



ASSOCIAÇÃO BRASILEIRA DE ERGONOMIA

Revista Ação Ergonômica

www.abergo.org.br



CONSEQUENCES OF TELECOMMUTING IN BRAZIL IN LIGHT OF LABOR REFORM

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ABSTRACT

As a result of technological advances and changes in society, new modalities of work arise, such as telework. Telework is a modality that has been disseminated throughout the world as an alternative to the conventional ones, raising questions about its consequences for the worker. In Brazil, the regulation of telework occurred with the labor reform, which was made in 2017. The present article had the objective of analyzing the current Brazilian legislation regarding telework, from the labor reform, seeking to understand possible relations between the changes made in the CLT and the consequences of telework. For this, a bibliographical research was carried out with the objective of raising the main consequences of telework for the worker, complementing it with semi-structured interviews. The analysis brought some questions that should be considered, especially in relation to the inclusion of telework in the list of activities that are not subject to the control of working hours and the lack of rules discriminated in the regulation of the modality. Future studies may empirically analyze the work relationships in the teleworking activity, under an organizational bias.

KEYWORDS: telework; labor reform; consequences

1. INTRODUCTION

The growing technological advances, coupled with social and economic changes, have driven transformations in the ways people live and work. Telecommuting is one of the paradigms that has emerged in this context, spreading in Brazil and worldwide as an alternative to conventional forms of work. As a relatively recent modality in Brazil, telecommuting raises questions about potential consequences for the workers. Until the labor reform, which came into effect in October 2017, telecommuting did not have specific legislation under labor laws. Although the Consolidation of Labor Laws (CLT) already contained a provision that served as a normative basis for telecommuting, it was only with the reform that the modality was explicitly detailed in the CLT. In addition to introducing a specific chapter on telecommuting, the reform also included telecommuters among the employees exempt from mandatory time tracking. In light of these recent legislative changes, this article aims to understand the current state of labor legislation regarding telecommuting, alongside the consequences of the modality in Brazil, in order to predict possible implications of the labor reform. To achieve this, a bibliographic research was initially conducted to gather empirical publications attesting to the consequences of telecommuting in Brazil, complemented by semi-structured interviews with five telecommuters.

2. ORGANIZATIONAL ERGONOMICS AND TELECOMMUTING

Ergonomics, according to the International Ergonomics Association (IEA, 2018), is subdivided into three areas or domains of specialization, namely: Physical Ergonomics, Cognitive Ergonomics, and Organizational Ergonomics. Physical Ergonomics focuses on the characteristics of human anatomy, anthropometry, physiology, and biomechanics in relation to physical activity. Cognitive Ergonomics studies mental processes such as perception, memory, reasoning, and motor response in their relationship with interactions between humans and other elements of a system. Organizational Ergonomics examines the optimization of sociotechnical

systems, encompassing the study of organizational structures, policies, and processes. Among the objects of study in Organizational Ergonomics are communication, job design, teamwork, new work paradigms, and telecommuting.

Telecommuting is defined by the International Labour Organization (ILO, 2016) as a form of work performed remotely from the central office or production site, where the worker does not have direct contact with colleagues, and communication is facilitated by technology. There is no consensus in the literature on the conceptualization of telecommuting, given its complexity involving numerous variables and being studied by various disciplines, alongside the constant emergence of new forms of work. The ILO's intentionally broad definition (ILO, 2016) is common, but additional requirements are often added to characterize telecommuting, as seen in the definition by the European Framework Agreement on Telework, which requires a regular employment contract or relationship (ILO, 2016). This latter definition will be adopted in this study. Telecommuting is a relatively recent modality in Brazil and has been increasingly prevalent in both practice and scientific literature, particularly in the last decade

3. BRAZILIAN LABOR LEGISLATION

In Brazil, employment relationships are regulated by the Consolidation of Labor Laws – CLT (BRAZIL, 1943). The prerequisites that define an employment relationship include: services provided by a natural person, personalization, non-occasional nature, subordination, and remuneration. Brazilian legislation is also complemented by publications from the Ministry of Health focused on workers, as well as Regulatory Standards (NRs) from the Ministry of Labor and Employment (MTE), and social security legislation.

4. METHOD

The research began with a literature review, aiming to identify the most frequently mentioned aspects as consequences of telecommuting for the worker. In this phase, publications from 2008 onwards were sought, focusing on empirical evidence of the consequences of telecommuting. Subsequently, five interviews were conducted with telecommuters in September and October 2018, two conducted in person and three through video calls, with two of the interviewees being abroad. The interviews were conducted in a semi-structured format. Initially, information was gathered regarding the telecommuters' contract type, the type of control (by hours or by results), the work location, and the frequency of telecommuting. Next, the workers were questioned about the main features they valued in telecommuting and that were important for their job satisfaction, as well as their overall opinion on the modality. Then, a framework, illustrated in Figure 1, was presented with various general and specific aspects of telecommuting that could influence these workers' satisfaction. Based on this framework, the interviewees were asked about the alignment of these aspects with their individual experiences. It is noteworthy that not all interviewees are employed under CLT (Consolidação das Leis do Trabalho), but all of them exhibit characteristics that constitute an employment relationship

Figure 1: Aspects of Telecommuting

NATUREZA DO TRABALHO	EQUIPE DE TRABALHO	SUPERVISÃO/ GESTÃO	CARREIRA E OPORTUNIDADES	PAGAMENTO E BENEFÍCIOS	EQUILÍBRIO ENTRE TRABALHO E VIDA PESSOAL/FAMILIAR	ESPAÇO FÍSICO E CUSTOS
Variedade de tarefas	Relacionamento com os colegas de trabalho	Sentir-se incluído nas decisões que afetam o seu trabalho	Oportunidades de promoção	Salário	Interferência da família no trabalho	Condições físicas do trabalho
Carga/volume de trabalho	Confiança nas pessoas da equipe	Relacionamento com chefia imediata	Influência do teletrabalho nas possibilidades de promoção	Salário justo pelo trabalho que realiza	Isolamento social	Suporte da empresa em relação a equipamentos
Quantidade de horas trabalhadas	Qualidade do trabalho desempenhado pela equipe	Informações que recebe da gerência sobre o que acontece na empresa	Realização profissional	Benefícios além do salário	Interferência do trabalho nas relações pessoais ou familiares	Suporte da empresa em relação a espaço físico
Autonomia na organização do trabalho	Colaboração na equipe	Qualidade do trabalho da chefia imediata	Vontade de continuar no trabalho atual		Isolamento profissional	Custos do teletrabalho em relação à modalidade presencial
Flexibilidade de horários	Comunicação entre membros da equipe	Suporte emocional			Realização pessoal	
Trabalho em si	Visão dos colegas presenciais sobre o teletrabalho	Comunicação com chefia imediata				
Informações necessárias para desempenhar o trabalho		Controle do teletrabalho				
		Reconhecimento pelo trabalho realizado				

Source: The authors

5. RESULTS

5.1. TELECOMMUTING IN LABOR REFORM

Since 2011, CLT already included Article 6, which stated the following: 'There is no distinction between work carried out at the employer's establishment, performed at the employee's domicile, and work performed remotely, provided that the prerequisites of the employment relationship are characterized' (BRAZIL, 1943). With the labor reform instituted by Law 13,467 (BRAZIL, 2017), telecommuting was specifically included in the CLT, defining it as 'the provision of predominantly off-site services, using information and communication technologies that, by their nature, do not constitute external work.' The chapter regulating telecommuting specifies that provisions related to equipment, infrastructure adaptation, and possible expenses related to telecommuting should be governed by contracts. Regarding precautions to prevent potential illnesses or accidents arising from work activities, the provision suggests employee training, requiring them to sign a responsibility agreement committing to follow instructions. In addition to the provisions in the specific chapter dedicated to the modality, other articles also mention telecommuting. Article 611-A, for example, determines, except for exceptions provided in labor legislation and the Federal Constitution, the prevalence of collective labor conventions and agreements over the law, especially concerning telecommuting. Another change resulting from the labor reform was the inclusion of telecommuting in Article 62, which addresses workers not subject to working hours control.

5.2. CONSEQUENCES OF TELECOMMUTING FOR WORKERS

The implications, advantages, and disadvantages of telecommuting are a recurring subject in both Brazilian and foreign literature, explained by the unique characteristics of this modality. Campbell and Heales (2016), following the path of

Gajendran and Harrison (2007), relied on the literature to understand how the consequences of telecommuting for workers are structured. Through factorial analyses, the authors identified six factors that encompass positive or negative consequences: effectiveness, self-confidence, working with others, work pressure, professional image, and physical aspects (CAMPBELL; HEALES, 2016). The consequences of telecommuting found in Brazilian literature are similar to those presented in publications from other countries. The main positive and negative consequences can be found in Table 1.

Table 1: Consequences of Telecommuting

Consequences	Authors
Flexibility	Alves (2009); Pereira Junior e Caetano (2009); Nohara et al. (2010); Rosenfield e Alves (2011); (Rafalski e Andrade (2015); Aderaldo, Aderaldo e Lima (2017)
Autonomy	Aderaldo, Aderaldo e Lima (2017); Rosenfield e Alves (2011)
Quality of Life	Aderaldo, Aderaldo e Lima (2017); Pereira Junior e Caetano (2009); Barros e Silva (2010)

Time Savings in Commuting	Nohara et al. (2010); Aderaldo, Aderaldo e Lima (2017); Rafalski e Andrade (2015);
Financial Savings on Commuting and Clothing	Mello (2011); Rafalski e Andrade (2015); Barros e Silva (2010)
Work-Life/Family Balance	Nohara et al. (2010);); Pereira Junior e Caetano (2009); Barros e Silva (2010)
Excessive Working Hours	Alves (2009); Pereira Junior e Caetano (2009); Rosenfield e Alves (2011)
Lack of Visibility	Aderaldo, Aderaldo e Lima (2017); Rafalski e Andrade (2015); Barros e Silva (2010)
Social and Professional Isolation	Aderaldo, Aderaldo e Lima (2017); Pereira Junior e Caetano (2009); Rafalski e Andrade (2015); Rosenfield e Alves (2011)
Increase in Domestic Consumption	Barros e Silva (2010)
Conflicts Between Work and Family/Personal Life	Aderaldo, Aderaldo e Lima (2017); Rafalski e Andrade (2015); Barros e Silva (2010); Nohara et al. (2010); Rosenfield e Alves (2011)

Source: The Authors

From the interviews, it was observed that none of the interviewed telecommuters mentioned training or capacity-building offered by the company, and only one of them, Interviewee 4, states that the company provides equipment (laptop) to those who want it. Five of the interviewees follow fixed working hours, one of them part-time, and one interviewee works based on productivity. The main advantages reported are autonomy (Interviewee 1), flexibility (Interviewee 2; Interviewee 3; Interviewee 4); concentration or focus on work (Interviewee 1; Interviewee 4), and time-saving in commuting (Interviewee 3).

Regarding the feeling of social isolation, Interviewees 1 and 2 mention that they often miss social interaction but try to compensate for this feeling with visits to clients, the company, or leisure moments. Interviewee 4 states that the company tries to overcome personal isolation through virtual resources, encouraging, for example, discussions on non-

work-related topics and virtual leisure moments among workers.

Regarding difficulties in adopting telecommuting, Interviewee 2 comments: 'the first difficulty I had was a kind of moral difficulty.' According to the interviewee, this mainly occurred when there was some free time between the end of one job and the start of another. This statement can be complemented by the reports of Interviewees 1 and 4 regarding a certain discomfort with what would be the 'look of others' on telecommuting, which can come from both colleagues and people in their social circle. Interviewee 2 and Interviewee 4 highlight the issue of potential interference from work in the personal/family life of the telecommuter. Interviewee 4 reports previous experiences in other companies where telecommuting led to excessive work and weekend work, negatively impacting family relationships and personal/family plans. There is also a concern about 'educating' family members about the worker's non-availability, as despite being in a residential environment, they are engaged in work activities (Interviewee 2; Interviewee 5). The issue of worker availability is also raised by Interviewee 2, who states that telecommuting can lead to contacts at inconvenient times, for example. Three interviewees (2, 4, and 5) mention what can be interpreted as a certain 'profile' that the worker should have for successful telecommuting, presenting characteristics such as organization or discipline.

6. DISCUSSION

A labor reform sought to regulate telecommuting in detail, which may assist in the legal certainty of the employer, as there were previously doubts regarding the rules that would apply to this modality. The regulation of telecommuting can also be considered beneficial since, at the time of signing the Work and Social Security Card (CTPS), the employee automatically becomes covered by social security and is also covered by labor and social security legislation.

The fact that telecommuting is still a relatively recent modality brings some inconsistencies in the literature related to its consequences. The issue of costs, for example, is addressed in two ways in the literature: as an advantage, mentioning possible savings for the worker, and as a disadvantage, suggesting a transfer of costs from the organization to the telecommuter. Information is also contrasting regarding the balance between family or personal life and work, appearing sometimes as a positive consequence and sometimes as negative when some authors mention potential conflicts arising from the permeability of boundaries between work and personal life. These issues are also corroborated by the interviewees. The issue of excessive working hours appears repeatedly in the literature and in one of the interviews. The inclusion of telecommuters among workers not subject to

mandatory working hours control deprives them of the right to overtime and other labor-related benefits, such as night differentials, the possibility of compensatory time, flexitime, among others. Moreover, the lack of control raises concerns about the number of hours worked and the organization of work by the worker, which can have consequences due to overwork, as well as interference in personal or family life. Although, among the interviewees, only one works based on results, not hours, it is common for telecommuters to be subject to this type of control through goals to be achieved. This is also a significant issue as some workers may be inclined to work excessively for some potential reward, or there may be a decrease in deadlines and an intensification of work, a trend highlighted by Rosenfield and Alves (2011) and Alves (2009). Despite addressing issues related to equipment, infrastructure, and prevention of work-related diseases, there is a lack of specificity in these rules. Therefore, it is up to the employee and the employer to regulate these issues, which can lead to greater flexibility in the employment contract, potentially disadvantaging the telecommuter, who is the weaker party in the employment relationship.

7. CONCLUSION

This article aimed to analyze Brazilian legislation regarding telecommuting after the labor reform, seeking to understand the relationship between the changes introduced by it and the consequences of telecommuting identified in the literature and through interviews with telecommuters. The regulation of telecommuting brought benefits for both employees and employers; however, it also raised issues that require careful consideration. The absence of the obligation to control working hours in telecommuting is one of these issues, especially considering that excessive working hours and the negative interference of work in personal/family life are frequently raised consequences. As it is recent legislation and a modality in constant growth, it is necessary to monitor these workers to assess their implications. Future studies may investigate, from an organizational perspective, the characteristics of employment relationships in this modality.

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