



Conjugal Visits in the Context of Incarceration of Women and Girls in the State of Bahia, Brazil: Permissions, Prohibitions and (In)Visibilities

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Abstract

This article analyzes the guarantee of the right to conjugal visits in contexts of incarceration for women and adolescent girls in a prison and in a socio-educational incarceration institution in the state of Bahia (Brazil). As exploratory research, the objective of this article is to understand how the right to conjugal visits is guaranteed (or not), the perceptions about this right, the difficulties for its fulfillment and the intersections with strategies of body control and sexuality of adult women and adolescents who are deprived of their liberty. Based on data obtained from literature review, documentary analysis and interviews with part of the staff at the incarceration institutions, it is possible to grasp the perceptions about the right to conjugal visitation by incarcerated women and adolescent girls, and the peculiarities of its implementation given gender specificities.

We would like to thank the directors of the women's prison and of the Foundation for the Rights of the Child and Adolescent of the State of Bahia for giving authorization to conduct this research, as well as the interviewed staff of the institutions for their time and willingness to share their experience and perspectives.

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Key words

Prison system; socio-educational system; incarcerated women; conjugal visitation; sexuality

Resumen

Este artículo analiza la garantía del derecho a las visitas conyugales en contextos de encarcelamiento de mujeres y adolescentes en una prisión y en una institución de encarcelamiento socioeducativa en el estado de Bahía (Brasil). Como investigación exploratoria, el objetivo de este artículo es comprender cómo se garantiza (o no) el derecho a las visitas conyugales, las percepciones sobre este derecho, las dificultades para su cumplimiento y las intersecciones con estrategias de control corporal y sexualidad de mujeres adultas y adolescentes privadas de libertad. A través de los datos obtenidos de la revisión de la literatura, el análisis documental y las entrevistas con parte del personal de las instituciones de encarcelamiento, es posible comprender las percepciones sobre el derecho a las visitas conyugales de mujeres y adolescentes encarceladas y las peculiaridades de su implementación dadas las especificidades de género.

Palabras clave

Sistema penitenciario; sistema socioeducativo; mujeres encarceladas; visita conyugal; sexualidad

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1. Introduction

In the last two decades, as a world-wide phenomenon, the number of incarcerated women has grown at a faster rate than the number of incarcerated men, although still representing a small minority of the prison population (about 7%) (Walmsley 2017). Parallel to the increase in the number of women and adolescent and young girls in the criminal and juvenile justice systems, the interest in women and girls in deprivation of liberty has been increasing among researchers in different areas of knowledge. From different methodological perspectives, objects and objectives researchers are concerned with the peculiarities of women in prison, especially considering their experiences and modes of punishment that, depending on the patterns of social relations of gender, will work distinctly for men and for women, whether adults or not (Azaola 1995, Cunha 2002, Espinoza 2004, Heidensohn and Silvestri 2012). One of these issues relates to how sexuality is perceived and exercised in contexts of deprivation of liberty. As a basic human dimension and a human right, sexuality is exercised and experienced in different ways by women and men, and is subject to power relations in many different ways. Both women and men (adults or not) in deprivation of liberty contexts are subject to different pains of imprisonment (Espinoza 2004, Sykes 2007), one of them being the deprivation of heterosexual sexual relations. Although intended to be one of the extended punishments to which prisoners are subject to, both for safety/maintenance of control and order in prison establishments and for human rights reasons some Western and non-Western countries have adopted conjugal visitations as a way of diminishing this deprivation. Brazil is one of the few countries that have adopted conjugal visitations for prisoners, in most of Brazil's prisons, as part of its policies. For this moment of reflection, the theme "conjugal visitation" is defined as the right of persons deprived of their liberty to hold private encounters with their intimate partners through conditionalities defined by law and by internal regulations of prisons and socio-educational incarceration establishments.¹

The objective of this paper, which is a result of an exploratory research, is to analyze the guarantee of the right to conjugal visits by women in prison, and in socio-educational institutions of incarceration in the state of Bahia (Brazil). The methodology adopted was a bibliographical review, a review of the legislation and normative regarding conjugal visitation in incarceration contexts, quantitative data on the incarcerated women and girls of the researched institutions, and interviews with prison staff (of the incarceration establishment for adult women) and socio-educational institution staff (of the socio-educational incarceration institution for adolescent girls).

To talk about conjugal visits in incarceration establishments in Brazil leads us to reflect on the subject from different angles: from the construction and maintenance of intimate and family bonds and their dynamics, from the structural conditions (almost always unfavorable, as in the case of both of the institutions investigated), from the importance given to sexuality in the relationships, from the power dynamics within the intimate relationships and from the political uses of conjugal visits by the state for the

¹ In Brazil, the public policy that organizes and guides programs for the implementation of incarceration measures applied to adolescents who commit crime is called the Socio-educational System. Legally established by Law 12,594, of January 18, 2012, it is known as the National System of Socio-Educational Assistance (SINASE).

maintenance of order in the deprivation of liberty. When these issues are examined from the perspective of incarcerated women, adult or not, the discussion becomes even more complex. Among the many possibilities of reflection, the issue can be better understood in dialogue with the philosopher Michel Foucault, especially with his analysis on organization and management power.

Understanding power as an exercise carried out from the articulation of the technical and tactical dimensions that mark its varied forms of accommodation in time and space, Foucault (1988) identifies three historical phases in which power is organized, deriving from the Western epistemological model – sovereign power, disciplinary power and biopower – emphasizing that there is not a sharp split between these, but a process of transformations inscribed in historical periods that preserve some characteristics and incorporate new ones.

As an unfolding of disciplinary power, biopower is exercised through biopolitics, which engages in the administration of the body-species through a security *dispositif* and control technologies in the administration of the social body. It follows from what Gilles Deleuze (1998) calls “control societies”, installed in the twentieth century after World War II. In the context of racial panic, biopolitical tactics played an important role in the control of reproduction and the body of women, whose bodies were scrutinized by hegemonic science that attributed hysteria and lack of control as a characteristic and maternity as a destination, attenuating the former. The new technique of body control and organization was condensed into the sexuality *dispositif* (Foucault 1988), investing in normative discourses about sex and in the production of techniques used in the processes of the normalization of sexuality. Heteronormativity was established as a parameter for all sexual relations and, with it, concerns were expressed about the coherence between the subjects’ biological apparatus, gender identity and performance, sexual desire and practice.

The mechanisms introduced by the sexuality *dispositif* are placed at the service of the control of life in diverse spheres and under the most diverse arguments, as the concern with health, with the well-being of the population, the economic progress of a certain nation, among many others (Carrillo 2010). From biopolitics, biopower materializes by weaving a network of mechanisms and technologies articulated by the State, composed of disciplines and techniques of control spread by a diffuse and articulated set of moral norms that control the bodies of individuals and populations, crossing educational institutions, prisons, hospitals, and public policies, and manifests itself through databases, social reports, scientific samples, research, etc. The prison (and the socio-educational incarceration institution, by proximity) as exemplary institutions of disciplinary power, will not fail to control the sexuality of bodies to be docile, where the conjugal visitation, especially for women, will assume peculiar contours.

2. Methodological considerations

This article is a result of an exploratory research. Considering that the literature review pointed to the existence of few studies on conjugal visitation by adult and adolescent women in deprivation of liberty in Brazil and none conducted in the State of Bahia, regarding the principle of the usefulness of research, the preliminary results presented here may serve to elaborate hypotheses and broaden new perspectives and approaches

on the subject (Gil 1994, Quivy and Campenhoudt 2005). The literature review and legislation and normative review allowed us to grasp relevant and more recent reflections on the production of knowledge about the topic of conjugal visitation, especially regarding the approach to the establishment of it as a legal right, and its impasses, controversies and modes of implementation. The research *loci* were a prison and a socio-educational incarceration institution, both exclusively female and located in the State of Bahia, Brazil. Finally, the objective of this paper is to identify how the right to conjugal visits was implemented, how it is guaranteed (or not) in the aforementioned institutions, what are the emerging tensions in the daily institutional life for managing conjugal visits (specifically in the case of the prison), as well as how staff perceive the right to conjugal visitation. For this purpose, data collection was done through analysis of documents and individual semi-oriented interviews conducted with professionals from a prison establishment for incarceration of adult women and a socio-educational institution for incarceration of adolescent and young girls.

2.1. Ethical issues of the research

Research carried out in deprivation of liberty establishments require compliance with minimum ethical criteria. Confidentiality, privacy and consent issues require special attention and care, considering that there is a thin line separating such principles from the impossibility of ensuring total anonymity or privacy in the conduct of interviews with the subjects (Abbott *et al.* 2018). Considering the types of data collection performed at the prison and at the socio-educational institution, the following procedures were adopted, in accordance with Resolution n. 466 of the National Health Council: 1) authorization from the directors of the institutions for visits and for access to employees were granted; 2) Use of the Free and Informed Consent Form to conduct interviews with employees.

In the specific case of this exploratory research, the registration in the Ethics Committee is not necessary, considering that the professionals of the institutions are not considered vulnerable subjects (Resolution n. 466) and the incarcerated adolescents and women were not accessed. In this way, the formal authorization of the institutions for access to prison and the socio-educational institution as well as to employees is sufficient. In order to conduct the interviews with the employees, a Free and Informed Consent Form was adopted, which is adopted in cases in which the participants of the research are persons over the age of 18 and are in full enjoyment of their civil capacity. The Fee and Informed Consent Form contains the most relevant information on the stages of the research and allows the subject to decide in a fair and unconstrained way whether or not he or she participates in the study under development. Equally, it means legal and moral protection of the researchers, since it is a clear manifestation of agreement with the participation in the research (Resolution 466). In consideration of anonymity, confidentiality and privacy, institutions will not be directly named, as well as fictitious names will be adopted for the interviewed participants.

2.2. Data collection

Data collection was performed in two distinct stages. At first, the data collection was dedicated to quantitative data and had as its objective to identify information that allowed the presentation of a minimum profile of the incarcerated women, adolescent

and young girls at the institutions. This first stage was carried out in January 2017 in the prison and in January 2018 in the socio-educational institution and had as its data collection technique the analysis of their personal records in the institutions. The second stage was dedicated to qualitative data and was performed at the prison between April and May 2018 and at the socio-educational institution between September 2017 and February 2018. For this stage the data collection technique was semi-guided interviews with four professionals from each of the institutions and intended to identify how the right to conjugal visits is guaranteed (or not) in the institutions, the professionals' perceptions about this right, the difficulties to implement this policy and the intersections with strategies to control the body and sexuality of incarcerated adult, adolescent and young women.

The documentary analysis made it possible to identify information on the sociodemographic and legal profile of women, adolescent and young girls: age, color/race, schooling, marital status, origin (whether from the interior or state capital, foreign, etc.), number of children (if the case), crime committed, recidivism, profession, among others. The semi-oriented interviews and conversations focused on the narratives of professionals from the prison and the socio-educational institution.

Considering that conjugal visits are actually carried out only in the prison establishment, the interviews carried out sought to understand the historical unfolding of the conjugal visitation policy in the prison, the rules that regulated the implementation and execution of the policy, the perception of the difficulties in the implementation and the perception of the benefits of the policy. In the socio-educational institution, considering that few of them in the country (and none for women) guarantee conjugal visits for incarcerated adolescents and young people, the interviews focused on the possibility of implementing the policy and on the professionals' perception about its implementation.

FIGURE 1

Name	Institution	Date of the interview	Years working in the prison system or socio-educational system
Anne	Prison	April 2018	More than 5 years
Ema	Prison	May 2018	More than 20 years
Lisa	Prison	May 2018	More than 20 years
Rosa	Prison	May 2018	More than 20 years
Bela	Socio-educational	October 2017	Between 3 and 5 years
George	Socio-educational	October 2017	More than 5 years
Jenifer	Socio-educational	November 2017	More than 5 years
Amanda	Socio-educational	February 2018	More than 5 years

Figure 1. Interviews.

With regards to confidentiality, names are fictitious and the specific occupation of each one is purposely not indicated, considering that both institutions are small and do not have a large number of professionals, indicating them by professional position or training may mean the indirect identification of the interviewed. All the professionals had direct contact with incarcerated women and adolescents. Professionals who had more time working in both institutions were chosen, with the prison being inaugurated in 1990 and the socio-educational institution in 2014. The professionals of the prison had detailed memories of the process of implementing the conjugal visits. And the professionals of the socio-educational institution with more than five years of experience had knowledge on the subject by having previous experience in masculine institution as well. All the interviews were carried out in the institutions themselves during working hours and in rooms intended for technical assistance of women and adolescent girls with the purpose of ensuring privacy.

2.3. The prison establishment and the socio-educational institution – contextualization

Inaugurated approximately three decades ago, the female prison establishment is part of a prison complex in the State of Bahia and, therefore, there is physical proximity to male prisoner establishments. The prison has classrooms, a space for events, a bakery, a beauty salon, a nursery, an infirmary, a library and specific cells for conjugal visits. There is multidisciplinary care (psychologist, social worker, doctor, dentist, legal and religious assistance) and is open to voluntary initiatives from universities and non-governmental organizations to develop activities of various kinds (writing courses, yoga, music, and lectures and workshops on gender relations and women empowerment). The prison is directed by a woman and most of the security activities are done by women.

Data collected in January 2017 show that approximately half of the 106 women prisoners of the institution were from the capital or the metropolitan region of Salvador, followed by those from the interior of the state (38%), and a smaller percentage from other states of the federation (11%), and only 1 was from another country. About 90% were black, that is, black or brown. More than half (52%) were young adults, under 29 years old. The majority of female prisoners (76%) had children who were mainly cared for by other women in the family, and in a few cases by fathers, three children under 6 months old still cohabitated with their mothers inside the prison establishment, and one child was at a shelter maintained by the Catholic Church. Consistent with national data, more than half of the women (55%) were arrested for drug trafficking and related conducts, 26% for property crimes (theft and robbery) and 19% for crimes against life (homicide, attempted murder).

According to Brazilian legislation, adolescents who commit crimes are subject to the Statute of the Child and the Adolescent (Estatuto da Criança e do Adolescente, Law 8,069, of 13 July 1990 – hereinafter, ECA), a special legislation designed in accordance with the International Convention on the Rights of the Child (Sposato 2013). The ECA determines that adolescents are not subject to penalties such as adults, but rather to the determination of socio-educational measures that are divided into: open measures (warning, obligation to repair damage, community service and assisted liberty);

restriction of liberty measures (semi-liberty); and deprivation of liberty measures (incarceration) (ECA, Law 12,495).

In the state of Bahia there is only one socio-educational incarceration institution for the execution of all custodial measures presented in the Statute of the Child and the Adolescent (ECA) for female adolescents and young women, henceforth *girls*. This incarceration institution was inaugurated in the middle of 2014 and previously the measures were carried out in a single housing unit within one of the male incarceration institutions of the Bahian socio-educational system. Data collected between the months of January and February 2018 on the girls who were carrying out socio-educational measures of incarceration from the inauguration of the incarceration institution (2014) until the end of the year 2017 indicate that of the 34 girls, the vast majority (88%) were from the interior of the state and were identified as black or brown (94%). Exactly half of the girls were charged or sentenced to socio-educational measures of incarceration for crimes against life, 34% for involvement in drug trafficking and related conducts, and about 20% for crimes against patrimony. One had been arrested pregnant, but had been released before the end of her gestation, and only one had a child, who was under the care of her family throughout the execution of the measure.

The socio-educational incarceration institution guarantees regular schooling and pedagogical workshops, both compulsory activities in the execution of socio-educational measures. In the researched institution workshops such as bakery, handicraft, sewing and hairdressing were offered. There is no nursery, and one of the infirmary rooms is improvised for girls who happen to cohabit with their children during the execution of the socio-educational measure. There is a multidisciplinary service similar to that offered to adult women in prison: with psychologist, social worker, pedagogue, doctor, dentist, lawyer. Equally, there is the guarantee of the right to religious assistance, mediated by the pedagogical coordination of the institution.

3. Conjugal visits in the Brazilian prison and socio-educational systems

The consulted literature highlights that conjugal visits as a state-regulated right is legally and formally guaranteed in 15 countries, including Denmark, Spain, Sweden, Egypt, Kenya, the Philippines, Israel, in five states of the United States and Brazil (Einat and Rabinovitz 2012, Einat 2017). Despite the relevance of the theme, few studies on the functioning, benefits and harms of the implementation of this right have been identified, especially in Brazil. Tomer Einat (2017) points out that studies and program proponents have argued that conjugal visits produce positive and normalizing effects that can be identified both during and after incarceration. Following, Einat (2017) lists that among the positive effects that have been encountered are: the reduction of sexual and non-sexual violence – which as an extended benefit eases control over the inmates and the work of the prison staff, the possibility of maintaining and strengthening family bonds and the possibility of fostering a sense of freedom and privacy – since it is one of the few moments the inmate can be alone with the partner with no vigilance by guards or other inmates. And, on the other hand, critics argue that conjugal visits may increase risks related to health, safety, pregnancy and the risks linked to a possible pregnancy (Einat 2017). Also, in analyzing family-strengthening programs developed in prisons, Kerry Kazura (2017) found criticisms that are associated with discrediting both conjugal visits

and furloughs as policies that effectively promote quality of interaction and affective bonding between prisoners and their companions and families.

Although over the decades conjugal visits have been analyzed (and questioned) as a policy with the potential to contribute to the reduction of sexual and non-sexual violence in deprivation of liberty institutions, maintenance of family ties and resocialization (Carlson and Cervera 1991, Hensley *et al.* 2002, D'Alessio *et al.* 2013, McElreath *et al.* 2016, Einat 2017), they were first adopted in 1918 in the state of Mississippi at Parchman Penitentiary, a farm prison, where work on the cotton fields was the focus of the penitentiary politics, as a measure of control over the inmates within the prison. From racially stereotyped notions about the uncontrolled sex drive of black men, conjugal visitation was adopted as a strategy for making inmates submit to prison rules and authorities (Hensley *et al.* 2000, McElreath *et al.* 2016).²

The position of the non-white person in different realities reached by the sexuality *dispositif* also reverberates in the organization of the prison system. Thus, firstly, only well-behaved black men were entitled to conjugal visitations, with the objective of stimulating productivity, since the penitentiary was practically self-sustaining and there was no monetary compensation at the time. Gradually, the concession was generalized to all prisoners who had good behavior. By the end of the 1950s it was guaranteed to all men, and only in 1972, to women as well. Progressively – since at first conjugal visitations happened in improvised spaces of the prison – spaces for conjugal visitation were built and became part of the prison architecture and formal internal regulations. As a result of the expansion of the right to conjugal visitation during the 1950s, it came to be understood as an important policy for the male inmates, since it reduced homosexual relations, increased self-esteem and contributed to maintain matrimony bonds (Hopper 1962). If initially prostitutes were a good part of the visitors, over time only prisoners with formalized relations had the right to conjugal visitations, a modification that can be understood as a State's attempt to moralize affections, considering that modifications in penitentiary policies coincide with the development of what Michel Foucault (2008a, 2008b) denominated governmentality. Put in another way, the art of governing based on the logic of the State's functioning, taking into account the economy market, that uses techniques that allow it to extend control over the behavior of individuals, their social relations and their sociability networks.

² For Richard Miskolci (2012) the black man's objectification and black man's view of sexuality relates to the modern construction of masculinity and virility. The formation of the modern national state is engendered in complex cultural relations, among which is the relation between masculinity and nationalism. The ideal of virility was erected as a border wall between white and black men, indigenous or natives and mestizos. In colonized countries, like Brazil, the idealization of the whitening couple was due to the union of the white man with the black / native / mestizo woman. In the formation of the whitening pair there was no presence of the black man, indicating that virility did not reach him, since it is associated with the capacity of domination of the women and of the offspring in the private scope, that demanded self-control - prerequisite for domination of the other men in the public sphere. This leadership was expressed in the occupation of spaces in religion, politics, military forces and science and, therefore, a fundamental condition for achieving recognition as a man of the nation, which did not consider black men. In this context, masculinity is defined by its association with virility, presenting as a constitutive exterior an ideal of domesticity based on the masculine control over the domestic sphere to which the image of the supposed reception and security of the home and of the woman, servile and innocent, are associated.

Finally, in February 2014, considering the high costs of conjugal visitation and the reflection that its realization was contrary to the policy of punishment - from the understanding that deprivation of sexual activities is one of the privations contained in deprivation of liberty³ – the right was terminated in the State of Mississippi (McElreath *et al.* 2016).

In Brazil, visitation is a right established in the Law of Criminal Execution (Law 7,210, of 11 July 1984), which guarantees the incarcerated person, regardless of sex, visit from the spouse, companion, relatives and friends on certain days; though the conjugal visit, understood as the possibility of promoting private encounters, with preservation of intimacy and allowing sexual relations, continues without a specific legal regulation at a national level. In 1999, the National Council of Criminal and Penitentiary Policy (CNPCCP) issued a resolution recommending the rules for guaranteeing and operating the conjugal visits to the State Penitentiary Departments for men and women, as well as ensuring the possibility of intimate encounters between prisoners.⁴ However, the absence of legal authorization did not prevent the conjugal visits from being implemented in Brazilian prisons decades before this resolution took place: the practice took place in several prisons for years. The State of Rio de Janeiro, in 1924, was pioneer in authorizing conjugal visitations for prisoners who proved civil marriage and had good behavior (Colombaroli and Braga 2014, Bassani 2016). In 2001, the Secretariat of Penitentiary Administration of the State of São Paulo ratified the gender equality provided in the Federal Constitution of 1988; and, finally a decade later, following the State of São Paulo's understanding of gender equality, the CNPCCP recommended the extension of the right to conjugal visitation for non-heterosexual couples in a resolution published in 2011 (Lima 2006).⁵

It is possible to be said that in Brazil the right to receive visits in any modality crosses over the process of re-democratization of the country,⁶ marked also by prisoners' human rights movements and social welfare policies with the objective of maintaining marital/intimate and family bonds, under the aegis of the modernization of structures and social services that establish new governmentality techniques towards conducts of moralizing inspiration (Gadelha 2009). Taken as a link to the community outside of the walls, contact with the family was seen as minimizing the pain of incarceration, although Fernanda Bassani (2011, p. 265) argues that prior to the country's democratization period, the visitation of women to their imprisoned men had the ability to establish

³ Kerry Kazura (2017) also found similar negative and critical notes: costs of conjugal visitation and other family-strengthening programs should not take place when the ultimate goal of prison is to promote actions that correct the antisocial behaviors that led to incarceration.

⁴ Resolution n. 01 of 30 March 1999 of the CNPCCP: Art. 1 - Conjugal visitation is understood as the reception by the national or foreign prisoner, male or female, of a spouse or other partner, in the prison where he/she is imprisoned, in a reserved environment, where his/her privacy and inviolability can be ensured. Art. 2 - The right of conjugal visits is also ensured to prisoners married to each other or in a common law relationship (authors' translation).

⁵ Resolution n. 4, of 29 June 2011 of the CNPCCP: Art. 1 Conjugal visitation is understood as the reception by the national or foreign prisoner, male or female, of a spouse or other partner, in the prison where he/she is imprisoned, in a reserved environment, where his/her privacy and inviolability can be ensured for both heterosexual and homosexual relationships. Art. 2 The right of conjugal visits is also ensured to prisoners married to each other or in a common law relationship or in a homosexual relationship (authors' translation).

⁶ After 21 years of dictatorship, in 1985, Brazil started its re-democratization process, culminating with the promulgation of the 1988 Brazilian Constitution.

“traces of civility’ in prison,” in latent accordance to the heteronormative patterns of the period.

However, it seems that these statements did not extend the guarantee to conjugal visitation in women’s prisons: for them there were restrictions in many Brazilian states until the late 1990s and early 2000s. The exercise of sexuality is not seen as necessary for women and lesbian relationships were often considered serious disciplinary offenses in prisons (Lemgruber 1999, Padovani 2010). Since the country’s prisons have certain autonomy in the implementation and execution of their policies, the guarantee to conjugal visitations occurred in a diversified manner in the different states and prisons of the country, with greater or lesser obstacles in each, though almost always more difficult in women’s prisons (Oliveira and Santos 2012, Colombaroli and Braga 2014).

In the State of Bahia, according to the State Statute of the Penitentiary System (Decree 12,247, of 8 July 2010), the main purpose of conjugal visits is to strengthen the prisoner’s family relationships⁷ and, to have this right guaranteed the following conditions are imposed: if married, one must present a marriage certificate, but it is not necessary to provide proof of a common law relationship, except in cases where the spouse is under eighteen years of age; only one spouse/partner can be registered at a time and, for replacement, one must obey the minimum term of two months; both must sign a detailed statement of responsibility containing information on the risks of infection from sexually transmitted diseases; prisons should conduct informative/preventive and counseling campaigns on sexually transmitted infections (STIs) and acquired immunodeficiency syndrome (HIV/AIDS) for the prison population and its visitors; and, finally, conjugal visitations in the prisoners’ cell is forbidden, except when no other adequate space is available and when there is consent by the other prisoners of the cell – cellmates.

But although the rules are relatively recent, conjugal visitation had already taken place in Bahian prisons long before this statute. According to records and reports of prison staff, conjugal visits (called “conjugal encounters” in the investigated prison, the specifics of the term will be discussed below) for women happen practically since the inauguration of the prison. Among the actions to maintain the affective relationships of women prisoners, it is worth noting that the prison, which is now almost 30 years old, since 1992, authorizes women to visit their partners who are incarcerated in the men’s prison in the penitentiary complex. It is interesting to identify that the request came from the inmates themselves, who drafted a petition addressed to the Judge of Law of the Court of Criminal Enforcement.⁸ The first request was made by and authorized for an inmate in 1991, and in the following year it was eventually authorized for all inmates.

Ema, a staff person who works in this prison since its foundation said that before the right to conjugal visitation was guaranteed, those who received visits from their companions had (or attempted to have) sexual intercourse in the prison yard, without any privacy and not uncommonly in front of other people, including children. With the cells closed (a procedure adopted on visitation days), “couples, they would try to

⁷ Decree 12,247/10, Article 137 – Conjugal visits shall comply with the following conditions: Paragraph 2 - The purpose of conjugal visits is to strengthen the family relations of the prisoner and shall be regulated by the Superintendence of Criminal Matters (authors’ translation).

⁸ Brazilian criminal justice division whose competence is to enforce the criminal enforcement law and to monitor those who are sentenced.

advance the signal, and there were children nearby (...) and they were so on fire that they would try to go beyond the limits" (Ema). These improper sexual attempts on visitation days motivated discussions among prison staff and management on the creation of a specific space for this purpose. First, a common cell, which had an iron plate in front to guarantee the privacy of the couple, was used, and eventually specific cells were built for the purpose of conjugal visitations.

Among the rules that the prison adopts for authorizing the conjugal visits are: to have proof of intimate relationship previous to the arrest (marriage certificate, children in common, cohabitation attestation/common law declaration – formal or informal provided they have witnesses, common correspondence proving that they lived together); undergo medical examinations especially to detect sexually transmitted infections (requisite for both prisoner and visitor) and possible pregnancy; when they have sexually transmitted infections, the prisoner must start treatment and, if HIV positive, the visitor who wants to have the conjugal visit should be informed about the woman's health situation;⁹ undergo family planning and choose the type of contraceptive method she will use; and, lastly, the partner should regularly attend regular visits during the first month. Thus, after a period that varies from thirty to sixty days, conjugal visits are then scheduled monthly on days that do not coincide with the days for family visitations. Between incarcerated women and men this process can take three to six months.

If the recognition of the right to the exercise of sexuality was delayed for adults, it was even slower for people under the age of 18. Provided first by Resolution n. 119, dated 11 December 2006, of the National Council for the Rights of the Child and the Adolescent (CONANDA), an infralegal norm that established the National System of Socio-Educational Assistance (SINASE), stated that the right to conjugal visits is currently guaranteed for adolescents and young people carrying out socio-educational measures of incarceration, pursuant to Law 12,594, of January 18, 2012, which legally instituted SINASE.¹⁰

In SINASE-Resolution n° 119, the right to conjugal visits integrates the principles of institutional and pedagogical support, family and community approach and adequate physical space. It also predicted that in order to guarantee the right to conjugal visits, the technical teams should be trained in the themes of sexual and reproductive rights and sexuality, specific pedagogical actions for the healthy exercise of sexuality and guarantee of protection for sexual and reproductive health for adolescents and young people deprived of their liberty, and the institutions must have adequate physical space and infrastructure. But SINASE-Resolution n° 119 guaranteed the right to conjugal visit and normalized its general guidelines without, however, indicating how the visits

⁹ The requirement for such medical examinations was subject to a legal opinion drawn up by the General Lawyers' Office (Opinion CODELEGIS / CONJUR / GABIN / MS / KVB 2347/2009), which concluded that the requirement was unlawful, understood as an affront to the constitutional principles of dignity of the human person and inviolability of the body and intimacy, emphasizing that health care actions in prisons must be guaranteed by the public power. Still, it is not uncommon for prisons across the country to require pre-authorization examinations for conjugal visits.

¹⁰ The SINASE-Resolution n. 119 served as the basis for the text of Law 12,594/2012, known as the SINASE Law. The SINASE-Resolution n. 119 remains in force and must be considered in joint interpretation with the SINASE Law. From now on, the acronym SINASE will refer to Law 12,594/2012.

should take place nor did it present any conditionalities for such visits. It was incumbent to SINASE, whose object is to regulate the execution of socio-educational measures in the country, to determine the conditions for the realization of conjugal visits by adolescents and young people.¹¹

The National Socio-Educational Assistance Plan, drawn up in 2013, which aims to set goals for the Brazilian socio-educational system for the next 10 years, inserted in the operational principle participation and autonomy of adolescents to guarantee the right to conjugal visits in all institutions of the country, and the State Plan for Socio-educational Assistance of Bahia, prepared in 2015, indicated the creation of the Affective Measure project, which would implant and guarantee the right to conjugal visitations in the incarceration establishments, but without elucidating the amplitude and the operability of the project or determine which actions are part of the project.

The conditionalities foreseen in SINASE in the Bahian socio-educational system were improved in the Normative Ordinance 61/2017, which establishes, within the framework of the Foundation for the Rights of Children and Adolescents, the Internal Regulation of the Communities for Socio-Educational Assistance. In the state of Bahia, the Internal Regulations have the same requirements indicated in the text of art. 68 (SINASE), notably the marriage or common law certificate, and others that, in practice, make the possibility of conjugal visitation even more difficult. The specific requirements of the Bahian socio-educational system are related to the visitor, such as: having parental or legal guardians consent, or judicial authorization for any person under the age of 18, unless he or she is 16 or older and married to the visited person or emancipated; personal documents; in the absence of a marriage certificate or common law marriage, must present three witnesses attesting to the relationship, being that one necessarily needs to be a first-degree relative of the visitor; if they have children together, the child's birth certificate; among others. For the visited person the requirements are: to be over 16 years old and proof of the relationship prior to the socio-educational measure; parents or guardian's authorization and, in the absence of these, judicial authorization for those under 18 years of age; participate in pedagogical activities and have good behavior; confirmation of physical and mental health; participation in informative and guidance programs on gender and sexuality, sexual and reproductive health, etc. Lastly, if all the requirements are fulfilled, the management of the institution will be responsible for the deferment, which in turn must hear the position of the technical team and the competent judge. Finally, then conjugal visitations will be authorized once a month with a duration of two hours.

Therefore, it is not difficult to presume that the conditionalities imposed in the socio-educational institutions tend to restrict the possibility of the conjugal visits. Implanted in the Bahian socio-educational system only in two male incarceration institutions,

¹¹ Law 12,594, Art. 67. The visit of a spouse, companion, parents or guardians, relatives and friends to the adolescent to whom the socio-educational measure of incarceration was applied shall observe days and times defined by the director of the assistance program.

Art. 68. It is ensured to the adolescent who is married or who lives, demonstrably, in a common law relationship the right to conjugal visits.

Single paragraph. The visitor will be identified and registered by the management of the assistance program, who will issue a personal and non-transferable identification document specifically for conjugal visits (authors' translation).

according to the information from the management body, it actually only occurs in one of them. In fact, it is not clear how many incarceration institutions guarantee conjugal visitation for adolescents and young people in the country, since in the official reference document on the national socio-educational system, called the Annual Survey of SINASE, produced by the National Secretariat for the Rights of the Child and the Adolescent, linked to the Ministry of Human Rights, there is no information on the right to conjugal visits.¹²

Prior to SINASE, Laura Mattar (2008) identified that in the country only three incarceration institutions guaranteed conjugal visits, all located in the northeastern region of Brazil, all three for boys and for heterosexual relations. The interviews carried out by the author indicated that in general the staff people of the institution consider that conjugal visits were not a demand in the feminine institution, and since they were in smaller numbers there was no “need” to implement it. The first national survey about the situation of girls’ incarceration institutions inform that no incarceration institution guarantees the right to conjugal visits for adolescents and young women in the country, even though many of the adolescent and young women fit into the conditionalities foreseen in SINASE (Conselho Nacional de Justiça –CNJ– 2015).

In an earlier study carried out in the Socio-Educational Assistance Community of Salvador, at the time of the research, in a mixed institution (implementing deprivation of liberty measures for adolescents and young people of both sexes), it was identified that the staff people did not even consider the possibility of conjugal visits (for either sexes) given the precariousness of the institutions’ premises (Arruda 2011). If the physical structure of the institution allowed the implementation of conjugal visits, the opinions of the staff people diverged: some of the interviewees recognized conjugal visits as a right and that it would be up to the institution only to guarantee its viability; while others were completely against this possibility because they considered that the institution could not be responsible for adolescents having sex, nor was the State responsible for unplanned pregnancies conceived during conjugal visits during the execution of the socio-educational measure of incarceration (Arruda 2011).

Currently, the Community of Socio-Educational Assistance of Salvador is an only male institution, since in May 2014 an exclusively female institution was inaugurated to carry out deprivation of liberty measures for girls in the Bahian socio-educational system. The establishment of an exclusively female institution did not change the viability of conjugal visits, nor the positioning of the staff, which remains the same: some agree, but the impossibility due to the precarious physical facilities is always stressed. Still, according to all the interviewees, it is imperative to prepare girls for sexual and reproductive health, which in synthesis is linked to contraception. The focus remains on the fear that the adolescents or young women can get pregnant under the tutelage of the State and

¹² In the search for data, the researchers requested information from the National Secretariat for the Rights of Children and Adolescents about institutions in the country that guaranteed conjugal visits for adolescents and young people but were not successful. Along with the Foundation for the Rights of Children and Adolescents, more specific information was requested, such as frequency, number of adolescents and young people who regularly have the right to conjugal visits guaranteed, etc., but there was also no success in obtaining answers.

under the responsibility of the institution: “What are we going to do if the girls get pregnant here under our responsibility?” argued Amanda.

Jenifer, in mediated reflection, suggested that if conjugal visits were allowed, strict criteria should be followed, in which they established the need to require examinations to detect possible sexually transmitted infections of both the visitor and the visited girls – a procedure that, as described above, is required in the Bahian women’s prison for adult women. But concerns about sexual and reproductive health were only related to the possibility of heterosexual relationships, since it was known to all staff that girls dated and had sexual relations between them in the female housing and there was no policy or activity aimed at sexual health and reproductive health of women who have sex with other women (Arruda 2011).

4. Permissions, prohibitions and sexuality control

It is interesting to note that although the exercise of sexuality is recognized as an inseparable dimension of human beings and recognized as a human right, when it comes to persons deprived of their liberty, sexual life is treated as a privilege, and a certain blindness to the fact that even if conjugal visitation is not fully guaranteed in deprivation of liberty establishments, that does not mean that there will be no sexual practice in prisons and in an incarceration institution for adolescents and young people. Especially regarding adolescents and young people, the mention of the possibility of conjugal visits referred only to heterosexual relations, even though it is known to the staff people that adolescents and young people relate within the institutions and have sexual relations between them. Studies in prisons for women in the country show similar concepts as those identified in the socio-educational system, especially when analyzing the historical process of female prisons (Lemgruber 1999). Part of the literature understands that homosexual relationships between women (adults or not) in spaces of institutional deprivation of liberty are considered an adaptation to incarceration (Lemgruber 1999) or a result of lack of affection and solitude (Assis and Constantino 2001, Einat and Rabinovitz 2012). As in the socio-educational system, lesbian relationships are known, accepted and tacitly allowed in the prisons (Lemgruber 1999, Padovani 2011, Nicolau *et al.* 2012).

Reiterating the location of female homosexuality in the sexuality *dispositif*, it is worth noting that recognizing lesbian experiences in carceral institutions as a source of emotional support and mutual affection or as circumstantial homosexuality (Lemgruber 1999, Einat and Rabinovitz 2012, Colombaroli and Braga 2014) desexualizes the intimate relations between women and tend not to recognize the manifestations of affection and lesbian experiences as an exercise of sexuality, but only as a response to the lack of affection and solitude or given the impossibility of the relationship with men (Arruda *et al.* 2018).

Considering the relative autonomy prisons have in the implementation of punishment policies, in the female prison of Bahia homosexual relationships have always been respected in the establishment of both women who had relationships before incarceration and the women who established relationships with each other during the period of deprivation of liberty, according to staffs’ narration. Both the partner who has never been arrested and the partner who started the relationship in prison and was later

released were allowed to visit their intimate partners in prison. This situation, it must be said, differs from most of the prisons in the country where studies have been carried out on the subject (Lima 2006, Padovani 2011, Cordeiro 2017).

In analyzing the conjugal visitation in a masculine prison, Maria Hassen (1995) affirms that the intimate moment in the deprivation of liberty considers the desire of the one who is visited, but that is conditioned to the desire of the other that is outside; the desire of the inmate is “in the hands” of those who are free – a desire that, in order to materialize, depends much more on the other than on the subject’s own will. The author considers that in the case of conjugal visitations to men the “power” is in the hands of the woman, who may not want to be subject to practicing sex in the possible conditions that the prisons offer. But this equation becomes even more complex when the subject deprived of liberty is a woman, since women are much less visited than men (Espinoza 2004, Fachinetto 2008, Arruda 2011), regardless of the manifestation of the desire to receive conjugal visits.

In the case of conjugal visits in the prison where the study is carried out, the nuances of what is power, desire, right and freedom assume different and complex connotations that begin with the adherence of a specific nomenclature: “conjugal encounter”. The formal nomenclature and the one that is used in the specialized literature is “conjugal visit”, but in the prison investigated it assumes contours of a native category and is also referred to as a “conjugal encounter”. Although some staff people affirm that there is no difference between the two nomenclatures, in empirical reality “conjugal visit” and “conjugal encounter” differ not by the purpose in itself, since both allow sexual activity, but by the symbolic sense about the condition of the visitor.

“Conjugal visit” is commonly adopted when the visitor is a partner who is not in prison, whose situation is quite rare. As vastly indicated in the specialized literature cited above, women are far less visited than men and it is not uncommon for their husbands and mates not to continue their relationships when women are arrested. The abandonment by husbands and companions is a statement widely found in studies that deal with incarcerated women (Lima 2006, Einat and Rabinovitz 2012, Oliveira and Santos 2012, Colombaroli and Braga 2014), since it is rare for men to accompany their intimate partners/wives during the period of deprivation of liberty. Thus, having a companion who visits her in prison and who is willing to engage in conjugal-sexual activity in the prison is seen as a “privilege” among women prisoners. On the other hand, “conjugal encounter” is used for encounters provided between prison establishments (male and female) so that prisoners who have relationships can have a moment of intimacy together. In this case, both are deprived of their liberty and the possibility of sexual intimacy is given by the intermediation and permission of the male and female prison establishments. The “conjugal encounter” does not enhance the symbolic sense of the visit because both the woman and the man are incarcerated and deprived of the possibility of having (heterosexual) sexual intercourse. There is no need to talk about visitation when both are imprisoned, and in the investigated prison it is the conjugal encounter that happens more frequently, because it is not the freedom that is at stake, but only the desire.

Data collected on the population of imprisoned women at the prison in January 2017 indicated that of the 106 women arrested at that time, 61% were in some affective

relationship (dating, common law relationship, cohabitation, marriage) when they entered the prison and 38% reported that their partners were also incarcerated. Therefore, most had a significant affective relationship when they were arrested, and a significant number had relationships with men who were arrested with them or who were previously incarcerated. This information is relevant when contrasted with the small number of women who receive conjugal visits or have conjugal encounters, about 10% of the women. When the interviews for this article were conducted, between April and May 2018, data provided by the prison staff indicate that only 12 women of the little over a hundred prisoners in the period had scheduled dates for conjugal visits or conjugal encounters. Of these, only five would be visited (by affective partners who were not incarcerated – one of the visitors being a woman that was just released from prison and would be visiting her partner from a relationship that started in prison), and seven would be encounters (between prisoners).

For the interviewed staff people, the partners abandon their women when they are incarcerated for several reasons: some for alleged criminal life and cannot expose themselves by going to the prison or for legal reasons are not authorized to enter the prison for visitation;¹³ others visit them only while they have not yet been convicted; some only go to conjugal visits and do not go to the other weekly visits, some because they soon establish other affective relationships, or simply because they do not want to undergo bureaucratic procedures to maintain the relationship with the woman in prison. These situations generate feelings of frustration and loneliness, because “many [times] we see, she gets all dressed up, and the guy doesn’t show up, makeup, hair done, hair straightened, nail, eyebrow, and the guy doesn’t show up, many times he doesn’t show up” (Anne). But abandonment does not happen only on the part of the partners who are outside the prison system, but also by the incarcerated partners. The difficulties of internal organization, bureaucratic issues, and patriarchal culture all add up so that women have less access to conjugal visits.

According to the interviewees, the procedure for men and women to carry out conjugal visits is the same. Upon arrest and entering prison, men and women will inform if they have a person with whom a conjugal visit can be arranged, indicating name and possible prison situation, if applicable. If the indication is for a companion who is also imprisoned, the social worker of the prison of the person who requested the conjugal encounter (one of the prisoners makes the request to the prison’s social worker) confronts the information in the prison of the alleged visitor and the authorization process between the establishments is initiated. It turns out that sometimes imprisoned men indicate women for conjugal visitation other than their female partners who are incarcerated, and, considering that each person can only have one person appointed to conjugal visit or encounter, many women end up not exercising their right, given the unfaithful behavior of their companions.

Another point concerns the negotiations among male inmates on conjugal visits. According to description given by the interviewees, in the Bahian prison complex, the older male prison establishments do not have specific cells for conjugal visits, so they

¹³ Women or men who have been sentenced for a crime are forbidden to visit family members or spouses in prison once released and while on parole. On the other hand, women or men who have been arrested, but ended up being released without a conviction can visit their partners and family members once released.

occur within the common cell area in the prisoners' cell and are organized by the inmates themselves, no matter how unusual this may seem to be, considering the role of prison administration. Prisoners who hold leadership positions¹⁴ or who possess greater social and/or economic power compel or pay subordinate prisoners (with less power and prestige in prison) to assign their female companions as conjugal visits of the later, but for the former to enjoy – and so, in this way, some prisoners can have two or more female visitors. Also, it is common for men in prison to initiate affective relationships with female family members of other prisoners (mother, sister, daughter). Thus, not infrequently, the incarcerated woman loses the companion with whom she held conjugal encounters or does not initiate them altogether. It is not to be inferred that women are always passive and faithful in their affective relationships – considering that even those who have conjugal visits or encounters often also establish affective and/or sexual relationships with other incarcerated women (Lemgruber 1999, Padovani 2011, Calvo 2015, Madariaga *et al.* 2017), but in the carceral context, and women being much less visited than men, the possibility of establishing a new heterosexual relationship is much smaller than it is for men. And, between controlled permissions, explicit prohibitions, and sociability in prison, it is the women who, in the end, find greater rigidity in the application of the rules and less possibility of circumventing them.

In the realization of these moments of intimacy, whether as a visit or an encounter, there are peculiar dynamics that outline the power relations between men and women, in which women are in a situation of submission. In certain contexts, the woman's body is used as a commodity, either by herself, who uses this institute as a way to achieve some kind of benefit – money, drugs or other objects or favors, or through negotiation of third parties over her body. Prostitution was mentioned by the interviewed staff people as a practice not uncommon among those who go to conjugal encounters in male prisons, masked by the women through constant change of the names of intimate partners, the reason why changing partners is made difficult.

... there are many [women] who come here and put the name of one [male partner], take them off, put the name of another, take them off, as if it were a regulated prostitution, they can't, then they [say] 'ah why am I not having [conjugal] encounters?' Go check their story, you cannot be reinforcing a practice that you know is not correct.
(Lisa)

They also report that this practice may not be the woman's desire, but an obligation on the part of the partner who contracted debts in prison and offered the "conjugal encounter" with his partner as payment. In these cases, physical and sexual violence may occur: "We already had to go get one that was very hurt for having been physically assaulted and sexually abused by another inmate inside the prison" (Lisa).

Attached to sex as a commodity is the possibility of women experiencing physical and sexual violence during encounters, especially those that occur in male establishments where there are no specific cells for conjugal visitation. All the interviewed staff people

¹⁴ From pioneering studies on prisons such as Donald Clemmer (1940) and Gresham Sykes (2007) one notices that there is a peculiar sociability that is established within prisons. Sociability in prisons have created ways of adapting to the experience of incarceration by creating hierarchies among the prisoners that, like outside of prison, relate to charisma, aggressiveness/passivity, acquisitive power and other aspects that gain value within this specific reality – the society of the captives (Sykes 2007).

mentioned that often women who were taken to conjugal visits in the older men's prisons where there are no specific cells and visits are managed by the prisoners themselves, women have been abused, raped, beaten, prostituted and, often used drugs. It was especially because of these events that conjugal encounters that happened weekly, became biweekly and, lastly, monthly. Both the practice of prostitution and the episodes of physical and sexual violence suffered by women are cited as reasons for the expansion of restrictions and the reduction of regularity of conjugal encounters.

With these contours, the conjugal visit and conjugal encounter become part of the *delinquent economy* in the prison (Coelho 1987). According to Edmundo Coelho (1987, p. 54), as the needs of the imprisoned population are not guaranteed by the State, in prisons a specific, irregular and illegal economy is developed. All objects of access to prisoners gain exchange value: cigarettes, food, drugs, clothing, etc. and the visit has unparalleled importance within the prison system because it tends to feed the *delinquent economy* with the insertion of products and goods that do not exist within the prison. In the constant negotiations established between the prisoners and in their relation to the management staff of the institutions, the conjugal visit is especially relevant because of the scarcity of heterosexual sexual relationship in prison. In the investigated empirical reality, the conjugal visit and conjugal encounter increase the *delinquent economy* and the exchange system with the availability of sex and the body of the women prisoners, as well as allows the transit of illicit objects between prisons.¹⁵

On the other hand, interviewees pointed out that despite the possibilities of visits and conjugal encounters not being able to happen because of bureaucratic procedures, and of the need for caution due to violence and irregular and/or illegal practices, they would like more female inmates to have conjugal visits: "I understand that women need sex, I understand that sex for both women and men diminishes tensions, and I tend to go more in that line of thought" (Lisa). She understands that conjugal visits are "very positive for women" because "their behavior changes" and that women who have conjugal encounters "are calmer, they get less anxious" (Lisa), contributing to a better relationship between prisoners and reduction of internal conflicts, in close relation to what studies on conjugal visits in male prisons point out: sexual intimacy is a factor that reduces violence within prisons (D'Alessio *et al.* 2013, Einat 2017).

A staff person said that the conjugal visits improve women's self-esteem, because they feel valued: "She says: I am not alone, I have not been forgotten" and added that "the one whose husband does not abandon is a queen in the prison" (Ema). Another positive aspect of the conjugal visit pointed out is that this is the only time the woman in prison "has a real intimate moment, because she can speak whatever she wants, nobody will hear" (Ema), since regular visits happen in the shared spaces of the prison with all other inmates and under constant surveillance. An advantage also observed by researchers in a study on conjugal visitation in Chile, where the cell for the conjugal visit, although created to curb sex between women, in reality became a space which "allowed for couples to express themselves sexually without surveillance" (Madariaga *et al.* 2017, p. 6).

¹⁵ This was also observed in the case study carried out by Guimarães (2015).

It is seen that there is a play between permissions, prohibitions and (in)visibilities of the exercise of sexuality and sexual practices by women deprived of liberty consolidated from heteronormative and patriarchal patterns that attempt to control and normalize women's sexuality. And it is in this game where women, adult or not, seem to create resistances and escape routes to be able to live affective and sexual experiences in the prison, in which the conjugal visits take on special importance, either as an increase of the *delinquent economy* or as possibility of maintenance of bonds, affective or not.

5. Final Comments

It should be remembered that the data collected for this paper did not consider the narratives of women and girls deprived of liberty, in that understanding the institute of the conjugal visit from the experience of the subjects was not the object of analysis in this reflection. It should also be considered that this is a subject that is rarely explored in the investigations in prisons and socio-educational institutions of incarceration in Brazil and that there is much to investigate on the subject, especially from feminist methodologies that emphasize the gender relations. But considering the research *loci*, which are perceived from the insights of the staff of the prison and the socio-educational incarceration institution, one notes that there is great concern about the control of how it happens or how conjugal visits (or "conjugal encounters", in the research *locus*) should happen for women. The lack of adequate physical structure, procedural and bureaucratic obstacles and protection from situations of violence are also triggered to shade moral judgments and maintain the institutionality of body control.

The enunciation of the reflections about conjugal visits in the prison reveal an effort of accommodation to the outlines of the strategies of control through the articulation of the sexuality *dispositif* and others created with the purpose of sophisticating, complexifying and extending the reiterated exercise of surveillance on imprisoned bodies. Corresponding to the heteronormative logic of recognition of heterosexual sexual practice as legitimate, norms such as tubectomy or mandatory adoption of an injectable contraceptive method as requirements for the permission to conjugal visitations (a rule that was just recently withdrawn in the investigated prison), and the almost unidimensional concern about the possibility of a pregnancy conceived "under the tutelage of the state", especially regarding people under 18 years, will emerge. These concerns do not prevent men (adults or not) from having their conjugal visits guaranteed and they allocate the exercise of sexuality by women as linked to the reproduction of life.

Thus, women and girls deprived of liberty will be subject to greater and more sophisticated control of their body and sexuality. By activating the knowledge of heteronormativity as a kind of substrate that guides the delineation of institutional practices, it allows the prison to update the function received from the time of the constitution of the panoptic device which installed a new form of power management. Therefore, the use of the norm is updated by the need for regulation and normatization, which in turn produces the body to be normatized, whose framework is only complete anchored on the notions of masculinity and femininity as constituents of the subject.

But even though institutionally oriented by heteronormative patterns, prison propitiates the transgression of heteronormativity (Calvo 2015). Whether through the manifestation of desire, through love relationships or just through the erotic company of another

woman, the exercise of sexuality is not limited to the possibility of conjugal visitation with male partners and is not defined by gender identity or sexual orientation. Deprivation of liberty makes it possible to experiment with lesbian affective practices that many women would not have if they were not incarcerated given the social sanctions they would face in their environment (Calvo 2015, Madariaga *et al.* 2017). In raising the question of the right to conjugal visitation by girls and women deprived of their liberty, it is essential to consider imprisonment as a producer of alternative possibilities for the exercise of sexualities and that, since always, there will be different ways of living them, regardless of institutional interdictions, manifest in explicit or subliminal forms.

Finally, as an exploratory research, the reflections presented are not intended to account for profound issues on the topic. The most relevant result is to present a brief overview of conjugal visitation by adolescent, youth and adult women in deprivation of liberty contexts, and with that to provoke a research agenda in the prison and socio-educational systems. Whether as comparative or non-comparative studies, especially from the studies on gender and sexuality and feminist theoretical contributions, considering the multidisciplinary nature of the field and among the multiple possibilities of research, it is worth investigating: 1) the perceptions and the experiences of the incarcerated women as to the issues related to the effectiveness of conjugal visitation; 2) deeper studies of the institutional obstacles that hinder and/or make conjugal visits impossible; 3) the "function" of conjugal visitation as an element of the *delinquent economy* (Coelho 1987) and the system of privileges (Goffman 1974) in prisons; 4) the exercise of sexuality by incarcerated women, in addition to the conjugal visitation; 5) contrasts between the experiences of conjugal visitation and the exercise of sexuality of women and men (adult or not) in contexts of incarceration; 6) masculinities and sexuality in carceral institutions.

References

- Abbott, P., *et al.*, 2018. A Scoping Review of Qualitative Research Methods Used with People in Prison. *International Journal of Qualitative Methods* [online], v.17, pp. 1-15. Available from: <https://doi.org/10.1177/1609406918803824> [Accessed 12 April 2019].
- Arruda, J.S., 2011. "*Para ver as meninas*": um estudo sobre as adolescentes em cumprimento de medida socioeducativa de internação na Casa/Salvador. Master's dissertation. Faculdade de Filosofia e Ciências Humanas, Universidade Federal da Bahia, Salvador.
- Arruda, J.S., Carvalho, N.S., and Costa, J.C., 2018. Experiências lesboafetivas por adolescentes e jovens privadas de liberdade. *Revista Aquila* [online], ed. 18, Year IX, Jan/Jun, pp. 66-72. Available from: <http://ojs.uva.br/index.php?journal=revista-aquila&page=article&op=view&path%5B%5D=391> [Accessed 25 October 2018].
- Assis, S.G., and Constantino, P., 2001. *Filhas do mundo: infração juvenil feminina no Rio de Janeiro*. Rio de Janeiro: Fiocruz.
- Azaola, E., 1995. Prisiones para mujeres: un enfoque de género. *La ventana*, nº. 2, pp. 35-52.
-

- Bassani, F., 2011. Amor bandido: cartografia da mulher no universo prisional masculino. *Dilemas: Revista de Estudos de Conflito e Controle Social* [online], 4(2), pp. 261-280. Available from: <https://revistas.ufrj.br/index.php/dilemas/article/view/7225> [Accessed 20 March 2018].
- Bassani, F., 2016. *Visita íntima: Sexo, crime e negócios nas prisões*. Porto Alegre: Bestiário.
- Calvo, E.M., 2015. *Relaciones amorosas de las mujeres encarceladas*. Bilbao: Universidad del País Vasco.
- Carlson, B.E., and Cervera, N., 1991. Inmates and their families. Conjugal visits, Family contact, and family functioning. *Criminal Justice and Behavior* [online], 18(3), pp. 318-331. Available from: <https://doi.org/10.1177/0093854891018003005> [Accessed 4 January 2018].
- Carrillo, J., 2010. Entrevista con Beatriz Preciado. *Revista Poiésis* [online], 15 July, pp. 47-71. Available from: http://www.poesis.uff.br/PDF/poesis15/Poesis_15_EntrevistaBeatriz.pdf [Accessed 13 October 2018].
- Chernicaró, L., and Boiteux, L., 2014. Encarceramento feminino, seletividade penal e tráfico de drogas em uma perspectiva feminista crítica. *NEIP* [online]. Available from: http://www.neip.info/upd_blob/0001/1566.pdf [Accessed 22 July 2017].
- Clemmer, D., 1940. *The Prison Community*. Boston: The Christopher Publishing Co.
- Coelho, E.C., 1987. *A oficina do diabo; crise e conflitos no Sistema Penitenciário do Rio de Janeiro*. Rio de Janeiro: Espaço e Tempo / IUPERJ.
- Colombaroli, A.C.M., and Braga, A.G.M., 2014. A cadeia feminina de franca sob a ótica da visita íntima. *Revista de Estudos Empíricos em Direito* [online], 1(2), pp. 122-139. Available from: <https://doi.org/10.19092/reed.v1i2.38> [Accessed 20 May 2018].
- Conselho Nacional de Justiça, 2015. *Dos espaços aos direitos: A realidade da ressocialização na aplicação da medida socioeducativa de internação das adolescentes do sexo feminino em conflito com a lei nas cinco regiões do país* [online]. Brasília: CNJ. Available from: <http://www.cnj.jus.br/files/conteudo/destaques/arquivo/2015/06/cb905d37b1c494f05afc1a14ed56d96b.pdf> [Accessed 23 May 2018].
- Cordeiro, F., 2017. Criminalidade, gênero e sexualidade em uma penitenciária para mulheres no Brasil. *Trivium: Estudos Interdisciplinares Psicanálise e Cultura* [online], 9(1), pp. 1-15. Available from: <https://doi.org/10.18379/2176-4891.2017v1p.1> [Accessed 15 May 2018].
- Cunha, M. I., 2002. *Entre o bairro e a prisão: Tráfico e trajetos*. Lisbon: Fim de Século.
- D'Alessio, S.J., Flexon, J., and Stolzenberg, L., 2013. The effect of conjugal visitation on sexual violence in Prison. *American Journal of Criminal Justice* [online], 38, pp. 13-26. Available from: <https://doi.org/10.1007/s12103-012-9155-5> [Accessed 5 May 2018].
- Deleuze, G., 1998. *Post-Scriptum: sobre a sociedade de controle. Conversações*. São Paulo: Editora 34.

- Einat, T., 2017. Conjugal visits. In: K.R. Kerley, ed., *The Encyclopedia of Corrections* [online]. Hoboken: John Wiley & Sons. Available from: <https://doi.org/10.1002/9781118845387.wbeoc001> [Accessed 5 May 2018].
- Einat, T., and Rabinovitz, S., 2012. A Warm Touch in a Cold Cell: Inmates' Views on Conjugal Visits in a Maximum-Security Women's Prison in Israel. *International Journal of Offender Therapy and Comparative Criminology* [online], 57(12), pp. 1522-1545. Available from: <https://doi.org/10.1177/0306624X12461475> [Accessed 7 May 2018].
- Espinoza, O., 2004, *A mulher encarcerada em face do poder punitivo*. São Paulo: IBCCRIM.
- Fachinetto, R.F., 2008. *A "Casa de Bonecas": Um estudo de caso sobre a unidade de atendimento sócio-educativo feminino do RS*. Master's dissertation. Porto Alegre: Universidade Federal do Rio Grande do Sul.
- Foucault, M., 1988. *A História da sexualidade I: A vontade de saber*. Trans.: M.T.D.C. Albuquerque and J.A.G. Albuquerque. Rio de Janeiro: Graal.
- Foucault, M., 2008a. *Nascimento da biopolítica*. Trans.: E. Brandão. São Paulo: Martins Fontes.
- Foucault, M., 2008b. *Segurança, território, população*. Trans.: E. Brandão. São Paulo: Martins Fontes.
- Gadelha, S., 2009. Governamentalidade neoliberal, Teoria do Capital Humano e Empreendedorismo. *Revista Educação e Realidade* [online], 34(2), pp. 171-186. Available from: <https://seer.ufrgs.br/educacaoerealidade/article/view/8299/5537> [Accessed 20 December 2018].
- Gil, A.C., 1994. *Métodos e técnicas de pesquisa social*. 4th ed. São Paulo: Atlas.
- Goffman, E., 1974. *Manicômios, prisões e conventos*. Trans.: D.M. Leite. São Paulo: Perspectiva.
- Guimarães, M.C., 2015. *A problemática da visita íntima no cárcere feminino: um estudo de caso na penitenciária feminina Consuelo Nasser* [online]. Master's dissertation. Universidade Federal de Goiás, Goiânia. Available from: https://ppgidh.ndh.ufg.br/up/788/o/Disserta%C3%A7%C3%A3o_Mariana_Costa_Guimar%C3%A3es_pdf.pdf [Accessed 13 May 2019].
- Hassen, M.N.A., 1995. *Da visita íntima na prisão: A corporalidade negociada* [online]. Caxambu, SP: XIX Encontro Anual da ANPOCS. GT: Pessoa, corpo e doença. July. Available from: <https://www.anpocs.com/index.php/encontros/papers/19-encontro-anual-da-anpocs/gt-18/gt14-10/7643-mariahassen-visita/file> [Accessed 20 May 2018]
- Heidensohn, F., and Silvestri, M., 2012. Gender and crime. In: M. Maguire, R. Morgan and R. Reiner, eds., *The Oxford Handbook of Criminology*. 5th ed. Oxford University Press, pp. 336-369.
- Hensley, C., Rutland, S. and Gray-Ray, P., 2000. Inmate attitudes toward the conjugal visitation program in Mississippi Prisons: An exploratory study. *American Journal*

- of *Criminal Justice* [online], 25(1), pp. 137-145. Available from: <https://doi.org/10.1007/BF02886816> [Accessed 10 March 2018].
- Hensley, C., Tewksbury, R., and Chiang, C., 2002. Wardens' attitudes toward conjugal visitation programs. *Journal of Correctional Health Care* [online], 9(3), pp. 307-319. Available from: <https://doi.org/10.1177/107834580200900307> [Accessed 15 March 2018].
- Hopper, C.B., 1962. The conjugal visit at Mississippi State Penitentiary. *The Journal of Criminal Law, Criminology and Police Science* [online], 53(3), pp. 340-343. Available from: <https://doi.org/10.2307/1141470> [Accessed 10 March 2018].
- Kazura, K., 2017. Relationship Intervention for Inmates and Their Partners: Bringing Couples Together Before Release. *International Journal of Offender Therapy and Comparative Criminology* [online], 62(9), pp. 1-15. Available from: <https://doi.org/10.1177/0306624X17721525> [Accessed 12 April 2019].
- Lemgruber, J., 1999. *Cemitério dos vivos: Análise sociológica de uma prisão de mulheres*. Rio de Janeiro: Forense.
- Lima, M., 2006. *Da visita íntima à intimidade da visita: A mulher no sistema prisional*. Master's dissertation. Faculdade de Saúde Pública, Universidade de São Paulo.
- Madariaga, F.A.C., et al., 2017. Sexuality behind bars in the female central penitentiary of Santiago, Chile: Unlocking the gendered binary. *Nursing Inquiry* [online], 24(1). Available from: <https://doi.org/10.1111/nin.12183> [Accessed 12 April 2019].
- Mattar, L.D., 2008. Exercício da sexualidade por adolescentes em ambientes de privação de liberdade. *Revista Cadernos de Pesquisa* [online], 38(133), pp. 61-95. Available from: <https://doi.org/10.1590/S0100-15742008000100004> [Accessed 20 May 2018].
- McElreath, D.H., et al., 2016. The end of the Mississippi Experiment with conjugal visitation. *The Prison Journal* [online], 96(5), pp. 752-764. Available from: <https://doi.org/10.1177/0032885516662644> [Accessed 20 May 2018].
- Miskolci, R., 2012. *O desejo da nação: Masculinidade e branquitude no Brasil de fins do sec. XIX*. São Paulo: Annablume.
- Nicolau, A.I.O., et al., 2012. Retrato da realidade socioeconômica e sexual de mulheres presidiárias. *Revista Acta Paul Enfermagem* [online], 25(3), pp. 386-392. Available from: <http://doi.org/10.1590/S0103-21002012000300011> [Accessed 13 May 2018].
- Oliveira, M.G.F., and Santos, A.P.R., 2012. Desigualdade de gênero no sistema prisional: considerações acerca das barreiras à realização de visitas e visitas íntimas às mulheres encarceradas. *Caderno Espaço Feminino* [online], 25(1), pp. 236-246. Available from: <http://www.seer.ufu.br/index.php/nequem/article/view/15095> [Accessed 4 April 2018].
- Padovani, N.C., 2010. *"Perpétuas espirais": Falas do poder e do prazer sexual em trinta anos (1977 – 2009) na história da Penitenciária Feminina da Capital*. Master's dissertation, Programa de Pós-Graduação em Sociologia, Universidade Estadual de Campinas, SP.

- Padovani, N.C., 2011. No olho do furacão. Conjugalidades homossexuais e o direito à visita íntima na Penitenciária Feminina da Capital. *Cadernos Pagu* [online], 37, jul/dez, pp. 185-218. Available from: <http://doi.org/10.1590/S0104-83332011000200007> [Accessed 4 April 2018].
- Quivy, R., and Campenhoudt, L.V., 2005. *Manual de investigação em Ciências Sociais*. 4th ed. Lisbon: Gradiva.
- Sposato, K.B., 2013, *Direito penal de adolescentes: Elementos para uma teoria garantista*. São Paulo: Saraiva.
- Sykes, G. M., 2007. *The Society of the Captives: A Study of a Maximum Security Prison*. Princeton University Press.
- Walmsley, R., 2017. *World Female Imprisonment List*. 4th ed. [online]. Institute of criminal policy research of Birkbeck, University of London. Available from: http://www.prisonstudies.org/sites/default/files/resources/downloads/world_female_prison_4th_edn_v4_web.pdf [Accessed 15 December 2018].

Legal sources

- Decreto 12.247/10, de 8 de julho de 2010. Aprova o Estatuto Penitenciário do Estado da Bahia [online]. Available from: <https://governo-ba.jusbrasil.com.br/legislacao/823854/decreto-12247-10> [Accessed 10 August 2017].
- Estatuto da Criança e do Adolescente. Lei nº 8.069 [online]. 13 July 1990. Available from: <http://www.planalto.gov.br/ccivil/LEIS/L8069.htm> [Accessed 20 May 2018].
- Lei nº 7.210, de 11 de julho de 1984. Institui a Lei de Execução Penal [online]. Available from: http://www.planalto.gov.br/ccivil_03/leis/l7210.htm [Accessed 10 October 2008].
- Lei nº 12.594, de 18 de janeiro de 2012. Institui o Sistema Nacional de Atendimento Socioeducativo. *Diário Oficial da União* [online], 19 January 2012. Available from: http://www.planalto.gov.br/ccivil_03/ato2011-2014/2012/lei/l12594.htm [Accessed 10 May 2017].
- Resolução n. 1 do Conselho Nacional de Política Criminal e Penitenciária (CNPCP). Recomenda aos Departamentos Penitenciários Estaduais ou órgãos congêneres seja assegurado o direito à visita íntima aos presos de ambos os sexos, recolhidos aos estabelecimentos prisionais [online]. 30 March 1999. Available from: https://www2.mppa.mp.br/sistemas/gcsubsites/upload/40/ato_normativo_federal_resol-01.pdf [Accessed 15 April 2018].
- Resolução nº 4 do Conselho Nacional de Política Criminal e Penitenciária (CNPCP). Recomenda aos Departamentos Penitenciários Estaduais ou órgãos congêneres seja assegurado o direito à visita íntima a pessoa presa, recolhida nos estabelecimentos prisionais [online]. 29 June 2011. Available from: http://www.direito.mppr.mp.br/arquivos/File/Resolucao04_2011Recomenda.pdf [Accessed 15 April. 2018].

Resolução nº 466, de 12 de dezembro de 2012 [online]. Conselho Nacional de Saúde, Ministério da Saúde. Available from http://bvsms.saude.gov.br/bvs/saudelegis/cns/2013/res0466_12_12_2012.html [Accessed 6 January 2017].