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## SEXUAL RIGHTS AND REPRODUCTIVE RIGHTS IN THE PERCEPTION OF: WOMEN DEPRIVED OF FREEDOM

*Direitos sexuais e direitos reprodutivos na percepção de: mulheres privadas de liberdade*

*Derechos sexuales y derechos reproductivos percibidos por: mujeres privadas de libertad*

**Vanessa dos Santos Pereira**<sup>1</sup> 

**Priscila Marques Nascimento**<sup>2</sup> 

**Ana Luiza de Oliveira Carvalho**<sup>3</sup> 

**Andreza Rodrigues**<sup>4</sup> 

**Patricia Lima Pereira Peres**<sup>5</sup> 

**Ana Beatriz Azevedo**<sup>6</sup> 

### ABSTRACT

**Objective:** analyze the perception of women deprived of liberty regarding their sexual rights and reproductive rights.

**Method:** descriptive research, with a qualitative approach. Interviews were conducted with women who were experiencing pregnancy (9) and the puerperium (4), in two prison units in Rio de Janeiro. The analysis method was the dialectic hermeneutic.

**Results:** two categories were listed: 1) Institutional violations as infractions of sexual rights and reproductive rights and 2) Contradictions between the possibility of exercising rights and the limitations imposed by the prison system. **Conclusion:** the violations that these women suffer are not restricted to them. The fight for women's rights is a constant movement. The advances are significant, however, there are real obstacles that prevent women from enjoying their sexual rights and their reproductive rights, even though they exist in the legal and normative plan.

**DESCRIPTORS:** Prisons; Pregnancy; Postpartum period; Nursing; Sexual and reproductive rights;

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<sup>1,2,3,4,5,6</sup> State University of Rio de Janeiro, Rio de Janeiro, Duque de Caxias, Brazil.

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**Corresponding Author:** Vanessa dos Santos Pereira [vanessa.sotnas.pereira@gmail.com](mailto:vanessa.sotnas.pereira@gmail.com)

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## RESUMEN

**Objetivos:** respecto a sus derechos sexuales y derechos reproductivos. **Método:** investigación descriptiva, con un enfoque cualitativo. Las entrevistas fueron realizadas a mujeres en situación de embarazo (9) y de puerperio (4), en dos unidades penitenciarias de Río de Janeiro. El método de análisis fue la hermenéutica dialéctica. **Resultados:** se han dividido en dos categorías: 1) Violaciones institucionales como la infracción de los derechos sexuales y los derechos reproductivos y 2) Contradicciones entre la posibilidad de ejercer los derechos y las limitaciones impuestas por el sistema carcelario. **Conclusión:** las violaciones que sufren estas mujeres no se limitan a ellas. La lucha por los derechos de la mujer es un movimiento constante. Los avances son significativos, sin embargo, existen ataduras reales que impiden a las mujeres disfrutar de sus derechos sexuales y sus derechos reproductivos, aunque existan a nivel legal y normativo.

**DESCRIPTORES:** Prisiones; Embarazo; Periodo posparto; Enfermería; Derechos sexuales y reproductivos.

## INTRODUCTION

Sexual rights and reproductive rights must be supported and protected. Despite numerous public policy actions to assist women's health care, for some of them, access and actions do not take into account the integrality of gender, and these actions are crossed by multiple violations. Brazil has the third largest prison population in the world.<sup>1</sup> Given this scenario, it is essential to consider the sexual and reproductive rights of the women who make up the prison population.

In 2004, the Comprehensive Women's Health Care Policy (PNAISM) included women in situations of incarceration in the scope of health care. Only 10 years later, in 2014, national data was compiled on the situation of women prisoners in Brazil, describing who these women are and what their reproductive conditions are.<sup>1</sup>

In this study, we hypothesized that there is a lot of distortion in the understanding between deprivation of liberty and deprivation of basic and fundamental rights. For this reason, listening to these women is an opportunity to get to know their reality and think about current women's care practices. The aim of this article is to analyze the perception of women deprived of their liberty regarding their sexual and reproductive rights.

## METHOD

This is a descriptive study with a qualitative approach. It was carried out in two prison units that house pregnant and postpartum

women serving time in the state of Rio de Janeiro. Data was collected during visits by the researchers and took place through interviews with women who met the following inclusion criteria: being under sentence in a closed regime, being free of any corrective measures at the time of the interview, and who were experiencing pregnancy or the puerperium at the time of the research.

During the two visits to the units, 13 women were interviewed, including four puerperal women and nine pregnant women. These interviews could not be recorded in accordance with the security requirements expressed by the Secretaria de Estado de Administração Penitenciária (SEAP), but were recorded in a field diary using a script with questions that sought to explore these women's views on the assistance they received and how notions of rights were perceived.

The hermeneutic-dialectic method was used to analyze the data: "in this method, the speech of the social actors is situated in its context in order to be better understood". The result of a study in social research consists of an approximation to social reality, through two levels of interpretation. The first concerns the socio-political and economic context in which the participants are inserted. In this study, it is the female prison system. The second level of interpretation, on the other hand, is the combination of discourse with the facts that emerged during the investigation.<sup>2</sup>

The study complied with the ethical precepts of Resolution 466/2012,<sup>3</sup> was submitted to the CEP/CONEP system of the State University of Rio de Janeiro, and was approved on July 3, 2017, under opinion no. 2.152.362, CAAE 58069216.0.0000.5282. In order to guarantee the anonymity of the women, their speeches are identified by flower names throughout the text.

## RESULTS

By broadening the notion of reproduction that has always defined the female public, sexual rights and reproductive rights can be important matrices for analyzing the approach to women deprived of their liberty in Brazil.

Historically, penitentiaries have followed male profiles, leaving the specificities of the female condition in the background, be it the diversity of ethnicity, gender, sexual orientation, maternity and pregnancy, delegating to these women a double invisibility, because they are women and because they are occupying places designed for men.

We interviewed 13 women, 11 of whom (84.61%) had not completed high school, 10 (76.92%) self-declared as black, and the total number of interviewees were aged between 19 and 35.

As for marital status, six (46.15%) said they were single or did not have a partner and seven (53.84%) said they lived with partners. Of these, none reported visits from their partners while serving their sentence.

With regard to the number of children, 11 (84.61%) of the women interviewed had children outside prison, while only two (15.38%) had no children outside the prison system. And all those who had children were under 12 years old.

After an exhaustive reading of the field diaries, the analysis generated two categories: Institutional violations as an infringement of sexual and reproductive rights and Contradictions between the possibility of exercising rights and the limitations imposed by the prison system.

### **Institutional violations as infringements of sexual and reproductive rights**

This category deals with the institutional violations that corroborate the fact that the rights of women living in this context are not fully exercised, causing them to have their experiences stolen, their pregnancies made invisible and their autonomy annulled.

*When you're about to have a baby, you're handcuffed. I was free the whole time, but there are people who want to handcuff you. ("Jasmin")*

*In my other sentence in 2010, many women had their children in the cell. ("Tulipa")*

*I felt embarrassed in hospital. Because they knew I was a prisoner. There was one who asked what I did to be in prison. ("Rosa")*

*Her delivery was more complicated. I was isolated for a day and a half (...). I went into hospital on Monday and only had her on Wednesday. There was only one Special Operations Service (SOE), so they handcuffed me because there was only one. And he was alone. On the next shift, the obstetrician asked him to take it off... ("Violeta")*

Although Tulipa points to a change in relation to her other sentence, in the sense that women now give birth in hospital institutions rather than in their cells, some women report the desire of others to handcuff them at the time of delivery in hospital units, as one of

them verbalized when she was handcuffed during hospitalization for labor. Reflecting on the violations, we wonder how they can be handcuffed at such an intimate and overwhelming moment as giving birth to their children.

We analyzed that this punishment is due to the lack of collective awareness of the existence of these women's rights, leading to the impossibility of creating affective and personal memories.

*I missed my family, you know, all the pregnant women were with their mothers. I didn't have anyone. ("Rosa")*

None of the women interviewed had a companion during the parturition process inside the hospitals; they were all accompanied only by male prison guards.

*I was arrested when I was nine months old. I tried to appeal, to have the baby out. But it didn't work. I was so sad, because it was my fault for putting my daughter in that situation. ("Violeta")*

*Any obstetric emergency has to wait for the SOE, because it takes so long. I came standing up, and pregnant women have to come in front. They even knock. ("Chuva de prata")*

*If your bag bursts, you'll be stuck until the SOE comes. The girl had her baby here in the cell. Now there's a bell, so we ring it in emergencies. It's professional 24 hours a day. ("Cerejeira")*

The time taken to get around and attend to emergencies were points criticized by the interviewees. As an alternative to solving this problem, they suggested that the unit should install a buzzer in the cells to notify them immediately of emergencies.

These statements point to the setbacks that show the challenge of living reproductive rights in prison, leading us to think about alternatives that would make house arrest possible for women who have children outside the system. For whom is this penal alternative guaranteed? Is it for all imprisoned women? Or is this also a facet of the penal selectivity that incarcerates black and poor Brazilians? Bringing up these questions is fundamental, because house arrest would be a possible penal alternative for the women interviewed to live out their pregnancies free from the harmful circumstances that the environment offers.

*My judge said that if it's because I'm pregnant, I'll stay forever because it doesn't mean anything to her. Here we are treated like animals. I have anemia and I still haven't received my medication. ("Cravo Branco")*

*There's prejudice here because I'm a prisoner, and as a result we don't invest as much, the prison environment is forgotten. (...) They talk about rights and that we have them, but they don't deliver. ("Boca de leão")*

*It's still a prison, even if we're separated from the other inmates. There are lots of mosquitoes, the windows don't have screens. We went on a one-day hunger strike and they changed the suppliers. The bed is made of concrete. As the*

*inmates' shed is upstairs, it's not a quiet environment, there's a lot of noise.*" ("Boca de leão")

*The coffee comes late at 9am, so for me, who wakes up early, to stay up until 9am hungry is very bad. The last meal is at 5 p.m.*" ("Jacinto")

The reports show that the restriction of liberty is sometimes seen as a deprivation of basic rights, such as food. In addition, something that is not often discussed about women deprived of their liberty is the experience of their sexuality.

Among the interviewees, there was only one report of an intimate visit, or what is known as a parlor.

*I know that there are various methods to avoid pregnancy, but here there are no condoms and we also don't receive a parlor as pregnant women or puerperal women (intimate visits).*

To receive intimate visits, you have to prove that you have a child together and that you are married to the person, and you only receive them after six months. ("Boca de Leão")

From this account, we can see how much these women's sexuality and sexual rights are violated and how prison becomes a place where bodies are controlled. Women are doubly penalized: they don't receive visits, let alone intimate visits. The latter require confirmation of union with the partner or the existence of a child with him, corroborated by a lack of emotional ties, since these partners abandon them during the period of incarceration.

#### **Contradictions between the possibility of exercising rights and the limitations imposed by the prison system**

This category covers the ambivalence between the possibilities and limitations for women prisoners to exercise their reproductive and sexual rights. Some women, surprisingly, point out how the prison environment enables them to enjoy these rights.

*I think that on the street I'd have less time to look after him, because of work, because even when I was pregnant I was looking for a job, you know. Then I'd be on the street, I wouldn't be breastfeeding.*" ("Tulipa")

*We're not called prisoners here. Here, it's like a home, a nursery.*" ("Jasmin")

In Tulipa's words, we see a dialectic: although the structure of prison leads to restrictions on basic rights, for her, imprisonment means a way of spending more time with her baby, free from external interference, such as returning to work. It's appropriate to ask about the legal guarantees that women outside the prison system have in order to continue with their right to breastfeed for a long period of time.

Jasmin makes us think about something interesting: with her account, we can see that structural changes have an impact on the experiences that these women have. Because they are in the unit for the puerperal period, with their children, and because this unit is more welcoming in the women's view, this space is seen as a greater possibility for the woman to be more than a criminal classification, she recognizes herself as an agent of her history, and also as a subject of rights.

*I'm the one being arrested. Not him.*" ("Jasmin")

*My pregnancy was planned. I stopped taking the medication. But then at 9 months I was arrested for a crime I committed years ago. I know I have to pay, but if I'd known this was going to happen (being arrested), I wouldn't have had her.*" ("Violeta")

On the other hand, some analyze the space, no matter how well it has been structured, as limiting for the baby. After all, no matter how good the circumstances in prison, is it a place where citizenship can be experienced?

*About bottles and pacifiers I give bottles and pacifiers out of necessity, but I don't like it. I'm preparing her for the switch-off. It's like a consolation.*" ("Violeta")

*There's more assistance on the street. The doctor takes a look. Sometimes they don't even pay attention. On the street, you put your hand on your stomach. On the street, you listen to your heart. Here, they say you don't need that.*" ("Jasmin")

The disconnection mentioned in Violeta's speech refers to the baby leaving when it turns six months old. Due to incarceration and the certainty of the baby's return home, although the woman will enjoy breastfeeding in prison, she will live it knowing that it will have an expiration date.

The women add the lack of care for them and their babies, whether by health professionals who don't touch them, don't listen to their babies, or by prison guards who act violently, these reports endorse the limitations of sexual and reproductive rights in this environment.

## **DISCUSSION**

Sexual rights and reproductive rights<sup>4</sup> are social rights and legal guarantees that include elements that cut across gender issues, racial inequalities and freedom. Understanding these rights is based on the policies that support them and the particularities of the women who will benefit from them, even if they are in prison.

Prisoners are women who generally live in constant deprivation, even before they are behind bars.<sup>5</sup> They deal with unequal guarantees and unfair offers. Many of the injustices historically perpetrated have their roots in gender and race inequalities, which is why the study sought to address sexual rights and reproductive rights in this public, so that they are not neglected due to their imposed and compulsory invisibility. The profile of the women interviewed confirms the well-known profile of the prison population in general, comprising young, poorly educated and black women.<sup>1</sup>

The first category elucidated institutional violations such as infringements of sexual and reproductive rights. The speeches exposed the desire and situations in which incarcerated women were handcuffed during hospitalization; this action highlights the existence of a gap between the publication of a law and its execution.

Since it was in September 2016, a year before the interviews, that Decree No. 8,858 was published, in Article<sup>3</sup> of which prohibits the use of handcuffs during hospitalization, which includes pre-

-birth, childbirth and postpartum.<sup>6</sup> The practice of using handcuffs during hospitalization can also be understood as obstetric violence.<sup>7</sup> Contemporary punishment marks the need not to tear apart the physical body, but often reiterates the repression of the soul.<sup>5</sup>

Another infraction was the absence of companions during these women's stay in hospital, which goes against Law 11.108 of 2005,<sup>8</sup> which guarantees these women the right to a companion of their free choice, before, during and after childbirth. Prison delegates restrictions that go beyond non-freedom, but factors that speak to the various dimensions of being and the dimensions of your network, as in the case of the absence of this intimate and familiar moment that is accompanying and attending the birth of the baby.<sup>9</sup>

The violations found in this study, such as transportation by the SOE and the length of time it takes to attend to any complications expressed by the prisoners, were also pointed out in the census carried out by the Birth in Prisons survey.<sup>10</sup> We can therefore see that these are common situations for women during their time in the prison system.

The other statements outline violations that revolve around food, inadequate infrastructure, among other things, bringing to light the following questions: is prison a place for people? No matter how good the conditions, which is not the reality, is it the best place to experience pregnancy and the puerperium?

There is enough material to indicate what is needed for quality prenatal care, what is needed to humanize childbirth and puerperium care, and it is inconceivable to agree with the violations reported here about the care received.<sup>3,11</sup>

For this reason, the question arises as to how the guarantee of Law 13.257/2016, item IV art 318,<sup>12</sup> which extends the possibility of women with children under 12 years of age, to house arrest. Who are these possibilities offered to?

The second category evokes the dialectic between the possibility and the constraint of exercising sexual and reproductive rights. There were women who reported how it was a place of opportunity, both to better live out their reproductive rights and to intensify more attentive care for their children, as well as women who pointed out how that environment generated fear, insecurity and suffering for them and their babies.<sup>9</sup>

Sem<sup>13</sup> states that "our own understanding of the external world is so tied to our experiences and thoughts that the possibility of going entirely beyond it can be quite limited". The fact that the street is considered inhospitable for these women makes the internal environment of the prison a good place to have their children.

Sexual and reproductive rights are not only neglected for those behind bars; women are born without them and often live without the understanding that it could be different. People who experience contexts of entrenched deprivation tend to have a distorted view of their rights, leading them to defensively adapt their desires and expectations.<sup>14</sup>

On the other hand, the women who indicated that they perceive the deprivations of the prison environment do not do so from the perspective of the right, but rather by conforming to what is in place. The moment when mother and baby are separated, around six months of age, is at odds with national and international recom-

mendations to protect early childhood and breastfeeding, which is also a woman's right, within the scope of reproductive health.<sup>15</sup>

In 2001, the World Health Organization (WHO) and the United Nations Children's Fund (UNICEF), at the World Health Assembly, to which Brazil is a signatory, recommended breastfeeding for up to two years or more, and exclusive breastfeeding for up to six months.<sup>16</sup>

The women's speeches showed that this recommendation is not complied with in the prison environment and does not meet what is established in CNPCP Resolution No. 4 of 15/07/2009, which states in its article 2 that the child should remain with the mother until he or she reaches one year and six months and in article 3 adds that "After the child reaches one year and six months, the gradual process of separation should begin, which can last up to six months, and stages should be drawn up according to the family's psychosocial situation".<sup>17</sup> According to this Resolution, the child's time with the mother would be from one year and six months to two years, and not just six months, as has been the case.

## CONCLUSION

The research showed that the existence of legal protections is not enough for women to live their sexual and reproductive rights to the full. And by not complying with them, we subject women and their children to unsafe, cruel and inhumane situations.

There are real constraints that prevent them from enjoying their sexual and reproductive rights. The issue at stake, as we can see, is not the lack of rights, but their non-observance, their constant violations.

There is no way to discuss public policies aimed at incarcerated women without taking racial issues as a basis, because the system is colored. Brazilian women prisoners are black and poor.

The study had a significant sample, and the saturation criterion was used, but it should be emphasized that the small number of interviewees can weaken the data. This corroborates the need for more studies on the subject. We are dealing with a group that is doubly marginalized and socially invisible. It is vital that this is always a point of debate and provocation, so that the rights that already exist are strengthened and widely ensured.

The contributions to obstetric nursing include understanding care in the field of justice, including reproductive justice. There is not just a physical body that reproduces, without a name or a history. There is life, desires and dreams. Women in all life cycles, environments and circumstances must have their sexual and reproductive rights safeguarded and guaranteed.

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