

# Repercussions of the labor reform on nursing work in the context of the covid-19 pandemic

*Repercussões da reforma trabalhista sobre o trabalho em enfermagem no contexto da pandemia de Covid-19*

*Repercusiones de la reforma laboral sobre el trabajo en enfermería en el contexto de la pandemia de COVID-19*

**Ithana Queila Borges Pizzani Ferreira<sup>1</sup>**

ORCID: 0000-0003-4684-6354

**Tatiane Araújo dos Santos<sup>1</sup>**

ORCID: 0000-0003-0747-0649

**Handerson Silva Santos<sup>1</sup>**

ORCID: 0000-0002-4324-8888

**Nildo Batista Mascarenhas<sup>II</sup>**

ORCID: 0000-0001-9261-0380

<sup>1</sup> Universidade Federal da Bahia, Salvador, Bahia, Brazil.

<sup>II</sup> Universidade do Estado da Bahia, Salvador, Bahia, Brazil.

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## Corresponding author:

Ithana Queila Borges Pizzani Ferreira

E-mail: [ithanapizzani@hotmail.com](mailto:ithanapizzani@hotmail.com)



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## ABSTRACT

**Objective:** To reflect on the repercussions of the Labor Reform on nursing work during the COVID-19 pandemic. **Methods:** This is a reflective study based on the legal aspects of the Labor Reform in dialog with scientific productions pertaining to nursing work. **Results:** With the rise of the COVID-19 pandemic, the flexibilization of labor is being intensified, legally backed up by the Labor Reform. For nursing workers, the repercussions are felt in the work relationship, during the workday, in the salary, in union action, and in job protection. **Final considerations:** It is evident that, after the legislative changes, there's no certainty that the flexibilization of labor and social security laws will bring favorable results in terms of economic growth, reduction of inequalities, and lower unemployment rates for the nursing workers. Therefore, the political organization of the professional categories is the way to overcome this scenario.

**Descriptors:** Nursing; COVID-19; Employment; Social Vulnerability; Legislation and Jurisprudence.

## RESUMO

**Objetivo:** Refletir sobre as repercussões da Reforma Trabalhista no trabalho em enfermagem durante a pandemia de COVID-19. **Métodos:** Trata-se de um estudo do tipo reflexivo com base nos aspectos legais da Reforma Trabalhista em diálogo com produções científicas acerca do trabalho em enfermagem. **Resultados:** Com a ascensão da pandemia de COVID-19, observa-se o acirramento da flexibilização do trabalho, amparado juridicamente pela Reforma Trabalhista. Para os/as trabalhadores/as da enfermagem, as repercussões dão-se no vínculo de trabalho, na jornada de trabalho, no salário, na atuação sindical e na proteção ao emprego. **Considerações finais:** Evidencia-se que, para os/as trabalhadores/as da enfermagem, após as mudanças legislativas, não há segurança de que a flexibilização das leis trabalhistas e previdenciárias tragam resultados favoráveis para o crescimento econômico, redução das desigualdades e menores taxas de desemprego. Com isso, a organização política das categorias é a via para o enfrentamento desse cenário.

**Descritores:** Enfermagem; COVID-19; Emprego; Vulnerabilidade Social; Legislação Trabalhista.

## RESUMEN

**Objetivo:** Reflexionar sobre las repercusiones de la Reforma Laboral en la enfermería durante la pandemia de COVID-19. **Métodos:** Estudio del tipo reflexivo basado en los aspectos legales de la Reforma Laboral en diálogo con producciones científicas acerca del trabajo en enfermería. **Resultados:** Con la ascensión de la pandemia de COVID-19, observado el provocamiento de flexibilidad laboral, amparado juridicamente por la Reforma Laboral. Para los/las trabajadores/as de enfermería, las repercusiones se producen en el vínculo de trabajo, en la jornada laboral, en el salario, en la actuación sindical y en la protección al empleo. **Consideraciones finales:** Evidenciado que, para los/las trabajadores/as de enfermería, tras los cambios legislativos, no hay seguridad de que la flexibilidad de las leyes laborales y previsiones traigan resultados favorables para el crecimiento económico, reducción de desigualdades y menores tasas de desempleo. Así, la organización política de las categorías es la vía para el enfrentamiento de ese escenario.

**Descritores:** Enfermería; COVID-19; Empleo; Vulnerabilidad Social; Legislación Laboral.

## INTRODUCTION

The Labor Reform refers to the set of new rules established with the reformulation of the Consolidation of Labor Laws (CLT), which came into effect in November 2017 in Brazil. The first Brazilian Labor Reform project emerged in 1991, under the justification of regulating Article 8 of the Federal Constitution. This initiative, at first unsuccessful, became a reality in July 2017, through the approval of Law 13,467/2017, which modified 100 items of the CLT, especially those referring to working hours, salary, types of hiring, and union action<sup>(1)</sup>.

It should be noted that the Labor Reform in Brazil came guided by the expression “modernization of labor relations”, which, in our understanding, aims to meet macroeconomic policies of a neoliberal nature, which have been implemented since 1970 and constantly affect the realm of work<sup>(2)</sup>, because the classical formation of work as jobs has been radically transformed<sup>(3)</sup>. In this context, new forms of labor relations have been introduced, such as temporary contracts, outsourcing, subcontracting, seasonal hirings, and productivity-based pay<sup>(3)</sup>.

The main justification for approving the Labor Reform was to reduce unemployment and fight informality in the labor market. The reduction in unemployment would be due to the increase in productivity and business competitiveness that the new law would make possible, since the hiring of personnel would be faster and with a reduction in tax burden. As a result, the country's economy would grow again. However, a year and a half after its enactment, what was observed was an increase in unemployment and informality, stagnation of the economy, and expansion of job insecurity<sup>(1-2)</sup>.

In Brazil, the first three years of the Labor Reform are marked by the COVID-19 pandemic, caused by the new coronavirus (SARS-CoV-2). In this pandemic conjuncture, workers live with the concern of labor instability, either by loss of jobs or by precarious work ties; and also, with the fear of losing their lives by the virus, being faced with the dilemma between dying from the virus or dying of hunger<sup>(4)</sup>.

The impact of the pandemic on the world economy also affected Brazil. In a country that adheres to intense forms of labor exploitation and unlimited precariousness, even more catastrophic consequences were to be expected. One of the results of this adherence is the constant growth in the number of unemployed and informal workers among Brazilians<sup>(4)</sup>. In the health area, in addition to occupational risks, Brazilian workers still have to deal with the loss of labor rights promoted by the Labor Reform and the economic recession, which favored the extension of various forms of precariousness and flexibility of nursing work.

The need for labor for the care of patients with COVID-19 created many nursing positions, and the filling of these jobs occurred through flexible and temporary contracts to meet the fluctuations of available beds. In this context, the Labor Reform was the main legal device that enabled the hiring of nursing workers intermittently, flexibly, temporarily, and through outsourcing, to supply the necessary workforce for the operation of health services at the most critical moment of the pandemic<sup>(5)</sup>.

In light of this conjuncture, the following question is posed: What are the repercussions of the Labor Reform on nursing work in the context of the COVID-19 pandemic?

## OBJECTIVE

To reflect on the repercussions of the Labor Reform on nursing work during the COVID-19 pandemic.

## METHODS

The theoretical corpus of this reflection is in the field of labor sociology, specifically in studies on labor precarization, based on the theoretical constructs of Graça Druck and Ricardo Antunes. Legal studies on the Labor Reform were also used as a contribution. The authors' experience working in health services and in labor unions also contributed to this reflection. Thus, the design of this article is the reflective research method, which is based on the reflective professional practice supported by the perception of a situation, with the possibility of leading to new ideas about what was experienced<sup>(6)</sup>.

The object of reflection focused on the repercussions of the Labor Reform on nursing work during the COVID-19 pandemic. The main category of analysis was the flexibilization of work and its repercussions on the work relationship, working hours, salary, union action, and job protection.

## REFLECTIONS

In the current economic scenario, the deregulation of markets remains one of the main problems of the global economic crisis. Among these markets is the labor market, which is used by capitalism as a strategy to overcome this crisis<sup>(1-2)</sup>.

In light of this reality, flexibility within the job market also undergoes daily changes, and workers have to get used to living with the fear of labor instability, which was intensified with the COVID-19 pandemic.

The Labor Reform in Brazil was made official through Law 13,467 of July 13, 2017, which went into effect on November 11, 2017, materializing a debate of at least two decades waged by different spheres of society. On one side, the government and business presented the flexibilization of labor relations as a means of modernization. On the other side, labor unions pointed to the same flexibilization as a driver of precariousness in labor relations<sup>(1)</sup>.

The motions for the implementation of the Labor Reform by the national business community, allied with segments of Congress, were made under the allegation that the Brazilian labor legislation, especially the CLT, was outdated and was one of the limitations to the economic development of the country<sup>(1-2)</sup>.

When analyzing the document “101 propostas de modernização trabalhista” [101 proposals for labor modernization], from the National Industry Confederation - CNI, published in Brazil in 2012, Druck<sup>(7)</sup> considers that the argumentation of the most important employer institution of Brazilian industry aims to demolish labor law in Brazil, since it defends the dismantling of the CLT, judged as not consistent with the modernity of labor relations - an obstacle to the freedom of companies to deepen the flexibilization and precarization of labor.

The Center for Union Studies and Labor Economics (CESIT) describes that the Labor Reform, while guising as “legal security”

and as a conductor for the modernization of labor relations, provides the means for companies to regulate the demand for labor to its business logic, decreasing the costs that guarantee stability and security for the worker<sup>(2)</sup>.

Besides making it legal for companies to not be responsible for the workers they hire, the Reform also stimulates and legalizes the transformation of the worker into his/her own entrepreneur, responsible for ensuring and managing his/her survival in a labor world that will remove the already fragile social protection net, creating, as a consequence, a new figure of work, the result of flexibilization and precariousness, the just-in-time work<sup>(1-2)</sup>.

One of the repercussions of the Labor Reform on the quality of life of workers are the changes concerning overtime and compensatory time off<sup>(1-2)</sup>. After the reform, the exceptional nature of overtime was removed and the possibility to negotiate its performance directly with employees was opened. In this way, the company determines the amount of hours it requires from the worker based on its needs and grants them according to its availability, not according to the worker's needs.

In this manner, the worker's workdays can be prolonged, which implies a reduction in his/her time for rest and social interaction. Besides, there is no guarantee of monetary return for the excess hours worked, since the compensation can be done through compensatory time off in up to 18 months.

It is also worth mentioning another loss imposed on workers by the Labor Reform: the inhibition of union actions. As an example, there is an impact to collective labor negotiations, since the Labor Reform introduced 14 items in article 611-A, establishing hypotheses in which collective bargaining and collective agreements will prevail over the law, among them, the definition of unhealthy conditions and the extension of the working day in unhealthy environments. With this, the prevalence of negotiated over legislated, in the absence of other conditions necessary for the full potential of collective negotiations, promotes high risks for the workers<sup>(1-2)</sup>.

In the context of the dismantling of the Brazilian labor legislation, we find the nursing workers, the largest contingent of health workers, who were already living with the situation of flexibilization and precarious work, further impacted by the Labor Reform. Studies on the work in nursing in Brazil indicate that the precariousness of nursing work is expressed by low wages, precarious work ties, high turnover, lack of prospect of career advancement, exposure to violence, discrimination, and accidents<sup>(8)</sup>.

During the pandemic, the process of labor precarization was intensified and remained evidenced under the configurations of fragile bonds<sup>(5)</sup>. The growing need for professionals to promote nursing care to patients due to the pandemic's progression in the country led public and private institutions to carry out the recruitment, selection, and hiring of nursing professionals in a flexible way, through temporary contracts and payment per shifts as a common practice in the current scenario, as well as new labor contracts that agreed to work overtime not by financial compensation, but through compensatory time off<sup>(5,9)</sup>.

The bonds are fragile, there is no job stability, and that is why the workers submit themselves to inadequate working conditions, because they fear losing their jobs. Insecurity due to fear of losing their jobs has pushed nursing workers to remain in

work activities even without the appropriate and/or affordable personal protective equipment (PPE), which culminates in their increased exposure to occupational risks during the pandemic of COVID-19, whose main dissemination vehicle is aerosols. Consequently, many health care workers are affected.

In this scenario, the National Health Surveillance Agency (ANVISA) authorized the flexibilization in the use of disposable PPE, allowing them to be reused. Thus, workers lost the guarantee of the effectiveness of their PPE against contamination, leading to illness by COVID-19<sup>(5,9)</sup>.

During the pandemic, the federal government launched emergency measures that deepened the flexibilization of labor. An example was the publication of Provisional Measure (PM) No. 927/2020, which, in Article No. 14, allows the extension of the workday of health professionals hired under the regime of the Consolidated Labor Laws, with the adoption of scales of supplementary hours ranging from the 13th to the 24th hour between the work interval, providing the compensation of the supplementary workload through complementary time off or overtime, within a period of up to 18 months<sup>(9)</sup>. This PM, in its Article No. 29, considered, at first, the COVID-19 illness as a non-occupational illness, but, later, the opposite was recognized. If this article had not been revoked, this would mean the invisibility of illness and death of nursing workers due to precarious working conditions in the pandemic context.

Another flexibilization measure was the edition of PM No. 936, converted into Law 14020/2020, which authorizes the temporary suspension of the work contract. The nurses who perform managerial tasks (auditing, bed control, continuing education, among others) were the most affected, with reduced salaries and working hours, devaluing an essential job in the context of a pandemic containment<sup>(9)</sup>.

As the pandemic advanced, even more forms of precariousness and flexibilization of nursing workers appeared. The federal government launched the volunteer program "O Brasil conta comigo" [Brazil counts on me], aimed at recruiting labor force, including seniors from Nursing, Physiotherapy, and Pharmacy courses, to face the COVID-19 pandemic. According to the WHO, in Brazil, the density of nurses is 74/10 thousand inhabitants and is above the limit of human resources in nursing needed to assist the population, without a prospect of shortage<sup>(5,10)</sup>.

This means that, unlike the reality observed in European countries and the United States of America, there is no need for volunteer labor force for assistance in the pandemic scenario. The call for volunteer labor during the pandemic of COVID-19 harks back to charitable ideals, which is clearly opportunistic given that there is sufficient labor force to be hired. The devaluation of nursing work was also revealed by the selection processes carried out in the pandemic context in which the salary offered for a workload of 36 hours per week was less than BRL 2,000 (two thousand reais)<sup>(5)</sup>.

There is no evidence that the relaxation of labor laws has brought favorable results for economic growth, reduced inequalities, and lower unemployment rates for workers in the nursing field, after the period of legislative changes. However, there is much evidence that decreasing employment protection exacerbates the proliferation of precarious jobs, increases inequality, and worsens labor market segmentation<sup>(1-2)</sup>.

Such narrative contradictions between legislative reforms that affect labor relations and Brazilian social reproduction remind us of the short story "O Rei da Belíndia: uma fábula para tecnocratas" [The King of Belíndia: a fable for technocrats], by Edmar Bacha (1976), in which the author creates a fictitious country, the result of the junction between Belgium and India, and compares its ambiguities and contradictions: he employs high taxes from the former, which is rich and small, but lives the social reality of the latter, poor and large. Thus, we are reliving the Brazilian reality of the 1970s, when the tale was written, with economic reforms and policies that sharpen income concentration, inequality, poverty, inequity, precariousness, informality, and misery.

## FINAL CONSIDERATIONS

The transformations resulting from macroeconomic policies and of a neoliberal nature have been happening and affecting the world of work. Among the consequences of these transformations is the Labor Reform in Brazil, which occurred in 2017 and brought damage to the working class by legalizing the fragmentation of labor relations, favoring various forms of flexibilization and job insecurity.

In the midst of the global health crisis caused by the COVID-19 pandemic, of unpredicted proportion, there has been

an intensification of the forms of labor flexibilization. Within this context, the vulnerability of nursing workers was enhanced through flexible contracts supported by governmental regulations that deepened work precarization.

The fragility of the labor situation of nursing workers during the COVID-19 pandemic led these professionals to submit themselves to precarious work situations represented by reduced salaries, lack of PPE, prolonged working hours through outsourced, temporary, intermittent, and subcontracted hirings. This increases their exposure to occupational risks that, inevitably, are already aggravated by the pandemic context.

It is known that the political organization of the nursing categories is the way to face this scenario. Although the pandemic context has demonstrated the importance of nursing work, giving new impetus to the struggles of the category (such as the Wage Floor and the 30-hour workday), it is necessary that the confrontation of job insecurity and flexibility becomes an organic agenda of the political organization of workers through their unions, based on relations of unity and solidarity.

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