ABSTRACT
Objective: to discuss the importance of the nursing professional practice. Methodology: this is a reflective study, carried out through the analysis of scientific papers, laws, and official documents from the Ministry of Health and the Ministry of Justice. Results: the legal basis both of the right to health in prisons and the National Health Plan in the Prison System in Brazil are presented. Conclusion: as a fundamental right, access to health care should be guaranteed for all. There’s a need for thinking through equity in access to health care. Thus, the nurse who works in prisons should focus her/his actions on the individuals’ health needs, considering the ethical and legal aspects of the profession, as well as the characteristics inherent to prisons. The undergraduate Nursing course should offer training to allow the professional to work in the prison system context. Such training should include both technical skills and the reflective basis of health and citizenship.

Descriptors: Right to Health; Prison; Primary Health Care; Nursing Education; Nurse.

RESUMO
INTRODUCTION

Historically, the health issue in Brazil was marked by an unequal system which involved privileges with regard to social class. Since the promulgation of the 1988 Federal Constitution, substantial changes towards the democratization of access to health care occurred.

The 1988 Federal Constitution (FC 1988), in its articles 196 to 200, reaffirms the right to health as a basic right of citizenship, by defining that health is a right for everyone and a duty for the State, through social and economic policies to reduce risks and harms. In this sense, the constitutional text provides for a single system, with universal and equal access, which offers to the whole Brazilian population health promotion, protection, and recovery actions.

However, even today, there’s the challenge of extending health care to those groups most excluded from society, among which one finds the prison population.

Although, according to the law, the prison population is included in the Brazilian Unique Health System (SUS), the prison system has failed to enforce this right, even in its most basic form.

Some scientific studies show the complexity of the factors involved in the access to health care within the prison context, ranging from the material conditions of existence to the relationships of violence and maltreatment. The authors argue that health is a fundamental right and that the health team has an important role in this control, being the health education ruled by the model of integrity an important tool for the development of solidarity and citizenship, something which will positively impact the individual’s quality of life.

The prison population consists of people from different gender, sex, and age groups, resulting in a variety of health problems; this diversifies the type of assistance that the health professionals need to provide.

It’s necessary that the health professionals know how to identify the determining and conditioning health factors in prisons, defining priority actions to provide an effective and responsible service to the prison population. The nurse who works in prisons should focus her/his actions on the individuals’ health needs, taking into account the ethical and legal aspects of the profession, as well as the characteristics inherent to the prison system. In her/his training, there should be not only the inclusion of technical skills for professional practice, but also the reflection on health as a right of citizenship and the nurse’s role in defense of this right.

In this paper, whose aim is to think through the nurse’s practice in prisons, the legal bases for access to health care as a right of citizenship are discussed, and the Brazilian National Health Plan in the Prison System (PNSSP) is presented. Then, one advocates the importance of the nursing professional’s role in guaranteeing this right.

- Health promotion as a right of citizenship

In Brazil, the history of health as a right of citizenship is driven both by demanding movements of the 1970s and 80s and by the pressures existing in the international context to lead the States to constitute their national health systems from the perspective of prevention and, especially, health promotion.

The First International Conference on Health Promotion was held in Ottawa, Canada, in 1986, bringing up a concept of health ruled by the construction of favorable public policies, the creation of healthy environments, the promotion of personal skills, and reorientation of health services, directed towards a strategy for the future.

In the Brazilian context, this moment is very important for the movement of Health Reform. There’s a strengthening of the conception of health as a social right inseparable from guaranteeing the rights of citizenship and human rights.

A milestone of this history was the VIII National Health Conference, whose theme was Health as a Right for Everyone and a Duty for the State and which presented itself as a forum for fighting for the right to health, with an emphasis on decentralization of the health system, as well as political and social demands in defense of life.

The proposals from the VIII National Health Conference were advocated in the National Constituent Assembly, which, at the time was preparing the new Brazilian Constitution. CF 1988 recognizes as social rights “education, health, work, housing, leisure, safety, social welfare, protection to motherhood and childhood, and assistance to the destitute ones”.

The proposals for the Federal Constitution focused on health as a right and reaffirmed citizenship as a fundamental value. Health, the most apparent among the basic human needs, starts, at last, to be recognized as a right and an essential part of social justice. The right to citizenship, provided for by CF 1988, must be understood as the exercise of full rights. That is, social rights should be...
aggregated to the health promotion aspects, comprising the physical, social, and personal abilities of users.⁶

Two years after the promulgation of the so-called “1988 Citizen Constitution”, SUS was regulated through the Organic Health Law (LOS), in Law 8,080/90 and Law 8,142/90, which establish the way of its enforcement and competence, as well as financing and participation at the federal, state, and local government levels. In the new context, the broader concept of health is associated to the population’s quality of life, citizenship, and the country’s redemocratization, with the constitution of an inclusive health system.⁴

Health, hitherto understood as the absence of disease and complete physical and social well-being, starts having an expanded concept in its various determining and conditioning factors, anticipating the population’s needs and the access to actions and services ruled by the health promotion, protection, and rehabilitation in all of its aspects.⁶

As a fundamental right, access to health care should be guaranteed to everyone, regardless of other specific conditions, such as the situation of serving time in the prison system. Life, as well as the human being's physical and moral integrity should be respected in all contexts and one can only speak of human dignity when fundamental rights are guaranteed.⁷

However, one must think about the way how access to the right to health has been enforced by the different population groups, as well as the complexity of their life situations and their social belonging, since the policies of health promotion have an impact on the definition of the health care field.⁸

Access to health care by the population which is in prisons is legally guaranteed by CF 1988, by Law 7,210, enacted on July 11, 1984, which established the Criminal Sentencing Law (LEP), and by Laws 8,080/90 and 8,142/90, which regulate SUS. This right was reaffirmed in 2003, through the Portaria Interministerial 1,777, from the Ministries of Health and Justice, which implemented PNSSP, presented below.⁹,¹⁰

- The right to health in the Brazilian prison system

Currently, the Brazilian population consists of 190 million inhabitants, distributed into 27 states and over 5 thousand towns. The prison population is nearly 500 thousand people distributed into over 1,700 prisons throughout the country. This population is predominantly made up of young adults – black and brown men, single, and under 30 years of age.¹¹

From 2000 on, there’s a significant growth in the number of women prisoners. Thus, the prisons only for women, as well as mixed prisons, should take into account the peculiarities of health care to this genre, based on the guidelines and principles of women’s health within SUS.¹¹

PNSSP was established through the Portaria Interministerial 1,777, enacted on September 9, 2003, which aimed at organizing health actions and services within this system. It was constructed according to the proposal of organizing health systems and the process of care regionalization, in accordance with the principles of universality, equity, integrity, and problem-solving assistance.⁹

Thus, PNSSP is defined as a tool for inclusion, in SUS, of people deprived of liberty, and a way of getting to prisons health actions, services, and professionals.⁵ Health actions and services within prisons must be in accordance with the principles and guidelines of SUS.

According to PNSSP, health care in prisons starts being guided by the reasoning of primary care, which comprises actions for health prevention and promotion, prioritizing the risk groups. Thus, PNSSP determines that the actions and services of primary health care must be organized within prisons and carried out by interdisciplinary health teams.⁹,¹¹

The guidelines provided for by PNSSP include, in accordance with SUS, integrality, intersectionality, hierarchization, humanization, and social participation. Regarding integrality, the health teams should be trained and advised in order to provide an integral health care to the prison population, with actions for health promotion and disease prevention. The emerging demands should be prioritized at all levels of care. Thus, the health teams have the duty to perform actions for health promotion, protection, assistance, and recovery at the various levels of care to the population deprived of liberty.⁹

Regarding intersectionality, health actions in the prison system provide for the creation and expansion of partnerships with other governmental sectors, particularly safety, Justice, labor, social welfare, education, and others, in order to offer better opportunities to enforce the rights of people deprived of liberty within SUS.⁹

Hierarchizing searches for integration and accountability of the three government levels, according to their competences in face of health actions aimed at people deprived of liberty. Regarding social participation, the
prison population should be encouraged and supported by civil society in the creation, implementation, and evaluation of health actions.9

Humanization reinforces the premises that health practices need to be ruled by respect for differences, beliefs, and personal values, without discrimination of any kind, regardless of the crime which the person has committed. The health professionals should incorporate into their actions attitudes and behaviors which strengthen the nature of health care as a right and not as a concession; the search for training and sensitization for the humanization of health practices offered to this population is always the main aim.11 In this paper, we stress the fundamental importance of nurses’ practice so that this right becomes a concrete reality in the prison system.

● Nurse’s practice and the access to health care in the prison system

LEP provides that the prisoner's health care, with a preventive and healing nature, should cover medical, pharmaceutical, and dental assistance. This legislation reiterates that when the prison is not equipped to provide the needed medical care, this should be provided in another setting, upon authorization from the direction of prison.11

According to the guidelines from the National Council of Criminal and Prison Policy (NSCLC), the minimum recommended actions should be structured within the health legislation and LEP, taking into account the guidelines contained in the National Primary Health Care Plan, in order to adequately address the particularities of the prison system according to the region. Thus, among the several actions which must be developed, one can point out as examples the prevention and control of communicable diseases (such as tuberculosis and AIDS) and diabetes, actions aimed at oral health, immunization, and prenatal care.10

CNPCP, through the Portaria Interministerial 1,777, reinforces that, in order to make the implementation of actions and health services effective, the prisons should have a proper structure and in accordance with the legislation. It also points out the need for constituting a minimal team, made up of professionals such as: physician, nurse, dentist, social worker, psychologist, nursing assistant, and dental office assistant. The workload of these professionals should comply with the labor legislation and follow the minimum established for each professional category.10

The Ministry of Health emphasizes that “the health actions in the prison system developed within the walls should be aimed at health prevention and promotion, as well as treatment of diseases, striving for integral health care”.11,19

Ensuring the population’s access to health care in prisons implies the acknowledgment of human and social rights for this clientele, in particular. Exactly for this, the health professionals must have a deep knowledge on the practice of social rights, which, often, come in conflict with meeting the basic human needs of the individuals in prisons. In this sense, it’s important for the nurse to be guided by the ethical and legal aspects of the profession, taking into account the characteristics inherent to the prison system.

According to the Code of Ethics regulating the professional practice in Nursing, enacted through Law 7,498/86, in its article 2, nursing and its auxiliary activities may be practiced only by people legally qualified and enrolled in the Regional Council of Nursing (COREN), with jurisdiction in the area within which the practice occurs.12

The Code of Ethics defines that nursing constitutes a field of scientific and technical knowledge, which is constructed and reproduced through a set of social, ethical, and political practices. This knowledge and these practices are transmitted and processed through teaching, research, and care. The professional strengthens her/his ethical behavior through her/his responsibility in terms of labor relationships, taking into account the right to assistance without risks and damages, accessible to the entire population.13

In article 87, the Code of Ethics reaffirms that the nursing professional shall have scientific knowledge on the actions to be developed with the people under her/his professional responsibility or in her/his workplace. For this reason, practitioners should mobilize in face of the challenges which arise with the social issues, prioritizing the development of nursing knowledge and practice through teaching, research, and university extension. Constant updating and ethical attitude constitute the nurse’s permanent aim. One also advocates that meeting the population’s health needs must be accompanied by improving life conditions and health education.2,13,15

One reaffirms, thus, care as the main value of the nursing profession. This is the value which provides the teaching and research activities, going beyond a merely rational and
welfare dimension to reach a relational and multidimensional care. 16

FINAL REMARKS

When reflecting on the nurse’s practice in the prison system, one seeks to make efforts towards life protection, health promotion, preservation of humankind, and also an understanding on the meanings of illness, suffering, abandonment, exclusion, and “carelessness” found in prisons.

In this dimension, care should be guided by solidarity, ruled by safe actions and practices with regard to the ethical and moral motives of each citizen, in order to share with the individuals involved the experiences and opportunities which aim at expanding health and citizenship and which constitute the essence of nursing care. There’s a need for preparing the professionals to work in this context. And, alongside technical skills, it’s essential to develop, also, a reflection on the relationships between health, citizenship rights, and human rights.

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