v. 4, n. 12, 2024

International Journal of Human Sciences Research

THE VIOLATION OF HUMAN RIGHTS IN THE BRAZILIAN WOMEN'S PRISON SYSTEM

Débora Siqueira Pereira Masiêro
Bachelor in Law ``Faculdade de Santo Antônio de Pádua``

Trocilo Rodrigues Azevedo
PhD and Master in Cognition and Language. Postgraduate degree in Criminal Law, Criminal Procedural Law and Educational Law. Researcher and university professor. Faculdade Santo Antônio de Pádua

Abstract: This article has the general objective of discussing the Brazilian female penitentiary system and the relationship between human rights and the principle of human dignity. There is a frontal violation of both Fundamental Rights and Human Rights in the current engineering of the women's prison system. The methodology used is descriptive and qualitative bibliographical research, based on a bibliographical review, in which it sought to address the issue of human rights violations in the Brazilian female prison system in which the already existing precarious conditions make the environment even more violating, imposing inmates to submission to the most varied situations of disrespect and absurdities under the custody of the State.
Keywords: Human Rights, Constitutional Law, Fundamental Rights, Women's Prison System.

INTRODUCTION

The present work starts from the research question that can be summarized as follows: is there a violation of Fundamental Rights in the current female prison system? The question that guides the research is based on the hypothesis that there is a frontal violation of both Fundamental Rights and Human Rights in the current engineering of the prison system.

This is exploratory research based on a bibliographical review to analytically elaborate essential concepts for the production of conclusive inferences to be made at the end of the work.

The specific function of the bibliographic review concerns specifically the elaboration of a conceptual framework scientifically objective with regard to the concept of Fundamental Rights, Human Rights, as well as their violation.

The bibliography will also be used mainly as an indirect source for the analysis of the current structure prison, with a specific focus on women in prison. Furthermore, other means than specialized bibliography such as newspaper articles, documentaries and other non-literary means will also be used to achieve, to the maximum extent possible, a current state of the art of the factual context that concerns the research focus.

The path to be taken by this article begins by addressing the concepts of Human and Fundamental Rights, bearing in mind that scientific thinking must start from reasonable, that is, non-arbitrary, premises. The use of scientifically relevant terms outside the scope of their application can generate serious mistakes. The main theoretical basis for this is in the work of Robert Alexy and his followers.

The second session of the work will address which Human and Fundamental Rights are specifically applicable to women in prison. The aim is to develop a taxonomy of these Rights so that any violation can be confronted and to what approximate degree it would be. This is because the abstract statement that there are violations of Human and Fundamental Rights means little to develop improvement strategies when the question of which Rights in kind are violated is not made.

The third part of the work will provide an analytical summary of the essential characteristics of the female prison system, differentiating it from the male prison system and also describing their similarities. Such a session becomes relevant to justify the choice of the most specific object for this work.

Finally, we intend to present a case study to be found in non-literary media such as documentaries, newspaper reports, etc. The article section becomes relevant to illustrate the conceptual content that had been detailed until then.

HUMAN RIGHTS AND FUNDAMENTAL RIGHTS

Fundamental rights are the expression of human rights recognized by the State for the individual and which are positive internally (TOLEDO, 2015, p. 1774).

The expressions fundamental rights and human rights are very commonly used as synonyms, both in doctrine, as well as positive law (constitutional or international). In view of this, although there is no doubt that fundamental rights are, in a certain way, always human rights, in the sense that their holder will always be the human being, even if represented by collective entities (groups, peoples, nations, State), It is important to differentiate them for a better understanding of the topic (SARLET, 2018, p.29).

According to Ingo Sarlet (2018, p.29), "the expression 'fundamental rights' applies to those rights of the human being recognized and made positive in the sphere of positive constitutional law of a given State", while the "expression 'human rights' would be related to documents of international law, as it refers to those legal positions that recognize human beings as such, regardless of their connection with a certain constitutional order", which gives them the claim of universality, valid for all peoples and times, which reveals an unequivocal supranational (international) character.

Continuing with the task of differentiating the two expressions, Sarlet (2018, p.31-32) states:

> In this context, according to the teaching of Pérez Luño, the most appropriate criterion to determine the differentiation between both categories is that of positive concretion, since the term "human rights" revealed itself as a concept with broader and imprecise contours than the notion of fundamental rights, in such a way that they have a more precise and restricted meaning, insofar as they constitute the set of rights and freedoms institutionally recognized and guaranteed by the positive law of a given State, being, therefore, rights delimited spatially and temporally, whose name is due to its basic and foundational character of the legal system of the Rule of Law.

In Alexy's work, fundamental rights are exposed as human rights made positive in the legal system of the national State. In the terms outlined above, human rights have an international dimension, being rights with a claim to universality, which provide for the values identified as having the greatest weight, at a given historical moment, due to the essentiality of their content (TOLEDO et al., 2019, p 216).

After defining fundamental rights and differentiating them from human rights, it is necessary to proceed with the conceptualization of fundamental social rights.

When carrying out their analysis, Toledoet al. (2019, p. 215), firstly, state the "absolute lack of conceptual and terminological precision on the matter". In this sense, fundamental social rights are randomly called "fundamental constitutional rights", "fundamental human rights", among other expressions.

Sometimes they are conceptualized as second, third and fourth generation rights; sometimes as second, third- and fourth-dimension rights. Sometimes they are considered fundamental rights; other times, they are just called "social rights". The aforementioned randomness in the use of terms and definitions causes a reduction in the intelligibility of the speech, as well as the superficiality of its scientific approach, with the consequent restriction of the advancement of its theoretical knowledge (TOLEDO et al., 2019, p. 215).

Regarding fundamental social rights, TOLEDO et al. (2019, p. 216) state:

> All fundamental rights are subjective public rights, insofar as they are opposable to the State, and individuals are their holders.

International Journal of Human Sciences Research ISSN 2764-0558 DOI: https://doi.org/10.22533/at.ed.5584122403046

> As Holmes and Sunstein explain, every fundamental right has a negative dimension, which requires the State to abstain, and a positive dimension, which, on the contrary, demands its action. The distinction between the rights to negative benefits and the rights to positive benefits therefore lies not in the exclusivity of the provision demanded from the State, but in what is immediately and directly demanded from the State, that is, its abstention or action. Individual fundamental rights, such as rights to negative benefits, require, first or immediately, state abstention, such as the rights to life, liberty, physical integrity, property.
>
> In contrast, fundamental social rights, such as rights to positive state benefits, require, initially and directly, state action for their implementation, and can be provided in the form of products, services or money provided by the State to individuals, such as health, education, housing, transportation, monetary benefits.

In turn, the theory of principles, which Alexy develops in his work Theory of Fundamental Rights, presents contributions adopted worldwide by Constitutional Courts on different continents, such as the notions of proportionality and weighting used in resolving collisions between principles, understood as commandments of optimization (TOLEDO, et. al., p.216)

Based on the German Constitution, Alexy (2017, p. 203) develops his theory of fundamental rights, classifying them as follows: he conceptualizes all fundamental rights as rights to something in the face of the State. Divide them, then, into rights to negative actions and rights to positive actions.

The rights to negative actions correspond to the rights of defense (negative fundamental right), while the rights in the face of the State to a positive benefit are called rights to benefits (positive fundamental right) (ALEXY, 2017, p.195-196). The first prevail in a liberal Constitution, while the prevalence of the second characterizes a Constitution as social.

Alexy (2017, p. 195-196) subdivides the rights to negative actions into three types of rights (rights to non-embarrassment of actions, rights to non-affection of characteristics and situations and rights to non-elimination of legal positions) and rights to positive actions in 2 types: rights to factual positive actions and rights to normative positive actions. In a broad sense, we talk about rights to something, the general form of which consists of: (a) has, in the face of (b), a right to (G) (ALEXY, 2017, p.208). It is a triadic relationship that has as its object a positive action or abstention (negative action) directed at a recipient.

It is important to highlight that Fundamental Rights have a structure that of principles. Alexyana's understanding of principles as optimization mandates leads to a necessary relationship between principles and proportionality. This happens because, as seen, in the face of concrete problems, principles will always be on a collision course. As the application of one principle must not exclude the other, it is necessary to think of a method that indicates to what degree each principle must be used. This gives rise to the principle of proportionality.

According to Alexy, the maxim of proportionality is divided into three other partial maxims: adequacy, necessity and proportionality in the strict sense. Such maxims require a relative presumption regarding factual possibilities and legal possibilities. This way, Alexy separates them according to their relationship with these possibilities, in the following terms:

> The principles of appropriateness and necessity refer to optimization in relation to factual possibilities. The principle of proportionality in the narrowest sense concerns optimization in relation to legal possibilities.[free translation] (ALEXY, 2014, p.52)

As will be seen later, however, proportionality in the strict sense also opens up factual possibilities through the reformulation of the weight formula.

Virgílio Afonso da Silva (2002, p. 34) makes an important observation about the way in which partial maxims are applied, stating:

> The real importance of this order becomes clear when one bears in mind that the application of the proportionality rule does not always imply the analysis of all its three sub-rules. It can be said that such sub-rules are related to each other in a subsidiary way. This is an important characteristic, which has not been given due attention. The impression one often gets, when the three sub-rules of proportionality are mentioned, is that the judge must always analyze all of them, when controlling the act considered abusive.

Otherwise, correct application occurs when, upon observing the lack of adequacy, it is not necessary to verify necessity or proportionality in the strict sense. Only if the means is adequate will it be seen whether it is necessary and only if it is adequate and necessary will the principles be weighed.

At this point, Alexy takes into consideration, the inevitable costs due to the collision of principles, seeking to establish a balance. In his words, "this principle expresses what optimization means in relation to legal possibilities". It is the Law of balance, which states that the greater the degree of dissatisfaction, or harm to one principle, the greater the importance of satisfying the other, (ALEXY, 2014, p. 54)

THE BRAZILIAN PRISON SYSTEM AND WOMEN'S PENITENTIARIES

The criminal institute related to prison and its effects on the agent convicted by it, emerges and develops over the centuries in conjunction with the evolution of man himself, as well as the way he organizes his society.

Within this context, It is interesting to know a little about the history of this penal institute, so that you have an idea of how it evolved into the forms currently found in the Brazilian legal system, considering the position of authors such as Chiaverini (2009, p.9) who state that:

> The historical and sociological approach is justified insofar as criminal law is a relevant instrument of social control. Between positive law and criminal practice there is a distance that we intend to clarify by studying the origin and evolution of the prison sentence with its economic and social causes. It is a critical criminology in that it raises the issues of crime and social control in the economic structure and in the system of political and legal power in society.

The truth is that the prison system is a very old institution in humanity and, over the centuries, it has evolved to offer not only an institute for the imprisonment of individuals who have violated the social rules of coexistence that are protected by the legal system, legal. The penitentiary system for a long time was just a means of separating individuals from social life, however, Baccarini (2017, p.2) states that:

> The prison system, in general, has been undergoing changes, with the pressing objective of adjusting to the true reason for its existence: resocializing individuals who commit crimes, so that, after serving their sentence, they can return to live in society.

The main idea about the prison system is that the individuals who are inmates there are socialized, re-educated to live in society again, thus recovering their freedom, which at

a certain point had been curtailed. However, Santos (2005 apud, BACCARINI, 2017, p.2) defends the thesis that:

> [...] the re-education aimed at by the State, in practice, does not happen, as what has been the main concern of the penitentiary system when receiving a convicted individual is not his re-education, but rather the deprivation of his freedom allows us to make the legal system work. In short, criminal incarceration, since the beginning of the 19th century, has simultaneously covered the deprivation of freedom and the technical transformation of individuals.

This perspective, pointed out by the aforementioned author, can be observed in the Brazilian prison system which has been facing several problems to be mentioned in this study.

Firstly, it is interesting to highlight the fact that, as explained by the authors Machado, Souza and Souza (2013, p.202), the Brazilian penitentiary system "was marked by episodes that reveal and point to the disregard for public policies in the penal area, as well as the construction of models that became unfeasible when they were applied".

Since the first Brazilian punitive experiences, still as a colony and under the Philippine Ordinances in which all types of punishment were applied until independence with which, through the Constitution of 1824 when, according to Andrade (2018, p.5):

> [...] Brazil is therefore beginning to reform its own punitive system. Thus, the punishments of whipping, torture and other cruel punishments are banned, where it was determined that the chains must be safe with good protection, with good hygiene and be well ventilated, with numerous houses for the separation of defendants, depending on the circumstances, and the nature of their crimes committed. However, the abolition of cruel punishments was not exactly.

This process mentioned above is part of a historical construction that had been taking place in the old world where new ideas were being explored and revolutions such as the Industrial Revolution in England, as well as the French Revolution, had changed the course of many policies in European countries and, according to Davi (2016, p.2):

> The French Revolution in the 18th century contributed greatly to the overthrow of the old penal system and with the Declaration of the Rights of Man and the Citizen, offenders are guaranteed better conditions of existence and guarantees such as the right to adversarial proceedings, precedence of criminal law, justification sentencing and mainly State assistance to prisoners serving sentences, thus aiming for a more humanitarian perspective on the nature of the sentence.

It can be seen that at that historical moment the tendency was for a new conception of punishment to be applied to the detriment of the old corporal sanctions of torture, mutilation and death to be eliminated, giving rise to an ideal that still prevails today, which is the idea that the convicted person, treated with humanity, must first go through a criminal process through which they will have the right to defend themselves and prove their innocence when appropriate.

However, it was a policy that proved incapable of maintaining throughout the country's history since there are several reports indicating prison practices that differ from what is observed in the legal dictates that govern the matter (ANDRADE, 2018).

The great truth, according to the authors Andrade and Ferreira (2015, p.117) when highlighting the major problem faced by the prison system, is that:

> [...] the prison units of the Brazilian State, whose collapse has already been accepted due to so many barbarities and evils still existing in prison. The current panorama of the crisis in the prison system becomes evident when added to other factors, namely, capitalism and social inequality, which makes prison a one-way street.

To the above-mentioned authors, the prison in Brazil was created by the elite as a way of excluding and punishing the poor, making it uninteresting to implement a public policy that would make the prison environment more humane, still leaving the table an unhealthy environment and little hope, unlike the that they must be.

It is in this context that authors such as Almuiña (2005, p. 17) tend to defend the idea that:

> [...] if the end of prison is the resocialization of the prisoner, if the experience is what enables the modification and development of values, one would expect prisons to be environments that provide the condemned with a range of educational experiences that allow the development of values that are beneficial to society.

However, there are many problems faced by the Brazilian prison system that can be enumerated in different ways such as those mentioned by Assis (2007, p.75) who points out:

> The overcrowding of cells, their precariousness and unsanitary conditions make prisons an environment conducive to the proliferation of epidemics and the spread of diseases. All these structural factors, as well as the poor diet of prisoners, their sedentary lifestyle, the use of drugs, the lack of hygiene and the overall grimness of the prison mean that prisoners who enter there in a healthy condition do not leave there without being affected. of an illness or with weakened physical resistance and health.

Such conditions are the daily struggle faced by the prison population in the country, which is increasingly marginalized instead of being resocialized.

With regard to women's penitentiaries in Brazil, in historical terms it appears to be something very recent, considering that, according to the authors Cury and Menegaz (2017, p.4):

> [...] the first women's prisons were created in the mid-1940s. It is noteworthy that in 1937 the first prison establishment for women was created, called the Criminal Women's Reformatory and later called the Women's Institute of Social Readaptation, in the city of Porto Alegre-RS.

Such talk of prisons for women does not indicate that they did not commit criminal acts, it merely highlights the segregationist and minimalist thinking in relation to women, in which it was believed that there was a need for a specific prison for them, as the objectives of incarceration for men were not framed for the woman (CURY; MENEGAZ, 2017)

As Espinoza (2004, p.17) teaches us, "in men, the values to be awakened with the penalty were legality and the need for work, whereas deviant women needed to recover their modesty with the penalty imposed" and so, for women There was no need for a specific penitentiary when any other institution could provide it and when it was not possible, incarceration was in men's prisons.

Only after the first half of the 20th century did people begin to think about building prisons exclusively for women, especially with the end of the Second World War and with the Universal Declaration of Human Rights of 1948. Before that, the Penal Code of 1940 brought into its Article 29, § 2 the following determination: "Women serve their sentences in a special establishment, or, failing that, in an appropriate section of a penitentiary or common prison, being subject to internal labor".

In the following decades, the country was faced with the need to create prisons which were intended exclusively for women, which "in addition to separating women from men, must be able to operate separations between the inmates themselves by type of crime, legal status and age" (ARTUR, 2009, p.2).

REPORTS OF INCIDENCES OF HUMAN RIGHTS VIOLATIONS AGAINST WOMEN

After presenting in the previous topics some enlightening considerations about human rights and the history of the Brazilian prison system and women's penitentiaries, it is now time to carry out a bibliographical analysis related to reports of the highest incidences of human rights violations against women imprisoned in Brazilian prisons. with the purpose of exposing the State's failures in conducting its resocialization policy and disrespecting Law No. 7,210, of July 11, 1984, the Criminal Execution Law as well as the general principles of the Universal Declaration of Human Rights and treaties international agreements of which Brazil is one of the signatories.

Historically, women have always had their rights mitigated within patriarchal society, being free women, in the prison environment, where by law some rights are suppressed, their situation tends to be one of the worst due to abuse and neglect by the State and lack of respect for dignity and of the human rights of the inmates, considering that, as authors Cury and Menegaz (2017, p.1) explain:

> Upon entering the prison system, the woman is left in total neglect and abandonment, both by her family and by the State, which, when establishing a prison, did not think about her particularities, as well as promoting few public policies for resocialization and assistance to the ex-prisoner. As a result, it generates greater vulnerability to recidivism, and, consequently, a total failure of the intended social reintegration (CURY; MENEGAZ, 2017, p.1).

As the authors Geronasso, Gois and Zigiotti (2018, p.113) explain, women in Brazil tend to be at the mercy of a prison system, which follows the social standards of a society that, in the 21st century, its entire organization is still geared towards serving men almost exclusively:

> Thus, consequently, it is also the penal establishment, since only 7% of Brazilian penal establishments are intended for and have an exclusive structure for women. According to data from Infopen: "There is no specific public policy to deal with these women in mixed prisons, which often end up functioning as a simple extension of the male prisons. Reports of sexual violence in these environments are common", assesses Bruna Angotti, lawyer and coordinator of the Research Center of the Brazilian Institute of Criminal Sciences (IBCCRIM) for Jornal Portal (GERONASSO; GOIS; ZIGIOTTI, 2018, p.113).

The structural issue of penitentiaries is far from being the biggest problem faced by women who are incarcerated in Brazilian prisons, since human rights violations have been demonstrated to them in various aspects of the prison system, ranging from the most basic to the extreme. importance of maintaining the minimum respect for the condition of human dignity proposed by the United Nations Minimum Rules for the Treatment of Prisoners, known as the Mandela Rules in honor of the South African leader (BRAZIL, 2016).

The terrible prison conditions in the female prison system are presented in Report on incarcerated women in Brazil (BRASIL, 2007, p.20) where the aforementioned document indicates that:

> [...] almost all existing women's penitentiaries are located in "renovated" buildings: they were either men's penitentiaries, or public prisons, or even public buildings in a state of disrepair. This reality also determines that the habitability and health conditions of prisons, whether penitentiaries or public chains, are significantly compromised. In the state of Espírito Santo, in relation to habitability conditions, the architectural structure of the Women's Penitentiary (Tucum) maintains the facilities of the judicial asylum adapted, in March 1996, to receive women prisoners. There are two wings in this prison unit, one for sentenced prisoners and the other for

International Journal of Human Sciences Research ISSN 2764-0558 DOI: https://doi.org/10.22533/at.ed.5584122403046

> provisional prisoners. Regarding the supply of hygiene items, prisoners receive a kit of hygiene products per month (BRASIL, 2007, p.20).

Disregard for various legal requirements for the treatment of prisoners is evident in many situations which leverage the situation of precariousness and institutional ills that is the Brazilian prison system which, according to Cruvinel (2018, p.6):

> [...] is immersed in a context of violations of the Human Rights of prisoners, since there is a lack of protection for the basic rights granted to people deprived of liberty, which is often justified by the punitive nature of the sentence, which aims to repaying the transgressor of criminal norms what he took from society (CRUVINEL, 2018, p.6).

From the point of view of the aforementioned author, the violation of human rights in the prison system, not only for women, but in a general context, would be institutionalized, since incarcerated individuals are subjected to state punishment that carries with it legal suppression protection of basic rights and human dignity (CRUVINEL, 2018).

According to information from the National Penitentiary Information Survey - INFOPEN (ROSA et al, 2018), the female prison population has increased significantly in recent decades so that, according to the data presented in that document:

> In June 2016, the female prison population reached the mark of 42 thousand women deprived of liberty, which represents an increase of 656% in relation to the total recorded in the early 2000s, when less than 6 thousand women were in the prison system [...]. In the same period, the male prison population grew by 293%, from 169 thousand men incarcerated in 2000 to 665 thousand men in 2016 (ROSA et al, 2018, p.14-15).

Regarding the data presented above, table 1 illustrates an overview of the female prison population in Brazil in various aspects, such as those related to the distribution of vacancies and occupancy rate.

Brazil - June 2016	
Female prison population	42.355
Penitentiary system	41.087
security departments/ Police station lockups	1.268
Vacancies for women	27.029
Vacancy deficit for women	15.326
Occupancy rate	156,7%
Imprisonment rate	40,6

Table 1 - overview of the female prison population in Brazil

Source: (ROSA et al, 2018).

These inmates, the vast majority, belong to a specific group of marginalized social class and marked by economic hyposufficiency, as explained by Geronasso, Gois and Zigiotti (2018, p.111), when they state that "women imprisoned in Brazil are Most of them are poor young people, who do not have luxury or goods, that is, they enter into crime due to the lack of job opportunities and, consequently, the need to survive".

Reinforcing the above notes, the authors Nogueira and Santos (2022, s/p) when addressing the topic argue that:

> The profile of a female prisoner in Brazil is that of a woman with a child, without formal education or with little education in elementary school, belonging to the financially under-sufficient group and who, at the time of the crime, was unemployed or underemployed. In general, 20,756 of female criminals are black or brown, while only 9,318 are white (MACEDO, 2010),

> in a universe in which the black or brown population is 91 and the white population is 92 million people, in Brazil (NOGUEIRA; SANTOS, 2022, n/p).

With regard to issues related to violations of the human rights of these incarcerated women, there are several factors that affect this type of event, given that:

> The treatment for women prisoners is worse than that given to men, who also face precarious conditions in prison, but the inequality of treatment is due to cultural issues and rights to treatment consistent with their particularities and needs. Our Federal Constitution has a principle that regulates such needs, it is the principle of individualization of the penalty, according to article 5, item XLVIII, according to which "...the sentence will be served in different establishments, according to the nature of the crime, the age and sex of the convict" (BORGES, 2005, p. 87).

Immersed in an unhealthy prison system and not adapted to female needs, women still have their right to health clearly violated, since they are confined together with other inmates who present a clinical picture of HIV and tuberculosis, in addition to being subjected to treatments that are not consistent with those that must be given to them. be dismissed when pregnant or breastfeeding, all of which are considered serious violations of Human Rights (SANTOS; BEZERRA, 2022).

CONCLUSION

The present study sought to address the issue of violation of human rights in the Brazilian female prison system in which the already existing precarious conditions make the environment even more violating, forcing inmates to submit to the most varied situations of disrespect and absurdities under the custody of the State.

From the information obtained through the research, it is possible to learn a little about the concepts of Human and Fundamental Rights in the light of the doctrine in addition to the historical context of its creation and its foundations at the international level. Furthermore, the research helped to elucidate what the Brazilian prison system is like, explaining its origins, focusing on the women's penitentiaries in the country, a fact that was essential for understanding the issues addressed here.

Another fact of great relevance in this study was the bibliographic analysis related to reports of the highest incidences of human rights violations against women imprisoned in Brazilian prisons. What was observed in this study was that the physical problems of prisons are one of the main problems experienced by female prisoners, followed by the structural gender prejudice that exists in patriarchal society.

Given the above, the conclusion reached in this study was that there is a need for a restructuring of the Brazilian penitentiary system aimed at the incarceration of women and public policies aimed at respecting the human rights of prisoners.

REFERENCES

ALEXY, Robert. **Teoria dos Direitos Fundamentais**. Tradução Virgílio Afonso da Silva. São Paulo: Malheiros Editores, 2 ed. 5ª tiragem, 2017.

_____. **Constitutional Rights and Proportionality.** Revus, vol. 22, 2014, p. 51-67. 2014.

SARLET, Ingo Wolfgang. **A Eficácia dos Direitos Fundamentais** – Uma Teoria Geral dos Direitos Fundamentais na Perspectiva Constitucional, Porto Alegre: Livraria do Advogado Editora, 13 ed., 2018.

SILVA, Virgílio Afonso da. **O proporcional e o Razoável.** Revista dos Tribunais, n.798 23-50, 2002.

TOLEDO, Cláudia. Fundamental social rights and existenz minimum. In: GALUPPO, Marcelo; LOPES, Mônica Sette, GONTIJO, Lucas, SALGADO, Karine, BUSTAMANTE, Thomas. **Human Rights, Rule of Law and the Contemporary Social Challenges in Complex Societies**: Proceedings of the XXVI World Congress ofPhilosophyof Law and Social Philosophy of the International e Vereinigunffür Rechts – und Sozialphilosophie. Belo Horizonte, *Initia Via*, 2015, p. 1774-1785.

TOLEDO, Cláudia *et al*. Direitos Fundamentais Sociais e Mínimo Existencial na Realidade Latino Americana – Brasil, Argentina, Colômbia e México. **Direitos Fundamentais & Justiça**, Belo Horizonte, ano 13, n. 41, p.213-239, jul/dez. 2019.

ANDRADE, Paulo Vitor. **Sistema Carcerário Brasileiro.** 35f Monografia (Bacharel em Direito) UniEvangélica. ANÁPOLIS – 2018

ANDRADE, Ueliton Santos de; FERREIRA, Fábio Félix. Crise No Sistema Penitenciário Brasileiro. **Revista Psicologia**, Diversidade e Saúde, Salvador. 2015.

ARTUR, Angela Teixeira. Presídio de Mulheres: as origens e os primeiros anos de estabelecimento. São Paulo, 1930-1950. **ANPUH** – XXV SIMPÓSIO NACIONAL DE HISTÓRIA – Fortaleza, 2009.

BRASIL, Conselho Nacional de Justiça. **Regras de Mandela:** regras mínimas das Nações Unidas para o tratamento de presos Conselho Nacional de Justiça - Brasília: CNJ, 2016.

_____. **Relatório sobre mulheres encarceradas no Brasil.** Brasília: CNJ, 2007.

CHIAVERINI, Tatiana. **Origem da pena de prisão**. Dissertação apresentada à Banca de Mestrado em Filosofia do Direito pela Pontifícia Universidade Católica de São Paulo. São Paulo – 2009.

CRUVINEL, Tatiely Vieira. **A violação aos Direitos Humanos das gestantes no Sistema Penitenciário Feminino Brasileiro.** 64f. Monografia (Bacharel em Direito) Universidade Federal de Uberlândia. Uberlândia – MG, 2018.

CURY, Jessica Santiago; MENEGAZ, Mariana Lima. Mulher E O Cárcere: Uma História De Violência, Invisibilidade E Desigualdade Social. **Seminário Internacional Fazendo Gênero** 11& 13thWomen's Worlds Congress (Anais Eletrônicos), Florianópolis, 2017.

GERONASSO, Melissa Teixeira; GOIS, Fernanda Leal De; ZIGGIOTTI, Ligia. Violação Dos Direitos Das Mulheres Dentro Dos Estabelecimentos Penais Brasileiros. **Anais do EVINCI –** UniBrasil, Curitiba, v.4, n.2, p. 110-124, out. 2018.

MACHADO, Ana Elise Bernal; SOUZA, Ana Paula dos Reis; SOUZA, Mariani Cristina de. Sistema Penitenciário Brasileiro – Origem, Atualidade E Exemplos Funcionais. **Revista do Curso de Direito da Faculdade de Humanidades e Direito**, v. 10, n. 10, 2013.

NOGUEIRA, Diana Cristina Vieira; SANTOS, Lorran Nicolas Pires dos. O encarceramento feminino e a sistemática violação aos direitos fundamentais. Disponível em: https://jus.com.br/artigos/90926/o-encarceramento-feminino-e-a-sistematica-violacao-aos-direitos-fundamentais. Acessado em junho de 2022.

ROSA, Marelene Inês da et al. **Levantamento Nacional de Informações Penitenciárias – Infopen Mulheres,** 2ª edição. Departamento Penitenciário Nacional - Ministério da Justiça e Segurança Pública. Brasília: 2018.

SANTOS, Janaina do Nascimento; BEZERRA, Ingrid de Lima. **Do Estado De Coisas Inconstitucional:** A violação dos direitos das mulheres encarceradas no Brasil. Disponível em: https://bdtcc.unipe.edu.br/wp-content/uploads/2019/04/TCC-JANAINA-NASCIMENTO-COMPLETO-PDF.pdf. Acessado em junho de 2022.