



Working on digital platforms

Trabajando en plataformas digitales

O trabalho em plataformas digitais

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Abstract

The aim was to discuss the work on digital platforms. To this end, it addresses labor relations in the information society, explains the new figures of explains and explains what is conventionally called uberization, emphasizing the uncertainty and instability to which workers are exposed. For the development of this research, as a methodology, we opted for the bibliographic research carried out in legislations, doctrines, articles and other academic research that could add knowledge to the subject under analysis, allowing concluding that the flexibility observed in the works developed in digital platforms, usually implies in precariousness of labor relations. There are no guarantees and no right guaranteed to the worker who starts to receive for what he produces, which generates insecurity and discouragement. However, it is believed that this is a trend that is here to stay. Perhaps it is a way of mitigating unemployment, but there is no doubt that, in terms of rights, it implies serious setbacks.

Descriptors: Working Environment; Technology; Teleworking; Working Conditions; Work-Life Balance.

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Resumén

El objetivo fue discutir el trabajo en plataformas digitales. Para ello, aborda las relaciones laborales en la sociedad de la información, explica las nuevas figuras de explica y explica lo que convencionalmente se denomina uberización, haciendo hincapié en la incertidumbre e inestabilidad a la que están expuestos los trabajadores. Para el desarrollo de esta investigación, como metodología, se optó por la investigación bibliográfica realizada en legislaciones, doctrinas, artículos y demás investigaciones académicas que pudieran sumar conocimiento al tema en análisis, permitiendo concluir que la flexibilidad observada en los trabajos desarrollados en las plataformas digitales, casi siempre implica en la precariedad de las relaciones laborales. No hay garantías ni derecho garantizado al trabajador que pasa a recibir por lo que produce, lo que genera inseguridad y desánimo. Sin embargo, se cree que esta es una tendencia que llegó para quedarse. Quizás sea una forma de mitigar el desempleo, pero sin duda, en términos de derechos, implica serios retrocesos.

Descriptor: Ambiente de Trabajo; Tecnología; Teletrabajo; Condiciones de Trabajo; Equilibrio entre Vida Personal y Laboral.

Resumo

Objetivou-se discutir o trabalho em plataformas digitais. Para tanto, aborda as relações de trabalho na sociedade da informação, explica as novas figuras de explica e explica o que convencionou-se chamar de uberização dando-se ênfase à incerteza e instabilidade à qual os trabalhadores estão expostos. Para o desenvolvimento desta pesquisa, como metodologia, optou-se pela pesquisa bibliográfica realizada em legislações, doutrinas, artigos e outras pesquisas acadêmicas que pudessem agregar conhecimento ao tema em análise permitindo concluir que a flexibilização observada nos trabalhos desenvolvidos em plataformas digitais, quase sempre implica em precarização das relações de trabalho. Não existem garantias e nenhum direito assegurado ao trabalhador que passa a receber por aquilo que produz, o que gera insegurança e desalento. No entanto, acredita-se que esta é uma tendência que veio para ficar. Talvez seja uma forma de mitigar o desemprego, mas não restam dúvidas, em termos de direitos, implica em sérios retrocessos.

Descritores: Ambiente de Trabalho; Tecnologia; Teletrabalho; Condições de Trabalho; Equilíbrio Trabalho-Vida.

Introduction

Prior to the problems of the notion of legal subordination, there is the current scenario of crisis in Labor Law. The last thirty years were troubled for jus-laboralismo, especially by the robust return of the old liberalism and by the symbolic force of the new forms of work and their dynamics of autonomy. The then indisputably protectionist Labor Law had to assimilate flexibility, either by complying with the labor reform or by observing the current doctrine, or by accepting more flexible practices by jurisprudence.

These changes in the productive systems have given rise to a context of discussions in the law, mainly from what is called new forms of work. The new forms of work are precisely taxed in this way because of their mismatch with more orthodox forms of work – the classic Fordist employee under intense direction and supervision – once well normalized by the old Labor Law. It takes care of a legal reengineering arising from the productive reengineering that interferes in the Brazilian labor market, which was already characterized by informality, illegality and unemployment.

The changes in the world of work, summarized in the idea of post-Fordism, give rise to profound changes in employment contracts, as they intend to demean labor relations and the social achievements obtained in the context of strong unionism and the Welfare State. To do so,

they forge an attack on the employment contract, that is, there are no labor ties¹.

Having made these initial clarifications, the present study aims to discuss work on digital platforms. It is a relevant, current topic of interest to society, because, nowadays, flexibility is increasingly imposed, giving rise to new formats of jobs. The topic is widely discussed and although some scholars defend flexibility as an alternative to unemployment, the vast majority see a growing precariousness of labor relations and rights.

For the development of this research, as a methodology, we opted for the bibliographic research carried out on legislations, doctrines, articles and other academic research that add knowledge to the topic under analysis.

Labor relations in the information society

Work is at the base of the social structure, being a determining factor for several issues of human life. For this reason, the impacts resulting from the transformations imposed by the technological paradigm reflect substantially on the way in which work is carried out, as well as on its organization, which remains in constant transformation.

According to studies, there are references to the contemporary period, the Information Society, as “liquid modernity”. This period resulted from the transition from a “solid-society” to a “liquid-society”, or fluid. The term



“liquid”, for the author, refers to the idea of fluidity that is, the liquid-society, as well as the various aspects of liquid-modernity, cannot maintain themselves in stable forms for a long time, remaining in continuous mutation. Thus, we have an extremely fluid and flexible society².

Characterized by unstable desires and insatiable needs, the liquid society is not compatible with long-term planning and storage. Goods tend to lose their value more quickly, becoming obsolete, and consumer desires tend to change continuously².

In the context of the trends of this liquid society, there was a modification of the work, to adapt to the trends of the new society. Companies began to look for floating or flexible employees, without emotional ties and capable of adapting their inclinations, readjusting themselves to new priorities².

Added to the fact that companies are interested in a more flexible category of workers, the insertion of technologies in labor relations reconfigured the exercise of work, enabling faster and easier execution of tasks and being decisive in the ability of companies to innovate and competitiveness. In addition, technologies provide the structure capable of enabling the flexibility and decentralization of the workforce, as well as adaptability throughout the production process, elements that are of greater relevance in contemporary times³.

The labor market, over time, has been divided into three main sectors: agriculture, industry and services. It is observed that, until the mid-1800s, there was a preponderance of agriculture. After the Industrial Revolution, there was an increase, in particular, in the industrial sector. In the last decades, the increase was registered in the service sector⁴.

Service, in this context, is “all the work that a person needs and cannot, does not know or does not want to do for himself at a table, that is, it covers a wide category of professionals, from hairdressers, waiters, to lawyers, teachers. The increase in the respective sector refers both to the number of people who started to work in the activities designated by this sector, and to the increase in income. For this reason, the service sector, which has existed since the first civilizations, has gained considerable prominence in the Information Society, surpassing the sector of agriculture and industry^{4,5}.

It is also possible to observe profound transformations in the classification of labor relations. According to studies, it was identified, in this context, the consolidation of three categories of salaried work. The first, the “stable salaried workers”, houses specialized workers, whose activities are related to the creative and strategic sectors. The second category also covers specialized activities, however, workers would be unskilled manual workers, whose employment contracts are atypical, as is the case of temporary and fixed-term work. Finally, the third category refers to “single” workers, embodied in service providers or employees, self-employed and contracted to perform non-strategic activities⁶.

Studies refer to a division of workers, resulting from the increase in planned production, characteristic of this

period. Workers would be sectorized, therefore, based on who is responsible for directing the activity and who is responsible for executing it. Depending on the category in which he belongs, the worker will perform his activities according to specific conditions and form of organization⁷.

The self-employed

As an antagonistic concept of the employee, self-employment makes up the other facet of the possibilities of personal work in capitalist society. According to how it is conceptualized in the study, the self-employed is the worker who develops his activity with his own organization, initiative and discretion, in addition to choosing the place, the way, the time and the form of execution. In this concept, two characters are outstanding: property and organization. As the holder of the necessary means for his activity, this worker, as a condition of action, must organize and direct his activity. This is the simple, although enlightening, concept of self-employment, even adopted in social security legislation⁸.

The professions of fairground, professional fisherman (defined in Art. 1 of Law No. 10.779/2003) and auctioneer (Decree No. 21.981/1932) are examples, a priori, of autonomous work situations. In all these situations, the worker organizes his activity, holding a property – even if it is very small – to carry out his professional activity. When you hire a self-employed worker, you buy a good/service and not its workforce.

It is worth noting the paradigmatic situation of autonomous vehicle drivers. Law No. 6.094/1974 created the figure of the autonomous driver assistant, stipulating that, in relation to the owner-driver, there is no employment relationship. In this case, there is a situation of partial leasing of the property in favor of the auxiliary, during the period in which the owner-driver is not driving his vehicle. However, this partnership between a worker-owner and another worker-non-owner naturally tends to form a relationship of dependence.

The criteria for remuneration (percentages of production) or costing (daily, mileage, fuel and other costs) are normally set by the owner, precisely because the distinguishing note (ownership) allows him to establish the working conditions, while, at the same time, another, non-owner and driven to work to survive, will have to accept these conditions. Thus, dependence occurs regardless of the manifestation of orders or the exercise of punitive power, even if the legal formula is that of the lease⁹.

In order to avoid this dependence, the partnership between the driver and his assistant could not allow the appropriation of the assistant's work by others, by setting limits to the vehicle rental values and eliminating the other abusive clauses, with both partners acting as workers. However, the owner of the vehicle, realizing the notorious possibility of accumulating, tends to stop his activity of driving the vehicle to, now full time, rent it to other assistants, as he will earn more by doing less, only in the name of his property.

This is the common situation of taxis and their rental systems for daily rates by the owner of the vehicle and



the license. License ownership is so expensive that it always entails a dissociated relationship between the owner of the vehicle (who normally does not drive) and the driver. The patrimony of the first gives rise to a “partnership” with the second: one hands over the property; the other, work. Thus, there is the rent/lease of the vehicle by the owner – who does not drive – to the assistant driver, who only delivers his work in favor of the owner of the means of production (vehicle). It is in a real employment relationship, that is, it is the classic salaried employment relationship.

In these taxi cases, the inquiry by the classic subordination is irrelevant for the verification of the salary status. Although it is possible to residually identify manifestations of service management or punitive power, the concrete situation goes beyond the notion of hierarchical subordination. The driver has technical autonomy, being able to perform his services (driving the vehicle) without hetero-direction, as well as not needing to have time supervision. If you do not perform your duty (not driving), you will receive the greatest possible punishment: you will have to pay the daily rate out of your own pocket, even if you have not obtained customers that day. Therefore, the legal subordination in this case is non-existent, although the dependence is present⁹.

It appears that the formal insinuation or the appearance of autonomy in the provision of services has served as a mechanism for distancing the recognition of the employment relationship.

Therefore, technical autonomy or the absence of a rigid hierarchy are no longer constitutive traits of current wage employment. The occurrence of these symptoms does not remove the characterization of work “under dependence”, however, it does not allow the typical relationship of salaried work to be subsumed under the hegemonic doctrinal concept of subordination.

It is noticed that the plurality of borrowers is inherent to self-employment, precisely because, when directing its activity, it must seek the largest number of contractors to, increasingly, expand its production and its resulting economic benefit. However, the inverse thinking is not correct, as the employee is not necessarily characterized by monism in the borrower pole. Thus, the exclusivity of a personal job only serves to deny the autonomous character of this service, given that autonomy was realized in the plurality of policyholders. Exclusivity is a consequence of subordination, so its manifestation implies the existence of an employment relationship. “The exclusivity of the provision of work is not exactly a condition for the existence of the employment contract, but, rather, a normal result of the state of subordination that this contract creates for the employee”¹⁰.

Thus, the self-employed person can be thought of as someone who, working personally, has technical mastery combined with ownership over the means of production (ownership). If you only have the technical domain (specialization, skill, profession), you can be absorbed by a company when you work only for it. The economic question, then, is the distinction between autonomy and dependence, since technical mastery alone does not guarantee autonomy.

Telework and parasubordination

Nowadays, the aforementioned technology has dispensed, for a considerable number of workers, the displacement to the establishment of the taker of their services. The displacement, in contemporary times, is carried out by the information produced by the worker, via telecommunication. Thus, telework rises in the scenario of new forms of work, without, however, implying social advances for teleworkers.

In this externalizing context, work outside the business establishment reappears as a form of work for others. Contemporary society, articulated by virtual global interaction, physically suffers numerous problems of displacement, notably in large metropolitan regions, in addition to the complexity of demands and their diversities of origins require great mobility and agility in the ways of producing. In this way, a great tendency to use work outside the company is detected, including the rescue of work at home⁹.

In this step, telework can be understood as that carried out outside the establishment of the service taker through the transmission of production (information) through technological means. In its various concepts, telework presupposes that the means of transmission of the result of the work is technological communication. It is noticed that the physical displacement of the employee from the workplace to the company is replaced by the displacement of information and production, via communication technology. In this sense, not all remote work will be considered telework, but only when using communication technology for its operation. For this reason, large communication, insurance and financial companies were the first to manage telecommuting⁹.

Finally, telework can take place at the worker's home, as part of home work. The distinction between telework and home work is complex, as there may be telework at home or in telecentres. The characterizing element of telework is not the place of work, as with home work, which necessarily requires this to take place at the worker's residence. In telework there is connectivity through technology that supplies the physical connection between the workplace and the employer's establishment¹¹.

In other words, the figures of work from home and telework are different, although they can be confused when the teleworker develops his job at home. It should be noted that teleworking is a way of structuring the company or part of the production process, an expression of directive power, not defining, by itself, the existence or non-existence of an employment relationship. Therefore, telework can be legally identified as a common employment contract (in telecentres), a home employment contract (when carried out at the worker's residence) and a contract for the provision of services by a self-employed worker⁹.

In this perspective, the big question of this way of organizing work is to recognize that its foundation is different from the classic form of subordination, that is, its way of organizing work suppressed the common way of manifestation of legal subordination, that is: the emanation of orders directly, in person and personally by the



hierarchical superior. There is a depersonalized and automated subordination, since “[...] the instructions and orders no longer come directly from the people who have the power of direction and control, but from programs”¹².

However, there is a technical possibility of control in telework, including in periods out of work, through appropriate software for this purpose. Such symptoms of teleworking allow the questioning of the distinction between means and end obligations to identify subordination. It is perfectly possible that in subordinate work – and teleworking is a good example – employer control is not exercised during the performance of the activity, but rather over the results. In any case, it is a control that is also deferred from the classic control of personal subjection¹³.

On a similar level of innovation, one comes across the figure of parasubordination. The idea presupposes that the criterion of application of Labor Law does not exist, given that the processes of externalization of the organization of production tend to constitute a periphery of workers (legally regarded as autonomous), although encompassed and linked, as to the result and other obligations, to the business enterprise⁹.

The characters of parasubordination are continuity, personhood and coordination. The characteristic of continuity is similar to the national doctrinal conception of non-event. In this sense, personal service must occur with a certain frequency and regularity. In fact, the coordination relationship would only be revealed by repeated benefits (continuity), excluding from the parasubordination relationships those single autonomous personal benefits, as they are occasional and sporadic.

Functional bonding is the measure of the coordinating or collaborating relationship. In this case, there is no clear and obvious hierarchy between the employee and the borrower. It is up to the employee to provide his services with some autonomy regarding the way of doing it (time, place of work and help from third parties), however, he is subject to delivering the result in the standards defined by the borrower (object, quality, quantity, material- press and accessories). In comparison, the para-subordinate is more subordinate in the result than the self-employed and more autonomous in the way he works than the subordinate worker⁹.

The small amount of autonomy of the para-subordinate worker comes from the power to organize their collaborative work, apparently removing the possibility of configuring the employment relationship due to the absence of directive power. Little is the autonomy, because this power of organization is limited to executing the productive pattern of the one who, effectively, controls the productive process in its entirety: the service taker. It is the borrower who, necessarily, predetermines parts of the productive stage delegated to the employee. This demonstrates the pseudo or limited autonomy of the parasubordinate worker.

From the majority concept of subordination, it appears that the concept of subordination, once broad, had already been reduced to a diminutive version, subordinated to strong heterodirection, long before the idea of

parasubordination was considered. Therefore, one cannot agree with Lorena Porto, who asserts that parasubordination resulted in the reduction of the concept of subordination. Contrary to being a theoretical obstacle, parasubordination does not limit Labor Law, but demonstrates the insufficiency of subordination and shows the rescue of economic dependence^{13,14}.

Unlike these interpretations that blame this new figure, parasubordination in Brazil only came to confirm the existing insufficiency of the concept of subordination. This is because the objective conception of subordination has always been incipient in jurisprudence and minority in doctrine, not losing ground when parasubordination arrived. Conversely, the figure demonstrates that it is necessary to return to the broader concepts of subordination, precisely because there is, once again, dependent work under the prism of pseudo-autonomy. It should be noted that it is the practices of externalization in the context of post-Fordism that justify the creation of autonomous forms of work excluded from the employment framework.

It so, happens that the degree of economic dependence of these para-subordinates, in some cases, is such that the labor legal system itself was quite affected, as it did not affect a considerable contingent of workers already considered self-employed - behold, the concept of subordination of power-punishment has already it was hegemonic – although these workers were ontologically in the same situation of hyposufficiency that legitimized the creation of Labor Law. In other words the attempt to protect parasubordinates is symptomatic of the teleological crisis of tutelary law, which, until then, was unable to fulfill its purpose⁹.

The misused use of parasubordination in Italy does not affect the finding that the regulation of parasubordination means the recognition of the insufficiency of the prevailing concept of subordination. On the contrary, it only confirms that the previous concept was so insufficient that it was necessary to think of a new regulatory framework, a new *fattispecie*¹³.

The figures of teleworking and parasubordination denote the new realities of the world of work. However, they bring in their history a direction of escape from labor protection, precisely because they do not fit into the predominant definition in the dogmatics of legal subordination. Unfortunately, they have served to circumvent the fundamental rights of work, in complete disagreement with the contemporary defenses of the dignity of the human being and of being a worker⁹.

Working on digital platforms: uncertainty, instability and uberization

The scenario of the Brazilian labor market, despite the growth of formal wage earning in the first decade of the 21st century and the return to the crisis from 2015, remains heterogeneous, including flirting with the precariousness of unregistered wage earning. Even in the period of economic growth and creation of new jobs between 2006 and 2014, the regulatory framework for the sale of the workforce still did not apply in a hegemonic way to the group of workers. In



this particular, the post-Fordist pattern is very similar to the past: instability and uncertainty persist, under the dependence of capital⁹.

In its beginnings, capitalist industrialization produced a miserable condition of life, even worse than indigence, because it affected a much larger number of people. This indigence, which is not due to the absence of work, but to the new organization of work, that is, to the 'liberated' work. It is the daughter of industrialization. It was the first pauperism, which forged the context of the social question¹⁵.

Precisely that initial context of industrialization is marked by the instability of work. The instability of work, the lack of qualification, the alternation of employment and non-employment, unemployment characterize the general condition of the nascent working class¹⁵. The practices of the present can, therefore, be easily recognized as a return to the initial pauperism of capitalism, in which the intense exploitation of human labor prevailed with few or even no limits by the legal system.

The current scenario, which justifies the 2017 labor reform, ideologically built a social issue in reverse, since the artificial social clamor is that of autonomy, flexibility and collaboration. In the name of protecting the company and promoting competitiveness, the most extensive amendment to national labor legislation was carried out, with more than one hundred changes made by Laws No. 13.429/2017, No. 13.467/2017 and by the expired MP No. 808/2017

The rules and institutes incorporated precariousness within the legality, in addition to flexibilizing or even eliminating several protective rules. With Law No. 13.467/2017, teleworkers are removed, a priori, from the working day regime (Article 62, III, of the CLT) and assume the costs of equipment and other expenses for work (Article 75 -D of CLT). Certain employees, with a reasonable salary, are authorized to negotiate the rights provided for by law (Article 444, sole paragraph, of the CLT) as if they were equivalent to unions. An attempt is made to validate self-employment only through the formal provision of a self-employed contract (Art. 442-B of the CLT). The figure of the intermittent person is created who is not entitled to a monthly minimum wage and who bears the business risks of lack of demand, but who, if he fails to call, will pay a fine to his employer (Arts. 452-A and its §§).

In parallel, the labor reform extends outsourcing to all activities, including providing for the hiring of workers via legal entities (art. 5-C of Law No. 6019/1974). The new legislation makes it clear that quarteirization would be lawful, since §1 of Art. 4-A of Law No. 6,019, with the wording given by Law No. 13,429/2017, indicates that the provider company could subcontract. This expansion of outsourcing is a typical example of wanting to take back the experience of intermediation of labor via the "gato" that still inspires current outsourcing¹⁴.

The consequences of this intermediation of labor are all too well known low wages, risk of default by the intermediary, difficulties in holding the borrower accountable. There is an intense exploitation of labor by the borrower from an indirect relationship⁹.

In fact, such past, present and probably future situations indicate that capital has never resignedly accepted the social limits imposed by the State. Karl Marx narrated several practices of fraud against the law as early as 1845. Currently, work continues without registration, with unpaid overtime and other series of evasion of Labor Law. Despite being a legal obligation, the Labor Law, whenever possible, tends to be withheld by capital, as it is an obstacle to the extraction of wealth at work, as it acts as a cost in capitalist production. Precisely because it partially contests the rationality of maximum profit extraction, labor legislation has a propensity, according to the circumstances of the concrete situation, to be disregarded¹⁶.

With the advent of communication platforms, the pattern of precarious work is reproduced now articulated with technology, in particular with the algorithm, wrapped in the (false) discourse of the sharing economy. Despite advertisements for connection, involvement with the local community and shared use ("what's yours is mine"), platform business models such as Uber and Airbnb have been business and economic success stories. precisely because it is situated in a field of unregulated activity:

"Start with informal exchanges (giving a friend a ride, borrowing a drill, running some errands for the neighbor) and use the connecting force of the internet to scale this so that we as individuals can increasingly count on each other. and less with distant, faceless corporations. Every exchange helps someone make a buck and helps someone save a little time: what's not to like? By participating in this movement, we help build our community, instead of being passive, materialistic consumers [...]"¹⁷.

The Uber platform is perhaps the best known in Brazil among the existing digital platforms. It is an application that involves the individual transport services of people. Thus, it is defined in the study that UBER is an application that can be downloaded on smartphones through download and consists of a digital platform that allows users - consumers - to contract individual transport services for people directly with providers, which would be the drivers¹⁸.

It is inserted within a model called two-sided-markets or multi-sided platforms, in which it provides the interaction of two distinct groups that seek to carry out negotiations. Without the platform, which aims to connect the two sides, this market would not possibly exist. In traditional models, the consumer-supplier relationship is established directly without the need for an intermediary¹⁹.

Among many controversies about its object, the legal qualification and the regulation to which it is submitted, the company positions itself as a technology company, which only facilitates contact between drivers and users, while some authorities qualify it as a transport company.

Uber's business was developed through the idea of information sharing. The company does not have its own fleet of vehicles. It manages, through technology, the contact between drivers and users, both registered in the application. The driver owns the vehicle that will be used for the trips, not the company.



The workers of these platforms are placed, in the formal-contractual perspective, in the legal position of autonomous partners. They are considered free to activate or deactivate at the time of their choice, however, because they earn so little, they are always impelled to work as much of the day physically as possible. It is curious that, as self-employed, they do not have the autonomy to set the price of their work, refuse clients or even evaluate their partner, the electronic platform.

The factual circumstances of electronic platform workers depart from the classic situation of legal subordination, although it is relatively easy to visualize a supervisory and disciplinary power, in an algorithmic subordination and open up a clear condition of hyposufficiency, well expressed in low wages and long working hours²⁰.

This precarious situation is further aggravated by the transfer of the risks of the activity to the workers, who are responsible for, in the case of delivery applications, acquisition and maintenance of vehicles, fuel expenses, vehicle taxes, accident insurance, in addition to of others, still suffering the risks and economic cost of idleness, since they are available to work and not get paid for the time available.

Work by application, in this context of deregulation, is the intensification associated with the technology of precariousness and the evident hyposufficiency of the worker.

Therefore, the entire process of precariousness is nothing more than a strategy of capitalism that, without political or legal brakes, returns to the practices of extracting value from human work, that is, a rescue of absolute surplus value. New forms and renewed discourses for what has always been done, such as the precarious forms of work of pre-capitalism¹⁷.

It should be reiterated that, in the case of peripheral countries, the issue is aggravated, as a historically fragile labor market is precarious. In these nations, the wage society was not completed, so as to make the formal wage pattern hegemonic. However, practices of precariousness of a job market that was already precarious are resumed. In the midst of flexibility, informal work presents itself as a functional strategy, together with formal salary, to generate value, precisely because it is inserted and coordinated in decentralized production systems¹⁷.

Despite the contemporary legal and symbolic clothing, society continues to be sociologically divided between owners and non-owners of the means of production, which does not prevent the identification of an intermediate class. This is because this division is fundamental for the conformation of the labor market and its hidden ties of dependence. Now, the worker – the non-owner – continues to sell work and not merchandise, even if he works outside the company's physical location through telework resources or even if he no longer needs to report daily to a manager or supervisor. The degree of determination of the result established by productive decentralization is so intense that at the same time that it demands a certain product (work) it also implicitly

establishes its way of doing it, relegating to the provider a certain flexibility only in the time of execution of services⁹.

However, the same flexibility of schedules, to a large extent, works against the worker, since the demand for the quantity of the product and service, normally high, always requires more work, now without the maximum legal limit of working hours, here is that the worker himself is his foreman and the remuneration for production plays the role of performance inspector. The keynote of economic efficiency orchestrated in flexible accumulation rearranges the forms of service provision in an attempt to reduce the field of formal employment within the main company.

In this precariousness agenda, capitalism and its proposal of minimum Labor Law lose their civilizing effect. By imposing the greatest extraction of wealth without a correspondence of rights and social protection or even minimal protection, classical liberalism removes the worker from the condition of citizen and subject of rights, including with evident damages to the consumer market that, increasingly, will have less purchasing power⁹.

In these terms, Brazilian capitalism has never universalized the wage condition, either through the recurrent practice of illegal (unregistered) work, through the dissimulation of salaried work (precariousness) or even through the exclusion of false self-employed workers (dependent self-employed workers). More than that, one returns to the past even without having arrived at the present. That is, productive restructuring practices are adopted that erode formal wage employment, which never became hegemonic, weakening what was still being structured.

Conclusion

The option for legal subordination, in its classic sense, represented a reductionist turn in the field of incidence of Labor Law, which, unduly, limited the concept of dependence to the situation of hierarchical subjection.

For this reason, overcoming the Fordist dynamics produced so many difficulties for Labor Law, notably due to the inadequacies of the (Fordist) concept of subordination. In the midst of these problems of legal subordination and aiming at reducing the spectrum of the notion of employee, the crisis of Labor Law is structured in the rise of flexibilizing tendencies - once explicit and currently silent - that forge an increasingly liberal operationalization in jus-laboralismo. Thus, talking about a crisis consists of recognizing the difficulties of dogmatics in, at least, maintaining the protective pattern of Fordism that has been, contemporaneously, being corroded by the flexibilities of productive restructuring. A counter-hegemonic view of the Labor Law crisis serves as a warning to demonstrate that the path adopted is directed towards the deconstitution of the fordist past of protection, in favor of a new precariousness and instability.

Regarding work on digital platforms, it was seen that flexibility does not only cover work processes, but the work relationship as a whole, from the forms of hiring to the forms of remuneration, giving rise to new forms of contracting, such as outsourcing and the temporary



employment contract. This flexibility almost always implies the precariousness of labor relations, however, it is believed that this is an irreversible trend.

There are no guarantees and no right guaranteed to the worker who starts to receive for what he produces,

which generates insecurity and discouragement. However, it is believed that this is a trend that is here to stay. Perhaps it is a way of mitigating unemployment, but there is no doubt, in terms of rights, it implies serious setbacks.

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