefits, since education contributes to the reduction of crime and the promotion of citizenship.

Transformative education, as defended by Paulo Freire (1987), is based on a liberating pedagogy that integrates values of care, love and solidarity (Shor; Freire, 2000). The Freirean perspective argues that education is a process of empathetic and transformative dialogue, which awakens in the student the ability to reflect critically and act autonomously and consciously. Freire emphasizes that effective education requires an empathetic and dialogical approach, through which the learner is not a mere receiver of knowledge, but an active participant in the construction of his or her own learning:

Liberating education can do this – change the understanding of reality. But this is not the same thing as changing reality itself. No. Only political action in society can make social transformation, and not critical study in the classroom. The structures of society – as well as the capitalist mode of production – have to be changed, so that reality can be transformed (Shor; Freire, 2000, p. 106).

Even so, the national penitentiary system has a low rate of rehabilitation (Dalto, Guilher and Goltara, 2016), a scenario that is systematically perpetuated, a situation that is



not aligned with the foundations of the 1984 Penal Execution that seeks, above all, the success in the rehabilitation of the incarcerated individual. For this reason, it legitimizes the presence of public policies with the aim of making up for this deficit.

In this thread, the presence of public policies aimed at offering quality education in different educational establishments is verified. Policies such as the State Education Plan for Persons Deprived of Liberty and Former Prisoners, implemented in Minas Gerais, the result of a partnership between the State Department of Education and the Department of Justice and Public Security. This plan, aimed at the period from 2020 to 2024, aims to develop strategies that better meet the educational demand of re-educates, recognizing the fundamental role of education in rehabilitation.

By ensuring access to education for people deprived of liberty, a path is created for the construction of new perspectives, expanding their opportunities and contributing to the reduction of criminal recidivism. In this way, prison education is consolidated as an instrument of social transformation and promotion of citizenship, reinforcing the continuous need to improve these policies. This essay aims to understand whether these dictates are observed within the municipality of Montes Claros, in Minas Gerais.

## THE SITUATION IN THE MONTES CLAROS II PRISON

The Montes Claros II Prison, also known as the Montes Claros Regional Prison or the Jaraguá de Montes Claros Prison, is a prison unit linked to the State Secretariat of Justice and Public Security (SEJUSP). Inaugurated on November 6, 2007, in the Jaraguá II neighborhood, in the northeast region of Montes Claros (MG), it has the objective of strengthening public security in the city and the region.

Designed to hold up to 805 inmates, including the main buildings and annexes, the Montes Claros II Prison has the Padre Henrique Munáiz Puig State School (EEPHMP), an institution dedicated to promoting the education and rehabilitation of inmates. The school plays a key role in socially reintegrating inmates through education, a process that requires constant evaluation of pedagogical methods and the implementation of practices that best meet the needs of students.

In the second semester of 2022, the Montes Claros II Prison made 90 vacancies available for inmates, however, only 37 of these were filled by students who regularly attended classes. This, in a school environment that had two classrooms, a library, a room

for teachers and specific rooms for direction, supervision, guidance and the pedagogical sector.

Also in prison, elementary and secondary education is offered, in addition to preparing students for the National Exam for the Certification of Youth and Adult Skills (ENCCEJA). Thus, via the unit's pedagogical team composed of supervisors, pedagogues and teachers of the disciplines of Portuguese, mathematics, history, geography, science, arts, theory of physical education and religious education, all designated by the Minas Gerais State Department of Education.

This educational support is offered through a cooperation agreement between the Department of Education and the Department of Justice and Public Security, which is responsible for the physical structure and management of the re-educated.

In the first semester of 2024, there was an increase in both the number of vacancies and the number of students enrolled in the school, as 105 vacancies are offered, of which 52 are occupied by regular students. This expansion represents a growth of approximately 16.7% in the number of vacancies since 2022 and 40.05% in the number of enrolled and frequent students, a significant advance in less than two years.

These numbers reflect the joint effort of the prison management, the school's teaching and technical staff and the students themselves, who recognize education as a transformative tool during and after serving their sentences. In addition to professional development, this initiative offers inmates opportunities to reflect on choices and the positive impacts of reintegration without criminal recidivism.

Today, the prison's school space is larger, with four classrooms, a library, a teachers' room, as well as others for management, supervision, secretariat, guidance and pedagogy and a computer lab.

That said, it is verified, through quantitative research, that the Montes Claros II Prison seeks to offer inmates a formal education, thus, from elementary school I to the 1st year of high school. Thus, there is a plan to open new classes every six months, in order to cover the entire cycle of high school, as well as the intention to provide a library, reading projects and programs such as ENCCEJA, ENEM and Distance Learning (EAD) courses of higher education within the prison itself. Likewise, for some re-educating students, there is the possibility of attending higher education in person outside the walls.

Therefore, even if the prison faces financial difficulties, the number of vacancies offered exceeds the number of enrollments made, a factor that reveals the re-educate's lack



of interest in his own education or the lack of fulfillment of the requirements to enjoy this benefit/right. However, there is an insistence on broadening the perspective of work and as it worships the social reintegration of the convict through education as a transformative tool.

## CONCLUSION

It is perceived that prison education is a tool that corroborates the resocialization of re-educates. In this context, there are public policies aimed at the humanization of punishment, through education, seeking to ensure the effectiveness of the fundamental rights of the inmates. In a way that combats the stigmatization associated with incarcerated individuals, a factor that creates barriers that prevent inclusion and equity.

According to the Penal Execution Law, the rehabilitation of the convict is one of the main functions of the sentence, thus, the legislation recognizes education as a crucial tool in this process, ensuring the right to educational assistance and professional training in the prison environment. In this scenario, education in the prison system emerges as an effective instrument for reconstruction and social reintegration, driven by appropriate public policies.

This commitment to education in the prison context not only respects the fundamental rights of inmates, but also demonstrates the potential for a positive transformation that goes beyond the walls of prisons, reaching society as a whole. Therefore, rehabilitation should not be seen only as an abstract goal or an ideal expressed in the law, but as a concrete action that requires the effective implementation of public policies. Only in this way will it be possible to consolidate the scenario of equity and education provided for by the Penal Execution Law and build a prison system truly committed to the reintegration of inmates.

In view of the above, it can be seen in the State Education Plan for Persons Deprived of Liberty and Former Prisoners, implemented in Minas Gerais, the demonstration of the State's commitment to strengthen prison education as a means of resocialization. Developed in partnership between the State Department of Education and the Department of Justice and Public Security, this plan implements strategies that effectively meet the educational demands of the re-educated, recognizing education as a fundamental pillar for their social reintegration.

By ensuring access to education for people deprived of liberty, this situation opens up new perspectives for these individuals, offering opportunities for personal and

professional growth. In this way, prison education consolidates itself as a powerful instrument for social transformation and the promotion of citizenship, reinforcing the importance of continuously improving these public policies to ensure their positive impact.

In view of the narration, it is noted that the guidelines of this plan, in the municipality of Montes Claros, in Minas Gerais, strengthen the dignity and social reintegration of the inmates in an effective way with a view to building a system that, in addition to punishing, actively contributes to resocialization and to the construction of a more inclusive and safe society.

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