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# Rehabilitation, education and work: the criminological examination as an instrument for resocialization and integration of the subject into society

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**Benjamim Machado de Oliveira Neto**
Ceará State University

**ABSTRACT**
The respective object will have the proposal to develop a study about the importance of the Criminological Examination regarding the rehabilitation and integration of the individual in society, as an instrument that makes it possible to offer the convict the opportunity to receive treatment, education and work, to undergo a process of social recovery. The Exam is located in the Execution Law and in the Penal Code, in the legal device nº 7.210/84 and the enactment of Law nº 10.792/03, which revoked the obligation of the referred exam and became optional. The objective of the work is to reflect the value of such a procedure that arises to promote/guarantee the dignity, humanization and individual/collective rights of the prisoner. The methodological procedure will be based on the bibliographic review, through specialized literature of scientific articles, books and doctrines, in the search to support the study and offer content based on the most renowned authors, such as: Bitencourt (2004); Capez (2007); Fernandes (2002); Fernandes (2010); Marcao (2009); Mirabete (2002); Mirabet (2004). With the application of the Exam it would be possible to draw a study about the personality of the individual and to analyze the circumstances that led to the commission of the crime, as well as to grant prison benefits, conditional release and regime progression. It was concluded that, the advent of the new Penal Execution Law, discarded the obligation of the prisoner the due condition to be evaluated, which would serve as the basis for the decisions of judges and courts when applying the granting of prison privileges.

**Keywords:** Exam, Criminological, Resocialization, Integration

## 1 INTRODUCTION

The Criminological Examination is located in the Execution Law and in the Penal Code, more specifically, in legislative order nº 7.210/84 and the advent of Law nº 10.792/03, which revoked the obligation of the exam and became optional, in which it includes a set of social, political and legal aspects, becoming a controversial subject because there are some questions about whether the new device can be considered as progress or regression.

Law No. 10,792, of December 1, 2003, amended the structure and provisions of Law No. 7,210, of July 11, 1984, establishing that convicts should be grouped according to their background and personality, with the aim of guiding individualization sentence and granting prison benefits within the scope of Criminal Execution.

In turn, the main alteration introduced by Law nº 10.792/03 was the waiver of the Technical Commission's opinion, which is expressed in article 112, in the caput of the aforementioned article, with the aim of simplifying the method of incidents in Criminal Execution, as well as conditional release and the progression of the prison regime.

The objective of the work is to reflect the value of such a procedure that arises to promote/guarantee the dignity, humanization and individual/collective rights of the prisoner, since the subject has been raising questions about the contradictions in the Prison Constitutions and the return of the criminal to society.

In order to verify this question, Law nº 10.792, of December 1, 2003, which changed the structure and devices of Law nº 7.210, of July 11, 1984, should be analyzed, establishing that convicts should be grouped according to their antecedents and personality, with the aim of guiding the individualization of the sentence and the granting of prison benefits within the scope of Criminal Execution.

The Commission's Opinion and the technicians' report form the Technical Commission, which monitors the convict. The Classification exam, on the other hand, influences personality characteristics, social and family life, and antecedents. Finally, the Criminological Examination, which is related to the psychic and psychiatric elements of the convict, in order to evaluate his re-education.

It is essential to note that the main change introduced by Law No. 10,792/03 was the waiver of the Technical Commission's opinion, which is expressed in Article 112, more specifically, in the caption of that article, with the aim of simplifying the method of incidents in Criminal Execution, as well as conditional release and the progression of the prison regime.

In this sense, article 122, in its new wording, resulted in a controversy, in the extinction of its sole paragraph, which expresses about the progression of the prison regime, citing that the decision must be for reason and preceded by the technical commission of classification and the criminological examination, with a view to repealing the sole paragraph that arises from understandings, namely, the progression of the regime has become automatic and that the judge of executions continues to verify the merit of the convict.

On the other hand, the reality is different, since the penalties would not be working and there would be no prevention of the crime and neither would it disapprove of the same, as well as it would not be serving for the recovery of the convict, both for his rehabilitation and for his return. to society, bearing in mind that, with examination, it could be possible to create new methods to prevent crime, mainly preventing the person's incarceration from happening.

## 2 METHODOLOGY

The methodological procedure will be based on the bibliographic review, through specialized literature in scientific articles, books, legislation, jurisprudence and doctrines, in the search to support the study and offer content based on the most renowned authors, such as: Bitencourt (2004) ; Capez (2007); Fernandes (2002); Fernandes (2010); Marcao (2009); Mirabete (2002); Mirabet (2004).

With the application of the Exam in the context of Criminal Execution, it would be possible to analyze the individual in every way, from the historical context of his life to the causes or circumstances that led to the crime, because, without this analysis, the convict would not see justice correct and effective, considering that it would incorrectly use the criminal law and put society at risk again.

The Criminological Examination should represent an indispensable technical tool in Criminal Execution, with the aim of analyzing the personality characteristics and the recovery of the convict, evaluating the psychic capacity and seeking his rehabilitation, since it is through the examination that the category of the prisoner is defined, which would support the court decision.

## 3 THEORETICAL FOUNDATION

In order to understand the origin of the criminological examination in the field of penal execution, it is extremely important to mention the historical evolution, based on its phases and periods, being a passage that did not happen at the same time and much less in a single period, but in the union of countless factors and moments that contributed to the course of human history.

There is not enough information to prove the appearance of the feathers, but for most peoples and cultures, the first act outside the law that the human being committed, was when Eve and Adam tasted the sacred fruit, being considered the first crime, which, consequently, led the two to be expelled from paradise, since God punished them, serving as a basis for the formation of penalties and demonstrating the need for rules to regulate man's behavior. (NADER, 2001)

Thus, feathers increasingly demonstrated their religious character and the sacred will to regulate man's behavior prevailed, where the gods were seen as divine beings and being the only ones who had the power to punish, as well as having the function of repairing and protecting. , having to strictly follow the obligations in order not to suffer the serious punishments, which were divided into forbidden and sacred, establishing rules that regulated society.

Humanity was going through a primitive period, aggressive and without rules, since man lived alone and exposed to constant dangers, having his safety threatened by phenomena of nature, by animals and by other people who struggled to survive, he saw the need to create groups to preserve their lives and to defend themselves against attacks from other groups, giving rise to the penalty that could protect themselves from attacks and at the same time take revenge. (PRADO, 2012)

To ensure the safe and peaceful coexistence between individuals in society, man created the prison system, and prisons were castles, churches, jails, houses, hospices, establishments and institutions, with the need to punish, punish and correct those who broke the rules or committed certain crimes, with the application of punishment through inhuman punishment, unfair sanctions and abandonment, which most often resulted in death.

In the old Roman perception, the law considered the penalty a sacred form based on customs, being mostly sanctions through punishments and threat, as well as being a rigorous system, where there was no difference between public and private crimes, demonstrating that public crimes resulted in death sentences and for private crimes, it was referred to the individual, since the State did not intervene directly, but only to regulate. (NADER, 2001)

Since its foundation, Roman law has shown to have many elements, being a mixture of norms that

were in use and in force at the time, with the penalty having a sacred character, based on the principle of moral duty, since, in general, the Roman people they were treated more like members of a group, emphasizing the figure of the family, as well as the security of the people depended more on the community than on the State.

Luiz Regis Prado (2012, p. 86), explains that Roman Law established that:

> Roman law distinguished between offenses punishable by jus publicum (crimina) and jus civile (delicta). The former – infractions of a social order that attack the civitas (eg, the perduellio; parricidium) – gave rise to a public prosecution carried out through provocatio ad populum or the quaestiones perpetuae and ended with a public poem (eg, supplicium capitale ; interdictio aqua et igni; mulcta ou damnum). The second – delicta (v.g. furtum; iniura) – were understood as an offense to the individual and authorized, in the early days, a reaction of a private nature.

It is noted that Roman law did not differentiate between public and private crime, where the first was about treason and murders involving the State, with the death penalty, while the other was about insults and disrespect to the individual, being his responsibility judging the crimes of those who offended them, and the State should also have the right to get involved when it was to regulate the due legal exercise.

It is evident that at that time the penalties were about revenge between groups and other communities, having their application based on pure revenge, both there were aggressions by the offended party as well as by the attacked party, reaching the point of committing injustice between them, since there was no there was justice, in the sense that Roman law summarized its way of thinking based on ancient society, making a connection between the ancient and modern world, which the landmark of that time was Law XII of Tablets and written by the Romans, initiating a new period, the legislative.

With the XII BoardsLaw and the Notary Law, the basis of all the law of that time, where they believed to be the tools that would correct evil, violence, disorder and injustice, it ended up becoming just old and perverse rules, demonstrating that acts The most serious crimes committed by people were death and betrayal.

Thus, the State was responsible for duly sanctioning those who practiced such criminal acts, as well as it could not clothe and defame, being considered the less serious criminal actions, leaving it up to the individual to use the punishment, according to the study by Guilherme de Sousa Nucci ( 2005, p. 65) on this subject:

> In the Ancient East, punishment of a religious nature was based on punishing the offender harshly to appease the wrath of the gods. The predominance of the notary was noted, which, if it had any merit, consisted in reducing the extent of punishment and avoiding the endless wave of private revenge. In Ancient Greece, as portrayed by the philosophers of the time, punishment maintained its sacred character and represented a strong intimidating expiratory tendency. In a first phase, blood revenge prevailed, which ended up giving way to the notary and the composition.

In a time when revenge, violence, injustice and death prevail, the Law of Notary came to combat this problem, which said: “an eye for an eye, a tooth for a tooth”, with the aim of reducing acts of revenge and injustice practiced by groups and members of other gangs, giving the victim the right to punish his

offender in kind,

The position of Luiz Prado Meira (2005, p. 69), on the penalties imposed, referring to the XII Tábuas Law, in Tábua VII:

> Whoever intentionally set fire to a house or a heap of wheat near a house, let him be beaten with rods and then thrown into the fire. If anyone bears false witness, let him be cast from the Tarpeian rock. If someone killed a free man and lent him sorcery and poison, let him be sacrificed as the last punishment. If someone killed his father or mother, let him wrap his head around it, put it in a sewn bag and throw it into the river.

Over time, the penalty became more elaborate, being analyzed in the specific case, transforming the punishments into a more individualized penalty, since such progress was only possible through the composition, which is currently called the Code Criminal, giving rise to fines and the elaboration of civil damages, demonstrating the importance of Roman Law for history and the construction of law.

In that period, the majority of the population had the thought that all events were linked to divine power, as well as believed that the right to punish a person came from God, using punishment as a means of revenge, owing those who practiced the shameful act and disrespectful to pay with pain, where they were thrown into hot water or forced to walk over fire, with no chance of defense.

According to Cezar Roberto Bitencurt (1993, p. 19) about the Middle Ages, it provides that:

> The Middle Ages was also characterized by ordalic law, which was also used by Spanish law. The best proof of the individual's wickedness is the abandonment that God makes of him when withdrawing his help to overcome the tests to which he is submitted - water, fire, burning iron, etc. punishment, judgment of God whose result is accepted more or less resignedly (...). The culprit, that is, the one who does not pass the test, convinces himself of his own wickedness and abandonment by God.

For this reason, it is noted that the crimes committed by man were seen as a sin, the ways to correct such acts being cruel and inhumane, as well as the punishment was mostly the amputation of arms, hanging and death, demonstrating that to redeem himself from the evil committed and to assuage the guilt, the condemned person had to make a sacrifice to get closer to God and to pay for the sin.

According to Adeilson Nunes (2005, p. 46) about the Middle Ages, where he demonstrates the importance of the church for the condemned regarding the recognition of their sins:

> In the Middle Ages, the church was a precursor in the application of prison, as a form of punishment for those who infringed its precepts, making rebellious monks or offenders recognize in individual cells, where thanks to prayers and reflections they recognized their own sins and did not commit again. them.

Thus, the landmark of Law at that time was the great cruelty that occurred with people, where most of them lived in fear and insecure with the violence and abuse of power by the State, even more so when the only holder of power , used this privilege and condition, failing to comply with and follow the rules that

existed there, demonstrating that he assigned the penalties in the way he understood and wanted, without even respecting the law and people.

At that time, it boiled down to terror and insecurity, as the holder of power were the feudal lords, where he applied the penalties the way he wanted, most of them without any justification and without respect for the people who suffered there from his abuse of power. power, demonstrating no mercy when applying the penalties, reaching the point of using the same sanction twice on the same person, regardless of the crime that was committed, thus reigning his will.

Over the years, in the Modern Age, the emergence of capitalism was inevitable, bringing with it industrial capitalism, creating a socioeconomic model of society, which was not very different from the feudal system, but which ended up making the situation even worse. of the population and for those who committed certain crimes that, with the increase in the poverty rate, the number of crimes grew, since it was considered a crime to not have a job and stay on the street doing nothing.

Due to this movement referring to the injustices caused by a capitalist system without limits, the attempt to build organized prisons and custodial sentences, over time, this need increased and with it came the realization of this desire, and that is, around the turn of the century. XIX.

During this period, the deprivation of liberty became a primordial tool for controlling the prison, turning a dream into reality, and which gradually developed the thought that, if there is a punishment or crime, it is of paramount importance to the prison, demonstrating its connection and need.

To understand better, observe the understanding of Sérgio Salomão Shecaira (2002, p. 35) about the emergence of the custodial sentence:

> The appearance of deprivation of liberty put an end to the crisis of capital punishment, which proved to be incapable of reducing crime, in addition to being, in some cases, completely inoperable due to the excessive number of defendants. Hence why the famous prison conceptualized as the punishment of civilized societies.

With the construction of control of a penal system, which was considered a great victory, since the idea of deprivation of liberty, even though it was a revolutionary thought that would help everyone, has not yet managed to achieve success, having to create a complement, which could fill the gap that was missing, since there were many cases of abandonment, where it was necessary to create a regime, giving rise to the progressive regime.

From the Progressive Regime, the convict could enjoy certain privileges, once the main characteristic of the regime was respected, which competed for distributing the time referring to each crime that a person committed, having a connection with the sentence, in order to be able to grant some benefits and enjoy some advantages, and may, if you follow such procedures, return to society without having to finish your sentence..

For Oswaldo Henrique Duek (2000, p. 52) on Beccaria's thinking about cruel penalties, torture and death, in the quest to prevent the criminal from committing crimes again:

> Recognized as the first abolitionist of the death penalty, considering it cruel and ineffective as general prevention, Beccaria comprehensively rebelled against the injustices of eighteenth-century absolutism. In his work, he supported the mitigation of penalties, with the following foundation: "The penalties that go beyond the need to maintain the deposit of public salvation are unjust by their nature; and the more just they will be the more sacred and inviolable the security and the greater the freedom that the sovereign grants to his subjects". The measure of the penalty, then, should follow the criterion of necessity to safeguard ancient society for the crime, within the scope of legal prevention.

According to the author's clarifications, it exposes the idea of analyzing the penalties and that it would be perverse and undue, that they would be causing numerous injustices and that they should be greater than the need, and should follow certain methods, as well as privileges in prisons. and the convict having his freedom before serving the end of the sentence, being a situation that was expanding in the social, penal and prison environments, influencing other criminal institutions to adopt this procedure.

The Penal Execution Law is considered a step forward for the legal and social system, which has as one of its goals to treat those interned and convicted, in addition to being subordinated to the fulfillment of the sentence and individualization, in which the State, which is the only holder of power , should apply due punishment to those who break the rules and maintain the good coexistence of individuals in society. (CAPEZ, 2007)

In this sense, Criminal Execution seeks that the condemned person does not violate the rules that make up the social environment and prevent him from committing new crimes, aiming at correction and prevention, that the penalty must have a character of rehabilitation, resocialization and integration, and must offer treatment, education and work so that the prisoner is able to live harmoniously with other individuals.

To better understand the Penal Execution Law, which is a process that must go beyond administrative and jurisdictional functions, it is necessary to verify the words of Julio Fabbrini Mirabete (2004, p. 28) about the system guaranteeing rights and harmonious condition for the return of the condemned to the social environment:

> In addition to trying to provide conditions for the harmonious social integration of the prisoner or internee, the legal diploma seeks not only to take care of the passive subject of criminal execution, but also of social defense. The immanent meaning of social reintegration, as established in the implementing law, comprises assistance and help in obtaining the means capable of allowing the return of the convict and the internee to the social environment in favorable conditions for their reintegration.

According to the author, the Penal Execution Law must carry out an activity beyond the administrative and legal exercise, and must, mainly, offer favorable harmonic conditions for the condemned or interned, who need to consider not only the legal certificate, but the treatment and resocialization, in which the prison system has to provide measures that can contribute to the rehabilitation of the convict and his return to society.

For the effective regime progression to occur, it is of paramount importance that the prisoner has completed one sixth of the sentence and has an exemplary conduct within the scope of the prison establishment, having to undergo an evaluation process in criminal execution and wait for the director of the penal system to send a report to the judge so that he can request the transfer of a more onerous regime to a less rigorous one.

In this way, with the execution of the sentence regarding the criminal execution and the fulfillment regime involving the convict, the process begins to allow the progression of the regime and the prison benefits, where for each crime committed there is a rule to follow, for those who commit common crimes, one-sixth of the sentence is fixed, while for the most serious crimes, such as heinous crimes, two-fifths and three-fifths if you are a primary offender.

It is clear that in order for the regime to progress, it is necessary that the penalties are deprivation of liberty and based on the requirements provided for by law, and must move from a more severe regime to a less rigorous one and the judge must use his judicial authority to impose, as well as evaluating a part of the sentence and the report of good behavior.

To better understand this subject, it is of paramount importance to mention the understanding of Luiz Regis Prado (2009, p. 82), on regime progression:

> Thus, for the progression of the regime, in addition to the formal requirement, objectively proven (compliance with at least one sixth of the sentence of the previous regime); it is also necessary, the material requirement represented by the merit of the accused (article. 33, paragraph 2, Penal Code), which is objectively proven by the display of good prison behavior, proven by the director of the establishment, in addition to other elements valued as relevant to characterize the aforementioned merit. In this way, the referred articles are not in a relation of antinomy, but of complementarity. On the other hand, a teleological interpretation is imposed, that is, the purpose of the Brazilian penal execution law that aims at the rehabilitation of the convict, provided that the interests of social defense are ensured, that is, the reaffirmation of the legal system and preventive purposes. The certificate of good prison behavior represents a plus to assess the merit of the convict, that is, in order to guarantee individual freedom and the real protection of fundamental legal interests, the convict cannot be allowed to have the right of progression if he has not had decent disciplinary behavior in prison; with such requirement it is guaranteed that the accused only obtains the progression if he had a good prison behavior, what before the modification of the wording of the article 122 of the LEP.

In order for the regime to progress within the scope of criminal execution, it is necessary for the convict to serve at least one sixth of his sentence, which is a temporal and objective requirement, and must also be submitted to the subjective criterion, which is the merit that is related to the accused and having to prove good conduct within the penal establishment, so that it is evaluated and later, the director will sign the report in favor of the benefits.

On the other hand, let's see the position of Julio Fabbrini Mirabete (2004, p. 387) about the procedure that involves the criminal execution in a way that respects the rules that establish the progressive form, reports:

> [...] the execution process must be dynamic, subject to mutations dictated by the convict's response to penitentiary treatment. Thus, by directing the execution to the " progressive form ", establishes the article. 122 progression, that is, the transfer of the convict from a more rigorous regime to a less rigorous one when he demonstrates conditions of adaptation to the milder one.

Depending on the behavior of the convict in the face of his treatment within the scope of the prison, as mentioned above, the penal execution in its evaluation and re-education process must be effective, respecting the rights and guarantees, even more so when it is to provide some benefits, as regime progression and adequate conditions for the prisoner to return to the rehabilitated social environment.

Conditional freedom represents the last phase with regard to the progression of regime related to the fulfillment of a custodial sentence, considering that the convict must meet certain requirements and how the law provides, such conditions, the time lapse and the good prison behavior, where you can enjoy some privileges and benefits, such as parole.

To find out better about the subject addressed, it is necessary to reflect on the thinking of Júlio Fabbrini Mirabete and Renato Fabrini (2010, p. 320) on the penalty and the return of the condemned to the social environment:

> Considering that one of the purposes of penal sanction is the readaptation of the criminal, the ideal system should be based on the imposition of indeterminate sentences, unnecessary as it is a reprimand when the convict has already been recovered. One of the institutes that is oriented towards this indetermination, through the executive individualization of the sentence, is the conditional release, the last stage of the progressive penitentiary system.

With the exposition of the author's words on this subject, it is evident that in order to have the adequate system and that provides the due re-socialization of the convict, it is necessary and primordial to occur the conditional release, because in addition to the criminal execution process to contain flaws and to be contradictory in the says respecting the protection of the rights provided for in the law, with the freedom and individualization of the sentence, there would be a chance of recovering the prisoner.

The pardon has the purpose of forgiving the sentence that involves the condemned in the scope of the execution and is connected with the causes that concern the extinction of the punishment, where it will choose a group of prisoners and select those by the character of the crime committed and the number of sanction duly imposed penalty, as well as will consider the requirements that must be followed to grant the benefits of pardon.

In order to fulfill the requirements to grant the pardon of the penalty, it is necessary to verify the fulfillment of the penal sanction that is defined as the objective condition, as well as to analyze the primacy of the convict that is stipulated as the subjective part, and the Penitentiary Council must elaborate a document that can be requested by the prisoner, the Public Prosecutor's Office or anyone else. (MIRABETE, 1997)

In turn, the pardon is only granted by the President of the Republic or in an act of clemency by the said Public Power, through a presidential decree and which will extinguish the condemned person's

sentence, but for that, it is necessary that he fulfills all the legal requirements for the concession of benefits, observing good behavior, the time lapse, as well as presenting conditions of blindness, being quadriplegic and paraplegic.

According to Aloysio de Carvalho's understanding of the pardon and its particularities:

> Is the person subject to fulfillment of a future condition or requirement, by the person pardoned, such as good social conduct, obtaining a lawful occupation, carrying out an activity beneficial to the community for a certain period, etc. If the condition is not met, the favor ceases to exist, and the judge must determine the resumption of the sentence.

As the author wisely prescribes on the subject exposed, it is clear that for the pardon to be granted, it is necessary to establish certain requirements, taking into account the conditions that involve good behavior, the exercise of an activity that is legal and carrying out work that is helpful throughout the elapse of the time that the service is rendered, otherwise the judge in charge may demand that the sentence be served.

The Criminological Examination studies the characteristics of the convicted person's personality, based on the degree of their dangerousness, which will be analyzed by experts, psychologists, psychiatrists and social workers from the prison establishment, thus constituting the basic principle of criminology, through techniques of medical, clinical, educational and social character. (BITENCOURT, 2004)

The Exam is the scientific foundation for evaluating prisoners in the field of criminology, exploring the criminal personality, which is carried out by specialists in the prison system laboratory and sent the report to the judge, consisting of: Legal-Criminal Information; Clinical Examination; Morphological Examination; Neurological Examination; Electroencephalographic examination; Psychological Examination; Psychiatric Examination; Social Exam.

With the use of the Criminological Examination, the professional can analyze the psychological profile of the convict, through the psychological, psychiatric and social examination, as explained by the scholar Newton Fernandes (2002, p. 252):

> The psychological examination aims to apprehend and describe the psychological profile of the examined person, regardless of whether or not there is a suspicion that he or she has a mental pathology. Thus, it can be applied to any individual, as it will unquestionably always bring information of interest to the understanding and understanding of the way in which the mental activities of the examinee are carried out.

In turn, it is worth mentioning the study by Valter Fernandes (2010, p. 226), regarding the importance of psychiatric examination for the treatment, rehabilitation and integration of the prisoner into society:

The psychiatric examination is, so to speak, the center, the core of criminological observation, even because it will interfere with the infliction or not of punishment (in the phase of whether or not the accused is liable), in the possible reduction of imprisonment (due to the dangerousness of the delinquent) or in the treatment of the convict, aiming at his return to social life after serving the sentence.

The Social Examination, the work of Júlio Fabbrini Mirabete (2002, p. 51), explains that an interview is carried out by social workers, who must verify the data about the family and social conditions

> The social examination (family information, social conditions in which the act was performed, etc.). The expertise must provide the criminological synthesis, this implies framing each case in items of a classification, in the selection of the destination to be given to the examiner/examiner and in measures to be adopted.

According to the studies, it is evident the importance of the Criminological Examination to further strengthen Criminal Execution, the legal process, Justice, the humanization of sentences, the modernization of the prison system, the rights of the condemned and the integration of the subject to society, in which the examiner will carry out a social assessment and monitor the development of the convict, as an instrument that will discover whether the causes of the crime were linked to trauma, disorders and mental pathology.

In recent years, the Bill (PL 1294/2007) was in progress in the National Congress, which provided for the possibility of returning to the mandatory Criminological Examination for the progression of regime in Criminal Execution, but the STJ decided and consolidated that such a procedure it is more obligatory for the prisoner to have the right to progression to the prison regime, thus the magistrate must request the examination to be carried out at the time he deems opportune and through a substantiated request.

The study by Luiz Flávio (2012) explains the subject about the Crimonological Examination, the STF judgment and the HC 109.565/SP:

> The stir surrounding the criminological examination comes from a legislative reform of the Penal Execution Laws in 2003. Until then, it was required as a requirement for regime progression not only the fulfillment of at least 1/6 of the sentence (objective requirement ) and the merits of the sentenced person, but also an opinion from the Technical Commission for Classification and Criminological Examination (subjective requirement). After the alteration suffered by article 122, there is no longer any express provision on the requirement of criminological examination. Today, for the progression of the regime, in addition to the time requirement, there is only a requirement of good behavior, which will be proven by the director of the establishment.

In view of the above, it is analyzed that the criminal enforcement judge assesses the requirement of the Criminological Examination, based on criteria defined by the Penal Execution Law and the merit of the convicted person, which has an objective and subjective character, considering that the objective requirement is in the serving a fraction of the sentence (1/6 of the sentence), while the subjective concerns Law No. 10,792/03 (Opinion of the Technical Commission), which now requires only the declaration of good prison behavior.

The respective examination cannot be replaced by criteria of only one sixth, two five, or three fifths of the sentence, in addition to the declaration of good prison behavior and authorization/proof from the director of the prison institution, to finally grant the prison benefit and progression regime, which is a contradiction, as the prison administrator has neither the knowledge nor the training to decide on the issue. (MARCÃO, 2009)

The application of the Criminological Examination is essential, both for the prisoner and for the decisions of the judges or courts, since the two do not have the same knowledge of the psychologist and the psychiatrist, in the sense that the law is based on legal studies and ignores health mental, even more so when the life of the convict and other people who may suffer from the consequences of a system that does not re-socialize is at stake.

To better clarify this controversy that involves the criminological examination and its value in criminal execution, it is essential to expose the position of the Public Prosecutor, Cleonice Maria, on the methods currently used to grant prison privileges, it has not been fulfilling its role and so little adequate, because the convict would not be being resocialized:

> I think it would need to be improved, because when only the temporal criterion and the certificate of good behavior are considered as a requirement, it makes it difficult to individualize the sentence because you put, for example, a perpetrator of theft with a psychopath, serial killer , because in practice that's it, if the two maintain a good behavior and make a time requirement, they will have the right to progression. So in the system, when the law establishes it this way, it makes it more difficult for criminal execution, for operators to identify those who have a problem to go to the street at that moment to be released, which does not. So I think we would have to have a slightly more advanced mechanism for us to be able to work better and really identify even in the way it was in the previous law before the 2003 reform.
> Available in: http://www.conteudojuridico.com.br/pdf/cj037294.pdf. Accessed in: May 2nd, 2014.

According to the Public Prosecutor, the criminological examination should be improved, since the requirements that correspond to the time and the certificate of good behavior that the criminal execution establishes would not be having positive effects, with problems with the individualization of the sentence and the progression of the regime, where it provides benefits for psychopaths and convicts, being a very serious failure.

In the same sense, it is extremely important to address the understanding of the Judge of Law, Nelson Ferreira, about the value of the criminological examination and that the criteria used for granting benefits are superficial, demonstrating that it is convenient to have, in fact, it is a flawed procedure and that does not offer adequate conditions for the rehabilitation of the convict:

> The subjective issue has undergone changes over time, before the reform of the penal execution law, which even dealt with the issue of the criminological examination of article 112 of the LEP, there was a classification commission within the penal establishments where a group closer to the prisoner issued an evaluation, each prisoner was analyzed, the behavior for the purpose of progression, from this change onwards, only good behavior was required by the prison director, this usually in the internal regulations of prisons is linked to a time, this criterion I think very superficial, first because the director hardly has direct contact with the prisoners, the units are large, today the overcrowding of the prisons almost prevents it, you simply put the prisoner in there and he is not placed in a situation where you can assess the his behavior, he behaves well because he didn't get involved in serious misconduct, I think it's a flawed criterion today, the legislation should not move forward so that you could test the prisoner in situations close to the reality he would have out here in society, today we don't have that, he simply goes into a cell, courtyard, sunbath and comes back, always in single contact and exclusive with the other prisoners, so this behavioral assessment of him as good, for the simple fact that he was not involved in any serious infraction, it is very superficial and fragile for you, but it is what the law provides today.
> Available in: http://www.conteudojuridico.com.br/pdf/cj037294.pdf. Accessed in October 20th, 2022.
> According to the Judge of Law, Nelson Ferreira, it is analyzed that there are different opinions about

> the value of the criminological examination in the context of criminal execution, more specifically, for the criteria currently used, which, in general, do not meet the needs and so are little adequate, both for granting benefits and for the due rehabilitation of the convict.

On the other hand, it observes the words of the Public Prosecutor, Helena Rodrigues, about the criminological examination being the most adequate instrument to analyze individuals who commit more serious crimes, demonstrating that it will evaluate the convict considering his characteristics and personality, as well as investigate other important factors about your life and what led you to commit the crime:

> For the most serious crimes it is extremely necessary, because it allows the personality traits of the individual who committed that crime to be evaluated. Because the simple criterion of good behavior and the criterion of objective, the temporal criterion, are not enough to assess in depth the personality of that criminal. Many times a person has personality disorders who has committed a very serious crime, has good prison behavior, has never committed any offense, and other times, someone who has committed theft, a simple crime, because he is very young, even because of immaturity, has bad behavior, so, the his progression is often delayed because of misbehavior and this does not necessarily indicate that he would offend again when released.
> Available in: http://www.conteudojuridico.com.br/pdf/cj037294.pdf. Accessed in October 20th, 2022.

As can be analysed, according to the position of the Public Prosecutor, Helena Rodrigues, the criminological examination is essential to deal with the most serious crimes, as well as it will assess the personality characteristics and whether the individual has a mental problem or what were the reasons that led to commit the crime, demonstrating that the objective and subjective criteria, in general, are not enough.

In turn, the Law Judge, Bruno de André, explains how important the value of the criminological examination is in the context of criminal execution and that its extinction was a mistake, as it would serve as support in the decisions of Judges and Courts regarding the recovery of the convict, resulting in numerous losses and consequences for those who seek prison benefits, based only on objective and subjective criteria:

> I brought it, because now it is much more difficult for you to determine that the exam should be carried out, because, to take the exam, I have to explain why he is going to take this exam. Before it was automatic, it was in the law that he had to take the exam so I ordered him to do the exam, now I have to explain why that convict is different from the other 99%, so it takes a lot of work, you have to analyze the crime , you have to analyze the personality, you have to analyze his performance during the sentence, you have to analyze a series of factors and put it on paper and explain, why the lawyer will appeal, because he does not want the convict to do what criminological examination, because this criminological examination will remove his mask, it will tell the judge who he is and this is not always good from the point of view of the defense.
> Available in: http://www.conteudojuridico.com.br/pdf/cj037294.pdf. Accessed in: October 28th, 2022.

For this reason, it is evident that the repeal of the mandatory criminological examination in the scope of criminal execution, ended up causing several losses, as mentioned by the magistrate, Bruno André, in the sense that the granting of prison benefits would not be fulfilling its role and its objectives. methods would be superficial, not serving to know if in fact he deserves such a privilege and to re-socialize the convict.

## 4 CONCLUSION

It was concluded that, in order for children to achieve reader protagonism, they need to be practicing at school, in the classroom, on the street, in the community and at their family's homes, with the help of parents and teachers, being a unique moment for further develop speech, dialogue, interaction, socialization and understanding of the world and, at the same time, having the opportunity to build values and principles, which contributes both to learning and to reader protagonism.

Thus, social reading is a method of paramount importance to work in the period of childhood and in the schooling of children at such a school moment, which arouses curiosity, imagination and autonomy, as well as stimulates learning and interest in studying, and there must be a pedagogical action that uses significant strategies and methods to stimulate reading and social development of students.

On the other hand, children are not born with their interests ready and this construction of interest depends a lot on the collaboration of adults during childhood, with parents helping during this process and the teacher building a pedagogical practice, using the social reading method to encourage and to contribute to the development process of the reader, cognitive and social subject of students in that school period.

One of the most efficient ways to create the possibility of seeing more and more adults who are readers and aware of their own readings of the world is to create the habit and the pleasant connection with literature since childhood, that is, that it is through reading that people children will have contact with the ludic, awakening their imagination and stimulating their reading capacity.

In view of the above, measures must be taken to encourage reading, both by parents who need to adopt a daily reading habit to encourage their children to read more and by schools that must promote reading through literary fairs, soirées and the creation of a reading club, in order for students to create a reading habit and build reader protagonism.

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