

Work and Inmate Resocialization: An Ambiguous Solution

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Abstract

This article evaluates the efficiency of an agreement between the SEAP-Secretariat of Penitentiary Administration of Pará state, Brazil and a metallurgical company located in the metropolitan region of Belém, Pará, Brazil, which sought to provide jobs to prisoners during their sentences. We used qualitative and quantitative research methods and included data on the 240 inmates who participated in the above-mentioned initiative while serving in a semi-open prison regime, after being accepted into the program. Results show a blatant mismatch between the rhetoric that supports resocialization strategies and the reality of the situation, in which such initiatives are minor accessories in the context of the responsibilities involved in managing prison institutions.

Key words: Resocialization; Recidivism; Work; Incarcerated; Penitentiary

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INTRODUCTION

The labor of those incarcerated¹ has always been seen in an ambiguous light: on one hand, there are those who see prison labor as a way to avoid recidivism and facilitate

the convict's reintegration into society. On the other hand, there are those who, like Foucault (2014), see it as a distortion, as prisoners' earnings do not adequately compensate the work done, and also subverts its meaning since the exchange occurs in the absence of free will. Conceived in this way, work becomes an artifice, which projects punishment techniques to even deeper levels, adding to the prisoner's sentence an additional burden; and it thus registers an even greater exploitation than that exercised on other workers.

Ahmad (2020) shows how the Covid-19 pandemic has made social inequalities even more explicit, highlighting the disproportionate impact of its consequences on the poorest communities. Such impacts extend to the use of prison labor; some countries, for instance, have relied on inmates to manufacture protective gear, wash potentially contaminated hospital laundry, disinfect cleaning supplies, and dig graves. In many cases, prisoners involved in these activities did not have adequate access to basic hygiene products or medical care.

According to the author, inmates are still used as free or under-paid labor, which makes it easier for companies to obtain higher profits and, in return, subsidize public costs of incarceration. Thus, prisons have become both additional sources of profit and way to reduce costs. In this way, the idea that work is beneficial to the incarcerated, by giving inmates a chance to develop skills, ignores the exploitation processes to which these workers are subjected.

This article addresses prison labor in Pará state,

¹ Here we point out the differences between the terms "convict" and "incarcerated"; a convict is someone who is serving a sentence in one of the several penal regimes and does not necessarily need to be serving time in a physical prison, while "incarcerated" or "detainee" suggests that the individual is being held in a prison establishment and therefore does not include those serving time on probation or under surveillance by means of an electronic anklet. We use the terms convict and inmate in this text in accordance with the specific context of the individual.

Brazil, analyzing the relationship between these activities and intended inmate resocialization. At the time of data collection, SEAP, the agency responsible for prison administration, had signed agreements with 27 public and private institutions to offer jobs to convicts. Since these agreements were in different phases, some ending, others beginning, and most of them without systematized data, we chose to analyze the effects of the agreement between SEAP and a national metallurgical company, with branches in all states of Brazil and a factory located in Pará state. As a result of this agreement, 240 convicts were employed at a factory in Belém. After completing their work tenure, participants continued to be monitored by SEAP.

Our hypothesis is that social reinsertion strategies based on offering work to inmates will produce few significant results, as these programs do not offer jobs that will help train them to build a stable professional career after serving prison sentences.

LITERATURE REVIEW

A legal precedent to involve prisoners in work activities has existed since the Brazilian constitution of 1830; however, these earlier initiatives did not aim to promote resocialization. The then called “pena de gales” occurring throughout Brazil’s monarch period, consisted of forcing prisoners to work daily in public spaces with their feet bound in iron chains (Jesus Santos, 2021). Such forced labor was repealed with the enactment of the 1890 Constitution, the onset of the Brazil’s Republic period (Serafin & Azevedo, 2011). Although no longer supported by the law, inmates continued to work after 1890, albeit without the explicit and humiliating exposure of the previous period. Only with the enactment of Law No. 7.210/1984, Penal Execution Law (Lei de Execução Penal - LEP) (Brasil, 1984) were clearer bases for prison labor established. At this time, working conditions for prisoners also began to be regulated. Likewise, actions to promote convicts’ social reintegration were also considered when determining their penal sentences.

According to Roig (2018), the LEP clearly sought to establish sentencing conditions and to equally provide conditions for the convicts’ social reintegration. Marcão (2017), adds that in addition to social reintegration, the sentencing as described in the LEP had an additional goal of humanizing the convicted. Yet it remained unclear in the LEP what “humanization” might mean in practice. Thus, the working conditions regulated by the LEP introduce a series of objectives, which at least in theory speaks to inmates’ interests, and are not simply geared toward the public’s labor needs, as was true in previous legislation. According to the LEP, this type of work must be voluntary, remunerated, and must potentially contribute to resocialization.

Kaun and Stiernstedt (2020) point out that incarcerated individuals have historically contributed to the construction of infrastructure works in several countries, particularly used as labor to build railroads and canal systems. The authors also describe changes in the nature of prison work, highlighting a gradual shift from manual physical labor, where the incarcerated were physically constrained, to another type of control, focused on monitoring and diffuse remote surveillance, through the use of electronic devices, such as anklets.

By extending inmates’ work activities both inside and outside of prison, their work maintains an ambiguous position that combines elements of exploitation and rehabilitation under the surveillance dynamics of capitalism, which also makes its objectives imprecise. This specific perspective of rehabilitation is in line with the logic of neoliberal capitalism; a logic that manifests in the proliferation of services offered by private enterprise to the State, such as the surveillance of prisoners using electronic anklets supplied by companies also responsible for maintaining this equipment (Sampaio et al, 2021; Madoz, 2016).

Godoi (2011) and Nunes (2020) discuss how mass incarceration became a force of rationalization and class inequality and rationalization in the first decades of the 21st century. This occurs with the expansion of correctional institutions and mass incarceration policies, which constantly feed labor exploitation and economic rationalization processes, projecting into all sectors of life. The expansion of such processes is made possible by the progressive weakening of the role of the State and by the development of new dynamics brought into incarceration practices by advances in information and communication technologies.

Matos (2016) discusses the contradictions of prisoners’ labor in Brazil, highlighting the ambivalence of the neoliberal penal system. The author’s work is based on the premise that there is a greater demand for inmate labor, part of the larger process of the privatization of public services, includes providing incentives for private security companies and the partial privatization of prisons, such the contracting companies for food supply. Ireland and Lucena (2016) comment that despite the fact that educational and professional training have received more attention in reintegration programs proposals, education and work in the prison system compete more than they complement each other. This makes the results of such programs extremely limited.

Today, even the condition of prisons as institutions under state control has changed, as an increasing number of countries have shifted the responsibility of prison management to private companies. Sliva and Samimi (2018) comment that in places where prison privatization is more consolidated, it has become one of the fastest growing economic activities, possibly because such countries allow corporations to profit from inmates’

labor and from punishment disproportionately reserved for black and poor people (Wacquant, 2001). Pandeli, Marinetto, and Jenkins (2019) criticize the exploitation of inmate labor which occurs when private companies are contracted; such companies offer low quality jobs, many of which are socially, legally, and economically devalued, often categorized as invisible labor. These types of arrangements often fail to produce prison work, nor do they help train inmates or improve their skills.

Goodman's (2020) analysis shows that education and work are not enough to ensure inmates' successful resocialization. Finding work will remain difficult because their lives are inextricably linked to criminal records. As a result, even outside of prison, the ex-convict will need to select very carefully who, when and how to share information about their criminal record. This makes them very selective about the type of employer to whom they will entrust such information. This apprehension reduces their chances of getting a job. Raynor (2020) and Sugie (2018) discuss the failures of resocialization and why previously incarcerated individuals are likely return to prison. For these authors, those who are released from prison only have access to precarious work opportunities, resulting, in most cases, in their terminating job searches after the first month of searching.

While providing work to prisoners clearly has positive aspects, this is overshadowed by the disconnect between the type of work offered to inmates and the type of work, and skill level, demanded by the outside labor market. To increase the chances of a positive result, work offered to inmates should correlate to existing market demands, aiming for an effective reintegration after serving the sentence (Ferreira, 2011, Dias; Oliveira, 2014). However, the type of work offered by private companies that have agreements with public institutions generally does not meet this basic objective; either because prisoners lack formal education, which prevents them from qualifying for jobs requiring more complex technological skills or because the jobs offered are simply low-skill and low pay. Considering these conditions, gains from illicit activities are much more attractive than legit work activities.

More than two decades ago, Masi (2000) argued that in the activities performed by inmates in the prison system are not enough to prepare individuals to reintegrate into society. The author points out that prisoners do not acquire technical knowledge. Cabral and Silva (2010) question the type of work offered to inmates in prisons, commonly consisting of workshops or handicraft trainings. The authors state that outside of prison reality is different, and to obtain a job with reasonable wage, employers generally require skills that the prison institution cannot provide through their work programs. As a result, few relevant results are achieved in terms of former inmates successfully entering the job market (Andrade & Fonseca, 2018).

Authors, such as Cordeiro et al. (2014) are not entirely convinced that only the activities provided by prison institutions (whether work or education) have a determining role in inmate resocialization. For these authors, factors related to the quality of family relationships, self-esteem, social acceptance, and, of course, job opportunities, act together when assessing the possible return to criminal activity. Seim and Harding (2020) defend the thesis that there is no convincing evidence that the work people do while on probation reduces the possibility of recidivism.

Taking an intermediate stance, Baratta (2004) states that it is not always possible to achieve social reintegration the end of an inmate's sentence but believes that resocialization should be sought despite this uncertainty. In his analysis, he states that prison does not provide for resocialization because the system imposes negative conditions on convicts that are contrary to this objective. Tonseth and Bergsland (2019) are somewhat more optimistic; they believe that rehabilitation with a focus on education and work allow inmates to be better employed once they are released, and, in a sense, enables a successful return to society.

Despite the criticism and changes in prison policy that occurred in some European countries and in the United States, which led to the partial abolition of resocialization programs (Garland, 2008), in Brazil the idea that resocialization is feasible and should be encouraged and prioritized is still prominent. Rangel and Bicalho (2017) when criticizing what they consider to be the excessive optimism of this type of policy, point out that prisons are in a constant state of crisis due to endemic violence and inequality. These conditions are aggravated by the fact that different resocialization initiatives benefit the companies that make use of prison labor much more than inmates, whose social reintegration should be the main objective of this type of initiative.

Thus, contrary to what was happening in other countries, the Brazilian government insisted on the idea that resocialization programs and strategies were viable and should be encouraged. From this perspective the Brazilian government enacted Decree No. 9,450/2018, which established the National Policy for Work within the Prison System (PNAT), aimed at expanding job openings, encouraging entrepreneurship, and promoting professional training to incarcerated individuals and others in the prison system.

The above decree instituted rules to open up bidding and contracting processes between the Brazilian federal government and private institutions; according to these rules, contracts should also provide work opportunities for inmates. In 2019, the Ministry of Justice and Public Safety launched "Technical Note n. 28/2019", with the aim of financing, together with the States of the Federation, a rotating fund for the penitentiary system. This fund would

serve as a strategic tool to increase job openings in state prison systems. Thus, the Brazilian government acted on the premise that resocialization as a public policy was viable and effective, and elected prison work as its number one tool in social reintegration strategies.

The rationale of this strategy is centered on the idea that the inmate would act to recover their self-esteem and self-sufficiency and, consequently, their independence after release (Oliveira, 2012). Herivel (2013) follows this line of reasoning, stating that work, in addition to providing financial resource to inmates, also keeps prisoners busy, which is quite relevant given that an idle environment provides virtually no possibilities for resocialization. Still according to this author, work can also help individuals develop skills to be used after inmates return to society. Such optimism is later reaffirmed by Sallum (2020); the author states that there is a significant reduction of recidivism when inmates are offered work and other activities in prisons.

The hybrid condition of the inmate, who is allowed to work outside the penitentiary institution and be in contact with free people, is of English and Irish origin and was initially to be used preferably in agricultural work (Bittencourt, 2017). The Brazilian Penal Code of 1940, still in force, also establishes that in the semi-open regime the sentence should occur in agricultural or industrial colony, or on a similar establishment (Brasil, 1940). The Penal Enforcement Law of 1984 regulates these procedures by establishing different levels, through which the inmate must pass. First, he serves in a closed regime, then passes through a semi-open regime until he serves his entire sentence and is definitively freed.

As stated in the LEP, the State is responsible for providing material resources to convicts, including health and education services and work opportunities; at least this is what is determined by article 10 of the Criminal Enforcement Law (Brasil, 1984). During times of economic crisis, such as the current crisis in Brazil, where thirteen million people are unemployed, it is difficult to imagine how such obligations will be met. According to LEP, when a convict begins his sentence in the semi-open regime, or moves into this phase after passing through a more restrictive regime, the individual should have greater contact with society and be given the opportunity to work or study outside of prison. Ideally, these actions will serve as resocialization after the sentence has been served, providing the individual with the means to return to society in better personal circumstances than when they entered the system.

Prado Amaral (2017) and Ugarte Gonzales (2021) share this optimistic perspective; the authors show that inmates' work allows for noted improvement in terms of professional training. According to these authors, at stake, above all, is the opportunity for convicts to recover their human dignity and, in this sense, the convict's

work transforms him/her into the kind of citizen society wishes to see. At the same time, work functions to reduce the length of the prison sentence, which, in itself, represents an important achievement. It also represents a reduction in damages to the convict, considering the deplorable conditions of Brazilian prisons, with their chronic overcrowding and the unhealthy state of its cells. According to Ferreira, Oliveira and Barros (2016), keeping inmates in these conditions makes it extremely likely that they will engage in the criminal gangs that dominate prisons.

Petrovic, Jovanic, and Lukovic (2017) make similar arguments; they also believe that inmates' engagement in professional and work training can lead to a reduction of recidivism. Corsi Junior (2020) corroborates this sentiment, arguing that with the completion of his/her sentence, the convict needs to return to society and integrate themselves; one way this can be achieved is by finding lawful work.

RESEARCH METHODS

Data used in this study are based on the results of an agreement between SEAP and a metallurgical company in the metropolitan region of the city of Belém, Pará state, Brazil, which established a work program for inmates. We analyzed the records of 240 convicts who worked for the company while serving their sentences in a semi-open regime and were then accompanied by SEAP after their sentences. Criteria for inmate admittance into the work program was twofold: the convict must have a history of good behavior and must have complete documentation, such as a national ID card and working papers. The latter criterion is not simple since most inmates have had little schooling or had not filed for a Brazilian worker's card, which is required of all factory employees. Other criteria, such as education level or restrictions based on the type of crime committed were not considered at the time of selection.

The present article makes use of secondary data available on the SEAP website, the public agency responsible for managing state prisons in Pará as well as promoting resocialization strategies and programs for inmates. The agency is responsible for the collection and organizing data on the prison population, its distribution in the several penitentiary establishments, and the number of inmates involved in labor activities inside or outside the institution. Although SEAP is responsible for the above activities, data collection and organization is precarious and incomplete, such that a reliable analysis is only possible on a small number of work programs.

At the time of data collection, SEAP had agreements with 27 public and private institutions, which had the objective of offering jobs to inmates. This study evaluates the results of one such program, in which 240 inmates

participated at different times; inmate trajectories were also accompanied after they left the company. We decided to study this particular agreement, and its results, because data on inmates' and their trajectories were reasonably organized and consolidated.

The metallurgical company that received convicts is a large and well-established in the market. The company is over a hundred years old with manufacturing units throughout most of Brazil. It also has a very diverse set of products and keeps systematic records of its entire operation, including inmate participation. Other programs, stemming from agreements with SEAP, displayed a continuous influx and outflux of participants, which made it difficult to establish adequate comparative standards. In our opinion, this compromised data quality regarding inmate participation in work activities and their relationship to resocialization and recidivism trends.

The study also used data from the inmates' prison records and the INFOPEN database, the data sharing network used by managers to centralize information on penitentiary facilities and the prison population in Brazil. Data on incarceration in Pará from 2019 and 2020 were analyzed in conjunction with information on the 240 inmates who held jobs in the aforementioned company from 2009 to 2015. Semi-structured interviews were conducted with members of the SEAP's Board of Social Insertion, responsible for managing agreements with private companies offering jobs to inmates. The Board's responsibilities include: providing clarifications on inmate selection criteria and monitoring inmates who go through work programs after their sentences have been completed.

RESULTS

The data below refer to the 240 individuals, all male, who participated in the work program and were accompanied by SEAP after its completion. All the inmates who worked through the agreement were paid the equivalent of at least three quarters of the federal Brazilian minimum wage. This limit is defined by Art. 29 of the Penal Enforcement Law. At the end of their sentence, inmates received the monetary value total earned through their work during their entire prison term.

Tables 01 and 02 show general data on incarceration trends in the state, including information on gender, gender preference and numbers of participants in work programs or in internal jobs inside prisons establishments. Table 01 more directly displays general incarceration data for Pará state in 2019 and 2020, thus one year before the Covid-19 pandemic and one year after its onset. Table 02 covers an earlier and slightly longer period to include data on inmates who worked for the metallurgical company, as well as the subsequent period during which SEAP accompanied them, aiming to evaluate recidivism rates and consequent return to prisons.

Table 1
General incarceration data, state of Pará, Brazil, December 2019 and December 2020

General incarceration data	December /2019	December /2020
Inmates in Closed regime - Men	13,461	11,685
Inmates in Semi-open regime - Women	2,960	3,443
Inmates in Closed regime - Women	638	587
Inmates in Semi-open regime - Women	185	62
LGBTQIA+ inmates in Closed regime	29	134
LGBTQIA+ Semi-open regime	2	19
Inmates with jobs - Men	1,798	2,241
Inmates with jobs - Women	121	335
LGBTQIA+ with jobs	00	00
Internal work within the prison institution	1,229	1,732
External work outside the prison institution through public-private agreements/programs	417	406
External work without agreement/program	273	438

Source: Secretariat of Penitentiary Administration of Pará (SEAP) – 2020.

In the year 2019, in the midst of the COVID-19 pandemic, the number of inmates remained high. From December 2019 to December 2020, the number of inmates serving under a closed regime decreased for both men and women. At the same time, there was an increase in the number of men serving time in a semi-open regime and a decrease in the number of women in that regime; also, during this period the number of LGBTQIA+ individuals in both the closed and semi-open regime increased.

Although during this period (2019-2020) there was an increase in the number of male and female inmates participating in work activities in the semi-open regime category, no record of work among LGBTQIA+ inmates was recorded. Also, during this period, the number of inmates who performed work activities inside the penitentiary institution increased. The number of inmates participating in work activities through agreements with companies remained relatively stable, with only a slight decline of inmates performing external work. Incidences of inmates engaging in work external to the institutions, outside of formal agreements, also increased significantly.

In 2019, the number of prisoners in a semi-open regime was approximately 22% that of inmates serving time in a closed regime; in 2020, this proportion increased to approximately 30% of prisoners serving time in a semi-open regime. In 2019, the number of women serving time in a semi-open regime was approximately 29% in relation to those serving time in a closed regime. On the other hand, in 2020, that proportion dropped to just over 10%. In 2019, among the LGBTQIA+ incarcerated category,

approximately 7% were serving time in a semi-open regime; the rest were in a closed regime. In 2020 that proportion rose to just over 14%.

In the year 2019 just over 7% of those in any prison regime (closed or semi-open) had jobs inside the prison. In 2020 this percentage increased to approximately 11%. In 2019 and 2020, the number of inmates who performed work activities outside the prison as part of formal work programs with companies remained basically the same, about 2.5%. In 2019, the number of inmates performing some type of external work not linked to formal agreements was approximately 1.5%. In 2020, inmates in this condition were approximately 2.7% of the total. Inmates permitted to work outside of prison through formal work agreements, or outside of such arrangements, was approximately 4% in 2019 and increased to just over 5% in 2020.

In 2019, only 11% of incarcerated men had some type of job. In 2020, we observe a considerable increase with this percentage rising to approximately 15%. In 2019, only 15% of incarcerated women were working; yet, in 2020 more than 50% of women serving time a closed or semi-open regime were working. Because the number of female prisoners is much smaller than that of men, in numerical terms the change represents a small number of women; however, the percentage change is still relevant. In both 2019 and 2020, there are no records for LGBTQIA+ inmates participating in work activities.

In Pará state, recidivism data are discouraging, as most who go through the prison system wind end up returning (Seap, 2020). The recidivism rate is approximately 67% for men, and a little over 50% for women. These are extremely high numbers and confirm what we have known for a long time: prison does not serve resocialize inmates.

Data on the resocialization strategies carried out by SEAP highlight the criteria for selecting inmates to participate in work programs. Inmates must participate in an interview, in which the he/she presents themselves before a multi-faced professional team composed of a psychologist, a social worker and, when possible, an occupational therapist. Selection criteria and procedures include: verifying if the inmate has complete and up-to-date documentation (personal ID and work papers), if he/she is willing to undergo job-related training, if he/she presents good behavior, and if they demonstrate work aptitude. This last criterion is the most subjective, as the evaluation depends solely on the opinion of the interviewer.

Data relative to the metallurgical company and state agreement show that prison recidivism was always been higher among men than among women. The same tendency was manifested when data on legal recidivism was compared; that is, men are more often repeated offenders when compared to women; yet, legal recidivism presents significantly lower percentages for both groups.

Table 2
Recidivism of convicted offenders before and after participating in the SEAP- Metallurgical Company Work Agreement/Program, Pará State

Percentages of recidivism among prisoners who participated in the SEAP - Metallurgical Company Work Program/Agreement	%
Prison recidivism - Men	67%
Prison recidivism - Women	51%
Legal recidivism - Men	37%
Legal recidivism - Women	19%
Recidivist convicts who re-entered penitentiaries before participating in the work program	32%
Recidivist convicts who did not re-enter penitentiaries after participating in the work program	68%
Non-recidivist inmates who participated in the program and re-entered penitentiaries after program completion.	09%
Non-recidivist inmates who participated in the program and did not re-entered penitentiaries after program completion	91%

Source: Secretariat of Penitentiary Administration of Pará (SEAP) – 2020

*Prison recidivism means the return to prison institutions after having served a sentence.

**Legal recidivism is when the individual receives a new conviction within five years of the previous conviction.

The table above highlights that legal recidivism rates are much lower than the prison recidivism rates. Such a difference can be explained by the need to consider the five-year term in order for legal recidivism to be recorded. Therefore, any new event occurring outside this time interval will no longer be computed as recidivism. In contrast, prison recidivism, does not have this limiting interval, and thus the numbers are much higher. Moreover, for legal recidivism to be recorded, two convictions within a five-year period must have occurred; this is quite unlikely given the excessively long periods of time that usually elapse during the course of a court case. Furthermore, cases in which people who are imprisoned and are later acquitted are common – meaning that these individuals will also enter into prison recidivism statistics, but will not be counted in legal recidivism rates.

Of the 240 (two hundred and forty) prisoners who were selected to work at the metallurgical company, 126 (one hundred and twenty-six) had previously passed through the prison system, while 114 (one hundred and fourteen) had not. Among those who had previously passed through the system, 50 were reentered into the system and are considered penitentiary recidivists. Yet, of course, recidivism could be higher, as convicts who participated in the work program, could have committed crimes again after completing their sentence; yet, if they were not arrested these data will not appear in any of the recidivism statistics. This allows us to assume that of recidivism is much higher than data initially indicate.

Moreover, since convicts must be re-entered into the penitentiary system in order to count as recidivism, data, thereby, do not show real levels of recidivism. It is also

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