



PODER
JUDICIÁRIO

CNU CONSELHO
NACIONAL
DE JUSTIÇA

O Brasil faz a justiça

The Handbook of the Imprisoned Woman

2ND EDITION – 2012





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FOLLOW ME

Prisoner, follow me in the solitude of you cell
And I will carry you in the way of the recovery and peace
I am leaning on you. Search me with the heart
of the condemned bandit, to whom I pardoned all crimes
by the force of the repentance and the hope of salvation.
Call me. I will hear your outcry.
I will take your armed hands on mine and I will make you
a pacific land worker.
Follow me

I am supporting you, I am your shadow.
I will open the jails of your spirit,
I will light up not only your dark cell,
But also, the dark cell of your understanding.
Follow me.

Young, I will exempt you of the vice and the failure.
Of the destructive drug and I will make you right
By the tortuous ways.
Follow me.

Cora Coralina (1889-1985)
Poetess of Goias State

2012 Conselho Nacional de Justiça

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Publication Coordinated by the	Department Of Monitoring and Control System Execution Measures of Socioeducational
Production	STAFF Social Communication Advisory
Revision	Maria Deusirene
Art and Design	Divanir Junior Marcelo Gomes
Content	This present handbook was inspired by the Public Defense of the state of Bahia and Public Defense of the state of Acre handbooks

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PRESENTATION

The Handbook of the Imprisoned Woman aims to enlighten the rights and duties of the imprisoned women, with clear and straight information about constitutional guarantees, legal and administrative prerogatives.

It is a tool destined to the re-socialization of the imprisoned woman, freely brought by the National Council of Justice (CNJ).

This Handbook is the result of an intense and dedicated group work represented by CNJ, formed by Brazilian criminal and penal execution judges, who daily study and practice the penal execution, trying to find solutions for the increasing number of women in national prisons, above all, due to the traffic in narcotic drugs.

To these women, the Brazilian judges, and especially to the imprisoned women the CNJ dedicates this small handbook that contains valorous information for all those who are deprived of freedom.

RIGHTS



The Federal Constitution, Major Law of our country, establishes in its 5th article the fundamental rights and guarantees of all citizens. Although have been imprisoned, you are a citizen and as such must be treated.

You have the right of a worthy treatment, in order not to suffer preconceptions of origin, race, sex, color, age, language, political opinion or any other ways of discrimination.

You have the right to do not experience physical or moral violence, to do not be tortured and also to do not be submitted to any inhuman or cruel treatment.

It is forbidden any way of physical (slaps, kicks, and socks), moral or psychological coactions (dirty words, provocations, threats, insults, humiliation, etc).

None authority or penitentiary servant can use of physical or psychological violence. In exceptional occasions, the servant may use force in order to reestablish the normality of the situation, only if he/she acts according to the disciplinary regiment of the State in which you are arrested. You have the right to receive an exemplar and to know the disciplinary regiment of your State.



IF THIS SORT OF VIOLENCE HAPPENS, DENOUNCE IT TO THE PUBLIC DEFENSOR, JUSTICE PROSECUTING ATTORNEY OR JUDGE WHO VISITS THE PRISIONAL UNITY. YOUR FAMILY ALSO CAN DO THE DENOUNCE!



You have the right of conscience freedom and belief and to exercise freely the cult of any religion. In Brazil there is not perpetual prison and no one is compelled to exercise forced works. And either, there is not penalty of banishment or cruel ones.

You have the right to fulfill the punishment in a different establishment destined for the men.

The internal security in female penitentiaries can only be realized by female agents.



If you do not have financial conditions to afford an attorney, you will have the right to free judiciary assistance and to personal and reserved interview with your attorney or defender.

You have the right to be called by your name.



You have the right to material assistance. You must receive clothes, blankets, adequate feeding, hygienic and cleanliness material. And also, you must receive products of personal use, in enough quantity, to keep out of risk your health and moral or physical integrity.



You also have the right to health assistance, respecting the peculiarities of the feminine condition. Therefore, besides the assistance by a general practitioner, if you need a gynecologist, obstetrical, psychiatrist or psychologist, you must be attended. You have the right to basic health attention, including educative programs of prevention to sexually transmitted diseases (STD). If you submitted yourself to medical attendance or medical usage, before being imprisoned, you have the right to maintain your treatment.



You also have the right of integral dentistry attending. If you are with your child in the unity, the child has the right to be attended by a pediatric. You have the right to remain with your baby in the unity while breastfeeding.

You do not lose your children's guard when you are arrested. It only is suspended until the definitive judgment of the cause, or even when you are condemned by a sentence against which does not have more recourse by a crime which the punishment is superior to two years of prison. In this case, the guard of the youngest child will remain with the husband, relatives or family friends. After having fulfilled the punishment and not existing conflicting judicial, you, as mother, will have back the guard and the familiar power which was suspended since your conviction.



YOU WILL ONLY LOOSE YOUR CHILD'S GUARD AND YOUR FAMILIAR POWER IF YOU HAVE COMMITTED HIDEOUS CRIME AGAINST YOUR CHILD, SINCE THE CRIME IS LIABLE FOR RECLUSION PUNISHMENT.

You have the right to breastfeed your new-born baby. The Federal Constitution guarantees (article 5, subsection L) that your new-born baby remains by your side during the breastfeeding period. For this reason, any female penitentiary must have a reserved wing for pregnant and intern women who are breastfeeding.

You have the right to exercise the intellectual, artistic, professional and sportive activities that you already exercised before being imprisoned, since they are compatible with the adequate punishment fulfillment. You have the right of formal and informal education (access to books, reading incentive, technical training, etc).



You have the right of a job, which is also a duty in the interior of the prison unity.



You have the right to the visit of the spouse, the companion, relatives and friends in determined days.



You have the right to have audience with the Directory of the Prison Unity, to require your needs or denounce irregularities. It is also your right to have contact with the exterior world through written correspondence or through other ways that does not compromise the moral or good habits.



You have the right to receive, at least once a year, the certificate of punishment to be fulfilled, which is issued by the Penal Execution Court, according to the Resolution number 113 of CNJ. The aim of this document is to inform about the proximity of the terms for requests of punishment's progression or conditional release.



THE FOREIGN PRISONERS HAVE THE SAME RIGHTS AS THE BRAZILIANS!

The Federal Constitution assures that all people are equal by the law. However, the foreign prisoners have more difficulties to obtain some benefits, because of the complication to establish housing in Brazil.

If you are foreign the most advisable is to try through your attorney or defender, to speed up the process at the Ministry of Justice. Because, after have finished the process and published the expulsion act, you can ask for to the Federal Policy to be directed to your native country.



It is important that you, foreign prisoner, know that you have the right to receive the visit from your familiar and relatives, besides the accompaniment of your situation for representatives of embassies and consulates of your native country.

DUTIES

You must have disciplined behavior and fulfill your whole sentence.



You also shall express submission to the public employee and respect to anyone which you shall have relationship, as well as with the other prisoners. Likewise, the servers must treat you with respect, without any sorts of abuse.

It is your duty to have opposed behavior to individual or collective movements of escape or subversion to the order and discipline.

You must work and submit, when necessary, to the legitimate and legally imposed disciplinary sanction.

DISCIPLINE

It is the collaboration with the order, obedience to the authorities' determinations and in the performance in the work. Both the temporary prisoner as the convict prisoner are submitted to these rules.

DISCIPLINARY FAULTS



The disciplinary faults are classified in small, average and serious and can become difficult or disable the attainment of benefits. According to the article 50 of the Penal Executions Law (LEP), commits serious fault who encourage or participate in movements to subvert the order or the discipline (e.g.: rebellion, hunger strike, etc.); escapes from the prison unity, possess instruments that can hurt another person (e.g.: knife, shiv, etc.) or provoke work accident; disregards the imposed conditions on open condition or does not observe the duties foreseen on LEP, or, still, has on its ownership, utilize or supplies telephonic device, radio or similar, that allows the communication with other prisoner or with the external environment (e.g. cell phone).

Only the judge can apply the serious faults. The average and small faults can be applied by the director of the unity in which you fulfill the punishment. The serious faults are disposed in the Penal Executions Law (Law number 7,210/1984) and the average and small faults are foreseen in state laws or decrees.



IMPORTANT! The practice foreseen as hideous crime consists in serious fault and, when it causes order or internal discipline subversion, subjects the provisory or condemned imprisoned person to the Differentiated Disciplinary Regime (RDD), and also causing the correspondent penal sanction.

SANCTIONS

It consist in disciplinary sanctions, in the administrative sphere of the prison unity, verbal warning, reprimand, suspension or restriction of rights, isolation in the own jail or in adequate place and, in the most serious, insertion on the Differentiated Disciplinary Regime (DDR).

REWARDS



The rewards are suitable when you have good behavior, collaborate with the discipline and dedicate yourself to your work.

Consist in rewards: the compliment and the concession of franchise.

The rewards are different in each State of the Federation, generally instituted in the internal unities' regiments.

Are examples of rewards: collective participation in cinema sessions, theatre, shows and other sociocultural activities, out of the normal schedule in special occasions; collective integration sportive plays session during special occasions, out of the normal schedule; participation in painting or other exposition; or the authorization for extraordinary visits.



The intimate or conjugal visitation is an assured right to the imprisoned person.



KEEP THE GOOD BEHAVIOUR. WORK. STUDY. IT IS WORTH IT!

BENEFITS

The Penal Executions Law foresees some benefits which are conceded to the imprisoned women during the punishment fulfill, as long as some requirements are filled. The most common benefits are:



Regime Progression (Penal Executions Law, art. 112): will take place when you have been condemned for ordinary or hideous crime (the hideous must have been committed BEFORE March 29th, 2007), when you have fulfilled more than 1/6 (one sixth) of the punishment in the previous regime and have great jail behavior, starting to fulfill the punishment in softer regime.

However, if you were condemned for hideous crime, AFTER March 29th, 2007, you must fulfill 2/5 (two fifth) of the punishment or if you are primary defendant and 3/5 (three fifth) if recidivist, to have access to the right to regime progression.

Conditional Release (Penal Code, art. 83): The conditional release is the anticipated freedom conceded by the judge to the prisoner, when the legal requirements are filled.

It is suitable when the punishment is **superior** to two years and the prisoner has fulfilled more than one third of the punishment, if she is not recidivist in hideous crime and if the imprisoned woman has good antecedents.

If you are a hideous crime recidivist you must fulfill more than a half of the punishment to have the right to the benefit.



IN ANY WAY, YOU MUST HAVE A SATISFACTORY BEHAVIOR DURING THE PUNISHMENT EXECUTION TO HAVE THIS RIGHT!

Moreover, if you have conditions, you must repair the damage caused to have right to this benefit.



In the cases of hideous crime condemnation, torture practice, terrorism or illicit traffic in narcotic and such drugs, as long as you are not recidivist in crimes of this nature, the condemned woman who has fulfilled more than two thirds of the punishment will have the right to the benefit.

The conditional release imposes some exigencies that must be rigorously fulfilled. It can be revoked if the person with this benefit is condemned to the private penalty of freedom by sentence transited in *rem judicatam*, by crime committed before or during the time the benefit is in force; by disregarding of any of the imposed conditions in the sentence that gave the benefit; or if you can not appeal more against the condemned, by crime or misdemeanor to punishment that is not privative of freedom.

EXIT PERMISSION (art. 120 from LEP)



The exit permission will be conceded – by the prison unity direction (after being communicated to the judge) – to the temporary or convict prisoner, in any case, as long as it is necessary, always by means of guard, only in case of death or serious illness of the partner, consort, ascendant (father, mother, grandfather, grandmother), descendent (children) or brother, or when you have the necessity of medical treatment.

TEMPORARY LEAVE (art. 122 from LEP)

You can have this benefit only when you are in semi-open, if you already have fulfilled at least 1/6 of the punishment until the exit date or 1/4 if you are recidivist. Besides this temporal requirement, will also be evaluated your behavior in the prison unity.

A period of 45 days must be observed between one exit and the other.

To usufruct this right, is necessary the granting of the judge, with the previous manifestation from the Public Ministry.



This exit will be conceded by the utter stated period of 7 consecutive days, with the possibility of being renewed for other 4 times during the year, totalizing 5 temporary leaves per year, always you visit your family or take part in activities that contribute for your reintegration to the society, as technical training, 1st and 2nd grades or university education.

REMISSION (art. 126 from LEP)



It is an institution that allows the fulfillment of part of the punishment through work. Each 3 days-worked discounts 1 day of punishment or of the necessary time for regime progression or for concession of conditional release.



It concerns to the direction of the prison unity to report, monthly, to the Penal Execution Court, information about the imprisoned working women, with the information about the days effectively worked. The remission is a benefit and will be conceded by the Judge of the Penal Execution Court.



The remission through the studying can even occur, granted by the judge in the proportion of 1 (one) day of punishment for each 12 hours of studying.



PAY ATTENTION!!!

The Law 12.433/2011 previews that the judge can revoke, in case of grave foul, up to 1/3 (one third) of the redeemed time.

PUNISHMENT INDULGENCE AND COMMUTATION

The indulgence, that is equivalent to the grace, can be total or partial. The properly indulge is the total forgiveness of the punishment, when the imprisoned woman fulfills the necessary requirements. When the benefit is partial, receives the name "commutation". In the commutation, part of the punishment is dispensed, reducing it, or substituting it for a less severe one. Both benefits are conceded by Republic President's decree, in which are stipulated the requirements for the concession of the benefit.

The indulgence generally benefits people condemned to the maximum of 8 years of punishment, who have fulfilled 1/3 of it, if not recidivist, or half, if recidivist.

Moreover, the presidential decree also foresees other situations, such as paraplegia, tetraplegia, blindness, situation of serious permanent illness, all duly evidenced by the doctor.



The commutation can be conceded when the person has already fulfilled $\frac{1}{4}$ of the punishment, if primary defendant, or $\frac{1}{3}$, if recidivist. The commutation depends on great behavior of the imprisoned woman of the last 12 months.

FINE PENALTY

Most of the Penal Code's crimes foresee condemnation to fine penalty, which must be obligatorily paid, and its consequence is the total extinction of the imposed punishment and the process filling.

Therefore, by receiving the progression to a softer regime, you must go to the Court in which your execution procedure is and ask to the fine's calculus, which can be divided.



The procedural costs must also be paid, but you can be excused of your payment by the judge, in case you do not have financial conditions.

OTHER IMPORTANT REMARKS!



By being released, you must look other pendant processes, if you have.

SOME HEALTH TIPS

The papanicolau exam, that search for genital and reproductive organs cancer, must be made once a year.

It is important that you know that breast cancer is the illness of highest incidence and death causer between women. However, when precociously discovered, the chances of cure are higher, with less physical and emotional sequels; its diagnostic is done by the mammography.

Periodic evaluation is one of your rights.



If you are chemical dependent, STD, including AIDS (HIV), you can and must look for medical help and assistance



You must, when in conditional release, open or semi-open condition, look for a licit occupation, and, as soon as you get it, communicate to the Court. You also must always keep your address updated in the process.

To continue the studies is surely the best way to obtain a better life and to fully exercise your citizenship.

REMEMBER!



The Bill 12.433/2011 provides that the judge may revoke, in case of serious misconduct, up to one third of the redeemed time.
YOU ARE A CITIZEN AND HAVE THE RIGHT TO CHOOSE THE BEST WAY TO BE HAPPY!

ANNEXES

Habeas Corpus Form

The *habeas corpus* form is just a suggestion, since this legal remedy discharge formalities.

APPLICATION FOR WRIT OF HABEAS CORPUS		
Personal Data of the Imprisoned Person		
NAME	INFOPEN	CPF (Natural Persons Register)
Mother	Father	
Place where is Imprisoned		
Date of Imprisonment	Place of Imprisonment	
Reason of Imprisonment		
Coprincipal		
Name	Function	
Indicate (X) the Illegal Coercion (violated right):		
<input type="checkbox"/> Absence of just cause		
<input type="checkbox"/> Excess of Period of Imprisonment		
<input type="checkbox"/> Process nullity		
<input type="checkbox"/> Extinct punishment		
<input type="checkbox"/> Regime progression dismissal		
<input type="checkbox"/> Conditional release dismissal		
<input type="checkbox"/> Others. Specify:		

Indicate (X) the Imprisonment type:

- Temporary
- Definitive conviction

In case of "definitive conviction", indicate:

--

Judge's Conviction or Court of Conviction	Place of Conviction (District/Court)
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Judge's Execution or Court of execution	Place of Execution
---	--------------------

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In case of "temporary imprisonment", indicate:

Judge who ruled the Temporary Imprisonment or Court	Place of Ruling
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Additional Information

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(Please, continue on the other side)

The filling of the gaps can be done by the prisoner or anyone, who knows some information, being able to leave the gaps in blank on which the information he/she does not know.

Honorable Judge,

After have analyzed the records,
 _____herein undersigned, comes on the presence of
 Your Honor request the following:

- Progression to semi-open condition;
- Progression to open condition;
- Conditional release;
- Confection of Account of Punishment Liquidation;
- Punishment Attest
- Punishment Extinction. Cause: Punishment fulfillment.
- Notify by writing
- Punishment Commutation
- Replead the request for pages _____
- Imprisonment discharge
- Punishment remission
- Temporary Leave
- Others

Comments: _____

_____/_____/_____/_____
 Place, Month Day, Year

 Petitioner

FRACTION FOR BENEFITS

ORDINARY CRIME – PRIMARY DEFENDANT

- 1/6 – REGIME PROGRESSION
- 1/6 – EXTERNAL WORK
- 1/6 – TEMPORARY LEAVE
- 1/3 – CONDITIONAL RELEASE

ORDINARY CRIME – RECIDIVIST

- 1/6 – REGIME PROGRESSION
- 1/4 – TEMPORARY LEAVE
- 1/2 – CONDITIONAL RELEASE

HIDEOUS CRIME – PRIMARY DEFENDANT

- 2/5 – REGIME PROGRESSION
- 2/5 – TEMPORARY LEAVE (if the prisoner has already regime progression)
- 2/3 – CONDITIONAL RELEASE

HIDEOUS CRIME – RECIDIVIST

- 3/5 – REGIME PROGRESSION
- 3/5 of the hideous crime – TEMPORARY LEAVE (if the prisoner has already regime progression)
- THERE IS NOT CONDITIONAL RELEASE

ORDINARY CRIME + HIDEOUS CRIME – PRIMARY DEFENDANT

- 1/6 OF ORDINARY CRIME + 2/5 OF HIDEOUS CRIME – REGIME PROGRESSION.
- 2/3 OF HIDEOUS CRIME + 1/3 OF ORDINARY CRIME – CONDITIONAL RELEASE

ORDINARY CRIME + HIDEOUS CRIME – RECIDIVIST

- 3/5 OF HIDEOUS CRIME + 1/6 OF ORDINARY CRIME – REGIME PROGRESSION.
- 3/5 OF HIDEOUS CRIME + 1/6 OF ORDINARY CRIME – TEMPORARY LEAVE (if the prisoner has already regime progression)
- 2/3 OF HIDEOUS CRIME + 1/2 OF ORDINARY CRIME, since the habituality does not be hideous crime – CONDITIONAL RELEASE
- SPECIFIC RECIDIVIST + OF ORDINARY CRIME = FULFILL THE WHOLE PUNISHMENT OF THE HIDEOUS CRIME + 1/3 OF ORDINARY CRIME (P) – CONDITIONAL RELEASE
- WHOLE PUNISHMENT OF THE HIDEOUS CRIME + 1/2 OF ORDINARY CRIME (R) – CONDITIONAL RELEASE

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PUBLIC DEFENDER OF THE STATE OF RIO DE JANEIRO

Address: Avenida Marechal Câmara, 314 – 2º andar – Centro – Rio de Janeiro - RJ - CEP 20.020-080

Phones: + 55 (21) 2332-6354 (21) 2332-6354 / 6355 / 6357 / 6190

Fax: + 55 (21) 2332-6217

Site: www.dpge.rj.gov.br

E-mail: dpgerj@dpge.rj.gov.br, gabinete@dpge.rj.gov.br

PUBLIC DEFENDER OF THE STATE OF RIO GRANDE DO NORTE

Address: Avenida Tavares de Lira – Ribeira – Natal – RN - CEP 59.010-200

Phones: + 55 (84) 3232-7451 (84) 3232-7451 / 7459

Fax: + 55 (84) 3232-7451 (84) 3232-7451

E-mail: defensoriapublica@rn.gov.br

PUBLIC DEFENDER OF THE STATE OF RIO GRANDE DO SUL

Address: Rua 7 de Setembro, 666 - 6º andar – Centro – Porto Alegre – RS - CEP 90.010-190

Phones: + 55 (51) 3211-2233 (51) 3211-2233 - Extension 2023 ou 2027

Fax: + 55 (51) 3211-2233 (51) 3211-2233 - Extension 2021

Site: www.dpe.rs.gov.br

E-mail: gabinete@dpe.rs.gov.br, corregedoria@dpe.rs.gov.br
, defensorageral@dpe.rs.gov.br

PUBLIC DEFENDER OF THE STATE OF RONDÔNIA

Address: Av. 7 de setembro, 1342 – Centro - Porto Velho – RO - CEP 76.801-096

Phones: + 55 (69) 3216-5051 (69) 3216-5051 / (69)3216-5053 (69)3216-5053

Fax: + 55 (69) 3216-5052

Cell phone: + 55 (69) 8417-6565 (69) 8417-6565

Site: www.defensoria.ro.gov.br

E-mail: reneeabdelno@hotmail.com

PUBLIC DEFENDER OF THE STATE OF RORAIMA

Address: Avenida Sebastião Diniz, n° 1165 - Centro – Boa Vista - RR - CEP 69.301-040

Phones: + 55 (95) 2121-4776 (95) 2121-4776

Fax: + 55 (95) 2121-4776 (95) 2121-4776

Cell phone: + 55 (95) 9959-4240 (95) 9959-4240

Site: www.defensoria.rr.gov.br

E-mail: dpe_rr@click21.com.br, oleno@click21.com.br

PUBLIC DEFENDER OF THE STATE OF SERGIPE

Address: Av. Barão de Maruim, 20 - Praça da Bandeira - Centro - Aracajú - SE - CEP: 49.015-020

Phones: + 55 (79) 3179-7446 (79) 3179-7446 / 7454

Fax: + 55 (79) 3179-7446

Site: www.defensoria.se.gov.br

E-mail: elber.batalha@governo.de.gov.br, almo.batalha@defensoria.se.gov.br

PUBLIC DEFENDER OF THE STATE OF SÃO PAULO

Address: Rua Boa Vista, 103 - São Paulo – SP - CEP 01.014-001

Phones: + 55 (11) 3105-5799 (11) 3105-5799 - Extension 282

Fax: + 55 (11) 3105-2003

Site: www.defensoria.sp.gov.br

PUBLIC DEFENDER OF THE STATE OF TOCANTINS

Address: Quadra 104 Sul, Av. LO 1, conj. 4, lote 9 - 1º e 2º pisos - Centro - Palmas - TO - CEP 77.020-020

Phones: + 55 (63) 3218-6736 (63) 3218-6736

Fax: + 55 (63) 3218-6739

Site: www.defensoria.to.gov.br

E-mail: gabinete@defensoria.to.gov.br

IMPORTANT NOTES

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