

EDUCATION FOR WOMEN IN PRISONS: A HUMAN RIGHT

 <https://doi.org/10.56238/arev6n3-331>

Submitted on: 26/10/2024

Publication date: 26/11/2024

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ABSTRACT

Education is a social right, expressed by the Federal Constitution of 1988, by the Penal Execution Law (1984) and reaffirmed by the Law of Guidelines and Bases of Education (1996). Although the right to education is guaranteed by Brazilian law, there are still issues that need to be discussed with regard to access to this right in prison. Thus, the general objective of this study is to discuss education for women deprived of liberty as a human right. The methodology adopted is anchored in bibliographic research in a qualitative approach. The results found corroborate the invisibility of women deprived of liberty not only in terms of gender needs but also in full access to human and social rights in education, which, although access is equal for men and women, nevertheless becomes slower for women, perpetuating in society the same patriarchal and exclusionary behaviors of the past.

Keywords: Women Deprived of Liberty. Full Access to Education. Education as a Human Right.

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INTRODUCTION

In Brazil, education is a human right of all people and a duty of the State and the family expressed in Article 205 of the Federal Constitution (Brasil, 1988) and in Constitutional Amendment No. 14, of September 12, 1996 (Brasil, 1996a), which determines that the entire Brazilian population has the right to compulsory and free elementary education.

This right is reaffirmed in the Law of Guidelines and Bases of Education (LDB), Law No. 9,394, of December 20, 1996 (Brasil, 1996b), which establishes, in Article 4, item I, "compulsory and free elementary education, including for those who did not have access to it at the appropriate age". And, also, in the Penal Execution Law (LEP) No. 7,210, of July 11, 1984 (Brasil, 1984), which, by providing for education in the prison system, indicates that educational assistance will include school instruction and the professional training of the prisoner; defines that primary education (elementary education) is mandatory and integrated into the school system of the federative unit; It states that secondary education, regular or supplementary, with general training or professional education at the secondary level, will be implemented in prisons and, also, institutes the requirement to implement a library in the prison unit provided with instructive, recreational and didactic books for the use of all people deprived of liberty.

In line with this legislation, Interministerial Ordinance No. 210, of January 16, 2014 (Brasil, 2014), of the Special Secretariat for Women's Policies (SPM), by instituting the National Policy for Attention to Women in Situations of Deprivation of Liberty and Former Prisoners (PNAMPE), seeks to guarantee the right to education for women deprived of liberty. It also provides for the encouragement of state prison administration bodies to promote the realization of fundamental rights within prison establishments, including the provision of education for women deprived of liberty associated with complementary actions of culture, sports, digital inclusion, professional education, promotion of reading and programs for the implementation, recovery and maintenance of libraries.

Education has the function of forming the human person through his cultural, social and cognitive development, and is necessary in all stages of life. Thus, the objective of this work is to discuss education for women deprived of liberty as a human right, supported by national and international norms and also because it constitutes an important action for the process of social reintegration.

WOMEN IN PRISON SPACES

The changes in Brazil regarding the care of women in situations of deprivation of liberty are relatively recent in comparison with many countries in Europe and even in the Americas. It is only on November 21, 1891, in Rio de Janeiro, that the Sisters of the Good Shepherd of Angers founded the first institution called Casa with the aim of supporting girls and women in vulnerable situations. From then on, other shelters emerged, but they were not yet considered prisons (Campos, 1981).

In 1906, more Houses were founded, one in São Paulo; in 1910, two Houses in the hinterland of Bahia, in the cities of Barra and Caetité, and, in 1920, the Houses spread with branches in Belo Horizonte, Recife, Pelotas, Petrópolis and in the State of Ceará (Campos, 1981). However, the State had not yet determined the construction of prisons for women. It was only in 1905 that the Report of the House of Correction of the Federal Capital, in Rio de Janeiro, reported that five cells of the former Asylum were improved to receive women prisoners until another space was built (Soares; Ilgenfritz, 2002).

However, this timid action in favor of women prisoners in Rio de Janeiro was not enough for other women to also have a different treatment in the separation of men in other prison establishments in Brazil. Although many women were collected in rooms, cells and wings different from those of men, the separation between the sexes also involved the poor physical conditions of each place.

The fact is that, in Brazil, until the middle of the twentieth century, women were imprisoned in the same cells as men, which led to sexual abuse, rape, forced prostitution and diseases. And the recurrent motivation for the arrest of these women were crimes of lesser offensive potential such as drunkenness, rioting, scandals, prostitution and vagrancy (Angotti; Salla, 2018). Faced with such an arbitrary prison context, once we can infer the trajectory of the double suffering that women went through: one, due to the subhuman conditions of the prison, such as mistreatment and hunger, and, the other, due to the sexual abuse of which they were victims, penitentiaries and Brazilian society began to discuss a way to separate men and women in prison.

Only after the promulgation of the Penal Code, created by Decree-Law No. 2,848, of December 7, 1940 (Brasil, 1940), and of the Code of Criminal Procedure, by Decree-Law No. 3,689, of October 3, 1941 (Brasil, 1941), both regulated by President Getúlio Vargas

(1882-1954) during the Estado Novo ³period, the implementation of prisons for the female population began. Thus, in 1942, the Women's Prison, in São Paulo, and the Women's Penitentiary of the Federal District, in Bangu, Rio de Janeiro, were founded (Angotti; Salla, 2018).

Article 5 of Decree-Law No. 2,848 (Brasil, 1940) provided that women's sentences should be carried out with educational methods and domestic work. The first women's prisons had the objective of re-educating the inmates, as we can see:

Article 5 - The educational and working methods employed in the Section shall be the same as those in force in the Penitentiary, with the mitigations and modifications that are recommended. Preferably sewing, laundry and ironing workshops will be established, not only intended to serve the establishment but also private individuals and other official offices. (Brazil, 1940).

This Decree-Law No. 2,848 (Brasil, 1940) reaffirms the patriarchal position of the State, in which women are destined to the home, to domestic chores, that is, to the private space and not to the public. Therefore, the learning of domestic activities with the purpose of the return of women to this domesticated place, whose trades were taught by the Sisters of Our Lady of the Good Shepherd d'Angers such as washing, ironing, cooking, sewing, cleaning, embroidering, knitting and crocheting, among others related to the domestic and private sphere. The learning of domestic activities reinforces the maintenance of social roles, legitimizing the home as the place of women in the position of housewife or maid.

Currently, prison for women does not have this sexist bias of domestic learning, however they face other challenges such as serving their sentence in mixed spaces, which house men and women. Such spaces were not built to meet women's peculiarities, such as: issues related to reproductive health; access to menstrual hygiene products; prenatal care; follow-up during and after childbirth; privacy and dignity, especially in intimate moments such as bathing and changing clothes; absence of adequate facilities to maintain contact with their children and also psychological and psychiatric care.

It is important to highlight that many of these women have already suffered sexual abuse and/or domestic violence, however, prisons ignore these peculiarities and are almost always not offered specific care for such needs. The significant number of mixed prisons,

³Getúlio Dornelles Vargas was president of Brazil for two terms: 1930 to 1945 and 1951-1964. The first term, in the period of the dictatorial phase, known as the Estado Novo, when Congress and the State Assemblies and Municipal Councils were closed and the Government took place from the decree-laws.

buildings with separate wings and/or cells for males and females, is still a difficult reality faced in women's prisons.

This deficient context in the service of spaces suitable for women deprived of liberty intersects with another serious reality, which is the growth of the female prison population. Brazil ranks third in the 2022 world ranking, registering 42,694 women imprisoned or convicted, behind the United States (211,375) and China (145,113) (World Femaly Imprisonment List, 2022).

Since the beginning of the twenty-first century, there has been a 675% increase in incarcerated women, considering the number of 44,700 in 2017, the rate of increase in female imprisonment was 5.4 times higher than the 2000 data, even though this rate had a small reduction in 2022, the situation of female incarceration is still worrying, since the female prison population has quadrupled in 20 years. Chart 1 shows the evolution of female incarceration in Brazil in the years 2000, 2005, 2010, 2014, 2017 and 2022.

Table 1 – Evolution of the female prison population

Year	Quantitative of the female prison population
2023	42,694 women
2017	44,700 women
2014	36,495 women
2010	34,807 women
2005	20,264 women
2000	10,112 women

Source: National Secretariat of Penal Policies (SISDEPEN). Statistical data from the penitentiary system (Brasil, 2022a).

Data from the National Secretariat for Penal Policies (SISDEPEN) (Brazil, 2022a) report that, of the total number of women imprisoned today in Brazil, 45% are in pretrial detention awaiting the sentence of justice, that is, almost half of this population that is imprisoned has not yet been tried. These data do not include women who are wearing electronic ankle bracelets and those who are in an open home regime.

The increase in the female prison population, in most cases, is related to the history of social vulnerability and the socioeconomic condition of women, as well as to informality or precariousness of work before and during prison. Women enter drug trafficking as consumers, sellers, or mules⁴, which has been the main cause of arrests, corresponding to 62% of cases, according to SISDEPEN (Brasil, 2022a).

⁴ The term "mule" refers to those who carry, consciously or not, drugs in their body, in orifices or through ingestion (Lima, 2020).

Some studies consider that trafficking often represents the only means of support for the family, providing children, housing, food and other consumption needs, in addition to making it possible to take care of the house and children at the same time. The data also indicate that, in general, women occupy low positions in the trafficking hierarchy, earning less than men, which corroborates the same wage conditions as in formal work, in which women, for the most part, earn less than men, when performing the same functions. And they point out that, in trafficking, women, because they are more exposed to illicit situations, when they are convicted, serve a longer sentence.

Most of these women come from a context of deprivation and inequality, many are single mothers, mothers and fathers of their children, who enter the illicit universe of drugs in search of survival and autonomy, being, most of the time, the main and only caregiver of their children. In this way, the imprisonment of these women causes greater suffering for them, in addition to a serious impact on the lives of children, especially in early childhood.

Of the women imprisoned in Brazil, according to the Ministry of Justice and Public Security (MJSP) (Brasil, 2022b), 74% are mothers and 56% have two or more children; the age group is 26% between 18 and 24 years old and 22% between 25 and 29 years old, demonstrating that 48% of the female prison population is young; with regard to the racial profile, reveals that 64% of these women declare themselves black (sum of black and brown),⁵ while only 36% declare themselves white.

Thus, we understand that the imprisonment of women in Brazil, in terms of gender, race and class, also corresponds to another sociological concept called intersectionality, created by the American Kimberlé Williams Crenshaw (2002), which analyzes the presence of elements that interconnect the various structures of domination, discrimination and power within society. The author warns that intersectionality:

[...] It deals specifically with the way in which racism, patriarchy, class oppression, and other discriminatory systems create basic inequalities that structure the relative positions of women, races, ethnicities, classes, and others. In addition, intersectionality deals with the way in which specific actions and policies generate oppressions that flow along such axes, constituting dynamic or active aspects of disempowerment. (Crenshaw, 2002, p. 177).

⁵ The term *pardo* is a definition of self-declaration of ethnicity-race, used by the Brazilian Institute of Geography and Statistics (IBGE) as well as by other forms and surveys. This nomenclature referring to ethnicity-racial is no longer used on birth certificates which, with the promulgation of the Federal Constitution (Brasil, 1988), declares in article 5 that we are all equal before the Law. Given that this term is considered pejorative, similar to words such as *mulatto* or *mestizo*, characterized as a way of whitening the black population. The Statute of Racial Equality Law No. 12,288, of July 20, 2010, in article 1, item IV, considers that the black population encompasses "the group of people who declare themselves black and brown" (Brasil, 2010b).

These interconnections between gender, race, and social class interact with the situation of incarcerated women, pointing to an even greater stigma, as we clearly perceive an overrepresentation of the black population in the Brazilian prison system. This fact expresses the thought of Crenshaw (2002), when he states that the categories of gender, race and social class can also be added and resized in other forms of production and reproduction of social inequalities.

Thus, we consider that the data on the profile of incarcerated women are not random, there is a cruel and excluding social pattern that involves this reality, demarcating a position of vulnerability, since more and more black and poor women are easy targets for drug work and, consequently, subject to prison. The incarceration of black women, therefore, in large part, is due to a cheap labor force that feeds the drug trade in a globalized capitalist world.

EDUCATION FOR WOMEN IN PRISON SPACES

Education for women in prison spaces is still a long way from being realized, as provided for in Brazilian legislation and international treaties as a human right. We noticed that women deprived of liberty always remain in last place in the demands of the prison system, either because of the lack of enrollment that includes all in the grade/year items, or because of the lack of offers of professional courses or work activities in penal establishments.

In Brazil, the absence of educational and employment opportunities ends up reinforcing the low education profile of women deprived of liberty, since data indicate that 62% of them have not completed high school and 38% have not completed elementary school (Brasil, 2022a). A reality that expresses a scenario of school exclusion even before prison and that, most of the time, this exclusionary situation remains during the execution of the sentence, both due to the absence of schools and the lack of vacancies for the entire contingent of women prisoners in Brazil.

Most women deprived of liberty are young, black, illiterate or with low education, single mothers who, in general, are the only ones responsible for raising their children, convicted, for the most part, of involvement with drug trafficking. Women who bear the marks of historically constituted gender inequalities, expressed in social relations, such as the lack of opportunity in well-paid jobs, discrimination, violence and physical, moral and sexual embarrassment.

This context of women deprived of liberty is denounced in their own life stories before prison, when they reveal the physical, psychological or sexual violence suffered in childhood, adolescence and adulthood by their guardians, boyfriends or partners. Although these women, when entering the world of crime, seem to have broken with the gender norm attributed to the feminine identity assumed as fragile, even going beyond this ideology, they continue to be victims of violence.

For Silva (2000, p. 83), the act of normalizing a situation "[...] It is one of the most subtle processes by which power manifests itself in the field of identity and difference. Normalizing means choosing – arbitrarily – a specific identity as a parameter in relation to which other identities are evaluated and hierarchized." Thus, the normalization of violence against women refers to a patriarchal attitude in which men are considered hierarchically superior to women.

In the context of education, it is worth noting the precariousness of public schools housed in penal establishments. They are, for the most part, school annexes made up of improvised classrooms, which offer multigrade teaching⁶ with a curriculum adapted from schools that serve children, young people and adults. A curriculum that, most of the time, does not consider the specificities of young people and adults deprived of liberty, as well as their socioeconomic and cultural conditions. In addition, the classrooms are divided by partitions (some do not even have them) for the concomitant attendance of the three distinct phases of Youth and Adult Education (EJA): Early Years of Elementary School, Final Years of Elementary School and High School.

This educational scenario has not been successful for women deprived of liberty, since there are many mishaps encountered, such as: the lack of structural conditions of the school, such as the few classrooms scattered throughout the prison pavilions; the non-continuous offer of all years and school levels of the EJA modality; the absence of school places for all women; the offer of multigrade education, among many other gaps.

The school does not serve all women who wish to study, since the number of vacancies offered corresponding to the school grades/years is insufficient, which leaves most women deprived of liberty without access to this human and social right to education, as well as without the opportunity to have the remission of their sentence. Participation in

⁶ Multigrade teaching is a pedagogical practice that consists of a single teacher to plan and teach different teaching content in a single physical space and, at the same time, for heterogeneous classes formed by students from different school years (Souza, 2017).

educational activities is important for the remission of the sentence, as provided for in Law No. 12,433, of June 29, 2011 (Brasil, 2011), which provides for the remission of part of the time of the sentence for study or work, contemplating both convicted persons serving time in a closed regime and those who are in the semi-open regime. However, due to the absence of school vacancies and also the lack of opportunities for work activities during the period of serving the sentence, this benefit is not guaranteed to all women.

The remission of the sentence by the study authorizes the reduction of one day of the sentence for every 12 hours of school attendance, distributed over 3 days. Also, study activities can be carried out in person or in the distance learning modality. Remission for work reduces one day of the sentence for every 3 days worked with a minimum of 6 hours and a maximum of 8 hours worked per day. Remission through study and work can be concomitant and reduce 2 days of sentence (Brasil, 2011).

We understand that educational and professional training is characterized as an opportunity for social reintegration, but as this right to education and work activity is denied to women in the prison system, the farther they are from the possibility of changing their lives outside the bars.

In this sense, we consider that the growth of women's imprisonment, in most cases, still strongly brings the remnants of patriarchy that resonates in racism, misogyny and structural violence in Brazilian society. Patriarchy crosses the private to the public sphere, permeates not only civil society but also the State, forming social cohesion, even though the public and the private are in different contexts. Cohesion that has maintained patriarchy in society almost without restrictions, giving sexual rights to men over women, perpetuating "[...] a power structure based on both ideology and violence" (Saffioti, 2004, p. 57).

Even with the end of a slave and lordly society of past centuries, as Saffioti (2004) points out, there is a continuity of patriarchy now covered by other forms of social relations articulated by capitalism. And, in this economic-political-social context, the categories of class, ethnic-racial and sexuality are historically permeated by issues of gender and violence.

The assumption of new roles and tasks outside the home and in different fields does not always make women more self-possessed, since the construction of identity and difference is the result of an essentially masculine symbolic and discursive movement. The patriarchal conception of society that places women in the condition of subordination in relation to their father, partner or brother continues to be perpetuated even in the prison

space. Entering the world of crime does not represent the overcoming of this sexist view that characterizes women as docile, homely, and submissive people (Gomes, 2023).

The absence of articulated social public policies that seek to guarantee fundamental human rights such as education to all people, regardless of class, gender, ethnicity and religion, reflects in the significant increase in the prison population. Currently, Brazil occupies the third position in the ranking of countries with the highest number of women prisoners in the world, with almost 43 thousand, according to data from the National Secretariat for Penal Policies (SISDEPEN) (Brasil, 2022b).

Access to education for all, without exception, is a right established in the Federal Constitution of 1988 (Brasil, 1988), also provided for by the Penal Execution Law of 1984 (Brasil, 1984), which regulates the rights and duties of people deprived of liberty, in addition to many other laws and resolutions that came later, which guarantee the right to education in contexts of deprivation of liberty. These rights are set out in laws and guidelines, but we understand that they are not completely enforced by the State. This is because there is no care with the development of public policies that, in fact, deal with all the issues inherent to the educational process in contexts of deprivation of liberty, such as physical space, specific curriculum, specific training for teachers, library and professional courses in the prison context.

Thus, it is imperative that education serves all women deprived of liberty so that we can achieve a society in which, in practice, job opportunities and equal rights between men and women are real. For these rights to be fully exercised, there needs to be not only robust investment by the State, but also a change in stereotyped paradigms about people deprived of liberty, especially women. And, in addition to legislation that reaffirms the right of women to participate in education and all other inalienable human rights, it is imperative that public authorities, universities and civil society work collectively and effectively change political, educational and administrative changes that involve the prison system with more citizenship and humanity.

CONCLUSION

Prison spaces have not contemplated the human right to education, especially with regard to the female population who, because their number is smaller than that of men, most of the time serves their sentences in mixed prison spaces. These spaces, for the most

part, are restricted to one wing of the penal building, a situation that hinders access to all grades/school years.

In this sense, it is important to highlight that, legally, the Prison refers only to the deprivation of freedom of movement, the right to come and go, and not to access to the human right to education. Thus, we consider that the Brazilian State, by not implementing the full right to education, acts as responsible for social control, since, when incarcerating a person, its action focuses only on the effects and not on the causes of criminality, which almost always originate from social inequalities, lack of access to education, health, to housing, to the implementation of public policies that guarantee the fundamental human rights provided for in the Brazilian Constitution and in the Universal Declaration of Human Rights.

Education for women in the prison system must be part of a broader educational process that also involves female protagonism, ethics, citizenship and solidarity, going beyond strictly school limits. Considering that education has the possibility of not only reducing cognitive vulnerabilities, but also breaking with stereotypes and discrimination, especially against women deprived of liberty, providing a new look at themselves.

However, it is worth noting that education in a prison context is not solely responsible for this process of change and construction of the autonomy of women deprived of liberty. Education is only an integral part of a social whole and an institutional chain that sustains or should sustain the right of women deprived of liberty to a new life with real opportunities for integration into society.

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