

THE IMPACT OF LABOR REFORM REGARDING HOUSEKEEPER

THE IMPACT OF LABOR REFORM ON DOMESTIC TOUCHING EMPLOYEES

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Summary

Goals: This study aims to identify, through Complementary Law No. 150/2015, the impacts that the Labor Reform brought with Law No. 13,467/2017 for domestic employees. This will take the form of a literature review about this legal system and its impacts, based on bibliographical research with a qualitative bias and exploratory purpose. **Method:** The methodology used in the article is bibliographical research on the subject. This study will be divided into topics, which take the form of a historical conceptualization of domestic work based on Complementary Law No. 150/2015, the impacts brought by Law No. 13,467/2017 and finally, in the last topic, they will be explored rights that do not apply to domestic employees. **Results:** The results demonstrate that the new rights of the domestic worker and the financial condition of the employer are one of the determining elements for the formation of the bond to be formalized between the family and the domestic worker, with consequences for job security, as the employer will provide peace of mind and confidence. to the employee who will be sure of their rights guaranteed when they carry out their activities at work. **Conclusion:** The Labor Reform could be improved, as the legislation is constantly changing, undergoing developments to specifically meet each existing case, when the worker needs judicial support.

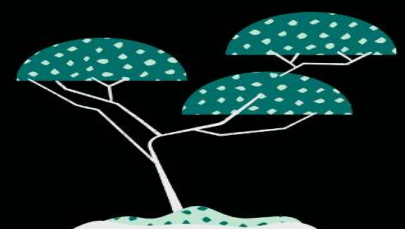
Key words: Labor Law No. 150/2015. Law No. 13,467/2017. Housework.

Abstract

Objectives: This study aims to identify through Complementary Law No. 150/2015 the impacts that the Labor Reform brought with Law No. 13,467 / 2017 for domestic employees. What will happen in the form of a literature review about this legal system and its impacts, based on bibliographic research with qualitative bias and exploratory purpose. **Method:** The methodology used in the article is bibliographic research on the subject. This study will be divided into topics, where it takes the form of a historical concept of domestic work based on Complementary Law No. 150/2015, the impacts brought by Law No. 13,467 / 2017 and finally, in the last topic will be explored rights that are not applied to domestic servants.

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Results:The results show that the new rights of the domestic worker and the financial condition of the employer is one of the determining elements for the formation of the bond to be formalized between the family and the domestic worker, with consequences on job security, as the employer will be at ease and confidence to the employee that he/she will be sure of his/her guaranteed rights the moment he/she develops his/her work activities. **Conclusion:**The Labor Reform could be improved, as the legislation is constantly changing, undergoing evolutions to specifically address each existing case, when the worker needs judicial support.

Keywords:Labor Law no. 150/2015. Law no. ° 13,467 / 2017. Housework.

1. Introduction

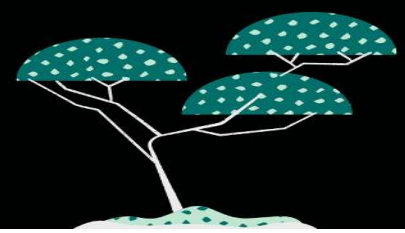
Inequality between people from different social classes has always been very evident. Their jobs today were achieved through a lot of study and qualifications and, through achievements since the time of slavery, where children, women and men, generally black, worked and had as payment only leftover food left by their masters and a place to sleep. It was a time when there was no record of human dignity and there were no constitutional rights and guarantees.

In 1830, a model began that normalized domestic work and established a written contract for the provision of services performed by foreigners or Brazilians, inside or outside the empire. As early as 1938, black people, with the rights and duties of citizens, obtained their salaries through their work. Those who worked in family homes were called domestic servants.

The Aurea Law was considered a milestone in the history of Labor Law in Brazil, because, even without a labor law relationship, it changed the influential labor relationship through slavery. A time in which former slaves became domestic servants with rights, but living in a situation similar to before, they needed to turn to their former employers and carried out the same work carried out previously.

In this context there was only a camouflage of the peculiarities of the work done by slaves. In this way, the domestic employee began to consent to work that was not legalized, did not acquire rights from a worker and thus suffered decriminalization and devaluation of his work.

Academic research brings together the various innovations included in the Consolidation of Labor Laws, through Law No. 13,467/2017, also known as "Labor Reform", and the changes that occurred in Law No. 150/2015 for domestic and



their new rights, a rich subject of enormous importance both for society, as well as for the legal and academic world.

Domestic work is dynamic and a few years ago it was recognized by the legislature, it has been undergoing transformations and adjustments so that the employee feels secure when being hired to carry out his tasks, as he now has the guarantees of a worker that he did not have before and, the employer when hiring your work feeling comfortable having a person in your home carrying out work safely.

Due to this condition of employee and employer maintaining good relations, so that both know their rights and duties, a careful analysis of current legislation and the reality experienced by them in our country is necessary, outlining a historical milestone for the worker. and the evolution of legislation. This way it is possible to raise awareness and make known what gave rise to the achievements achieved today by domestic workers.

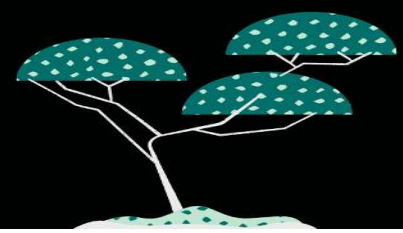
2 Theoretical Foundation

Throughout this literature review, it will be possible to observe that in Brazil, domestic work only started to be treated in the same way as urban and rural work activities less than ten years ago, which means that domestic workers in other countries can reach a standard much longer life span than Brazilians.

According to Rodrigues (2017), this is due to the fact that the CLT, created in 1943, expressly defines in its seventh article that its content does not apply to domestic employees, precisely because it is not a service of an economic nature. . Which means that it took more than seventy years for domestic workers to see a significant change in the legal system in their favor.

And based on this brief theoretical foundation regarding the legislative evolution around the topic of domestic work and the conceptualization of this work, the next step is to specifically discuss Labor Law No. 150/2015 and Law No. 13,467/2017. Observing the specialized literature, it is possible to observe the influence of the International Labor Organization Convention on the creation of Complementary Law No. 150/2015.

Because through it, Brazil sought to follow the guidelines established by the convention. Therefore, Souza (2017) states that Constitutional Amendment No. 72/2013, known as the domestic workers' PEC, can be considered as a first draft of what would become Labor Law No. 150/2015.



When it comes specifically to Complementary Law No. 150/2015, Souza (2017) states that its creation brought a significant amount of innovations, taking into account that the professional category of domestic workers is historically unfair and inferior.

According to Souza (2017), this complementary law was published on June 2, 2015, and brings as innovations a clear definition of employment relationship, with a domestic employee being anyone who provides services to the employer for at least three days a week, the which brings more legal certainty to the issue. At the same time, it limits the working day to 8 hours and 44 hours per week. Which, however, creates an additional obstacle for the employer, who must now be responsible for keeping track of time.

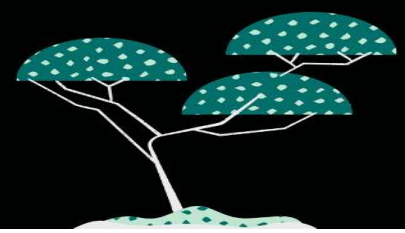
According to Rodrigues (2017), Complementary Law No. 150/2015 brings legislative news and revokes the content of Decree-Law No. 5,859/72, also called the “Domestic Law” and among its new features is the prohibition on that minors under 18 years of age work as domestic workers and a more tangible definition of professional activity, thus bringing greater legal certainty, characterizing it as the provision of services in a continuous, subordinated, onerous and personal manner and with a non-profit purpose, from 3 days a week.

In his study, Rodrigues (2017) also states that, in general, the rights present within Complementary Law No. 150/2015 are the same as those of urban and rural workers under the CLT regime. However, due to the particularities of domestic work, some adaptations are necessary.

As a result of these innovations, Gomes (2017) argues that Complementary Law No. 150/2015 represented a major legislative advance in terms of rights and guarantees for domestic workers, as in addition to significantly increasing their labor rights, it also sought to equate them in relation to those of rural and urban workers, thus breaking with centuries of social invisibility and historical injustice.

Over the years, the work has been modifying and requiring changes in the law to correspond to outdated legislation in the face of social changes to respond to the interests of the population.

The Consolidation of Labor Laws promulgated in 1940, which had already undergone several changes, which are complemented by precedents and guidelines, jurisprudence and various laws, in the understanding and execution of the legal norm, underwent a labor reform, which



changed some articles of Law No. 150/2015, where some of the changes are already covered by Complementary Law 150, which regularizes domestic employees, prevailing what is in the complementary Law.

There were also changes that had a major impact on domestic employment, as these are not covered by Complementary Law 150, being enforced by Law No. 13,467/2017. Amended the CLT, approved by Decree Law No. 5,452, of May 1, 1943, and the Laws, No. 6,019 of January 3, 1974, which governs Temporary Work, 8,036, of May 11, 1990, which structures the FGTS, and 8,212, of July 24, 1991, which provides for the Organization of Social Security, in order to adapt the legislation to new labor relations.

Law 13,467/2017 materialized from the sanction without vetoes made by the then president Michel Temer on July 13, 2017, which could even then be recognized in the form of Bill No. Executive Power and taken for consideration by the Chamber of Deputies, from which point it became known as PLC 38.

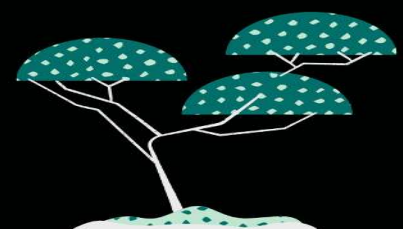
Law 13,467/2017, which provided for a *vacatio legis* 120 days from its publication so that everyone could adapt to this new reality. Which meant that the changes would come into force in mid-November.

The Labor Reform has been the subject of heated discussions, due to the impact of its transformations on labor relations, which among other issues is due to the fact that the government understands that the rules provided for in the CLT are outdated and no longer cover the context current situation, taking into account that in the 40s (forties) the internet didn't even exist, making it difficult to regulate Home Office and teleworking, for example, or app-based workers.

Which in his understanding can also be interpreted as the search for a basic balance of forces within the context of the relationship between capital and labor in an eminently capitalist society. Therefore, he understands that labor reform, in the form of Law 13,467 / 2017, could end up leading to serious social upheavals.

3 Results and discussions

This research dealt with the topic relating to domestic employees, their relationship with the changes that occurred with the Labor Reform through the advent of Law no.



13,467/2017. In this context, from Law No. 150/2015, the changes that occurred for professionals from this working class were portrayed, which caused impacts on their rights as employees and also, rights that the CLT brings and are not applied to this category of professionals. .

Initially, the historical evolution of the domestic employee and its legislative achievements within Labor Law were verified, showing the significant milestone of this evolutionary development, an essential procedure for us to understand how this evolution unfolded until Law No. 150/2015.

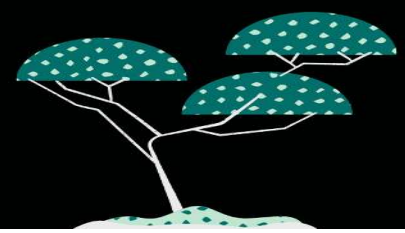
Therefore, the research led us to reflect on the relevance of domestic work, with the advent of this Complementary Law, which guarantees this class of workers new rights, but there are still controversies regarding such as the increase in unemployment or the growth of informal work and in the case of day laborers, where the employer justifies this informality, saying that it has made it more expensive to have a domestic worker at your residence, as, when registering this, you pay the labor charges. But even before, with Law no. ° 5,859/72 the right to registration in a work card for this worker category , but it was not publicized in this way and many workers lived in underemployment.

Therefore, it is concluded at this first moment that the new rights of the domestic worker and the financial condition of the employer are one of the determining elements for the formation of the bond to be formalized between the family and the domestic worker, with consequences for job security, as the The employer will provide peace of mind and confidence to the employee, who will be sure that their rights are guaranteed when they carry out their activities at work.

It is evident that with the regulation of domestic work, many were harmed by the outsourcing of services, in addition to the moment in which, due to technological advances, artificial intelligence is increasingly becoming capable of carrying out human activities.

On the other hand, the labor reform allowed more companies to be created in order to meet the new possibilities of outsourcing core activities, at the same time that new possibilities for employment contracts could be signed, as well as professional activities, such as those of domestic employee were finally regulated.

Since the situation of domestic workers in Brazil until the 21st century remained practically the same as a century ago, which is due to the fact that the Consolidation of



Labor Laws did not interpret the activity of domestic servants as a non-profit activity, therefore, it could not be regulated by the CLT. And so, the situation remained until recently.

On the other hand, in a context of advancement of the neoliberal agenda, the impression given is that the creators of the labor reform spared no effort to strangle the mobilization power of unions, by making union contributions something optional, without wanting to make any value judgment. here, as it was not the objective of this study to make any judgment about unions.

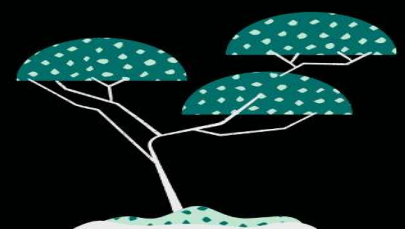
The case is that the possibility of outsourcing the core activity already opens up space for a fragmentation of professional categories, which are increasingly atomized. This discussion could go on for many more pages due to the extent of the laws studied here.

Therefore, it is possible to point out that the great innovation of Complementary Law 150/2015 is in the form of the legal protection of domestic workers that it brings, thus understanding that Constitutional Amendment no. 72/2013, as well as Complementary Law no. 150/2015 fulfill the fundamental and constitutional role of undoing the enormous inequality of treatment observed between domestic workers and other urban or rural professional categories.

An inequality that was even reinforced with the creation of the CLT, as its creators understood that domestic work did not fit into the category of work for profit, and that, therefore, it should not be supported by labor legislation.

In short, the changes brought about by the Labor Reform are very broad and affect different points in the lives of employees, in addition to various changes in the labor process. Thus, throughout this text, it was possible to investigate some changes that will not have a considerable impact on domestic employees, either because they have already been regulated before by Complementary Law No. 150/2015, or because they do not have practical applicability in the contractual relationship. Other, different, however, are challenges for workers to adapt to the specific work relationship, as in the case of changes with greater impacts for domestic employees.

Furthermore, the Labor Reform occurred to change individual and collective labor relations. Throughout our brief theoretical explanation, we dealt with the principles and provisions changed by Law No. 13,467/2017, so that we could be sure that the labor reform came to modify individual and collective labor relations once



that considerable normative changes have reached combined standards and individual collective labor negotiations so that several rights have become more flexible and which previously were more rigid.

3 Final considerations

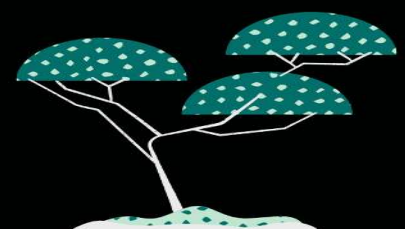
The labor doctrine brought positive innovations that have already been addressed in this research work. We have a great controversy, in relation to the Labor Reform regarding domestic employees, as the work that domestic employees perform is not an economic activity, it does not aim for profit, if they performed a sales function, it would no longer be domestic and thus would be registered as Cletista.

This position is present in article 7 of the CLT, which says that the domestic worker is outside CLT protection, while article 19 of Complementary Law No. 150/2015 says that, if there is an omission, the CLT applies to the domestic worker. Thus, the CLT brought changes with the Labor Reform, leaving this professional more relaxed in relation to their rights and duties, each day increasingly recognizing through legal means this professional who supports families so much in the work they carry out in their daily lives.

After research and studies on domestic workers, it is believed that what the Labor Reform brought was of great value, such as, for example, the relation to the fine for not signing the domestic workers' card, the dismissal agreed between employer and employee, the private activities not included such as overtime, the annual adjustment of fines, among others, as it provides this professional with guarantees that did not exist before.

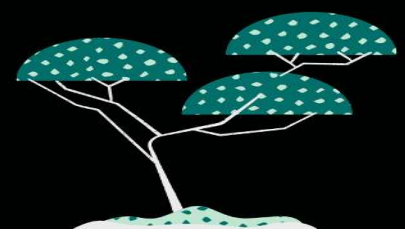
In relation, for example, to the domestic employee having to pay for legal expertise if he loses the labor action, even if the employee has obtained free justice, to outsourcing domestic employment, the benefits provided to the employee, among others, could be improved, because, in this sense, it was deficient for the employee.

Thus, the Labor Reform could be improved, as the legislation is constantly changing, undergoing developments to specifically meet each existing case, when the worker needs judicial support.



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