

Proceedings Book of the International Symposium on Gender and Prison Culture

Coimbra, October; 16th and 17th 2020

[Online Format]

Organizing Committee @SIGeP2020:

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Following the success of the 1st edition of SIGeP, included in the 56th International Congress of Americanists, held in Salamanca in 2018, the II International Symposium on Gender and Prison Culture (SIGeP2020), held on October 16 and 17, 2020, in a virtual/online format, under the question:

Is prison a democratic space?

The story of prisons is narrated under the scope of gender, in a male-female dyad, where there is no place for diversity and there are no possibilities for the full achievement of the personality.

Women are often underrepresented in a connection established between prison and the dominant patriarchal culture and legal systems, often thought from the dominant masculine. This led us to question:

Is prison a democratic space?

Prison, as a solution, keep the exotic vision of reintegration, which is transversal to men and women who momentarily seek to solve their most immediate problems outside the social order.

This event was promoted by the project Law & Social, LAB in collaboration with Associação Tocantinense do Ministério Público, ISMAI – University Institute of Maia, through the Research Unit in Criminology and Behavioural Sciences, and IBEROJUR – Iberoamerican Institute of Legal Studies.

This event would not also be possible to realize without the collaboration of our partners: Human Rights Observatory and Coimbra Regional Directorate of the National Association of Young Portuguese Lawyers.

A special thanks to the Plenary Sessions Speakers and Parallel Session' chairs:

*Ricardo Loureiro, Raquel Matos, Maria Acale
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Isabelle de Figueiredo, Sílvia Gomes, Rogério Mota,
Miriam Pina, Sergio Grossi, Alessandra Prado,
Anabela Brízido, Cristiane de Souza Reis.*

A very special thanks to the Scientific Committee of this Second Edition of SIGEP 2020.

FOREWORD IN PORTUGUESE

FOREWORD

ANTÓNIO PEDRO DORES

Será a prisão democrática?

A ciência não deve ser um receituário de respostas, tradicionais ou críticas. A ciência é a arte de fazer perguntas susceptíveis de apoiar o aprofundamento dos conhecimentos.

O nosso simpósio internacional foi organizado em torno de perguntas fundamentais (qual é a relação entre género e prisões?) desmultiplicadas nesta edição na pergunta que serve de título (qual é a relação entre género e democracias?).

A nossa língua trata como femininos os nomes de prisão e democracia, em contraste com o masculino de crime e governo. Parece natural, a esta luz, que sejam desproporcionadamente homens quem mais frequenta as penitenciárias, por serem criminosos apanhados, e os corredores do poder, por serem governantes proactivos. Há movimentos feministas concentrados na exigência de paridade sexual nos lugares de poder. Ninguém reclama paridade na população penitenciária. Para os poderosos o masculino é representado em cima; para os humilhados o masculino é representado em baixo.

Insisto: fazer ciência não é dar respostas, explicar as estranhas relações entre o género das palavras e das pessoas. Fazer ciência é manter as perguntas vivas, recusando a naturalização do status-quo.

Foucault propôs a adopção do método genealógico como modo de descobrir as origens das palavras e das

organizações, bem como as tendências de transformação social que as utilizam. Segundo esse método, pode pensar-se que o género será a classificação mais antiga, desde que se começou a dizer alguma coisa, como mamã, e se aprendeu a fragilidade-potencialidade própria da infância e de quem cuida dela. Por outro lado, a democracia terá apenas três mil anos, celebrada em Atenas na confiança nos seus cidadãos, homens e livres. As questões de género estão bastante mais naturalizadas, são muito menos questionadas, do que a democracia. O tempo torna a cultura incorporada em herança genética. Mas a cultura, sobretudo a que usa o método genealógico, pode (ou não) recuperar a herança genética e, com trabalho e tempo suficientes, desinscrever, excorpar, abolir, os estigmas, os preconceitos, as discriminações incorporadas?

A classificação de género está polemicamente associada à supremacia do masculino e dos homens em quase todas as sociedades conhecidas (há quem insista em que tal conclusão é apenas uma percepção cultural enviesada, naturalizada pelo patriarcalismo). Pode pensar-se ser uma coisa natural a superioridade da força física e da proactividade masculino, usada frequentemente para explicar a desproporção estatística do sexo dos criminosos e prisioneiros. A democracia é uma aspiração milenar, contra a ordem imperial, contra a centralização das tomadas de decisão nas elites, partindo do princípio que a inteligência colectiva é mais eficaz e pacífica do que a ditadura. A

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prisão, invenção mais recente que o género e a democracia, nem é natural, nem é inteligente, nem é centralizável. É supermacista, à margem da lei e à disposição de todas as elites: é uma repugnante escola que ensina a arbitrariedade imperial como se fosse natural. A prisão é a institucionalização do sequestro e dos efeitos discriminatórios espontaneamente produzidos entre elites (sequestradores) e o vulgo (sequestrados e submissos). A prisão naturaliza as discriminações, tornando os presos em criminosos, com a notável excepção das elites. Quando uma pessoa de elite vai presa, pode alegar com sucesso estar a ser perseguida. O que os presos comuns não podem alegar, pois não contam com nenhuma condescendência social. A prisão é uma escola para o lixo humano produzido pelo capitalismo de forma industrial: é um modo de ameaçar toda a sociedade, em especial os excluídos, com a cumplicidade das próprias vítimas que, na maioria, nunca conheceram outra vida que não fosse a situação de cerco hostil.

Tal como os relâmpagos produziram o fogo que depois passou a ser cuidadosamente mantido para poder ser usado pelas pessoas, conforme testemunha o Zoroastrismo, assim as experiências de sequestro revelaram a síndrome de Estocolmo, isto é, o efeito de subordinação voluntária, de servidão voluntária, produzido em muitas das vítimas. Reconhecidos esses efeitos no comportamento das pessoas, eles foram usados para rituais sacrificiais:

pessoas sequestradas foram educadas a sentir orgulho por serem escolhidas para servir as comunidades como bodes expiatórios. Ter orgulho em serem usadas como meios de comunicação dos grupos humanos com a natureza e/ou Deus, de modo a inspirar os favores divinos indispensáveis à sobrevivência, era a única honra possível para dar sentido àquelas vidas, como o suicídio terrorista é hoje motivo de orgulho para algumas pessoas.

A modernidade acabou com isso. A síndrome de Estocolmo passou a ser usada em massa, através da estratégia do Panopticon levada a cabo pela grande reclusão, que Foucault descreveu. A vida tradicional em liberdade, de que nos falou Ferdinand Tönnies, foi substituída pelas liberdades da reclusão: fechados em casa, ou na fábrica, ou na escola, ou nos lugares de diversão nocturna, ou nos percursos de férias ou resorts, ou nos condomínios fechados, os modernos sentem-se seguros, protegidos pelos estados contra a natureza e as outras pessoas.

As ciências sociais, depois das Guerras Mundiais, profissionalizaram-se com vista a encaminhar toda a gente para os vários reds de reclusão. Chamaram a isso integração social. Até aos anos setenta, o progresso das sociedades ocidentais incluía a perspectiva da abolição das prisões. Imaginava-se então que o que distinguiria as sociedades democráticas das sociedades totalitárias era o facto de (ainda) não haver Gulags no ocidente, como os

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havia na Rússia e na China. A partir dos anos 80, como mostrou Ruth Gilmore, os ideais progressistas foram superados pelos interesses pragmáticos de manter os povos – os movimentos anti-guerra e anti-racista em particular – subordinados aos interesses dominantes. “Nothing works” é a palavra de ordem charneira e reveladora da profunda transformação social ocorrida na época. A avaliação dura (e certa) de Martinson denunciou a ineficiência do trabalho social para a integração dos ex-presos na sociedade moderna. Ainda hoje é fácil observar o mesmo. Porém, ao contrário do que o autor esperava, a sua avaliação não foi utilizada para questionar a impotência de integração social das sociedades modernas (ainda hoje isso é inquestionável nas ciências sociais). Ao invés, tomando a avaliação como uma resposta definitiva sobre a natureza humana (os criminosos são irrecuperáveis) e ilibando as políticas sociais de responsabilidades (os trabalhadores e as instituições sociais fazem o que podem, embora com índices de sucesso bastante reduzidos), os estados democráticos instalaram um sistema de punições equivalente ao do Gulag, modernizando-o e globalizando-o. Fizeram-no pretextando a contraproducente guerra contra as drogas, a tolerância zero, a contenção dos imigrantes, a guerra contra o terrorismo e o mais que ameaça estar para vir.

As prisões tornaram-se relevantes para a economia e atraíram gente com diferentes sintomas da síndrome de

Estocolmo. Alguns auto-flagelam-se, outros imitam o desprezo dos poderosos relativamente à humanidade, outros usam o sexo para humilhar terceiros. Contraditoriamente, os presos praticam a justiça pelas próprias mãos contra os acusados de abusos sexuais. As prisões e o trabalho dentro delas tornam-se atrativos para alguns neo-nazi-fascistas, como as escolas e infantários são atraentes para abusadores sexuais. Os relatórios de segurança dos estados identificam infiltrações de extrema-direita organizadas com base em elementos que se passaram a ligar entre si, quando as propostas neo-nazi-fascistas começaram a tomar momento no campo da política.

O que os relatórios de segurança não identificam são as origens sociais dos presos, tomados por criminosos. As polícias, como acontece no caso da guerra contra as drogas, em vez de trabalharem para prevenir o crime, isto é, acabar com o tráfico por grosso de armas (monopólio estatal), pessoas e mercadorias ilícitas, dedicam-se a andar atrás do prejuízo, quer dizer, dos trabalhadores informais, geralmente vítimas pessoais do danos na saúde provocados pelo consumo de que o estado não nos consegue (ou não quer) proteger. Os trabalhadores sociais, em vez de procurarem as origens sociais do crime – as crianças, sobretudo as de sexo masculino, mal-tratadas e abandonadas pelas famílias e/ou a cargo de instituições para acolhimento de crianças e jovens – dedicam-se a fazer

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aquilo que continua a não funcionar: a reintegração social de pessoas adultas tolhidas no berço pelo destino humilhante reservado a muita gente (há notícias de que 1/3 das crianças em Portugal só tomam refeições quentes nas escolas) e que não se quer reconhecer.

A notícia deve ser a da indiferença social pela miséria e a guerra produzidas industrialmente. São suas vítimas privilegiadas as mulheres na primeira linha da miséria que se ocupam de cuidar de quem vive à sua volta, sendo frequentemente abusadas (também sexualmente) pela sociedade que as usa e classificou tradicionalmente como seres humanos de segunda. Essa indiferença estende-se aos pobres e, como modo de justificar o injustificável, aos presos transformados culturalmente em “os” criminosos. As elites têm vergonha de não proteger os miseráveis, e precisam de os responsabilizar pelo seu próprio destino, fabricado nos berços. Então, tratam genericamente como criminosos as vítimas da miséria. Os sistemas de protecção de crianças e jovens, em articulação com o sistema criminal, protegidos pelo sistema de saúde (que não relata o que sabe sobre os abusos praticados por agentes do estado) tornam credível aquilo que é impossível: obviamente, não são os pilha galinhas quem rouba os frutos do trabalho das sociedades. Obviamente, os homicidas profissionais não estão na cadeia – trabalham para organizações públicas e privadas de segurança.

As sociedades modernas produzem os seus bodes expiatórios, destruindo-lhes a vida, para se sentirem seguras. Estamos muito longe de ter superado os ritos e os mitos sacrificiais das sociedades tradicionais que atribuímos ao exotismo.

Para ganhar novo fôlego, a parte intelectual da análise das prisões deve ser capaz de ganhar perspectiva para estudar as origens sociais dos criminosos-presos, marcados à nascença – como acontecia no tempo de Cristo. As prisões não são uma sociedade à parte: são o fundamento imoral das sociedades modernas.

Não basta fazer as articulações indispensáveis entre as políticas de prevenção de riscos em crianças e jovens, de segurança pública, de justiça criminal, penitenciárias, de reinserção social (incluindo escolas). É preciso compreender como é possível as sociedades modernas manterem, dissimuladamente à frente de todos, práticas sacrificiais aplicadas a crianças que nascem de pais eles próprios já sacrificados. Não são apenas as prisões que funcionam contra a lei e ao arrepio das expectativas doutrinária modernas. As prisões, e mais em geral a síndrome de Estocolmo, são a fábrica da imoralidade pública. Elas são o ovo da serpente. A escola do espírito nazi-fascista.

António Pedro Dóres
ISCTE Professor

GENERAL PROGRAM

DAY I - OCTOBER 16TH, 2020

9h00 - 9h30

Opening Session

Luís Guerra

Human Rights Observatory

Ana Guerreiro

Organizing Committee

André Paulino Piton

University Institute of Maia

9h30 - 11h30

Plenary Session I

Women and the Justice
System

Vanessa Cavalcanti

Women, Prisons and Dictatorships

Ricardo Loureiro

Justice, Prisons and Women

Raquel Matos

Women of foreign nationality in Portuguese Prisons:
Life Paths and Experiences of Imprisonment

Maria Acale Sánchez

The Revictimization of Criminal Women in Prison

CHAIR: ANA GUERREIRO

11h30 - 13h00

Parallel Sessions I

Gender-Responsive Intervention in Prisons

Women's Invisibilities in the Justice System

LUNCH BREAK

14h30 - 16h00

Parallel Sessions II

Women in the Prison System

16h15 - 18h00

Parallel Sessions III

Parental Experience in the Prison Context

Education and Training in Prison

DAY 2 - OCTOBER 17TH, 2020

9h30 - 11h30

Plenary Session IIPrisons as a Context
of Socialization?**António Pedro Does**

Is Punitive Democracy Democratic?

Catarina FroisInequality and Difference Within Walls:
Reflections on the Female Prison Context**Inês Viterbo**

A "New Normal" for Prisons

CHAIR: MARCO RIBEIRO HENRIQUE

11h30 - 13h00

Parallel Sessions I

Prisons, Mental Health, and Exclusion**Ethnographic Perspectives in Prison:
Meanings of Incarceration, Conceptions
of Justice and Subjectivities****Prisons, Criminal Organizations,
Drug Criminalization, and Incarceration**

LUNCH BREAK

14h30 - 16h00

Parallel Sessions II

**Regional Systems of Human Rights
and Human Rights Violations in Prison****Human Rights, Business, and Prison****Adolescents in the Socio-Educational System****Prison and Migrations**

16h15 - 18h00

Parallel Sessions III

**Human Rights, Judicialization of Life, Criminal
Procedural Guarantees, Punitive Power,
and Restorative Justice**

18h00 - 18h30

Closing Remarks**Marco Ribeiro Henriques**

Organizing Committee

Isabelle de Figueiredo

Tocantinense Public Prosecutor Representative

Sandra FernandesCoimbra Regional Directorate of the National Association
of Young Portuguese Lawyers

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WOMEN'S ADVERSITIES

It is up to the State to promote appropriate measures to “guarantee fundamental rights and freedoms and the respect for the principles of a democratic law State”, in accordance with Article 9 (b) of the Constitution of the Portuguese Republic. In the exercise of this task, the defense of the fundamental legal assets to peaceful community coexistence is included, by incriminating the conduct that violates them, preventing the practice of crimes and, in the event that this function fails or is insufficient, sanctioning violators. Our objectives were to examine how the Portuguese legislator is attentive to the particularities of being a woman in matters such as hygiene, health, motherhood and parental education during the execution of sentences and, also, we wanted to investigate the mechanisms triggered by the State for protection, as a preventive measure, of women as victims of crimes. We made a research, in numerical terms, inquiring the rate of constituted women accused in criminal proceedings, as well as the number of convicted, from a set of recent and of reference official documentary sources, based on the existing statistical resources. We also made an analysis of the pertinent legislative diplomas, among them, the aforementioned Code of the Execution of Penalties and Freedom Deprivation Measures and the General Regulation of Prison Establishments. The fulfillment

of a prison sentence implies vast and varied consequences, from personal to familiar, passing through social and professional consequences, among others. And when women are condemned, the enforcement of sanctions has its singularities, namely, pregnancy and the postpartum situation. The execution of sentences and deprivation of liberty applied to women “must take into account their specific needs”, as provided for in article 4, paragraph 3 of Law no. 115/2009, of 12 October. We concluded that compared to the male universe, the number of women accused and convicted is clearly lower. In 2019, there were 859 inmates in Portuguese prisons, significantly less than 11,948 men, according to official statistics from the Directorate-general for Justice Policy. It is a certain type of prevalent crime that leads women to deprivation of liberty, which, of course, has its importance and significance. On the other hand, it is women who make up the largest share as victims of certain offenses. According to the 2019 Annual Report, authored by APAV, female victims amounted to 8,394.

Keywords: *Women, Freedom Deprivation, Execution of Sentences, Victim.*

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