

## Social movements, human rights and the people deprived of liberty in the context of COVID-19: The legacy of defending the right to health in prisons

*Movimentos sociais, direitos humanos e a população privada de liberdade no contexto da covid-19: o legado da defesa do direito à saúde nas prisões*

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**ABSTRACT** This article presents the results of a study that aimed to characterize the role of social movements in the face of COVID-19 in defending the right to health of Person Deprived of Liberty (PDL) in Brazil. In addition to historical records, it sought to identify repercussions that serve as a legacy for future strategies. A qualitative analysis was carried out of documents released by social organizations, Justice bodies, scientific entities, and international organizations from March 2020 to January 2021. A total of 77 documents were categorized relating to: 1) Inclusion of PDL as priorities for vaccination and decarceration measures; 2) Rejection of the use of containers to house infected PDL or risk groups; 3) Suspension and return of visits postponed, with the possibility of sending supplements; 4) Extinction of teams to monitor PDL with mental disorders; 5) Obligation to send PDL bodies to Medical-Legal Institutes for identification and Death Certificate. The analysis portrayed network action by social movements to guarantee PDLs' right to health. The demonstrations achieved considerable success in blocking proposals to set back human rights.

**KEYWORDS** Right to health. Prisons. COVID-19. Persons deprived of liberty.

**RESUMO** Neste artigo, são apresentados os resultados de estudo que objetivou caracterizar a atuação dos movimentos sociais diante da covid-19 na defesa do direito à saúde das Pessoas Privadas de Liberdade (PPL) no Brasil. Além do registro histórico, buscou identificar repercussões que servem de legado para estratégias futuras. Foi realizada análise qualitativa de documentos divulgados por organizações sociais, órgãos da Justiça, entidades científicas e organismos internacionais, de março de 2020 a janeiro de 2021. Foram categorizados 77 documentos relativos à: 1) Inclusão das PPL como prioritárias para vacinação e medidas desencarceradoras; 2) Rejeição do uso de containers para abrigar PPL infectadas ou grupos de risco; 3) Suspensão e retorno das visitas postergado, com possibilidade do envio de suplementos; 4) Extinção das equipes para acompanhamento de PPL com transtorno mental; 5) Obrigação do envio ao Instituto Médico Legal de corpos de PPL para identificação e Declaração do Óbito. A análise evidenciou atuação em rede dos movimentos sociais para garantir o direito à saúde das PPL. As manifestações lograram êxito considerável ao conseguirem bloquear propostas de retrocesso aos direitos humanos.

**PALAVRAS-CHAVE** Direito à saúde. Prisões. Covid-19. Pessoas privadas de liberdade.

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## Introduction

In the context of inhumane prisons in Brazil, with dire sanitary conditions<sup>1</sup>, the response to public health emergencies during the COVID-19 pandemic highlighted the inseparability of health and human rights. It underscored the importance of the right to health as an effective connector for ensuring other rights and demanded positioning from various players regarding governmental policies. This scenario has produced, with long-term repercussions, impacts on health actions implemented within the prison system.

Addressing human rights in health is crucial as it emphasizes participation and social mobilization in the formulation and enforcement of laws and policies, with the role of social movements being fundamental for advocacy systems and human rights<sup>2</sup>. This reflects a “dialectical tension between social regulation and emancipation”<sup>3(m)</sup> within the creation and application of norms.

The central proposal of this article is to reflect on these struggles and the role of social movements concerning the right to health as a human right for Persons Deprived of Liberty (PDL) in the context of COVID-19, considering the symbolic space of struggle and social action, and exploring the dynamic construction between rights and health. To this end, an unprecedented documentary analysis was conducted to characterize the primary actions and arguments advanced by social movements and other entities, observing the synergies and conflicts that emerged in the pursuit of health protection and promotion for this population.

After presenting the conceptual and methodological frameworks, emblematic issues concerning PDL during the studied period are discussed, including: the precarious conditions of prisons and the proposal to use containers; the suspension of visits and other restrictions; and the practice of death certification as a key tool for managing deaths within prisons. The study concludes by highlighting the strength and synergy among various social actors

striving to create minimal conditions for the survival of the incarcerated population.

### **Social movements and collective action: the lifeblood of human rights**

The theoretical model proposed in the 1990s for the linking of human rights and public health was developed in the context of the HIV/AIDS epidemic. It highlighted the impact (both positive and negative) of health policies, programs, and practices on ensuring human rights, as well as the effects of their violations on the health of individuals and populations, demonstrating that the protection of human rights and the protection of health rights are intrinsically linked. Interdisciplinary analyses, especially those valuing social studies, are essential for a better understanding of epidemiological phenomena within their social contexts<sup>4</sup>.

A human rights approach to health enables the fundamental guarantee of interdependence between public health measures and social protection for vulnerable populations devastated by increasingly frequent pandemics. This approach considers the ethical, political, economic, historical, and cultural dimensions of these processes<sup>5</sup>.

Understanding human rights as a complex construction provides a potent ethical-legal framework aimed at preventing systematic and/or institutionalized oppression, promoting and protecting vulnerable groups from violations, and ensuring them conditions for a dignified life. Human rights, therefore, represent a moral language through which various claims for justice are articulated within specific contexts of power and relationships<sup>6</sup>.

In this perspective, socio-historical transformations can be understood as consequences of social movements' struggles to construct and claim rights. In line with these premises, this study emphasizes social mobilization based on human rights, analyzing how such actions manifest in the process of transforming realities in the prison context<sup>7</sup>.

Social movements, as practices developed through dialogue, demonstrations, or confrontations via networks of daily articulations, serve as drivers that problematize specific political, economic, and socio-cultural conditions<sup>8</sup>. Thus, they are not isolated processes but rather concrete collective actions with a socio-political character, acting as sources of innovation and knowledge creation. Social movements adopt different strategies of pressure and mobilization, redefining public sphere spaces and seeking to materialize human rights through proposals rooted in social participation.

The concept of social movements used here extends beyond civil society organizations, encompassing them within broader dialogues involving partner institutions, whether academic or governmental. For instance, mechanisms such as the National System for the Prevention and Combat of Torture, structurally linked to the Legislative Power, play a critical role in addressing state violations. Thus, the scope of the research extended beyond third-sector initiatives, adopting a broader perspective that regards Law as a dynamic and multifaceted process<sup>9</sup>.

It was equally important to identify converging or opposing forces and arguments, as well as some institutional responses to the analyzed context. The focus of the analysis, therefore, is on the protagonism of social movements in advocating for the human right to health for PDL, understanding this protagonism as a driving force for securing and safeguarding fundamental rights.

The adoption of a human rights-based approach, particularly during health emergencies, aims to prevent disproportionate impacts of the disease and ensure an equitable allocation of scarce financial and human resources. Finally, it is crucial that the creation or enhancement of specific actions for pandemic periods be connected to a broader structural dimension, one that addresses the social determinants of health<sup>10</sup>.

## Material and methods

This qualitative documental research aimed to characterize the actions of social organizations, whether formally structured or not, and institutional actors in defending the right to health of PDL against government policies related to COVID-19 in the prison system. The main hypothesis was that the collective actions of social movements, in conjunction with various institutions, mitigated violations of PDLs' right to health. In light of the insufficiency of government measures to protect this highly discriminated population group, movements led by family members, religious entities, and health professionals played a central role in defending human rights.

The principle of community action recognizes the legitimacy and knowledge produced by affected individuals or groups, aiming to transcend official narratives. From this perspective, the methodological focus adopted is justified, as social movements are capable of identifying fundamental needs and fostering participatory solutions that contribute to the guarantee of rights. Specifically, regarding health in prisons, non-governmental sources can capture information based on accounts from family members or staff, often silenced by power dynamics.

Considering an expanded definition of social movements<sup>9</sup>, the documentary sources were identified based on the representativeness of these organizations and the prior experience of the research group. The documental search was conducted on official websites of: a) representative entities of social organizations focused on prison-related issues, such as the Pastoral Carcerária, Justiça Global, the National Mechanism for the Prevention and Combat of Torture (MNPCT), and the Brazilian Collective Health Association (ABRASCO); b) judicial system bodies, such as the National Council of Justice (CNJ), the Federal Public Defender's Office (DPU), the National Council of the Public Prosecutor's Office (CNMP),

the National Penitentiary Department (DEPEN), and the National Council of Public Defenders (CONDEGE); c) scientific entities and international organizations, including the World Health Organization (WHO), the Pan-American Health Organization (PAHO), the Oswaldo Cruz Foundation (FIOCRUZ), and the Universidade Federal de São Paulo (UNIFESP), among others.

The research period spanned from March 2020 to January 2021, considering the initial declaration of a public health emergency of international concern related to COVID-19 and the publication of reports for the year 2020 in January of the following year. This first year of the pandemic was pivotal for signaling necessary emergency adjustments and the positioning of key institutional actors.

A total of 77 historical documents directly addressing issues related to COVID-19 within the prison system were identified. These were classified as Letters, Public Statements, Technical Notes, Announcements, Technical Guidance, Studies, Resolutions, Bulletins, Official Communications, Booklets, Recommendations, Appeals, Reports, and Press Releases. Inclusion criteria: 1) documents related to the COVID-19 pandemic within the prison system context; 2) published at the federal level or in the state of Rio de Janeiro; 3) within the time frame from March 2020 to January 2021. In addition, the exclusion criteria were: 1) documents that merely referenced the pandemic as a chronological marker without critiquing or analyzing its impact on the prison system; 2) highly personal textual productions, such as essays or social media posts; 3) duplicate documents.

The keywords (COVID-19, prisons, persons deprived of liberty, pandemic, and coronavirus) were used, either in combination or individually; however, the lack of uniform search functionalities on source websites required adaptations, with various homepage sections being examined to select documents that aligned with the scope of

the research. This approach ensured both specificity and comprehensiveness in the information retrieval process.

Other methodological limitations in the document retrieval process included the irregular updating of data by institutional sources and the lack of standardized search options.

The analysis plan was structured around several interpretative levels, considering the socio-historical context, chronology of events, key developments, and institutional responses to the pandemic. Content analysis techniques were employed<sup>11</sup>, organized around thematic categories, starting with an initial superficial reading of all identified documents, followed by detailed exploration of the material and an interpretative synthesis aligned with the research objectives and questions. Despite methodological limitations inherent in qualitative research, this technique was appropriate for the proposed objectives, allowing inferences about the content of the messages within the documents<sup>11(52)</sup>, and linking them to theoretical frameworks.

The theoretical-methodological perspective for analyzing the field material was further based on Minayo's<sup>12</sup> sociological concept of health, encompassing biological, structural, political, historical-cultural, and symbolic dimensions. This contextualized qualitative analysis distinguished a specific social segment tied to socio-political and individual aspects, facilitating an understanding of the reality within which the social movements' actions were developed and their interactions with other key actors.

## Results and discussion

The social movements' actions identified addressed emblematic issues such as the precarious conditions of prisons, proposals to use containers, restrictions on visitations, the production of death certificates for inmates,

and the dismantling of psychosocial care teams linked to the prison system. Moreover, the disproportionate impact of the disease on the most vulnerable, particularly in terms of mortality, revealed the sanitary apartheid embedded within society<sup>10</sup>, associated with unequal distribution of risks and benefits, such as testing and vaccination, as explored in the results discussed below.

### The precarious conditions of prisons in the context of the pandemic

The COVID-19 pandemic had a significant impact on the morbidity and mortality rates among PDL<sup>13</sup> as it spread through the prison system, which was already plagued by severe structural and operational issues<sup>14</sup>, including overcrowding, confinement in poorly ventilated cells, lack of personal and environmental hygiene products, water rationing, and limited access to healthcare.

Approximately two-thirds of the analyzed documents highlighted the elevated risk of infection in prisons. For instance, a letter from the Pastoral Carcerária addressed to the Ministries of Health and Justice and to the National Health Surveillance Agency (ANVISA) reported the inability to implement effective prevention measures, such as social distancing<sup>15</sup>. Public Notes from the Criminal Justice Network<sup>16</sup> and Technical Note No. 3<sup>17</sup> from FIOCRUZ warned of the risk of infection for prison workers and the heightened risk of fatal outcomes for vulnerable groups such as the elderly, pregnant women, and individuals with comorbidities like tuberculosis, HIV/AIDS, and diabetes. A Technical Note issued in March 2020, when infection rates in the country were still considered low, foresaw the need for “healthcare strategies that do not serve solely as mechanisms for greater restrictions and violations of rights”<sup>13(2)</sup>.

These statements were reinforced by academic entities emphasizing the need to isolate vulnerable groups in independent facilities

with adequate healthcare support, highlighting the impracticality of the measures prescribed by Interministerial Ordinance MJ/MS No. 7 of March 18, 2020, which outlined strategies for addressing the pandemic in prisons. The sanitary and architectural limitations of prisons, the scarce availability of healthcare professionals and resources, and the infeasibility of social distancing were identified as significant challenges<sup>17,18</sup>.

Judicial bodies also made statements, most notably the National Council of Justice’s (CNJ) Recommendation No. 62/2020, which advised judges to adopt preventive measures. This recommendation included numerous guidelines, considering, among other factors, that:

[...] maintaining the health of persons deprived of liberty is essential to safeguarding collective health, and that large-scale contamination within the prison and socio-educational systems has significant repercussions for public safety and health, extending beyond the internal confines of these facilities<sup>19(1)</sup>.

The CNJ recommended “maximum restraint in issuing new preventive detention orders”<sup>19(1)</sup> and, for adolescents, the preferential application of open socio-educational measures.

Thus, the discourse surrounding decarceration and alternative measures to incarceration gained prominence as a public health strategy. Decarceration is broadly understood as a strategy for holding individuals criminally accountable outside the confines of the penitentiary system or juvenile detention facilities, through the implementation of constitutional and legal alternatives to incarceration. Various statutes, including the Code of Criminal Procedure<sup>20</sup>, the Penal Alternatives Policy<sup>21</sup>, and the Child and Adolescent Statute<sup>22</sup>, provide specific rules enabling the judicial process to continue with restrictions other than imprisonment. These measures directly impact access to healthcare services for persons deprived of liberty and

later provoked reactions, such as a Technical Note from the National Council of the Public Ministry (CNMP), opposing the “excessive expansion of release criteria”, advocating instead for case-by-case evaluations based on specific circumstances and tangible risks of contagion<sup>23</sup>. While acknowledging the “structural failures of prison facilities”, the CNMP argued that “the absence of psychosocial reintegration measures” would undermine the effectiveness of social distancing measures, particularly if individuals were released indiscriminately to address overcrowding<sup>23(2)</sup>. Similar discourses were adopted by the then Minister of Justice and some mass media outlets<sup>24</sup>, creating a space for argumentative disputes with significant impact on the perpetuation of the incarceration model.

In general, the actions of social movements and academic contributions had a limited and variable impact on prison practices across different states of the federation.

Even amidst the scenario of neglect, especially during the pandemic, imprisonment continued to be used as the main state instrument for criminal accountability, including for pretrial detainees who had not yet been convicted, disregarding the worsening sanitary conditions in prisons within the epidemiological context.

Maintaining this logic and without a specific focus on the prison population, the Ministry of Health initially did not include PDL as a target group in the priorities of the National COVID-19 Vaccination Operational Plan.

However, in response to the resistance generated by certain demonstrations, this population was included as one of the priority groups, primarily due to the heightened risk of contamination within the prison environment<sup>25</sup>. Therefore, the pressures exerted by social movements resulted, at the very least, in the adoption of emergency legal and sanitary measures to address the exposure of PDL to situations of vulnerability.

## Containers (or ‘Microwaves’)

Another result discussed in the research was that, in April 2020, the National Penitentiary Department (DEPEN) released a Technical Note regarding the use of containers to house incarcerated individuals, citing specific examples from New Zealand, Australia, and an initiative by the federal police in Foz do Iguaçu, Paraná<sup>26</sup>.

Subsequently, it requested the National Council for Criminal and Penitentiary Policy (CNPCP) to relax the Basic Guidelines for Penal Architecture (Resolution No. 9/2011/CNPCP) to allow for the creation of spaces through the installation of adapted metal containers. These would be temporary facilities intended for: (a) non-infected inmates belonging to the COVID-19 risk group; (b) inmates infected with COVID-19 who did not require hospitalization; and (c) medical care purposes.

Several organizations opposed this request and outlined the reasons why the proposal should be denied. The MNPCT formally notified the Federal Public Prosecutor’s Office about a serious violation of human rights, highlighting that, through inspections prior to the pandemic throughout Brazil, it found appalling situations, such as in the Altamira prison in Pará, “where prisoners died of asphyxiation and were incinerated in container cells”<sup>27</sup> in 2019, and inappropriate use also occurred in Espírito Santo in 2008.

In the same vein, a statement from the DPU regarded containers as places for transporting goods and argued that they represented a concrete risk to the lives of PDL, deeming them an inadequate measure for addressing the covid-19 pandemic. The use of this material had previously been rejected by the Superior Court of Justice, which characterized it as degrading treatment. The DPU reinforced that the lack of vacancies in penal institutions should lead to measures aimed at reducing the number of prisoners, rather than creating vacancies in places that would, in fact, facilitate the spread of the virus<sup>28</sup>. Therefore, human

rights standards should not be lowered under the pretext of combating the pandemic.

FIOCRUZ and the School of Architecture and Urbanism of the Universidade Federal do Rio de Janeiro (FAU/UFRJ), as participants in this movement opposing the use of containers or similar accommodations, published a specific technical note on the subject, in which they reaffirmed that such use is contrary to environmental quality guidelines and the Basic Guidelines for Penal Architecture, violating fundamental citizens' rights<sup>29</sup>.

The proposal failed to meet basic prerequisites for accommodating individuals, posing health risks to both its occupants and health-care and security professionals. The lack of ventilation would increase the likelihood of spreading infectious diseases. Moreover, it would make social distancing, essential for preventing the transmission of the coronavirus, impossible.

Despite strong mobilization and numerous opposing statements, the DEPEN's proposal was not withdrawn by the government. However, it was ultimately vetoed by the CNPCP, which barred the use of containers to house incarcerated individuals. Notably, the effectiveness of Technical Note No. 6 from the Interdisciplinary Group in Defense of Citizenship<sup>29</sup>, stands out. This document, collaboratively crafted by various organizations, became a landmark in showcasing the power of a process that united justice institutions and social movements with technical and scientific arguments generated by academia.

The container proposal represented a governmental political response to social movements' demands concerning the right to health for incarcerated individuals. However, it clashed with human rights principles, distorting calls for better sanitary and humanitarian conditions. In this context, political will moved beyond a purely technical perspective, reflecting the government's commitment to advancing a policy shaped, in part, by a conservative ideological stance indifferent to the suffering of incarcerated individuals.

This analysis highlights the crucial role of various organizations in safeguarding the right to life and reducing harm within the prison population.

## Suspension of visits and restrictions

The pandemic profoundly impacted the mental health of countless individuals. For PDL and their families, this suffering was exacerbated by uncertainty and drastic measures. One of the first actions identified in the research, implemented by governments to address COVID-19 in prisons, was the suspension of visits. This measure was justified as a means to minimize movement in and out of prison facilities. However, isolation often turned into complete lack of communication, fear, and the severing of family ties, with the suspension of rights employed as a strategy to combat the virus.

The tension in the prison system extended to adolescents serving detention measures, as:

[...] the lack of communication caused by the interruption of visits and the slowness or absence of effective alternative communication methods generated panic among families and reduced opportunities for adolescents and adults deprived of liberty to report violations of their rights, including violence and torture<sup>30(29)</sup>.

The suspension of visits was also associated with the discontinuation of 'jumbos' — basic goods for food, hygiene, and clothing typically provided by families.

Maintaining family contact is a fundamental right, as emphasized in the analyzed documents, and represents an essential aspect of mental health care. In alignment with these perspectives, Unifesp recommended ensuring telephone contact with family members at least once a week, as well as continuing remote educational activities, including sentence reduction through reading programs<sup>18</sup>.

It is worth discussing that the suspension of visits, initially justified as an individual

restriction to safeguard collective health, must not constitute such a severe violation of rights that it leads to illness, torture, or mistreatment. In other words, if the restriction was implemented to protect the right to life and health, compensatory mechanisms must be ensured to prevent the very harm it seeks to avoid. Quarantine measures and other restrictions on rights should “pursue a legitimate objective, be proportionate, and not arbitrary or discriminatory”<sup>10(2)</sup>. Consequently, temporary limitations must not infringe on the protected core of human rights.

The documents analyzed also emphasized the importance of transparency and access to information for PDLs, their families, and health and security professionals regarding measures to combat the disease and its epidemiological progression, particularly when strict social isolation measures were implemented<sup>31</sup>.

Within a few weeks, state prison administrations began allowing cleaning supplies and food sent by families to enter facilities, even by mail. However, the gradual resumption of in-person visits from partners and relatives occurred only months later, subject to distancing measures established by state administrations.

The engagement of families across the country was evident, with some groups organizing assistance efforts and delivering hygiene supplies to prisons, even amidst the severe social crisis<sup>30</sup>. The ban on prison visits also coincided with increased difficulties in accessing work and income for families, who were generally also grappling with economic challenges. Even after families were allowed to send ‘jumbos’ or visitations were gradually reinstated, many impoverished individuals could not afford these expenses, highlighting structural obstacles beyond those posed by the coronavirus.

### **Attempt to abolish the EAPs**

One issue identified in the actions of various organizations during the analyzed period was the

attempt to abolish the Teams for Assessment and Monitoring of Therapeutic Measures Applicable to Persons with Mental Disorders in Conflict with the Law (EAPs) under the Unified Health System (SUS). Established in 2014, this service aims to ensure the monitoring of mental health needs within the criminal system, particularly for individuals subject to security measures, serving as a mechanism to coordinate public policies. However, it was abruptly dismantled by Ordinance GM/MS No. 1.325/2020, without justification or civil society participation in the decision.

The measure sparked significant criticism in debate forums and pressure across various levels, being perceived as a regression, especially when PDLs were already further weakened by the pandemic. One of the most representative documents addressing this issue was the Technical Note published by Condege in collaboration with dozens of social organizations. According to this note, although the EAPs “do not provide direct assistance or forensic services, their purpose, among other roles, is to ensure care and technical evaluations”<sup>32(4)</sup>.

Their work at the entry point of the criminal system through biopsychosocial evaluations, as well as the monitoring of therapeutic measures and support in developing Individual Therapeutic Plans, are critical actions, including for the effective enforcement of judicial rulings.

Other documents, such as those from the National Health Council (CNS)<sup>33</sup> and MNPCT et al.<sup>34</sup>, echoed these calls, recommending the continuation and expansion of EAPs, ensuring funding for operational support, consistent transfers to states and municipalities with existing teams, and allocating resources for establishing new teams.

Thanks to this mobilization, Ordinance GM/MS No. 1,325 was revoked in July 2020, preserving the EAPs. However, budget cuts and a significant reduction in mental health professionals under the National Policy for Comprehensive Health Care for People



Deprived of Liberty in the Prison System ensued. The critical advocacy of various social actors was so impactful that the federal government backtracked in less than a month but failed to provide effective tools for implementing adequate assistance policies for PDLs.

## Deaths and burials

Another key issue analyzed was the registration of deaths within the prison system. Accurately quantifying mortality and identifying causes of death in any population is essential for evaluation and planning, particularly for PDLs under state custody.

International protocols, such as the United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules), the Minnesota Protocol, the International Committee of the Red Cross Protocol for Deaths in Custody, and the Brazilian Forensic Protocol (to which Brazil is a signatory), stipulate that all deaths in state custody, whether from external or natural causes, must undergo independent forensic examination, uninfluenced by penitentiary management. All bodies must be transferred to the Forensic Medical Institute (IML) for identification, autopsy, and issuance of death certificates, which are then recorded with the civil registry and the Mortality Information System (SIM).

During the COVID-19 health crisis, the CNJ (National Council of Justice) and the Ministry of Health issued Joint Ordinance No. 01 on March 30, 2020, establishing exceptional procedures during the public health emergency to address:

[...] the need to ensure biosafety protocols, maintain public health, and respect the legitimate rights of the deceased's family members<sup>35(2)</sup>.

The ordinance allowed that, “in the absence of family members or acquaintances of the deceased, or due to public health

requirements”<sup>35(2)</sup>, healthcare facilities could direct the municipality's cemetery coordination to arrange for burial or cremation “without prior issuance of the civil death certificate”<sup>35(2)</sup>. This raised concerns among various organizations, particularly regarding the already high number of missing persons in the general population. For the prison population, analyzed documents highlighted the failure to conduct civil identification of bodies at the IML, an increase in PDLs buried ‘without names’, and the facilitation of rights violations in prisons, whether related or unrelated to COVID-19. This included cases of violent deaths inadequately identified, some involving torture.

The mentioned Ordinance provoked a strong reaction, with various formal expressions of repudiation, two of which stood out for their well-founded content and broad participation of social movements alongside justice system institutions: Technical Note No. 5 from the Interinstitutional Group in Defense of Citizenship<sup>36</sup>, composed of social movements and justice institutions, and another from Civil Society, signed by over 100 associations nationwide.

These documents highlighted the risks of increasing disappearances due to health facilities lacking technical professionals to collect materials for post-mortem identification and stressed the registry office's central role in forwarding information to the SIM. They recommended not applying the Ordinance to individuals in state custody, reinstating the mandatory transfer of bodies to the IML, including for deaths from natural causes, for forensic examination, issuance of death certificates, and notification of the deceased's relatives.

The State Mechanism for the Prevention and Combat of Torture/RJ (MEPCT/RJ) emphasized that investigating any death in state custody by independent and impartial professionals outside the prison system, with autopsies performed, is a duty under International Human Rights Law derived from the right

to life and the guarantee of effective justice, also provided for in the Public Records Law<sup>37</sup>.

The Ordinance was subsequently revoked a month after its publication by Joint Ordinance CNJ/MS No. 02, dated April 28, 2020. It required burials to be preceded by the civil registration of death, and if not possible, with a death declaration issued by designated notifying units. This Ordinance referenced the 2018 MNPCT report, which stated:

[...] the occurrence of disappearances within the Brazilian prison system, necessitating full identification of incarcerated individuals and correct identification of deceased persons in custody<sup>38(1)</sup>.

Specifically addressing the incarcerated population, it mandated that, respecting local coordination between health and justice systems, IML autopsies must be conducted in cases of:

[...] suspected violent or natural death, including from COVID-19, of individuals under state custody in penal establishments, juvenile detention centers, psychiatric hospitals, or related facilities<sup>38(3)</sup>.

Thus, social movements played a significant role in preventing the regression of PDLs' rights, highlighting structural aspects of human rights.

## Conclusions

Amid heightened COVID-19 contagion risks, social movements and institutional bodies formulated responses extending beyond health measures. Grounded in PDLs' human rights, they strengthened critiques of mass incarceration and prison overcrowding, addressing the institutional violence endured by this population.

Similar to the activism of HIV-positive individuals in the 1980s and 1990s, the social

movement against COVID-19 in prisons involved affected individuals, friends, families, and professionals. They articulated urgent demands and voiced them publicly in a context often resistant to human rights advocacy. Despite stigma and prejudice hardening societal views on basic rights for all, this activism created ethical strongholds, mitigating harm to vulnerable groups.

The criticisms underscored the urgency of structural changes in the prison system, intertwined with the effective realization of the right to health. They exposed sanitary barriers to prevention, such as inadequate infrastructure, overcrowding, psychological distress, and a lack of state-provided resources ensuring dignity.

In this landscape of argumentative disputes and punitive model management strategies, social movements demonstrated their capacity to spotlight numerous issues and integrate them into the political agenda. Given the immense difficulty of implementing structural prison reforms in the short term, critiques of mass incarceration merged with the defense of the fundamental right to life. Amid the prison crisis and pandemic fears, solutions emerged from diverse areas of expertise, underscoring the need for further research on the subject.

Authentic restructuring of the punitive model requires recognition that the institutional violence perpetuated by incarceration affects everyone, akin to a pandemic. The analyzed social movements succeeded in blocking some proposals for regression in human rights. Networked actions, including partnerships with academic institutions and justice system bodies, underscored that the right to health must be guaranteed for all without stigmas or exclusions.

However, the indifference to avoidable suffering still demands effective and urgent responses. Drawing from the AIDS movement, solidarity must be revived as the only effective response to the structural issues of incarceration. This approach may pave the way for significant strides in rewriting the history of mass incarceration in contemporary Brazil.

## Collaborators

Moraes LSC (0000-0003-2494-8747)\* contributed to data collection, analysis, study conception, manuscript drafting, and review. Sánchez A (0000-0001-5617-1173)\* and Larouze B (0000-0001-9906-6293)\* contributed

equally to study conception, data analysis, manuscript drafting, and review. Benfeita G (0000-0002-4964-518X)\* contributed to data collection, analysis, drafting, and review. Ventura M (0000-0001-8520-8844)\* contributed to data analysis, drafting, and review. ■

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