The flexibilization of employment relationships in the health sector: the reality in a Federal University Hospital in Brazil

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> **Abstract** This was a socio-historical study that aimed to analyze the repercussions of the flexibilization of labor relationships within a University hospital (UH) using the thematic oral history method and triangulation of sources made up of workers' statements, institutional documents and relevant literature. It was observed that flexibilization, driven by state reform in the 1990s, had a structural impact on the trajectory of this institution, that, due to government downsizing policy, adopted outsourcing to maintain staff, leading to high staff turnover, various types of conflicts, and discontinuity and lack of organization of work processes. We conclude that the flexibilization of employment relationships became a handicap for this UH, disrupting services, negatively affecting students and service users, contributing to the deterioration of working conditions and lack of protection of workers.

> **Key words** State reform, University hospitals, Work, Outsourcing, Nursing

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Introduction

In the 1990s, university hospitals (UHs) in Brazil were incorporated into the Unified Health System (SUS, acronym in Portuguese). In order to effectively meet teaching, research and care demands, essential staff changes were made within these institutions, which, following the political direction of state reform, adhered to the multiple employment regime (*Regime Jurídico Múltiplo*), creating various types of work contracts, thus characterizing the flexibilization of employment relationships.

In the contemporary world of work, the term *flexibilization* refers to various changes in labor rights intended to institute mechanisms to conciliate the economic, technological, political and social changes in the relationship between capital and labor. This phenomenon is caused by various factors, such as new technology, unemployment, globalization and, primarily, economic crisis¹.

Flexibilization can be understood as a process involving macro economic and social determinants derived from the globalization of capitalism. The fluidity of this process, typified by the financial markets, affects the economy and society as a whole, resulting in a generalization of flexibilization across all settings, particularly in the workplace². Therefore, the flexibilization of employment relationships effectively means leaving the regulation of the hiring process, dismissal and staff costs to market forces.

Flexibilization comprises a market "free-forall" allowing for the full exploitation of nature and the work force³, whereby a company, according to its needs, is free to dismiss workers without penalty, reduce or increase hours, pay lower real salaries below the parity level, and subdivide the working day by changing hours and the character of activities⁴.

In the health sector, this dilemma is experienced by services that are required to adopted methods which ensure the economic stabilization and control of the work force, in the context of a free-flowing labor market. In this sense, flexibilization boils down to a redesign of the public-private relationship characterized by new legal frameworks and administrative structures within health institutions, and outsourcing of activities to individual service providers^{5,6}.

The flexibilization of employment relationships originated at the end of the 1970s, when various economic and ideological factors gave rise to neoliberal arguments defending the implementation of policies aimed to retract direct state regulation of the economy and public social spending⁷⁻⁹.

Brazil experienced systematic flexibilization after the state reform of the 1990s, sustained by a liberal ideology that adopted an administrative model founded on the cost benefit relationship, efficiency and competitiveness. Within public administration therefore, staff should be streamlined to keep up with technological and market changes and the specificities of each field of activity.

This kind of malleability would only be possible within the state through changes in employment relationships and forms of remuneration, characterized as flexibilization, and especially through outsourcing services¹⁰.

Apart from instituting a more flexible public administration, the reform initiated by the Fernando Henrique government proposed a rethink of the role of the state, whereby the government would go from direct promoter of economic and social development, through the production of goods and services, to regulator and funder of development, and transferring activities which are not exclusive to the state, including education and health, to private sector and third sector organisations¹¹. Brazil therefore saw a veritable dismantling of the public sphere and a reduction and commoditization of the social functions of the state^{12,13}.

One of the measures taken to promote these changes was the Constitutional Amendment N°19/98, which altered Article 39 of the Federal Constitution, making the single statutory employment regime (the RJU) noncompulsory and permitting various types of work contract under direct or indirect administration. This firmly installed the flexibilization policy in the three spheres of government, leading to a deterioration of working conditions and reducing the social protection of workers^{14,15}.

The flexibilization of public sector employment to control spending provoked major disruption in public services due to indiscriminate and often illegal contracting of services, leading to high staff turnover, weakening employment relationships in the SUS, and causing job dissatisfaction¹⁵.

The administrative reforms affected the National Health Policy in a number of ways, hampering the operationalisation of the SUS in its aim to guarantee universal access to comprehensive care, since the government was incapable of applying the constitutional precept of access to public service through public selection processes or evidence of formal qualifications. Within

this context, in an attempt to maintain teaching and research and guarantee care, the UHs adopted strategies such as outsourcing to effect work force changes, leading to a proliferation of contracts and agreements accompanied by legal and administrative burdens¹².

In light of the context described above, this article aims to analyze the repercussions of the flexibilization of employment relationships within a university hospital.

Methodological aspects

This was a qualitative socio-historical study that aimed to understand the perceptions of a university hospital's staff regarding the repercussions of the flexibilization of employment relationships using thematic oral history. The primary oral sources were staff accounts, while the primary written sources comprised agreements and contracts signed by the institution related to the outsourcing of services. Secondary sources comprised literature related to the object of study.

In oral history methodology, each interviewee is considered a qualitative reference due to his/her relationship with the object. Therefore, this method values not only the number of number of subjects, but, more specifically, the representativeness of each one^{16,17}. To participate in the study the member of staff had to have worked in the institution for over two years, regardless of the employment regime, considered a sufficient period of time for the employee to have experienced the flexibilization process. Those employees who were off work during the data collection period, due to vacations, leave, or other forms of absence, were excluded from the study.

Based on the assumptions of the thematic oral history technique, the interviews were conducted using a script with open questions to stimulate the interviewee to give his/her own interpretation of the object of study, aiming to "favor the recuperation of the experience as conceived by the person who experienced it"¹⁶.

The study was conducted at the University Hospital of the Federal University of Espírito Santo (UFES), located in Vitória. All services provided at this large federally-administered hospital are offered through the SUS¹⁸. Its installed capacity as at February 2013 was 309 beds, of which 238 were active (77%), 49 blocked (15.8%) and 22 only planned (7.1%)¹⁹.

Twenty-seven staff from various sectors of the hospital participated in the study: 48.1% of this

total were nurses, 40.7% technicians, and 11.1% nursing assistants, while 74.1% worked in the day shift and 25.9% in the night shift. Working hours varied between 30 hours (51.9%), 40 hours (40.7%), and 44 hours (7.4%) a week. With regard to employment regime, 48.2% were employed under the RJU, 37 % were subcontracted by the institution, and 14.8% were subcontracted by the City Health Department and seconded to the hospital.

The interviews were recorded, transcribed and sent to the interviewees by email for review and verification. After the interviewees ratified the content, the transcripts were analyzed to identify fragments that established a direct relationship with the object of study. The oral sources were triangulated with the other sources in a dialectical movement between the narratives, documents and relative literature¹⁷, to approximate the facts relayed by the interviewees and the macro reality.

The interviewees' statements were identified using the letter 'D' (depoimento), followed by 'U', for those employed under the RJU, or 'T' (terceirizados), for those who were subcontracted, and a number representing the sequence of the interview. The study was submitted to the Ethics Committee.

Results

University hospitals play an important political role in the community as a provider of complex care, in training human resources and developing health technology^{20,21}. Although their incorporation into the SUS favors health service users, it leads to overburdening within the institutions, which were not prepared to receive a large flux of patients²². Furthermore, the recessive policies disseminated by state reform, advocating flexibilization of public employment and strict government control of spending on personnel, did not contemplate an adequate human resources management policy that was capable of meeting the rising demands for the services offered by these hospitals.

This situation led to a crisis in UHs, which had to live with a gradual reduction in human resources due to a halt in public selection processes, associated with a lack of investment in the necessary technology and facilities to meet the teaching, research, extension and care needs. Thus the hospitals began outsource staff, often without observing the legislation created to protect employees²³.

During the research, a number of contradictions between the sources as to when the flexibilization process began in the institution were evident. The documentary sources indicate that two agreements and three contracts were signed between Vitória City Council and companies providing medical, nursing and technical services between 2001 and 2012²⁴. However, the interviewees statements showed that outsourced employees were already working in the institution before 2001: *I've been in the hospital since* 1992, because I was here under the agreement and, after, I was employed through the public selection process in 1994 (DU04).

This issue highlights the importance of oral history for filling in documental voids and information gaps²⁵, especially considering the difficulties that permeate historical studies related to the fact that organizations do not have the custom of preserving documents that record the memory of the institution. The statement shows that this university hospital had been the target of measures adopted by the government to extinguish posts and put selection processes on hold20 since the 1990s. Outsourcing, considered the main dimension of flexibilization, is a particular form of privatization that the government uses to partially transfer the responsibility for providing certain services by contracting third parties to perform intermediate activities. Often these contracts are made for the supply of labor services, in the form of specialized technical services in an attempt to appear legal. However, the contracted company is limited to supplying professionals, who provide services to agencies run directly or indirectly by the government without going through any public selection process^{2,26}.

The documents show that the outsourcing of employees by the University Hospital was justified due to the need to maintain care, teaching and research activities, widen services and fulfill the demands associated with advances in science and technology. However, the Federal Court of Accounts (Tribunal de Contas da União - TCU), the Public Prosecutor's Office (Ministério Público - MP), and the Office of Legal Affairs at the UFES emphasized the urgent need for a public selection process, since these professionals were filling positions in the organizational structure of the university which, according the Decree-Law 2271/9714,24, could not be outsourced. It is important to highlight the opinion of the Federal Prosecution Office reinforcing the need to rectify this situation because it does not fall within the legal prerogatives that provide for outsourcing in the public services: It remains clear that employing outsourced workers to carry out the tasks of civil servants is a direct affront to the principle of selection through public selection processes, apart from the affront to the labor law that restricts the possibilities for outsourcing of intermediate activities in any organization, be it public private [...]²⁷.

Despite the recommendations of these organizations, the much requested public selection process did not occur and, in 2011, the Hospital Superintendent once again extended the outsourcing contract which accounted for 25% of the hospital's staff ²⁷. This issue was raised by one of the interviewees: [...] the government does not invest in public health [...] other agencies have public selection process all the time to fill vacancies; but not here, in public hospitals. Someone retires, leaving the position open and they have to bring in someone who is outsourced (DU12).

The TCU noted from the national plan that, since 2006, funds received from the SUS had been used to pay outsourced employees, who account for 37.74% of the employees of the country's 45 UHs²⁸.

The main source of maintenance of UHs are funds received from the Ministry of Education (MEC) to pay the salaries of workers employed under the RJU, and funding from the Ministry of Health (MS) for the purchase of permanent goods and inputs. However, the use of part of these resources to pay outsourced employees is a cause of financial instability within these institutions, as is the case with the University Hospital of the UFES, which ends up being able to use only a third of the budget²⁹. This fact is perceived negatively by the interviewees, since it compromises the availability of the inputs necessary to maintain services:

- [...] these are some of the setbacks caused by the lack of newer and more advanced equipment, materials that we don't have from time to time, that we need to deliver quality care (DT20).
- [...] we go through periods in this institution when you don't have the minimum to care for a sick person, lack of material [...] lack of maintenance of equipment [...] (DU19).

The hospital's Strategic Plan for the period 2010 to 2020 confirms these statements, describing threats to the institutions such as lack of control over outsourcing, undermining of health services, and interference from external contracts. The plan also highlights internal weak points such as inadequate physical structure and lack of modern equipment, and *shortage* of personnel to meet demands³⁰.

It can be seen therefore that outsourcing resulting from increasing flexibilization of employment relationships led to a disruption of services, lack of motivation and worker insecurity:

[...] I like coming here, but I must say I used to like it more [...]. I think, due to administrative issues, we see the lack of material, lack of staff, and insecurity as an impasse. The company changes, companies come and go, and you don't know how things are going to end up. It's a great strain. Today there are ten beds, tomorrow there's twenty [...]. (DT03).

The termination of contracts with outsourcing companies led to the closure of beds, negatively affecting both care services and teaching activities, not to mention the financial losses to the hospital in lost funding from the SUS²⁴: *In the first transition* [...] *the female surgical clinic was closed for around two years.* (DU24).

The magnitude of these effects can be observed in an article published in the newspaper *A Gazeta* in February 2009 which announced that the Public Prosecutor's Office of the State of Espírito Santo (MPF/ES) had filed a civil lawsuit to carry out a public selection process to fill 688 open positions in the university structure, of which 389 were for health professionals.

The complainant, the Prosecutor of the Republic, gave an account of the chaotic situation that the university hospital was facing due to staff reductions, including suspension of operations, *shortage* of beds, closure of departments and work overload³¹, as the following statement confirms:

[...] there is a problem with contracts. When they end there is sometimes a gap [...] there is no continuity. I've done this several times with the general ward: I have to sit down with the Chief Physician, reduce the number of beds and resize according to the number staff I have [...]. Sometimes you start a task here and you're unable to take things forward [...] (DT26).

Other consequences of flexibilization, such as work fragmentation, discontinuity of health actions, and worker dissatisfaction and low self-esteem³² are manifested in the interviewees' statements, which also demonstrate high employee turnover, compromising the university hospital's academic training program:

[...] fifteen people started with me. Of the fifteen people that I was with two remained; the others were substituted. So this is something that is bad for the hospital, it's bad for the patient, it's bad for the hospital's whole work process. You aren't able to organize programs, organize proj**ects** here at the institution. It's bad for the students' academic training [...] (DT06).

It can be seen that the flexibilization of employment relationships negatively affects care activities due to work fragmentation and turnover among hospital staff: [...] when we begin to organize the hospital [...] the professional is dismissed from the institution, so there is always a hole in care and we have to restructure things all over again (DT20).

The need for hospital restructuring after the termination of each contract is aggravated by the multiplicity of contracts ([...] *I worked with 3 or 4 different contracts in the same sector, this leads to work schedule friction when carrying out activities* [...] (DU10)) and lack of organization of work processes:

Lack of routines, lack of training due to high staff turnover. As soon as the employee was trained, the contract terminated. Then, a new team started, and it started all over again; until the new team was trained. A lot of time was wasted and a lot of things ended up not being done during this time. It's a tiring and difficult process, not to mention very consuming. (DU10).

Although, epistemologically speaking, the terms flexibilization and outsourcing do not necessarily imply the disruption of processes and labor relations, for the workers, they gradually become synonimous³³ to suffering and insecurity due to job instability:

[...] everyone wants a **job**, and wants **stability**, wants to have **security**, wants to have a career [...] how can you organize your life if you don't know if you are going to be employed next year? If every time a **contract is renewed personnel are renewed**, you never know if you are going to be here or not. There's **insecurity** [...] (DT13).

According to the Ministry of Health (MS), precarious work is employment which lacks workers' rights, which does not guarantee social protection and quality of life^{14,15}, as evidenced by outsourcing staff:

[...] it was a contract, unregistered, with no entitlement to annual holidays, no thirteenth salary, no right to any kind of leave, like bonus leave, training, none which the UFES has, and even doctor's notes were questioned [...] (DU04).

The weakening of employment relationships imposed on workers, added to the breach of labor rights, obliged workers to resort to legal action to obtain compensation:

[...] I left the contract without receiving my last two months' salary, without my workers'

rights. I wasn't able to obtain unemployment benefit because I didn't have the documents [...]. I had a problem when I left [name of the company] with some clauses because our workers' rights were not paid, were not fulfilled, and we had to file an action again with the Public Prosecutor's Office (DT20).

Furthermore, the MS acknowledges that inequality of rights between workers employed under the RJU and outsourced employees disrupts work and is a cause of conflict in interpersonal relationships within the institution:

[...] it's very difficult to work in the hospital these days, especially with the problems jeopardizing the work force, we have people linked to various types of work contract, with varying salaries and varying working hours, and this is very difficult to administer because it generates great dissatisfaction, and working with people who are dissatisfied is very difficult [...] (DU22).

The difference in types of work contract contributes to a weakening and cleavage between workers, who may not feel part of the organisation³³:

[...] the difference between permanent and contracted staff; there is always this thing that a contracted employee is not as well regarded as permanent staff [...] (DT13).

Furthermore, different types of union representation fragment this group and hamper its organization, as the following account illustrates: I'll give you an example: strike. It causes an impact, because outsourced staff work, while those who are employed under the RJU don't work; [...] different types of work contracts do not bring the movement together [...] (DT03).

The MS also highlights that job insecurity is linked to legal irregularities¹⁴, since outsourced employees do not fall within the constitutional norms that govern civil servants, meaning that, once more, workers lack protection²⁶:

[...] I feel very outsourced here, but I feel like a professional [...] I am happy that I am working here, but at the same time very insecure about the future, there is nothing concrete for us here [...] (DT26).

Outsourcing services, a reduction in the number of permanent staff, lack of inputs, underuse of installed capacity, and the gradual scrapping of these institutions, are typical characteristics of the crisis perceived by employees:

[...] the government's long term strategy [...] reduce quality so that us employees hope that quality will improve with private administration [...] now that it has been scrapped they offer a solution that is not ideal (DU09).

Thus, based on a discourse of the inefficiency of public administration and the high cost of these hospitals, the government presents the creation of the Brazilian Hospital Services Company (*Empresa Brasileira de Serviços Hospitalares* – EBSERH) as the "only solution" for the university hospitals crisis³⁴. However, to the workers, the company represents a phase full of uncertainty:

[...] the EBSERH is a box of surprises; we don't really know what we are going to find inside when we open it. (DU24) And it is going to maintain the weaknesses caused by the differences in types of work contract [...] it won't end it because there is still going to be permanent staff and staff who will go through a public selection process through the EBSERH [...] it is not the solution to the problem[...] (DT01).

Conclusion

This study reflected on the events experienced by the University Hospital of the UFES over the last two decades. We found a continual movement of financial and administrative instability and, particularly, the dismantling of the hospital's work force that, due to a policy of flexibilization of employment relationships based on the state reform of the 1990s, has been weakened by outsourcing and all its consequences, including the deterioration of working conditions.

The reconstruction of the events that marked this trajectory by collecting statements was important because it enabled us to register the memory of staff members who experienced this process. The analysis of these statements and the documents showed that the flexibilization of employment relationships had crucial repercussions within the institution, hindering the organization of work processes, interfering in interpersonal relationships and, principally, promoting an atmosphere of insecurity and uncertainty caused by the lack of protection of workers, who coexist in a working environment characterized by differences in salaries and inequality of rights, advantages, and tasks between workers.

It was also observed that outsourcing, adopted to maintain the hospital work force, was not sufficient to maintain a fully-functioning hospital, which struggles on, having to live with high staff turnover, discontinuity of programs and projects, reduction in the number of beds and disruption of services. Furthermore, outsourcing is seen by the TCU as irregular and has become a *stone in the shoe* of the managers of the univer-

sity hospital, who have been held hostage by this alternative and use part of the funds it receives to cover the payroll of outsourced staff.

The hospital's management team is at constant loggerheads with legal procedures to justify and facilitate the outsourcing of staff and renewal of contracts, which allegedly happened to avoid the closure of the university hospital and even greater losses to teaching and care. Thus, something that should be temporary according to Law Nº 8.745/93 that governs employment in the public services on fixed-term contracts, is therefore transformed into a permanent situation. This situation has been questioned by the TCU, Public Prosecutor's Office and Office of Legal Affairs at the UFES, which, on a number of occasions, have manifested the need to rectify the situation by conducting a public selection process, justified by the existence of vacant positions within the institution.

Considering the "angel or demon" aspects" of the flexibilization of employment relationships, it can be observed that, on one hand, different types employment contracts widen the possibilities of admission into the public services and offer a certain degree of flexibility when contracting and dismissing staff, in accordance with market logic and the needs of the service. However, analyzing this issue from another perspective, it is evident that this phenomenon causes significant harm given the various conflicts it promotes in the working environment, the loss of institutional memory due to high staff turnaround, lack of organization of work processes with resulting losses in quality of services and, principally, due to the deterioration of working conditions caused by the adoption of contractual arrangements that do not guarantee worker protection as provided by Brazilian labor law.

We can therefore conclude that it is our understanding that the proposals of state reform were cut short when it comes to the health service, since the policy of employee downsizing and flexibilization of employment relationships within UHs did not make the services more *effective*. On the contrary, it created a veritable handicap for these institutions and had a particularly harmful impact on students, health service users and staff.

Finally, we believe that, to the hospital workers, the EBSERH, presented by the government as a solution to the crisis in the UHs, is [...] *like walking on new ground, on a minefield* [...] (DU11), and should therefore be subject to further study to evaluate the practical consequences for university hospitals of adherence to this company.

Collaborators

SMP Alves and MCR Coelho participated in the conception and drafting of this article. LH Borges, CAM Cruz, L Massaroni and PMA Maciel participated in revising the article critically for important intellectual content. All the authors approved the final version for publication.

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