

IMPACTS OF THE LABOR REFORM ON NURSING WORK

OS IMPACTOS DA REFORMA TRABALHISTA SOBRE O TRABALHO DA ENFERMAGEM

LAS REPERCUSIONES DE LA REFORMA LABORAL EN EL TRABAJO DE ENFERMERÍA

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ABSTRACT

Objective: to reflect on the changes that took place in the Nursing work universe, in the light of the 2017 Labor Reform. **Methodology:** this is a reflection theoretical production supported by Labor Sociology and by Nursing and Collective Health studies dealing with the work dimension. It is divided into three topics: the first locates Nursing in the context of the productive restructuring of the Brazilian State in the 1990s; the second presents the profile of professionals in Brazil; the third explores the repercussions of the 2017 Labor Reform in the universe of Nursing work. **Results:** the changes generated by the Labor Reform point to a perspective of more precarious and unprotected work contracts, which compromise the struggle of Nursing professionals and produce illness. **Final Considerations:** this study has the potential to subsidize a debate about the theme and reflection in the Nursing professionals, directly affected, about the strategies to overcome these challenges.

Keywords: Legislation, Labor; Nursing; Outsourced Services; Occupational Health.

RESUMO

Objetivo: refletir acerca das transformações ocorridas no universo do trabalho da Enfermagem, à luz da Reforma Trabalhista de 2017. **Metodologia:** trata-se de uma produção teórica de reflexão, suportada pela sociologia do trabalho e por estudos da Enfermagem e da Saúde Coletiva sobre a dimensão do trabalho. Divide-se em três tópicos: o primeiro localiza a Enfermagem no âmbito da reestruturação produtiva do Estado brasileiro na década de 1990; o segundo apresenta o perfil dos profissionais no Brasil; o terceiro explana as repercussões da Reforma Trabalhista de 2017 no universo do trabalho da Enfermagem. **Resultados:** as alterações geradas pela reforma trabalhista apontam para uma perspectiva de vínculos mais precários e desprotegidos de trabalho, os quais comprometem a luta dos profissionais da Enfermagem e produzem adoecimento. **Considerações Finais:** este estudo possui potencial para subsidiar o debate sobre a temática e a reflexão dos profissionais da Enfermagem, diretamente afetados, sobre as estratégias para superação desses desafios.

Palavras-chave: Legislação trabalhista; Enfermagem; Serviços Terceirizados; Saúde do trabalhador.

RESUMEN

Objetivo: reflexionar sobre las transformaciones ocurridas en el universo laboral de la Enfermería, a la luz de la Reforma Laboral de 2017. **Metodología:** se trata de una elaboración teórica de reflexión, apoyada en la sociología del trabajo y en estudios de Enfermería y Salud Colectiva sobre la dimensión del trabajo. Se divide en tres temas, el primero ubica a la Enfermería en el contexto de la reestructuración productiva del Estado brasileño en la década de los 90's; el segundo presenta el perfil de los profesionales en Brasil; el tercero, las repercusiones de la Reforma Laboral de 2017 en el universo del trabajo de Enfermería. **Resultados:** los cambios generados por la reforma laboral apuntan a una perspectiva de vínculos laborales más precarios y desprotegidos que comprometen la lucha de los profesionales de Enfermería y producen enfermedad. **Consideraciones finales:** este estudio tiene el potencial de subvencionar el debate sobre el tema y la reflexión de los profesionales de enfermería, directamente afectados, sobre las estrategias para superar estos retos.

Palabras clave: Legislación Laboral; Enfermería; Servicios Externos; Salud Laboral.

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INTRODUCTION

The historical evolution of Nursing as a profession — as well as the history of work in health — is marked by gender social divisions. Since its origin, work in the area has been associated with the female workforce, socially undervalued, according to the social role assigned to women by a society marked by structural gender and class inequalities.¹ For some researchers, Nursing work is considered to be feminine because it is discredited and surrounded by romanticized conceptions, such as love and caring for others, aspects that imbricated themselves and represented a working area suitable for this gender.¹

These characteristics that institute differences between what means to be a woman or a man are part of a historical process. They act by ordering the relations of power and domination, while trying to turn them into an essence, that is, natural and unquestionable.² Women tend to have more vulnerable and precarious jobs, being more subjected to informality and unemployment, earning nearly 30% less than men in Brazil.² This is related to the instituted social gender order, in which the masculine is used as a measure for all things; therefore, what is not masculine tends to be less valued, such as the Nursing profession and other occupations considered feminine.³

In contemporary capitalism, Nursing reproduces, in different degrees, the Toyotist logic of production, exercising increasingly precarious work regimes.^{4,5} These transformations have exerted a strong influence on work, especially women's work — and, consequently, of Nursing professionals — because women are often the main earners of the family income and they reconcile the triple professional journey with domestic and family activities.⁵

If before the Brazilian Labor Reform these Nursing work determinants already rose concerns for researchers and Nursing professionals, the new labor rules tend to intensify the precarious and exhausting conditions of one of the most affected professions in the health area, predominantly comprised by women and young people.^{4,6} Therefore, this theoretical trial proposes to reflect on the recent changes in the labor protection system — changes that produced a pattern of unprotected work, with greater decision-making freedom for the employer and involved in a neoliberal pro-entrepreneurship narrative — and their impacts on Nursing work.^{6,7}

METHODOLOGY

This is a reflection theoretical production supported by Labor Sociology and by Nursing and Collective

Health studies dealing with the work dimension. It is divided into three topics, the first of which locates Nursing in the context of the productive restructuring process of the Brazilian State in the 1990s; the second presents the profile of professionals in the area in Brazil; and the third deals with the repercussions of the 2017 Labor Reform in the Nursing work universe. As this is a theoretical approach, the study does not require review by any Ethics and Research Committee, as recommended by the single paragraph of article 1 of Resolution No. 510, dated April 7th, 2016, of the National Health Council (*Conselho Nacional de Saúde*, CNS).

Nursing in the context of the productive restructuring process

In its eagerness to increase its productivity, the post-industrial revolution capitalist society inaugurates with manufacturing the social and technical division of labor, work partitioning and the consequent alienation of the worker from the final product in its entirety.⁸ Capitalism appropriates cooperation, a characteristic of collective work, to produce more wealth in less time. At this moment, work is no longer understood as a social dimension that meets human needs and starts to meet the needs of the capitalist.⁸ This process took place in all production sectors, even in health.^{4,5} The organization of Nursing work is internally altered with the technical division, distinguishing *lady nurses*, from the higher classes, responsible for supervising and commanding the work performed, from *nurses*, from the lower classes, who provided direct care to the patients.¹

Since its constitution as capitalist work, Nursing has reproduced the Taylorist organization of the production process, fragmenting its activities and valuing mastery of the techniques and instruments over knowledge of the purpose of the process. After the 1970s, in the face of the downward trend in the profit rate of the Fordist period, a productive restructuring, Toyotism or post-Fordism period was initiated. This period is marked by flexibilization of work, outsourcing, subcontracting, total quality control and polyvalence to take on several tasks in the shortest possible time. In Brazil, such characteristics were incorporated to different extents in health-related job positions during the 1990s.^{4,5}

These characteristics of the productive restructuring process are present in Nursing work in what concerns the work process, the contractual relationships and the employability of the professional category. With technological modernization in the sector, the services have expanded

but there has been no increase in the workforce; however, in healthcare, technology does not replace human labor in the same way it does in industry. Thus, this scenario leads to work intensification and increased productivity, with greater fragmentation of care work and distancing from the complex totality of health care.⁵

In the current hegemony of financialized capital, such scenario is deepened, as this capital advances on labor rights as a permanent measure to reduce the costs with the workforce. We are experiencing large-scale outsourcing, as well as an increase in precarious and unprotected work modalities in all areas, especially in health. This phenomenon has imposed underemployment on Nursing, conditioned to sub-wages, forcing women workers to work ever-increasing working days in order to guarantee a decent salary.^{4,5,7}

The greater incorporation of women as a workforce in 20th century capitalism is diverse, depending on the cultural characteristics, ethnic-racial relationships, the pattern of capitalist accumulation, and the productive activities. This incorporation is associated with the proletarianization process in the Brazilian social conformation and the search for salaried work, which is seen as social ascension in the urban reality, in the face of the migratory process from rural to urban areas.^{4,5} Particularly, the greater insertion of women in the 1970s is linked to the feminist movement conquests² and to the fall in men's wages, which corresponded to the majority of family resources. However, nowadays, Nursing women workers are often the main family income earners, reconciling the triple workday of domestic and family chores. Among the Nursing teams, 85.1% are comprised by women.^{9,10}

Based on the theory of the social determinations of the health-disease process, originating from the theoretical accumulation of Collective Health, Nursing aims at being understood as a social practice and has been developing specific knowledge and practices. However, the concrete conditions imposed by the capitalist production mode, in the sense of Nursing as a profession at the service of capital, did not change in their essence.^{4,9}

Trends in Brazilian Nursing

Nursing professionals represent more than 50% of the health workforce allocated to public, private, philanthropic and teaching services. This segment mostly consists of young women with less than 10 years since graduation, who work long hours and in precarious jobs — when we compare workload and remuneration — with a substantial difference in income between nurses and

Nursing technicians,^{9,10} reinforcing the historical, social and technical division of labor that marks the trajectory of the profession.¹

The scarce professional experience, the absence of public procurement, and the low offer of part-time jobs have led thousands of these professionals to experience unemployment.^{9,10} Those who have formal employment contracts work exhausting workdays, with more than 40 hours a week, with the possibility of reaching up to 60 hours. This does not include odd jobs, also known as underemployment, which are activities with irregular periodicity that complement the income of many Nursing professionals. These activities, marked by under-working hours, are vulnerable to sub-wages, with payments for shifts done in the format of worked hours^{9,10} or, in the case of teaching, payment is made per hour/class given in preparatory courses for procurement, technical courses, and private colleges.

Expansion of the access to healthcare for a large part of the Brazilian population via the Unified Health System (*Sistema Único de Saúde*, SUS) in recent years has increased the demand for jobs and the need to train more professionals for the public system.¹¹ However, this training process took place in an accelerated way, concentrated in large urban centers and predominantly offered by private institutions supported by governmental policies of support to university education.¹⁰ These institutions were responsible for the increasing trend in evening courses to the detriment of full-time courses that are less costly to the Brazilian State,^{9,10} in order to meet a market demand and without effective regulation by the State.^{10,12}

The transformations that took place in the labor universe and the reorganization of capitalism altered the role of the State, which, from being a producer, becomes a regulator, privatizing companies and guiding the reduction in public spending on public health.⁵ Sub-wages are present in all sectors: public, private or philanthropic. Such fact justifies the significant percentage of professionals who report wear out in the work environment and development of pathologies and psychological distress experiences.^{4,10,13}

The Labor Reform and its repercussions in the Nursing work universe

The post-dictatorship re-democratization process, which culminates in the Citizen Constitution, did not last long and took place together with the neoliberal wave, a moment in which the international capital movement adopts the financialized logic — disconnected from the

expansion of production — of accumulation for its valorization. The dual movement of deregulation and privatization is central to this expansion of globalized capital.^{4,14} The state assumes a new role, and the trend toward openness to private capital expands the exploitation mode of the workforce of the productive activities, as well as of those in health.⁶

At the beginning of the 2000s, the federal government, even though it deliberated policies to make health work less precarious, was not able to generate significant changes in labor relations, given the limitations imposed by the Fiscal Responsibility Law (*Lei de Responsabilidade Fiscal*, LRF). Certain intensification of the workforce through precarization was noticed, contrary to the labor rights in force, which were intended to avoid demeaning the social and economic condition of full employment.⁶

In recent years, the country has bent on an offensive to dismantle constitutional rights and seeks, at any cost, to meet the wishes of international financial agents, accelerating the steps towards austerity.⁶ Constitutional Amendment No. 95/2016, which sets a ceiling on public spending on essential services such as health for a period of 20 years, was approved, as well as Law No. 13,429/2017, known as the outsourcing law.^{6,11}

This process of international pressures of contemporary capitalism, of neoliberal hegemony and incentive to changes in social protection — especially labor and social security — was initiated in central countries in the 1980s and, in Brazil, in the 1990s, it culminates in the approval of Law No. 13,467/2017, understood by some jurists as a labor coup. The Labor Reform is the culmination of a historical process that has economic and institutional parameters of increasing the level of labor exploitation,⁶ also affecting healthcare and Nursing workers.

The reform produced broad changes in the Consolidation of Labor Laws (*Consolidação das Leis do Trabalho*, CLT), mainly fragmenting the collective ability of male and female workers to guarantee their own rights, with explicit favoring of employers. Despite the crisis of Brazilian unionism, the new CLT compromises several historical workers' struggles and ignores the disproportionality found in the relation between capital and labor, opting, on purpose, for the comparison between workers as the main argument, putting them against each other.⁶

By making the presence of the union or of an authority from the Public Ministry of Labor (*Ministério Público do Trabalho*, MPT) optional in the homologation of contract terminations, the new CLT facilitates dismissals and weakens the MPT's role. In the same perspective, it brings

about the possibility of reducing by half the fine on the FGTS balance — paid to the worker in cases of dismissals — by means of an agreement with the employer, and the employee will not have the right to unemployment insurance.⁶

The “new” CLT offers a variety of precarious contracts that benefit the employer with a reduction in hiring costs, to the detriment of the worker, who becomes increasingly unprotected. The growing trend of outsourced work contracts in the health area — via Social Organizations (SOs), Public Interest Non-Governmental Organizations (NGOs) and many other outsourcing modalities, such as the flexible and atypical hirings that regulate intermittent odd jobs — allows for payments only per period worked, whether hours or days. With Law No. 13,429/2017, outsourcing is generalized, even for the final activities of companies, allowing them to replace their employees by outsourced workers, with fewer rights.⁶

With the new rule, unions and companies will be able to define the working hours, profit sharing, time bank, change the day of the holiday and intra-day break, among other aspects, not necessarily in a better level for workers. They expand the rights subjectable to negotiation at a large scale, overriding the law.⁶

The current legislation changes the possibility of advancing with regard to job and salary plans, which will no longer need to be approved by the MPT, will not be recorded in a contract and can be negotiated and modified constantly between bosses and workers, obstructing a future of stability for workers.⁶ The new CLT makes the rule regarding the hour bank more flexible, insisting on leaving negotiations at the individual level, in addition to having payment for production unlinked to the payment of a minimum wage or salary.⁶

The change makes it possible to extend the working day to all other workers, signaling that no reduction of any kind can be considered, compromising the profession's historical struggle for the reduction of these working hours.⁶ The rest time per workday reduced by half and vacations divided into up to three parts show the harmful character of a law that does not take into consideration the worker's quality of life and the characteristics of professions such as Nursing, exposed to extenuating conditions that contribute to the growing illness of the professional category.^{4,10,13}

The reform treats workers as machines, as it does not take into account the times related to transportation, rest and eating as part of the workday. In addition, it limits access to Labor Justice, as well as its power. If workers sue

the employer and lose the lawsuit, they will have to bear the costs of the lawsuit, which discourages them from seeking their rights. If workers are entitled to compensation, it will have a ceiling, based on the workers' salary, and no longer on the judge's evaluation for each case.⁶

The rhetorical discourse that Brazilian workers are overprotected and that such changes were necessary contrasts with the fact that Brazil is one of the countries with the highest number of work-related deaths and accidents in the world.¹⁵ Labor regulation and the worker protection system became an instrument to protect the market and the employers, redesigning the labor legislation to the pre-Consolidation of Labor Laws (pre-CLT) model, a period of significant fragility in the rules for workers' safety and health.⁶

Such changes put into check the historical struggles of Nursing professionals, such as the regulation of a job and career plan, a 30-hour work week, an adequate structure for resting and special retirement, among others. Facilitation of dismissals aggravates the high turnover of these professionals in the health services, which have a contracting profile marked by outsourcing via Social Organizations (SOs) and several other modalities that reinforce commodification of the workforce, in an attempt to annul the labor element of the subject. With the scarcity of public procurement and the incentive to transfer management to private law organizations, the dream of job and career plans and stability is jeopardized, especially for SUS workers, such as a good number of nurses and Nursing technicians.

This labor scenario turns Nursing professionals into hostages to their employers, who can then stipulate conditions of greater exploitation of the workforce when flexibilizing working hours, the right to time off on holidays and the time bank, aiming to increase productivity and their profit margin. In addition, as it is an eminently female category, this exhaustive workday massacres these women already overburdened with domestic chores, typical of a society structured on sexism, intensifying the precarization of women's work.⁶

FINAL CONSIDERATIONS

While the promises of improved life for the population with the reforms do not materialize — on the contrary, they are questioned for not having reduced unemployment and informality⁶ — neoliberal narratives are constructed aiming to re-signify this scenario. In Nursing, combined to the more recent change in CLT, the effect

of the productive restructuring process represents a true setback. Due to the fact that this is a profession consisting mostly of young and black-skinned women, the reform makes it even more difficult to achieve the ideal of a profession worthy of recognition, reflected in the regulation of the minimum wage and working hours.^{5,6} This phenomenon facilitates dismissals, weakens the professionals' organizational ability, discourages them from reporting labor frauds characteristic of outsourcing — such as the absence of labor protection and non-payment for overtime — takes away the dream of a stable job and produces illness.^{6,13,14} These reforms also give breath to private entrepreneurship as the main alternative to unemployment, ignoring the crisis situation of capital and transferring to the worker the burden of flexibilization and the risk.⁷ In this context, Nursing needs to rescue its social role and appropriate the discussion about work in contemporary capitalism, in order to understand the process of subtraction of labor rights and the consequent degradation and expropriation of life.⁷

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